

COURT FILE NUMBER

B301-135903  
25-3135903



COURT

COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

PROCEEDING

IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF ERIKSON NATIONAL ENERGY INC.

DOCUMENT

**ORDER**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT

**BENNETT JONES LLP**  
Barristers and Solicitors  
4500 Bankers Hall East  
855 – 2 Street SW  
Calgary, Alberta T2P 4K7

Attention: Keely Cameron/Luc Rollingson  
Telephone No.: 403-298-4485  
Fax No.: 403-265-7219  
Client File No.: 87754.38

DATE ON WHICH ORDER WAS PRONOUNCED:

October 21, 2024

LOCATION WHERE ORDER WAS PRONOUNCED:

Calgary, Alberta

NAME OF JUSTICE WHO MADE THIS ORDER:

Justice P. Johnston

UPON the application of the Applicant, Erikson National Energy Inc. ("**Erikson**" or the "**Applicants**"); AND UPON having reviewed the Affidavit of Mark Horrox, sworn October 15, 2024 (the "**Horrox Affidavit**"), AND UPON reviewing the Certificate of Filing of a Notice of Intention to Make a Proposal filed, October 1, 2024; AND UPON noting the support of KSV

Restructuring Inc. as Proposal Trustee (“**Proposal Trustee**”); AND UPON reviewing the First Report of the Proposal Trustee; AND UPON having heard counsel for Erikson, the Proposal Trustee and counsel for any other interested parties;

IT IS HEREBY ORDERED AND DECLARED THAT:

#### **SERVICE**

1. Service of this Application and its supporting materials is deemed good and sufficient, and the time for service of this Application and its supporting materials is abridged to the time actually given.

#### **EXTENSION AND STAY**

2. Erikson is granted an extension of 40 days, to November 30, 2024 (“**Proposal Extension Date**”) to file a proposal to its creditors, under section 50.4 of the *Bankruptcy and Insolvency Act*, RSA 1985, c. B-3, as amended (“**BIA**”).
3. The stay of proceedings in the within matter is extended by 40 days to and including November 30, 2024.

#### **NO INTERFERENE WITH RIGHTS**

4. Until and including the Proposal Extension Date, no individual firm, corporation, governmental body, or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") shall accelerate, suspend, discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicant, or take any further action to issue or enforce any garnishee summons, except with the written consent of the Applicant and the Proposal Trustee, or leave of this Court.

#### **CONTINUATION OF SERVICES**

5. Until and including the Proposal Extension Date, all Persons having:
  - (a) Statutory or regulatory mandates for the supply of goods and/or services; or

- (b) oral or written agreements or arrangement with the Applicant, including without limitation all purchase orders, supply agreements, computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Applicant

are hereby restrained until further order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Applicant or exercising any other remedy provided under such agreements or arrangements. The Applicant shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the usual prices or charges for all such goods or services received after the date of this Order are paid by the Applicant in accordance with the payment practices of the Applicant, or such other practices as may be agreed upon by the supplier or service provider and each of the Applicant and the Proposal Trustee or as may be ordered by this Court.

### **SALES ADVISOR**

6. Sayer Energy Advisors (the “**Sales Advisor**”) is appointed to carry out the SISP (defined below) in cooperation with the Proposal Trustee. The Engagement Letter as set out in the Confidential Appendix “1” to the Proposal Trustee’s First Report is approved.

### **APPROVAL OF SALE AND INVESTMENT SOLICITATION PROCESS**

7. The Sale and Investment Solicitation Process attached hereto as Schedule “A” (“**SISP**”) is approved. The Proposal Trustee and Sales Advisor are authorized and directed to perform their respective obligations and to do all things reasonably necessary to perform their obligations under the SISP, including seeking approval of this Court as soon as reasonably practicable following the selection of a successful bid or bids under the SISP, if applicable.
8. The Sale Advisor and the Proposal Trustee shall incur no liability or obligation whatsoever to any person or party for any act or omission related to the SISP, except to

the extent such act or omission is the result of gross negligence or willful misconduct of the Sales Advisor or the Proposal Trustee, as applicable.

