

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
IN BANKRUPTCY AND INSOLVENCY**

IN THE MATTER OF an application of
Big Erics Inc. and Terra Nova Old Port Foods
Inc.

AND IN THE MATTER OF the *Companies'*
Creditors Arrangement Act R.S.C., 1985 c. C-
36 as amended

**SEVENTH REPORT OF GRANT THORNTON LIMITED,
IN ITS CAPACITY AS MONITOR
UNDER THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, C. C-36
OF BIG ERICS INC. AND TERRA NOVA OLD PORT FOODS INC.**

April 11, 2024



**Grant Thornton Limited,
Court-Appointed Monitor**

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INTRODUCTION

1. On July 11, 2023, Big Erics Inc. (“**BEI**”) and Terra Nova Old Port Foods Inc. (“**TNOPI**”) (collectively as, the “**Companies**”) made an application to the Supreme Court of Newfoundland and Labrador (the “**Court**”) to convert previously filed Notices of Intention to Make a Proposal (“**NOIs Proceedings**”) to proceedings under the Companies’ Creditors Arrangement Act, R.S.C., 1985, c. C-36, as amended (“**CCAA Proceedings**”). On July 18, 2023, the Court issued an order (the “**Initial Order**”) and Grant Thornton Limited (“**GTL**”) was appointed as Monitor (in such capacity, the “**Monitor**”) for the Companies.
2. Pursuant to the Initial Order, amongst other things, all creditors were stayed from commencing or continuing any proceedings against the Companies until, and including, July 28, 2023 (“**Stay of Proceedings**”), or until such date as the Court may subsequently order. The Stay of Proceedings was further extended by multiple orders, most recently, to May 15, 2024 by an order issued on March 20, 2024 (“**March 2024 Order**”).
3. On October 25, 2023, the Court issued a sales and investment solicitation process order (“**SISP**” and “**SISP Order**”) which directed and empowered Noseworthy Chapman (the “**SISP Advisor**”) to administer a SISP in the CCAA Proceedings.
4. On January 15, 2024, the Court issued an order declaring that the *Wage Earner Protection Program Act (Canada)*, SC 2005, c 47, s 1 (“**WEPP**”), applies to TNOPI in conjunction with the *Wage Earner Protection Program Regulations*. The declaration was a requirement of Service Canada as communicated to the Monitor.
5. On March 20, 2024, the Court issued the March 2024 Order which, amongst other things:
 - (a) Provided an extension of the Stay of Proceedings to May 15, 2024;
 - (b) Provided a Sealing Order of various confidential materials submitted by the Monitor, the Company, the SISP Advisor and the Bank of Montreal (“**BMO**”);
 - (c) Provided for an amendment of the following milestone dates within the SISP Order:
 - i. March 28, 2024 – Finalize the form of the Asset Purchase Agreement (“**APA**”) with circulation to BMO and the Mezzanine Lenders (collectively, the “**Secured Lenders**”);

- ii. April 5, 2024 – Company and Purchaser to finalize and circulate to the Secured Lenders (i) the ancillary documents relating to the APA and (ii) the proposed form of the Asset Vesting Order (“**AVO**”) to be requested of the Court on April 12, 2024;
 - iii. April 9, 2024 – Company to file any amendments to the Approval Application already filed with the Court, including the APA, for the Courts review and requested approval of the AVO;
 - iv. April 12, 2024 – Approval motion scheduled to be heard by the Court; and
 - v. Closing – Clause 9 of Schedule “A” of the SISP was amended to “on or before five (5) Business Days after the expiry of the appeal period”.
6. Also on March 20, 2024, BMO requested of the Court to withdraw its Receivership Applications. The Court approved this request with no order of costs.
7. A copy of the March 2024 Order is attached hereto as **Appendix “A”**.
8. This seventh report of the Monitor (the “**Seventh Report**”), as well as the previous reports of the Monitor and all other relevant information in respect of these CCAA Proceedings and the previous NOIs Proceedings has been made available to stakeholders on the Monitor’s case website at www.GrantThornton.ca/BigEricks. Readers are encouraged to read the following reports of the Proposed Monitor and of the Monitor, the materials filed with the Court in relation to the applications and the orders of the Court, to provide additional information on these CCAA proceedings:

Reports to the Court

- (a) Pre-Filing Report of GTL in its capacity as Proposed Monitor dated July 17, 2023;
- (b) First Report of GTL in its capacity as Monitor dated July 25, 2023;
- (c) Second Report of GTL in its capacity as Monitor dated September 20, 2023;
- (d) Third Report of GTL in its capacity as Monitor dated December 15, 2023;
- (e) Fourth Report of GTL in its capacity as Monitor dated January 19, 2023;
- (f) Fifth Report of GTL in its capacity as Monitor dated February 22, 2024;
- (g) Sixth Report of GTL in its capacity as Monitor dated March 18, 2024; and

- (h) Supplement to the Sixth Report of GTL in its capacity as Monitor dated March 19, 2024.

Court Orders

- (a) CCAA Initial Order dated July 18, 2023;
- (b) ARIO dated July 28, 2023;
- (c) ARIO dated August 25, 2023;
- (d) ARIO dated September 22, 2023;
- (e) SISP Order dated October 25, 2023;
- (f) Consent Order dated December 18, 2023;
- (g) Consent Order dated January 11, 2024;
- (h) WEPP Order dated January 15, 2024;
- (i) January 2024 Order dated January 25, 2024; and
- (j) March 2024 Order dated March 20, 2024.

PURPOSE OF THE SEVENTH REPORT

- 9. The purpose of the Seventh Report is to inform the Court of the following:
 - (a) An update on the activities of the Monitor and the Companies since March 18, 2024, the date of the Sixth report (the “**Sixth Report**”);
 - (b) An update on BEI’s budget to actual results from March 4, 2024 to March 29, 2024;
 - (c) An update on the TNOPI WEPP process undertaken by the Monitor pursuant to the WEPP Order;
 - (d) Request approval from the Court of the Monitor’s activities, and that of its legal counsel, up to the date of the Seventh Report; and
 - (e) To provide the Monitor’s views on the Proposed Transaction, defined herein.

TERMS OF REFERENCE

10. In preparing this Seventh Report, the Monitor has relied upon unaudited internal financial statements, certain other financial information and financial projections of the Companies, discussions with management of the Companies (“**Management**”) and its legal advisors, and discussions with the SISP Advisor (collectively, the “**Information**”). While the Monitor has reviewed the Information for reasonableness and believes that the information provides a fair summary of the transactions and underlying financial position as reflected in the documents of the Companies, the Monitor has not audited, reviewed, or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Canadian Generally Accepted Auditing Standards.
11. Some of the Information used in preparing this Seventh Report consists of forward-looking information, including the Revised Cash Flow Projections, defined herein. The Monitor cautions that such information is based on assumptions about future events and conditions that are not yet ascertainable. The actual results with respect to the forward-looking information and the variations thereof could be significant.
12. In the course of its mandate, the Monitor has assumed the integrity and truthfulness of the Information and explanations presented to it by Management, within the context in which the Information was presented. To date, nothing has come to the Monitor’s attention that would cause it to question the reasonableness of these assumptions. The Monitor has requested that Management bring to its attention any significant matters which were not addressed in the course of the Monitor’s specific inquiries. Accordingly, this Seventh Report is based solely on the Information (financial or otherwise) made available to the Monitor by the Companies and Management.
13. The Seventh Report has been prepared for the use of this Honourable Court and the Companies’ stakeholders as general information relating to the Companies and these CCAA Proceedings, and to assist the Court in determining whether to grant the AVO and the relief sought by the Companies. Accordingly, the reader is cautioned that this Seventh Report may not be appropriate for any other purpose. The Monitor does not assume responsibility or liability for losses incurred by the reader as a result of the circulation, publication, reproduction or use of this Seventh Report contrary to the provisions of this paragraph.

14. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars. Capitalized terms not otherwise defined herein have the meaning given to them in the Initial Order and subsequent orders granted by the Court.

ACTIVITIES OF THE MONITOR

15. Since the date of the Sixth Report the Monitor has, among other things:
- (a) Continued to assist the Companies with their communications of these CCAA Proceedings to creditors and other stakeholders;
 - (b) Provided advice to the Companies and SISP Advisor on SISP related matters, including, but not limited to, (i) finalizing of the Definitive Documentation and (ii) closing matters and considerations;
 - (c) Monitored the operations of the Companies including, but not limited to, reviewing sales targets and cash flow reporting, as well as reviewing and following up with the Company on questions when posed by stakeholders;
 - (d) Continued to assist the Companies and hold conversations with employees, creditors, and suppliers;
 - (e) Responded to creditor queries and communications in a timely fashion;
 - (f) Provided advice to Management on restructuring options and issues during the proceedings;
 - (g) Facilitated and continue to manage the TNOPI WEPP process, per the WEPP Order, for the former employees of TNOPI;
 - (h) Attended the court hearings on March 19 and 20, 2024;
 - (i) Attended various meetings with the Companies and their legal advisors on the Proposed Transaction and these CCAA Proceedings;
 - (j) Continued to maintain the Monitor's case website;
 - (k) Prepared the Supplement to the Sixth Report; and
 - (l) Prepared the Seventh Report.

ACTIVITIES OF THE COMPANIES

16. Since the date of the Sixth Report, the Monitor understands that the Companies have, among other things:
- (a) Continued to maintain the operations of BEI;
 - (b) Continued to engage with the employees of BEI to garner alignment to the restructuring process and the Proposed Transaction;
 - (c) Continued to engage with suppliers to maintain support for the restructuring process including negotiating revised credit terms (where applicable), and communicated on the stay of proceedings and its impact on pre-filing balances owing;
 - (d) Extensive negotiations with the Successful Bidder, secured creditors, and the preparation of Definitive Agreements;
 - (e) Finalized the APA and circulated to the Secured Lenders;
 - (f) Continued to work with the Successful Bidder regarding various operational and transitional matters that will need to be address should the Proposed Transaction close;
 - (g) Responded to the Monitor's queries in a timely manner; and
 - (h) Provided the Monitor with regular cash flow reporting and related financial reports as required by the Monitor.

LITIGATION

17. There has been no change in the status of either 1) a possible claim from a former employee of BEI pursuant to which either wages or termination pay may be owed, and 2) litigation between BEI and Vision 33. Neither claim impacts the Proposed Transaction.
18. The former employees referenced above, and all former employees of BEI, would be captured by a WEPPA order should one be granted by the Court.
19. The net claim against BEI, if any, resulting from the claim and counter-claim as between Vision 33 and BEI, would be an unsecured claim in the estate.

TNOPFI – WAGE EARNER PROTECTION PROGRAM ACT

20. Since the date of the Sixth Report, the Monitor was made aware of an additional seven potential WEPP claims of former employees of TNOPFI. The Monitor requested and received from TNOPFI the employment records for these former employees and concluded that a WEPP claim does exist for six of these former employees.
21. All six of these former employees have been contacted by the Monitor and have been informed of the WEPP process and provided with the Monitor's calculation of their claim.
22. WEPP Eligible Employees of TNOPFI continue to submit proof of claim and application forms to the Monitor and Service Canada.
23. The Monitor's estimate of the super-priority WEPP claim has not changed at approximately \$20,075, as noted in the Sixth Report. This amount is subject to change upon review of the claims by Service Canada.

SALES AND INVESTMENT SOLICITATION PROCESS

Background

24. On October, 25, 2023, the Court granted the SISP Order which empowered BEI and its SISP Advisor to administer a SISP in these CCAA Proceedings. The SISP Order, inclusive of the SISP procedures, is attached hereto as **Appendix "B"**.
25. The SISP Order provided for BEI to seek an investment, restructuring, recapitalization, refinancing, reorganization or sale of all or portions of BEI's various sales channels, operations, business, assets and undertakings, or some combination thereof, as a going concern. Noseworthy Chapman was appointed as SISP Advisor.
26. An outline of the milestones as set out in the SISP Order, together with any amendments made in accordance with the SISP Order, or as granted by this Court, (the "**SISP Milestones**") are attached hereto as **Appendix "C"**.

Marketing Overview

27. In accordance with the SISP Milestones, the SISP Advisor and BEI, with consultation of the Monitor, prepared a Solicitation Letter to advertise the SISP to potentially interested parties.

28. The SISP Advisor confirmed to the Monitor that a total of 319 potential bidders were identified by the SISP Advisor, with consultation from BEI and the Monitor, and were provided with a copy of the Solicitation Letter, a copy of the non-disclosure agreement (“**NDA**”) and the SISP Order with procedures. Below is the marketing data provided to the Monitor by the SISP Advisor:

Date	Description	Total Recipients	Successful Deliveries	Emails Opened	Clicks on SISP Letter
October 25, 2023	Initial contact email to potentially interested parties	299	286	162	122
October 31, 2023	Resent to recipients that did not open initial contact email	117	116	29	1
October 31, 2023	New contacts identified from market research	30	28	11	2
November 6, 2023	Resent to any recipients that did not open previous emails	154	143	43	3
November 22, 2023	Resent to all contacts identified	319	312		

29. The Potential Bidders identified included both local parties, as well as parties located throughout North America:
- (a) Potential Bidders included parties within the restaurant and kitchen equipment industry, BEI suppliers, other strategic industry players and private equity firms.
30. The Monitor also posted a copy of the Solicitation Letter and NDA on the Monitor’s case website, www.GrantThornton.ca/BigEricks, on October 25, 2023.
31. Pursuant to Section 10 of the SISP procedures, the SISP Advisor published the following advertisements in the applicable news publications:
- (a) Advertisement published in the Globe and Mail on November 1, 2023;
 - (b) Advertisement published in the National Post on November 18, 2023;
 - (c) Advertisement published in the Telegram (St. John’s) on November 23, 2023; and
 - (d) Press releases published on Canada Newswire on October 26, 2023.

Due Diligence

32. To facilitate due diligence, confidentiality and ensure integrity within the SISP, the SISP Advisor set up a virtual data room (“**VDR**”) to host all due diligence related documents from BEI. The VDR went live and was available for use on October 25, 2023.

SISP Phases and Successful Bidder

33. As per the SISP procedures, the SISP Advisor and BEI, with consultation from the Monitor, developed a Confidential Information Memorandum (“**CIM**”) which was made available on

October 25, 2023 to any party who executed an NDA and established comfort to the SISP Advisor on their ability to consummate a transaction ("**Phase 1 Qualified Bidders**").

34. BEI extended the Phase 1 Bid Deadline to December 22, 2023, following consultation with the SISP Advisor, Monitor and Secured Lenders. Upon review of all Phase 1 Bids received by BEI, the SISP Advisor notified all applicable parties of their acceptance to Phase 2 of the SISP (the "**Phase 2 Qualified Bidders**").
35. Phase 2 Qualified Bidders were required to submit binding offers by no later than February 16, 2024.
36. BEI, in consultation with the SISP Advisor, selected a binding offer from a Phase 2 Qualified Bidder (the "**Successful Bidder**"). The Successful Bidder, through multiple rounds of negotiations with BEI and the Secured Lenders, made further improvements of its binding offer. Ultimately, BEI accepted an improved offer from the Successful Bidder on March 20, 2024, which was supported by the Secured Lenders.
37. BEI is now requesting approval from this Court of the improved binding offer from the Successful Bidder (the "**Proposed Transaction**").
38. Detailed description of the SISP process and the related documents can be found in the Monitor's Third Report and the Monitors Sixth Report. The Third Report is attached hereto as **Appendix "D"**, and Sixth Report is attached hereto as **Appendix "E"**.

MONITOR'S VIEW ON THE SISP

39. The Monitor is of the view that the SISP, as facilitated by the SISP Advisor, was fair and reasonable:
 - (a) The SISP was well defined, transparent and consistent with similar Court approved SISP's of this nature;
 - (b) The SISP was implemented and facilitated by the SISP Advisor, a neutral third party, for the purposes of maintaining integrity throughout the SISP;
 - (c) The phases of the SISP provided for sufficient time for all interested parties, Phase 1 Qualified Bidders and Phase 2 Qualified Bidders to:

- i. Conduct an appropriate level of financial, operational and other due diligence in order to comply with the submission requirements to the SISP Advisor by the SISP milestones;
 - ii. Given feedback from the Phase 1 Qualified Bidders, BEI extended the Phase 1 Bid Deadline to December 22, 2023 to allow additional time for the Phase 1 Qualified Bidders to submit a non-binding letter of intent; and
 - iii. The Phase 2 Bid Deadline allowed for the submission of binding offers from Phase 2 Qualified Bidders;
 - (d) The SISP was widely marketed, with the opportunity being solicited to over 319 potentially interested parties throughout North America; and
 - (e) The Secured Lenders received regular updates from the Monitor, SISP Advisor and BEI throughout the SISP.
40. The Monitor received the final executed version of the APA on April 11th, 2024, however as at the signing of this Seventh Report, has not yet had an opportunity to review the final version. The Monitor is supportive of the Proposed Transaction, subject to reviewing the final version of the APA and ensuring any changes from previous versions are consistent with the Monitor's expectation.
41. The Monitor is of the view that the APA by the Successful Bidder is the best executable offer received within the SISP:
- (a) The binding offer was received as a result of an extensive, robust and transparent SISP facilitated by the SISP Advisor;
 - (b) The SISP provided sufficient time to solicit the best offer from the market for BEI; and
 - (c) The SISP Advisor sustained competitive tension throughout the SISP, while ensuring the integrity of the SISP was maintained.
42. Furthermore, the Monitor understands that the Secured Lenders have also not yet reviewed the final APA as at the signing of this Seventh Report, and their views on the APA are therefore unknown.

THE PROPOSED TRANSACTION

43. On or around April 11, 2024, BEI entered into the APA with the Successful Bidder. A redacted version of the APA is attached hereto as **Appendix “F”**. The unredacted version of the APA is attached as **Confidential Appendix “G”**.
44. The Proposed Transaction has a target closing date of May 3, 2024.
45. The Proposed Transaction is structured in the form of an asset purchase agreement, whereby the consideration provided is for all of the assets and contracts of BEI (the **“Purchased Assets”**), with the exception of the following:
- (a) Excluded Receivables primarily being prepaid expenses, taxes, promotional purchase credits, rebates, promotional or similar payments from suppliers or their agents as defined in the APA and Schedule 2.2(d);
 - (b) Excluded Contracts being a single customer contract and the lease of real property at 99 Blackmarsh Road, St. John’s, NL as defined in Section 2.2 and Schedule 1.1 (ff) of the APA;
 - (c) The shares, corporate seal, corporate records and any records related to the corporate organization of BEI;
 - (d) Employee Plans such as health or other medical benefits, life or other insurance, vacation, disability, retirement or supplemental retirement benefit plans;
 - (e) Cash on hand; and
 - (f) Shares, stock or other securities for the benefit of BEI.
46. The Proposed Transaction further contemplates that the Successful Bidder will not assume any liabilities of BEI, with the exception of liabilities associated with the Assumed Contracts as defined in the APA and described in Schedule 1.1(h) of the APA.
47. The consideration provided for with respect to the APA is described in detail within **Confidential Appendix “G”**.
48. The Monitor respectfully recommends that this Court provide for a sealing order of **Confidential Appendix “G”** to the later of either the closing of the Proposed Transaction, defined herein, or to the conclusion of these CCAA proceedings.

Proposed Approval and Vesting Order

49. BEI is seeking an order from this Court to, among other things:
- (a) Approve the APA as executed by BEI and the Successful Bidder;
 - (b) Provide for a release from all liabilities for the (i) BEI and its current and former directors, officers, employees, legal counsel and advisors (ii) the Monitor and its legal counsel and their respective present and former directors, officers, partners, employees, and advisors, and (iii) the Successful Bidder, its current and former directors, officers, employees, legal counsel and advisors (collectively, the “**Released Parties**”). The release does not cover fraud or willful misconduct, or any claim not permitted to be released pursuant to section 5.1(2) of the CCAA. The release language is in paragraph 21 of the Proposed Approval and Vesting Order.
50. The Monitor is supportive of BEI’s request for a release to the Released Parties. The Released Parties have contributed significantly to the advancement of the Proposed Transaction and to the success of these CCAA proceedings. Further, it is the Monitor’s understanding, in consultation with its counsel, that releases of this nature to the Released Parties are customary in these circumstances and the release provisions are appropriate and commercially reasonable.

PROJECTED IMPACT OF PROPOSED TRANSACTION

Creditors

51. The Monitor understands that the consideration provided for within the Proposed Transaction will be sufficient to pay the claims ranking in priority to BMO, but insufficient to fully repay the first ranking secured debt owed to BMO.
52. As a result, the Monitor does not expect there to be any consideration available to any subordinated secured creditors, or the unsecured creditors of BEI.

Employees

53. The Monitor understands that the employees of BEI will be terminated on closing day, and the Successful Bidder intends to offer the majority of BEI employees employment with the new entity.

54. The employees offered payments pursuant to an order of this Court for Key Employee Retention Payments (“**KERP**”) will be paid from proceeds following the closing of the Proposed Transaction.

Other Stakeholders

55. By approval of the Proposed Transaction, the Monitor understands that the Successful Bidder intends to continue the operations of BEI, whereby the unsecured creditors, customers and the local community will benefit from the continued business of BEI.

