

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

INVIVO THERAPEUTICS CORPORATION, *et al.*,¹

Debtors.

Chapter 11

Case No. 24-10137 (MFW)

(Jointly Administered)

Ref. No. 79

**NOTICE OF BID DEADLINE, AUCTION, AND SALE HEARING IN CONNECTION
WITH THE SALE OF SUBSTANTIALLY ALL OF THE DEBTORS' ASSETS**

NOTICE IS HEREBY GIVEN, as follows:

1. On February 1, 2024, the above-captioned debtors and debtors-in-possession (the “Debtors”) filed a motion (the “Bid Procedures Motion”) with the United States Bankruptcy Court for the District of Delaware (the “Court”) seeking approval of among other things (i) bid procedures (the “Bid Procedures”) in connection with the sale (the “Sale”) of substantially all of the Debtors’ assets (the “Assets”), (ii) procedures to determine cure amounts and deadlines for objections to certain contracts and leases to be assumed and assigned by the Debtors (the “Cure Procedures”), (iii) the date, time, and place for a sale hearing (the “Sale Hearing”) and for objections to the Sale, and (iv) related relief. On February 22, 2024, the Court entered an order [D.I. 79] approving the Bid Procedures Motion, the Bid Procedures and the Contract Procedures (the “Bid Procedures Order”).²

2. All interested parties are invited to submit a Qualified Bid and to make offers to purchase the Assets in accordance with the terms of the Bid Procedures and the Bid Procedures Order. Potential Bidders are encouraged to review the Bid Procedures attached to the Bid Procedures Order carefully and, for further information, are invited to contact the Debtors’ investment banker, SSG Advisors, LLC, Five Tower Bridge, Suite 420, 300 Barr Harbor Drive, West Conshohocken, Pennsylvania 19428, Attn: J. Scott Victor (e-mail: jsvector@ssgca.com) and Teresa Kohl (tkohl@ssgca.com) (tel.: (610) 940-1094). **The Bid Deadline is March 29, 2024, at 4:00 p.m. (ET).**

3. Consistent with the Bid Procedures Order, in the event the Debtors receive one or more Qualified Bids on or before the Bid Deadline, the Debtors shall conduct the Auction for the purpose of determining the highest or otherwise best bid for the Acquired Assets. **The Auction shall be organized by the Debtors’ professionals and conducted at the offices of Landis Rath & Cobb LLP, 919 N. Market Street, Suite 1800, Wilmington, Delaware 19801, or by remote**

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: InVivo Therapeutics Corporation (6670) and InVivo Therapeutics Holdings Corp. (8166). The Debtors’ mailing address is 1500 District Avenue, Burlington, MA 01803.

² Capitalized terms not otherwise defined herein shall have the meanings given to such terms in the Bid Procedures Order.



audio and/or video link, beginning at 10:00 a.m. (ET) on April 3, 2024 or such other location and time as may be announced prior to the Auction to all Qualified Bidders, the U.S. Trustee and the official committee of unsecured creditors, if any, formed in the Chapter 11 Cases (the “Committee”). The Auction will be recorded and transcribed by an authorized court reporter. The Debtors, their professionals, the U.S. Trustee, the Committee, if any, Qualified Bidders and their respective members and professionals, and creditors and their respective counsel, financial advisors, and/or other authorized representatives may attend the Auction. The only persons or entities who will be permitted to bid at the Auction are the authorized representatives of each Qualified Bidder. The time and place of the Auction may change with notice. The Debtors shall file notice of any such change with the court not later 10:00 a.m. (ET) one (1) day prior to the Auction, and shall serve such notice by email or fax on all creditors who notified Debtors’ counsel of their intention to attend the Auction, in the manner and time set forth in paragraph 5 below, as well as on all bidders and Committee counsel, if any.

4. Any party-in-interest wishing to attend the Auction, whether virtually or in person, may request to attend by contacting, no later than three (3) business days prior to the start of the Auction, Landis Rath & Cobb LLP, 919 Market Street, Suite 1800, Wilmington, Delaware 19801, Attn: Matthew B. McGuire, Esq. (e-mail: mcguire@lrclaw.com) and providing their e-mail address and/or fax number, so as to receive notice of any change in the date, time or location of the Auction.

5. At the Sale Hearing on April 5, 2024, at 10:00 a.m. (ET) or such other time as the Court shall determine, the Debtors intend to seek the Court approval of the sale of the Assets to the Successful Bidder at the Auction. In determining the Successful Bidder, in addition to the amount of cash or cash equivalent consideration offered, the Debtors will consider, among other factors, the assumption of liabilities contemplated by each Qualified Bid, certainty of closing, and other factors relating to the value and certainty of the bid. The Sale Hearing will be held before the Honorable Mary F. Walrath, Judge at the United States Bankruptcy Court for the District of Delaware, 824 Market Street, 5th Floor, Courtroom No. 4, Wilmington, Delaware 19801. The Sale Hearing may be adjourned from time-to-time without further notice to creditors or parties in interest other than by announcement of the adjournment in open court or on the Court’s docket.