#### **ADMINISTRATION CHARGE**

9. The Proposal Trustee, counsel for the Proposal Trustee and the Applicant's counsel, as security for the professional fees and disbursements incurred both before and after the granting of this Order, shall be entitled to the benefits of and hereby granted a charge ("**Administration Charge**") on the Property (as defined below), which charge shall not exceed an aggregate amount of \$200,000, as security for their professional fees and disbursements incurred at the normal rates and charges of the Proposal Trustee and such counsel. The Administration Charge shall have the priority set out in paragraphs 10 through 14 herein.

#### **VALIDITY AND PRIORITY OF CHARGE**

10. The priority of the Administration Charge shall be as follows:

First – Administration Charge (to the maximum amount of \$200,000).

11. The filing, registration or perfection of the Administration Charge shall not be required, and the Administration Charge shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Administration Charge coming into existence, notwithstanding any such failure to file, register, record, or perfect.
12. The Administration Charge shall constitute a charge on the Applicant's current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"); and shall rank in priority to all other security interests, trusts, liens, charges, encumbrances, and claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favor of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**").

13. Except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicant shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with the Administration Charge, unless the Applicant also obtains the prior written consent of the beneficiaries of the Administration Charge (the “**Chargee**”), or by further order of this Court.
14. The Administration Charge shall not be rendered invalid or unenforceable and the rights and remedies of the Chargee thereunder shall not otherwise be limited or impaired in any way by:
  - (a) the pendency of these proceedings and the declarations of insolvency made in this Order;
  - (b) any application(s) for a bankruptcy or receivership order made in respect of the Applicant;
  - (c) the filing of any assignment for the general benefit of creditors made pursuant to the *BIA*;
  - (d) the provisions of any federal or provincial statutes; or
  - (e) any negative covenants, prohibitions or similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) that binds the Applicant, and notwithstanding any provision to the contrary in any Agreement:
    - (i) neither the creation of the Administration Charge nor the execution, delivery, perfection, registration or performance of any documents in respect thereof shall create or be deemed to constitute a new breach by the Applicant of any Agreement to which it is a party;
    - (ii) the Chargee shall not have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Administration Charge; and

- (iii) the payments made by the Applicant pursuant to this Order, and the granting of the Administration Charge, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct or other challengeable or voidable transactions under any applicable law.

**SEALING ORDER**

- 15. The Confidential Appendix 1 to the Proposal Trustee’s First Report shall be sealed on the Court file and shall not form part of the public record.
- 16. Erikson is empowered and authorized, but not directed, to provide the Confidential Appendix 1 or any portion thereof to any interested entity or person that it, along with the Proposal Trustee, considers reasonable in the circumstances, subject to confidentiality arrangements satisfactory to Erikson and the Proposal Trustee.
- 17. The Clerk of the Court shall file the Confidential Appendix in a sealed envelope attached to a notice that sets out the style of cause of these proceedings and states:

THIS ENVELOPE CONTAINS CONFIDENTIAL MATERIALS  
FILED IN COURT FILE NO. B301-135903 PURSUANT TO  
THE SEALING ORDER ISSUED BY THE  
HONOURABLE JUSTICE P. JOHNSTON ON OCTOBER 21,  
2024

18. Leave is hereby granted to any person, entity or party affected by this sealing order to apply to this Court for a further order vacating, substituting, modifying or varying the terms of this Order, with such application to be brought on not less than 7 days' notice to the Monitor and any other affected party pursuant to the Alberta Rules of Court, Alta Reg 124/2010 and this Order.

*BB Johnston*

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J.C.K.B.A.

**SALE AND INVESTMENT SOLICITATION PROCESS**  
**Erikson National Energy Inc.**

**INTRODUCTION**

On October 1, 2024, Erikson National Energy Inc. ("**Erikson**") filed a Notice of Intention to Make a Proposal under subsection 50.4(1) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3.

KSV Restructuring Inc. ("**KSV**") is a licensed insolvency trustee and the Proposal Trustee for Erikson. Additionally, Erikson has retained the services of Sayer Energy Advisors ("**Sayer**") to act as the sale advisor for the purposes of its sale and investment solicitation process ("**Erikson SISP**") described herein.

