2023 01G 3233
IN THE **SUPREME COURT OF NEWFOUNDLAND AND LABRADOR IN BANKRUPTCY AND INSOLVENCY**

IN THE MATTER OF the *Bankruptcy and Insolvency Act* R.S.C., 1985 c. B-3 as Amended (the **"BIA");**

AND IN THE **MATTER** OF the *Companies' Creditors Arrangement Act* R.S.C., 1985 c. C- 36 as Amended (the **"CCAA");**

AND IN THE **MATTER** OF an application of Big Erics Inc. **("BEI")** and Terra Nova Old Port Foods Inc. **("TNOPFI")**

Estate Nos. 51-2962147 (Terra Nova Old Port Foods Inc.)
51-2962148 (Big Erics Inc.)

Court Nos. 24543 (Terra Nova Old Port Foods Inc.)
24544 (Big Erics Inc.)

SALE AND INVESTMENT SOLICITATION PROCESS ORDER

THE **APPLICANT,** BEI, has applied for an order approving a sale and investment solicitation process **("SISP");**

ON READING the materials filed by BEI and the report dated September 20, 2022 (the "Second Report") filed by Grant Thornton Limited in its capacity as monitor of the Applicants (the "Monitor") an on being advised that the Bank of Montreal **("BMO")** and the mezzanine lenders (the "Mezzanine Lenders") consent to the SISP and order sought;

ON HEARING the submissions of counsel for BEI, counsel for the Monitor, counsel for BMO, and such other parties that were present, no other party appearing although duly served as outlined in the affidavit of service of Darren O'Keefe dated September 28, 2023;

Filed Oct 25/23

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

DEFINITIONS

2. **THIS COURT ORDERS** that all capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the SISP appended hereto as Schedule "A".

SALE AND INVESTMENT SOLICITATION PROCESS

3. **THIS COURT ORDERS AND DECLARES** that the bidding procedures set forth in the SISP are hereby approved.

4. **THIS COURT ORDERS** that Noseworthy Chapman is hereby appointed as a sales advisor (in that capacity, the **Sales Advisor")** and shall have the benefit of the Administration Charge (as defined in Amended and Restated Initial Order).

5. **THIS COURT ORDERS** that BEI, with the assistance of the Sales Advisor and in consultation with the Monitor, shall implement the SISP and take such steps and execute such documents as may be necessary or incidental to the SISP.

6. **THIS COURT ORDERS** that the Applicants, Sales Advisor, Monitor, and their respective affiliates, partners, directors, employees, agents, advisors, counsel and controlling persons, shall have no liability with respect to any and all losses, claims, damages or liability of any nature or kind to any person in connection with or as a result of performing their duties under the SISP, except to the extent of such losses, claims, damages or liabilities resulting from gross negligence or willful misconduct of any such person or entity, as applicable, as

determined by this Court.

7. **THIS COURT ORDERS** that BEI, the Sales Advisor, and the Monitor, are authorized and permitted under applicable law to disclose and transfer to Potential Bidders and to their advisors personal information in the custody or control of BEI relating to the operation of its business, including human resources and payroll information, records pertaining to BEI's past and current employees, and information about any consumer or any other individual (collectively, **Personal Information"),** but only to the extent necessary to negotiate, determine whether to proceed with, and attempt to complete a transaction in accordance with the SISP (a **'Transaction").** Each Potential Bidder to whom any Personal Information is disclosed shall maintain and protect the Personal Information with security safeguards appropriate to the sensitivity of the Personal Information and as may otherwise be required by applicable federal or provincial privacy legislation and limit the use of such information to its evaluation of a Transaction, and if it does not complete a Transaction with BEI, shall return all such information to BEI, or in the alternative permanently destroy all such information.

8. **THIS COURT ORDERS** that BEI may from time to time apply to this Court for advice and directions in the conduct of the SISP.

GENERAL

9. **THIS COURT REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, in the United States, or elsewhere to give effect to this Order and to assist the Applicants, the Sales Advisor, and the Monitor, as applicable, and their respective agents in carrying out the terms of this Order.

10. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. Newfoundland Standard/Daylight Time on the date of this Order.

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COURT
OFFICER

SCHEDULE "A"

Procedures for the Sale and Investment Solicitation Process

On July 11, 2023, Big Erics Inc **("BEI")** and Terra Nova Old Port Foods Inc. **("TNOPFI")** (collectively as, the "**Companies**" made an application to the Supreme Court of Newfoundland and Labrador (the **"Court")** to continue their Notice of Intention to Make a Proposal proceedings pursuant to the *Bankruptcy and Insolvency Act,* R.S.C. 1985, c.B-3, as amended, under the *Companies' Creditors Arrangement Act,* R.S.C., 1985, c. C-36, as amended (the **"CCAA",** such proceeding the **"CCAA Proceedings").** The Court issued an Order dated July 18, 2023 (the **"Initial Order"),** pursuant to which a stay of proceedings was granted and Grant Thornton Limited was appointed as Monitor under the CCAA (in such capacity, the **"Monitor").** On July 28, 2023, the Court amended and restated the Initial Order (as amended and restated, the "ARIO") making or confirming various provisions for the Companies restructuring and related matters.

On September 22, 2023, the Court granted an order (the **"Bidding Procedures Order"),** authorizing BEI to undertake a Sale and Investment Solicitation Process **("SISP")** for the investment, restructuring, recapitalization, refinancing, reorganization or sale of all or portions of BEIs various sales channels, operations, business, assets and undertakings (the **"Business")** or some combination thereof, as a going concern.

Among other things, the Bidding Procedures Order authorizes and directs BEI to conduct the SISP with the assistance and support of David Howe, Noseworthy Chapman, Chartered Professional Accountants (the **"SISP Advisor"}** BEI, with the assistance of the SISP Advisor, and in consultation with the Monitor, shall conduct the SISP in accordance with the bidding procedures set out herein (the **"Bidding Procedures")** governing the solicitation of offers or proposals (each **a "Bid").**

Defined Terms

1. Capitalized terms used in this document but not otherwise defined have the meanings given thereto in Appendix A.

Bidding Procedures

Opportunity

2. The SISP is intended to solicit interest in, and opportunities for: (i) an investment in, restructuring, recapitalization, refinancing or other form of reorganization of BEI or its Business; and (ii) one or more sales or partial sales of all, substantially all, or certain portions of the Business. Bids considered pursuant to the SISP may include one or more of an investment, restructuring, recapitalization, refinancing or other form of reorganization of the business and affairs of BEI as a going concern or a sale (or partial sales) of all, substantially all, or certain aspects of the Business, or a combination thereof (the **"Opportunity")**.

