

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF NEW YORK

-----X

In re:

19 COOPER STREET LLC,

Debtor.

Chapter 11

Case No. 23-44663 (ESS)

-----X

**TERMS AND CONDITIONS OF SALE**

These Terms and Conditions of Sale are promulgated in connection with the sale (the “Sale”) of the real property and the improvements thereon, located at and commonly known as 19 Cooper Street, Brooklyn, New York 11207 (the “Property”). The seller of the Property is 19 Cooper Street LLC, the debtor and debtor in possession (the “Debtor”). The sale of the Property shall be conducted pursuant to sections 363(f), 1123(a)(5)(D) and 1141(c) of the Bankruptcy Code.

A. Time and Place of Auction. The sale of the Property shall be pursuant to an auction (the “Auction”) by video conference on **December 17, 2025 at 10:30 a.m.**, in accordance with these procedures as approved by the Bankruptcy Court. MYC & Associates, Inc. (“Broker”) has been engaged by Fairbridge Capital, LLC (“Fairbridge”), the Chapter 11 plan proponent, as real estate broker to market the Property [subject to approval of the Bankruptcy Court].

B. Sale Free and Clear of Liens. The sale of the Property shall be free and clear of all liens, claims, encumbrances, equities and interests, of any nature or kind, other than customary permitted encumbrances. The foregoing notwithstanding, the Property may be transferred subject to the Debtor’s existing mortgage lien(s) of record upon the consent of Fairbridge and the purchaser. All liens and encumbrances upon the Property shall remain in effect until the closing of the sale, and at closing shall be transferred to and attach to the net proceeds of the sale in the same priority that existed immediately before the closing and disbursed pursuant Order of the Bankruptcy Court.

C. Broker’s Commission. The Broker will be paid a buyer’s premium equal to 6%, which shall be reduced to 1.5% if Fairbridge is the successful purchaser at the sale via credit bid.

D. Bid Qualifications. Any potential bidder who wishes to submit a bid with respect to the Property must demonstrate to the satisfaction of Fairbridge that such potential bidder is a “Qualified Bidder.” A Qualified Bidder is a potential bidder who delivers to Fairbridge and the Broker a signed, marked-up Purchase and Sale Agreement (the form of which shall be provided by Fairbridge) (the “Marked-Up PSA”) in an amount not less than \$1,200,000.00, **on or before December 15, 2025 at 4:00 p.m.** (the “Bid Deadline”). The Marked-Up PSA:

- (i) may not be revocable or contingent on financing, due diligence or any other

similar contingencies;

- (ii) may not entitle the bidder to any transaction or break-up fee, or similar type of payment;
- (iii) include a disclosure of the identity of all parties having an interest in the Qualified Bidder, the terms of any such participation (including, if the Qualified Bidder is an entity formed for the purpose of consummating the proposed transaction contemplated by the bid, the equity holder or other financial backer), the Bidder's address, telephone number and email address where the bidder may be contacted;
- (iv) is accompanied by a good faith deposit in the amount of 10% of the Qualified Bidder's bid (the "Bid Deposit"), in immediately available funds, has been made (or is concurrently being made) by wire transfer to the Broker as escrow agent (the "Escrow Agent"), pursuant to wire instructions to be provided, and acknowledges that the Bid Deposit shall be held by the Escrow Agent in a non-interest bearing, segregated, account of the Escrow Agent in accordance with the terms hereof;
- (v) is accompanied by documentary proof establishing the financial wherewithal of the Qualified Bidder to consummate the transaction and any increased or modified bid that may be made at the Auction;
- (vi) includes an executed original of these Terms and Conditions of Sale acknowledging and agreeing to these Terms and Conditions of Sale, including the following:
  - (a) the Qualified Bidder relied solely on its own independent investigation, analysis, appraisal and evaluation of the Property and it did not rely upon and did not receive any written or oral statements, representations, warranties, promises or guarantees whatsoever, whether express or implied or by operation of law or otherwise, with respect to the Property and waives any and all claims against Fairbridge and the Broker; and
  - (b) the Qualified Bidder's bid is irrevocable until the earlier of the Closing Date (as defined herein) or until its bid is affirmatively rejected;
  - (c) the Qualified Bidder is financially able to acquire the Property in cash, without contingencies as to financing and/or additional due diligence;
  - (d) the Qualified Bidder, if it is the Successful Bidder, will complete the Auction Sale in accordance with the timing set forth in these Terms

and Conditions of Sale; and

- (e) the Qualified Bidder's offer shall be binding prior to the time that the Auction is conducted and the Sale of the Property approved by the Bankruptcy Court.