Erikson intends to, with the assistance and oversight of the Proposal Trustee and assistance from Sayer, conduct the Erikson SISP. All qualified interested parties as defined herein will be provided with an opportunity to participate in the Erikson SISP. The Erikson SISP is intended to solicit interest in an acquisition of the business or a sale of all or some of the assets and/or the business of Erikson.

This document (the "**Erikson SISP Procedure**") outlines the Erikson SISP, comprised principally of 3 stages: pre-marketing, marketing and offering and evaluation.

**OPPORTUNITY AND SISP SUMMARY**

1. The Erikson SISP is intended to solicit interest in, and opportunities for, a sale of all or some of Erikson's assets (a "**Sale Proposal**"), or an investment in Erikson and its business (an "**Investment Proposal**"), which are primarily comprised of various oil and gas interests located in the Wildboy and Greater Fort St. John areas of British Columbia (the "**Opportunity**").
2. In addition to the Opportunity, the shareholders of Erikson are prepared to consider offers for the sale of their shares to facilitate a corporate transaction.
3. Except to the extent otherwise set forth in a definitive sale or investment agreement with a successful bidder, any transaction will be on an "as is, where is" basis and without surviving representations or warranties of any kind, nature, or description by the Proposal Trustee, Sayer, or Erikson or any of their respective affiliates, agents, advisors or estates, and, in the event of a sale, all of the right, title and interest of Erikson in and to the property to be acquired will be sold free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options, and interests therein and thereon pursuant to Court orders, except as otherwise provided in such Court orders.
4. Solicitation of interest will be on an unpriced basis whereby no set asking price will be stipulated but any such purchase shall, at a minimum, assume all regulatory obligations associated with the purchased property to the British Columbia Energy Regulator ("**BCER**").



5. As described more fully in this Erikson SISP, the major stages in the Erikson SISP Procedure will be comprised of the following:
- (a) Pre-Marketing: preparation of all marketing material, assembly of all relevant due diligence material, establishment of an electronic data room and preparation of potential buyer/investor lists;
  - (b) Marketing: advertising, contacting potential buyers/investors, disseminating marketing material to potential buyers and investors and responding to requests for information, and allowing Qualified Bidders (defined below) to perform due diligence; and
  - (c) Offer Submission and Evaluation: receipt of, evaluation and negotiation of offers from potential buyers and investors, as described below.
6. The Pre-Marketing and Marketing stages will be led by Sayer and the Proposal Trustee, with requests for engagement with Erikson or the BCER to be provided to Sayer.
7. The offer submission and evaluation stage of the Erikson SISP will be comprised of a single phase offering process whereby Qualified Bidders (as defined below) will be entitled to submit formal binding offers to Erikson and the Proposal Trustee.
8. Information related to this process, including any bids received will be shared with both Erikson and the BCER.
9. In assessing the Potential Bidders, Qualified Bidders, Final Bids and Qualified Bids and in selecting Successful Bidders and Successful Bids (each as defined herein), Erikson, Sayer and the Proposal Trustee shall have the ability to consult with the BCER and Erikson's secured creditors with respect to all aspects of the SISP, and the bidders who are participating in the SISP, to assess, among other things, the bidders' ability to meet the BCER's regulatory and eligibility requirements, the amount of recovery that will be available for secured creditors, the assumption of regulatory obligations and liabilities, the financial capability of the bidders and the ability of bidders to consummate a transaction.

## **TIMELINE**

10. The complete schedule for the Erikson SISP is set out below:

<b>Milestone</b>	<b>Date</b>
Marketing Launch	<b>October 16, 2024</b>
Bid Deadline	<b>November 14, 2024</b>
Sale Approval Application	<b>November 25, 2024</b>
Target Closing Date	<b>November 30, 2024</b>

## PRE-MARKETING STAGE

11. As soon as reasonably practicable:
  - (a) Sayer, in consultation with the Proposal Trustee, will prepare: (i) a process summary (the "**Teaser Letter**") describing the Opportunity, outlining the process under the Erikson SISP and inviting recipients of the Teaser Letter to express their interest pursuant to the Erikson SISP; (ii) a non-disclosure agreement in form and substance satisfactory to Erikson and the Proposal Trustee, and their respective counsel (an "**NDA**"); and (iii) a Confidential Information Memorandum ("**CIM**"). The CIM will specifically stipulate that Erikson and the Proposal Trustee and their respective advisors make no representation or warranty as to the accuracy or completeness of the information contained in the CIM, the Data Room (as defined below), or otherwise made available pursuant to the Erikson SISP or otherwise, except to the extent expressly contemplated in any definitive sale or investment agreement with a Successful Bidder (as defined below) ultimately executed and delivered by Erikson;
  - (b) Erikson and Sayer will gather and review all required due diligence material to be provided to interested parties and together with the Proposal Trustee shall establish a secure, electronic data room (the "**Data Room**") which will be maintained and administered by Sayer during the Erikson SISP;
  - (c) Erikson and the Proposal Trustee will develop a draft form of a purchase and sale agreement or investment agreement for use during the Erikson SISP (the "**Draft Agreement**"), which will be uploaded by Sayer to the Data Room; and
  - (d) Erikson, in consultation with Sayer and the Proposal Trustee, will prepare a list of potential bidders, including: (i) parties that have approached Erikson or Sayer indicating an interest in the Opportunity; and (ii) local, national and international strategic and financial parties who Erikson, Sayer and the Proposal Trustee believe may be interested in the Opportunity (collectively, "**Known Potential Bidders**").

## MARKETING STAGE

### *Marketing*

12. Sayer will arrange for a notice of the Erikson SISP (and such other relevant information as the Proposal Trustee and Sayer, in consultation with Erikson, considers appropriate) (the "**Notice**") to be published in the Daily Oil Bulletin, and any other newspaper or journals as Erikson, Sayer and the Proposal Trustee consider appropriate, if any.
13. Sayer will send the Teaser Letter and NDA to all Known Potential Bidders and to any other party who responds to the Notice as soon as reasonably practicable after such request or identification, as applicable.

14. Any party who expresses a wish to participate in the Erikson SISP (a "**Potential Bidder**") must, prior to being given any additional information such as the CIM and access to the Data Room, provide to Sayer and the Proposal Trustee:
  - (a) an NDA executed by it, and which shall inure to the benefit of any ultimate Successful Bidder, and a letter setting forth the identity of the Potential Bidder, the contact information for such Potential Bidder and full disclosure of the direct and indirect principals of the Potential Bidder. If a Potential Bidder has previously delivered an NDA and letter of this nature to Erikson or Sayer in respect of Erikson and the NDA remains in effect, the Potential Bidder is not required to deliver a new NDA, unless otherwise requested by Sayer or the Proposal Trustee.
15. If it is determined by Sayer and the Proposal Trustee in their reasonable business judgment that a Potential Bidder has delivered the documents contemplated in paragraph 15 above then such Potential Bidder will be deemed to be a "**Qualified Bidder**".

### ***Due Diligence***

16. Erikson, Sayer and the Proposal Trustee shall in their reasonable business judgment and subject to competitive and other business considerations, afford each Qualified Bidder such access to due diligence materials through the Data Room and information relating to the Opportunity as they deem appropriate. Due diligence access may further include on-site inspections, and other matters which a Qualified Bidder may reasonably request and to which Erikson and the Proposal Trustee, in their reasonable business judgment, may agree. Sayer will designate a representative to coordinate all reasonable requests for additional information and due diligence access from Qualified Bidders and the manner in which such requests must be communicated. Neither Sayer, BCER, Erikson nor the Proposal Trustee will be obligated to furnish any information relating to the Opportunity to any person other than to Qualified Bidders. Further and for the avoidance of doubt, selected due diligence materials may be withheld from certain Qualified Bidders if Erikson and the Proposal Trustee determine such information to represent proprietary or sensitive competitive information.
17. Requests for information and access will be directed to Sayer at the contact information listed in Schedule "A" hereto. All printed information shall remain the property of Erikson and, if requested by Erikson, shall be returned without further copies being made and/or destroyed with an acknowledgement that all such material has either been returned and/or destroyed and no electronic information has been retained.

## **OFFER SUBMISSION AND EVALUATION STAGE**

### ***Submission of Final Bids***

18. Qualified Bidders that wish to make a Sale Proposal or an Investment Proposal shall submit to Sayer and the Proposal Trustee a sealed, final, binding offer (a "**Final Bid**") that complies with all of the following requirements at the addresses specified in Schedule "A" hereto (including by email or fax transmission), so as to be received by Sayer and the Proposal Trustee not later than 12:00 PM (Calgary time) on November 15, 2024, or as may

be modified by the Proposal Trustee in consultation with the BCER and Erikson or the Court (the "**Bid Deadline**"):

- (a) it is submitted on or before the Bid Deadline by a Qualified Bidder;
- (b) if the bid is a sale proposal, it identifies or contains the following:
  - (i) the purchase price, in Canadian dollars, including details of any liabilities to be assumed by the Qualified Bidder;
  - (ii) a description of property and assets that are expected to be subject to the transaction and any of the property, obligations or liabilities in relation to the property and assets which are expected to be excluded;
  - (iii) a form of financial disclosure and credit quality support or enhancement that allows Erikson, the Proposal Trustee and the BCER to make a reasonable determination as to the Potential Bidder's financial and other capabilities to consummate a Sale Proposal or Investment Proposal, as applicable and meet applicable regulatory obligations; and
  - (iv) any other terms or conditions of the Sale Proposal that the Qualified Bidder believes are material to the transaction;
- (c) if the bid is an investment proposal, it identifies the following:
  - (i) a description of how the Qualified Bidder proposes to structure the proposed investment in the business;
  - (ii) the aggregate amount of the equity and/or debt investment to be made in Erikson in Canadian dollars;
  - (iii) the underlying assumptions regarding the *pro forma* capital structure;
  - (iv) a specific indication of the sources of capital for the Qualified Bidder and the structure and financing of the transaction;
  - (v) a detailed description of any property, assets and liabilities which the Qualified Bidder proposes to be excluded; and
  - (vi) any other terms or conditions of the Investment Proposal that the Qualified Bidder believes are material to the transaction;
- (d) cash and/or the assumption of BCER regulatory obligations are the preferred form of consideration, but if the bid utilizes other consideration, a description of the material terms of the consideration shall be provided;
- (e) the bid (either individually or in combination with other bids that make up one bid) is an offer to purchase or make an investment in some or all of the property or

business on terms and conditions reasonably acceptable to Erikson, the BCER and the Proposal Trustee;

- (f) unless otherwise agreed, the bid shall take the form of the Draft Agreement and shall include a letter stating that the Final Bid is irrevocable until the selection of the Successful Bidder (as defined below), provided that if such Qualified Bidder is selected as the Successful Bidder, its offer shall remain irrevocable until the closing of the transaction with the Successful Bidder;
- (g) it includes duly authorized and executed transaction agreements as listed in the Draft Agreement together with all exhibits and schedules thereto, the name or names of the ultimate beneficial owner(s) of the Qualified Bidder including their respective percentage interests;
- (h) to the extent that a bid is conditional upon new or amended agreements being entered into with other parties, the interested parties shall provide the proposed terms of such amended or new agreements and identify how such agreements may differ from existing agreements to which Erikson may be a party. A Qualified Bidder's willingness to proceed without such conditions and, where such conditions are included in the bid, the likelihood of satisfying such conditions shall be an important factor in evaluating the bid;
- (i) the bid includes written evidence of a firm, irrevocable commitment for financing or other evidence of ability to consummate the proposed transaction that will allow Erikson and the BCER, with the assistance of the Proposal Trustee, to make a determination as to the Qualified Bidder's financial and other capabilities to consummate the proposed transaction, including any regulatory obligations associated with the purchased property;
- (j) the bid should not be conditioned on the outcome of unperformed due diligence by the Qualified Bidder, apart from, to the extent applicable, the disclosure of due diligence materials that represent proprietary or sensitive competitive information which was withheld from the Qualified Bidder;
- (k) the bid fully discloses the identity of each entity that will be entering into the transaction or the financing, or that is participating or benefiting from such bid;
- (l) the bid includes a commitment by the Qualified Bidder to provide a refundable deposit in the amount of not less than the greater of \$10,000 or 10% of the purchase price or investment offered upon the Qualified Bidder being selected as the Successful Bidder, which shall be paid to the Proposal Trustee in trust (the "**Deposit**"). One half of the Deposit shall be paid to the Proposal Trustee in trust upon the submission of the Qualified Bidder's bid. The second half of the Deposit shall be submitted to the Proposal Trustee upon the Qualified Bidder being selected as the Successful Bidder. The Successful Bidder's Deposit shall be applied as against the Purchase Price and all other Deposits submitted by Qualified Bidders

who are not selected as the Successful Bidder shall be returned within one week of obtaining Court Approval for the Successful Bid;

- (m) the bid includes acknowledgments and representations of the Qualified Bidder that: (i) it has had an opportunity to conduct any and all due diligence regarding the property, business and Erikson prior to making its bid (apart from, to the extent applicable, the disclosure of due diligence materials that represent proprietary or sensitive competitive information which were withheld from the Qualified Bidder); (ii) it has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the property in connection with the Erikson SISP, its bid, and any transaction it enters into with Erikson; and (iii) it did not rely upon any written or oral statements, representations, warranties, or guarantees whatsoever made by Erikson or by the Proposal Trustee, whether express, implied, statutory or otherwise, regarding the Business, Property, or Erikson or the accuracy or completeness of any information provided in connection therewith, except as expressly stated in the definitive transaction agreement(s) signed by Erikson;
  - (n) all required corporate approvals of the Qualified Bidder will have been obtained prior to the submission of the bid;
  - (o) it contains such other information as may reasonably be requested by Sayer, the Proposal Trustee or by Erikson, in consultation with the Proposal Trustee; and
  - (p) the bid contemplates a schedule for closing the transaction set out therein which is on or before the target closing date of November 30, 2024.
19. Following the Bid Deadline, Erikson and the Proposal Trustee, with the assistance of Sayer, will assess the Final Bids received. Erikson and the Proposal Trustee will designate the most competitive Final Bids that comply with the foregoing requirements to be "**Qualified Bids**". No Final Bids received shall be deemed to be Qualified Bids without the approval of the Proposal Trustee. Only Qualified Bidders whose Final Bids have been designated as Qualified Bids are eligible to become the Successful Bidder(s).
  20. Erikson and the Proposal Trustee may waive strict compliance with any one or more of the requirements specified above and deem such non-compliant Final Bids to be a Qualified Bid.
  21. The Proposal Trustee shall notify each Qualified Bidder in writing as to whether its Final Bid constituted a Qualified Bid within seven (7) days of the Bid Deadline, or at such later time as Erikson and the Proposal Trustee deem appropriate.
  22. If Erikson, the BCER and the Proposal Trustee are not satisfied with the number or terms of the Qualified Bids, Erikson and the Proposal Trustee, in conjunction with the BCER, may extend the Bid Deadline.

23. Erikson may with the approval of the Proposal Trustee, terminate, at any time, further participation in the Erikson SISP by any interested party, or modify dates or procedures as deemed appropriate or necessary, or to terminate the process.
24. Erikson and the Proposal Trustee may aggregate separate bids from Qualified Bidders to create one or more "Qualified Bids".

#### ***Evaluation of Competing Qualified Bids***

25. A Qualified Bid will be evaluated based upon several factors, including, without limitation, items such as the Purchase Price and the net value and form of consideration to be paid provided by such bid, the identity, circumstances and ability of the Qualified Bidder to successfully complete such transactions, including any conditions attached to the bid and the expected feasibility of such conditions, the proposed transaction documents, factors affecting the speed, certainty and value of the transaction, the assets included or excluded from the bid, any related restructuring costs, and the likelihood and timing of consummating such transactions, and the ability of the bidder to finance and ultimately consummate the proposed transaction within the timeline established by the Proposal Trustee, each as determined by Erikson, with the assistance of the Proposal Trustee.