3. Upon signing and delivering an acceptable NDA to BEI and the SISP Advisor, all interested parties will be encouraged to submit bids based on any form of Opportunity that they may elect to advance pursuant to the SISP, including as a Sale Proposal or an Investment Proposal.

4. The Bidding Procedures describes the manner in which prospective bidders may gain access to due diligence materials concerning BEI and the Business, the manner in which bidders may participate in the SISP, the requirement of and the receipt and negotiation of bids received, the ultimate selection of a Successful Bidder and the requisite approvals to be sought from the Court in connection therewith.

5. BEI, in collaboration with the SISP Advisor, shall conduct the SISP in the manner set forth herein. BEI, in consultation with the SISP Advisor and the Monitor may.at any time and from time to time, modify, amend, vary or supplement, whether material or immaterial the SISP or the Bidding Procedures, if necessary or useful in order to give effect to the substance of the SISP, the Bidding Procedures and the Bidding Procedures Order.

6. BEI shall as soon as practicable post in the data room any such modification, amendment, variation or supplement to the Bidding Procedures and shall inform the bidders impacted by such modifications. The Monitor shall post on the Monitor's website, as soon as practicable, any such non confidential information on any modification, amendment, variation or supplement to the Bidding Procedures.

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7. In the event of a dispute as to the interpretation or application of the SISP or Bidding Procedures, the Court will have exclusive jurisdiction to hear and resolve such dispute.

8. No bidder may request or receive any form of bid protection as part of any bid made pursuant to the SISP.

9. As more particularly set out herein, a summary of the key dates pursuant to the SISP are as follows (all times are Newfoundland Standard Time):

Event	Date
1. Confidential Information Memorandum and Virtual Data Room	
BEI shall as soon as reasonably practicable after approval of the SISP populate and maintain a virtual data room for bidders. BEI shall provide access to all parties having executed an acceptable non-disclosure agreement (Potential Bidders), the Confidential Information Memorandum and the virtual data room.	By no later than October 25, 2023, at 5:00 pm.
2. Solicitation Letter SISP Advisor to distribute a solicitation letter to potential interested parties.	By no later than October 25, 2023, at 5:00 pm.
3. Phase 1 Qualified Bidders & Bid Deadline	
Phase 1 Bid Deadline of non-binding letters of intent by Phase 1 bidders.	By no later than December 8, 2023 at 5:00 pm.

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4. Phase 1 Successful Bids	
Notify each Phase 1 bidder in writing as to whether its bid constituted a Phase 1 successful bid.	By no later than December 20, 2023 at 5:00 pm.
5. Phase 2 Bid Deadline & Qualified Bidders	
Phase 2 bid deadline of definitive offers.	By no later than February 16, 2024, at 5:00 pm.
6. Selection of Successful Bidder	
Deadline for selection of final successful bidder.	By no later than February 28, 2024, at 5:00 pm.
7. Definitive Documentation	
Deadline for completion of definitive documentation in respect of successful bidder.	By no later than March 25, 2024, at 5:00 pm.
8. Approval Motion - Successful Bid	
Deadline for filing of Approval Motion in respect of successful bidder.	By no later than April 1, 2024.
9.Closina - Successful Bid	
Anticipated deadline for closing of Successful Bidder being the Target Closing Date.	Five (5) Business Days after the expiration of the appeal period following the issuance of the approval order.

All capitalized terms not already defined are defined further below. Titles in the chart are for presentation purposes only.

Solicitation of Interest: Notice of the SISP

10. As soon as reasonably practicable after the granting of the Bidding Procedures Order, the SISP Advisor shall:

(a) publish a notice of the SISP and such other relevant information which BEI, in consultation with the SISP Advisor, the Monitor considers appropriate, that shall be published in the National Post, the Telegram (NL) and The Globe & Mail and such other publications as it may consider appropriate;

(b) publish a press release setting out the notice and such other relevant information regarding the Opportunity as it may consider appropriate, that shall be issued with Canada Newswire designating dissemination in Canada; and

(c) contact any parties that have already reached out to BEI, the SISP Advisor and/or the Monitor, including parties that participated in the ongoing BEI Investor Solicitation Process, initiated prior to the CCAA Proceedings, expressing their interest.

11. As soon as reasonably practicable after the granting of the Bidding Procedures Order, the Monitor shall publish on its website a notice of the SISP.

12. The SISP Advisor shall send a letter describing the Opportunity (a **"Solicitation Letter")** outlining the SISP and inviting recipients of the Solicitation Letter to express their interest pursuant to the SISP, for distribution to prospective bidders as soon as practical.

Virtual Data Room

13. A confidential virtual data room (the **"VDR")** in relation to the Opportunity will be set up, maintained and made available by the SISP Advisor to Potential Bidders that have executed the NDA (as defined below) in accordance with paragraph 14 herein. The VDR will be made available as soon as practicable and in any event no later than 25 October 2023. Following the completion of "Phase I", but prior to the completion of "Phase 2", additional information may be added to the VDR to enable Phase 2 Qualified Bidders to complete any confirmatory due diligence in respect of BEI and the Opportunity. The SISP Advisor may establish separate VDRs (including "clean rooms"), if BEI, in consultation with the SISP Advisor and the Monitor reasonably determines that doing so would further BEI's and any Potential Bidders' compliance with

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applicable antitrust and competition laws or would prevent the distribution of commercially sensitive competitive information. BEI may also, in consultation with the SISP advisor and the Monitor impose limitations on the access of any Potential Bidder to any confidential or commercially sensitive information in the VDR where BEI, in consultation with the SISP Advisor and the Monitor reasonably determines that such access could negatively impact the SISP, the ability to maintain the confidentiality of the information, the Business or its value.

PHASE 1: NON-BINDING LOIS

Phase 1 Qualified Bidders and Delivery of Confidential Information Memorandum

14. In order to participate in the SISP, and prior to the distribution of any confidential information to an interested party (including access to the VDR), such interested party must deliver to BEI, via the SISP Advisor at the address specified in Appendix B hereto (including by email) a Non-Disclosure Agreement **("NOA")**, in substantial conformity to the form of NDA attached as Appendix C (with such changes as BEI shall reasonably approve in consultation with the SISP Advisor and the Monitor), which shall also ensure to the benefit of any Successful Bidder that closes a transaction contemplated by the Successful Bid. Pursuant to the terms of the NDA to be signed by a potential bidder (each potential bidder who has executed an NDA, a **"Potential Bidder")**, each Potential Bidder will be prohibited from communicating with any other Potential Bidder regarding the Opportunity during the term of the SISP, without the consent of BEI. Prior to BEI executing an NDA with any prospective bidder, any prospective bidder may be required to provide evidence, reasonably satisfactory to BEI, in consultation with the SISP Advisor and the Monitor, of its financial wherewithal to complete a transaction in respect of the Opportunity (either with existing capital or with capital reasonably anticipated to be raised prior to closing) and/or to disclose details of their current and proposed ownership and/or investors. For the avoidance of doubt, a party who has executed an NDA or a joinder with a Potential Bidder solely for the purpose of providing financing to a Potential Bidder in connection with the Opportunity (such party a **"Financing Party")** shall not be deemed a Potential Bidder for purposes of the SISP, provided that such Financing Party undertakes to inform the SISP Advisor in the event that it elects to act as a Potential Bidder.

