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of General Unsecured Creditors

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN MARIANA ISLANDS
BANKRUPTCY DIVISION

In re:

**IMPERIAL PACIFIC
INTERNATIONAL (CNMI) LLC,**

Debtor and Debtor in Possession.

Case No. 1:24-bk-00002

Chapter 11

**STIPULATION OF DEBTOR AND
OFFICIAL COMMITTEE OF GENERAL
UNSECURED CREDITORS (A) TO
ESTABLISH BIDDING PROCEDURES
FOR THE SALE OF THE ASSETS OF
THE DEBTOR, (B) TO DESIGNATE A
STALKING HORSE BIDDER, (C) TO
SCHEDULE AN AUCTION AND A SALE
HEARING, AND (D) TO ESTABLISH
ASSUMPTION AND ASSIGNMENT
PROCEDURES**

[No Hearing Required]

Judge: Hon. Robert J. Faris



**TO THE HONORABLE ROBERT J. FARIS, UNITED STATES BANKRUPTCY
JUDGE; AND ALL INTERESTED PARTIES:**

The above-captioned debtor and debtor in possession (the “Debtor”) and the Official Committee of General Unsecured Creditors (the “Committee,” together with Debtor, the “Parties”) in the above-captioned chapter 11 case (the “Chapter 11 Case”), by and through their undersigned counsel, hereby enter into this stipulation (the “Stipulation”).¹ By the Stipulation, subject to entry of an order of the Court approving this Stipulation (the “Bidding Procedures Order”), Debtor and the Committee jointly establish the bidding procedures, substantially in the form set forth hereto (the “Bidding Procedures”), to be used in connection with the sale (the “Sale”) of all or substantially all of the Debtor’s assets (the “Assets”), (i) authorizing the Debtor and the Committee to designate a Stalking Horse Bidder (as defined herein) and seek approval of Bid Protections (as defined herein) in accordance with the Stalking Horse Designation Procedures (as defined herein); (ii) scheduling an auction of the Assets (the “Auction”), if any, and scheduling the hearing to approve a sale of the Assets (the “Sale Hearing”), (iii) establishing the form and manner of notice of the proposed Bidding Procedures, the Stalking Horse Designation Procedures, the Auction, and the Sale Hearing, substantially in the form attached hereto as **Exhibit 1** (the “Sale Notice”), and (iv) establishing procedures governing the assumption and assignment of certain executory contracts and unexpired leases (the “Contracts”) in connection with any Sale (the “Assumption and Assignment Procedures”), and the form and manner of notice to each relevant non-debtor counterparty to a Contract of (A) the Debtor’s calculation of the amount necessary to cure any defaults under an applicable Contract (the “Cure Costs”) and (B) certain other information regarding the potential assumption and assignment of Contracts in connection with the Sale, substantially in the form attached to the Bidding Procedures Order as **Exhibit 2** (the “Assumption and Assignment Notice”).

RECITALS

WHEREAS, on April 19, 2024 (the “Petition Date”), the Debtor commenced this bankruptcy case by filing a voluntary petition under chapter 11 of the Bankruptcy Code;

¹ Capitalized terms used but not defined herein shall have the respective meanings ascribed to such terms in the Bidding Procedures, as applicable.

1 **WHEREAS**, on May 14, 2024, the Office of the United States Trustee appointed three (3)
2 members to the Committee pursuant to Section 1102 of the Bankruptcy Code. ECF No. 54;

3 **WHEREAS**, Debtor obtained an exclusive casino license (the “Casino License”) for the
4 island of Saipan and opened casino operations in 2014. The COVID-19 Pandemic forced the
5 closure of the Debtor’s operations in March 2020. In April 2021, Debtor’s Casino License was
6 suspended by the Commonwealth Casino Commission for nonpayment of fees and other alleged
7 monetary defaults;

8 **WHEREAS**, on July 18, 2024, the Court entered *Final Order Authorizing Debtor to Obtain*
9 *Postpetition Indebtedness* [ECF No. 173] (the “DIP Loan Order”), approving a total of \$1.4 million
10 for debtor in possession financing (the “DIP Loan”), with \$950,000 carved out and set aside for
11 fees and expenses of professionals employed at the expense of the estate. ECF No. 173.

12 **WHEREAS**, on October 5, 2024, the Court approved the Committee’s application to
13 employ Intrepid Investment Bankers LLC (the “Investment Banker” or “Intrepid”) as an investment
14 banker, effective as of September 22, 2024. ECF No. 276;

15 **WHEREAS**, the Debtor ceased operations and has not generated revenue since 2020. With
16 the DIP Loan being the sole financial resource available to address Debtor’s liquidity needs and
17 certain fundamental stabilizing expenses, such as utilities, insurance, payroll, and rent, as well as
18 the professional fees incurred in this case, Debtor and the Committee agree that Debtor’s current
19 liquidity position will not allow for an extended postpetition sale process and the sale should be
20 consummated on an expedited basis;

21 **WHEREAS**, following extensive, good faith, and arm’s length negotiations among the
22 Parties, Debtor and the Committee have stipulated and agreed to the proposed timeline, bidding
23 procedures, and procedures governing the assumption and assignment of certain executory
24 contracts and unexpired leases in connection with the sale of Debtor’s Assets, substantially in the
25 form attached hereto. Debtor and the Committee believe that the proposed timeline is reasonable,
26 and the Bidding Procedures are reasonably designed to promote active bidding at and participation
27 in the Auction to ensure that the highest or otherwise best value is generated for the Assets. Debtor
28

1 and the Committee further believe that the Investment Banker can run a robust sale process that
 2 encourages bidder participation, and the proposed sale process can achieve the goal of maximizing
 3 the value of Debtor's Assets for the best interests of the estate and all its stakeholders;

4 **WHEREAS**, at the status conference on December 13, 2024, Debtor's counsel appraised
 5 the Court of the proposed timeline for the sale process and the Parties' intention to file a stipulated
 6 order for approving the proposed bidding procedures. The Court directed Debtor's counsel to file
 7 a stipulated order and scheduled the Sale Hearing for **March 25, 2025, at 9:00 a.m. (ChST)**.
 8 Accordingly, the Parties submit this Stipulation for the Court's approval.

9 **STIPULATION**

10 **NOW, THEREFORE**, in consideration of the foregoing, which are incorporated into, and
 11 are material terms of this Stipulation, it is hereby stipulated that the Debtor and the Committee shall
 12 conduct the sale transaction in accordance with the Bidding Procedures and the Assumption and
 13 Assignment Procedures, and take any and all actions reasonably necessary or appropriate to
 14 implement these sale procedures in accordance with the following:

15 **THE BIDDING PROCEDURES**

16 **I.**

17 **ASSETS FOR SALE**

18 The Debtor and the Committee intend to sell all or substantially all of the Assets. A
 19 Prospective Bidder (as defined in Section III below) may bid on any of the Assets, either in parts
 20 or as a whole, subject to the conditions set forth herein, but may not submit a bid solely for the
 21 Casino License. The ability to undertake and consummate a sale of the Assets shall be subject to
 22 competitive bidding, as set forth herein, and approval by the Court. Any party interested in
 23 submitting a bid for any of the Assets should contact the Committee's investment banker: Intrepid
 24 Investment Bankers LLC, Attn: Lorie Beers, LBeers@intrepidib.com; Carl Comstock,
 25 CComstock@intrepidib.com; and Lucy Yang, LuYang@intrepidib.com.

II.

KEY DATES AND DEADLINES

<u>Deadline</u>	<u>Action</u>
Two business days after the entry of the Bidding Procedures Order	Deadline for Debtor and/or the Committee to file and serve Sale Notice
Two business days after the entry of the Bidding Procedures Order	Deadline for Debtor and/or the Committee to file and serve Assumption and Assignment Notice
January 17, 2025, at 6:00 p.m. (ChST)	Deadline to designate a Stalking Horse Bidder and enter into a Stalking Horse Agreement
January 31, 2025 at 9 a.m. (ChST)	Status Conference on Stalking Horse Designation
February 14, 2025	Deadline to file Sale Motion to approve Stalking Horse Agreement, Subject to Overbids at Auction
February 21, 2025, at 12:00 p.m. (ChST)	Bid Deadline
February 26, 2025, at 8:00 a.m. (ChST)	Auction
Two business days after the conclusion of the Auction	Deadline for Debtor and/or the Committee to file and serve Notice of Auction Results
March 5, 2025, at 6:00 p.m. (ChST)	Sale Objection Deadline and Adequate Assurance and Cure Objection Deadline
March 14, 2025, at 6:00 p.m. (ChST)	Deadline for the Debtor and/or the Committee to Reply to any Sale Objections
March 25, 2025, at 9:00 a.m. (ChST)	Sale Hearing
April 4, 2025	Deadline to consummate approved Sale

III.

DUE DILIGENCE

Upon execution of a valid confidentiality agreement and subject to the other limitations and guidelines set forth herein, the Debtor and the Committee, and their respective advisors may grant each person or entity that desires to participate in the Auction process (each, a “Prospective Bidder”) with access to information allowing such Prospective Bidder to conduct due diligence with respect to the potential acquisition of the Assets.