BEI – WEPP ORDER

56. While no party has requested of the Court an order declaring BEI as a former employer for the purposes of WEPP for all employees that will be terminated (“**Terminated Employees**”) on the closing date of the Proposed Transaction and not rehired by the Successful Bidder, the Monitor is including the information on the applicability of this declaration in this Report.
57. The APA states that all employees of BEI will be terminated on closing, with certain employees being offered employment with the Successful Bidder. It is the Monitor’s understanding most BEI employees will be offered employment by the Successful Bidder. Upon termination, these employees may be owed eligible wages, vacation pay, termination pay and other wage amounts.
58. In accordance with Section 5(1) of WEPP, an individual is eligible to receive payment under WEPP if, among other things:
- (a) The individual’s employment ended as a result of the insolvency proceeding;
 - (b) The individual is owed eligible wages by the former employer; and
 - (c) The Court determines that, under Section 5(5) of WEPP, the criteria prescribed by regulation are met.
59. Further, Section 3.2 of the *Wage Earner Protection Program Act Regulations* (“**WEPP Regulations**”) provides as follows:
- “For the purposes of subsection 5(5) of the Act, a court may determine whether the former employer is the former employer all of whose employees in Canada have been terminated other than any retained to wind down its business operations.”*

60. The Monitor is of the view that the termination of the Terminated Employees is the direct result of the closing of the Proposed Transaction and the Monitor considers the terminations to be permanent. As such, the Monitor would support an application to request that the Court declare that BEI is a former employer of the Terminated Employees for both the purposes of Section 5(5) of WEPP and Section 3.2 of the WEPP Regulations referencing the following language in any order:

THIS COURT ORDERS AND DECLARES that pursuant to subsections 5(1)(b)(iv) and 5(5) of the Wage Earner Protection Program Act (Canada), SC 2005, c 47, s 1, Big Eric's Inc. meets the criteria prescribed by section 3.2 of the Wage Earner Protection Program Regulations, SOR/2008-222 and Big Eric's Inc. collective former employees are eligible to receive payments under and in accordance with the WEPPA following the termination of their employment.

61. Should this Court grant this declaration, the Monitor will work with the Management of BEI to submit the required documents, proofs of claim and trustee information forms as required by Employment and Social Development Canada in order to complete the administration of WEPP.
62. The Monitor is of the view that this relief is appropriate in the circumstances and recommends that the Court grant this declaration should it be requested.

BEI - CASH FLOW AND FINANCIAL ANALYSIS

63. BEI has prepared a budget to actual cash flow report from March 4, 2024 to March 29, 2024, attached hereto as **Appendix "H"**.
64. The Monitor's understanding of the key variances in the BEI actual receipts and disbursements as compared to budget are as follows:
- (a) Gross Sales: Behind forecast with an unfavourable variance of \$639,801. BEI Management has stated that this is due to the loss of sales staff in New Brunswick and Newfoundland and Labrador, and negative reputational damage from multiple court applications and the duration of the CCAA proceedings.
 - (b) Total Cash Receipts: Net unfavourable variance of \$528,176 mostly due to lower sales to customers in January and February 2024 resulting in less accounts receivable to collect.

(c) Total Operational Disbursements: Net favourable variance of \$15,575 mostly due to the following:

- i. Cost of Sales (Cost of Inventory Purchases) are lower than budget by \$23,189 due to lower customer orders in January and February 2024. The purchasing of inventory has slowed to match the lower-than-expected sales;
- ii. Rent and Municipal Taxes are higher than budget by \$125,037 due to the cash flow forecast not accounting for certain increases in the 2024 rents for the Halifax location and certain amounts and increases in the St. John's location. The rent being paid is pursuant to the 2024 lease agreement for each of the St. John's and Halifax locations;
- iii. Payroll is lower than budget by \$61,441 due to various staff vacancies;
- iv. Warehouse Expenditures are over budget by \$24,202 due to timing of payments to couriers for prepaid freight and higher than expected freight costs;
- v. Selling Expenses are under budget \$27,875 due to timing on payment of sales commissions; and
- vi. HST is under budget by \$36,388 due to variations in the actual cash flow results to forecast.

(d) Professional Fees: Net unfavourable variance of \$145,781 primarily due to the following:

- i. Company counsel fees are over budget \$85,527 due to the multiplicity of hearings and the injunction matters;
- ii. Monitor and Monitor's counsel fees are over budget \$49,119 due to the multiplicity of court hearings; and
- iii. SISF Advisor fees are over budget \$11,135 due to increased fees pertaining to the later stages of the SISF, including consistent correspondence with BEI, the Monitor, BMO, Mezzanine Lenders and the Successful Bidder.

65. The following is a summary of BEI's accounts receivable balances, net of customer deposits received on order, as of Week 35 compared to Week 39:

Accounts Receivable Summary						
	March 1, 2024 Week 35		March 29, 2024 Week 39		Variance	
	Balance	Percentage	Balance	Percentage		
Current	1,114,030	62%	1,338,468	65%	224,438	-3%
30 Days	376,883	21%	547,228	27%	170,345	-6%
60 Days	67,742	4%	(2,319)	0%	(70,061)	4%
90 Days	157,436	9%	59,440	3%	(97,996)	6%
120 Days	96,202	5%	71,215	3%	(24,987)	2%
150 Days	(12,219)	-1%	37,946	2%	50,165	-3%
Futures	-	0%	-	0%	-	0%
Total	1,800,074		2,051,978		251,904	

66. BEI has advised the Monitor that on April 4, 2024 it had Other Accounts Receivable as follows:

Other Accounts Receivable	Amount
Related Party - TNOPI	356,835
Deviated Cost Receivables	136,394
Rebates - ESI/NBMC/Suppliers	135,193
Miscellaneous	5,195
Total Other Accounts Receivable	633,617

67. The following is a summary of BEI's accounts payable balances as of Week 35 compared to Week 39:

Accounts Payable Summary						
	March 1, 2024 Week 35		March 29, 2024 Week 39		Variance	
	Balance	Percentage	Balance	Percentage		
Current	260,498	9%	176,569	7%	83,929	2%
30 Days	160,295	6%	8,800	0%	151,495	6%
60 Days	27,263	1%	36,386	1%	(9,123)	0%
90 Days	9,466	0%	1,243	0%	8,223	0%
120 Days	2,372,542	84%	2,372,625	92%	(83)	-8%
150 Days	-	0%	-	0%	-	0%
Futures	-	0%	-	0%	-	0%
Total	2,830,064		2,595,623		234,441	

68. The following is a summary of BEI's inventory on hand at BEI's warehouses as of Week 35 compared to the balances as of Week 39:

Select Weekly Inventory Summary			
	March 1, 2024 Week 35	March 29, 2024 Week 39	Variance
Opening Inventory at Start of Week	3,565,497	3,361,738	(203,759)
Purchases	863,136	1,435,347	572,211
Cost of Sales	(938,647)	(1,452,900)	(514,253)
Consignment	(128,248)	(127,686)	562
Ending Inventory	3,361,738	3,216,499	(145,239)

69. BEI advised the Monitor on April 11, 2024 that Purchases for Week 35, as noted in the Sixth Report, inadvertently included Consignment inventory, which resulted in the Ending Inventory balance being overstated by this amount (\$128k). The above table has been corrected to agree to the Net Inventory on hand for Weeks 35 and 39.
70. BEI has advised the Monitor that on April 4, 2024 it had approximately \$607,280 of goods in transit, in addition to the inventory noted above. This goods in transit balance represents inventory that has been ordered and mostly paid for (to a large extent as most vendors are requiring pre-payment) by BEI and is in the process of being shipped to BEI's warehouses or shipped directly to a BEI customer.
71. The Monitor notes that the concerns raised by the Monitor in the Sixth Report are largely still prevalent in BEI's financial results March 1, 2024 through to March 29, 2024, discussed above:
- (a) BEI sales continue to be significantly behind forecast. During the Weeks 36-39 of the cash flow (March 4, 2024 – March 29, 2024 forecast sales were behind budget by \$639,801. Sales are now cumulatively behind budget by \$2,488,926 since the start of the proceeding. Management has stated that the slower than forecasted sales is the result of the loss of sales representative during the proceeding, who have not been replaced, and the cumulative negative impact of the CCAA proceeding as a result of its duration, multiple court applications and duration of the CCAA proceedings.
 - (b) As BEI has been unable to achieve its sales targets, it has relied on generating positive cash flow from efficient collections on its accounts receivable. The reduced sales has resulted in a reduction in the balance of the trade accounts receivable and will have a negative impact on cash receipts in the future. The Monitor notes that the accounts receivable balance has been reported by the Monitor in this Seventh Report, and the Monitor's previous reports, as follows:

Accounts Receivable as Noted in Monitor's Reports		
	Week	Balance
Second Report	Week 2	2,255,350
Second Report	Week 10	2,360,382
Third Report	Week 22	2,559,319
Fourth Report	Week 24	2,419,642
Sixth Report	Week 28	2,263,465
Sixth Report	Week 35	1,800,074
Seventh Report	Week 39	2,051,978

- (c) The Monitor notes that the accounts receivable balance remained generally consistent up to Week 28, being between \$2.2M to \$2.6M. The accounts receivable balance has increased from Week 35 to now being \$2,051,978, however this is still lower than the average balance throughout these CCAA proceedings.
- (d) The closing liquidity availability on BEI's operating line is noted as being \$122,921 ahead of forecast or the Weeks 36-39, and cumulatively by \$357,796.
72. The Monitor is of the view that the Proposed Transaction, should it be approved by this Court, should close as soon as possible and no later than the proposed closing date of May 3, 2024. BEI Management has stated to the Monitor that it continues to receive negative reputational feedback from its customers due to these ongoing CCAA proceedings. To prevent any erosion of the Secured Lender's security, an expedient closing following this Court's approval of the Sale Transaction is in the best interest all stakeholders.

STAY OF PROCEEDINGS

73. The stay of proceedings currently expires on May 15, 2024. The current extension should be sufficient to facilitate the closing of the Proposed Transaction.
74. The stay of proceedings will need to be extended to accommodate a distribution and discharge application by the Monitor. The estate is expected to have sufficient proceeds from the closing of the Proposed Transaction to fund the stay of proceedings until such time that an application can be filed and heard.
75. Subject to Court availability, an extension to June 30, 2024 appears reasonable.

NO MATERIAL ADVERSE CHANGE

76. As of the date of the filing of this report, the Monitor is not aware of any issue or condition that could be considered a Material Adverse Change pursuant to s.23(1)(d).
77. The Monitor continues to be of the opinion that s.23(1)(h) does NOT apply and it would be more beneficial to the Companies' creditors to continue with the CCAA Proceedings.

GOOD FAITH AND DUE DILIGENCE

78. The Monitor continues to believe the Companies and stakeholders are acting in good faith and with due diligence.

RECOMMENDATION

79. For the reasons set out in this Seventh Report, the Monitor respectfully recommends that this Honorable Court:
- (a) Approve the actions, conduct and activities of the Monitor and its legal counsel to the date of this Seventh Report; and
 - (b) Approve an extension to the stay of Proceedings to June 30, 2023 or until such time as determined by the Court.
80. The Monitor will provide an update on its position on the Proposed Transaction and granting of BEI's application for an AVO, including the form of releases in the vesting order at the hearing on April 12, 2024.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 11th day of April 2024.

**GRANT THORNTON LIMITED, SOLELY IN ITS CAPACITY AS MONITOR OF
BIG ERICS INC. AND TERRA NOVA OLD PORT FOODS INC.
AND NOT IN ITS CORPORATE OR PERSONAL CAPACITY**



Liam Murphy, CPA, CA, CIRP, LIT
Senior Vice President

Seventh Report to the Court submitted by Grant Thornton Limited
In its capacity as Court-Appointed Monitor of BEI and TNOPI
April 11, 2024

Appendix A

March 2024 Order

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.)

ORDER

WHEREAS BEI and TNOPFI (collectively, the "**Companies**") were granted creditor protection pursuant to an amended and restated initial order issued by this Honourable Court under s.11 of the CCAA on 28 July 2023 (the "**ARIO**");

AND WHEREAS by an Order made on October 25, 2023, this Honourable Court approved a sales and investment solicitation process for the Companies (the "**SISP**");

AND WHEREAS by an Order made on 24 January 2024, this Honourable Court extended the stay of proceedings under the ARIO to 31 March 2024;

AND WHEREAS on 15 March 2024 the Bank of Montreal ("**BMO**") made two separate applications to this Honourable Court to have a Receiver appointed over the assets and undertaking of the Companies, with the first application being made in the within matter, and the second application being filed as matter 2024 01G 1621 (collectively, the "**Receivership Applications**");

AND WHEREAS on 15 March 2024 the Companies made an application to this Honourable Court to (i) approve a transaction that it approved pursuant to the SISP (the "**Successful Bid**") and (ii) to extend the stay of proceedings up to and including 15 May 2024 to facilitate the closing of the Successful Bid (the "**Approval Application**");

AND WHEREAS counsel for the Companies, the Monitor, and the Bank of Montreal ("**BMO**") have agreed to the terms of the within Order.

IT IS THIS DAY ORDERED THAT:

SERVICE

1. The time for service of the Application and the materials filed, is hereby abridged, and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

SEALING ORDER

2. The following documents shall be sealed, kept confidential and not form part of the public record, but rather be placed, separate and apart from all other contents of the Court file, in a sealed envelope and other than the parties to these proceedings, shall not be accessed by any person or any members of the general public that might attend at the Office of the Registrar:

- (a) Confidential Appendix "C" and "D" to the Monitor's Sixth Report of the Monitor, dated March 19, 2024; and
- (b) Confidential Exhibit "A" to the affidavit of Nicole Myles Brook dated 15 March 2024;
- (c) Confidential Exhibits "A" and "B" to the affidavit of David Howe dated 15 March 2024;

- (d) Confidential Affidavit of the Successful Bidder dated 15 March 2024;
- (e) Confidential Affidavit of George Kinsman sworn 11 March 2024.

STAY OF PROCEEDINGS

3. The Stay Period, as defined in paragraph 16 of the Amended and Restated Initial Order dated August 25, 2023 (the “**ARIO**”), as amended from time to time, is hereby further extended up to and including 15 May 2024.

SISP CLOSING:

4. The following steps will be taken by the Companies, BMO, and the Successful Bidder (hereinafter the “**Parties**”) in contemplation of the hearing currently scheduled for 12 April 2024, at 10:00 a.m., wherein this Honourable Court will hear the Approval Application seeking approval of the sale transaction under the SISP:

- (a) On or before 28 March 2024 the Company and the Purchaser shall finalize and circulate to the secured lenders the form of Asset Purchase Agreement that shall govern the proposed transaction (the “**APA**”);
- (b) On or before 05 April 2024 the Company and the Purchaser shall finalize and circulate to the secured lenders (i) the customary ancillary documents that relate to the proposed transaction contemplated in the APA, and (ii) the proposed form of Asset Vesting Order being sought on 12 April 2024 (the “**AVO**”);
- (c) On or before 09 April 2024 the Company shall submit any amendments to the Approval Application already filed with this Honourable Court, which shall include the APA and any other document finalized in the interim period as outlined in (b) above that are required for the Courts review and approval of the AVO.

- (d) The date certain for the Approval Application is 12 April 2024 at 10:00 a.m.; and
- (e) Clause 9 (subsection 9) of Schedule "A" of the SISP shall be amended to read "on or before five (5) Business Days after the expiry of the appeal period".

BMO APPLICATION FOR THE APPOINTMENT OF A RECEIVER-MANAGER:

5. Upon request of BMO, the Receivership Applications are hereby withdrawn, with approval of the Court, with no order as to costs.

DATED AT St. John's, in the Province of Newfoundland and Labrador, and effective this day of March, 2024.

I, Geoffrey Spencer, solicitor for BMO, hereby consent to the terms of the within Order.



GEOFFREY SPENCER

I, Darren O'Keefe, solicitor for the Companies, hereby consent to the terms of the within Order.

DARREN O'KEEFE

Appendix B

SISP Order and Procedures

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;

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.

ERQ

**COURT
OFFICER**

OK

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. ("TNOPI") (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 BEI's 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.

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.

2

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

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.

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

- 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;
 - (j) 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

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

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 nor 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 1 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

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;

- (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 (B) 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.

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 with the SISP Advisor

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 any 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.

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

- 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 1 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.

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.

"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.

04

SCHEDULE "A" TO THE BEI SISP PROCEDURES

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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 A1C 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.

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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.

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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]

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

BIG ERICS INC.

By:

Name: Nicole Myles Brook
Title: President

XXXX

By:

Name:XXXX
Title: XXXX

Appendix C

SISP Milestones

SISP Milestones - As Revised By Previous Court Orders	
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 the bidders. BEI shall provide access to all parties having executed an acceptable non-disclosure agreement (Potential Bidders), the Confidential Information Memorandum and 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.	Revised To: By no later than December 22, 2023, at 5:00 pm.
4. Phase 1 Successful Bids Notify each Phase 1 bidder in writing as to whether its bid constituted a Phase 1 successful bid.	Revised To: By no later than December 29, 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.	Revised To: By no later than April 5, 2024, at 5:00 pm.
8. Approval Motion - Successful Bid Deadline for filing of Approval Motion in respect of successful bidder	Revised To: By no later than April 12, 2024 at 10:00am.
9. Closing - Successful Bid Anticipated deadline for closing of successful bidder.	Revised To: On or before five (5) Business Days after the expiry of the appeal period.

Seventh Report to the Court submitted by Grant Thornton Limited
In its capacity as Court-Appointed Monitor of BEI and TNOPI
April 11, 2024

Appendix D

SISP Solicitation Letter

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
IN BANKRUPTCY AND INSOLVENCY**

IN THE MATTER OF an application of
Big Erics Inc. and Terra Nova Old Port Foods
Inc.

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

**THIRD REPORT OF GRANT THORNTON LIMITED,
IN ITS CAPACITY AS MONITOR
UNDER THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, C. C-36
OF BIG ERICS INC. AND TERRA NOVA OLD PORT FOODS INC.**

December 15, 2023



**Grant Thornton Limited,
Court-Appointed Monitor**

Suite 300 – 15 International Place
St. John's, NL A1A 0L4

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APPENDICES

- Appendix A** – Amended and Restated Initial Order dated September 22, 2023
- Appendix B** – BEI – SISP Order dated October 25, 2023
- Appendix C** – BEI – SISP Solicitation Letter
- Appendix D** – BEI – SISP Advertisement in the Globe and Mail
- Appendix E** – BEI – SISP Advertisement in the National Post
- Appendix F** – BEI – SISP Advertisement in the Telegram (St. John's)
- Appendix G** – BEI – SISP Press Releases in the Canada Newswire
- Appendix H** – SISP Updated (Confidential)
- Appendix I** – BEI - Actual to Forecast to December 1, 2023
- Appendix J** – BEI – Canada Revenue Agency's Proposed HST Reassessment
- Appendix K** – TNOPI – Actual to Forecast – Final
- Appendix L** – TNOPI - Canada Revenue Agency's Proposed HST Reassessment

INTRODUCTION

1. On July 11, 2023, Big Erics Inc (“**BEI**”) and Terra Nova Old Port Foods Inc. (“**TNOPI**”) (collectively as, the “**Companies**”) made an application to the Supreme Court of Newfoundland and Labrador (the “**Court**”) to convert previously filed Notices of Intention to Make a Proposal (“**NOIs Proceedings**”) to proceedings under the Companies’ Creditors Arrangement Act, R.S.C., 1985, c. C-36, as amended (“**CCAA Proceedings**”). On July 18, 2023, the Court issued an order (the “**Initial Order**”) and Grant Thornton Limited was appointed as Monitor (in such capacity, the “**Monitor**”) for the Companies.
2. Pursuant to the Initial Order, amongst other things, all creditors were stayed from commencing or continuing any proceedings against the Companies until, and including, July 28, 2023 (“**Stay of Proceedings**”), or until such date as the Court may subsequently order. The Stay of Proceedings was further extended by multiple orders and, most recently, to December 31, 2023 by the amended and restated initial order (“**ARIO**”) issued on September 22, 2023.
3. On October 25, 2023, the Court issued a sales and investment solicitation process order (“**SISP**” and “**SISP Order**”) which directed and empowered Noseworthy Chapman (the “**SISP Advisor**”) to administer a SISP in the CCAA Proceedings.
4. This third report of the Monitor (the “**Third Report**”), as well as the previous reports of the Monitor and all other relevant information in respect of these CCAA Proceedings and the previous NOIs Proceedings has been made available to stakeholders on the Monitor’s case website at www.GrantThornton.ca/BigErics. Readers are encouraged to read the following reports of the Proposed Monitor and of the Monitor, the materials filed with the Court in relation to the applications and the orders of the Court, to provide additional information on these CCAA proceedings:

Reports to the Court

- (a) Pre-Filing Report of Grant Thornton Limited in its capacity as Proposed Monitor dated July 17, 2023;
- (b) First Report of Grant Thornton Limited in its capacity as Monitor dated July 25, 2023;
and

- (c) Second Report of Grant Thornton Limited in its capacity as Monitor dated September 20, 2023.

Court Orders

- (a) CCAA Initial Order dated July 18, 2023;
- (b) ARIO dated July 28, 2023;
- (c) ARIO dated August 25, 2023;
- (d) ARIO dated September 22, 2023, attached hereto as **Appendix “A”**; and
- (e) SISP Order dated October 25, 2023, attached hereto as **Appendix “B”**.

PURPOSE OF THE THIRD REPORT

- 5. The purpose of the Third Report is to inform the Court of the following:
 - (a) An update on the activities of the Monitor and the Companies since September 20, 2023, the date of the second report (the **“Second Report”**);
 - (b) Provide the Court with information on BEI’s financial capacity to provide an undertaking for damages in its injunction proceeding; and.
 - (c) Provide the Court with the Monitor’s recommendation on the relief sought by the Company on December 18, 2023.

TERMS OF REFERENCE

- 6. In preparing this Third Report, the Monitor has relied upon unaudited internal financial statements, certain other financial information and financial projections of the Companies, discussions with management of the Companies (**“Management”**) and its legal advisors, and discussions with the SISP Advisor (collectively, the **“Information”**). While the Monitor has reviewed the Information for reasonableness and believes that the information provides a fair summary of the transactions and underlying financial position as reflected in the documents of the Companies, the Monitor has not audited, reviewed, or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Canadian Generally Accepted Auditing Standards.

