

**EXHIBIT 1 TO
BIDDING PROCEDURES ORDER**

BIDDING PROCEDURES

A. Due Diligence. Upon execution of a valid confidentiality agreement in form and substance reasonably acceptable to the Debtors, the Debtors will afford interested parties such due diligence access or additional information as the Debtors, in consultation with their advisors, deem appropriate. The Debtors will limit access to due diligence to those parties they believe, in the exercise of the Debtors' reasonable judgment, are pursuing the transaction in good faith and are capable of submitting a Qualified Bid (as defined below) ("Potential Bidders").

B. Bid Deadline – November 30, 2023, 5:00 p.m. (Central). Other than as set forth herein, in order to participate in the Auction, a Potential Bidder must submit a Qualified Bid (defined below), in writing or by email, so as to be actually received by the Bid Deadline, to: (a) the Debtors, c/o Aurora Management Partners, 112 South Tryon Street, Suite 1770, Charlotte, NC 28284, Attention David Baker, CRO, dbaker@auroramp.com; (b) counsel for the Debtors, Gary H. Leibowitz, Esq., Cole Schotz P.C., 1201 Wills Street, Baltimore, MD 21231, gleibowitz@coleschotz.com; (c) Raymond James, 320 Park Avenue, 12th Floor, New York, NY 10022, Attention: John Berg, john.berg@raymondjames.com, and Geoffrey Richards, geoffreyrichards@raymondjames.com, and Enrique Acevedo, enrique.acevedo@raymondjames.com; (d) the Prepetition Agent, c/o counsel for the Prepetition Agent, Jeffrey R. Dutson, Esq., 1180 Peachtree Street, NE Suite 1600, Atlanta, GA 30309, jdutson@kslaw.com; and (e) counsel for the Creditors' Committee, Bill D. Bensinger, Esquire, Christian & Small LLP, 1800 Financial Center, 505 North 20th Street, Birmingham, AL 35203, bdbensinger@csattorneys.com. (together, the "Notice Parties"). If the Prepetition Agent intends to credit bid at the Auction, they shall provide the Debtors with a "Notice of Intention to Credit Bid" by 5:00 p.m. on the Business Day prior to commencement of the Auction, which notice shall include a marked copy of an asset purchase agreement reflecting any changes from the applicable Stalking Horse Agreement of the opening bid at the Auction (provided that Prepetition Agent will have the same rights as any other Qualifying Bidder hereunder to amend such terms during the Auction). If the Prepetition Agent shall submit a Notice of Intention to Credit Bid, the Prepetition Agent shall thereafter cease to be a consultation party hereunder.

C. Qualified Bid Requirements.

To constitute a Qualified Bid, a bid must:

- i. fully disclose the identity of the Potential Bidder and include contact information for the specific person(s) the Debtors should contact if they have any questions about the Potential Bidder's Bid;
- ii. identify the Stalking Horse Agreement that the Potential Bidder seeks to overbid, including the specific store numbers and locations the Potential Bidder proposes to



purchase, including identification of any Stores included in the Stalking Horse Agreement that are excluded from the bid, and any other Stores not included in the Stalking Horse Agreement that are included in the bid; or if the bid is for Other Assets, provide the required information for the Stores the bidder seeks to purchase;

- iii. include a signed writing that the Potential Bidder's offer is formal, binding, unconditional, and irrevocable until (i) the closing of the transaction with the Successful Bidder (as defined below) and (ii) for two (2) business days after the earlier of the closing of the sale transaction with the Successful Bidder or the termination of the Successful Bid, if such bidder is designated the Back-Up Bidder (as defined below) at the conclusion of the Auction;
- iv. confirm that there are no conditions precedent to the Potential Bidder's ability to enter into a definitive agreement and that all necessary internal and shareholder approvals have been obtained prior to the bid;
- v. include a duly authorized and executed copy of an asset purchase agreement, including the purchase price (the "Purchase Price") for the Stores and other Purchased Assets for which the bid is submitted (a "Bidder Purchase Agreement"), together with all exhibits and schedules thereto and copies marked to show any amendments and modifications to the Stalking Horse Agreement the bid seeks to overbid; provided, however, that such Bidder Purchase Agreement shall not include any financing or diligence conditions;
- vi. include written evidence of sufficient cash on hand to fund the Purchase Price or sources of immediately available funds that are not conditioned on further third party approvals or commitments, that will allow the Debtors to make a reasonable determination as to the Potential Bidder's financial and other capabilities to consummate the transaction contemplated by the Bidder Purchase Agreement, and such other financial information of the Potential Bidder as may be acceptable to the Debtors in their reasonable discretion (collectively, the "Financials"), or, if the Potential Bidder is an entity formed for the purpose of acquiring the Purchased Assets, the Financials of the Potential Bidder's equity holder(s) or other financial backer(s);
- vii. (a) where a Potential Bidder seeks to submit a Bid for the purchase of the same Stores contemplated in a particular Stalking Horse Agreement or multiple Stalking Horse Agreements, provide for a cash Purchase Price of at least 2.5% more than the value of the total combined Purchase Price offered in the respective Stalking Horse Agreement or Stalking Horse Agreements, as the case may be, *plus* \$250,000 per Stalking Horse Bidder, and/or otherwise have a Purchase Price and value to the Debtors that, in the Debtors' business judgment, is greater or otherwise better than the Purchase Price and value offered under the Stalking Horse Agreement(s); and

(b) where a Potential Bidder seeks to submit a Bid for a portion of the Purchased Assets that is not the same as that contemplated in one or more Stalking Horse

Agreements, and includes a different combination of Stores than those designated in any or all of the Stalking Horse Agreements, provide greater or otherwise better value than the value offered under the Stalking Horse Agreement(s), in the Debtors' business judgment, including consideration of the total combined sale price of the Purchased Assets, the specific Restaurants' marketability, practical matters concerning Restaurant-level issues, and such other considerations as the Debtors may deem appropriate in their business judgment (together or separately, as the case may be, a "Minimum Overbid").

- viii. provide a commitment to close the transactions contemplated by the Bidder Purchase Agreement by no later than January 8, 2024;
- ix. identify with particularity the unexpired leases the Potential Bidder wishes to assume;
- x. contain sufficient information concerning the Potential Bidder's ability to provide adequate assurance of future performance with respect to unexpired leases to be assumed and assigned.
- xi. include sufficient information to satisfy the Debtors that the Potential Bidder has obtained the Franchisor's approval to become a franchisee for the Stores included in the bid or, as determined by the Debtors in their sole discretion, after consultation with the Prepetition Agent, that the Potential Bidder is reasonably likely to be able to obtain such approval prior to Closing or otherwise is willing and able to complete Closing without such prior approval;
- xii. include an acknowledgement and representation by the Potential Bidder that it: (A) has had an opportunity to conduct any and all required due diligence regarding the Purchased Assets prior to making its offer; (B) has relied solely on its own independent review, investigation and/or inspection of any documents and/or the Purchased Assets in making its Bid; (C) did not rely on any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express or implied (by operation of law or otherwise), regarding the Purchased Assets or the completeness of any information provided in connection therewith or with the Auction (defined below), except as expressly stated in the Bidder Purchase Agreement; and (D) is not entitled to any expense reimbursement, break-up fee, or similar type of payment in connection with its Bid;
- xiii. be accompanied by a good faith deposit in the form of a wire transfer, certified check or such other form that is acceptable to the Debtors, payable to the order of the escrow agent designated by the Sellers in an amount no less than ten percent (10%) of the Purchase Price;
- xiv. state that the Potential Bidder agrees to serve as a Back-Up Bidder (as defined below) if such bidder's Qualified Bid is selected as the next highest or otherwise

next best bid after the Successful Bidder (as defined below) with respect to the Purchased Assets;

- xv. state that the Potential Bidder consents to the jurisdiction of the Bankruptcy Court; and
- xvi. contain such other information reasonably requested by the Debtor.

D. Credit Bids. On or before the Bid Deadline, parties holding a valid lien on some or all of the Debtors' assets that secures an bona fide claim may submit a credit bid for some or all of such assets to the fullest extent permitted under section 363(k) of the Bankruptcy Code. The Prepetition Agent shall be entitled to credit bid any portion of its outstanding secured obligations pursuant to section 363(k) of the Bankruptcy Code with respect to any assets on which they hold liens (a "Prepetition Credit Bid").

E. Auction. If one or more Qualified Bids (including a Prepetition Credit Bid) are received on or before the Bid Deadline, the Debtors shall conduct the Auction commencing on **December 4, 2023 at 10:00 a.m. (Central)**, at the offices of Holland & Knight, LLP, located at 1901 Sixth Avenue North, Suite 1400, Birmingham, Alabama 35203. The Auction may be adjourned or rescheduled without further notice by an announcement of the adjourned date at the Auction, or before the Auction by notice provided in the best efforts of the Debtors to all interested parties and to the Court; provided, however, that any changes to the dates and deadlines set forth herein shall be without effect to the sale process milestones in the Final Order (A) Authorizing Postpetition Use of Cash Collateral, (B) Granting Adequate Protection to Prepetition Secured Parties, (C) Scheduling a Final Hearing pursuant to Bankruptcy Rule 4001(b) and (D) Granting Related Relief [Doc. No. 205] or the rights and remedies of the Prepetition Agent and Prepetition Lenders (as defined and) provided therein. The Debtors reserve the right to cancel the Auction (in consultation with the Prepetition Agent) if the requisite Bids described above are not received as of the Bid Deadline.

F. Auction Procedures. Only the Stalking Horse Bidders and a person or entity that has submitted a Qualified Bid (including a Prepetition Credit Bid) (a "Qualified Bidder") to the Notice Parties and such person's or entity's respective advisors are eligible to participate in the Auction. For the avoidance of doubt, representatives of (i) the Prepetition Agent, (ii) the Creditors' Committee, (iii) BKCI, (iv) Premier Holdings, LLC, and (v) the Bankruptcy Administrator are entitled to attend the Auction in person or via video conferencing. All participants shall appear in person, by telephone (with prior written authorization by the Debtors, in the Debtors' sole discretion), or through a duly authorized representative. Prior to the Auction, the Debtors, after consultation with the Prepetition Agent and the Creditors' Committee, shall select the Qualified Bids that, in the Debtors' business judgment, reflect the highest or otherwise best value for the Debtors' estate and the portion of the Purchased Assets contemplated by each Qualified Bid as the starting Bid or Bids (as the case may be, the "Starting Auction Bid(s)"), and advise all participants in the Auction of the terms of the Starting Auction Bid(s).

Where Qualified Bidders seek to submit Bids at the Auction for the purchase of the same portion of the Purchased Assets contemplated in a particular Starting Auction Bid or multiple Starting Auction Bids—including the same Restaurant locations—Qualified Bidders may submit Bids that are higher and better than the total combined Purchase Price of the Starting Auction Bid(s) in an initial increment equal to the aggregate amount of the Starting Auction Bid(s) plus \$250,000, and in subsequent increments of at least \$250,000, unless and until the Debtors, in their sole discretion and in consultation with the Prepetition Agent, lift or modify this requirement.

Where Qualified Bidders wish to submit Bids for a portion of the Purchased Assets that is not the same as that contemplated in one or more of the Starting Auction Bids, and includes a different combination of Restaurant locations than those designated in any or all of the Starting Auction Bids, Qualified Bidders may submit Bids that provide greater or otherwise better value than the Starting Auction Bid(s), in the Debtors' business judgment, including consideration of the total combined sale price of the Purchased Assets, the specific Restaurants' marketability, practical matters concerning Restaurant-level issues, and such other considerations as the Debtors may deem appropriate, and in subsequent increments as are set by the Debtors for each applicable combination of Purchased Assets and/or Restaurant locations (collectively, the "Overbid Increments"). The Debtors, in consultation with the Prepetition Agent, may adjourn, continue, re-open, or terminate the Auction, and reserve the right to adopt other and further rules and procedures for the Auction that, in their business judgment, will better promote the goals of the Auction.

Each Qualified Bidder participating in the Auction will be required to confirm on the record at the Auction that it has not engaged in any collusion with respect to the bidding and sale process.

G. Selection of Successful Bidder and Back-Up Bidder. The Debtors may designate, in their sole discretion and in consultation with the Prepetition Agent and the Creditors' Committee, in the Debtors' business judgment, pursuant to these Bidding Procedures, the highest or otherwise best Bid(s) and the Successful Bidder or Bidders. The Debtors may also designate, in their business judgment, the second highest or otherwise best Bid(s) as the Back-Up Bidder or Bidders.

H. Reservation of Rights. The Debtors reserves the right to reject, without liability, any Bid that the Debtors, in their reasonable discretion and after consultation with the Prepetition Agent and the Creditors' Committee, determine to be (a) inadequate or insufficient, (b) not in conformity with the Bidding Procedures, the Bankruptcy Code, the Bankruptcy Rules, or the Local Rules, or (c) contrary to the best interests of the Debtors and their estates. The Debtors also reserve the right to modify these Bidding Procedures, in their sole discretion and after consultation with the Prepetition Agent and the Creditors' Committee, without the need for any further order of the Bankruptcy Court, including, without limitation, (i) extending the deadlines set forth in the Bidding Procedures, (ii) adjourning the Auction, and (iii) withdrawing any Purchased Assets from the Sale Process at any time prior to or during the Auction; provided, however, that any changes to the dates and deadlines set forth herein shall be without effect to the sale process milestones in the Final Order (A) Authorizing Postpetition Use of Cash Collateral, (B) Granting Adequate Protection to

Prepetition Secured Parties, (C) Scheduling a Final Hearing pursuant to Bankruptcy Rule 4001(b) and (D) Granting Related Relief [Doc. No. 205] or the rights and remedies of the Prepetition Agent and Prepetition Lenders (as defined and) provided therein.