If the Debtor and the Committee determine that a Prospective Bidder is unlikely to qualify as a Qualified Bidder or fails to become a Qualified Bidder, then such Prospective Bidder shall have no further right to access due diligence or any other non-public information. The Prospective Bidder shall return or destroy any non-public information the Debtor or Intrepid provided to the Prospective Bidder in accordance with the terms of the confidentiality agreement.

1 All due diligence requests shall be directed to the retained investment banker: Intrepid
 2 Investment Bankers LLC, attention: Lorie Beers, LBeers@intrepidib.com; Carl Comstock,
 3 CComstock@intrepidib.com; and Lucy Yang, LuYang@intrepidib.com.

4 IV.

5 **STALKING HORSE AGREEMENT**

6 The procedures set forth in this section (the “Stalking Horse Designation Procedures”) shall
 7 apply to the designation of any Stalking Horse Bidder, Stalking Horse Agreement and Breakup
 8 Fees. Subject to the provisions set forth herein, the Bidding Procedures Order, and the Debtor and
 9 the Committee may designate a Stalking Horse Bidder that submits a Qualified Bid (as defined
 10 below) acceptable to the Debtor and the Committee and enter into a Stalking Horse Agreement **no**
 11 **later than January 17, 2025, at 6:00 p.m. (ChST)**, subject to higher or otherwise better offers at
 12 the Auction, which deadlines may be extended by the Debtor and the Committee if no Qualified
 13 Bid is received prior to the deadline. The Court has scheduled a status conference for **January 31,**
 14 **2025, at 9:00 a.m. (ChST)**, during which the Debtor and the Committee will appraise the details
 15 of the Stalking Horse designation.

16 The Debtor and the Committee may select a Stalking Horse Bidder and seek approval of a
 17 break-up fee and reimbursement of expenses, if any, for documented, actual and necessary expenses
 18 incurred by any Stalking Horse Bidder in connection with the submitting its Qualified Bid
 19 (collectively, the “Breakup Fees”).

20 The Debtor and the Committee shall be authorized to file a motion (the “Sale Motion”)
 21 seeking authority to approve the Stalking Horse Agreement, subject to overbids, and to allow
 22 Breakup Fees (if any) on or before **February 14, 2025 (ChST)**. The Debtor and the Committee
 23 shall serve the Sale Motion on the Sale Notice Parties and any Prospective Bidders. The Sale
 24 Motion shall be heard at the Sale Hearing (as defined in Section VIII below) on **March 25, 2025,**
 25 **at 9:00 a.m. (ChST)**. All parties-in-interest shall have the right to object to the Sale Motion and
 26 the Breakup Fees on any grounds.

27 The Stalking Horse Agreement executed by the Debtor and approved by the Committee and
 28

the transactions contemplated thereby will be deemed a Qualified Bid (as defined in Section VI.C below) for all purposes, and any Stalking Horse Bidder party to a Stalking Horse Agreement executed by the Debtor will be deemed to be a Qualified Bidder (as defined in Section VI.C below).

Other than as provided by order of the Court, no party submitting a Bid shall be entitled to a break-up fee or expense reimbursement except for the Breakup Fees for any Stalking Horse Bidder. Any substantial contribution claims by any bidder are deemed waived.

V.

BID DEADLINE

Any Prospective Bidder that intends to participate in the Auction must submit in writing to the Debtor, the Committee, and Intrepid a Qualified Bid (as defined in Section VI.C below) on or before **February 21, 2025, at 12:00 p.m. (ChST)** (the “Bid Deadline”).

VI.

BID REQUIREMENTS

A. Qualified Bid Requirements

To qualify as a “Qualified Bid,” a bid must be in writing and satisfy the following requirements:

1. Identification of Bidder. A Qualified Bid must fully disclose the following: (a) the legal identity of each person or entity bidding for the Assets and/or otherwise sponsoring, financing (including through the issuance of debt in connection with such bid), or participating in (including through license or similar arrangement with respect to the Assets to be acquired in connection with such bid) the Auction in connection with such bid and the complete terms of any such participation; and (b) any past or present connections or agreements with the Debtor, any Stalking Horse Bidder, any other known Prospective Bidder or Qualified Bidder, Loi Lam Sit (the “DIP Lender”), or any officer or director of any of the foregoing (including any current or former officer or director of the Debtor).
2. Purchased Assets. A Qualified Bid must identify the following:
 - a. the Assets to be purchased, including any executory contracts and unexpired leases (collectively, the “Contracts”) that, as of the submission of such bid, the Prospective Bidder proposes to be assumed and assigned by the Debtor in connection with the proposed sale; and
 - b. the liabilities, if any, to be assumed, including any debt to be assumed.

1
2 3. Form of Consideration.

- 3 a. Credit Bidding. The DIP Lender shall not have the right to credit bid.
4 b. Consideration. Each bid must include a statement confirming that the bid is
5 based on an all-cash offer.

6 4. Minimum Bid and Overbid for Assets.

- 7 a. Minimum Bid. Any bid for substantially all of Debtor's Assets, including
8 for the lease of that certain property located at CPL Derence Jack Road,
9 Orchid Street, Garapan, Saipan, MP 96950², shall be no less than
\$10,000,000.00 in cash.³
10 b. Initial Overbid. The initial overbid must have a value to the Debtor's estate,
11 as determined by the Debtor and the Committee, that is greater than or equal
12 to the sum of the value offered under the Stalking Horse Agreement, plus (a)
the amount of the Breakup Fees and (b) \$250,000 (collectively, the
"Minimum Bid Amount").

- 13 5. Proposed Asset Purchase Agreement. A Qualified Bid must constitute an
14 irrevocable offer and be in the form of an asset purchase agreement reflecting
15 the terms and conditions of the bid (each, a "Proposed Asset Purchase
16 Agreement"). A Proposed Asset Purchase Agreement shall be (a) duly
17 authorized and executed; (b) marked red-lined against the Stalking Horse
18 Agreement, to reflect the proposed sale transaction and to show any other
19 proposed modifications to the Stalking Horse Agreement, as applicable; (c)
20 specify the proposed purchase price for the Assets in U.S. dollars; (d) include
all exhibits and schedules contemplated thereby (other than exhibits and
schedules that, by their nature, must be prepared by the Debtor); and (e) identify
any Contracts that, as of the submission of such bid, the Prospective Bidder
proposes to be assumed and assigned by the Debtor in connection with the
proposed sale transaction.

- 21 6. Financial Information. A Qualified Bid must include the following:
22

23 ² Such leased property is described in the Lease Agreement LA 15-002S between Debtor and the Department of Public
24 Lands for the Commonwealth of Northern Mariana Islands as follows: "Tract No. 21049-R2 containing approximately
25 328 square meters, more or less, as shown on DLS Check No. 2021/15 recorded at the Commonwealth Recorder's
26 Office on March 18, 2015, as File No. 15-0542"; and "Lot Numbers 104 D 08, containing an area of approximately
27 720 square meters, more or less, Lot No. 104 D 10, containing an area of approximately 1,378 square meters, more or
less, Lot No. 104 D 11R/W, containing an area of approximately 1,390 square meters, more or less, and Lot No. 104
D 12, containing an area of approximately 15,338 square meters, more or less, as shown on DLS Check No. 104 D 04
recorded at the Commonwealth Recorder's Office on March 19, 2015, as File No. 15-0844."

28 ³ For avoidance of doubt, the Committee and the Debtor, in consultation with Intrepid, shall have the authority to accept
bids for piecemeal asset(s) of the Debtor.

- a. a statement that the Prospective Bidder is financially capable of consummating the sale transaction contemplated by the Prospective Bidder's Proposed Asset Purchase Agreement;
 - b. sufficient evidence, as determined by the Debtor and the Committee, to determine that the Prospective Bidder has, or will obtain (for the avoidance of doubt, any Bids with financing contingencies will not be considered), the financial wherewithal to consummate the sale transaction contemplated by the Prospective Bidder's Proposed Asset Purchase Agreement; and
 - c. Adequate Assurance Information (as defined in Section VI.A.8 below) with respect to any Contracts included or that may be included in the Prospective Bidder's bid, including the identity of any known proposed assignee of the applicable Contracts (if different from the Prospective Bidder), including contact information for such proposed assignee.
7. Good Faith Deposit. Each Qualified Bid must be accompanied by a good faith deposit (each, a "Good Faith Deposit") in the form of cash in an amount equal to ten percent (10%) of the proposed purchase price for the Assets. The Good Faith Deposit shall be deposited no later than **February 21, 2025, at 12:00 p.m. (ChST)** with an escrow agent selected by the Debtor and the Committee (the "Escrow Agent") and held in escrow until 10 business days after the conclusion of the Auction, except for the Good Faith Deposit of any bidder who is selected at the Auction as a Successful Bidder or as a Backup Bidder, and thereafter returned to the respective Qualified Bidders in accordance with Section VII.D.2.b. of these Bidding Procedures.
8. Adequate Assurance. A Qualified Bid must include evidence of the Prospective Bidder's (or any other relevant assignee's) ability to comply with section 365 of the Bankruptcy Code (to the extent applicable), including providing adequate assurance of such Prospective Bidder's (or any other relevant assignee's) ability to perform future obligations arising under any Contracts included in its bid. The Debtor and the Committee may require the following information in connection with demonstrating adequate assurance of future performance: (a) information evidencing the Prospective Bidder's (or any other relevant assignee's) financial wherewithal and willingness to perform under any Contracts included in the bid, which information may include (i) a corporate organizational chart or similar disclosure identifying corporate ownership and control, (ii) financial statements, (iii) tax returns, and (iv) annual reports; and (b) the Prospective Bidder's (or any other relevant assignee's) proposed use of any leased premises or other property included in the bid (the information described in clauses (a) and (b) of this Section VI.A.8, the "Adequate Assurance Information").