7. Some of the Information used in preparing this Third Report consists of forward-looking information, including the Cash Flow Projections. The Monitor cautions that such information is based on assumptions about future events and conditions that are not yet ascertainable. The actual results with respect to the forward-looking information and the variations thereof could be significant.
8. In the course of its mandate, the Monitor has assumed the integrity and truthfulness of the Information and explanations presented to it by Management, within the context in which the Information was presented. To date, nothing has come to the Monitor's attention that would cause it to question the reasonableness of these assumptions. The Monitor has requested that Management bring to its attention any significant matters which were not addressed in the course of the Monitor's specific inquiries. Accordingly, this Third Report is based solely on the Information (financial or otherwise) made available to the Monitor by the Companies and Management.
9. The Third Report has been prepared for the use of this Honourable Court and the Companies' stakeholders as general information relating to the Companies and these CCAA Proceedings, and to assist the Court in determining whether to grant the relief sought in the Companies' application. Accordingly, the reader is cautioned that this Third Report may not be appropriate for any other purpose. The Monitor does not assume responsibility or liability for losses incurred by the reader as a result of the circulation, publication, reproduction or use of this Third Report contrary to the provisions of this paragraph.
10. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars. Capitalized terms not otherwise defined herein have the meaning given to them in the ARIO granted by the Court.

ACTIVITIES OF THE MONITOR

11. Since the date of the Second Report, the Monitor has, among other things:
 - (a) Continued to assist the Companies with their communications of these CCAA Proceedings to creditors and other stakeholders;
 - (b) Provided restructuring advice to the Companies, including the orderly wind down of the operations of TNOPI;

- (c) Provided advice to the Companies and SISP Advisor on the implementation and management of the SISP process;
- (d) Interacting with the Companies' legal counsel and SISP Advisor;
- (e) Monitored the operations of the Companies, including, but not limited to, reviewing sales targets and cash flow reporting, reviewing, and following up with Company on questions when required;
- (f) Continued to assist the Companies and hold conversations with employees, creditors, and suppliers;
- (g) Respond to creditor queries and communications in a timely fashion;
- (h) Provided advice to Management on restructuring options and issues during the proceeding;
- (i) Attend various court hearings including the hearing on the SISP, and various hearings in relation to an application by BEI for an injunction against certain parties;
- (j) Attend various meeting with the Companies and their legal advisors on the Companies restructuring and the CCAA proceeding;
- (k) Continued to maintain the Monitor's case website; and
- (l) Preparation of this Third Report.

ACTIVITIES OF THE COMPANIES

12. Since the date of the Second Report, the Companies have, among other things:
- (a) Continued to maintain the operations of BEI;
 - (b) Continued to engage with the employees of BEI to garner alignment to the restructuring process;
 - (c) Continued to engage with suppliers to maintain support for the restructuring process including negotiating revised credit terms (where applicable), and communicate on the stay of proceeding and its impact on pre-filing balances owing;

- (d) Continued to engage with customers, bid on projects, and win new sales to support the business during the restructuring process, including negotiating revised deposit terms (where applicable) and communicating on the effects of the stay of proceeding;
- (e) Continued to execute on the orderly wind down of TNOPI including, but not limited to, the filing of HST and other government returns, the collection of outstanding accounts receivable, the payment of any remaining invoices and agree to the termination of TNOPI credit cards with the Bank of Montreal ("**BMO**");
- (f) Initiated a court application for an injunction against former employees of BEI;
- (g) Consulted and successfully implemented, in conjunction with SISP Advisor, BEI's SISP;
- (h) Continued communication with the Monitor, creditors, customers, suppliers and other stakeholders;
- (i) Responded to Monitor queries in a timely manner; and
- (j) Provided the Monitor with regular cash flow reporting and related financial reports as required by the Monitor.

LITIGATION

- 13. The Monitor has been made aware of a possible claim from a former employee of BEI pursuant to which either wages or termination pay may be owed. The Monitor has not reviewed the status of this potential claim, or determined if any priority exists. The status of this litigation has not changed since the Second Report.
- 14. The Monitor has also been made aware of ongoing litigation between BEI and Vision 33. The litigation includes a claim and counterclaim. The Monitor has not reviewed the status of this proceeding, or the claim, or determined if any priority exists. The status of this litigation has not changed since the Second Report.
- 15. On October 30, 2023, BEI filed an application pursuant to Rule 22.01 and 22.02 for an interlocutory injunction against certain parties alleging a breach of the ARIO and certain confidentiality and non-compete provisions of employment agreements. The application was filed against 2 former employees, and 2 competitors. After multiple hearings on the matter, the Monitor understands that the current situation is as follows:

- (a) The first employee who was hired by a competitor, has been terminated by that competitor. That employee, through legal counsel, has agreed to a consent injunction;
 - (b) The competitor who hired the first employee has denied any wrongdoing and is defending the injunction application;
 - (c) The second employee, through legal counsel, and BEI are negotiating a consent injunction. Both parties believed that negotiations would result in a consent injunction; and
 - (d) The competitor who hired the second employee, and BEI, are negotiating a consent injunction. Both parties believed that negotiations would result in a consent injunction.
16. The Court has set down January 23, 2024 for a hearing on BEI's application.
17. BEI is required to submit materials supporting its ability to pay damages in the event its application is unsuccessful. That filing is outstanding.
18. The Court has requested BEI consult the Monitor on its ability to fund a damages award. The Monitor has advised the Company that, based on financial results to date, it does not have the financial capacity to fund a damages award.

WAGE EARNER PROTECTION PROGRAM ACT

19. On the ARIO dated September 22, 2023, the Court issued within the order a declaration that the Wage Earner Protection Program Act ("**WEPPA**") applies to TNOPFI in these CCAA Proceedings.
20. The Monitor has been advised by Service Canada that it is unwilling to accept the declaration as issued from the Court as Service Canada requires the order to stipulate that both WEPPA and the WEPPA Regulations apply to TNOPFI.
21. The Monitor has been advised that TNOPFI will request an amendment of this order to satisfy the requirements from Service Canada so that program can be administered to the former employees of TNOPFI.

SALES AND INVESTMENT SOLICITATION PROCESS

22. On October, 25, 2023, the Court granted the SISP Order which empowered BEI and its SISP Advisor to administer a SISP in these CCAA Proceedings. The SISP procedures up to the date of this Third Report, as detailed within the SISP Order, are as follows:

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 the bidders.	By no later than October 25, 2023, at 5:00 pm.
BEI shall provide access to all parties having executed an acceptable non-disclosure agreement (Potential Bidders), the Confidential Information Memorandum and virtual data room.	
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.

23. In accordance with the SISP procedures above, the Monitor confirmed with the SISP Advisor that the SISP was successfully initiated on October 25, 2023 as follows:
- (a) The Companies, in consultation with the Monitor and SISP Advisor, prepared a Solicitation Letter to advertise the opportunity to potentially interested parties. A copy of this Solicitation Letter is attached hereto as **Appendix “C”**; and
 - (b) The virtual data room was available to any parties who had fully executed a non-disclosure agreement (“**NDA**”) and were deemed, by the Companies, to be an appropriate party that would have the capacity to submit a non-binding letter of intent (“**LOI**”) by the Phase 1 bid deadline.
24. Also on October 25, 2023, the Monitor made available on its case website the Solicitation Letter, SISP Order, the NDA and contact information for the SISP Advisor.
25. BEI, in consultation with the SISP Advisor, published the following advertisements and press releases pursuant to the SISP Procedures:

- (a) Advertisement published in the Globe and Mail on November 1, 2023. A copy of the tearsheet is attached hereto as **Appendix “D”**;
- (b) Advertisement published in the National Post on November 18, 2023. A copy of the tearsheet is attached hereto as **Appendix “E”**;
- (c) Advertisement published in the Telegram (St. John’s) on November 23, 2023. A copy of the tearsheet is attached hereto as **Appendix “F”**; and
- (d) Press releases published on Canada Newswire on October 26, 2023. A copy of the releases is attached hereto as **Appendix “G”**.

26. A total of 319 potentially interested parties were contacted by the SISP Advisor during Phase 1. The following is a summary of these efforts:

Date	Description	Total Recipients	Successful Deliveries	Emails Opened	Clicks on SISP Letter
October 25, 2023	Initial contact email to potentially interested parties	299	286	162	122
October 31, 2023	Resent to recipients that did not open initial contact email	117	116	29	1
October 31, 2023	New contacts identified from market research	30	28	11	2
November 6, 2023	Resent to any recipients that did not open previous emails	154	143	43	3
November 22, 2023	Resent to all contacts identified	319	312		

- 27. BEI has complied with the SISP order to date.
- 28. The Monitor is of the opinion that the market has been widely canvassed for interest.
- 29. BEI has extended the deadline for the Phase 1 Bid Deadline to December 22, 2023.
- 30. Information on the details of the results of the Phase 1 SISP are attached hereto as **Confidential Appendix “H”**.
- 31. The results of the Phase 1 SISP contains confidential information on the results of the SISP, and the parties who participated. Disclosure of this information at this juncture would be detrimental to both the Companies’ and its creditors. As such, the Monitor recommends it be sealed until such time as a transaction is closed or these proceedings are terminated.

CASH FLOW AND FINANCIAL ANALYSIS - BEI

32. BEI has prepared a budget to actual cash flow from September 11, 2023 to December 1, 2023, relative to the BEI – Cash Flow Period as presented in the Second Report, attached hereto as **Appendix “I”**.
33. The Monitor’s understanding of the key variances in the BEI actual receipts and disbursements as compared to budget are as follows:
- (a) Gross Sales: Behind forecast with an unfavourable variance of \$444,238.
 - (b) Total Cash Receipts: Unfavourable variance of \$110,776, which is slightly behind forecast.
 - (c) Total Operational Disbursements: Net unfavourable variance of \$370,983 primarily due to the following:
 - i. Cost of Sales (Cost of Inventory Purchases) are higher than budget by \$334,097 mostly due to restocking orders and payment in advance to vendors for securing orders;
 - ii. Payroll under budget by \$94,395 due to timing of sales incentive payments and staff vacancies which have not been filled;
 - iii. Warehouse Expenditures over budget by \$125,342 due to higher than forecasted freight rates from couriers;
 - iv. HST over budget by \$58,236 due to higher than budgeted HST payable in Week 18; and
 - v. Administrative and Miscellaneous expenses higher than budget by \$51,132 mostly due to IT consulting for server maintenance.
 - (d) Professional Fees: Favourable variance of \$61,878 primarily due to timing of invoicing from the Monitor, Monitor’s legal counsel and the Companies’ legal counsel. This does not include approximately \$40,000 in outstanding fees to the Monitor and Monitor’s legal counsel. The favourable variance is partially offset by higher than forecasted fees from the SISP Advisor.

34. As of December 1, 2023, BEI had an ending liquidity balance on the BMO operating line of \$575,940, being \$419,881 behind budget, and a deterioration from the October 13, 2023 (Week 15) liquidity position of \$860,000.
35. BEI has subsequently informed the Monitor that the ending liquidity balance on the BMO operating line on December 8, 2023 was further reduced to \$333,037. In addition, accounts receivable collections from December 4-8, 2023 were only \$272,887, which is \$200,879 behind budget for this week.
36. The following is a summary of BEI's accounts receivable balances, net of customer deposits received on order, as of Week 22 compared to Week 10:

Accounts Receivable Summary						
	September 8, 2023 Week 10		December 1, 2023 Week 22		Variance	
	Balance	Percentage	Balance	Percentage		
Current	1,446,791	61%	983,955	38%	(462,836)	23%
30 Days	502,981	21%	657,880	26%	154,899	-4%
60 Days	317,079	13%	497,027	19%	179,948	-6%
90 Days	(31,649)	-1%	315,106	12%	346,755	-14%
120 Days	157,921	7%	80,260	3%	(77,661)	4%
150 Days	(32,741)	-1%	25,091	1%	57,832	-2%
Futures		0%	-	0%	-	0%
Total	2,360,382		2,559,319		198,937	

37. The following is a summary of BEI's accounts payable balances as of Week 22 compared to Week 10:

Accounts Payable Summary						
	September 8, 2023 Week 10		December 1, 2023 Week 22		Variance	
	Balance	Percentage	Balance	Percentage		
Current	139,385	5%	266,600	10%	(127,215)	-5%
30 Days	495,980	18%	11,645	0%	484,335	18%
60 Days	1,353,957	50%	-	0%	1,353,957	50%
90 Days	597,254	22%	59,391	2%	537,863	20%
120 Days	121,522	4%	2,367,025	88%	(2,245,503)	-83%
150 Days		0%	-	0%	-	0%
Futures		0%	-	0%	-	0%
Total	2,708,098		2,704,661		3,437	

38. The following is a summary of BEI's inventory balances as of Week 22 compared to the balances as of Week 10:

Select Weekly Inventory Summary			
	September 8, 2023	December 1, 2023	
	Week 10	Week 22	Variance
Opening Inventory	3,776,965	3,581,022	(195,943)
Purchases	136,516	782,043	645,527
Cost of Sales	(215,556)	(664,239)	(448,683)
Consignment	(32,546)	(72,173)	(39,627)
Ending Inventory	3,665,379	3,626,654	(38,726)

39. On September 26, 2023, the Canada Revenue Agency (“**CRA**”) advised BEI that it intended to reassess BEI for HST input tax credits claimed from unpaid suppliers pursuant to section 296(1)(b) of the Excise Tax Act. The proposed reassessment is \$265,765.53. CRA has provided BEI until January 2, 2024 to make further submissions. The reassessment amount would be an unsecured claim in the proceeding and therefore is not expected to have any material impact. The correspondence is attached hereto as **Appendix “J”**.

CASH FLOW AND FINANCIAL ANALYSIS - TNOPI

40. TNOPI has essentially completed the wind up of its operations. It has exited its leased facility, terminated all employees, filed all tax returned required to be filed to date, liquidated all inventory and equipment, and has arranged for BEI to pursue collection of the remaining accounts receivable. TNOPI has prepared a final budget to actual cash flow, relative to the TNOPI – Cash Flow Period as presented in the First Report, attached hereto as **Appendix “K”**.
41. The Monitor’s understanding of the key variances in the TNOPI actual receipts and disbursements as compared to budget are as follows:
- (a) Net Sales: Ahead of forecast by \$126,783 due to increased sales in Weeks 5-8.
 - (b) Total Cash Receipts: Favourable variance of \$47,282 due to higher than forecasted capital asset sales, partially offset by lower than forecasted collection of accounts receivable.
 - (c) Total Operational Disbursements: Net unfavourable variance of \$35,840 primarily due to the following:

- i. Cost of Sales for inventory purchases were overbudget \$38,491 due to TNOPI purchasing product and selling it to local restaurants during the wind down in operations resulting in increased sales;
- ii. Rent and Municipal Taxes under budget \$23,816 due to lower than budgeted rent and property tax payments in July and August as TNOPI vacated the leased premises on August 31, 2023, as noted in the Second Report;
- iii. Payroll higher than budget by \$25,916 due to increased labour costs incurred when winding up operations primarily as a result of it taking longer to complete processing of the work in product;
- iv. Freight higher than budget by \$25,819 due to higher than forecasted freight rates;

(d) Professional Fees: Unfavourable variance of \$90,013 due to higher than budgeted Company legal fees. Monitor and Monitor's legal fees are consistent with the forecast.

42. The following is a final summary of the TNOPI's accounts receivable balances:

Accounts Receivable Summary		
	Balance	Percentage
Current	(3,643)	-3%
30 Days	13,332	12%
60 Days	86,192	74%
90 Days	2,043	2%
120 Days	8,542	7%
150 Days	9,418	8%
Futures		0%
Total	115,883	

43. BEI, on behalf of TNOPI, has continued to collect on the remaining accounts receivable balance. The Monitor has been informed by TNOPI that approximately \$69,000 has been collected since preparing the above table, bringing the accounts receivable balance down to \$47,000. The Monitor understands that TNOPI intends to send the remaining balance to a collection agency for further recovery efforts.

44. The following is a final summary of the TNOPI's accounts payable balances:

Accounts Payable Summary		
	Balance	Percentage
Current	-	0%
30 Days	(185)	0%
60 Days	35,192	4%
90 Days	860,050	96%
120 Days		
150 Days		
Futures		
Total	895,057	

45. The Monitor understands that TNOPFI has paid all invoices for charges incurred post-filing of the NOI. The above table represents pre-filing amounts owing.
46. As mentioned in the Second Report, TNOPFI had a \$NIL inventory balance due to the winding down of operations.
47. On September 26, 2023, the Canada Revenue Agency (“**CRA**”) advised TNOPFI that it intended to reassess TNOPFI for HST input tax credits claimed from unpaid suppliers pursuant to section 296(1)(b) of the Excise Tax Act. The proposed reassessment is \$105,022.13. CRA has provided TNOPFI until January 2, 2024 to make further submissions. The reassessment amount would be an unsecured claim in the proceeding and therefore is not expected to have any material impact. The correspondence is attached hereto as **Appendix “L”**.
48. BMO has requested that TNOPFI consent to the termination of the TNOPFI credit cards. TNOPFI has consented to this request. BMO has also requested that TNOPFI either terminate, or cap, the TNOPFI outstanding line of credit (initial request was to cap the TNOPFI line of credit at \$500,000). The Companies’ are co-borrowers of the BMO line of credit used by TNOPFI debt which is subject to the ongoing stay of proceedings. TNOPFI has declined this request citing the ongoing proceeding.

NO MATERIAL ADVERSE CHANGE

- 49. The Monitor is of the opinion that the Companies', and other stakeholders, are acting in good faith and with due diligence.
- 50. As of the date of this report, the Monitor is not aware of any issue or condition that could be considered a Material Adverse Change pursuant to s.23(1)(d).
- 51. The Monitor continues to be of the opinion that s.23(1)(h) does NOT apply and it would be more beneficial to the Company's creditors to continue within the CCAA proceeding.

EXTENSION TO THE STAY OF PROCEEDINGS

- 52. Neither the Monitor, nor any creditors, know the exact relief the Companies' are requesting. As such they have not had an opportunity to consider the Companies' requested relief or review any of the Companies' filings.
- 53. The Monitor is supportive of a short extension to the stay of proceedings to allow the Monitor and creditors review the filing and consider their positions.
- 54. As such the Monitor is supportive of the extension of the stay of proceeding to a date in early to mid-January 2023.

RECOMMENDATION

55. Neither the Monitor, or any creditors, know what relief the Companies' are requesting, have had an opportunity to consider the Companies' requested relief, or had an opportunity to review any of the Companies' filings.
56. For the reasons set out in this Third Report, the Monitor respectfully recommends that this Honorable Court:
- (a) Approve the actions, conduct and activities of the Monitor and its legal counsel to the date of this Third Report;
 - (b) Grant a Sealing Order over the Monitors Appendix "H";
 - (c) Grant a revised WEPPA declaration for TNOPFI to reference both the act and its regulations; and
 - (d) Grant an extension to the Stay of Proceedings to early to mid-January 2023.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 15th day of December 2023.

**GRANT THORNTON LIMITED,
SOLELY IN ITS CAPACITY AS MONITOR OF
BIG ERICS INC. AND TERRA NOVA OLD PORT FOODS INC.
AND NOT IN ITS CORPORATE OR PERSONAL CAPACITY**



Phil Clarke, CPA, CA, CIRP, LIT
Senior Vice President

Appendix A

Amended and Restated Initial Order dated September 22, 2023

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
Ericks Inc. ("BEI") and Terra Nova Old Port Foods
Inc. ("TNOPFI")

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

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

AMENDED AND RESTATED INITIAL ORDER
(*Companies' Creditors Arrangement Act*, RSC 1985 C-36)

THIS MOTION, made by Big Ericks Inc. and Terra Nova Old Port Foods Inc. (collectively, the "Companies"), pursuant to the CCAA for an order, in part, extending the Stay Period (as defined herein) up to and including December 31, 2023 was heard this 22nd day of September, 2023.

ON READING the affidavit of Nicole Myles Brook sworn September 17, 2023, and the Exhibits thereto, the second report of Grant Thornton Ltd. ("GTL") in its capacity as court-appointed monitor (the "Monitor") dated September 21st, 2023 (the "Second Report"), and on hearing the submissions of counsel for the Companies, the Monitor, and such other counsel that



Filed	Sept 22 / 23	EL
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were present, no one else appearing for any party although duly served as outlined in the affidavit of service of Melissa DeCaria filed with this motion (the "**Affidavit of Service**").

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the materials filed, as set out in the Affidavit of Service, is hereby abridged, and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

STAY OF PROCEEDINGS

2. **THIS COURT ORDERS** that the Stay Period, as defined in paragraph 16 of the Amended and Restated Initial Order dated August 25, 2023 (the "**ARIO**"), is hereby further extended up to and including December 31, 2023.

AMENDED KERP

3. **THIS COURT ORDERS** that the key employee retention plan ("**KERP**"), as defined in paragraph 9(c) of the ARIO, is amended to reflect the amended KERP as described in the Second Report.

WEPPA DECLARATION

4. **THIS COURT ORDERS** that the employees of TNOPFI are to be considered "eligible employees" within the meaning of s. 5 of the *Wage Earners Protection Plan Act*.

GENERAL

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



ISSUED at St. John's, Newfoundland and Labrador this 22nd day of September 2023.



**COURT
OFFICER**



Appendix B

BEI – SISP Order dated October 25, 2023

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") and 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;

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.

ERQ

**COURT
OFFICER**

Q

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.