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15. A Potential Bidder that has provided any additional information required pursuant to paragraph 14, will be deemed a **"Phase 1 Qualified Bidder"** and will be promptly notified of such classification by the SISP Advisor.

16. The SISP Advisor, in collaboration with BEI and the Monitor, as required, will prepare and send to each Qualified Bidder a Confidential Information Memorandum **("CIM")** providing additional information considered relevant to the Opportunity as soon as practicable. The SISP Advisor, BEI and the Monitor and their respective advisors make no representation or warranty as to the information contained in the CIM or otherwise made available pursuant to the SISP.

17. The SISP Advisor shall provide any person deemed to be a Phase 1 Qualified Bidder with access to the VDR. The SISP Advisor, BEI, and the Monitor and their respective advisors make no representation or warranty as to the information contained in the VDR. The VDR shall contain a template letter of intent (the **"Template LOI"**) and a template purchase and sale agreement **("Template PSA")**.

18. If a Phase 1 Qualified Bidder wishes to submit a bid, it must deliver a non-binding letter of intent (an **"LOI"**) (each such LOI, provided in accordance with paragraph 19 below, a **"Phase 1 Qualified Bid")**, to the SISP Advisor at the address specified in Appendix B hereto (including by email) so as to be received by the SISP Advisor not later than the deadline as outlined herein, or such other date or time as may be agreed by BEI in consultation with the SISP Advisor and the Monitor (the **"Phase 1 Bid Deadline")**. To the extent possible, the Phase 1 Qualified Bid should follow the format as set out in the Template LOI.

19. An LOI submitted by a Phase 1 Qualified Bidder will only be considered a **"Phase 1 Qualified Bid"** if the LOI complies at a minimum with the following:

(a) it has been duly executed by all required parties;

(b) it is received by the Phase 1 Bid Deadline;

(c) it provides written evidence, satisfactory to BEI, in consultation with the SISP Advisor and the Monitor, of the ability to consummate the transaction within the timeframe contemplated by the SISP and to satisfy any obligations or liabilities to be assumed

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on closing of the transaction, including, without limitation a specific indication of the sources of capital;

(d) it identifies all proposed material conditions to closing including, without limitation, any internal, regulatory or other approvals and any form of agreement or other document required from a government body, stakeholder or other third party, and an estimate of the anticipated timeframe and any anticipated impediments for obtaining such approvals;

(e) identifies the Qualified Phase 1 Bidder and representatives thereof who are authorized to appear and act on behalf of the Qualified Phase I Bidder for all purposes regarding the contemplated transaction; and (ii) fully discloses full details of the identity of each entity or person that will be sponsoring, participating in or benefiting from the transaction contemplated by the LOI;

(f) an outline of any additional due diligence required to be conducted in order to submit a binding offer;

(g) it clearly indicates:

  (i) that the Phase 1 Qualified Bidder is seeking to acquire all or substantially all of the Business whether through an asset purchase, a share purchase or a combination thereof (either one being, a **"Sale Proposal")** or some other portion of the Business (a **"Partial Sale Proposal");** and/or

  (ii) whether the Phase 1 Qualified Bidder is offering to make an investment in, restructure, recapitalize, reorganize or refinance BEI or its Business (an **"Investment Proposal");**

{h) it contains such other information as may be reasonably requested by BEI in consultation with the SISP Advisor and the Monitor;

(i} . it does not provide for any break fee or expense reimbursement;

0) in the case of a Sale Proposal, it identifies or contains the following:

  (i) the purchase price or price range and key assumptions or other factors supporting the valuation and the anticipated amount of cash payable on closing of the proposed transaction;

  (ii) any contemplated purchase price adjustment;

  (iii) a description of the Specific assets that are expected to be subject to the transaction and any assets or obligations required to be excluded;

  (iv) a description of those liabilities and obligations (including operating liabilities, obligations to employees, and reclamation obligations) which the

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Phase I Qualified Bidder intends to assume and which such liabilities and obligations it does not intend to assume;

(v) information sufficient for BEI in consultation with the SISP Advisor and the Monitor, to determine that the Phase I Qualified Bidder has sufficient ability to satisfy and perform any liabilities or obligations assumed pursuant to subparagraph (iv) above; and

(vi) any other terms or conditions of the Sale Proposal that the Phase 1 Qualified Bidder believes are material to the transaction; and

(k) in the case of an Investment Proposal, it identifies the following:

(i) a description of how the Phase 1 Qualified Bidder proposes to structure the proposed investment, restructuring, recapitalization, refinancing or reorganization;

(ii) the aggregate amount of the equity and/or debt investment to be made in the BEI or their Business;

(iii) the underlying assumptions or other factors regarding the *pro forma* capital structure;

(iv) a description of those liabilities and obligations (including operating liabilities, obligations to employees, and reclamation obligations) which the Phase 1 Qualified Bidder intends to assume and which such liabilities and obligations it does not intend to assume;

(v) information sufficient for BEI in consultation with the SISP Advisor and the Monitor, to determine that the Phase 1 Qualified bidder has sufficient ability to satisfy and perform any liabilities or obligations assumed pursuant to subparagraph (iv) above; and

(vi) any other terms or conditions of the Investment Proposal that the Phase 1 Qualified Bidder believes are material to the transaction.

20. BEI in consultation with the SISP Advisor and the Monitor, may if appropriate or desirable under the circumstances modify or amend the criteria set out in paragraph 19.

21. Notwithstanding the foregoing, BEI in consultation with the SISP Advisor and the Monitor may waive compliance with any one or more of the requirements in paragraph 19 and deem any such non-compliant LOI to be a Phase 1 Qualified Bid, provided that

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doing so shall not constitute a waiver by BEI or the SISP Advisor of the requirements of paragraph 19 or an obligation on the part of BEI or the SISP Advisor to designate any other LOI as a Phase 1 Qualified Bid. Neither BEI not the SISP Advisor will be under any obligation to negotiate identical terms with, or extend identical terms to, each Qualified Bidder.