#### ***Selection of Successful Bid***

26. Erikson and the Proposal Trustee will together: (a) review and evaluate each Qualified Bid and the applicable Qualified Bidder, in consultation with the BCER, and such Qualified Bid may be amended, modified or varied as a result of negotiations with such Qualified Bidder, and (b) identify the highest or otherwise best bid or combination of bids (the "**Successful Bid(s)**"), and the Qualified Bidder(s) making such Successful Bid (the "**Successful Bidder(s)**") for any particular property or the business in whole or part. The determination of any Successful Bid by Erikson, in consultation with the Proposal Trustee and the BCER shall be subject to approval by the Court.
27. Erikson shall have no obligation to enter into a Successful Bid, and it reserves the right, after consultation with the Proposal Trustee and BCER, to reject any or all Qualified Bids.

#### ***Sale Approval Motion Hearing***

28. At the hearing of the motion to approve any transaction with a Successful Bidder (the "**Sale Approval Application**") Erikson shall seek, among other things, approval from the Court to consummate any Successful Bid. All the Qualified Bids other than the Successful Bid, if any, shall be deemed rejected by Erikson on and as of the date of approval of the Successful Bid by the Court.

#### ***Confidentiality and Access to Information***

29. Participants and prospective participants in the Erikson SISP shall not be permitted to receive any information that is not made generally available to all participants relating to the number or identity of Potential Bidders, Qualified Bidders, Qualified Bids, the details of any bids submitted or the details of any confidential discussions or correspondence

between Erikson, the Proposal Trustee, or Sayer and such other bidders or Potential Bidders in connection with the Erikson SISP. Erikson and the Proposal Trustee may however disclose to the BCER such information for the purpose of seeking to combine separate bids from Qualified Bidders.

***Supervision of the Erikson SISP***

30. The Proposal Trustee will participate in the Erikson SISP in the manner set out in this Erikson SISP Procedure and the SISP Order and is entitled to receive all information in relation to the Erikson SISP.
31. This Erikson SISP does not, and will not be interpreted to create any contractual or other legal relationship between Sayer, Erikson or the Proposal Trustee and any Qualified Bidder or any other party, other than as specifically set forth in a definitive agreement that may be signed with Erikson and approved by the Court.
32. Without limiting the preceding paragraph, neither Erikson, Sayer or the Proposal Trustee shall have any liability whatsoever to any person or party, including without limitation any Potential Bidder, Qualified Bidder, the Successful Bidder, or any other creditor or other stakeholder of Erikson, for any act or omission related to the process contemplated by this Erikson SISP Procedure, except to the extent such act or omission is the result from gross negligence or willful misconduct. By submitting a bid, each Qualified Bidder or Successful Bidder shall be deemed to have agreed that it has no claim against Erikson, Sayer or the Proposal Trustee for any reason whatsoever, except to the extent such claim is the result from gross negligence or willful misconduct.
33. Participants in the Erikson SISP are responsible for all costs, expenses and liabilities incurred by them in connection with the submission of any bid, due diligence activities, and any further negotiations or other actions whether or not they lead to the consummation of a transaction.
34. Erikson and the Proposal Trustee, in consultation with the BCER and Third Eye Capital Corporation, shall have the right to modify the Erikson SISP and the deadlines set out herein if, in their reasonable business judgment, such modification will enhance the process or better achieve the objectives of the Erikson SISP.
35. At any time during the Erikson SISP, Erikson, Sayer, or the Proposal Trustee may apply to the Court for advice and directions with respect to any aspect of the Erikson SISP or the discharge of their respective powers and duties hereunder.
36. In the event that there is a disagreement as to the interpretation or application of the Erikson SISP, the Court will have jurisdiction to hear and resolve such dispute.



## Schedule "A"

### **Sales Advisor**

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### **Proposal Trustee**

Andrew Basi / Jason Knight  
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