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.

2

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. Closing - 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 1", 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

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.

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

- 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;
 - (j) 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

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

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 nor 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 1 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 1, the process to identify and designate Phase 2 Qualified Bidders and the terms upon which Phase 2

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;

- (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 (B) 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.

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 with the SISP Advisor

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 any 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.

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

- 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 1 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.

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.

"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.

04

SCHEDULE "A" TO THE BEI SISP PROCEDURES

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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 A1C 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.

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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@bigeries.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.

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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]

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

BIG ERICS INC.

By:

Name: Nicole Myles Brook
Title: President

XXXX

By:

Name:XXXX
Title: XXXX

Appendix C

BEI – SISP Solicitation Letter



NOSEWORTHY CHAPMAN
chartered professional accountants

BIG ERICS

Proudly serving our customers for over *75 years*

**BIG ERICS INC.
("BEI" or the "Company")
OPPORTUNITY FOR
INVESTMENT, RESTRUCTURING, RECAPITALIZATION,
REFINANCING, REORGANIZATION or SALE
Solicitation of Interest
October 25, 2023**



Prepared by Noseworthy Chapman in its capacity as the SISP Advisor to Big Erics Inc. and not in its personal or corporate capacity.

THE OPPORTUNITY

BEI is undertaking a Sale and Investment Solicitation Process (“**SISP**”) for the investment, restructuring, recapitalization, refinancing, reorganization or sale of all or portions of BEI’s various sales channels, operations, business, assets and undertakings or some combination thereof, as a going concern.

Noseworthy Chapman (NC) has been engaged by the Company as its SISP Advisor and is managing the transaction process to solicit proposals from qualifying parties to be submitted to the Company.

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.

The SISP provides an opportunity to obtain an interest in a well-recognized Atlantic Canadian based brand with Canada wide and long-standing key customer and key supplier relationships, a skilled team, and many avenues for continued growth, efficiencies, and a broad-based business primed for investment and expansion.

THE COMPANY AND INDUSTRY

The Company is a leading business to business (“B2B”) and business to consumer (“B2C”) solutions provider.

Products and Services	
Kitchen and Dining Equipment & Supplies	All aspects and needs of kitchens and dining facilities including large kitchen equipment, appliances, smallwares, glassware, tabletop, furniture, back of house kitchen tools as well as retail-focused appliances, tabletop, and other products.
Cleaning Chemical Supplies	Chemical supplies used in various applications including disinfectants, floor care, ware wash, laundry, car care, as well as eco-friendly cleaning alternatives.
Janitorial Equipment & Supplies	All aspects and needs of cleaning equipment and consumables, including paper towel, toilet paper, microfibers, floor scrubbers, vacuums, mops, brooms, and janitorial carts.
Concession Equipment & Supplies	Complete lineup of concessions requirements including large equipment and appliances, popcorn, coffee, coffee syrups, chicken breeding, slushie, candy floss and smoothie and other beverage mixes.
Design & Build Services	Full design and set-in place kitchens including consultation and AutoCAD drawings.

The Company offers its services and products primarily throughout Atlantic Canada, with showrooms and warehouses located in Dartmouth, NS and St. John’s, NL., with specialty design services and related product sales being offered throughout Canada and the United States of America.

Sale Channels



DIRECT SALES:
SALES CONDUCTED
BY MOBILE TEAM
OF SALES
REPRESENTATIVES



DESIGN & BUILD:
FULL DESIGN AND
SET-IN PLACE
SERVICES FOR NEW
BUILDS AS WELL AS
MANAGEMENT
AND RESPONSE TO
RFP AND TENDERS
ISSUED.



INSIDE SALES:
PROACTIVE
OUTBOUND CALLS
TO SMALLER
CUSTOMERS AND
TO AUGMENT
SALES PROGRAMS
AND CAMPAIGNS
AS WELL AS ACTIVE
RESPONSE TO
CUSTOMER EMAILS
AND CALLS.



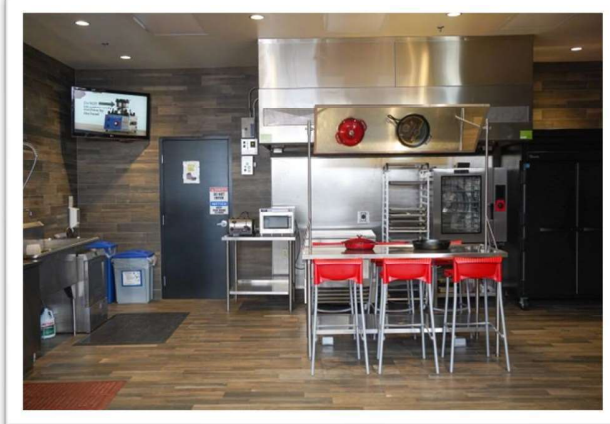
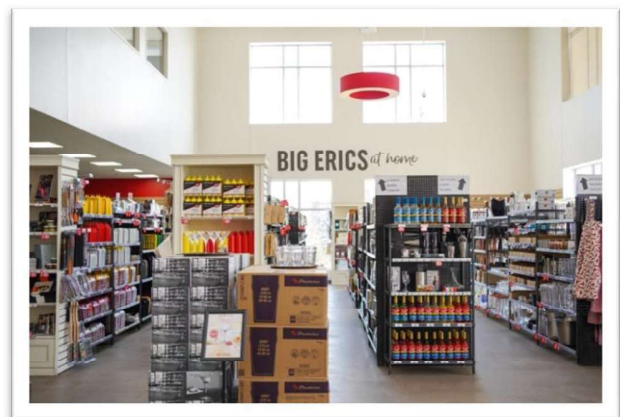
RETAIL SALES:
SALES TO
CUSTOMERS IN
ONE OF THE
COMPANY'S TWO
RETAIL LOCATIONS.
INCLUDES B2B AND
B2C CUSTOMER
BASE.



**E-COMMERCE
SALES:**
SHOPIFY SALES
PLATFORM SELLING
ACROSS CANADA.

Channels are organized from highest to lowest concentration in sales. →

Showrooms & Test Kitchen



BENEFITS FOR COMPLEMENTARY / SYNERGISTIC PARTIES

Prospective investors or acquirors operating in businesses, industries, and markets complementary to BEI may have the opportunity to achieve the following:

- Obtain an interest in, on a going-concern basis, a turnkey B2B and B2C equipment and consumables distribution and retail business with five active sales channels.
- Access to retail stores, and efficient distribution warehouses centrally located in metropolitan city centers near major highways, international ports, and major concentrations of key customers.
- Expansion of sales territory and/or market share into the Atlantic Region, including the Maritime provinces, Newfoundland, and Labrador and/or Ontario, Quebec, and Western Canada.
- Add or diversify product segments, markets, and customer verticals in the B2B or B2C, Restaurant/Bar/Pub, Building Service Contractors, Health and Long-Term-Care, Hospitality, Concession, Convenience, Government, and Education sectors.
- Integration of both generalized commercial kitchen/entertaining/dining/quick-service restaurants, commercial environments, and niche (high and specialized security clearance) Contracts, Design, Build, and Project Management services.
- Expansion into the USA and other markets with contract-design projects, already established as niche service provider for Airport Food Service and Food Court developments.
- Integration and consolidation of supply chain inputs and standard processes, increased volume purchase discounts, deviated pricing and rebates from top vendors.

Additional information about the Company can be found here: www.bigerics.com

FINANCIAL PROFILE AND INVESTMENT

The Company continues to have a significant presence in its market, having the strong support of its customers, vendors and employees. Actual sales year to date September 2023 have exceeded \$18.5 million, with projected sales to the end of 2023 to exceed \$25 million.

Annual sales, prior to the COVID 19 pandemic, reached as high as \$42 million. Sales are projected to materially exceed \$50 million by 2027.

A restructured balance sheet or a sale, in whole or in part, will result in the Company's business realizing on its profitability potential through enhanced and accelerated growth and expansion initiatives. These initiatives are already underway and aim to increase sales, streamline inventory, and expand market share both domestically and internationally, building on the design-build projects experience in the USA pre-pandemic.

PROCESS AND CONTACT INFORMATION

The Company is currently under Companies Creditors Arrangement Act ("CCAA") proceedings.

On September 29, 2023, the Supreme Court of Newfoundland and Labrador granted an order authorizing BEI to undertake the SISP.

Parties wishing to participate in the SISP may receive further information, including a Confidential Information Memorandum (“**CIM**”), by executing and a delivering a Non-Disclosure Agreement (“**NDA**”) to the SISP Advisor at BigErics@nccpas.ca.

Copies of the SISP procedures, NDA in the Court approved form, and various other documents related to the CCAA proceedings are available at www.GrantThornton.ca/BigErics

The key SISP milestones and timeline is as follows (subject to change):

- December 8, 2023: Phase 1 deadline to deliver non-binding letters of intent
- February 16, 2024: Phase 2 deadline to deliver definitive offers by Phase 2 Qualified Bidders
- April 1, 2024: Deadline to seek Court approval with respect to successful offer

All inquiries should be directed to: David Howe, FCPA, FCA and Jeanette Wade, CPA, CA, CBV via email: BigErics@nccpas.ca

Disclaimer

This document has been prepared from information provided by the Company, none of which has been independently verified by the SISP Advisor.

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. Proposals considered pursuant to the sale and investment solicitation process may include one or more of an investment, restructuring, recapitalization, refinancing or other form of reorganization of the business and affairs of the Company as a going concern or a sale (or partial sales) of all, substantially all, or certain aspects of the Company, or a combination thereof (the “Opportunity”). This document is not intended to form the basis of any decision of the Opportunity. Distribution of this document is limited to specific parties who may have an interest in the Opportunity.

This document has been prepared to assist prospective purchasers in making their own preliminary evaluation of the Opportunity and does not purport to contain all the information which a prospective purchaser may need or desire. In all cases, each potential bidder should conduct and rely on its own inspection, valuation, investigation and analysis of the Opportunity and the data set forth in this document. Neither the Company nor the SISP Advisor make any representations or warranties whatsoever as to the accuracy or completeness of the information contained in this Teaser Letter or otherwise made available, and shall have no liability whatsoever for any information, omission, representation or warranty, express or implied, concerning the subject matter of this document or for any errors contained therein or in any other written or oral communications that are transmitted to or received by the recipient from any source whatsoever in connection with its evaluation of the Opportunity.

The sole purpose of this document is to assist recipients in deciding whether they wish to proceed with a further investigation of a possible transaction with the Company. This document does not constitute an offer or invitation for the sale or purchase of securities. The contents of this document shall not be construed as legal, tax, regulatory, accounting or investment advice or recommendation. Any recipient should consult its own counsel, tax, and financial advisors as to legal and related matters concerning any transaction with the Company.

Appendix D

SISP Advertisement in the Globe and Mail

Canadian Tire buys back financial-services stake

Scotiabank sells share of division as it works to cut costs as part of strategic overhaul

SUSAN KRASHINSKY ROBERTSON
STEFANIE MAROTTA

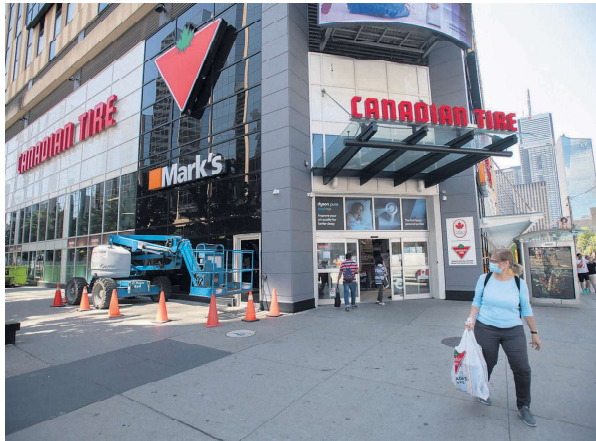
Canadian Tire Corp. Ltd. has bought back a minority stake in its financial services division from Bank of Nova Scotia, restoring full ownership of the credit-card business in an all-cash \$895-million deal.

Scotiabank bought a 20-per cent stake in Canadian Tire Financial Services in 2014 for \$500-million. Scotiabank is selling the stake as it works to cut costs as part of a broader strategic overhaul under the new leadership of chief executive officer Scott Thomson.

In a news release announcing the deal on Tuesday, the Toronto-based retailer also said it will "evaluate strategic alternatives" for the financial services arm in 2024, hiring Goldman Sachs to advise Canadian Tire on "the optimal ownership structure" for the business.

The deal was reached as consumers tighten their wallets under the pressure of high interest rates, while banks set aside more provisions for loans that could default and reduce their work forces in an attempt to cool rising expenses.

Expanding Canadian Tire's Triangle Rewards loyalty program – including 2.3 million holders of Triangle-branded credit cards – is a major focus of the growth strategy, dubbed Better Connected, that the retailer launched last year. The four-year, \$3.4-billion investment plan includes a goal to boost the number of purchases made by loyalty members at its stores and online, and to build the program so that



Expanding Canadian Tire's Triangle Rewards loyalty program is a major focus of a growth strategy, dubbed Better Connected, that the retailer launched last year. FRED LUM/THE GLOBE AND MAIL.

Canadian Tire can deliver more personalized ads to customers based on their shopping patterns.

Like other retailers that issue store-branded credit cards, Canadian Tire encourages customers to "stack" their loyalty memberships by using its credit cards to earn more points at its stores. Those cards represent roughly three-quarters of all Canadian Tire Money issued to members annually, even though credit cardholders account for roughly 21 per cent of Triangle's 11 million active loyalty members.

While the financial services segment makes up less than 10 per cent of Canadian Tire's annual revenue, it is a contributor to profit: In fiscal 2022, financial services accounted for 28.7 per

cent of the company's income before taxes.

The business has expanded in recent years, with credit-card receivables growing more than 60 per cent since 2014, according to Canadian Tire. The retailer says it is the seventh-largest issuer of credit cards in Canada by receivables outstanding. In its most recent quarter, the three months ended July 1, Canadian Tire's gross average accounts receivable totaled nearly \$7.1-billion.

Taking back full control of that business will give Canadian Tire "much greater control and flexibility in building out our loyalty program," CEO Greg Hicks said in a statement on Tuesday.

Canadian Tire will record a charge related to the transaction of \$328-million or \$5.88 a share

in its third-quarter financial results, which the company will report next week.

Scotiabank said in a press release that it will post an after-tax gain of approximately \$39-million in its fourth-quarter earnings, and that the sale will bolster its common equity tier 1 ratio, or CET1 – a measure of a lender's ability to absorb losses – by about 16 basis points. (A basis point is one-hundredth of a percentage point.)

It will continue to provide a committed credit facility of \$1.1-billion to Canadian Tire Financial Services for the next 18 months.

While Scotiabank's turnaround plan will not be unveiled until December, the lender has already started culling expenses.

In mid-October, Scotiabank said it is cutting 3 per cent of its global work force, adding to a string of job reductions on Bay Street this year. It also said that it is consolidating its real estate footprint, and that it wrote down the value of its 18-per cent investment in China-based Bank of Xian Co. Ltd.

The bank said at the time it expects the \$890-million in charges to affect its fourth-quarter earnings per share by about 49 cents and its CET1 ratio by approximately 10 basis points. But it expects to book the cost savings from these cuts by 2025.

Royal Bank of Canada analyst Darko Mihelic said he views this "transaction as another small step in the right direction." He said that the gain from selling its stake in the retailer's financial services unit will partly offset the charges announced a few weeks ago.

"We do not believe that a 20-per cent stake in CITF was critical to [Scotiabank's] long-term strategy," Mr. Mihelic said in a note to clients.

In the release on Tuesday, Canadian Tire's Mr. Hicks noted that loyalty programs have "evolved" since the 2014 deal with Scotiabank. That includes Scotiabank's move to expand its own loyalty program, Scene+, which has grown from a partnership with Cineplex Inc. to add more retail partners – including Sobeys parent company, grocery retailer Empire Co. Ltd., which became a co-owner of the program last year.

"Accelerating issuance of cCTM [Canadian Tire Money], including through opportunities with new partners such as Petro-Canada, is key to driving value for members in a rapidly evolving loyalty marketplace," Mr. Hicks said in the statement.

Shares of Canadian Tire closed down 1.91 per cent on the Toronto Stock Exchange.

Origin Energy's top shareholder opposes Brookfield takeover offer

SCOTT MURDOCH
LEWIS JACKSON

Origin Energy's largest shareholder said on Tuesday it plans to vote against a Brookfield-led consortium's 15.35-billion Australian dollars (around \$12.5-billion) takeover offer for the company, casting doubt on the bid's future weeks ahead of a shareholder vote on the deal.

AustralasianSuper, the country's largest pension fund, owns a 13.68 per cent stake in Origin Energy and said the consortium's offer was "substantially below" its estimate of long-term value for Australia's biggest energy retailer.

The 300-billion Australian dollar pension fund said the assumption used in the independent expert's report created an "unrealistically low" valuation, including on its stakes in British renewable energy group Octopus and Australia Pacific LNG, with valuation multiples well below recent relevant deals.

The deal requires 75 per cent support from the votes cast at a shareholder meeting, scheduled for Nov. 22, meaning AustralasianSuper's holding could be enough to scupper the bid if not all shareholders vote.

AustralasianSuper, which first went public with its concerns about the price in September, is not alone. That month, fund manager Perpetual told local media the deal undervalued Origin. Perpetual did not respond to a request for comment on Tuesday.

Origin shares were down 0.4 per cent early afternoon on Tuesday at 0.14 Australian dollars, but remained well above the 8.81 Australian dollar offer price. The stock has been trading above the offer price since the deal won approval from the country's competition regulator on Oct. 10.

The high-profile intervention into one of the biggest takeovers this year comes as Australia's 2.4-trillion Australian dollars pension sector increasingly flexes its muscle at home and overseas thanks to its burgeoning size in financial markets.

The Brookfield consortium's offer price has been deemed fair by an independent expert's report, however, it outlined a "roll forward" calculation that says Origin's shares could be worth an additional 40 Australian cents by the time a potential takeover is due to occur.

The Brookfield-led consortium has given no indications publicly it is considering upping the value of its bid ahead of the shareholder vote.

"No doubt the negotiations between the bidders and key shareholders like AustralasianSuper are ongoing," said Max Vickerson, analyst at stockbroker Morgans.

"Given that AusSuper felt the need to go public it suggests that maybe they're not that close to a deal. It's hard to say definitively that the takeover won't happen as someone could still blink before the vote but it's not a good sign."

In opposing the offer, AustralasianSuper cited factors including Origin's 27.5 per cent stake in Australia Pacific Liquefied Natural Gas (APLNG), which it said positioned the company to take advantage of "strong global demand" for the super-chilled fuel.

Origin Energy on Tuesday rejected a 5 per cent fall in first quarter revenue from APLNG due to lower prices for its LNG.

Brookfield and Origin Energy both declined to comment. Consortium partner EIC's MidOcean Energy did not immediately respond to a Reuters request for comment.

REUTERS

EURO ZONE INFLATION LOWEST IN MORE THAN TWO YEARS

Euro zone inflation dropped to its lowest level in over two years in October, as energy prices fell and the high interest rates set by the European Central Bank dampened demand, a preliminary reading showed on Tuesday.

The data seems likely to cement the market's view that the ECB is done with raising rates as part of its fight against

high inflation, which had been supported by more expensive fuel, supply disruptions and a recovery in demand following the COVID-19 pandemic.

Prices grew by 2.9 per cent year on year in October, the slowest pace since July 2021, from 4.3 per cent a month earlier, according to Eurostat's flash estimate. REUTERS

TENDERS

INVITATION FOR OFFERS

iSPAN Systems LP

MANUFACTURER OF COLD-FORMED STEEL FLOOR JOIST AND DECKING SYSTEMS

The Fuller Landau Group Inc. in its capacity as Court appointed Receiver of the property, assets and undertaking (the "Assets") of iSPAN Systems LP (the "Company" or "iSPAN") is soliciting offers for the Assets on an en-bloc basis or individual parcel basis.

The Company which is located in Princeton, Ontario is a manufacturer of proprietary, cold-formed steel floor joist and decking systems for residential, commercial and industrial building projects located in North America. Assets being offered for sale include: inventory, machinery and equipment, and intellectual property.

The Assets will be sold on an "as is, where is", basis and offers will be subject to court approval. Written offers for the Assets must be received by 2:00 pm (Eastern Standard Time - Toronto) on December 1, 2023 and must be accompanied by a bank draft or certified cheque payable to "The Fuller Landau Group Inc. in Trust" for 15% of the offering price as a deposit.

A non-disclosure agreement and information package regarding the particulars of the Assets being offered, terms and conditions of sale are available from the Receiver. Please contact Mr. Adam Edlich at (416) 645-6560 or via email aedlich@fullerlp.com to obtain further information and to arrange an appointment to view the Assets.

The Fuller Landau Group Inc.
Court Appointed Receiver of
iSPAN Systems LP
151 Bloor St. W., 12th Floor
Toronto, Ontario, M5S 1S4
Tel: (416) 645-6560
Fax: (416) 645-6501

Fuller Landau
Audit
Tax
Advisory

LEGALS

NEWFOUNDLAND AND LABRADOR

SUPREME COURT

(BANKRUPTCY AND INSOLVENCY)

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF THE COMPROMISE OR ARRANGEMENT OF 92834 NEWFOUNDLAND AND LABRADOR INC.