All Adequate Assurance Information must be in a form that will permit its immediate dissemination to Contract Counterparties.

1 9. Representations and Warranties (As-Is, Where-Is). Each Qualified Bid must
 2 include a written acknowledgement and representation that (a) the Prospective
 3 Bidder has had an opportunity to conduct any and all due diligence regarding
 4 the Assets prior to making its Qualified Bid, (b) the Prospective Bidder has relied
 5 solely upon its own or its advisors' independent review, investigation, and/or
 6 inspection of any documents and/or the Assets in making its Qualified Bid, (c)
 7 the Prospective Bidder did not rely upon any written or oral statements,
 8 representations, promises, warranties, or guaranties whatsoever, whether
 9 express, implied, by operation of law, or otherwise, regarding the Assets, or the
 10 completeness of any information provided in connection therewith or the
 11 Auction, except as expressly stated in the Prospective Bidder's Proposed Asset
 12 Purchase Agreement; and (d) the Assets will be conveyed "as is, where is, with
 13 all faults," with limited representations and warranties, and no indemnification
 14 or guarantees by the Debtor.

15 10. Authorization. A Qualified Bid must (a) include evidence of authorization and
 16 approval from the Prospective Bidder's board of directors (or comparable
 17 governing body) with respect to the submission, execution, and delivery of any
 18 bid for the Assets, participation in the Auction, and closing of the sale
 19 transaction contemplated by the Prospective Bidder's Proposed Asset Purchase
 20 Agreement; or, (b) if the Prospective Bidder is an entity formed for the purpose
 21 of effecting the proposed sale transaction, a Qualified Bid must provide written
 22 evidence acceptable to the Debtor of authorization and the approval by the equity
 23 holder(s) of such Prospective Bidder.

24 11. Other Requirements. A Qualified Bid must:

- 25 a. state that the Prospective Bidder agrees to serve as a backup bidder (a
 26 "Backup Bidder") if such bidder's Qualified Bid is selected at the Auction
 27 as the next highest or next best bid after the Successful Bid (as defined in
 28 Section VII.C.1 below) for the Assets (each such bid, a "Backup Bid");
- 29 b. state that the bid represents a binding, good-faith, and bona fide offer to
 30 purchase the Assets and is not subject to or conditioned on any further due
 31 diligence, and is irrevocable (i) until the selection of the Successful Bid in
 32 accordance with these Bidding Procedures; or (ii) if the bid is selected as a
 33 Successful Bid or as a Backup Bid, until the Backup Bid Expiration Date (as
 34 defined in Section VII.C.2 below);
- 35 c. for any bidder other than the Stalking Horse Bidder, state and acknowledge
 36 that the Prospective Bidder shall not be entitled to any bidding protection or
 37 payment in connection with the submission of a bid for the Assets or
 38 otherwise participating in the Sale Process;
- 39 d. state that the Prospective Bidder is committed to closing the sale transaction
 40 contemplated in its bid as soon as practicable (and in no event later than
 41 **April 4, 2025**);

- e. expressly waive any claim or right to assert any substantial contribution administrative expense claim under section 503(b) of the Bankruptcy Code in connection with bidding for any of the Assets and/or otherwise participating in the Auction or the Sale Process;
- f. not contain any financing contingencies of any kind;
- g. certify that the Prospective Bidder did not collude with any other bidders and is not otherwise a partnership, joint venture, or other entity in which more than one bidder (or any affiliates of a bidder) has a direct or indirect interest, unless consented to in writing by the Debtor;
- h. include a covenant to comply with the terms of these Bidding Procedures and the Bidding Procedures Order;
- i. contain such other information as may be reasonably requested by the Debtor and the Committee; and
- j. contain a statement that the Prospective Bidder (i) consents to the core jurisdiction of the Court to enter any order related to the Bidding Procedures, the Auction, or any other relief set forth in the Stipulation or granted in the Bidding Procedures Order; (ii) waives any right to a jury trial in connection with any disputes relating to the Bidding Procedures, the Auction, or any other relief set forth in the Stipulation or granted in the Bidding Procedures Order; and (iii) consents to the entry of a final order or judgment in connection with any disputes relating to the Bidding Procedures, the Auction, or any other relief set forth in the Stipulation or granted in the Bidding Procedures Order, if it is determined that the Court would lack Article III jurisdiction to enter such a final order or judgment absent the consent of the relevant parties.

B. Bid Review Process

The Debtor and the Committee will evaluate bids and, based upon their evaluation of the content of each bid, the Debtor and the Committee may, as they deems appropriate and in a manner consistent with their fiduciary duties and applicable law, engage in negotiations with any Prospective Bidder for the purposes of (i) curing any deficiencies in a bid that prevents them from constituting a Qualified Bid, (ii) improving the terms of the Prospective Bidder's bid, or (iii) otherwise promoting a more competitive bidding and Auction process with the ultimate goal of maximizing the value of the Assets.

In evaluating a bid, the Debtor and the Committee may take into consideration any and all

1 factors that they deem reasonably pertinent, including (i) the amount of the proposed purchase price
2 and proposed form of consideration; (ii) any Assets included in, or excluded from, the bid, including
3 any Contracts to be assumed and assigned; (iii) the value to be provided to the estate under the bid,
4 including the net economic effect on the Debtor's estate (taking into account any Stalking Horse
5 Bidder's rights with respect to any Breakup Fees); (iv) any benefits to the Debtor's estate from any
6 assumption or waiver of liabilities contemplated by the bid; (v) the structure of the proposed sale
7 transaction and any attendant execution risk, including conditions to, timing of, and certainty of
8 closing; termination provisions; availability of financing and general financial wherewithal to meet
9 all commitments; and any required governmental approvals; and (vi) the impact of the proposed
10 sale transaction on the Debtor's employees, creditors, landlords, and any other parties-in-interest.

11 The Debtor and the Committee will evaluate timely bids and will (i) determine which bids
12 qualify as Qualified Bids and which Qualified Bid has been selected as the Baseline Bid and (ii)
13 notify bidders whether they are Qualified Bidders no later than **February 24, 2025, at 6:00 p.m.**
14 **(ChST)**. A Qualified Bidder shall not (without the consent of the Debtor and the Committee),
15 modify, amend, or withdraw its Qualified Bid, unless for the purposes of increasing the purchase
16 price or otherwise improving the terms of the Qualified Bid.

17 **C. Qualified Bidders**

18 A bid received for the Assets that the Debtor and the Committee determine satisfies the
19 requirements set forth in Sections VI.A above will qualify as a "Qualified Bid," and any bidder that
20 submits a Qualified Bid will qualify as a "Qualified Bidder." The Debtor and the Committee may,
21 in their reasonable business judgment and in a manner consistent with their fiduciary duties and
22 applicable law, amend or waive the conditions precedent to qualifying as a Qualified Bidder.

23 **D. Breakup Fees**

24 Other than any Breakup Fees approved by the Court in connection with a Stalking Horse
25 Bid, if any, no bidder or any other party shall be entitled to any termination or "break-up" fee,
26 expense reimbursement, or any other bidding protection in connection with the submission of a bid
27 for the Assets or otherwise participating in the Auction or the Sale Process.

VII.

THE AUCTION

If more than one Qualified Bid is received for the Assets, the Debtor will conduct an Auction for the Assets. If the Debtor and the Committee determine not to hold an Auction for some or all of the Assets, the Debtor will file and serve a notice stating that the Auction for such Assets has been canceled and providing all other relevant information to the Sale Notice Parties as required by the Bidding Procedures.

The Auction, if required, will be conducted on **February 26, 2025, at 8:00 a.m. (ChST)** virtually or at such other date, time or location as designated by the Debtor and the Committee. The Debtor and the Committee will provide instructions setting forth how to attend the Auction to the participants and other attendees via electronic mail. The Debtor and the Committee will provide notice (via electronic mail or otherwise) of any change in the date, time or location of the Auction to Qualified Bidders and will cause publication of such change to occur on the docket, which is accessible at <https://veritaglobal.net/ipi>, as soon as reasonably practicable and in any event no later than 24 hours before the Auction. If held, the Auction proceedings will be transcribed and/or video recorded.

A. Participants and Attendees

Only Qualified Bidders are eligible to participate in the Auction, subject to other limitations as may be reasonably imposed by the Debtor and the Committee in accordance with these Bidding Procedures. Qualified Bidders participating in the Auction must attend the Auction personally or through a duly authorized representative.

Each Qualified Bidder participating in the Auction will be required to confirm in writing and on the record at the Auction that (i) it has not engaged in any collusion with respect to the Auction or the submission of any bid for any of the Assets and (ii) its Qualified Bid that gained the Qualified Bidder admission to participate in the Auction and each Qualified Bid submitted by the Qualified Bidder at the Auction is a binding, good-faith, and bona fide offer to purchase the Assets identified in such bids.

All Prospective Bidders and Qualified Bidders (including any Stalking Horse Bidder, Successful Bidder, and Backup Bidder) shall be deemed to have (i) agreed that all proceedings in the Court related to these Bidding Procedures, the Auction, any other relief set forth in the Stipulation or granted pursuant to the Bidding Procedures Order, or the construction or enforcement of any agreement or any other document directly relating to the sale transaction are core proceedings as described in 28 U.S.C. § 157; (ii) waived any right to a jury trial in connection with any disputes relating to these Bidding Procedures, the Auction, or the construction or enforcement of any agreement or any other document directly relating to the sale transaction; and (iii) consented to the entry of a final order or judgment by the Court in connection with any disputes relating to these Bidding Procedures, the Auction, or the construction or enforcement of any agreement or any other document relating directly to the sale transaction.

B. Auction Procedures

The Auction (if necessary) shall be conducted by Intrepid, the investment banker retained by the Committee in this bankruptcy case, and the Auction shall be governed by the following procedures:

1. Baseline Bids. Prior to the commencement of the Auction, the Debtor and the Committee and their advisors will determine, in their reasonable business judgment the highest and/or best Qualified Bid submitted for the Assets (such Qualified Bid, a "Baseline Bid"). Bidding at the Auction shall commence at the amount of the Baseline Bid. No later than **February 24, 2025, at 6:00 p.m. (ChST)**, the Debtor will provide all Qualified Bidders with (a) a notice identifying all the Qualified Bidders and which Qualified Bid is the Baseline Bid; and (b) a copy of the Baseline Bid.
2. Minimum Overbid. Bidding shall commence at the Baseline Bid. The first overbid at the Auction shall be in an amount not less than the amount of the Baseline Bid plus \$150,000 (the "Minimum Overbid"). At each round of bidding, Qualified Bidders may submit successive bids higher than the Leading Bid (as defined below) from the prior round. During the Auction, the Debtor and the Committee and their advisors may, in their reasonable discretion, announce increases or reductions to Minimum Overbids at any time.

Except as specifically set forth herein, for the purpose of evaluating the value of the consideration provided by any bid subsequent to the Baseline Bid, the Debtor and the Committee will, at each round of bidding, consider and/or give effect to (a) any Breakup Fees payable to any Stalking Horse Bidder under the Stalking

Horse Agreement; (b) any additional liabilities to be assumed by a Qualified Bidder under the bid, including whether such liabilities are secured or unsecured; and (c) any additional costs that may be imposed on the Debtor.

3. Leading Bid. After the first round of bidding and between each subsequent round of bidding, the Debtor and the Committee will announce the bid that they believe to be the highest or otherwise best offer for the Assets (such bid, a “Leading Bid”) and describe the material terms thereof. Each round of bidding will conclude after each participating Qualified Bidder has had the opportunity to submit a subsequent bid with full knowledge of the material terms of the Leading Bid.

The Auction will include open bidding in the presence of all other Qualified Bidders. Each Qualified Bidder shall have the right to be present for all rounds of bidding and to submit additional bids and make modifications to its Proposed Asset Purchase Agreement at the Auction to improve its bid. The Debtor and the Committee may, in their reasonable business judgment, negotiate with any and all Qualified Bidders participating in the Auction.

The Debtor and the Committee shall have the right to determine, in their reasonable business judgment, which bid is the highest or otherwise best bid with respect to the Assets and reject, at any time, without liability, any bid that the Debtor and the Committee deem to be inadequate, insufficient, or not in conformity with the requirements of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, these Bidding Procedures, any order of the Court, or the best interests of the Debtor’s estate.

C. Auction Results

1. Successful Bids. Immediately prior to the conclusion of the Auction, the Debtor and the Committee will (a) determine, consistent with these Bidding Procedures, which Qualified Bid constitutes the highest or otherwise best bid (such bid, a “Successful Bid”) and (b) notify all Qualified Bidders at the Auction of the identity of the bidder that submitted the Successful Bid (such bidder, a “Successful Bidder”) and the amount of the purchase price and other material terms of the Successful Bid.
2. Backup Bids. Immediately prior to the conclusion of the Auction, the Debtor and the Committee will (a) determine, in a manner consistent with these Bidding Procedures, which Qualified Bid, other than any Credit Bid, is the Backup Bid; and (b) notify all Qualified Bidders at the Auction of the identity of the Backup Bidder and the amount of the purchase price and other material terms of the Backup Bid.

A Backup Bid will remain binding on the applicable Backup Bidder until the earlier of (a) the first business day after the closing of the sale transaction with the Successful Bidder for the Assets and (b) 30 days after the Sale Hearing (such

date, the “Backup Bid Expiration Date”). If the sale transaction with the Successful Bidder is terminated prior to the Backup Bid Expiration Date, the Backup Bidder shall be deemed the new Successful Bidder for the Assets and shall be obligated to consummate the Backup Bid as if it were the Successful Bid at the Auction; provided that the Debtor and the Committee may, in their reasonable business judgment (after providing notice to the Sale Notice Parties), elect not to pursue the sale transaction contemplated by the Backup Bid.

3. Notice of Auction Results. Within two business days after the conclusion of the Auction, the Debtor will file with the Court and serve on the Sale Notice Parties a notice setting forth the results of the Auction (the “Notice of Auction Results”), which will (a) identify each Successful Bidder and the Backup Bidder; (b) include a copy of each Successful Bid and the Backup Bid or a summary of the material terms of such bids; and (c) set forth the Sale Objection Deadline (as defined in Section X.C below), the date, time, and location of the Sale Hearing and any other relevant dates or other information necessary to reasonably apprise the Sale Notice Parties of the outcome of the Auction.

D. Disposition of Good Faith Deposit

1. Prospective Bidders. Within five business days after the Debtor and the Committee make final determinations as to which Prospective Bidders qualify as Qualified Bidders, the Escrow Agent shall return to each Prospective Bidder that did not qualify as a Qualified Bidder, as confirmed by the Debtor, such Prospective Bidder’s Good Faith Deposit. Upon the authorized return of a Prospective Bidder’s Good Faith Deposit in accordance with this Section VII.D.2.b, the bid of such Prospective Bidder shall be deemed terminated and no longer binding against the Prospective Bidder.
2. Qualified Bidders
 - a. Forfeiture of Good Faith Deposit. The Good Faith Deposit of a Qualified Bidder shall be forfeited if the Qualified Bidder attempts to withdraw its Qualified Bid, except as may be permitted by these Bidding Procedures, during the time the Qualified Bid remains binding and irrevocable under these Bidding Procedures. The Debtor’s estate shall be entitled to retain the Qualified Bidder’s Good Faith Deposit as partial compensation for the damages caused to the Debtor and its estate as a result of the Qualified Bidder’s failure to adhere to the terms of these Bidding Procedures and/or the relevant Qualified Bid. If a Qualified Bidder’s Good Faith Deposit is deemed forfeited, the Escrow Agent shall release such Good Faith Deposit by wire transfer of immediately available funds to an account designated by the Debtor and the Committee within two business days after the Escrow Agent receives written notice by the Debtor and the Committee stating that the applicable Qualified Bidder has breached or otherwise failed to satisfy its obligations in accordance with these Bidding Procedures and the applicable Qualified Bid.

- 1
- 2 b. Return of Good Faith Deposit. With the exception of the Good Faith
- 3 Deposits of the Successful Bidder and the Backup Bidder, the Escrow Agent
- 4 shall return to any other Qualified Bidder the Qualified Bidder's Good Faith
- 5 Deposit, within 10 business days after the conclusion of the Auction.
- 6
- 7 c. Backup Bidder. Unless the Backup Bidder becomes the Successful Bidder,
- 8 the Escrow Agent shall return the Backup Bidder's Good Faith deposit,
- 9 within 10 business days after the occurrence of the applicable Backup Bid
- 10 Expiration Date; provided, however, if the Backup Bidder becomes the
- 11 Successful Bidder, its Good Faith Deposit shall be forfeited if it fails to
- 12 consummate the sale transaction because of a breach that entitles the Debtor
- 13 to terminate the applicable asset purchase agreement with such Backup
- 14 Bidder, and the Debtor's estate shall be entitled to retain the Backup Bidder's
- 15 Good Faith Deposit as partial compensation for the damages caused to the
- 16 Debtor and its estate as a result of such breach. If a Backup Bidder's Good
- 17 Faith Deposit is deemed forfeited, the Escrow Agent shall release such Good
- 18 Faith Deposit by wire transfer of immediately available funds to an account
- 19 designated by the Debtor and the Committee within two business days after
- 20 the Escrow Agent receives written notice by the Debtor and the Committee
- 21 stating that the applicable Backup Bidder has breached or otherwise failed
- 22 to satisfy its obligations in accordance with these Bidding Procedures and
- 23 the applicable Backup Bidder.
- 24
- 25 d. Successful Bidder. At the closing of the sale transaction, the Successful
- 26 Bidder shall be entitled to a credit against the purchase price in the amount
- 27 of the Successful Bidder's Good Faith Deposit. The Good Faith Deposit of
- 28 a Successful Bidder shall be forfeited if the Successful Bidder fails to
- consummate the sale transaction because of a breach that entitles the Debtor
- to terminate the applicable asset purchase agreement with such Successful
- Bidder, and the Debtor and its estate shall be entitled to retain the Successful
- Bidder's Good Faith Deposit as partial compensation for the damages caused
- to the Debtor and its estate as a result of such breach. If a Successful
- Bidder's Good Faith Deposit is deemed forfeited, the Escrow Agent shall
- release such Good Faith Deposit by wire transfer of immediately available
- funds to an account designated by the Debtor and the Committee within two
- business days after the Escrow Agent receives written notice by the Debtor
- and the Committee stating that the Successful Bidder has breached or
- otherwise failed to satisfy its obligations in accordance with these Bidding
- Procedures and the Successful Bid.