Assessment of Phase 1 Qualified Bids and Subsequent Process

22. The SISP Advisor, on behalf of BEI, may, following the receipt of any LOI, seek clarification with respect to any of the terms or conditions of such LOI and/or request and negotiate one or more amendments to such LOI prior to determining if the LOI should be considered a Phase 1 Qualified Bid or a Phase 1 Successful Bid (as defined below).

23. Following the Phase 1 Bid Deadline, BEI shall determine, in accordance with the requirements of paragraph 19 and in consultation with the SISP Advisor, which Phase 1 Qualified Bid(s) shall be deemed a **"Phase 1 Successful Bid(s)"**. All bidders with Phase 1 Successful Bids shall be deemed a **"Phase 2 Qualified Bidder"**. For greater certainty, there can be more than one Phase 1 Qualified Bid that may be deemed to be a Phase 1 Successful Bid, and accordingly there may be more than one Phase 2 Qualified Bidder.

24. Only Phase 2 Qualified Bidders - being those that have submitted a Phase I Successful Bid - shall be permitted to proceed to Phase 2 of the SISP.

25. On behalf of BEI, the SISP Advisor shall notify each Phase 1 Qualified Bidder in writing as to whether its Phase 1 Qualified Bid constituted a Phase 1 Successful Bid and deem it to be a Phase 2 Qualified Bidder within the timeframe outlined herein, or at such later time as BEI deems appropriate in consultation with the SISP Advisor.

26. Without limiting the provisions governing amendment of the SISP set out in paragraph 37 below, and notwithstanding the process and timeline for Phase I, the process to identify and designate Phase 2 Qualified Bidders and the terms upon which Phase 2

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may be continued as described below, BEI, in consultation with the SISP Advisor, may at anytime before or after the Phase 1 Bid Deadline, determine that Phase 2 is not required and may proceed to execute a definitive agreement (which shall be subject to Court approval) with respect to a transaction contemplated in a Phase 1 Qualified Bid submitted at any time on or before the Phase 1 Bid Deadline.

PHASE 2: FORMAL OFFERS AND REMOVAL OF CONDITIONS

Formal Binding Offers

27. Any Phase 2 Qualified Bidder that wishes to make a formal offer with respect to a Sale Proposal or Investment Proposal shall submit a binding offer (a **"Binding Offer"**): (a) in the case of a Sale Proposal, in the form of the Template PSA provided in the VDR, along with a marked version showing edits to the original form of Template PSA provided in the VDR; or (b) in the case of an Investment Proposal, a plan or restructuring support agreement in form and substance satisfactory to BEI, in consultation with the SISP Advisor and the Monitor, such Binding Offer submitted in accordance with paragraph 28 below, a **"Phase 2 Qualified Bid")** in each case to the SISP Advisor, at the address specified in Appendix B hereto (including by email) so as to be received by the SISP Advisor not later than the time and date outlined herein, or such other date or time as may be agreed by BEI in consultation with the SISP Advisor (as may be extended, the **"Phase 2 Bid Deadline")**.

28. A Binding Offer will only be considered as a Phase 2 Qualified Bid if the Binding Offer:

    (a) has been received by the Phase 2 Bid Deadline;

    (b) is a Binding Offer: (i) to purchase all, substantially all, or a portion of the Business; and/or (ii) to make an investment in, restructure, recapitalize, reorganize or refinance BE or their business, on terms and conditions reasonably acceptable to BEI and the Monitor;

    (c) identifies all executory contracts of BEI that the Phase 2 Qualified Bidder will assume and clearly describes, for each contract or on an aggregate basis, how all monetary defaults and non-monetary defaults will be remedied, as applicable;

    (d) is not subject to any financing condition;

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(e) is unconditional, other than upon the receipt of the Approval Order(s) (as defined below) and satisfaction of any other conditions expressly set forth in the binding offer;

(f) includes acknowledgments and representations of the Phase 2 Qualified Bidder that it:

(i) has had an opportunity to conduct any and all due diligence regarding the Opportunity prior to making its Binding Offer;

(ii) has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Business in making its Binding Offer;

(iii) did not rely upon any written or oral statements, representations! warranties, or guarantees whatsoever, whether express, implied, statutory or otherwise, regarding the Opportunity or the completeness of any information provided in connection therewith, other than as expressly set forth in the Binding Offer or other transaction document submitted with the Binding Offer; and

(iv) promptly will commence any governmental or regulatory review of the proposed transaction by the applicable competition, antitrust or other applicable governmental authorities;

(g) the Binding Offer must be accompanied by a letter that confirms that the Binding Offer:

(i) may be accepted by BEI by countersigning the Binding Offer, and

(ii) is irrevocable and capable of acceptance until the earlier of (A) two business days after the date of closing of the Successful Bid; and (8) the Target Closing Date;

{h} does not provide for any break fee or expense reimbursement;

(i) is accompanied by a deposit payable to BEI legal counsel in trust, in immediately available funds, in the amount of not less than 10% of the cash purchase price payable on closing or total new investment contemplated, as the case may be (the **"Deposit"),** along with acknowledgement that if the Phase 2 Qualified Bidder is selected as the Successful Bidder (as defined below), that the Deposit will be non-refundable subject to approval of the Successful Bid (as defined below) by the Court and the terms described in paragraph 36 below;

U) contemplates and reasonably demonstrates a capacity to consummate a closing of the transaction set out therein as soon as practicable after Q1 April 2024, or such earlier date as is practical for the parties to close the contemplated transaction, following the satisfaction or waiver of the conditions to closing (the **"Target Closing Date")**; and

(k) contains an agreement that the Phase 2 Qualified Bidder submitting such bid, if not chosen as the Successful Bidder, shall serve, without modification to such bid, as an alternate bidder **("Backup Bidder")**, in the event the Successful Bidder fails to close.

29. BEI, in consultation with the SISP Advisor and the Monitor, may if appropriate or desirable under the circumstances modify or amend the criteria set out in paragraph 28.

Selection of Successful Bid

30. The SISP Advisor, on behalf of and in collaboration with BEI and the Monitor, may, following the receipt of any Binding Offer, seek clarification with respect to any of the terms or conditions of such Binding Offer and/or request and negotiate one or more amendments to such Binding Offer prior to determining if the Binding Offer should be considered a Phase 2 Qualified Bid.

