

## BIDDING PROCEDURES<sup>1</sup>

By motion (the "Motion"), dated April 10, 2015, RadioShack and its affiliated debtors, each as a debtor and debtor-in-possession (collectively, the "Debtors"), sought, among other things, approval of the process and procedures for soliciting bids for and obtaining approval of the sale of the Debtors' global sourcing group, RadioShack's remaining intellectual property assets including the United States trademarks, the Debtors' franchise and dealer network and infrastructure, and customer data (the "Assets").

The United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court") has entered an order (the "Bidding Procedures Order") that, among other things, authorizes the Debtors to solicit bids in respect of the Assets through the procedures described below (the "Bidding Procedures"), subject to the approval of one or more Successful Bids (as defined below) by the Bankruptcy Court following a hearing before the Bankruptcy Court scheduled for 9:30 a.m. (prevailing Eastern time) on May 20, 2015, before the Honorable Brendan L. Shannon (the "Sale Hearing").

### 1. Important Dates and Contact Information

The Debtors will:

- (a) assist Potential Bidders (as defined below) in conducting their respective due diligence investigations and accept Qualified Bids (as defined below) until the deadline for receipt of Qualified Bids, which is 5:00 p.m. (prevailing Eastern time) on May 6, 2015 (the "Bid Deadline");
- (b) in consultation with the statutory committee of unsecured creditors appointed in the Debtors' chapter 11 cases (the "Creditors' Committee"), the SCP Secured Parties (as defined in the Interim DIP Financing Order, dated February 10, 2015 [D.I. 190] (the "Interim DIP Order") and the Ad Hoc Committee of U.S. Dealers and Franchisees (collectively, the "Consultation Parties"), evaluate bids and negotiate with bidders in preparation for an auction (the "Auction") to begin at 10:00 a.m. (prevailing Eastern time) on May 11, 2015 (the "Auction Date"); and
- (c) in consultation with the Consultation Parties, select the Successful Bidder(s) (as defined below) for each of the Assets at the conclusion of the Auction and seek approval of the Successful Bid(s) for such Assets at the Sale Hearing.

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<sup>1</sup> Capitalized terms not otherwise defined herein have the meanings given to them in the Bidding Procedures Order or the Motion, as applicable.

Information that must be provided under these Bidding Procedures must be provided to the following parties (the "Notice Parties"): (a) RadioShack Corporation, RadioShack Circle, Fort Worth, Texas 76102 (Attn: Bob Donohoo), email: bob.donohoo@radioshack.com; (b) Jones Day, 2727 N. Harwood Street, Dallas, Texas 75201 (Attn: Gregory M. Gordon, Esq.), email: gmgordon@jonesday.com; (c) Pepper Hamilton LLP, Hercules Plaza, Suite 5100, 1313 N. Market Street, P.O. Box 1709, Wilmington, Delaware 19899-1709 (Attn: David M. Fournier, Esq.), email: fournierd@pepperlaw.com; (d) FTI Consulting, Inc., 227 West Monroe Street, Suite 900, Chicago, IL 60606 (Attn: Carlin Adrianopoli), email: Carlin.Adrianopoli@FTIConsulting.com; (e) Lazard Frères & Co. LLC, 30 Rockefeller Plaza, New York, NY 10112 (Attn: Christian Tempke), email: christian.tempke@lazard.com; and (f) Hilco Streambank, 980 Washington St., Suite 330 Dedham, MA 02026 (Attn: David Peress), email: dperess@hilcostreambank.com.

## 2. **The Sale Hearing.**

At the Sale Hearing, the Debtors will seek the entry of one or multiple orders in substantially the form of the order attached as Exhibit D to the Motion, *inter alia*, authorizing and approving the sale of one or more of the Assets (each a "Sale Order"), to the Successful Bidder(s) pursuant to the terms and conditions set forth in the Successful Bid(s). The Sale Hearing may be adjourned or rescheduled (after consultation with the Consultation Parties) without notice or with limited and shortened notice to parties, including by (a) an announcement of such adjournment at the Sale Hearing or at the Auction or (b) the filing of a notice of adjournment with the Bankruptcy Court prior to the commencement of the Sale Hearing.

## 3. **Determination by the Debtors**

The Bidding Procedures as described herein are calculated to obtain the highest and/or best offer or group of offers for the Assets. The Debtors will (a) determine, with the assistance of their advisors, and in consultation with the Consultation Parties, whether any person or entity is a Qualified Bidder, (b) receive bids from Qualified Bidders, (c) evaluate and negotiate such bids, and (d) conduct the Auction (clauses (a) through (d) and Section 1 above, collectively, the "Bidding Process"). Neither the Debtors nor any of their representatives will be obligated to furnish any information of any kind whatsoever relating to the Assets to any person or entity who is not a Consultation Party or a Qualified Bidder and who does not comply with the requirements set forth herein.

## 4. **Participation Requirements**

Unless otherwise ordered by the Bankruptcy Court, to participate in the Bidding Process, each interested person or entity (each, an "Interested Party") must deliver the following to the Debtors so as to be received no later than the Bid Deadline:

- (a) an executed confidentiality agreement in form and substance satisfactory to the Debtors, which by its terms will inure to the benefit of the Successful Bidder(s);
- (b) a statement and other factual support demonstrating to the Debtors' satisfaction (after consultation with the Consultation Parties) that the Interested Party has a *bona fide* interest in purchasing all or any portion of the Assets;
- (c) sufficient information, as determined by the Debtors, in consultation with the Consultation Parties, to allow the Debtors to determine that the Interested Party has the financial wherewithal, and any required internal corporate, legal or other authorizations to complete a sale transaction (a "Sale Transaction"), including financial statements of the Interested Party (or such other form of financial disclosure acceptable to the Debtors in their discretion); and
- (d) the items comprising a bid, as prescribed by Section 7 below.

If the Debtors determine that an Interested Party has a *bona fide* interest in any of the Assets, no later than two Business Days after the Debtors make that determination and have received the materials described in items (a)-(c) above, such Interested Party will be deemed a "Potential Bidder" and the Debtors will deliver to such Potential Bidder access to the Debtors' confidential electronic data room concerning the Assets (the "Data Room"). The Debtors, in consultation with the Consultation Parties, reserve the right to determine whether an Interested Party has satisfied the above participation requirements such that it is eligible to be a Potential Bidder. The Debtors will provide prompt notice to the Consultation Parties in the event the Debtors determine (after receipt of the information identified in clauses (a)-(c) above) that any Interested Party does not qualify as a Potential Bidder.

## 5. Due Diligence

Until the Bid Deadline, in addition to access to the Data Room, the Debtors will provide any Potential Bidder such due diligence access or additional information as the Debtors determine to be reasonable in the circumstances, subject to the restrictions set forth in this paragraph. All additional due diligence requests must be directed to Christian Tempke of Lazard Frères & Co. LLC ("Lazard") at christian.tempke@lazard.com and David Peress of Hilco Streambank ("Streambank") at dperess@hilcostreambank.com. The Debtors, with the assistance of Lazard and Streambank, will coordinate all reasonable requests for additional information and due diligence access from Potential Bidders. In the event that any such due diligence material is in written form and has not previously been provided to any other Potential Bidder, subject to any confidentiality issues related to the material, the Debtors will simultaneously provide access to such materials to (a) all Potential Bidders, (b) the professionals (the "Creditors' Committee Professionals") retained by the Creditors' Committee; (c) counsel to Salus Capital Partners, LLC, in its capacity as administrative

and collateral agent for certain senior secured lenders (the "Agent"); and (d) counsel to the SCP Secured Parties (as defined in the Interim DIP Order).

Unless otherwise determined by the Debtors, the availability of additional due diligence to a Potential Bidder will cease if: (a) the Potential Bidder does not become a Qualified Bidder during the period commencing on the Bid Deadline and concluding on the Auction Date; or (b) the Bidding Process is terminated. Except as provided above with respect to access to the Data Room, neither the Debtors nor their representatives will be obligated to furnish any information of any kind whatsoever relating to the Assets to any party.

#### 6. **Bid Deadline**

A Potential Bidder that desires to make a bid must deliver written and electronic copies of its bid (in accordance with Section 7) in both Portable Document Format (.pdf) and Microsoft Word (.doc/.docx) format to the Notice Parties so as to be received no later than the Bid Deadline. Notwithstanding the foregoing, the SCP Secured Parties shall be excused from compliance with the requirements of Section 7 hereof and may make a bid at the Auction on all or any portion of the SCP Priority Collateral (as defined in the Interim DIP Order) without the requirement of submitting a Qualified Bid by the Bid Deadline; provided, however, that if no Auction in respect to the applicable SCP Priority Collateral would otherwise be conducted pursuant to Section 9 of the Bidding Procedures, then the SCP Secured Parties will be required to make any bid on such SCP Priority Collateral by no later than one business day prior to the date scheduled for the Auction. If the SCP Secured Parties submit any such bid for all or any portion of the Assets, the Debtors will conduct the Auction.

#### 7. **Form and Content of a Qualified Bid**

A Qualified Bid in respect of the Assets is a proposal from a Potential Bidder that, at a minimum:

- (a) identifies the legal name of the Potential Bidder (including any equity holders or other financial backers, if the Potential Bidder is an entity formed for the purpose of consummating the Sale Transaction);
- (b) provides that the Potential Bidder offers to purchase the Assets or a portion thereof at the purchase price and upon the terms and conditions set forth in a copy of the form APA enclosed therewith, marked to show any proposed amendments and modifications to it (the "Marked Agreement");
- (c) states that all necessary filings under applicable regulatory, antitrust and other Laws will be made (pursuant to the terms and conditions in the applicable Bid Documents) and that payment of the fees associated with such filings will be made by the Potential Bidder;

- (d) is formal, binding and unconditional (except for those conditions expressly set forth in the applicable Bid Documents), is not subject to any due diligence and is irrevocable until the earlier of May 31, 2015 and the first Business Day following the closing of the Sale Transaction;
- (e) includes a commitment to close the transactions contemplated by the bid no later than May 31, 2015;
- (f) does not entitle such Potential Bidder to a breakup fee, termination fee, expense reimbursement or similar type of payment or reimbursement and includes a waiver of any substantial contribution administrative expense claim under section 503(b) of the Bankruptcy Code related to bidding for any of the Assets;
- (g) is accompanied by the Good Faith Deposit (as defined below); and
- (h) is received by the Bid Deadline.

In addition, in determining whether the terms of the bid or bids for any portion of the Assets are materially more burdensome or conditional than the terms of another Qualified Bid, the Debtors may take into consideration:

- (a) indemnification and other provisions;
- (b) whether the bid or bids includes a non-cash instrument or similar consideration that is not freely marketable;
- (c) the ability to obtain any and all necessary antitrust or other applicable regulatory approvals for the proposed transaction; and
- (d) any other factors the Debtors, in consultation with the Consultation Parties, may deem relevant.

At the Debtors' request, after consultation with the Consultation Parties, prior to or after the Bid Deadline, a Potential Bidder must accompany its bid with or include in it, as applicable: (a) written evidence of available cash, a commitment for financing (not subject to any conditions other than those expressly set forth in the applicable Bid Documents) or such other evidence of ability to consummate the transaction contemplated by the Bid Documents (and, as applicable, to provide adequate assurance of future performance of all obligations to be assumed in such Sale Transaction) as the Debtors may reasonably request; (b) a copy of a board resolution or similar document demonstrating the authority of the Potential Bidder to make a binding and irrevocable bid on the terms proposed; (c) a covenant to cooperate with the Debtors to provide pertinent factual information regarding the Potential Bidder's operations reasonably required to analyze issues arising with respect to any applicable antitrust laws and other applicable regulatory requirements; (d) if the purchase price includes non-cash consideration, an analysis in reasonable detail of the value of the non-cash consideration (it being understood that a credit bid under section 363(k) of the

Bankruptcy code will be treated as cash); (e) if the Qualified Bid includes a Marked Agreement, a signed statement that such bid is irrevocable until the earlier of May 31, 2015 and the first Business Day following the closing of the Sale Transaction; and (f) other documentation as requested by the Debtors.

A Potential Bidder (other than the SCP Agent on behalf of the SCP Lenders) must deposit with the Debtors a cash deposit equal to 15% of the gross consideration payable at Closing pursuant to the applicable Bid Documents, as calculated in good faith by the Debtors, in consultation with the Consultation Parties (any such deposit, a "Good Faith Deposit"). The Good Faith Deposit must be made by wire transfer and will be held by the Debtors in a segregated bank account.

If a bid is received and, in the Debtors' judgment, it is not clear to the Debtors whether the bid is a Qualified Bid, the Debtors may consult with the Potential Bidder and seek additional information in an effort to establish whether or not a bid is a Qualified Bid. No later than one business day after the Bid Deadline, the Debtors shall provide copies of all bids received by the Debtors to each of the Consultation Parties.

The Debtors will, in their discretion (after consultation with the Consultation Parties), determine whether a bid received from a Potential Bidder for any of the Assets will constitute a "Qualified Bid" and whether a Potential Bidder that submits such a bid will be considered a "Qualified Bidder." Further, the Debtors may, in their discretion (after consultation with the Consultation Parties), withdraw some or all of the Assets from the Auction or sale at any time before entry of an order approving a sale of the Assets to a Qualified Bidder.

A Qualified Bid and bids at the Auction may be valued by the Debtors (after consultation with the Consultation Parties) based upon factors as they determine in good faith to be relevant, including: (a) the purported amount of the Qualified Bid, including non-cash consideration, if applicable; (b) the value to be provided to the Debtors under the Qualified Bid, including the net economic effect upon the Debtors' estates; (c) contingencies with respect to the Sale Transaction and the ability to close the proposed Sale Transaction on a basis acceptable to the Debtors, and any incremental costs to the Debtors in closing delays; (d) the ability to obtain any and all necessary antitrust or other applicable regulatory approvals for the proposed transaction; and (e) any other factors the Debtors may deem relevant.

The Debtors (in consultation with the Consultation Parties) reserve the right to impose additional terms and conditions with respect to Qualified Bidders not otherwise inconsistent with these Bidding Procedures.

## 8. Baseline Bid

Except as otherwise provided in Sections 6 or 7, only (a) Qualified Bidders and (b) Potential Bidders who submitted a bid that satisfies the requirements of a Qualified Bid and are invited by the Debtors, in their discretion (after consultation with the Consultation Parties), to participate in the Auction, are eligible to participate in the

Auction. The Debtors will (in consultation with the Consultation Parties) select what they determine to be the highest and/or best Qualified Bid or combination of bids that together constitute a Qualified Bid for any portion of the Assets (the "Baseline Bid(s)") to serve as the starting point at the Auction taking into account all relevant considerations, including the financial condition of the applicable bidder and certainty of closing.

## 9. Auction

If at least one Qualified Bid or bid submitted by a Potential Bidder invited by the Debtors (in consultation with the Consultation Parties) to participate in the Auction in respect of the Assets, is received by the Bid Deadline, the Debtors will conduct the Auction for any of the Assets. The Auction will take place at the offices of Jones Day, 222 East 41st Street, New York, New York 10017-6702, at 10:00 a.m. (prevailing Eastern time) on the Auction Date, or such other time as the Debtors, in consultation with the Consultation Parties, may notify Qualified Bidders who have submitted Qualified Bids. Only a Qualified Bidder or a Potential Bidder invited by the Debtors to participate at the Auction will be eligible to participate at the Auction, subject to such limitations as the Debtors may impose in consultation with the Consultation Parties. A reasonable number (as determined by the Debtors) of representatives of the Qualified Bidders, such Potential Bidders, and each Consultation Party will be permitted to attend and observe the Auction.

At the request of the Debtors, each bidder participating in the Auction will be required to confirm, in writing, that (a) it has not engaged in any collusion with respect to the Bidding Process, and (b) its bid is a good faith bona fide offer that it intends to consummate if selected as the Successful Bidder.

At the Auction, participants will be permitted to increase their bids and improve their terms; provided that any such increased or improved bid or combination of bids must be a Qualified Bid (except that the Bid Deadline will not apply). Bidding for any part of the Assets will start at the purchase price and terms proposed in the applicable Baseline Bid(s). The Debtors (after consultation with the Consultation Parties) will announce the bidding increments for bids (the "Minimum Overbid") at the outset of the Auction with respect to the Assets, as applicable. The SCP Secured Parties may credit bid their secured claims against the Debtors in respect of any SCP Priority Collateral.

The Debtors (after consultation with the Consultation Parties) may at any time adopt rules for the Auction that the Debtors reasonably determine to be appropriate to promote the goals of the Bidding Process and not in conflict with these Bidding Procedures, including one or more adjournments of the Auction.

The Debtors (after consultation with the Consultation Parties) reserve the right to and may reject at any time before entry of the final Sale Order any bid that, in the Debtors' judgment, is: (a) inadequate or insufficient; (b) not in conformity with the requirements of the Bankruptcy Code, these Bidding Procedures or the terms and conditions of the Sale Transaction; or (c) contrary to the best interests of the Debtors and their estates.

Prior to the conclusion of the Auction, the Debtors will in consultation with the Consultation Parties: (a) review and evaluate each bid made at the Auction on the basis of financial and contractual terms and other factors relevant to the sale process, including those factors affecting the speed and certainty of consummating the Sale Transaction; (b) in the exercise of their good faith business judgment and consistent with the Bidding Procedures, identify the highest or otherwise best offer or collection of offers in respect of the Assets (the "Successful Bid(s)"); and (c) notify all Qualified Bidders participating in the Auction, prior to its adjournment, of the successful bidder or bidders (the "Successful Bidder(s)") and the amount and other material terms of the Successful Bid(s). Absent irregularities in the conduct of the Auction or reasonable and material confusion during the bidding, each as determined by the Bankruptcy Court, the Debtors will not consider bids made after the Auction has been closed.

After determining the Successful Bid(s) for the Assets, the Debtors may determine, in their reasonable business judgment, in consultation with the Consultation Parties, which Qualified Bid(s) are the next best bids for the Assets (the "Next Best Bid(s)").

At the Sale Hearing, the Debtors will present the Successful Bid(s) to the Bankruptcy Court for approval. Following the entry of the Sale Order(s), the Debtors will proceed to close the Sale Transaction upon the satisfaction or waiver of all applicable conditions precedent to closing.

#### 10. **Acceptance of Qualified Bids**

The Debtors presently intend to consummate the Sale Transaction(s) with the Successful Bidder(s); however, the Debtors' presentation of the Successful Bid(s) to the Bankruptcy Court for approval does not constitute the Debtors' acceptance of such bid(s). The Debtors will be deemed to have accepted a Successful Bid only when a contract therefor has been executed and such bid has been approved by the applicable Sale Order.

If a failure to consummate the transaction is the result of a breach by a Successful Bidder of the applicable Successful Bid contract, the Debtors may retain the Good Faith Deposit of such Successful Bidder and reserve the right to seek, in addition to the Good Faith Deposit, specific performance as well as any and all available additional damages from such Successful Bidder.

If a Successful Bidder does not close the applicable Sale Transaction contemplated by the applicable Successful Bid by the date agreed to by the Debtors and such Successful Bidder, then the Debtors will be authorized, but not required, to close with the party that submitted the applicable Next Best Bid, pursuant to the applicable Sale Order.

#### 11. **Consideration of Stalking Horse Bids**

The Debtors will entertain the possibility of entering into stalking horse agreements (each a "Stalking Horse Agreement") for the sale of some or all of the

Assets, and the Debtors, in consultation with the Consultation Parties, may agree to certain bid protections, including an expense reimbursement and/or break-up fee, subject to Court approval. The Debtors may seek approval of a Stalking Horse Agreement on an emergency basis without the need to file a motion shortening notice. If the Debtors enter into an agreement with a stalking horse entity (the "Stalking Horse Bidder"), the Debtors will file and serve notice of the proposed Stalking Horse Agreement on the master service list maintained in these cases no later than two days after execution of the Stalking Horse Agreement. The notice will include the type and amount of bid protections, if any, any necessary modifications or amendments to these Bidding Procedures, a summary of the Stalking Horse Agreement, a copy of the Stalking Horse Agreement and the date and time of the emergency hearing to approve the Stalking Horse Agreement. Following Court approval, the Stalking Horse Purchaser will be deemed to be a Qualified Bidder and the Stalking Horse Purchaser's bid will be deemed a Qualified Bid.

#### 12. **Modification of Bidding Procedures**

The Debtors may (after consultation with the Consultation Parties) amend these Bidding Procedures or the Bidding Process at any time and from time to time in any manner that they determine in good faith will best promote the goals of the Bidding Process and are not inconsistent with the terms of these Bidding Procedures, including extending or modifying any of the dates described herein.

#### 13. **"As Is, Where Is"**

Any Sale Transaction will be on an "as is, where is" basis and without representations or warranties of any kind by the Debtors, their agents or the Debtors' chapter 11 estates, except and solely to the extent expressly set forth in the final Sale Transaction agreement approved by the Bankruptcy Court. Each Qualified Bidder will be required to acknowledge and represent that it has had an opportunity to conduct any and all due diligence regarding the assets that are the subject of the Auction prior to making its bid, that it has relied solely upon its own independent review and investigation in making its bid and that it did not rely on the completeness of any information provided in connection with the Auction or its bid. Except as otherwise provided in the final agreement approved by the Bankruptcy Court, all of the Debtors' right, title and interest in the Assets will be sold free and clear of all liens, claims (as such term is defined in section 101(5) of the Bankruptcy Code), interests and encumbrances (collectively, "Liens"), with any Liens to attach to the proceeds of the Sale Transaction as provided in the final Sale Order.

#### 14. **Return of Good Faith Deposit**

The Good Faith Deposits of all Qualified Bidders will be held in escrow by the Debtors and while held in escrow will not become property of the Debtors' bankruptcy estates unless released from escrow pursuant to further order of the Bankruptcy Court. The Debtors will retain the Good Faith Deposits of the Successful Bidder(s) until the closing of the Sale Transaction(s) unless otherwise ordered by the Bankruptcy Court.

The Good Faith Deposits of the other Qualified Bidders will be returned on the earlier of May 31, 2015 and the first Business Day following the closing of the Sale Transaction. At the closing of the Sale Transaction contemplated by the Successful Bid, the Successful Bidder will be entitled to a credit for the amount of its Good Faith Deposit (not including interest accrued thereon). Upon the return of the Good Faith Deposits, their respective owners will receive any and all interest that has accrued thereon.

15. **Consultation Matters**

In the event that (a) any member of the Creditors' Committee or an affiliate thereof or (b) any of the Debtors' senior secured lenders submits a Qualified Bid (a "Consultation Party Bidder"), advisors to the Creditors' Committee or the Agent, as applicable, must not provide any material, nonpublic information to such Consultation Party Bidder regarding competing bids for any part of the Assets for which the Consultation Party Bidder has submitted a Qualified Bid. In addition, the Debtor will not be required to consult with such Consultation Party Bidder under the Bidding Procedures if the Consultation Party Bidder is an active bidder with respect to the assets for which the Consultation Party Bidder has submitted a Qualified Bid, but the Debtors will be required to otherwise consult with the Consultation Party Bidder with respect to bids on assets for which the Consultation Party Bidder has not submitted a bid.