VIII.

SALE HEARING

The Successful Bid (including any Backup Bid that is subsequently deemed a Successful Bid) will be subject to Court approval. The hearing to approve the sale transaction consummated

in accordance with these Bidding Procedures (except in the case of the sale transaction contemplated by a Backup Bid that subsequently is deemed a Successful Bid) shall take place on **March 25, 2025, at 9:00 a.m. (ChST)** (the “Sale Hearing”) before the Honorable Robert J. Faris, United States Bankruptcy Judge, in the United States District Court for the Northern Mariana Islands, Bankruptcy Division, located at the 3rd Floor Courtroom, 1671 Gualo Rai Rd., Gualo Rai, Saipan, MP 96950.

At the Sale Hearing, the Debtor and the Committee will seek entry of an order (a “Sale Order”) approving, among other things, the sale of the Assets to the Successful Bidder. The Debtor and the Committee may, in their reasonable business judgment, adjourn or reschedule the Sale Hearing with sufficient notice, including by announcing such adjournment or rescheduling at the Auction or in Court on the date of the originally scheduled Sale Hearing.

The Debtor and the Committee’s presentation to the Court for approval of a selected Qualified Bid as a Successful Bid does not constitute the Debtor and the Committee’s acceptance of such bid. The Successful Bid shall be binding on the Debtor only when such Successful Bid has been approved by the Court at the Sale Hearing.

IX.

RESERVATION OF RIGHTS TO MODIFY BIDDING PROCEDURES

The Debtor and the Committee reserve the right to, in their reasonable business judgment, to (i) modify these Bidding Procedures, including to extend or waive deadlines or other terms and conditions set forth herein; adopt new rules and procedures for conducting the bidding and Auction process so long as any such modifications are disclosed to all Prospective Bidders and Qualified Bidders, as applicable; or (ii) to further promote competitive bidding for and maximizing the of value of the Assets.

X.

NOTICING

A. Sale Notice Parties

The “Sale Notice Parties” shall include the following persons and entities:

- Intrepid Investment Bankers LLC;
- counsel to any Stalking Horse Bidder, if any;
- all persons and entities known by the Debtor to have asserted any lien, claim, interest, or encumbrance in the Assets (for whom identifying information and addresses are available to the Debtor);
- all relevant non-debtor parties (“Counterparties,” or each, a “Counterparty”) to any Contract that may be assumed or rejected in connection with the sale transaction;
- all of the Debtor’s known creditors (for whom identifying information and addresses are available to the Debtor);
- any governmental authority known to have a claim against the Debtor in this Chapter 11 Case;
- the office of the U.S. Trustee;
- all applicable federal, state, and local taxing authorities, including the Internal Revenue Service;
- all of the parties entitled to notice pursuant to Bankruptcy Rule 2002; and
- all other parties as directed by the Court.

B. Sale Notice

Within two business days after the entry of the Bidding Procedures Order, the Debtor and the Committee will file with the Court and serve on the Sale Notice Parties a notice (the “Sale Notice”), substantially in the form attached hereto as **Exhibit 1**, setting forth (A) a description of the Assets available for sale in accordance with these Bidding Procedures; (B) the date, time, and location of the Auction and Sale Hearing; (C) the Sale Objection Deadline (as defined in Section X.C below) and the procedures for filing such objections; and, (D) if applicable, a summary of the material terms of any Stalking Horse Agreement, including the terms and conditions of any Breakup Fees to be provided thereunder, as of the date of the Sale Notice.

C. Sale Objections

All objections to a sale of the Assets, including (i) any objection to the conduct of the Auction and/or the Successful Bidder or Backup Bidder, (ii) any objection to a sale of the Assets

free and clear of all liens, claims, interests, and encumbrances pursuant to section 363(f) of the Bankruptcy Code and (iii) entry of any Sale Order (each such objection, a “Sale Objection”) shall, by no later than **March 5, 2025, at 6:00 p.m. (ChST)** (the “Sale Objection Deadline”), be filed with Court and served on the following parties (collectively, the “Objection Notice Parties”):

- Counsel for the Debtor: Choi & Ito, 700 Bishop Street, Suite 1107, Honolulu, Hawaii 96813, Attn: Chuck C. Choi (cchoi@hibklaw.com) and Allison A. Ito (aito@hibklaw.com).
- Counsel for the Official Committee of General Unsecured Creditors: ArentFox Schiff LLP, 555 S. Flower St., 43rd Floor, Los Angeles, CA 90071, Attn: Aram Ordubegian (aram.ordubegian@afslaw.com); and Christopher K.S. Wong (christopher.wong@afslaw.com).
- if applicable, counsel for any Stalking Horse Bidder or relevant Successful Bidder; and
- if applicable, counsel for any relevant Backup Bidder(s).

D. Notices Regarding Assumption and Assignment of Contracts

The Debtor and the Committee will provide all notices regarding the proposed assumption and assignment of Contracts in accordance with the Assumption and Assignment Procedures set forth in the Bidding Procedures Order.

XI.

CONSULTATION BY THE DEBTOR AND THE COMMITTEE

Throughout the Sale Process the Debtor and the Committee will consult Intrepid in good faith regarding the Sale Process and any diligence and other information requested by Intrepid, and the Debtor will provide to Intrepid reports concerning the Sale Process, including buyer feedback, copies of all letters of intent, drafts of definitive agreements and updates on proposals. For the avoidance of doubt, the Debtor and the Committee shall consult with Intrepid on all aspects of the due diligence, bidding, auction and sale process, including the selection of the Stalking Horse Bid, how the Auction is conducted, any additional Auction procedures, adjourning the Auction, and selecting the Successful Bidder and the Backup Bidder. Intrepid shall also consult with the Debtor and the Committee in good faith concerning the Sale Process, including buyer feedback, copies of

all letters of intent, drafts of definitive agreements and updates on proposals.

XII.

ASSUMPTION AND ASSIGNMENT PROCEDURES

1. Potential Assumption and Assignment Notice. Within two (2) business days after the entry of the Bidding Procedures Order, Debtor and the Committee will file with the Court and serve on each Counterparty to a Contract that may be, but not required to be, assumed in connection with any Sale an Assumption and Assignment Notice, which will (i) identify the applicable Contracts; (ii) list the Debtor's good-faith calculation of Cure Costs with respect to each such Contract; (iii) expressly state that assumption or assignment of a Contract is not guaranteed and is subject to Court approval; and (iv) prominently display the deadlines to file Cure Objections and Adequate Assurance Objections (each as defined below). The Assumption and Assignment Notice, substantially in the form attached hereto as Exhibit 2, shall also be served on each Counterparty listed therein via first class mail.

2. Assumption and Assignment Objections.

- i. Cure Objection Deadline. Any Counterparty to a Contract that wishes to object to the proposed Cure Costs (each such objection, a "Cure Objection") shall file with the Court and serve on the Objection Notice Parties its Cure Objection, which must state, with specificity, the legal and factual bases thereof and include any appropriate documentation in support thereof, by **no later than March 5, 2025, at 6:00 p.m. (ChST)** (the "Cure Objection Deadline").
- ii. Resolution of Cure Objections. Debtor, the Committee, any Stalking Horse Bidder or Successful Bidder, and the objecting Counterparty shall first confer in good faith to attempt to resolve the Cure Objection without Court intervention. If the parties are unable to consensually resolve the Cure Objection prior to the commencement of the Sale Hearing, the Court shall make all necessary determinations relating to the applicable Cure Costs and Cure Objection at a hearing scheduled pursuant to the following paragraph. If a Cure Objection is resolved in a manner that is not in the best interests of Debtor and its estate, whether or not such resolution occurs prior to or after the closing of the Sale, Debtor, the Committee, any Stalking Horse Bidder or, as applicable, the Successful Bidder may determine that any Contract subject to such resolved Cure Objection will no longer be assumed and assigned pursuant to the Sale (subject to the terms of the Sale). All other objections to the proposed assumption and assignment of the Debtor's right,

title and interest in, to and under a Contract will be heard at the Sale Hearing.

- iii. Adjournment. If a timely filed Cure Objection cannot otherwise be resolved by the parties, the Cure Objection may be heard at the Sale Hearing, or, at the Debtor's option, be adjourned to a subsequent hearing, with notice to the party having filed the Cure Objection (each such Cure Objection, an "Adjourned Cure Objection"). An Adjourned Cure Objection may be resolved after the closing date of the Sale. Upon resolution of an Adjourned Cure Objection and the payment of the applicable cure amount, if any, the applicable Contract that was the subject of such Adjourned Cure Objection shall, as applicable, be deemed assumed and assigned to the Successful Bidder as of the closing date of the Sale.
- iv. Failure to Timely Object. If a Counterparty fails to file with the Court and serve on the Objection Notice Parties a timely Cure Objection, the Counterparty forever shall be barred from asserting any objection with regard to the cost to cure any defaults under the applicable Contract. The Cure Costs set forth in the applicable Assumption and Assignment Notice shall be controlling and will be the only amount necessary to cure outstanding defaults under the Contract and satisfy the requirements of section 365(b) of the Bankruptcy Code, and the Counterparty to the Contract shall be bound by and deemed to have consented to the Cure Costs.
- v. Adequate Assurance Objection Deadline. Any Counterparty to a Contract that wishes to object to the proposed assumption and assignment of the Contract, the subject of which objection is the proposed form of adequate assurance of future performance of, (i) in the event that the Stalking Horse Bidder is the Successful Bidder, the Stalking Horse Bidder (or any other relevant assignees) (each such objection, a "Stalking Horse Adequate Assurance Objection"); or, (ii) in the event that a Qualified Bidder other than the Stalking Horse Bidder is the Successful Bidder, such Successful Bidder (or any other relevant assignees) (each such objection, a "Non-Stalking Horse Adequate Assurance Objection" and together with any Stalking Horse Adequate Assurance Objection, an "Adequate Assurance Objection"), shall file with the Court and serve on the Objection Notice Parties **no later than March 5, 2025, at 6:00 p.m. (ChST)** (the "Adequate Assurance Deadline" and together with the Cure Objection Deadline, and the Sale Objection Deadline, the "Objection Deadlines"). Any Adequate Assurance Objection must state, with specificity, the legal and factual bases thereof and include any appropriate documentation in support thereof.
- vi. Resolution of Adequate Assurance Objections. Debtor, the Committee, the Successful Bidder, and the objecting Counterparty shall first confer in good faith to attempt to resolve the Adequate Assurance Objection without Court intervention. If the parties are unable to consensually resolve the Adequate Assurance Objection prior to the commencement of the Sale Hearing, the Adequate Assurance Objection and all issues of adequate assurance of future

1 performance of the Successful Bidder (or any other relevant assignee) shall
2 be determined by the Court at the Sale Hearing or, at the option of the Debtor
3 and the Successful Bidder, be adjourned to a subsequent hearing, with notice
4 to the party having filed the Adequate Assurance Objection.

- 5 vii. Failure to Timely Object. If a Counterparty fails to file with the Court and
6 serve on the Objection Notice Parties a timely Adequate Assurance
7 Objection, the Counterparty shall be forever barred from asserting any
8 objection to the assumption and/or assignment of the applicable Contract
9 with regard to adequate assurance of future performance. The Successful
10 Bidder (or any other relevant assignee) shall be deemed to have provided
11 adequate assurance of future performance with respect to the Contract in
12 accordance with Bankruptcy Code section 365(f)(2)(B) and, if applicable,
13 Bankruptcy Code section 365(b)(3), notwithstanding anything to the
14 contrary in the Contract or any other document.

15 3. Notice of Assumed Contracts. As soon as reasonably practicable after the closing
16 of the Sale, Debtor and the Committee will file with the Court and serve on the applicable
17 Counterparties a notice containing the list of Contracts that Debtor assumed and assigned pursuant
18 to the asset purchase agreement with the Successful Bidder.

19 4. The inclusion of a Contract or Cure Costs with respect to any Contract on any
20 Assumption and Assignment Notice, shall not constitute or be deemed a determination or admission
21 by the Debtor, the Committee, any Stalking Horse Bidder, any Successful Bidder, or any other
22 party that such Contract is an executory contract or an unexpired lease within the meaning of the
23 Bankruptcy Code, and shall not be a guarantee that such Contract ultimately will be assumed or
24 assigned. The Debtor and the Committee reserve all of its rights, claims, and causes of action with
25 respect to each Contract listed on any Assumption and Assignment Notice.

26
27
28
[signatures on the next page]

1 Dated: January 3, 2025

ARENTFOX SCHIFF LLP

2
3 By: /s/ Aram Ordubegian

4 Aram Ordubegian

5 Christopher K.S. Wong

6 Attorneys for the Official Committee of
7 Unsecured Creditors

8 Dated: January 3, 2025

CHOI & ITO ATTORNEYS AT LAW

9
10 By: /s/ Chuck C. Choi

11 Chuck C. Choi

12 Allison A. Ito

13 Attorneys for Imperial Pacific International
14 (CNMI), LLC, the debtor and debtor in
15 possession

EXHIBIT 1

Aram Ordubegian (admitted *pro hac vice*)
Christopher K.S. Wong (admitted *pro hac vice*)

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keith.chambers@chamberslawcnmi.com

Attorneys for the Official Committee
of General Unsecured Creditors

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN MARIANA ISLANDS
BANKRUPTCY DIVISION

In re:

**IMPERIAL PACIFIC
INTERNATIONAL (CNMI) LLC,**

Debtor and Debtor in Possession.

Case No. 1:24-bk-00002

Chapter 11

**NOTICE OF SALE, BIDDING
PROCEDURES, AUCTION,
SALE HEARING AND OTHER
DEADLINES RELATED THERETO**

Judge: Hon. Robert J. Faris

PLEASE TAKE NOTICE OF THE FOLLOWING:

On [•] the above-captioned debtor and debtor in possession (the “Debtor”) and the Official Committee of General Unsecured Creditors (the “Committee”) in the above-captioned chapter 11 case (the “Chapter 11 Case”) filed with the United States District Court for the Northern Mariana Islands Bankruptcy Division (the “Court”) a stipulation [Docket No.[•]] (the “Stipulation”) seeking entry of an order (the “Bidding Procedures Order”) (i) approving bidding procedures (the “Bidding

Procedures”)¹ to be used in connection with the sale (“Sale”) of all, or substantially all of the Debtor’s assets (the “Assets”); (ii) authorizing the Debtor and the Committee to designate a Stalking Horse Bidder and provide Bid Protections in accordance with the Stalking Horse Designation Procedures; (iii) scheduling (A) an auction of the Assets (the “Auction”) on and (B) a hearing to consider approval of the proposed Sale (the “Sale Hearing”); (iv) approving the form and manner of notice of the Bidding Procedures, the Auction and the Sale Hearing; (v) approving procedures for the assumption and assignment of executory contracts and unexpired leases (collectively, the “Contracts”) in connection with the Sale; (vi) approving the form and manner of notice to each relevant non-debtor counterparty to a Contract of the Debtor’s calculation of the amount necessary to cure any defaults under an applicable Contract and certain other information regarding the potential assumption and assignment of Contracts in connection with a Sale; and (vii) granting related relief.

On [•], the Court entered the Bidding Procedures Order [Docket No. [•]].

ASSETS FOR SALE

The Debtor intends to sell all or substantially all of the Assets. A Prospective Bidder (as defined in Section III of the Bidding Procedures) may bid on the Assets, subject to the conditions set forth herein. The ability to undertake and consummate a sale of the Assets shall be subject to competitive bidding, as set forth herein, and approval by the Court. In addition to any stalking horse bid, and as set forth herein, the Debtor and the Committee will consider bids for the Assets from other parties. Any party interested in submitting a bid for any of the Assets should contact the investment banker: Intrepid Investment Bankers LLC, attention: Lorie Beers, LBeers@intrepidib.com; Carl Comstock, CComstock@intrepidib.com; and Lucy Yang, LuYang@intrepidib.com.

¹ Capitalized terms used but not defined herein shall have the respective meanings ascribed to such terms in the Stipulation or the Bidding Procedures, as applicable. Any summary of the Bidding Procedures or the Bidding Procedures Order (or any provision thereof) contained herein is qualified in its entirety by the actual terms and conditions thereof. To the extent that there is any inconsistency between any summary in this Sale Notice and the terms and conditions of either of the Bidding Procedures or the Bidding Procedures Order, the actual terms and conditions in those documents shall control.

KEY DATES AND DEADLINES

A. Bid Deadline

Any Prospective Bidder that intends to participate in the Auction must submit in writing to the Bid Notice Parties a Qualified Bid (as defined in Section VI.A of the Bidding Procedures) **on or before [February 21, 2025], at 12:00 p.m. (ChST)** (the “Bid Deadline”).

The Qualified Bid requirements are set forth in Sections VI.A of the Bidding Procedures.

B. Auction

If more than one Qualified Bid is received for the Assets, the Debtor will conduct an Auction for the Assets. If any Stalking Horse Bid is the only Qualified Bid received in respect of the Assets subject to such Stalking Horse Bid, the Debtor will not conduct an Auction for such applicable Assets and will seek approval of such Stalking Horse Bid at the Sale Hearing.