A bid meeting the above requirements shall constitute a "Qualified Bid." Fairbridge, in consultation with the Broker, within its sole discretion, shall make a determination regarding whether a bid is a Qualified Bid and the Broker shall notify bidders whether their bids have been determined to be qualified by no later than **December 16, 2025 at 4:00p.m.**

E. Stalking Horse Designation. Notwithstanding anything set forth herein to the contrary, Fairbridge, in consultation with the Broker, shall have the authority, in its sole discretion, to designate a Qualified Bidder as a "Stalking Horse" bidder and may grant certain bidder protections including reimbursement of actual and verified expenses incurred, not to exceed \$25,000 and an initial overbid in an amount not to exceed \$50,000, with subsequent bid increments of \$25,000.

F. Credit Bid. Fairbridge may, but is not required to, submit a credit bid as to sums due it, for the Property and pay all other senior liens, claims and encumbrances at closing.

G. Adjournment and Cancellation of Auction. Fairbridge reserves the right, in its business judgment, to make one or more adjournments to the Auction Sale to, among other things (i) facilitate discussions between Fairbridge, on the one hand, and one or more Qualified Bidders, on the other hand, (ii) allow Fairbridge and/or Qualified Bidders to consider how they wish to proceed, (iii) give Qualified Bidders the opportunity to provide Fairbridge with such additional documentation or information as Fairbridge in its business judgment may require to determine such Qualified Bidder's ability to close the Auction Sale, or (iv) facilitate higher or better bids.

H. Successful Bidder and Backup Bidder. At the Auction Sale, once a bidder is determined, Fairbridge, in consultation with its professionals, to have made the highest or best offer for the Property (the "Successful Bidder"), bidding shall be deemed closed and no additional bids will be considered. The bidder with the next highest or best bid submitted at the Auction Sale, as determined by Fairbridge, in consultation with its professionals shall be the "Backup Bidder." In determining the Successful Bidder and the Backup Bidder, Fairbridge may consider, without limitation, (i) the amount of the purchase price offered, (ii) the form of consideration offered, (iii) the Qualified Bidder's ability to close the Sale at the amount of its last bid made at the Auction, and the timing thereof, (iv) indicia of good faith on the part of the Qualified Bidder, (v) the terms and conditions of the Qualified Bidder's purchase and sale agreement for the purchase of the Property and (vi) the net benefit to the Debtor's estate.

I. Successful Bidder Additional Deposit. Within one business day after the Successful Bidder is determined, the Successful Bidder shall be required to increase the Bid Deposit to an amount equal to ten percent (10%) of the purchase price of the winning bid (the "Purchase Price"), plus the buyers' premium equal to 6% of the Purchase Price, which amount shall serve as a good faith deposit against payment of the Purchase Price, **TIME BEING OF THE ESSENCE AS TO**

**THE SUCCESSFUL BIDDER'S OBLIGATION TO INCREASE THE DEPOSIT.** Within two (2) business days after the conclusion of the Auction, the Bid Deposits shall be returned by the Escrow Agent to all other bidders, other than the Backup Bidder (as defined below).

J. Sale Hearing. A hearing to consider approval of the Sale of the Property to the successful bidder (the "Sale Hearing") will be held on **December 18, 2025, at 10:30 a.m.** before the Honorable Elizabeth S. Stong, United States Bankruptcy Judge. The Sale Hearing will be conducted in person.

K. Sale Order. The sale approval order (the "Sale Order") shall approve the Auction Sale free and clear of all liens, claims, and encumbrances, with such liens, claims and encumbrances to attach to the proceeds of the Sale, and in connection therewith, the Sale Order shall contain the following findings of fact and conclusions of law: that the terms of the Sale are fair and reasonable, (ii) that the Auction Sale, and the Purchaser's purchase, of the Property pursuant to the Plan, is non-collusive, fair and reasonable and was conducted openly and in good faith, (iii) that the transfer of the Property to the Purchaser represents an arm's-length transaction and was negotiated in good faith between the parties, (iv) that the Purchaser, as transferee of the Property, is a good faith Purchaser under Bankruptcy Code section 363(m) and, as such, is entitled to the full protection of Bankruptcy Code section 363(m), (v) the sale of the Property to the Purchaser was not controlled by an agreement among potential purchasers, and (vi) that no cause of action exists against the Purchaser or with respect to the sale of the Property to the Purchaser under Bankruptcy Code section 363(n).

L. Closing. The Successful Bidder must pay the balance of the Purchase Price for the Property (the difference between the amount of the successful bid and the Bid Deposit as increased by the supplemental deposit in Paragraph I above) to counsel for Fairbridge, in full in cash, at the closing of title to the Property (the "Closing"). The Successful Bidder must close title to the Property at a date mutually acceptable to the Successful Bidder and Fairbridge (the "Closing Date") that is no more than thirty (30) days after the Sale Order is entered, except that Fairbridge may, in its sole discretion, adjourn the Closing to a date that is no later than thirty (30) days after the Order confirming the Plan is entered, TIME BEING OF THE ESSENCE as to the Successful Bidder.