6. In the event an Auction will occur, no later than 4:00 p.m. (ET) on April 1, 2024, the Debtors will provide e-mail or fax notice containing the identities of all Qualified Bidders (the Qualified Bidder Notice) to all Contract Parties who timely submitted a written request for such notice pursuant to the instructions below. The Debtors shall file notice of the identities of the Successful Bidder and the Back-Up Bidder (and, if the Successful Bidder or the Back-Up Bidder is a special purpose entity, the identity of the entity or entities that are the primary equity holders, or otherwise control, the special purpose entity), and the amount of the Successful Bid and Back-Up Bid with the Court by the earlier of (a) five (5) business hours after the close of the Auction or (b) noon of the day after the close of the Auction. At that same time, the Debtors shall serve notice of the foregoing information (the Successful Bidder Notice) by email or fax to all Contract Parties and creditors who have timely requested notice of such information. To receive a copy of the Qualified Bidder Notice and the Successful Bidder Notice, a Contract Party must submit a written request in writing to Debtors’ counsel, Landis Rath & Cobb LLP, 919 Market Street, Suite 1800, Wilmington, Delaware, Attn: Matthew B. McGuire, Esq. (e-mail: mcguire@lrclaw.com)

and provide Debtors' counsel with their email addresses or fax numbers by no later than the Bid Deadline.

7. At the Sale Hearing, the Court may enter such orders as it deems appropriate under applicable law and as required by the circumstances and equities of these Chapter 11 Cases, and the Debtors, subject to the terms of the Successful Bidder's asset purchase agreement, may seek entry of an order which provides, except with respect to any Assumed Liabilities, all persons and entities, including, but not limited to, all debt security holders, equity security holders, governmental, tax and regulatory authorities, lenders, trade creditors, litigation claimants and other creditors, holding liens, claims, encumbrances or interests of any kind or nature whatsoever against or in all or any portion of the Assets (whether legal or equitable, secured or unsecured, matured or unmatured, contingent or non-contingent, liquidated or unliquidated or subordinate), arising under or out of in connection with, or in any way relating to the Debtors, the Assets, the operation of the Debtors' business prior to the Closing Date or the transfer of the Assets to the Buyer, that all such persons are forever prohibited and permanently enjoined from (i) commencing or continuing in any manner any action or other proceeding, the employment of process, or any act (whether in law or equity, in any judicial, administrative, arbitral, or other proceeding) to collect or recover any interest; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order with respect to an interest, (iii) creating, perfecting, or enforcing any interest, or (iv) asserting any right of subrogation of any kind with respect to an interest, in each case as against the Successful Bidder or its designee, any of their respective affiliates or subsidiaries, or any of their respective representatives, or any of their respective property or assets, including the Assets.

8. The Debtors proposes that, to be timely and otherwise eligible for consideration by the Court, objections, if any, to the Sale of the Assets or to entry of the form of Sale Order, ("Sale Objections"), or the assumption and assignment of executory contracts and unexpired leases pursuant to the terms of the agreement reached between the Debtors and the Successful Bidder ("Contract Objections") shall be in writing, shall conform to the Federal Rules of Bankruptcy Procedure and the Local Rules of the Bankruptcy Court for the District of Delaware, shall set forth the name of the objecting party, the nature and amount of any claims or interests held or asserted against the Debtors' estates or properties, the basis for the objection and the specific grounds therefor, and shall be filed with the Court and be served upon: (i) counsel for the Debtors, Landis Rath & Cobb LLP, 919 Market Street, Suite 1800, Wilmington, Delaware 19801 (Attn: Matthew B. McGuire. (e-mail: mcguire@lrclaw.com) and Joshua B. Brooks, Esq. (e-mail: brooks@lrclaw.com)); and Wilmer Cutler Pickering Hale and Dorr LLP, 7 World Trade Center, 250 Greenwich Street, New York, New York, 10007 (Attn: George Shuster, Esq. (e-mail: george.shuster@wilmerhale.com) and Benjamin Loveland, Esq. (e-mail: benjamin.loveland@wilmerhale.com)); (ii) counsel to the Committee, if any; and (iii) the Office of the United States Trustee, 844 King Street, Suite 2207, Wilmington, Delaware 19801 (Attn: Joseph Cudia, Esq. (email: Joseph.Cudia@usdoj.gov)) (collectively, the "Sale Objection Parties") **so that such Contract and Sale Objections are received by no later than 4:00 p.m. (ET) on March 29, 2024.**

9. In the event (a) an Auction is conducted, the deadline for objections related to the conduct of the Auction itself shall be at the Sale Hearing; (b) the form of Sale Order approving such Successful Bidder's asset purchase agreement; and (c) the proposed asset purchase agreement between the Debtors and such Successful Bidder shall be at the Sale Hearing.

10. Contract Parties shall be able to assert an objection at or before the Sale Hearing to the assignment of executory contracts and unexpired leases to such Successful Bidder solely on the grounds that the proposed assignment does not comply with 11 U.S.C. § 365(b)(1)(C), with any such objection that is not resolved prior to or at the Sale Hearing to be heard at a later-scheduled hearing as the Court deems appropriate.

11. You may obtain a copy of the Motion, the Bid Procedures, the Bid Procedures Order, the form of Sale Order, and the Notice of Sale Hearing by sending a written request to the Debtor⁵'s undersigned counsel.

Dated: February 22, 2024
Wilmington, Delaware

LANDIS RATH & COBB LLP

/s/ Joshua B. Brooks

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