The Auction, if required, will be conducted on **February 26, 2025, at 8:00 a.m. (ChST)** virtually or at such other date, time or location as designated by the Debtor and the Committee. Subject to the Auction procedures set forth in section VII.B of the Bidding Procedures, the Debtor and the Committee will provide instructions setting forth how to attend the Auction to the participants and other attendees via electronic mail. The Debtor and the Committee will provide notice (via electronic mail or otherwise) of any change in the date, time or location of the Auction to Qualified Bidders and will cause publication of such change to occur on the docket, which is accessible at <https://veritaglobal.net/ipi>, as soon as reasonably practicable and in any event no later than 24 hours before the Auction. If held, the Auction proceedings will be transcribed and/or video recorded.

No later than two business days after the conclusion of the Auction, the Debtor will file with the Court and serve on the Sale Notice Parties (as defined in Section X.A of the Bidding Procedures) a notice of the results of the Auction, which will, among other things, (A) identify each Successful Bidder and the Backup Bidder(s); (B) include a copy of each Successful Bid and the Backup Bid or a summary of the material terms of such bids, including any assumption and assignment of Contracts contemplated thereby; and (C) set forth the Sale Objection Deadline (as defined in Section X.C of the Bidding Procedures), the date, time, and location of the Sale Hearing

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1 and any other relevant dates or other information necessary to reasonably apprise the Sale Notice
 2 Parties of the outcome of the Auction.

3 If the Debtor and the Committee determine not to hold an Auction, the Debtor will file and
 4 serve a notice stating that the Auction for such Assets has been canceled and providing all other
 5 relevant information to the Sale Notice Parties as required by the Bidding Procedures.

6 **C. Sale Objection Deadline**

7 All objections to a sale of the Assets, including (i) any objection to the conduct of the
 8 Auction and/or the Successful Bidder or Backup Bidder, (ii) any objection to a sale of the Assets
 9 free and clear of all liens, claims, interests, and encumbrances pursuant to section 363(f) of the
 10 Bankruptcy Code and (iii) entry of any Sale Order (each such objection, a “Sale Objection”) shall,
 11 by no later than **March 5, 2025, at 6:00 p.m. (ChST)** (the “Sale Objection Deadline”), be filed
 12 with Court and served on the Objection Notice Parties (as defined in Section X.C of the Bidding
 13 Procedures).

14 **D. Sale Hearing**

15 The Sale Hearing shall take place on **[March 25, 2024], at 9:00 a.m. (ChST)** before the
 16 Honorable Robert J. Faris, United States Bankruptcy Judge, in the United States District Court for
 17 the Northern Mariana Islands, Bankruptcy Division, located at the 3rd Floor Courtroom, 1671
 18 Gualo Rai Rd., Gualo Rai, Saipan, MP 96950.

19 **RESERVATION OF RIGHTS TO MODIFY BIDDING PROCEDURES**

20 The Debtor and the Committee reserve the right to, in their reasonable business judgment
 21 to (i) modify these Bidding Procedures, including to extend or waive deadlines or other terms and
 22 conditions set forth herein; adopt new rules and procedures for conducting the bidding and Auction
 23 process so long as any such modifications are disclosed to all Prospective Bidders and Qualified
 24 Bidders, as applicable; or (ii) to further promote competitive bidding for and maximizing the of
 25 value of the Assets.

26 **ADDITIONAL INFORMATION**

27 **FAILURE TO ABIDE BY THE BIDDING PROCEDURES, THE BIDDING**
 28 **PROCEDURES ORDER OR ANY OTHER APPLICABLE ORDER OF THE COURT**

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ENTERED IN THE CHAPTER 11 CASE MAY RESULT IN THE REJECTION OF YOUR
 BID AND YOUR DISQUALIFICATION FROM PARTICIPATING IN THE BIDDING
 FOR AND AUCTION OF ANY OF THE ASSETS.

THE FAILURE OF ANY PERSON OR ENTITY TO FILE AND SERVE AN
 OBJECTION IN ACCORDANCE WITH THE BIDDING PROCEDURES ORDER,
 INCLUDING THE FAILURE TO FILE ANY SUCH OBJECTION BY THE APPLICABLE
 OBJECTION DEADLINE, SHALL FOREVER BAR SUCH PERSON OR ENTITY FROM
 ASSERTING, AT THE SALE HEARING OR THEREAFTER, ANY SUCH OBJECTION
 TO THE RELIEF SET FORTH IN THE STIPULATION, THE CONSUMMATION OF
 ANY APPLICABLE SALE, INCLUDING THE SALE OF ANY ASSETS TO A
 SUCCESSFUL BIDDER FREE AND CLEAR OF LIENS, CLAIMS, INTERESTS AND
 ENCUMBRANCES PURSUANT TO SECTION 363(f) OF THE BANKRUPTCY CODE OR
 THE TERMS OF ANY STALKING HORSE AGREEMENT OR OTHER ASSET
 PURCHASE AGREEMENT EXECUTED BY THE DEBTOR.

Dated: [•]

ARENTFOX SCHIFF LLP

By: _____
 Aram Ordubegian
 Christopher K.S. Wong
 Attorneys for the Official Committee of
 Unsecured Creditors

Dated: [•]

CHOI & ITO ATTORNEYS AT LAW

By: _____
 Chuck C. Choi
 Allison A. Ito
 Attorneys for Imperial Pacific International
 (CNMI), LLC, the debtor and debtor in
 possession

EXHIBIT 2

Aram Ordubegian (admitted *pro hac vice*)
Christopher K.S. Wong (admitted *pro hac vice*)

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Attorneys for the Official Committee
of General Unsecured Creditors

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN MARIANA ISLANDS
BANKRUPTCY DIVISION

In re:

**IMPERIAL PACIFIC
INTERNATIONAL (CNMI) LLC,**

Debtor and Debtor in Possession.

Case No. 1:24-bk-00002

Chapter 11

**NOTICE OF CURE COSTS AND
POTENTIAL ASSUMPTION
AND ASSIGNMENT OF EXECUTORY
CONTRACTS AND UNEXPIRED
LEASES IN CONNECTION WITH SALE
OF SUBSTANTIALLY ALL ASSET**

Judge: Hon. Robert J. Faris

PLEASE TAKE NOTICE OF THE FOLLOWING:

On [•] the above-captioned debtor and debtor in possession (the “Debtor”) and the Official Committee of General Unsecured Creditors (the “Committee”) in the above-captioned chapter 11 case (the “Chapter 11 Case”) filed with the United States District Court for the Northern Mariana Islands Bankruptcy Division (the “Court”) a stipulation [Docket No. [•]] (the “Stipulation”) seeking

AFSDOCS:301015221.3

entry of an order (the “Bidding Procedures Order”) (i) approving bidding procedures (the “Bidding Procedures”)¹ to be used in connection with the sale (“Sale”) of all, or substantially all of the Debtor’s assets (the “Assets”); (ii) authorizing the Debtor and the Committee to designate a Stalking Horse Bidder and provide Bid Protections in accordance with the Stalking Horse Designation Procedures; (iii) scheduling (A) an auction of the Assets (the “Auction”) on and (B) a hearing to consider approval of the proposed Sale (the “Sale Hearing”); (iv) approving the form and manner of notice of the Bidding Procedures, the Auction and the Sale Hearing; (v) approving procedures for the assumption and assignment of executory contracts and unexpired leases (collectively, the “Contracts”) in connection with the Sale; (vi) approving the form and manner of notice to each relevant non-debtor counterparty to a Contract of the Debtor’s calculation of the amount necessary to cure any defaults under an applicable Contract and certain other information regarding the potential assumption and assignment of Contracts in connection with a Sale; and (vii) granting related relief.

On [•] the Court entered the Bidding Procedures Order [Docket No. [•]].

You are receiving this Notice because you may be a Counterparty to a Contract of the Debtor that may be assumed and assigned to the Successful Bidder for the Assets.

CURE COSTS

In accordance with the Assumption and Assignment Procedures and the Bidding Procedures Order, the Debtor may, in connection with the Sale to the Successful Bidder, seek to assume and assign to the Successful Bidder certain of their Contracts. Each of the Contracts that potentially could be assumed and assigned in connection with the Sale, together with the Debtor’s calculation of Cure Costs with respect to such Contracts, is set forth on Schedule 1 hereto. The inclusion of any Contract on Schedule 1 does not constitute an admission by the Debtor, the Committee, any Stalking Horse Bidder, any Successful Bidder, or any other party that such Contract is an executory

¹ Capitalized terms used but not defined herein shall have the respective meanings ascribed to such terms in the Stipulation or the Bidding Procedures, as applicable. Any summary of the Bidding Procedures or the Bidding Procedures Order (or any provision thereof) contained herein is qualified in its entirety by the actual terms and conditions thereof. To the extent that there is any inconsistency between any summary in this Sale Notice and the terms and conditions of either of the Bidding Procedures or the Bidding Procedures Order, the actual terms and conditions in those documents shall control.