M. Exemption from Transfer Tax. Insofar as the Closing is contemplated to occur post-confirmation, to the maximum extent provided by section 1146(a) of the Bankruptcy Code, the issuance, transfer, or exchange of any security and the making or delivery of any instrument of transfer under the Plan (including an instrument of transfer executed in furtherance of the Sale), shall not be subject to tax under any law imposing a stamp tax, real estate transfer tax, mortgage recording tax, mansion tax, or similar tax due on the sale of the Property in connection with or in furtherance of the Plan.

N. Damages for Buyer's Failure to Close. **TIME IS OF THE ESSENCE AS AGAINST THE SUCCESSFUL BIDDER AND THE FAILURE OF THE SUCCESSFUL BIDDER TO EITHER TIMELY PAY THE ADDITIONAL BID DEPOSIT OR TIMELY CLOSE FOR ANY REASON WHATSOEVER (EXCEPT AS OTHERWISE PROVIDED BELOW), INCLUDING ITS FAILURE TO PAY THE BALANCE OF THE PURCHASE**

**PRICE ON THE CLOSING DATE, WILL RESULT IN THE DEPOSIT BEING REMITTED TO FAIRBRIDGE AS LIQUIDATED DAMAGES AND THE TERMINATION OF THE SUCCESSFUL BIDDER'S RIGHT TO ACQUIRE THE PROPERTY.** The Successful Bidder shall be obligated to close title to the Property and there is no contingency of any kind or nature that will permit the Successful Bidder to cancel or avoid its obligation under these Terms and Conditions of Sale other than the inability to deliver a bargain and sale deed without covenants against grantor's acts to the Property.

O. Backup Bidder. In the event that the Successful Bidder fails to tender the payment of the balance of the Purchase Price on the Closing Date, or otherwise perform any of its obligations under these Terms and Conditions of Sale, Fairbridge, at its sole option, shall be authorized to sell the Property to the Backup Bidder without any further notice, and without giving credit for the deposit forfeited by the Successful Bidder, and upon such other terms and conditions as Fairbridge deems appropriate. The Backup Bidder must close within the later of, (i) thirty (30) days after the Sale Order is entered, (ii) thirty (30) days after the Order confirming the Plan is entered and (iii) thirty (30) days of notification that its bid is accepted, TIME BEING OF THE ESSENCE as to the Backup Bidder.

P. As Is Sale. The Property is being sold free and clear of all liens, claims, and encumbrances, with any such liens, claims and encumbrances to attach to the net proceeds of sale after deduction of any expenses of sale. Furthermore, the Property is being sold "AS IS," "WHERE IS," "WITH ALL FAULTS," without any representations, covenants, guarantees or warranties of any kind or nature whatsoever and subject to, among other things, (i) any state of facts that an accurate survey may show; (ii) any covenants, restrictions and easements of record; (iii) any state of facts a physical inspection may show; (iv) any building or zoning ordinances or other applicable municipal regulations and violations thereof; and (v) environmental conditions, including, without limitation, the Property compliance (or lack of compliance) with environmental laws and the presence or absence of underground fuel storage tanks, any hazardous materials or asbestos anywhere on the Property. By delivering its respective Bid Deposit, each bidder is deemed to have acknowledged that it has had the opportunity to review and inspect the Property, the state of title thereof and laws, rules and regulations applicable thereto, and will rely solely thereon and on its own independent investigations and inspections of the Property in making its bid. Neither Fairbridge nor any of its representatives make any representations or warranties with respect to the permissible uses of the Property, including but not limited to, the zoning of the Property. All bidders are deemed to have acknowledged that they have conducted their own due diligence in connection with the Property and are not relying on any information provided by Fairbridge or its professionals.

Q. Seller's Failure to Close. If the estate is unable to deliver title to the Property in accordance with these Terms and Conditions of Sale for any reason whatsoever or in the event that the Bankruptcy Court refuses to approve the sale of the Property, Fairbridge and the estate's only obligation will be to refund the Bid Deposit to the Successful Bidder and/ or Backup, and upon such refund, the Successful Bidder will have no claim or recourse against the Debtor, the Debtor's estate, Fairbridge, or its professionals.

R. Bankruptcy Court Jurisdiction. The Bankruptcy Court shall determine any disputes

concerning the Sale of the Property. By participating in the Auction Sale, all bidders consent to the jurisdiction of the Bankruptcy Court to determine such disputes under the Debtor's pending chapter 11 case.

S. Reservation of Rights. Fairbridge is authorized to amend and modify these Terms and Conditions of Sale to impose additional terms and conditions on the proposed Auction and Sale of the Property, or to modify or eliminate any of the terms and conditions contained herein if, (i) in Fairbridge's reasonable judgment, such modifications would be in the best interest of maximizing value from the Sale and promote an open and fair Auction and Sale process, and (ii) such modifications and/or additional terms and conditions are not materially inconsistent with the provisions of these Terms and Conditions of Sale.

I have read these Terms and Conditions and agree to be bound by them. (Please print clearly)

Date: \_\_\_\_\_

Bidder: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

E-Mail: \_\_\_\_\_

Phone No.: \_\_\_\_\_

Attorney Info: