

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

IN RE	§	
	§	
TECHNOLOGY MINING COMPANY, INC.	§	CASE 16-40052
	§	
DEBTOR	§	

ORDER ON MOTION FOR APPROVAL OF BIDDING PROCEDURES FOR  
ORDER AUTHORIZING SALE OF ASSETS FREE AND CLEAR OF ALL LIENS,  
CLAIMS, INTERESTS, AND ENCUMBRANCES

On this day come to be heard the Motion of Technology Mining Company, Inc., for approval of a procedure (i) scheduling the auction of certain assets of the Estate, and (ii) approving the Bid Procedures and Auction Guidelines. The Court, having considered the Debtor’s Motion, supporting evidence, and presentation of counsel finds that:

1. The Court has jurisdiction over this matter under 28 U.S.C. § 1334 and 157. This matter concerns the administration of the Debtors’ estates, and is therefore a core proceeding under 28 U.S.C. § 157(b)(2)(A), (M), (N), and (O);
2. Notice of the Debtors’ Motion was adequate and proper under the circumstances;
3. Unless otherwise provided in this Order, capitalized terms shall be defined provided in the Bid Procedure and Auction Guidelines;

4. The Motion provides good and sufficient notice of the relief requested and satisfies the notice requirement of the bankruptcy Code, the Bankruptcy Procedures, and the Local Bankruptcy Rules for the Eastern District of Texas; and
  
5. The adoption of the Bid Procedures and Auction Guidelines are in the best interests of the Debtors' estates and will facilitate the Debtors' receipt of the highest and best offers for the property to be sold, it is, therefore

ORDERED that the Bid Procedures and Auction Guidelines relating to the Auction are hereby approved, in the form attached hereto as Exhibit A; it is further

ORDERED that an auction (the "Auction") of the Property of the estate shall be conducted as described in the Bid Procedures commencing on August 16, 2016 at 9:00 a.m. (Central Time); it is further

ORDERED that a hearing on the Approval of the Motion of the Debtor for Sale Free and Clear is scheduled for August 16, 2016 at 2:00 p.m.; it is further

ORDERED that this Court retains jurisdiction with respect to any and all matters relating or arising from the relief granted herein

## EXHIBIT A

### BIDDING PROCEDURES

- a. Earthstar Energy (Canada) Corporation's Asset Purchase Agreement. The Asset Purchase Agreement by and between Earthstar Energy (Canada) Corporation ("Earthstar") and Debtor is attached to Motion to Sell.
- b. Qualified Bidders and Competing Offers. All persons or entities wishing to participate in the Auction as a "Bidder" must be qualified. A Bidder must provide counsel for the Debtor and counsel for the Initial Bidder with notification of their intent to bid, and proof of the Bid Deposit as set forth below, no later than 5:00 p.m. (prevailing Central time) on August 11, 2016 (the "Bid Deadline"). Each Bidder (including the "Initial Bidder") shall be required to provide proof of a deposit, in the trust account of counsel for the Debtor or counsel for the Initial Bidder in the amount of \$25,000 ("Bid Deposit").
- c. All Bidders who timely submit a Bid Deposit shall be deemed to have read, understood, consented to and agreed to be bound by the Bidding Procedures.
- d. Bid Deposit. The Bid Deposits of all Bidders shall be returned to each unsuccessful Bidder no later than three (3) business days after the completion of the Sale, with the exception of the Bid Deposit of the Successful Bidder (as defined below).
- e. Due Diligence. After entering into a confidentiality agreement (the form of which will be provided to a Bidder upon request to Debtor's counsel), the Debtor will grant reasonable

access to the Assets, other reasonable due diligence materials, and relevant financial information to any person expressing an interest in viewing the same for the purpose of making a bid. Each Bidder shall be deemed to have reviewed and inspected the Assets, relevant financial information, and all other pertinent documents of the Debtor.

- f. Assets to Be Sold Free and Clear of Claims and Encumbrances. The Assets shall be sold free and clear of all Claims and Encumbrances and any such Claims and Encumbrances will attach to the gross proceeds of the sale to the same extent and in the same priority as such Claims and Encumbrances attached to the Assets prior to the sale thereof. The proceeds of the sale shall be held in a Debtor in possession account and shall not be distributed without further order of the Court. Unless otherwise specifically agreed to, the Assets will be transferred pursuant to good, marketable, and exclusive title, free and clear of all Claims and Encumbrances.

- g. Order of Sale and Auction Process. An Auction, will be held if the counsel for the Debtor or counsel of the Initial Bidder receives more than one Bid Deposit. Only Bidders which have made a Bid Deposit will be entitled to make additional at the Auction. If an Auction is conducted, bidding shall begin with the Initial Bid and subsequently continue in minimum increments of at least \$5,000.00 higher than the previous bid (“Minimum Increment”). The Auction will continue until no other Bidder wishes to increase its bid above the previous bid. Immediately prior to the conclusion of the Auction, the Debtor, subject to the approval of the Bankruptcy Court, shall declare the highest Bidder at the auction the Successful Bidder.

h. Date of Auction. The Auction, if necessary, will take place at the following location, date, and time:

Location: United States Courthouse  
660 North Central Expressway, Third Floor  
Plano, Texas 75075

**Date: August 16, 2016**

**Time: 9:00 a.m. (prevailing Central time)**

i. Appearance at the Auction. All Bidders seeking to participate in the Auction shall appear in person, or through a duly-authorized agent, at the Auction.

j. Court Approval. Upon conclusion of all bidding at the Auction, the Debtor will present the results of the Auction to the Court at a hearing to be held on August 16, 2016, at 2:00 p.m. (prevailing Central time), and ask the Court to enter the Sale Approval Order (the form and substance of which will have been approved by Debtor and the Successful Bidder) approving the Successful Bid and authorizing the Debtor to consummate the sale with the Successful Bidder.

k. Purchase Agreement. The Successful Bidder shall execute a purchase agreement identical to the form of the Asset Purchase Agreement except for an increase in purchase price. The form of the Asset Purchase Agreement must be acceptable to the Debtor and must be approved by the Court.

Successful Bidder. The Successful Bidder shall tender funds to the Debtor of an amount

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equal to Successful Bid (less any escrow funds) within the three business days of the entry of the Sale Approval Order. The funds shall be placed into the Debtor in Possession Account.

Taxes. The Successful Bidder will be responsible for any sales, transfer, or other taxes, if

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any, applicable to the Successful Bidder's purchase of the Assets (other than those sales, transfer, or other taxes of the Debtor exempt under 11 U.S.C. § 1146) and shall pay the same to the Debtor at the time of the closing of the sale.

Closing. The sale of the Assets to the Successful Bidder shall take place within three (3)

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business days of the entry of the Sale Approval Order. ("Closing Date"). In the event the Successful Bidder does not consummate the acquisition of the Assets within three (3) business days of the entry of the Sale Approval Order, such failure to consummate shall constitute an irrevocable default on the part of the Successful Bidder. The Successful Bidder shall take possession of the Assets purchased immediately after the closing.

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Successful Bidder Default. In the event of a default by the Successful Bidder (including a default caused by the Successful Bidder not consummating the acquisition of the Assets

within three (3) business days of the entry of the Sale Approval Order, the Bid Deposit of such Successful Bidder shall be treated as liquidated damages or as a partial contribution toward damages, to be determined at a later date, at the discretion of the Debtor. The Bid Deposit of the defaulting Successful Bidder shall not be transferred to the Debtor in Possession Account and will not be withdrawn from such account except pursuant to further order of this Court.

Failure to Consummate Sale. The party with the next Qualifying Bid, who participated in

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the Auction, shall be required to serve as the back-up bidder (the “Back-Up Bidder”) and keep such bid open and irrevocable until the earlier of forty-eight (48) hours after the Closing Date. Following the Sale Hearing, if the Successful Bidder fails to consummate an approved Sale because of a breach or failure of such Successful Bidder to consummate the Sale on or before the Closing Date, the Back-Up Bidder will be deemed to be the new Successful Bidder, and the Debtor shall consummate the Sale with the Back-Up Bidder without further order of the Bankruptcy Court within 48 hours of the Successful Bidders failure to close.

Disputes. The Debtor shall have no duties or obligations except those expressly set forth

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herein. Any party may apply to this Court for a determination of the rights and obligations of the parties respecting any dispute arising hereunder. All Bidders are deemed to have submitted to the exclusive jurisdiction of the Bankruptcy Court with respect to all matters related to bids, the Auction and the sale of the Assets.

r No Contingencies. The only bid contingencies allowable are those set forth in the Asset Purchase Agreement. Without limiting the generality of the foregoing sentence, no bid contingent upon financing will be accepted.

Jurisdiction of the Court. All Bidders are deemed to have submitted to the exclusive

s. jurisdiction of the Court with respect to all matters related to the Auction and the terms and conditions of the transfer of the Assets.

t. Notices. Any Notice required to be sent herein shall be sent to:

Technology Mining Company

c/o Eric Liepins P.C.

12770 Coit Road

Suite 1100

Dallas, Texas 75251

(972) 991-5591

(972) 991-5788 - telecopier

[eric@ealpc.com](mailto:eric@ealpc.com)

Initial Bidder

T. Craig Shiels



1701 N. Collins Blvd.

Suite 1100

Richardson, Texas 75080

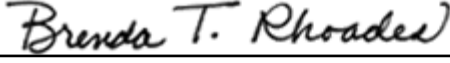
(972) 644-8181

(972) 644-8180 - telecopier

[craig@sheilswinnubst.com](mailto:craig@sheilswinnubst.com)

IT IS SO ORDERED.

Signed on 07/29/2016

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HONORABLE BRENDA T. RHOADES,  
CHIEF UNITED STATES BANKRUPTCY JUDGE