PLEASE TAKE NOTICE By Order of the Supreme Court of Newfoundland and Labrador dated October 25, 2023 (the "Claims Identification Order"), Grant Thornton Limited, in its capacity as the Court appointed monitor (in such capacity, the "Monitor") of 92834 Newfoundland and Labrador Inc. ("92834") has been authorized to conduct a claims identification process (the "Claims Identification Process"), with respect to claims against 92834, Canada Fluorspar (NL) Inc., Canada Fluorspar Inc., CFI Newspaper Holdings Inc. and Newspaper (a General Partnership) (collectively, "CFI") that have a priority to the first secured creditor Bridging Finance Inc. and Bridging Income Fund LP (formerly Sprott Bridging Income Fund LP).

The Claims Identification Process requires that any claimant shall file their claim with the Monitor before the claims bar date of **November 25, 2023, and by 5:00 PM Newfoundland Standard Time**, failing which a creditor will be forever barred from advancing a claim against 92834 and CFI.

Copies of the claims process materials, including claims form, as well as other relevant materials associated with these CCAA proceeding can be access on the Monitor's case website www.GrantThornton.ca/CFI. If you require further information, please contact a representative of the Monitor (Ben Chisholm, T: 902-417-2829, E: CanadaFluorspar@ca.gt.com).

Grant Thornton

DIVIDENDS

Dividend

Notice is hereby given that the following dividend has been declared. All amounts shown are in Canadian dollars unless otherwise specified.

Issuer	Issue	Record Date	Payable Date	Rate
Waste Connections, Inc.	Common	Nov. 8, 2023	Nov. 28, 2023	\$0.285 US

BUSINESS TO BUSINESS

BUSINESS OPPORTUNITIES

RETIREMENT HOME For Sale, 125 suites, 92% occup. Gross income \$4.5M. Net income \$1.6M. 9% Cap. Mr. Gill 416-999-4300

INVESTMENT OPPORTUNITIES

BIG ERICS
Proudly serving our customers for over 75 years

OPPORTUNITY FOR
INVESTMENT, RESTRUCTURING, RECAPITALIZATION, REFINANCING, REORGANIZATION or SALE

Big Erics Inc. (BEI) is undertaking a Sale and Investment Solicitation Process (SISP) for the investment, restructuring, recapitalization, refinancing, reorganization or sale of all or portions of BEI's various sales channels, operations, business, assets and undertakings or some combination thereof, as a going concern.

The Company is currently operating under Company Creditor Arrangement Act (CCAA) proceedings. Parties wishing to participate in the SISP may receive further information, including a Confidential Information Memorandum (CIM), by completing, executing and delivering a Non-Disclosure Agreement (NDA) to the SISP Advisor, Noseworthy Chapman, at BigErics@ncpcpa.ca. Copies of the SISP procedures, NDA in the Court approved form, and various other documents related to the CCAA proceedings are available at www.GrantThornton.ca/BigErics.

A non-binding Letter of Intent is due by 5:00 PM Newfoundland Time on December 8, 2023.

FOR FULL DETAILS SEE PRESS RELEASE OR SCAN THE QR CODE ABOVE: <https://bit.ly/BEIPK1023>



Have The
Globe and Mail
delivered to
your door

CALL 1-800-367-5400
TGAM.CA/SUBSCRIBE

Appendix E

BEI – SISP Advertisement in the National Post

“WE’VE BEEN DOING THINGS LIKE LINING UP EARLY IN THE MORNING AT COSTCO AND TRYING TO GET IN FIRST THING TO SEE WHAT’S AVAILABLE THERE. ... I’M WORRIED WE WON’T BE ABLE TO FULFIL OUR ORDERS.”

— TANYA MULLER, OWNER OF LE GATEAU BAKE SHOP IN VANCOUVER

MANUFACTURING

EV battery plant subsidies to cost \$5.8B more than expected: PBO

MARISA COULTON

The government’s electric vehicle battery plant projects will likely cost a lot more than expected, the parliamentary budget officer said in a report released Friday.

The government recently announced \$37.7 billion in funding toward the plants, with \$13.2 billion going toward Volkswagen AG, \$15 billion toward Stellantis NV-LG Energy Solution, and \$4.6 billion for Northvolt AB. But parliamentary budget officer Yves Giroux said the numbers were announced in “isolation” and that the true cost had not been released to the public.

“We estimate the total cost of government support for EV battery manufacturing by Northvolt, Volkswagen and Stellantis-LGES to be \$48.6 billion over 2022-23 to 2032-33, which is \$5.8

billion higher than the \$37.7 billion in announced costs,” Giroux noted in a press release.

The report comes as the fight for turf in the emerging EV industry heats up, led by aggressive U.S. subsidies.

The introduction of the U.S. Inflation Reduction Act in August 2022, which featured hundreds of billions of dollars of new spending and tax breaks to encourage clean energy industries in the U.S., has “vastly accelerated the clean energy arms race,” said Michael Bernstein, executive director of Clean Prosperity, a Toronto-based think tank that researches Canadian climate policy.

Countries around the world, including Canada, are vying for a piece of the green energy supply chain, with EV battery manufacturing being one of the most heavily contested.

Canada’s funding has

drawn criticism from industry-watchers. Greig Mordue, a professor of engineering at McMaster University in Hamilton, Ont., and former general manager of Toyota Motor Manufacturing Canada, said in August that he thinks the subsidies are “over-the-top.”

The PBO, who provides economic and financial analyses to parliament, released the report to “increase transparency” around the EV battery plant announcements.

The PBO estimated that more than half of the costs will be borne by the federal government, while the rest will fall to the provincial governments of Ontario and Quebec.

The government expected to make its money back on the Northvolt plant in nine years, but Giroux said the number is closer to 11.

In June, Finance Minister Chrystia Freeland said the PBO’s estimates on the Volkswagen plant were inaccurate. The PBO had said that the Volkswagen subsidy would be around \$2.8 billion more than the government expected, due to the tax implications of the deal.

Financial Post



ETHAN CAIRNS / THE CANADIAN PRESS

Small business owners like Tanya Muller of Le Gateau Bake Shop in Vancouver are facing sugar shortages and higher costs amid a strike at a Rogers Sugar refinery.

LABOUR

Rogers Sugar strike impacts supply ahead of holiday season

Bakeries, candy makers scramble

AMANDA STEPHENSON

A bitter strike at the Rogers Sugar refinery in Vancouver is taking some of the sweetness out of the holiday season for bakers and candy-makers.

Across Western Canada, small businesses that depend on sugar are struggling with shortages and higher costs as labour action at one of the country’s few sugar processing facilities stretches into a seventh week.

At Le Gateau Bakeshop in Vancouver, owner Tanya Muller is growing increasingly concerned.

During the busy Christmas season, she typically goes through 150 to 200 kilograms of sugar per week making the 20 different varieties of holiday cookies her bakery specializes in.

But right now, the maximum amount of the sweet stuff her wholesale supplier can give her is two bags, or 40 kilograms, per week.

“We’ve been doing things like lining up early in the morning at Costco and trying to get in first thing to see what’s available there. And sometimes that works, and sometimes, you know, Costco doesn’t have anything either,” Muller said.

“I’m worried we won’t be able to fulfil our orders, which obviously isn’t ideal

for the holiday season.”

According to the Canadian Sugar Institute, Canada produces approximately 1.2 million tonnes of refined sugar annually — around 94 per cent of which is refined from raw cane sugar imported in bulk to three refining operations in Vancouver, Toronto and Montreal.

The Toronto refinery is owned by Redpath Sugar, while the Vancouver and Montreal refineries are operated by Rogers Sugar Inc., which markets its products under the brand names Rogers and Lantic.

The sugar supply issues being experienced in Western Canada stem from the Vancouver refinery, where 138 striking workers have been off the job since Sept. 28.

Adrian Soldera, president of Public and Private Workers of Canada Local 8, said the strike is at odds with Rogers Sugar over issues like wages, benefits and the company’s proposal to increase refinery operations to 24 hours a day, 365 days per year.

“Right now, they do about 120 hours a week, which is Monday to Friday, 24 hours a day,” Soldera said. “So they’re encroaching on our weekends.”

Soldera said he’s aware the strike is impacting customers — even at the grocery store level, where customers are experiencing sporadic shortages just as demand from home bakers begins to spike.

“I mean, this must be the highest sugar demand time of the year,” Soldera said, adding he does not know when the strike will end as

the union and employer positions remain far apart.

“Even if we went back tomorrow, the sugar won’t really be hitting the shelves in full capacity until the first or second week of December,”

While the most severe supply problems appear to be in B.C., the strike’s effects are being felt across the western provinces.

Sarah Foy, candy-maker and owner of Volo’s Confections in Calgary, said she has been buying all the sugar she can get for weeks.

“I’ve been stocking up ever since my father-in-law called and said, ‘Do you know there’s a sugar shortage?’ And then another friend of mine who owns a business also called to warn me,” Foy said.

“So we’re trying to be prepared.”

Tasha Henderson, manager at Sinfully Sweet Cathedral Bakery in Regina, said while she thinks she has enough sugar right now to make it through the holiday season, the strike at the Rogers refinery has already doubled her wholesale costs.

“We used to pay \$24 to \$28 a bag, and now we’re paying about \$50 to \$62 a bag,” Henderson said, adding she expects the bakery will need to increase its own prices in the new year as a result.

Rogers Sugar said its Vancouver refinery continues to operate, but at a reduced level, and the company is using its other facilities to support its customers in Western Canada.

In an email, Rogers Sugar chief financial officer JS Couillard acknowledged the strike has resulted in localized supply impacts in Western Canada, particularly for brown sugar and some packaged white sugar.

However, he said there is “ample supply” of the company’s other products, including bulk sugars used by bigger food processors and liquid sugars.

The Canadian Press

ALAN CA INC.

LETTERS PATENT OF CONTINUANCE

Notice is hereby given, in accordance with paragraph 32(2) of the Insurance Companies Act (Canada), that Alan CA Inc., an entity incorporated under the Ontario Business Corporations Act, intends to file with the Superintendent of Financial Institutions an application for the Minister of Finance to issue letters patent continuing the company under the Insurance Companies Act (Canada), as a life insurance company operating within the following classes of insurance: accident and sickness insurance and life insurance.

The company carries on business in Canada under the name of Alan CA Inc. and its head office is located in Toronto, Ontario. It is a subsidiary of Alan SA, an entity incorporated and formed under the laws of France.

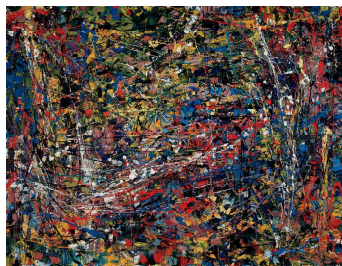
Any person who objects to the proposed continuance may submit an objection in writing to the proposed continuance of Financial Institutions, 255 Albert Street, 12th Floor, Ottawa, Ontario K1A 0H2, on or before January 9, 2024.

Note: The publication of this notice should not be construed as evidence that the letters patent will be issued. The granting of the letters patent will be dependent upon the normal Insurance Companies Act (Canada) application review process and the discretion of the Minister of Finance.

November 18, 2023

Alan CA Inc.
Toronto, Ontario

Heffel



JEAN PAUL RIOPELLE: Sans titre (Composition #2)
ABSTRACT, 1965, 57 x 74 in. (145 x 188 cm)
ESTIMATE: \$3,000,000 - \$5,000,000

AUCTION PREVIEW

Heffel Gallery | 13 Hazelton Ave, Toronto
November 15 to 22, 2023

Appointment preferred | Book at Heffel.com

LIVE AUCTION | NOVEMBER 23

Heffel Toronto, together with the Digital Saleroom
Bid registration and streaming at Heffel.com
Post-War & Contemporary Art • 5 pm ET
Canadian, Impressionist & Modern Art • 7 pm ET

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BIG ERICS

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Big Eric's Inc. (BEI) is undertaking a Sale and Investment Solicitation Process (SISP) for the investment, restructuring, recapitalization, refinancing, reorganization or sale of all or portions of BEI's various sales channels, operations, business, assets and undertakings or some combination thereof, as a going concern.

The Company is currently operating under Company Creditor Arrangement Act (CCAA) proceedings. Parties wishing to participate in the SISP may receive further information, including a Confidential Information Memorandum (CIM), by completing, executing and a delivering a Non-Disclosure Agreement (NDA) to the SISP Advisor, Noseworthy Chapman, at BigEric@nccpas.ca. Copies of the SISP procedures, NDA in the Court approved form, and various other documents related to the CCAA proceedings are available at www.GrantThornton.ca/BigEric

A non-binding Letter of Intent is due by 5:00 PM Newfoundland Time on December 8, 2023.

FOR FULL DETAILS SEE PRESS RELEASE OR SCAN THE QR CODE ABOVE <https://bit.ly/BEIPR1023>

CANADIAN NATURAL RESOURCES LIMITED

DIVIDEND NOTICE

NOTICE is hereby given that a quarterly dividend of C\$1.00 (one dollar) per common share on the outstanding common shares of the Corporation will be paid on January 5, 2024 to common shareholders of record at the close of business on December 8, 2023.

By Order of the Board
Stephanie A. Graham
Corporate Secretary
Calgary, Alberta
November 1, 2023

Appendix F

SISP Advertisement in the Telegram

POLITICS

Issues highlighted on National Housing Day

THE TELEGRAM

✉ telegram
@thetelegram.com
📧 StJohnsTelegram

In recognizing National Housing Day on Wednesday, the provincial government said access to safe and affordable housing is an important factor in an individual's overall health and well-being and why it continues to work to advance community partnerships to meet the changing demands for housing.

A housing crisis in this province and across the country has been a constant issue facing governments.

A "tent city" was set up across from Confederation Building in St. John's earlier this fall to protest homelessness. Many who took part now occupy tents near the Colonial Building.

The provincial government last month announced a five-point plan designed to increase the supply of housing that is affordable in Newfoundland and Labrador by helping stimulate private-sector development and stabilize or reduce housing prices.

At a cost of more than \$65 million, it is expected that upwards of 500 new housing options will be added to the market.

According to a news release, actions from the plan are underway and so far in November the government



Tents at the Colonial Building in St. John's. **TELEGRAM FILE**

released an inventory of vacant provincial land in the St. John's metro region that can be made available for the development of purpose-built rental housing that is affordable. Also, a new first-time homebuyers program was introduced to support transition to homeownership.

The release states that other measures include: more than \$80 million in the Affordable Rental Housing Program, which will support 91 private and

community sector projects that will result in the construction of more than 900 new affordable rental homes; continued work to support future construction of a new \$30-million integrated health, housing, and supportive services hub in Happy Valley-Goose Bay; a request for quotations for repairs and renovations to 143 provincially owned vacant units through funding of close to \$6 million; expanded non-profit staffed shelters

to support people who are homeless, including ongoing funding of \$2 million for the 40-bed staffed Safe Haven Shelter; continued implementation of the Canada-Newfoundland and Labrador Housing Benefit, which has expanded access to affordable housing in the private rental market to over 420 new households; and advanced or completed affordable housing projects in Pleasantville, Gander, Labrador West, and Happy Valley-Goose Bay.

The Opposition parties have questioned the Liberal government's commitment to resolving the housing crisis.

In a news release Wednesday, the NDP says the housing crisis shows no signs of improving.

"Day after day we've seen more unhoused people put up tents at the Colonial Building in St. John's and (Wednesday morning) they woke up to snow on the ground," NDP Leader Jim Dinn stated. "It's inspiring to see so many people from the community come together to offer support, but solving this shouldn't fall on the shoulders of caring neighbours."

"The answer can't be 'it takes time to build houses' when we have people sleeping with a tent. It's grossly unacceptable for government to roll the dice on all of these people surviving through winter on a wing and a prayer."

PC Leader Tony Wakeham has said the Liberal government has done more to confuse people about the housing crisis than taking steps to resolve it.

"The housing crisis facing Newfoundlanders and Labradorians did not start two weeks ago," Wakeham stated in a news release. "It did not start two months ago. As housing advocates and those experiencing homelessness have said again and again, it has been brewing for years."

Partnership highlighted with launch of salmon processing

THE TELEGRAM

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📧 StJohnsTelegram

Quinlan Brothers Ltd. and Grieg Seafood Newfoundland officially launched salmon processing at the Quinlan Bay de Verde plant with an event on Tuesday, Nov. 21.

Robin Quinlan, president of Quinlan Brothers Ltd., said the event marked the beginning of an international partnership between Quinlan and Grieg to process aquaculture salmon from Placentia Bay.

"With this new processing line, we have opportunities for employment and growth," Quinlan said.

"Full, year-round employment in rural Newfoundland is no small feat. Processing aquaculture through Grieg Seafood Newfoundland provides us with improved stability and planning, to better



A worker grades a salmon at the official opening of the Quinlan Brothers Ltd. fish plant in Bay de Verde Tuesday. **KEITH GOSSE • THE TELEGRAM**

support our employees and communities.

"We owe the success of this launch to the loyalty and productivity of our employees and their willingness to welcome new Canadians and international workers to

achieve this goal."

Earlier this month, Grieg Seafood Newfoundland announced a successful harvest of a healthy first generation of salmon, according to a news release.

Knut Skeidsvoll, manag-

ing director of Grieg Seafood Newfoundland, said they are pleased to be partnering with Quinlan Brothers.

"It is exciting to finally be able to deliver fish grown in Placentia Bay to customers all over North America," Skeidsvoll said.

"I strongly believe that a growing industry of sustainable salmon farming will create jobs and value to the local communities in Newfoundland for many years to come."

The Bay de Verde processing plant was fitted for salmon processing earlier this year. After a devastating fire in 2016, Quinlan's state-of-the-art facility was designed to ensure healthy workplaces and food safety.

Salmon processing will support year-round employment in the community.

"Our shared values of innovation and sustainability are the strength of our part-

nership," Quinlan said. "Grieg holds the same commitment to quality products and processes as Quinlan. Together, we are investing in a bright future in aquaculture in our region."

Tuesday's event comes on the heels of news announced last week that Quinlan Brothers' operation in Bay de Verde received \$6 million in the latest round of funding from the Atlantic Fisheries Fund.

The money is to be used for the purchase and installation of "state-of-the-art technology, including robotics and automated mechanical evisceration systems for salmon processing."

The overall project cost is estimated at \$16,360,648, according to a news release.

The federal government provides 70 per cent of the funding, with the remaining 30 per cent coming from the province.



Boats on the dock at Jerseyside, Placentia. **THE TELEGRAM FILE**

Fish and work boat show held

THE TELEGRAM

✉ telegram
@thetelegram.com
📧 StJohnsTelegram

Organizers say the North Atlantic Fish and Workboat Show held at the Mary Brown's Centre in St. John's over the weekend was a success with crowds attending the annual marine event held in Newfoundland and Labrador this year.

"This year's show buzzed

with a lively atmosphere as exhibitors and attendees came together to discuss industry news and showcase new products and tech," show manager Shawn Murphy said in a news release.

The two-day event, held Nov. 17-18, brought together a diverse array of industry members, from seasoned professionals to emerging businesses. On display were the latest technologies and products in the industry.

"This edition of the North

Atlantic Fish and Workboat Show was one of the best we've had," said Bais Blois from Blois Automation Ltd.

A ceremony was also held honouring this year's Atlantic Canada Marine Hall of Fame inductees, who were: the late Tom Best, Petty Harbour Co-op, in the mariner category; Martin Sullivan of Ocean Choice in the processor category; and Derrick Jackson of Jackson's Shipyard in the builder category.

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OPPORTUNITY FOR INVESTMENT, RESTRUCTURING, RECAPITALIZATION, REFINANCING, REORGANIZATION or SALE

Big Eric's Inc. (BEI) is undertaking a Sale and Investment Solicitation Process (SISP) for the investment, restructuring, recapitalization, refinancing, reorganization or sale of all or portions of BEI's various sales channels, operations, business, assets and undertakings or some combination thereof, as a going concern.

The Company is currently operating under Company Creditor Arrangement Act (CCAA) proceedings. Parties wishing to participate in the SISP may receive further information, including a Confidential Information Memorandum (CIM), by completing, executing and delivering a Non-Disclosure Agreement (NDA) to the SISP Advisor, Noseworthy Chapman, at BigEric@nccpas.ca. Copies of the SISP procedures, NDA in the Court approved form, and various other documents related to the CCAA proceedings are available at www.GrantThornton.ca/BigEric.

A non-binding Letter of Intent is due by 5:00 PM Newfoundland Time on December 8, 2023.

FOR FULL DETAILS SEE PRESS RELEASE OR SCAN THE QR CODE ABOVE <https://bit.ly/BEIPR1023>

Appendix G

BEI – SISP Press Releases in the Canada Newswire



FOR IMMEDIATE RELEASE | ST. JOHN'S, OCTOBER 26th, 2023 BIG ERICS INC. TO FIELD INTEREST IN, INVESTMENT OPPORTUNITIES, OR SALE THROUGH FORMAL PROCESS

Big Erics Inc., the almost 80 year old hospitality, sanitation and janitorial commercial distribution and sales organization, with strong roots in Newfoundland and more broadly based in the Atlantic Region of Canada, obtained an order from the Supreme Court of Newfoundland and Labrador on September 29th, 2023, approving the implementation of a Sale and Investment Solicitation Process ("SISP") to be conducted by a SISP advisor, accounting firm Noseworthy Chapman.

This is an opportunity for potential investors and purchasers to invest or acquire interests in a historic company with turnkey operations and a proven track record for strong topline performance and brand recognition in Atlantic Canada.

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.

The key SISP milestones and timeline is as follows (subject to change):

- December 8, 2023: Phase 1 deadline to deliver non-binding letters of intent
- February 16, 2024: Phase 2 deadline to deliver definitive offers by Phase 2 Qualified Bidders
- April 1, 2024: Deadline to seek Court approval of a successful offer

The Company has commenced Companies' Creditors Arrangement Act ("CCAA") proceedings. Copies of the SISP procedures, SISP NDA in the Court approved form, and various other documents related to the CCAA proceedings can be accessed at the Court-appointed Monitor's website: www.GrantThornton.ca/BigErics

Parties wishing to participate in the SISP process will need to execute the Court-approved Non-Disclosure Agreement ("NDA") as found on the Grant Thornton website and deliver it to the SISP Advisor by email at BigErics@nccpas.ca.

#

BIG ERICS

Proudly serving our customers for over 75 years

About Big Erics Inc.

Big Erics Inc. is a leading provider of end-to-end products in the commercial kitchen equipment, sanitation, janitorial, concessions/convenience equipment and consumable foods and cleaning products to commercial B2B and residential B2C customers across Canada. Big Erics at Home, a store-within-a-store welcomes home chefs and home entertainers to shop the quality-centric offering of residential small appliances, gadgets, cooking, cleaning, and entertaining wares at reasonable prices.

Big Erics started with humble roots as *Sani Pro*, in Newfoundland and Labrador in 1945, and then grew throughout the Atlantic as many family operations were combined, over the last 18 years, becoming an industry leader throughout Atlantic Canada. Now Big Erics has evolved further and is a household name to many, both within and beyond the Atlantic region, through its e-store bigerics.com.

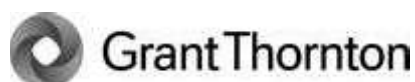
Boasting a strong history in business of 78 years, a wide product offering, and a skilled projects team have Big Erics positioned to deliver to satisfy customers everyday needs as well as executing on commercial installation projects across Canada and into the US. Big Erics has two brick and mortar retail stores in both Dartmouth, NS and St. John's NL, as well as a large distribution warehouse boasting 60,000 cubic feet of space housing over 50,000 products ready for same and next-day delivery service in the Atlantic Region.

For more information visit www.bigerics.com

Contact Information:

All inquiries related to the SISP process only should be directed to: David Howe, FCPA, FCA and Jeanette Wade, CPA, CA, CBV via email: BigErics@nccpas.ca

Big Erics Inc. to field interest in investment opportunities or sale through formal process



NEWS PROVIDED BY
Grant Thornton LLP →
26 Oct, 2023, 16:03 ET

ST. JOHN'S, NL, Oct. 26, 2023 /CNW/ - Big Erics Inc., the almost 80-year-old hospitality, sanitation, and janitorial commercial distribution and sales organization, with strong roots in Newfoundland and more broadly based in the Atlantic Region of Canada, obtained an order from the Supreme Court of Newfoundland and Labrador on September 29th, 2023, approving the implementation of a Sale and Investment Solicitation Process ("SISP") to be conducted by a SISP advisor, accounting firm Noseworthy Chapman.

This is an opportunity for potential investors and purchasers to invest or acquire interests in a historic company with turnkey operations and a proven track record for strong topline performance and brand recognition in Atlantic Canada.

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The Company has commenced Companies' Creditors Arrangement Act ("CCAA") proceedings. Copies of the SISP procedures, SISP NDA in the Court approved form, and various other documents related to the CCAA proceedings can be accessed at the Court-appointed Monitor's website: www.GrantThornton.ca/BigEricks

Parties wishing to participate in the SISP process will need to execute the Court-approved Non-Disclosure Agreement ("NDA") as found on the Grant Thornton website and deliver it to the SISP Advisor by email at BigEricks@nccpas.ca.

About Big Ericks Inc.

Big Ericks Inc. is a leading provider of end-to-end products in the commercial kitchen equipment, sanitation, janitorial, concessions/convenience equipment, consumable foods, and cleaning products to commercial B2B and residential B2C customers across Canada. Big Ericks at Home, a store-within-a-store, welcomes home chefs and home entertainers to shop the quality-centric offering of residential small appliances, gadgets, cooking, cleaning, and entertaining wares at reasonable prices.

Big Ericks started with humble roots as Sani Pro, in Newfoundland and Labrador in 1945, and then grew throughout the Atlantic as many family operations were combined, over the last 18 years, becoming an industry leader throughout Atlantic Canada. Now Big Ericks has evolved further and is a household name to many, both within and beyond the Atlantic region, through its e-store bigericks.com.

Boasting a strong history in business of 78 years, a wide product offering, and a skilled projects team have Big Ericks positioned to deliver to satisfy customers everyday needs as well as executing on commercial installation projects across Canada and into the US. Big Ericks has two brick and mortar retail stores in both Dartmouth, NS and St. John's, NL, as well as a large distribution warehouse boasting 60,000 cubic feet of space housing over 50,000 products ready for same and next-day delivery service in the Atlantic Region.

For more information visit www.bigericks.com



About Grant Thornton LLP in Canada

Grant Thornton LLP is a leading Canadian accounting and advisory firm providing accounting, audit, tax, and advisory services to private and public organizations. We help dynamic organizations unlock their potential for growth by providing meaningful, actionable advice through a broad range of services. Grant Thornton LLP is a Canadian member of Grant Thornton International Ltd, whose member and correspondent firms operate in over 130 countries worldwide. To learn more visit www.grantthornton.ca.

SOURCE Grant Thornton LLP

For further information: Lindsay Barnes, Senior Manager, Media Relations and External Communications, Grant Thornton LLP, E: Lindsay.Barnes@ca.gt.com, T: 905 999 6448; Phil Clarke, Partner, Grant Thornton LLP, E: Phil.Clarke@ca.gt.com, T : 902 420 7191

Appendix H

SISP Update (Confidential)

Appendix I

BEI Actual to Forecast to December 1, 2023

Big Erics Inc. - Cash Flow				
Weeks 11-22				
	July 2 to Sept 8, 2023 Weeks 1-10	September 11 to December 1, 2023 Weeks 11-22		
	Actual	Budget	Actual	Variance
Gross Sales	4,745,136	5,713,450	5,269,212	(444,238)
<i>Cash Receipts</i>				
Collection of Accounts Receivable	5,780,867	6,301,493	6,230,717	(70,776)
Miscellaneous	96	40,000	-	(40,000)
Total Cash Receipts	5,780,963	6,341,493	6,230,717	(110,776)
<i>Operational Disbursements</i>				
Cost of Sales	(3,409,239)	(4,317,939)	(4,652,036)	(334,097)
Rent & Municipal Taxes	(176,779)	(204,863)	(177,510)	27,353
Utilities	(14,126)	(34,704)	(22,450)	12,254
Insurance	(23,555)	(9,708)	(26,130)	(16,422)
Payroll	(783,523)	(985,000)	(890,605)	94,395
Key Employee Retention Payments	(32,300)	-	-	-
Warehouse Expenses	(205,953)	(204,840)	(330,182)	(125,342)
Selling Expenses	(24,424)	(63,727)	(29,647)	34,080
Bank Charges and POS Transaction Fees	(47,085)	(59,402)	(13,238)	46,164
HST Payable/Refund	2,584	(156,329)	(214,565)	(58,236)
Administrative and Miscellaneous	(57,366)	(39,341)	(90,473)	(51,132)
Total Operational Disbursements	(4,771,766)	(6,075,853)	(6,446,836)	(370,983)
Professional Fees	(93,849)	(185,600)	(123,722)	61,878
Total Disbursements	(4,865,615)	(6,261,453)	(6,570,558)	(309,105)
Net Cash Flow	915,348	80,040	(339,841)	(419,881)
Operating Line - Opening	(4,930,567)	(4,015,219)	(4,015,219)	-
Net Cash Flow	915,348	80,040	(339,841)	(419,881)
Operating Line - Closing	(4,015,219)	(3,935,179)	(4,355,060)	(419,881)
Less: Borrowing Base	(4,931,000)	(4,931,000)	(4,931,000)	-
Line of Credit Liquidity	915,781	995,821	575,940	(419,881)

Appendix J

Canada Revenue Agency' Proposed Reassessment – BEI



September 26, 2023

COPY

Cory Hines
Grant Thornton Limited
Monitor for Big Erics Inc.
1675 Grafton St, Suite 1000
Halifax NS B3J 0E9

Dear Cory Hines:

**Subject: Proposed change to the goods and services tax/harmonized sales tax
(GST/HST) return from July 13, 2023 to July 20, 2023
Account number: 87956 9010 RT0001**

Further to our telephone conversation on September 22, 2023, the GST/HST return of Big Erics Inc. (the "registrant") for the above period was chosen for audit. Our records show that Grant Thornton Limited was appointed as Monitor, when an Initial Order under the Companies' Creditors Arrangement Act (CCAA) was filed on July 20, 2023.

Based on information in the list of creditors filed for Big Erics Inc., we are proposing to make a (re)assessment as shown below.

Adjustments have been made to the proposed amount since our telephone call on September 22, 2023.

Under section 165 of the Excise Tax Act, every recipient of a taxable supply made in Canada is required to pay the GST/HST charged for that supply. The registrant has not paid the GST/HST owed to their suppliers, based on the list of creditors that was filed. Under paragraph 296(1)(b) of the Act, we are proposing to increase the registrant's tax payable by the amount of GST/HST owed on taxable supplies that they received where the tax was not paid to their suppliers.

Period ending	Description	Proposed change
2023-07-20	Increase to tax payable under 296(1)(b)	\$ 265,765.53

The proposed amount of \$265,765.53 is based on calculations we made in the enclosed Schedule A – Calculation of GST/HST Included in Unpaid Amounts. Our calculations are based on the list of creditors dated July 3, 2023, which was the most recent list available to us.

PROTECTED B

If you have any questions or concerns during the audit, please call me at 587-338-9081.
My team leader, Lori-Ann Thomson, can be reached at 587-335-3420 if I am not available.

Sincerely,

M. Ward

Maegan Ward
GST/HST Audit Division
Alberta Tax Services Office

Telephone: 587-338-9081
Facsimile: 418-566-2853
Address: Suite 10 9700 Jasper Avenue
Edmonton AB T5J 4C8
Website: canada.ca/taxes

Enclosures

c.c.: Normand Mensour
PO Box 6090 Station C
St. John's NL A1C 5X8

I agree to the proposed change and waive the 30-day proposal period.

(Signature of Authorized Officer)

Registrant:	Big Erics Inc.	Date: September 26, 2023
Business Number:	87956 9010 RT0001	
Audit Period:	July 13, 2023 to July 20, 2023	
Prepared by:	Maegan Ward	

Calculation of proposed audit adjustment for Big Erics Inc.:

COPY

The registrant's physical and mailing addresses are in Newfoundland & Labrador. We found no evidence to show that registrant operated from any other province. The below calculations were completed under the assumption that all supplies from unsecured creditors were made in Newfoundland & Labrador and were taxable at 15%. We also assumed that no amounts from the listing were paid and that no amounts were approved by the monitor to be paid at some future date. We made adjustments where unpaid amounts related to supplies that were zero-rated, exempt, or relieved from GST/HST.

Total amount unpaid to suppliers	8,764,237.58
Less: Total amount where GST/HST was not charged or owed (A)	6,726,701.83
Total amount unpaid to suppliers where GST/HST was charged	2,037,535.75
Calculate GST/HST included at 15%	x 15/115
Total GST/HST included in unpaid amounts	265,765.53

List of unsecured creditors where no GST/HST was charged or owed:

Name of supplier	Unpaid amount
Bank of Montreal - Mastercard	44,610.38
Belleco Foodservice Equip	1.00
Betco Corporation Ltd	23,282.34
Cambro Manufacturing Co. - Esi	22,889.54
Captiveaire Systems Inc. - Us	264.00
Chester's International, Ilc	23,506.08
City of St. John's c/o Tax Department	1.00
CRA - Tax - Atlantic	2.00
Due to Shareholders	311,685.00
Epicurean Cutting Surfaces	436.59
Fds Usa Inc.	3,590.40
Foodware Llc - Esi (G.E.T)	320.22
Franklin Machine Products	252.12
Gold Medal Products Co.	4,521.00
Great Western Products	15,622.99
Grosfillex Incorporated - Esi	3,309.79
Halifax Regional Municipality - Property Taxes	1.00
Joy, Anthony	1,464.20
Legacy Companies, The	1.00
Lighthouse Capital Atlantic Inc.	4,393,302.91
Lighthouse Realty Atlantic Inc.	1,449,745.00
Manulife Financial	2.00
Microplane	742.90
Minuteman International	1.00
Myles & Co. Inc.	350,000.00
Onyx Environmental Solutions I	4,330.85

COPY

Schedule B – List of Recommended Representations

Subject: Proposed change to the goods and services tax/harmonized sales tax (GST/HST) return for Big Erics Inc. for the audit period July 13, 2023 to July 20, 2023

You can include information from this list with your representations. If possible, please send electronic files in spreadsheet format (.xls or .xlsx) or as a text file (.csv) for listings, and in PDF format for all other documents.

1. If you want to claim input tax credits (ITCs) that might be eligible for purchases made up to July 20, 2023, and they were not claimed previously, give a detailed listing that includes this information for each purchase:
 - a. date of transaction
 - b. name of supplier
 - c. description of goods or services purchased
 - d. purchase amount
 - e. amount of GST/HST charged
2. An updated listing of all accounts payable as of July 20, 2023, for Big Erics Inc.
3. Copies of original purchase documents for transactions from your listing of accounts payable where GST/HST was not charged, that includes this information for each purchase:
 - a. date of transaction
 - b. name of supplier
 - c. description of goods or services purchased
 - d. purchase amount
 - e. explanation of why GST/HST was not charged
4. Information about payments made after July 20, 2023, that would affect your listing of accounts payable, including proof of payments.
5. Information about accounts that you expect will be paid after July 20, 2023, and the sources of funds for those payments. Please include a schedule of payments to be made at certain intervals that were approved by the Monitor.
6. List of suppliers to be paid that are considered critical for continuing business operations.

Appendix K

TNOPFI - Actual to Forecast - Final

Terra Nova Old Port Foods Inc.
Final Budget to Actual Reporting

	Budget	Actual	Variance
Net Sales	795,200	921,983	126,783
<i>Cash Receipts</i>			
Collection of Accounts Receivable	1,247,592	1,208,472	(39,120)
Remaining Inventory Sales	52,700	40,113	
Capital Asset Sales	50,000	128,921	
Miscellaneous	-	20,068	20,068
Total Cash Receipts	1,350,292	1,397,574	47,282
<i>Operational Disbursements</i>			
Cost of Sales	-	(38,491)	(38,491)
Rent & Municipal Taxes	(89,910)	(66,094)	23,816
Utilities	(21,000)	(6,403)	14,597
Insurance	(7,500)	(1,866)	5,634
Payroll	(163,433)	(189,349)	(25,916)
Key Employee Retention Payments	(18,000)	(6,865)	11,135
Freight	(22,500)	(48,319)	(25,819)
Administration and Miscellaneous	(13,000)	(13,797)	(797)
Total Operational Disbursements	(335,343)	(371,183)	(35,840)
Professional Fees	(91,000)	(181,013)	(90,013)
Total Disbursements	(426,343)	(552,197)	(125,854)
Net Cash Flow	923,949	845,377	(78,572)
Operating Line - Opening	(1,355,000)	(1,355,000)	-
Net Cash Flow	923,949	845,377	(78,572)
Operating Line - Closing	(431,051)	(509,623)	(78,572)
Less: Borrowing Base	(1,355,000)	(1,341,000)	14,000
Line of Credit Liquidity	923,949	831,377	(92,572)

Appendix L

Canada Revenue Agency' Proposed Reassessment – TNOPFI



September 26, 2023

Cory Hines
Grant Thornton Limited
1675 Grafton St, Suite 100
Halifax NS B3J 0E9

COPY

Dear Cory Hines:

**Subject: Proposed change to the goods and services tax/harmonized sales tax
(GST/HST) return to July 13, 2023 to July 20, 2023
Account number: 72014 6281 RT0001**

Further to our telephone conversation on September 22, 2023, the GST/HST return of Terra Nova Old Port Foods Inc. (the "registrant") for the above period was chosen for audit. Our records show that Grant Thornton Limited was appointed as Monitor, when an Initial Order under the Companies' Creditors Arrangement Act (CCAA) was filed on July 20, 2023.

Based on information in the list of creditors filed for Terra Nova Old Port Foods Inc., we are proposing to make a (re)assessment as shown below.

Adjustments have been made to the proposed amount since our telephone call on September 22, 2023.

Under section 165 of the Excise Tax Act, every recipient of a taxable supply made in Canada is required to pay the GST/HST charged for that supply. The registrant has not paid the GST/HST owed to their suppliers, based on the list of creditors that was filed. Under paragraph 296(1)(b) of the Act, we are proposing to increase the registrant's tax payable by the amount of GST/HST owed on taxable supplies that they received where the tax was not paid to their suppliers.

Period ending	Description	Proposed change
2023-07-20	Increase to tax payable under 296(1)(b)	\$ 105,022.13

The proposed amount of \$105,022.13 is based on calculations we made in the enclosed Schedule A – Calculation of GST/HST Included in Unpaid Amounts. Our calculations are based on the list of creditors dated July 3, 2023, which was the most recent list available to us.

PROTECTED B

If you have any questions or concerns during the audit, please call me at 587-338-9081. My team leader, Lori-Ann Thomson, can be reached at 587-335-3420 if I am not available.

Sincerely,

M. Ward

Maegan Ward
GST/HST Audit Division
Alberta Tax Services Office

Telephone: 587-338-9081
Facsimile: 418-566-2853
Address: Suite 10 9700 Jasper Avenue
Edmonton AB T5J 4C8
Website: canada.ca/taxes

Enclosures

c.c.: Joan Myles
Terra Nova Old Port Foods Inc.
PO Box 1418 Station C
St. John's NL A1C 5N8

I agree to the proposed change and waive the 30-day proposal period.

(Signature of Authorized Officer)

Registrant:	Terra Nova Old Port Foods Inc.	Date:	September 26, 2023
Business Number:	72014 6281 RT0001	COPY	
Audit Period:	July 13, 2023 to July 20, 2023		
Prepared by:	Maegan Ward		

Calculation of proposed audit adjustments for Terra Nova Old Port Foods Inc.:

The registrant's physical and mailing addresses are located in Newfoundland & Labrador. We found no evidence to show that the registrant operated from any other province. Calculations were completed under the assumption that all supplies from unsecured creditors were made in Newfoundland & Labrador and were taxable at 15%. We also assumed that no amounts from the listing were paid and that no amounts were approved by the monitor to be paid at some future date. We made adjustments where unpaid amounts related to supplies that were zero-rated, exempt, or relieved from GST/HST.

Total amount unpaid to suppliers (unsecured creditors only)	1,368,360.61	
Less: Total amount where GST/HST was not charged or owed (A)	563,190.98	
Total amount unpaid to suppliers where GST/HST was charged	805,169.63	
Calculate GST/HST included at 15%	x 15/115	
Total GST/HST included in unpaid amounts		105,022.13

List of creditors where no GST/HST was charged or owed:

Name of supplier	Unpaid amount
Bank of Montreal - Mastercard	1,000.00
Big Erics Inc.	336,504.97
Cal LeGrow Insurance & Financial Group	1.00
Canadian Food Inspection Agency -	1,307.61
National Centre For Accounts Receivable c/o Receiver	-
CRA - Tax - Atlantic	1.00
Due to Shareholders	1.00
Lighthouse Realty Atlantic Inc.	178,401.80
Manulife Financial	8,288.52
Province of NL - HAPSET	1.00
Union Dues	862.00
WorkplaceNL	36,822.08
Total amount where GST/HST was not charged or owed	563,190.98 (A)

COPY

Schedule B – List of Recommended Representations

Subject: Proposed change to the goods and services tax/harmonized sales tax (GST/HST) return for Terra Nova Old Port Foods Inc. for the audit period July 13, 2023 to July 20, 2023

You can include information from this list with your representations. If possible, please send electronic files in spreadsheet format (.xls or .xlsx) or as a text file (.csv) for listings, and in PDF format for all other documents.

1. If you want to claim input tax credits (ITCs) that might be eligible for purchases made up to July 20, 2023, and they were not claimed previously, give a detailed listing that includes this information for each purchase:
 - a. date of transaction
 - b. name of supplier
 - c. description of goods or services purchased
 - d. purchase amount
 - e. amount of GST/HST charged
2. An updated listing of all accounts payable as of July 20, 2023, for Terra Nova Old Port Foods Inc.
3. Copies of original purchase documents for transactions from your listing of accounts payable where GST/HST was not charged, that includes this information for each purchase:
 - a. date of transaction
 - b. name of supplier
 - c. description of goods or services purchased
 - d. purchase amount
 - e. explanation of why GST/HST was not charged
4. Information about payments made after July 20, 2023, that would affect your listing of accounts payable, including proof of payments.
5. Information about accounts that you expect will be paid after July 20, 2023, and the sources of funds for those payments. Please include a schedule of payments to be made at certain intervals that were approved by the Monitor.
6. List of suppliers to be paid that are considered critical for continuing business operations.

Appendix E

SISP Advertisements within Newspapers and Other Publications

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
IN BANKRUPTCY AND INSOLVENCY**

IN THE MATTER OF an application of
Big Erics Inc. and Terra Nova Old Port Foods
Inc.

AND IN THE MATTER OF the *Companies'*
Creditors Arrangement Act R.S.C., 1985 c. C-
36 as amended

**SIXTH REPORT OF GRANT THORNTON LIMITED,
IN ITS CAPACITY AS MONITOR
UNDER THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, C. C-36
OF BIG ERICS INC. AND TERRA NOVA OLD PORT FOODS INC.**

March 18, 2024



**Grant Thornton Limited,
Court-Appointed Monitor**

Suite 300 – 15 International Place
St. John's, NL A1A 0L4

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APPENDICES

Appendix A – Order dated January 25, 2024

Appendix B – SISP Order and SISP Procedures

Confidential Appendix C – Offer from Successful Bidder dated February 27, 2024

Confidential Appendix D – Summary of Revised Offer from Successful Bidder

Appendix E – BEI – Budget to Actual Results from January 1, 2024 to March 1, 2024

INTRODUCTION

1. On July 11, 2023, Big Erics Inc (“**BEI**”) and Terra Nova Old Port Foods Inc. (“**TNOPI**”) (collectively as, the “**Companies**”) made an application to the Supreme Court of Newfoundland and Labrador (the “**Court**”) to convert previously filed Notices of Intention to Make a Proposal (“**NOIs Proceedings**”) to proceedings under the Companies’ Creditors Arrangement Act, R.S.C., 1985, c. C-36, as amended (“**CCAA Proceedings**”). On July 18, 2023, the Court issued an order (the “**Initial Order**”) and Grant Thornton Limited (“**GTL**”) was appointed as Monitor (in such capacity, the “**Monitor**”) for the Companies.
2. Pursuant to the Initial Order, amongst other things, all creditors were stayed from commencing or continuing any proceedings against the Companies until, and including, July 28, 2023 (“**Stay of Proceedings**”), or until such date as the Court may subsequently order. The Stay of Proceedings was further extended by multiple orders, most recently, to March 31, 2024 by an order issued on January 25, 2024 (“**January 2024 Order**”).
3. On October 25, 2023, the Court issued a sales and investment solicitation process order (“**SISP**” and “**SISP Order**”) which directed and empowered Noseworthy Chapman (the “**SISP Advisor**”) to administer a SISP in the CCAA Proceedings.
4. On January 15, 2024, the Court issued an order declaring that the *Wage Earner Protection Program Act (Canada)*, SC 2005, c 47, s 1 (“**WEPP**”), applies to TNOPI in conjunction with the *Wage Earner Protection Program Regulations*. The declaration was a requirement of Service Canada as communicated to the Monitor.
5. On January 25, 2024, the Court issued the January 2024 Order for, amongst other things:
 - (a) Provided an extension of the Stay of Proceedings to March 31, 2024;
 - (b) Provided a Sealing Order of various confidential materials from the Monitor, the Company and the Bank of Montreal (“**BMO**”);
 - (c) Required of BEI to provide to BMO or Imagination Capital Inc. and Myles & Company Inc. (collectively, the “**Mezzanine Lenders**”) monthly internally prepared financial statements within 5 days of preparation and to respond in a timely manner to reasonable information requests;

- (d) Required of the SISP Advisor and the Monitor to host weekly calls with BMO's financial advisor, Ernst & Young Inc. ("**EY**") and the Mezzanine Lenders to provide updates on the SISP, as well as for the SISP Advisor to provide written reports on the SISP, upon request and not less frequently than weekly;
 - (e) Required of the SISP Advisor to provide a report on February 20, 2024 of any Phase 2 binding offers received, the details of the offers and any applicable analysis;
 - (f) Required of BEI to provide to the Monitor, then providing to BMO and the Mezzanine Lenders, weekly accounts receivable and inventory listings, as well as report to the Monitor any purchase orders for amounts greater than \$75,000.00 from the preceding weeks; and
 - (g) Provided for a cap of the TNOPI operating line of credit of \$550,000.00.
6. A copy of the January 2024 Order is attached hereto as **Appendix "A"**.
7. On February 22, 2024, the Monitor issued its fifth report of the Monitor (the "**Fifth Report**"). The Fifth Report provided an update of the SISP and the conclusion of the CRA trust examinations. A hearing originally scheduled with the Court on February 23, 2024 was heard on February 28, 2024. The update on the SISP and materials filed by BMO were sealed by order of the Court. No further orders of the Court were issued.
8. This sixth report of the Monitor (the "**Sixth Report**"), as well as the previous reports of the Monitor and all other relevant information in respect of these CCAA Proceedings and the previous NOIs Proceedings has been made available to stakeholders on the Monitor's case website at www.GrantThornton.ca/BigEricks. Readers are encouraged to read the following reports of the Proposed Monitor and of the Monitor, the materials filed with the Court in relation to the applications and the orders of the Court, to provide additional information on these CCAA proceedings:

Reports to the Court

- (a) Pre-Filing Report of GTL in its capacity as Proposed Monitor dated July 17, 2023;
- (b) First Report of GTL in its capacity as Monitor dated July 25, 2023;
- (c) Second Report of GTL in its capacity as Monitor dated September 20, 2023;
- (d) Third Report of GTL in its capacity as Monitor dated December 15, 2023;

- (e) Fourth Report of GTL in its capacity as Monitor dated January 19, 2023; and
- (f) Fifth Report of GTL in its capacity as Monitor dated February 22, 2024.

Court Orders

- (a) CCAA Initial Order dated July 18, 2023;
- (b) ARIO dated July 28, 2023;
- (c) ARIO dated August 25, 2023;
- (d) ARIO dated September 22, 2023;
- (e) SISP Order dated October 25, 2023;
- (f) Consent Order dated December 18, 2023;
- (g) Consent Order dated January 11, 2024;
- (h) WEPP Order dated January 15, 2024; and
- (i) January 2024 Order dated January 25, 2024.

PURPOSE OF THE SIXTH REPORT

9. The purpose of the Sixth Report is to inform the Court of the following:
- (a) An update on the activities of the Monitor and the Companies since January 19, 2024, the date of the fourth report (the **"Fourth Report"**);
 - (b) An update on BEI's budget to actual results from January 1, 2024 to March 1, 2024;
 - (c) An update on the WEPP process undertaken by the Monitor pursuant to the WEPP Order;
 - (d) Request approval from the Court of the Monitor's activities, and that of its legal counsel, up to the date of the Sixth Report;
 - (e) Monitor's recommendation on the Company's request for an extension to the stay of proceedings until May 15, 2024;
 - (f) Monitor's recommendation on the Company's request to approve the Successful Bid based on the Modified Offer and draft Agreement of Purchase and Sale; and
 - (g) Request a sealing order of Confidential Appendix "C" and Confidential Appendix "D".

TERMS OF REFERENCE

10. In preparing this Sixth Report, the Monitor has relied upon unaudited internal financial statements, certain other financial information and financial projections of the Companies, discussions with management of the Companies (“**Management**”) and its legal advisors, and discussions with the SISP Advisor (collectively, the “**Information**”). While the Monitor has reviewed the Information for reasonableness and believes that the information provides a fair summary of the transactions and underlying financial position as reflected in the documents of the Companies, the Monitor has not audited, reviewed, or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Canadian Generally Accepted Auditing Standards.
11. Some of the Information used in preparing this Sixth Report consists of forward-looking information, including the Revised Cash Flow Projections, defined herein. The Monitor cautions that such information is based on assumptions about future events and conditions that are not yet ascertainable. The actual results with respect to the forward-looking information and the variations thereof could be significant.
12. In the course of its mandate, the Monitor has assumed the integrity and truthfulness of the Information and explanations presented to it by Management, within the context in which the Information was presented. To date, nothing has come to the Monitor’s attention that would cause it to question the reasonableness of these assumptions. The Monitor has requested that Management bring to its attention any significant matters which were not addressed in the course of the Monitor’s specific inquiries. Accordingly, this Sixth Report is based solely on the Information (financial or otherwise) made available to the Monitor by the Companies and Management.
13. The Sixth Report has been prepared for the use of this Honourable Court and the Companies’ stakeholders as general information relating to the Companies and these CCAA Proceedings, and to assist the Court in determining whether to grant any relief sought by the Companies or grant BMO’s application for a Court Appointed Receiver. Accordingly, the reader is cautioned that this Sixth Report may not be appropriate for any other purpose. The Monitor does not assume responsibility or liability for losses incurred by the reader as a result of the circulation, publication, reproduction or use of this Sixth Report contrary to the provisions of this paragraph.

14. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars. Capitalized terms not otherwise defined herein have the meaning given to them in the Initial Order and subsequent orders granted by the Court.

ACTIVITIES OF THE MONITOR

15. Since the date of the Fourth Report, the Monitor has, among other things:
- (a) Continued to assist the Companies with their communications of these CCAA Proceedings to creditors and other stakeholders;
 - (b) Provided advice to the Companies and SISP Advisor on SISP related matters;
 - (c) Reviewed the results of Phase 2 of the SISP, and providing comments and advice to the Companies and SISP Advisor;
 - (d) Corresponded with BMO and the mezzanine lenders, including providing various requested documents and information to evaluate their position on the results of Phase 2 Bid Deadline, and subsequent offers;
 - (e) Chaired weekly calls with the SISP Advisor for the purpose of providing updates pertaining to the SISP to EY and the Mezzanine Lenders to the Phase 2 SISP Bid Deadline of February 16, 2024;
 - (f) Corresponded with the Companies and SISP Advisor regarding of the selection of the Successful Bidder by February 28, 2024, per the terms of the SISP Order;
 - (g) Continued to provide to the Companies and SISP Advisor with support in efforts to advance the SISP towards the signing of Definitive Documentation, as required per the terms of the SISP Order;
 - (h) Communicated with the Companies' legal counsel, SISP Advisor, BMO, BMO's legal counsel, EY and Monitors legal counsel;
 - (i) Monitored the operations of the Companies, including, but not limited to, reviewing sales targets and cash flow reporting, reviewing, and following up with Company on questions when posed by stakeholders;
 - (j) Continued to assist the Companies and hold conversations with employees, creditors, and suppliers;

- (k) Responded to creditor queries and communications in a timely fashion;
- (l) Provided advice to Management on restructuring options and issues during the proceedings;
- (m) Facilitated and continue to undergo the WEPP process, per the WEPP Order, for the former employees of TNOPFI;
- (n) Attended various court hearings:
 - i. January 23, 2024 – BEI Injunction Hearing
 - ii. January 25 and 26, 2024 – Applications by the Companies and BMO; and
 - iii. February 28, 2024 – Update to the Court on status of SISP;
- (o) Attended various meetings with the Companies and their legal advisors on the Companies restructuring and these CCAA Proceedings;
- (p) Continued to maintain the Monitor's case website; and
- (q) Prepared the Fifth and Sixth Report.

ACTIVITIES OF THE COMPANIES

16. Since the date of the Fourth Report, the Monitor understands that the Companies have, among other things:
- (a) Continued to maintain the operations of BEI;
 - (b) Continued to engage with the employees of BEI to garner alignment to the restructuring process;
 - (c) Continued to engage with suppliers to maintain support for the restructuring process including negotiating revised credit terms (where applicable), and communicated on the stay of proceedings and its impact on pre-filing balances owing;
 - (d) Continued to engage with customers, bid on projects, and win new sales to support the business during the restructuring process, including negotiating revised deposit terms (where applicable) and communicated on the effects of the stay of proceedings;
 - (e) Continued discussions with all Phase 2 participants, leading up to the Phase 2 Bid Deadline on February 16, 2024;

- (f) In consultation with the SISP Advisor and Monitor, selected a Successful Bidder on February 27, 2027;
- (g) Worked collaboratively with the Successful Bidder towards Definitive Agreements;
- (h) Assisted the facilitation of discussions between the Successful Bidder and stakeholders, including BMO;
- (i) Worked collaboratively with the Successful Bidder on preparing an improved offer;
- (j) Is working collaboratively with the SISP Advisor and the Successful Bidder in an effort to finalize the Definitive Documentation with the Successful Bidder, per the terms of the SISP Order;
- (k) Provided various documents and responses to information requests to the Monitor, passed onto BMO and the Mezzanine Lenders in a timely manner in accordance with the January 2024 Order;
- (l) Responded to the Monitor's queries in a timely manner; and
- (m) Provided the Monitor with regular cash flow reporting and related financial reports as required by the Monitor.

LITIGATION

- 17. The Monitor has been made aware of a possible claim from a former employee of BEI pursuant to which either wages or termination pay may be owed. The claim has not been filed as there is no WEPP order for BEI. The Monitor has not reviewed the status of this potential claim, or determined if any priority exists. The status of this litigation has not changed since the Fourth Report.
- 18. The Monitor has also been made aware of ongoing litigation between BEI and Vision 33. The litigation includes a claim and counterclaim. The Monitor has not reviewed the status of this proceeding, or the claim, or determined if any priority exists. The status of this litigation has not changed since the Fourth Report.
- 19. On October 30, 2023, BEI filed an application pursuant to Rule 22.01 and 22.02 for an interlocutory injunction against certain parties alleging a breach of the ARIO and certain confidentiality and non-compete provisions of employment agreements. The application

was filed against 2 former employees, and 2 competitors. After multiple hearings on the matter, the Monitor understands that the current situation is as follows:

- (a) The two employees who were hired by competitors have been terminated by those competitors;
- (b) That all parties have agreed to a consent injunction, which remains in place; and
- (c) The matter has been discontinued with no costs (injunction remain in place).

TNOPI – WAGE EARNER PROTECTION PROGRAM ACT

- 20. On January 15, 2024, the Court issued the WEPP Order as requested by TNOPI. The Monitor was advised by Service Canada that this updated declaration was required for TNOPI to receive approval for the terminated employees of TNOPI to file WEPP claims, should the former employees be eligible for WEPP per Service Canada's criteria for eligible claimants ("**WEPP Eligible Employees**").
- 21. On January 15, 2024, the Monitor forwarded the WEPP Order to Service Canada to request its approval for the WEPP Eligible Employees of TNOPI to file WEPP claims, with facilitation to be completed by the Monitor. On January 30, 2024, the Monitor received said approval from Service Canada.
- 22. The Monitor has facilitated the WEPP process, including providing the Monitor's calculation to each employee of their claim following the review of TNOPI's employment records. The Monitor notified all WEPP Eligible Employees of the WEPP process and the Monitor's calculation of their claim on February 21, 2024. WEPP Eligible Employees continue to submit proof of claims and application forms to the Monitor and Service Canada.
- 23. The Monitor provided to all WEPP Eligible Employees an opportunity to provide additional information to the Monitor, should they disagree with the Monitor's calculation. The Monitor has encouraged all WEPP Eligible Employees to file a proof of claim with the Monitor and an application form with Service Canada to participate in WEPP.
- 24. One employee was determined to not be eligible for the WEPP program.
- 25. The Monitor estimates that the super-priority WEPP claim to be approximately \$20,075. This amount is subject to change upon review of the claims by Service Canada.

CREDITOR UPDATE

26. In its Fourth Report, the Monitor reported that 3 disputes between BMO and BEI/TNOPFI were ongoing. As of the date of this Sixth Report, and by issuance of the January 2024 Order, the Monitor understands that these issues have been resolved.
27. CRA has advised the Monitor that it will not be advancing any deemed trust claim which, if filed, would have a super priority in these proceeds. Any amount owing to CRA would then been unsecured in this proceeding.
28. The Mezzanine Lenders have advised they are of the view there may be a priorities issue as between BMO and the Mezzanine Lenders. The Monitor is unaware of the specifics of the allegation, and no independent security opinion has been obtained on either BMO's, or the Mezzanine Lender's, security.
29. Until proven otherwise, the Monitor is of the view BMO is likely to be the sole creditor, after the payment of priority charges, to receive a distribution in the proceeding.

SALES AND INVESTMENT SOLICITATION PROCESS

Background

30. On October, 25, 2023, the Court granted the SISP Order which empowered BEI and its SISP Advisor to administer a SISP in these CCAA Proceedings. The SISP Order, inclusive of the SISP procedures, are attached hereto as **Appendix "B"**.

Marketing Overview

31. Within the third report of the Monitor (the "**Third Report**"), the Monitor provided an update to the Court and all stakeholders on the SISP activities up to December 15, 2023 as follows, consisting of the marketing of efforts of BEI and the SISP Advisor:
 - (a) The Monitor confirmed with the SISP Advisor that a virtual data room was made available by October 25, 2023 to any parties who has fully executed a non-disclosure agreement ("**NDA**") and were deemed, by BEI in consultation with the SISP Advisor, to be an appropriate party that would have the capacity to submit a non-binding letter of intent ("**LOI**") by the Phase 1 bid deadline;

- (b) The Monitor confirmed with the SISP Advisor that BEI, in consultation with the Monitor and SISP Advisor, prepared a Solicitation Letter to advertise the opportunity to potentially interested parties;
- (c) On October 25, 2023, the Monitor made available on its case website the Solicitation Letter, SISP Order, the NDA and contact information for the SISP Advisor;
- (d) The Monitor confirmed with the SISP Advisor that BEI, in consultation with the SISP Advisor, published the following advertisements and press releases pursuant to the SISP procedures:
 - i. Advertisement published in the Globe and Mail on November 1, 2023;
 - ii. Advertisement published in the National Post on November 18, 2023;
 - iii. Advertisement published in the Telegram (St. John's) on November 23, 2023; and
 - iv. Press releases published on Canada Newswire on October 26, 2023.
- (e) The Monitor confirmed with the SISP Advisor that a total of 319 potentially interested parties were contacted by the SISP Advisor during Phase 1:

Date	Description	Total Recipients	Successful Deliveries	Emails Opened	Clicks on SISP Letter
October 25, 2023	Initial contact email to potentially interested parties	299	286	162	122
October 31, 2023	Resent to recipients that did not open initial contact email	117	116	29	1
October 31, 2023	New contacts identified from market research	30	28	11	2
November 6, 2023	Resent to any recipients that did not open previous emails	154	143	43	3
November 22, 2023	Resent to all contacts identified	319	312		

- (f) BEI had extended the Phase 1 Bid Deadline to December 22, 2023.
32. Attached to the Third Report was the following appendices relating to the SISP:
- (a) Appendix C – Solicitation Letter;
 - (b) Appendix D – Advertisement published in the Globe and Mail on November 1, 2023;
 - (c) Appendix E – Advertisement published in the National Post on November 18, 2023;
 - (d) Appendix F – Advertisement published in the Telegram (St. John's) on November 23, 2023; and
 - (e) Appendix G – Press releases published on Canada Newswire on October 26, 2023;

SISP Phases and Successful Bidder

33. Within the Fourth Report, the Monitor provided a subsequent update on the SISP up to January 19, 2024 to the Court and all stakeholders as follows:
- (a) The Monitor confirmed with the SISP Advisor that on January 3, 2024 confirmation was provided to the Successful Phase 1 Bidders of their acceptance to Phase 2;
34. Within the Fifth Report, the Monitor provided a subsequent update on the SISP up to February 22, 2024 to the Court and all stakeholders as follows:
- (a) The Monitor confirmed with BEI that it was reviewing any Phase 2 Bid received, in conjunction with the SISP Advisor, the Monitor, BMO and the Mezzanine Lenders.
35. The Monitor encourages all stakeholders to review previous reports, inclusive of the Third Report and Fourth Report and Fifth Report, for additional context regarding the SISP. The Monitor has also provided various confidential appendices to the Court within these reports containing the results of Phase 1 and Phase 2. The confidential appendices remain sealed as per various orders issued by the Court.

Update

36. Since the date of the Fifth Report, February 27, 2024, the BEI accepted a Phase 2 bid and notified that party that it had become the Successful Bidder. A copy of the communication to the Successful Bidder and the Phase 2 bid is attached hereto as **Confidential Appendix “C”**.
37. The bid from the Successful Bidder was shared with BMO and the Mezzanine Lenders. BMO provided its feedback to BEI. Negotiations continued between BEI and the Successful Bidder. In addition, the Successful Bidder entered into negotiations with BMO.
38. BMO and the Successful Bidder were unable to come to an agreement on the terms of the Successful Bid. Negotiations ceased and both BMO and the Successful Bidder advised the SISP Advisor and Monitor of the cessation of negotiations.
39. Subsequent to the failed negotiations, on March 8, 2024 the Successful Bidder submitted an improved offer to BEI (“**Modified Offer**”). BEI accepted the improved offer on March 9, 2024. A copy of the of the Modified Offer and its acceptance is attached hereto as **Confidential Appendix “D”**.

40. The SISP Advisor provided the Modified Offer to BMO and the Mezzanine Lenders on March 10, 2024.
41. The Monitor understands that BMO has reviewed and has indicated it does not support the Modified Offer.
42. The Monitor understands that BEI and the Successful Bidder are continuing to negotiate on the Modified Offer and those negotiations are ongoing with an objective to get Definitive Agreements by the March 25, 2024 deadline provided by the SISP.
43. Those negotiations have resulted in a working version of a draft asset purchase agreement, a copy of which is attached hereto in the **Confidential Appendix “D”**.
44. BMO and the Mezzanine Lenders were provided this working version of the draft asset purchase agreement the evening of March 17, 2024. To the date of the Sixth Report no feedback on the draft asset purchase agreement.
45. The Monitor's views on the draft asset purchase agreement are included in the **Confidential Appendix “D”**.
46. The Monitor is of the view that the details of the Modified Offer are commercially sensitive and, if released prior to the closing of any transactions or conclusion of these CCAA proceedings, would be detrimental to the SISP for all stakeholders.
47. The Monitor respectfully recommends that this Court provide a sealing order of **Confidential Appendix “C”** and **Confidential Appendix “D”** to the later of either the closing of any transaction, or the conclusion of these CCAA proceedings.
48. BEI has complied with the SISP Order to date. The next milestones outlined in the SISP Order are:
 - (a) Definitive Agreements are to be finalized by March 25, 2024; and
 - (b) Application to approve a sale to be filed with the Court by April 1, 2024.
49. Negotiations on Definitive Agreements are ongoing.

Monitor's View on the SISP

50. The Monitor is of the view that the SISP was fair, reasonable, transparent and provided sufficient time for interested parties to participate and conduct required due diligence.

Further, the Monitor is also of the view that SISP was widely marketed, canvassing parties across North America and included parties within BEI's respective industry.