31. Notwithstanding the foregoing, BEI in consultation with the SISP Advisor and the Monitor, may waive compliance with any one or more of the requirements in paragraph 28 and deem any such non-compliant Binding Offer to be a Phase 2 Qualified Bid, provided that doing so shall not constitute a waiver by BEI or the SISP Advisor of the requirements of paragraph 28 or an obligation on the part of BEI or the SISP Advisor to designate any other Binding Offer as a Phase 2 Qualified Bid. Neither BEI nor the SISP Advisor will be under any obligation to negotiate identical terms with, or extend identical terms to, each Phase 2 Qualified Bidder.

32. BEI in consultation with the SISP Advisor and the Monitor, will review and evaluate each Phase 2 Qualified Bid and may negotiate such Phase 2 Qualified Bids with the Phase 2 Qualified Bidders in order to modify, vary or improve such Phase 2 Qualified Bid as a result of such negotiations.

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33. On or before 28 February 2024, BEI in consultation with the SISP Advisor, the Monitor shall select the highest and best Binding Offer as a successful bid (the **"Successful Bid"**, and the Phase 2 Qualified Bidder making such Successful Bid, the **"Successful Bidder").** For greater certainty, BEI, in consultation with the SISP Advisor, the Monitor, may select more than one Successful Bid and more than one Successful Bidder if Binding Offers are made for portions, but not all, of the Business. Any Successful Bid shall be subject to approval by the Court.

Approval of Successful Bid

34. BEI shall apply to the Court (the **"Approval Motion")** for one or more orders:

(i) approving the Successful Bid(s) and any alternate bid **("Backup Bid")** (as applicable) and authorizing the taking of such steps and actions and completing such transactions as are set out therein or required thereby; and

(ii) granting a vesting order and/or reverse vesting order to the extent that such relief is contemplated by the Successful Bid(s) or Backup Bid(s), as applicable, so as to vest title to any purchased assets in the name of the Successful Bidder or the Backup Bidder (as applicable) and/or vesting out unassumed liabilities (collectively, the **"Approval Order(s)").** The Approval Motion will be held on a date to be scheduled by BEI, following consultation with the Monitor, and confirmed by the Court upon application by BEI, who shall use their best efforts to schedule the Approval Motion on or before the date outlined herein, subject to Court availability. The Approval Motion may be adjourned or rescheduled by BEI, following consultation with the Monitor, without further notice, by an announcement of the adjourned date at the Approval Motion or in a notice to the service list of the CCAA Proceedings prior to the Approval Motion.

35. All Phase 2 Qualified Bids (other than the Successful Bid) shall be deemed rejected on and as of the date of the closing of the Successful Bid, with no further or continuing obligation of BEI or the SISP Advisor to any unsuccessful Phase 2 Qualified Bidders.

Deposits

36. The Deposit(s):

(a) shall, upon receipt from the Phase 2 Qualified Bidder(s), be retained by BEI legal counsel and deposited in a non-interest-bearing trust account.

(b) received from the Successful Bidder, shall: (i) be applied to the purchase price to be paid by the applicable Successful Bidder whose Successful Bid is the subject of the Approval Order(s), upon closing of the approved transaction; and (ii) shall otherwise be held and refundable in accordance with any applicable terms of the definitive documentation in respect of any Successful Bid, provided that all such documentation shall provide that the Deposit shall be retained by BEI legal counsel and forfeited by the Successful Bidder if the Successful Bidder fails to close by the Target Closing Date, and such failure is attributable directly to any failure or omission of the Successful Bidder to fulfil its obligations under the terms of the Successful Bid;

(c) received from the Backup Bidder, unless it is subsequently selected as the Successful Bidder, shall be fully refunded, to the Backup Bidder on or before two (2) Business Days after the date of the closing of the Successful Bid; and

(d) received from the Phase 2 Qualified Bidder(s) that are not the Successful Bidder or the Backup Bidder shall be fully refunded, to the Phase 2 Qualified Bidder(s) that paid the Deposit(s) as soon as practicable following the selection of the Successful Bidder.

Amendments

37. BEI, in consultation with the SISP Advisor and the Monitor shall have the right at any time, to make material amendments to the SISP (including by extending the Phase 1 Bid Deadline or the Phase 2 Bid Deadline); and (ii) make non-material amendments to the SISP, in each case if, in BEI's reasonable judgment, in consultation with the SISP Advisor and the Monitor, such material or non-material amendment will enhance the procedure for conducting the SISP or maximize the value of a transaction pursuant to the SISP. BEI legal counsel shall advise the Service List in the CCAA Proceedings within 24 hours of any material amendment to the SISP.

38. Without limiting the foregoing and notwithstanding the process and timeline for Phase I and the continuation of the SISP into Phase 2, BEI in consultation witt, the SISP Advisor

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and the Monitor may at any time during Phase 1 or Phase 2 (i) enter into a stalking horse agreement involving a transaction with respect to some or all of the Business with a party identified through the SISP or otherwise, subject to Court approval; or (ii) subject to Court approval, enter into a definitive agreement with respect to a transaction involving some or all of the Business with a party identified through the SISP or otherwise and suspend or terminate the SISP.

"As is, Where is"

39. Any sale (or sales) of the Business will be on an "as is, where is" basis except for representations and warranties that are customarily provided in "as is, where is" purchase agreements for a company subject to CCAA proceedings and any such representations and warranties provided for in the definitive documents shall not survive closing.

Free of Any and All Claims and Interests

40. In the event of a sale, to the extent permitted by law, all of the rights, title and interests of BEI in and to all or ay portion(s) of the Business to be acquired will be sold free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options, and interests thereon and there against (collectively, the **"Claims and Interests")** pursuant to section 36(6) of the CCAA, such Claims and Interests to attach to the net proceeds of the sale of such portions of the Business (without prejudice to any claims or causes of action regarding the priority, validity or enforceability thereof), except to the extent otherwise set forth in the relevant transaction documents with a Successful Bidder.

Credit Bidding

41. Any party or parties holding a valid, enforceable, and properly perfected security interest in the Business may, subject in all respects to such party's compliance with the Bidding Procedures, credit bid the amount of debt secured by such lien as part of any transaction contemplated by the Bidding Procedures; provided however that any such credit bid must be communicated to BEI and the SISP Advisor in writing by no later than the Phase 2 Bid Deadline.

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42. Any credit bid shall also provide for the indefeasible and irrevocable repayment in full in cash on the date of closing of any such transaction of any and all obligations: (i) owing to any DIP Lender, if any; (ii) owing pursuant to any charges granted by the Court in the CCAA Proceedings; and (iii) secured by a prior-ranking security interest in the Business unless the holder or indenture trustee or agent of any such senior security interest otherwise agrees.