1 contract or an unexpired lease within the meaning of the Bankruptcy Code or require or guarantee
 2 that such Contract ultimately will be assumed or assigned. All rights of the Debtor with respect
 3 thereto are reserved.

4 In addition, to the extent that any of the Cure Costs set forth on Schedule 1 do not reflect
 5 (i) postpetition payments that have been made by the Debtor in respect of applicable Cure Costs or
 6 (ii) any payments that are made by the Debtor in respect of such Cure Costs after the filing of this
 7 Notice, the respective amounts required to be paid to cure any existing defaults under the applicable
 8 Contracts shall be reduced by any such corresponding postpetition payments, and the Debtor
 9 reserves its right to update the Cure Costs set forth on Schedule 1 accordingly, either by filing a
 10 supplemental notice with the Court or by written notice to the applicable Counterparty.

11 CURE OBJECTIONS

12 **A. Cure Objection Deadline**

13 Any Counterparty that wishes to object to the Debtor's proposed Cure Costs (each such
 14 objection, a "Cure Objection") must file with the Court by **no later than [March 5, 2025], at 6:00**
 15 **p.m. (ChST)** and serve on the Objection Notice Parties (as defined in Section X.C of the Bidding
 16 Procedures) its Cure Objection, which must be in writing and state, with specificity, the legal and
 17 factual bases thereof and include any appropriate documentation in support thereof.

18 **B. Resolution of Cure Objections**

19 Pursuant to the Bidding Procedures Order, the Debtor, the Committee, any Stalking Horse
 20 Bidder or Successful Bidder (if applicable) and the objecting Counterparty must first confer in good
 21 faith to attempt to resolve the Cure Objection without Court intervention. If the parties are unable
 22 to consensually resolve the Cure Objection prior to the commencement of the Sale Hearing, the
 23 Court shall make all necessary determinations relating to the applicable Cure Costs and Cure
 24 Objection at a hearing scheduled pursuant to the following paragraph. If a Cure Objection is
 25 resolved in a manner that is not in the best interests of the Debtor and its estate, whether or not such
 26 resolution occurs prior to or after the closing of the Sale, the Debtor, the Committee, and the
 27 Successful Bidder may determine that any Contract subject to such resolved Cure Objection no

longer will be assumed and assigned. All other objections to the Debtor's proposed assumption and assignment of the Debtor's right, title, and interest in, to, and under a Contract shall be heard at the Sale Hearing.

C. Adjourned Cure Objections

If a timely filed Cure Objection cannot otherwise be resolved by the parties, the Cure Objection may be heard at the Sale Hearing, or, at the option of the Debtor, the Committee, and the Successful Bidder, be adjourned to a subsequent hearing (each such Cure Objection, an "Adjourned Cure Objection"). Upon resolution of an Adjourned Cure Objection and the payment of the applicable cure amount, if any, the applicable Contract that was the subject of such Adjourned Cure Objection shall, at the election of the Successful Bidder, and subject to the Debtor's rights set forth in the Bidding Procedures Order, be deemed assumed and assigned to the Successful Bidder as of the closing date of the Sale.

IF A COUNTERPARTY FAILS TO FILE WITH THE COURT AND SERVE ON THE OBJECTION NOTICE PARTIES A TIMELY CURE OBJECTION, THE COUNTERPARTY FOREVER SHALL BE BARRED FROM ASSERTING ANY OBJECTION WITH REGARD TO THE COST TO CURE ANY DEFAULTS UNDER THE APPLICABLE CONTRACT, AND THE CURE COSTS SET FORTH ON SCHEDULE 1 HERETO SHALL BE CONTROLLING AND WILL BE THE ONLY AMOUNT NECESSARY TO CURE OUTSTANDING DEFAULTS UNDER THE CONTRACT AND SATISFY THE REQUIREMENTS OF SECTION 365(b) OF THE BANKRUPTCY CODE, AND THE COUNTERPARTY TO THE CONTRACT SHALL BE DEEMED BOUND BY AND TO HAVE CONSENTED TO THE CURE COSTS.

NOTICE OF AUCTION RESULTS

The Auction, if required, will be conducted on **February 26, 2025, at 8:00 a.m. (ChST)** virtually or at such other date, time or location as designated by the Debtor and the Committee. The Debtor and the Committee will provide instructions setting forth how to attend the Auction to the participants and other attendees via electronic mail. The Debtor and the Committee will provide

notice (via electronic mail or otherwise) of any change in the date, time or location of the Auction to Qualified Bidders and will cause publication of such change to occur on the docket, which is accessible at <https://veritaglobal.net/ipi>, as soon as reasonably practicable and in any event no later than 24 hours before the Auction. If held, the Auction proceedings will be transcribed and/or video recorded

Within two business days after the conclusion of the Auction, the Debtor will file with the Court and serve on the Sale Notice Parties a notice setting forth the results of the Auction (the “Notice of Auction Results”), which will (a) identify each Successful Bidder and the Backup Bidder; (b) include a copy of each Successful Bid and the Backup Bid or a summary of the material terms of such bids; and (c) set forth the Sale Objection Deadline (as defined in Section X.C of the Bidding Procedures), the date, time, and location of the Sale Hearing and any other relevant dates or other information necessary to reasonably apprise the Sale Notice Parties of the outcome of the Auction.

ADEQUATE ASSURANCE OBJECTIONS

A. Adequate Assurance Objection Deadline

Any Counterparty to a Contract that wishes to object to the proposed assumption and assignment of the Contract, the subject of which objection is the proposed form of adequate assurance of future performance of, (i) in the event that the Stalking Horse Bidder is the Successful Bidder, the Stalking Horse Bidder (or any other relevant assignees) (each such objection, a “Stalking Horse Adequate Assurance Objection”); or, (ii) in the event that a Qualified Bidder other than the Stalking Horse Bidder is the Successful Bidder, such Successful Bidder (or any other relevant assignees) (each such objection, a “Non-Stalking Horse Adequate Assurance Objection” and together with any Stalking Horse Adequate Assurance Objection, an “Adequate Assurance Objection”), shall file with the Court and serve on the Objection Notice Parties **no later than [March 5, 2025], at 6:00 p.m. (ChST)**. Any Adequate Assurance Objection must state, with specificity, the legal and factual bases thereof and include any appropriate documentation in support thereof.

B. Resolution of Adequate Assurance Objections

Pursuant to the Bidding Procedures Order, the Debtor, the Committee, the Successful Bidder and the objecting Counterparty must first confer in good faith to attempt to resolve the Adequate Assurance Objection without Court intervention. If the parties are unable to consensually resolve the Adequate Assurance Objection prior to the commencement of the Sale Hearing, the Adequate Assurance Objection and all issues of adequate assurance of future performance of the Successful Bidder (or any other relevant assignee) shall be determined by the Court at the Sale Hearing or, at the option of the Debtor, the Committee, and the Successful Bidder, be adjourned to a subsequent hearing, with notice to the party having filed the Adequate Assurance Objection.

IF A COUNTERPARTY FAILS TO FILE WITH THE COURT AND SERVE ON THE OBJECTION NOTICE PARTIES A TIMELY ADEQUATE ASSURANCE OBJECTION, THE COUNTERPARTY FOREVER SHALL BE BARRED FROM ASSERTING ANY OBJECTION TO THE ASSUMPTION AND/OR ASSIGNMENT OF THE APPLICABLE CONTRACT WITH REGARD TO ADEQUATE ASSURANCE OF FUTURE PERFORMANCE. THE APPLICABLE SUCCESSFUL BIDDER SHALL BE DEEMED TO HAVE PROVIDED ADEQUATE ASSURANCE OF FUTURE PERFORMANCE WITH RESPECT TO THE CONTRACT IN ACCORDANCE WITH BANKRUPTCY CODE SECTIONS 365(b)(1)(C), 365(f)(2)(B) AND, IF APPLICABLE, 365(b)(3), NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE CONTRACT OR ANY OTHER DOCUMENT.

SALE HEARING

The Sale Hearing shall take place on [March 25, 2024], at 9:00 a.m. (ChST) before the Honorable Robert J. Faris, United States Bankruptcy Judge, in the United States District Court for the Northern Mariana Islands, Bankruptcy Division, located at the 3rd Floor Courtroom, 1671 Gualo Rai Rd., Gualo Rai, Saipan, MP 96950.

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Dated: [•]

ARENTFOX SCHIFF LLP

By: _____
Aram Ordubegian
Christopher K.S. Wong
Attorneys for the Official Committee of
Unsecured Creditors

Dated: [•]

CHOI & ITO ATTORNEYS AT LAW

By: _____
Chuck C. Choi
Allison A. Ito
Attorneys for Imperial Pacific International
(CNMI), LLC, the debtor and debtor in
possession

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Schedule 1

[TO BE ATTACHED]

CERTIFICATE OF SERVICE

I hereby certify that on January 3, 2025, I caused the forgoing document to be filed with the Clerk of Court for the United States District Court for the Northern Mariana Islands, Bankruptcy Division, using the CM/ECF System. A true and correct copy of the said pleading has been served on all counsel of record via the Court's CM/ECF System.

Executed this 3rd day of January 2025.

/s/ Aram Ordubegian
ARAM ORDUBEGIAN