43. Nothing contained in the SISP or any order approving the SISP is intended to, or shall, alter or amend the rights, terms or obligations under any intercreditor agreement or other form of agreement in respect of existing indebtedness of BEI.

Confidentiality

44. Other than as shall be required in connection with any Approval Motion, neither BEI nor the SISP Advisor will share: (i) the identity of any Potential Bidder, or Phase 1 Qualified Bidder; or (ii) the terms of any bid, LOI, Phase 1 Qualified Bid, Sale Proposal, Investment Proposal or Phase 2 Qualified Bid, without the consent of such party (including by way of email). For greater certainty, BEI shall be entitled to share the foregoing information with the Monitor and the secured creditors.

Further Orders

45. At any time during the SISP, BEI may apply to the Court for advice and directions with respect to any aspect of this SISP and the Bidding Procedures including, but not limited to, the continuation of the SISP or with respect to the discharge of its powers and duties hereunder.

Additional Terms

46. In addition to any other requirement of these Bidding Procedures:

(a) The SISP Advisor and BEI, as applicable, shall at all times prior to the selection of a Successful Bid use commercially reasonable efforts to facilitate a competitive bidding process in the SISP including, without limitation, by actively soliciting participation by all persons who would be customarily identified as high-potential

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bidders in a process of this kind or who may be reasonably proposed by any of the Monitor, or BEI's stakeholders as a high-potential bidder.

(b) Any consent, approval or continuation to be provided by BEI and/or the SISP Advisor is ineffective unless provided in writing and any approval required pursuant to the terms hereof is in addition to, and not in substitution for, any other approvals required by the CCAA or as otherwise required at law in order to implement a Successful Bid. For the avoidance of doubt, a consent, approval or confirmation provided by email shall be deemed to have been provided in writing for the purposes of this paragraph.

(c) All Phase I Qualified Bidders and Phase 2 Qualified Bidders shall at all times be granted information, access and facilitation that is no less complete and timely than is granted by BEI or the SISP Advisor to other Phase 1 Qualified Bidders and Phase 2 Qualified Bidders pursuant to the SISP, subject in each case to the provisions of the applicable NOA. This may include, without limitation, reasonable access to BEI's books, records, financial information, management, advisors and business partners. The SISP Advisor shall review all information and materials provided by BEI and to the extent that BEI, in consultation with the SISP Advisor and the Monitor, is of the view that any such information or materials are materially relevant to a Potential Bidder or Phase 1 Qualified Bidder or Phase 2 Qualified Bidder, then such information or materials shall be promptly posted to the VDR or otherwise made available to all Potential Bidders, Phase 1 Qualified Bidders and Phase 2 Qualified Bidders. Nothing in this paragraph creates binding obligations on third parties.

(d) Nothing in this SISP shall interfere with the powers and discretion of the Court. The Court at all times retains the discretion to direct the clarification, termination, extension or modification of the SISP and Bidding Procedures on application of any interested party.

(e) Prior to the seeking of Court approval for any transaction or bid contemplated by this SISP, the Monitor will provide a report to the Court on the SISP process, parts of which may be filed under seal, including in respect of any and all bids received.

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APPENDIX A
DEFINED TERMS

"Approval Motion" shall have the meaning set forth in paragraph 34.

"Approval Order(s)" shall have the meaning set forth in paragraph 34.

"Backup Bid" shall have the meaning set forth in paragraph 34.

"Backup Bidder" shall have the meaning set forth in paragraph 28.

"Bid" shall have the meaning set forth in the preamble.

"Bidding Procedures" shall have the meaning set forth in the preamble.

"Bidding Procedures Order" shall have the meaning set forth in the preamble.

"Binding Offer" shall have the meaning set forth in paragraph 27.

"Business" shall have the meaning set forth in the preamble.

"Business Day" means a day on which banks are open for business in St. John's, Newfoundland

and Labrador but does not include a Saturday, Sunday or statutory holiday in the Province of Newfoundland and Labrador.

"CCAA" shall have the meaning set forth in the preamble.

"CCAA Proceedings" shall have the meaning set forth in the preamble.

"CIM" shall have the meaning set forth in paragraph 16.

"Claims and Interests" shall have the meaning set forth in paragraph 40.

"Companies" shall have the meaning set forth in the preamble.

"Court" shall have the meaning set forth in the preamble.

"Deposit" shall have the meaning set forth in paragraph 28.

"DIP Lender" shall mean any person having advanced funds pursuant to section 11.2 of the CCM and having the benefit of a super-priority charge to secure such advances, as approved by the Court;

"Financing Party" shall have the meaning set forth in paragraph 14.

"Initial Order" shall have the meaning set forth in the preamble.

"Investment Proposal" shall have the meaning set forth in paragraph 19.

"LOI" shall have the meaning set forth in paragraph 18.

"Monitor" shall have the meaning set forth in the preamble.

"NDA" shall have the meaning set forth in paragraph 14.

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"Opportunity" shall have the meaning set forth in paragraph 2.

"Partial Sale Proposal" shall have the meaning set forth in paragraph 19.

"Phase 1 Bid Deadline" shall have the meaning set forth in paragraph 18.

"Phase 1 Qualified Bid" shall have the meaning set forth in paragraph 18.

"Phase 1 Qualified Bidder" shall have the meaning set forth in paragraph 15.

"Phase 1 Successful Bid" shall have the meaning set forth in paragraph 23.

"Phase 2 Bid Deadline" shall have the meaning set forth in paragraph 27.

"Phase 2 Qualified Bid" shall have the meaning set forth in paragraph 27.

"Phase 2 Qualified Bidder" shall have the meaning set forth in paragraph 23.

"Potential Bidder" shall have the meaning set forth in paragraph 14.

"Sale Proposal" shall have the meaning set forth in paragraph 19(g).

"SISP" shall have the meaning set forth in the preamble.

"SISP Advisor" shall have the meaning set forth in the preamble.

"Successful Bid" shall have the meaning set forth in paragraph 33.

"Successful Bidder" shall have the meaning set forth in paragraph 33.

"Target Closing Date" shall have the meaning set forth in paragraph 280).

"Solicitation Letter" shall have the meaning set forth in paragraph 12.

"Template LOI" shall have the meaning set forth in paragraph 17.

"Template PSA" shall have the meaning set forth in paragraph 17.

"VDR" shall have the meaning set forth in paragraph 13.

SCHEDULE "A" TO THE BEI SISP PROCEDURES

CONFIDENTIAL &
COMMERCIALLY SENSITIVE

NON-DISCLOSURE AGREEMENT

This Non-Disclosure Agreement (this **"Agreement"**) is made effective as of the XX day of:XXXX 2023 between:

BIG ERICS INC., a body corporate with an office at 99 Blackmarsh Road, St. John's NL AIC 5X8 (**"BEI"**)

-and-

XXXX ,a corporation with an office at (**"XXXX"**)

WHEREAS BEI and XXXX (each, a **"Party"** and, collectively, the **"Parties"**) have agreed to engage in discussions concerning or otherwise explore the possibility of one Party (directly or indirectly) investing in, acquiring some of the shares, business operations or assets of the other Party or through some combination of one or more of the Parties' businesses (the **"Transaction"**). During such discussions, one or more of the Parties shall, directly or through its advisors, in that Party's sole discretion, provide to the other Party (the **"RECIPIENT"**) certain information which is non-public, confidential, commercially sensitive, personal or proprietary in nature on or after the date of this Agreement in connection with the business and affairs of any one or more of the Parties (**"Information"**) as may be relevant for the consideration, evaluation, negotiation and documentation of any Transaction (the **"Permitted Purposes"**). Nothing in this Agreement obligates either Party to make any disclosure of specific Information.

The term **"Information"** includes, without limitation: (a) any information provided hereunder or as part of the process contemplated, of whatever nature relating to one or more of the Parties, its affiliates, or the Transaction, regardless of whether the Information was communicated orally, in writing or by electronic transmission; (b) any information provided orally or in a slideshow or otherwise at any presentation or meeting in connection with the Transaction; (c) any information included or otherwise provided (directly or indirectly) in internal or external financial records in connection with a Party; and (d) the portion of any information in any analysis, compilation, study or other record that contains or otherwise reflects (directly or indirectly) or has been generated, wholly or partly, or derived from such Information.

In consideration of the receipt of such Information, the Parties have agreed to the following:

1. Each RECIPIENT shall use the Information solely for the Permitted Purposes.

2. Each RECIPIENT shall protect the Information against unauthorized use, publication or disclosure, and keep it confidential, exercising no less than the same degree of care it uses in respect of its own confidential information. All right, title and interest in and to the Information shall remain the exclusive property of the relevant Party disclosing it to a RECIPIENT or any relevant affiliate. No interest, license or any right respecting the Information, other than as may be expressly set out herein, is granted to RECIPIENT

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under this Agreement by implication or otherwise. RECIPIENT shall not directly or indirectly disclose, allow access to, transmit or transfer the Information to a third party (except as permitted in this Agreement and other than its Representatives, as defined herein) without securing the disclosing Party's prior written consent. RECIPIENT shall disclose the Information only to those Representatives who have a need to know the Information for the Permitted Purposes. RECIPIENT shall:

(a) prior to initially disclosing Information to any such Representatives, instruct such Representatives to use the Information on a confidential basis on the same conditions as contained in this Agreement and to otherwise comply with the terms hereof; and

(b) only reproduce or take such copies of any Information as are reasonably necessary for the Permitted Purposes and as are approved by the disclosing Party in its sole discretion; and

(c) be responsible for and indemnify and hold harmless the disclosing Party and any relevant affiliate for any breach or failure to strictly comply with this Agreement by any of its Representatives.

3. In respect of the Information requests or any other matters concerning the Information, each RECIPIENT agrees to communicate only with designated Representatives from the other Party, or with such other individual or individuals as a Representative of such Party may authorize.

4. Each RECIPIENT shall promptly advise the other Party if it determines not to proceed with the Transaction. At any time upon the written request of disclosing Party, RECIPIENT shall destroy or return to the disclosing Party, at such disclosing Party's sole discretion, all Information and all copies thereof in any form whatsoever under the power or control of RECIPIENT or its Representatives and delete the Information from all retrieval systems and data bases (except to the extent the Information is imbedded in RECIPIENT'S main computers or back up memory or otherwise retained in its computerized archival systems) or destroy same as directed by the disclosing Party and if requested by such Party, furnish to it a certificate by a senior officer or authorized representative of RECIPIENT of such deletion or destruction; provided RECIPIENT's solicitor only may retain one copy solely for use in case of a dispute in connection with this Agreement or to comply with Applicable Laws provided such Information shall remain protected by the terms of this Agreement while in the RECIPIENT solicitor's possession, custody or control.

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5. The term "Information" shall not include such portions of the Information which (i) are, or prior to the time of disclosure or utilization become, generally available to the public other than as a result of a disclosure by RECIPIENT or its Representatives in violation of this Agreement, or (ii) are received from an independent third party who had obtained the Information lawfully and without any breach of any confidentiality obligation by such third party, or (iii) RECIPIENT can show to the disclosing Party's satisfaction were in its lawful possession before it received such Information from the disclosing Party, or (iv) RECIPIENT can show were independently developed by it or on its behalf by personnel having no access to the Information at the time of its independent development.

6. Each RECIPIENT acknowledges that neither the other Party nor any of its affiliates makes any representation and warranty as to the accuracy of or completeness of the Information. Each RECIPIENT agrees that the Information may include certain assumptions, statements, estimates and projections with respect to the anticipated future performance of a Party or its affiliates or its or their business or with respect to particular aspects of such Party's or such affiliate or its business. RECIPIENT agrees that neither of the other Party nor its affiliates nor Representatives make any representation or warranty as to the accuracy or reasonableness of such assumptions, statements, estimates or projections. Each RECIPIENT also agrees that neither of the other Party nor its affiliates nor its Representatives shall have any liability, direct or indirect, to RECIPIENT or to any of its Representatives as a result of errors in, omissions from, or the use of, Information by RECIPIENT or its Representatives and, in any event, only those particular representations and warranties which may be made to a RECIPIENT in a definitive agreement, if, as and when one is executed, and subject to such limitations and restrictions as may be specified in such definitive agreement, shall have any legal effect.

7. Both Parties acknowledge and agree that neither Party nor any of its Affiliates nor its Representatives shall be under any legal obligation or have any liability of any nature whatsoever with respect to the Transaction by virtue of this Agreement or the disclosure of any Information.

8. Each RECIPIENT agrees that because of the unique and commercially sensitive nature of the Information, any breach of this Agreement may cause one or more of the Companies and its Affiliates irreparable harm and money damages and other remedies available at law in the event of a breach and it would not be adequate to compensate the relevant Party or its affiliates for any such breach. Accordingly, each of the Parties and each affiliate shall be entitled, without the requirement of posting a bond or other security, to seek equitable relief, including, without limitation, injunctive relief and specific performance, as a remedy for any such breach. Such relief shall be in addition to, and not in lieu of, all other remedies available at law or in equity to the relevant Party or an affiliate.

9. If RECIPIENT or its Representatives become legally compelled or are required by regulatory authorities having appropriate jurisdiction {including without limitation pursuant to applicable securities laws, request by bank regulatory authority, regulations or rules) to disclose any of the Information, RECIPIENT will, unless expressly prohibited by such court order or Applicable Law, promptly provide written notice to the disclosing Party giving it reasonable opportunity so that it may seek a protective order or other appropriate remedy and/or waive compliance with the provisions of this Agreement; provided RECIPIENT shall not be required to provide such notice with respect to routine requests and disclosure obligations pursuant to federal, provincial and securities laws and regulations {"**Applicable Laws**") to which RECIPIENT is subject. RECIPIENT will cooperate with the disclosing Party on a reasonable basis and at RECIPIENT' s sole expense to obtain a protective order or other remedy. If such protective order or other remedy is not obtained in a reasonable timeframe, or the disclosing Party waives compliance with the provisions of this Agreement, RECIPIENT or its Representatives will furnish only that portion of the Information which they are advised by counsel is legally required to be provided.

10. Without impairing any other provision of this Agreement, RECIPIENT will promptly advise the other Party of any prohibited disclosure or other breach of this Agreement, promptly upon discovery of such prohibited disclosure or breach.

11. Notwithstanding any other provision of this Agreement to the contrary, each RECIPIENT hereby covenants and agrees with the other Party that for a period of two (2) years from the date of this Agreement, such RECIPIENT shall not, directly or indirectly, either alone or in conjunction with any individual, firm, corporation, association or other entity, whether as principal, agent, consultant, employee, shareholder, or in any other manner whatsoever, in the Provinces of Newfoundland and Labrador or Nova Scotia:

(a) solicit {or attempt to solicit), encourage to leave the employment of the other Party, employ in any capacity, or retain as a consultant, any person, including any employee, agent or independent contractor, who was employed or retained in connection with the business by such other Party or its affiliates; or

(b) solicit (or attempt to solicit), any suppliers or customers of such other Party away from such other Party or its affiliates; or

(c) in any way interfere with or disrupt the business, business relationships or activities of such other Party with respect to its customers or prospective customers; or

(d) take any act that as a result of which the relations between such other Party and its suppliers, employees or customers may be impaired or which may otherwise be detrimental to such other Party or its affiliates;

provided that each of the Provinces and each of the clauses (a) through (d) hereof are intended and shall reflect separate covenants and shall be severable one from the other.

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12. This Agreement terminates two years from the date hereof or upon execution of a definitive written agreement with respect to the Transaction providing otherwise, and all Information disclosed during such term shall remain subject to the confidentiality obligations hereunder.

13. This Agreement shall be governed by and construed in accordance with the laws of the Province of Newfoundland and Labrador and Canada without regard to its conflicts of law provisions. The Parties hereby irrevocably (a) submit to the exclusive jurisdiction of the courts of competent jurisdiction in the federal and provincial courts in Newfoundland and Labrador in respect of any actions or proceedings (**"Proceedings"**) relating in any way to this Agreement and the transactions contemplated hereby (and each Party agrees not to commence any Proceeding relating thereto except in such courts); and (b) waive any objection to the venue of any Proceeding relating to this Agreement or the transactions contemplated hereby in the courts of competent jurisdiction in St. John's, Newfoundland and Labrador, including the objection that any such Proceeding has been brought in an inconvenient forum.

14. No failure or delay by either Party in exercising any right, power or privilege under this Agreement will operate as a waiver thereof, nor will any single or partial exercise preclude any other or further exercise of any right, power or privilege under this Agreement.

15. If any provision of this Agreement or its application to any party or circumstance is restricted, prohibited or unenforceable, such provision shall, as to such jurisdiction, be ineffective only to the extent of such restriction, prohibition or unenforceability without invalidating the remaining provisions of this Agreement and without affecting the validity or enforceability of such provision in any other jurisdiction and without affecting its application to other parties or circumstances.

16. This Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof and cancels and supersedes any prior understanding and agreements between the parties hereto and respect thereto. There are no representations, warranties, terms, conditions, undertakings or collateral agreements, expressed, implied or statutory, between the parties other than as expressly set forth in this Agreement.

17. This Agreement shall ensure to the benefit of and be binding upon the respective successors and assigns of the Parties hereto, provided that this Agreement may not be assigned by either Party without the prior written consent of the other Party.

18. The Parties agree that unless otherwise provided in this Agreement, for the purposes of this Agreement, one body corporate shall be deemed an **"affiliate"** of another body corporate if, but only if, one of them is the subsidiary of the other or both are subsidiaries of the same body corporate or each of them is controlled by the same person(s); and **"Representatives"** refer to the affiliates, officers, directors, employees, attorneys and

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consultants of the respective Parties who have been designated by the Party to be directly involved in the Transaction analysis teams and that may be amended from time to time. Whenever used herein, the term **"person"** means any individual, corporation, partnership, joint venture, association, trust, unincorporated organization, governmental authority or any agency or instrumentality thereof or any other entity; and an entity is **a "subsidiary"** as used herein of another body corporate if, but only if,

(a) it is controlled by,

(i) that other, or

(ii) that other and one or more bodies corporate each of which is controlled by that other, or

(iii) two or more bodies corporate each of which is controlled by that other; or

(b) it is a subsidiary of a body corporate that is that other's subsidiary.

19. Any notice, consent or approval required or permitted to be given in connection with this Agreement **("Notice")** shall be in writing and shall be sufficiently given if delivered (whether in person, by courier service or other personal method of delivery), or if transmitted by email as follows:

(a) to XX.XX at the address on page 1 to the attention of:

XXXX,XXXX
Or by Email to:
XXXX

(b) to **BEI** at the address on page 1, to the attention of:
Nicole Myles Brook, President
Or by Email to:
nbrook@bigerics.com

With a copy to the attention of: Wayne Myles, chair of the Board
Email to:
wayne@mylesandcompany.com

Any Notice delivered or transmitted as provided above shall be deemed to have been given and received on the day it is delivered or transmitted, provided that it is delivered or transmitted on a business day prior to 5:00 p.m. local time in the place of delivery or receipt. However, if the Notice is delivered or transmitted after 5:00 p.m. local time or if such day is not a business day, then the Notice shall be deemed to have been given and received on the next business day. The Parties may, from time to time, change respective addresses by giving Notice to the other party in accordance with the provisions of this section.

20. This Agreement may be executed in counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute one and the same agreement.

[SIGNATURE PAGE FOLLOWS]

The undersigned hereby agree to the foregoing as of the date set forth above,

BIG ERICS INC.

By:

Name: Nicole Myles Brook
Title: President

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By:

Name:XXXX
Title: XXXX