51. The Monitor is of the view that the Successful Bidder's offer was the best offer in the SISP.
52. The Monitor's comments on the Modified Offer and draft asset purchase agreement are included in the **Confidential Appendix "D"**.
53. The Modified Offer and draft asset purchase agreement has the following impact on the creditors of BEI:
 - (a) Is sufficient to pay out the WEPP priority claim (note these is no deemed trust claim coming from the CRA);
 - (b) Provides for a partial payment of the BMO claim;
 - (c) Provides for no recovery to the Mezzanine Lenders; and
 - (d) Provides no recovery to unsecured creditors.
54. The Monitor has been advised by BMO that it is not supportive of the Modified Offer. The support of the senior secured creditor is a significant factor that a court will consider when seeking to approve a transaction.
55. The Monitor is unaware of any stakeholder position on the draft asset purchase agreement.
56. Given BMO did not support the Modified Offer, BMO has made an application to appoint EY as a court appointed receiver.
57. The Monitor is not supportive of the approval of a transaction that is not supported by Definitive Agreements. The SISP Order contemplated the completion of Definitive Agreements which would be followed by an application to approve the Definitive Agreements.

BEI - CASH FLOW AND FINANCIAL ANALYSIS

58. BEI has prepared a budget to actual cash flow report from January 1, 2024 to March 1, 2024, attached hereto as **Appendix "E"**.
59. The Monitor's understanding of the key variances in the BEI actual receipts and disbursements as compared to budget are as follows:

- (a) Gross Sales: Behind forecast with an unfavourable variance of \$959,781. Management has stated that this is due to the loss of sales staff in New Brunswick and Newfoundland and Labrador, reputational damage from multiple court applications, and negative impact related to the duration of the CCAA proceedings.
- (b) Total Cash Receipts: Favourable variance of \$448,141 mostly due to increased collections from customers, primarily contract clients.
- (c) Total Operational Disbursements: Net favourable variance of \$247,793 mostly due to the following:
- i. Cost of Sales (Cost of Inventory Purchases) are lower than budget by \$297,160 due to lower customer sales in January and February 2024. The purchasing of inventory has slowed to match the lower-than-expected sales;
 - ii. Rent and Municipal Taxes are higher than budget by \$45,756 due to the cash flow forecast not accounting for certain amounts of the St. John's location rent, and a rental increase per the lease agreement for 2024 in each of St. John's and Halifax;
 - iii. Warehouse Expenditures are over budget by \$26,393 due to timing of payments to couriers for prepaid freight/higher than expected freight costs;
 - iv. Selling Expenses are under budget \$17,008 due to lower than forecasted sales and timing;
 - v. HST is under budget by \$43,142 due to variations in the actual cash flow results to forecast; and
 - vi. Administrative and Miscellaneous expenses are over budget \$17,879 due to timing of credit card payments for various administrative expenses.
- (d) Professional Fees: Net unfavourable variance of \$237,405 primarily due to the following:
- i. Company counsel fees are over budget \$153,405 due to the multiplicity of hearings and the injunction matters;
 - ii. Monitor and Monitor's counsel fees are over budget \$56,630 due to the multiplicity of court hearings; and

- iii. SISP Advisor fees are over budget \$27,370 due to increased fees pertaining to the later stages of the SISP, including consistent correspondence with BEI, the Monitor, BMO, Mezzanine Lenders and the Successful Bidder.

60. The following is a summary of BEI's accounts receivable balances, net of customer deposits received on order, as of Week 35 compared to Week 28:

Accounts Receivable Summary						
	January 12, 2024 Week 28		March 1, 2024 Week 35		Variance	
	Balance	Percentage	Balance	Percentage		
Current	747,699	32%	1,114,030	62%	366,331	-30%
30 Days	758,180	33%	376,883	21%	(381,297)	12%
60 Days	264,419	12%	67,742	4%	(196,677)	8%
90 Days	242,868	11%	157,436	9%	(85,432)	2%
120 Days	169,919	8%	96,202	5%	(73,717)	3%
150 Days	80,380	4%	(12,219)	-1%	(92,599)	5%
Futures	-	0%	-	0%	-	0%
Total	2,263,465		1,800,074		(463,391)	

61. The following is a summary of BEI's accounts payable balances as of Week 35 compared to Week 28:

Accounts Payable Summary						
	January 12, 2024 Week 28		March 1, 2024 Week 35		Variance	
	Balance	Percentage	Balance	Percentage		
Current	483,269	16%	260,498	9%	222,771	8%
30 Days	91,717	3%	160,295	6%	(68,578)	-3%
60 Days	11,646	0%	27,263	1%	(15,617)	-1%
90 Days	1,526	0%	9,466	0%	(7,940)	0%
120 Days	2,366,323	80%	2,372,542	84%	(6,219)	-4%
150 Days	-	0%	-	0%	-	0%
Futures	-	0%	-	0%	-	0%
Total	2,954,481		2,830,064		124,417	

62. The following is a summary of BEI's inventory balances (inventory on hand) as of Week 35 compared to the balances as of Week 28:

Select Weekly Inventory Summary			
	January 12, 2024 Week 28	March 1, 2024 Week 35	Variance
Opening Inventory at Start of Week	3,886,911	3,565,497	(321,414)
Purchases	243,769	991,385	747,616
Cost of Sales	(438,090)	(938,647)	(500,557)
Consignment	(88,986)	(128,248)	(39,262)
Ending Inventory	3,603,604	3,489,987	(113,617)

63. BEI has Other Accounts Receivable as follows:

	Jul 2023	Aug 2023	Sep 2023	Oct 2023	Nov 2023	Dec 2023
113030 - AR MISC	6,017	6,017	5,990	6,064	8,636	6,115
113040 - AR SUPPLIER CLAIMS	-	-	-	-	-	-
113045 - BDF/COOP CLAIMS	- 335	- 3,607	-	-	-	-
113050 - ADVANCES GENERAL AP	-	-	-	-	-	-
113060 - AR REBATES - SUPPLIERS	12,705	11,436	11,436	11,357	11,373	8,373
113070 - AR REBATES - MISC	-	-	-	-	-	-
113080 - AR REBATES - ESI/NBMC	105,911	162,381	205,054	187,872	225,439	213,077
113090 - AR DEVIATED COST	87,503	97,917	103,250	119,398	115,534	116,726
113100 - AR FOREIGN EXCHANGE VARIANCE	- 292	- 397	- 452	- 445	- 474	- 307
Other Receivables	211,510	273,747	325,278	324,245	360,507	343,985

64. BEI has goods in transit as of February 16, 2024 of \$786,216. This inventory is in addition to the inventory included in the subledger. The inventory in the subledger is the inventory on hand at the Halifax and St. John's warehouses. Goods in transit is inventory that has been ordered and paid for and is in the process of being shipped to BEI or shipped direct to a BEI customer.

65. The Monitor notes the following concerns regarding the budget to actual results of BEI through January 1, 2024 to March 1, 2024, discussed above:

- (a) BEI sales continue to be significantly behind forecast, noted above to be \$959,781. Management has stated that one of the reasons for this variance is reputational damage from multiple court applications and duration of the CCAA proceedings.
- (b) As BEI has been unable to achieve its sales targets, it has relied on generating positive cash flow from efficient collections on its accounts receivable. The reduced sales has resulted in a reduction in the balance of the trade accounts receivable and will have a

negative impact on cash receipts in the future. The Monitor notes that the accounts receivable balance has been reported by the Monitor in its previous reports as follows:

Accounts Receivable as Noted in Previous Reports		
	Week	Balance
Second Report	Week 2	2,255,350
Second Report	Week 10	2,360,382
Third Report	Week 22	2,559,319
Fourth Report	Week 24	2,419,642
Sixth Report	Week 28	2,263,465
Sixth Report	Week 35	1,800,074

- (c) The Monitor notes that the accounts receivable balance has remained generally consistent throughout the CCAA proceedings, being between \$2.2M to \$2.6M. The drop of \$463,391 from Weeks 28 to 35 is significant.
- (d) The closing liquidity availability on BEI's operating line is noted as being \$781,304 ahead of budget. This is primarily due to the following:
- i. Positive cash flow variances from previous budgets; and
 - ii. BEI's net cash flow during Weeks 27 to 35 was \$458,529 ahead of budget due to collections on its accounts receivable. Total Disbursements through the same period remained materially on budget – operational disbursement with a favourable variance and professional fees significantly over budget.
- (e) Unless BEI can improve its sales going forward, the security position of the creditors will start to erode.

TNOPI

66. The administration of TNOPI is virtually complete. The required WEPP submissions to Service Canada and the employees are complete. CRA has advised it will not be submitting a deemed trust claim, as such all amounts owing to CRA, if any, are unsecured. All employees have been terminated and assets liquidated to the extent possible (residual accounts receivable has not been paid and is unlikely to be collected/could be sent to collection).

67. It is the Monitor's understanding that the only remaining task is to file final tax returns with CRA and collecting any HST refunds outstanding.
68. The Monitor understand that BMO wishes to lift the stay of proceedings as against TNOPFI and appoint a court appointed receiver to complete the administration of the estate, and to potentially challenge certain pre-filing transactions outlined in the Monitor's Second Report.
69. The Monitor is unaware of any reason why the stay should remain in place for TNOPFI.

STAY OF PROCEEDINGS

70. The stay of proceedings expires March 31, 2024.
71. The Companies are seeking to extend the stay of proceedings by 45 days to May 15, 2024.
72. The SISP Order set a deadline for definitive agreements to be finalized by March 25, 2024 and application to approve any transaction to be filed with the Court by April 1, 2024.
73. The Monitor understands that BEI has been delayed in finalizing Definitive Agreements by approximately 2 weeks because of responding to the BMO receivership application and negotiations with the Successful Bidder.
74. The Monitor would be supportive of and extension to the stay of proceedings to April 12, 2024 being:
 - (a) 2 additional weeks to finalize the Definitive Agreements; and
 - (b) 1 week to with a deadline to file an application to approve a transaction, if any, by April 12, 2024.
75. To the date of this report BEI has provided a draft cashflow statement which it intends to complete in advance of the hearing. The Monitor will comment on the cashflow statement in a supplemental filing.

NO MATERIAL ADVERSE CHANGE

76. As of the date of the filing of this report, the Monitor is not aware of any issue or condition that could be considered a Material Adverse Change pursuant to s.23(1)(d).

77. The Monitor continues to be of the opinion that s.23(1)(h) does NOT apply and it would be more beneficial to the Companies' creditors to continue with the CCAA Proceedings.

GOOD FAITH AND DUE DILIGENCE

78. The Monitor continues to believe the Companies and stakeholders are acting in good faith and with due diligence.

RECOMMENDATION

79. For the reasons set out in this Sixth Report, the Monitor respectfully recommends that this Honorable Court:
- (a) Approve the actions, conduct and activities of the Monitor and its legal counsel to the date of this Sixth Report;
 - (b) Extend the Stay of Proceedings to April 12, 2024 to allow for the completion of Definitive Agreements; and
 - (c) Seal Confidential Appendix "C" and Confidential Appendix "D" of the Sixth Report.
80. For the reasons set out in this Sixth Report, the Monitor respectfully recommends that this Honorable Court not approve a transaction that is not supported by Definitive Agreements.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 18th day of March 2024.

**GRANT THORNTON LIMITED,
SOLELY IN ITS CAPACITY AS MONITOR OF
BIG ERICS INC. AND TERRA NOVA OLD PORT FOODS INC.
AND NOT IN ITS CORPORATE OR PERSONAL CAPACITY**



Phil Clarke, CPA, CA, CIRP, LIT
Senior Vice President

Sixth Report to the Court submitted by Grant Thornton Limited
In its capacity as Court-Appointed Monitor of BEI and TNOPFI
March 18, 2024

Appendix A

Order dated January 25, 2024

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.)

ORDER

WHEREAS the BEI and TNOPFI (collectively, the "**Companies**") were granted creditor protection pursuant to an Order issued under s.11 of the CCAA on 28 July 2023 (the "**ARIO**");

AND WHEREAS by an Order made on October 25, 2023, this Court approved the sales and investment solicitation process ("**SISP**") and appointed Noseworthy Chapman the SISP Advisor;

AND WHEREAS by an Order made on December 18, 2023, this Honourable Court extended the stay of proceedings in the within matter to January 24, 2024;

AND WHEREAS the Companies have applied to extend the stay of proceedings (the "**Application**");

ON READING the Affidavits on file herein and the Exhibits thereto, the Fourth Report of Grant Thornton Ltd. in its capacity as court-appointed monitor (the "**Monitor**") dated January 19, 2024,


Filed  25, 24

and on hearing the submissions of counsel for the Companies, the Monitor, and the Bank of Montreal ("BMO") and such other counsel that were present.

IT IS THIS DAY ORDERED THAT:

SERVICE

1. The time for service of the Application and the materials filed, is hereby abridged, and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

SEALING ORDER

2. The following documents shall be sealed, kept confidential and not form part of the public record, but rather be placed, separate and apart from all other contents of the Court file, in a sealed envelope and other than the parties to these proceedings and those persons on the Service List, shall not be accessed by any person or any members of the general public that might attend at the Registry of the Supreme Court:

- (a) Confidential Appendix "C" to the Monitor's Fourth Report, dated January 19, 2024;
- (b) Affidavit of Martine Langlois sworn January 17, 2024;
- (c) The affidavit of Nicole Myles Brook dated 15 December 2023, Confidential Exhibits "A" "B" and "C".

STAY OF PROCEEDINGS

3. The Stay Period, as defined in paragraph 16 of the Amended and Restated Initial Order dated August 25, 2023 (the "ARIO"), is hereby further extended up to and including 31st day of March 2024.



FINANCIAL REPORTING

4. BEI shall forthwith provide to the Bank of Montreal ("**BMO**") the internally prepared monthly financial statements of BEI within five (5) business days of preparation.
5. BEI shall respond in a timely manner to any reasonable requests of the Monitor for information, including requests on behalf of BMO or Imagination Capital Inc. and Myles & Company Inc. (collectively the "**Mezzanine Lenders**").

SISP

6. As of the date of this Order, and for the duration of the SISP process, the SISP Advisor and the Monitor shall hold a weekly conference call with Ernst & Young Inc., as the financial advisor to BMO, and a representative of the Mezzanine Lenders on Monday of each week, on the status and progress of the SISP. The SISP Advisor will prepare a written report on the status and progress of the SISP (no more frequently than on a weekly basis) if requested by any of the said parties.
7. On February 20, 2024, the SISP Advisor shall provide an update and report to BMO, the Monitor, the Mezzanine Lenders, and other secured creditors of the Companies with respect to whether any definitive binding offers have been submitted by February 16, 2024, together with a copy of any such offers and analysis thereof.
8. Notwithstanding anything contained in the SISP Procedures, and in particular Section 37 respecting material amendments to the SISP, no amendment to any of the dates for the Phase 2 Bid Deadline (by no later than February 16, 2024), the Selection of Successful Bidder (by no later than February 28, 2024), the Definitive Documentation (by no later than March 25, 2024), or the Approval Motion-Successful Bid (by no later than April 1, 2024) shall be made without the prior written approval of the Monitor, following consultation with BMO and the Mezzanine Lenders, or



further order of this Court.

9. A hearing before this Court will be held at 2:30pm on February 23, 2024, for the SISP Advisor and the Monitor to report on the status of the SISP and for any party to raise any issues with respect to the process.

BEI INVENTORY AND ACCOUNTS RECEIVABLE

10. During the remainder of the SISP process and prior to any sale of the assets of BEI thereunder, BEI shall provide weekly A/R and Inventory files to the Monitor for transmittal to BMO and the Mezzanine Lenders; and Within two (2) business days of each week's end, the Company will provide a report to the Monitor outlining all purchase orders for amounts greater than \$75,000.00 before applicable tax, from the preceding weeks orders.

TNOPFI

11. The operating line of credit extended by BMO to TNOPFI is hereby capped at \$550,000.00.

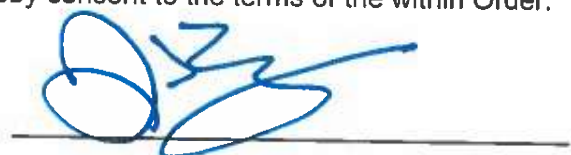
DATED AT St. John's, in the Province of Newfoundland and Labrador, and effective this 25 day of January 2024.



I, Geoffrey Spencer, solicitor for BMO, hereby consent to the terms of the within Order.


GEOFFREY SPENCER

I, Darren O'Keefe, solicitor for the Companies, hereby consent to the terms of the within Order.





DARREN O'KEEFE

A handwritten signature in black ink, appearing to be 'D O'Keefe', located at the bottom right of the page.

Appendix B

SISP Order and SISP Procedures

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") and 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;

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.

ERQ

**COURT
OFFICER**

Q

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 BEI's 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.

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.

2

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. Closing - 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 1", 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

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.

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

- 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;
 - (j) 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

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

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 nor 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 1 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 1, the process to identify and designate Phase 2 Qualified Bidders and the terms upon which Phase 2

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;

- (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 (B) 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.

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 with the SISP Advisor

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 any 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.

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

- 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 1 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.

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.

"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.

04

SCHEDULE "A" TO THE BEI SISP PROCEDURES

CONFIDENTIAL & COMMERCIALY 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 A1C 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

CONFIDENTIAL & COMMERCIALY SENSITIVE

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.

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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@bigeries.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.

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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]

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

BIG ERICS INC.

By:

Name: Nicole Myles Brook
Title: President

XXXX

By:

Name:XXXX
Title: XXXX

Sixth Report to the Court submitted by Grant Thornton Limited
In its capacity as Court-Appointed Monitor of BEI and TNOPFI
March 18, 2024

Confidential Appendix C

Offer from Successful Bidder dated February 27, 2024

[Confidential]

Confidential Appendix D

Summary of Revised Offer from Successful Bidder

[Confidential]

Appendix E

BEI – Budget to Actual Results from January 1, 2024 to March 1, 2024

Big Erics Inc. - Cash Flow				
	January 1, 2024 to March 1, 2024			
	Weeks 27-35			Weeks 1-35
	Budget	Actual	Variance	Actual
Gross Sales	4,008,565	3,048,784	(959,781)	14,515,803
<i>Cash Receipts</i>				
Collection of Accounts Receivable	3,892,923	4,341,064	448,141	17,982,237
Miscellaneous	-	-	-	96
Total Cash Receipts	3,892,923	4,341,064	448,141	17,982,333
<i>Operational Disbursements</i>				
Cost of Sales	(2,986,749)	(2,689,589)	297,160	(11,672,258)
Rent & Municipal Taxes	(130,932)	(176,688)	(45,756)	(616,490)
Utilities	(30,000)	(30,019)	(19)	(74,926)
Insurance	(10,800)	(15,065)	(4,265)	(65,390)
Payroll	(550,689)	(561,401)	(10,712)	(2,496,295)
Key Employee Retention Payments	-	-	-	(32,300)
Warehouse Expenses	(117,400)	(143,793)	(26,393)	(782,191)
Selling Expenses	(70,000)	(52,992)	17,008	(115,223)
Bank Charges and POS Transaction Fees	(30,000)	(34,493)	(4,493)	(95,173)
HST Payable/Refund	(100,000)	(56,858)	43,142	(268,839)
Administrative and Miscellaneous	(66,000)	(83,879)	(17,879)	(337,400)
Total Operational Disbursements	(4,092,570)	(3,844,777)	247,793	(16,556,485)
Professional Fees	(61,500)	(298,905)	(237,405)	(516,477)
Total Disbursements	(4,154,070)	(4,143,682)	10,388	(17,072,962)
Net Cash Flow	(261,147)	197,382	458,529	909,371
Operating Line - Opening	(4,541,353)	(4,218,578)	322,775	(4,930,567)
Net Cash Flow	(261,147)	197,382	458,529	909,371
Operating Line - Closing	(4,802,500)	(4,021,196)	781,304	(4,021,196)
Less: Borrowing Base	(4,931,000)	(4,931,000)	-	(4,931,000)
Line of Credit Liquidity	128,500	909,804	781,304	909,804

Appendix F

Asset Purchase Agreement (Redacted)


(the “Purchaser”)

- and -

BIG ERICS INC.
(the “Vendor”)

ASSET PURCHASE AGREEMENT

April ____, 2024

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ASSET PURCHASE AGREEMENT

Asset purchase agreement dated _____, 2024 between Big Erics Inc. (the “Vendor”), and _____ (the “Purchaser”),

RECITALS

1. The Vendor is in the business of selling end-to-end products and related services across various domains, including food preparation, food service, food safety, facilities maintenance, cleaning, and sanitization, under the name “Big Erics” and “Big Erics Inc.” (the “**Business**” or “**BEI**”).
2. On 18 July 2023, the Vendor commenced proceedings under the *Companies’ Creditors Arrangement Act*, R.S.C., 1985, c. C-36 (the “**CCAA Proceedings**” and the “**CCAA**”, respectively) pursuant to an order dated 18 July 2023 made by the Supreme Court of Newfoundland and Labrador sitting as the Court supervising the CCAA Proceedings (the “**Court**”), as amended and restated on 28 July 2023 (as amended and restated, the “**Initial Order**”).
3. Pursuant to the Initial Order, Grant Thornton Ltd. was appointed as monitor of the Vendor under the CCAA (in such capacity, the “**Monitor**”).
4. By Order dated 22 September 2023 (the “**Sale and Investment Solicitation Process Order**” or the “**SISP Order**”), the Court approved a sale and investment solicitation process (the “**SISP**”) in order to enable the Vendor to solicit interest in a restructuring, recapitalization, reorganization and/or sale opportunities for all or part of the Business and/or the Vendor’s assets and undertakings.
5. Among other things, the SISP 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**”).
6. Pursuant to the SISP, the Vendor and the Monitor have reviewed and evaluated all qualified bids received and have identified the Purchaser’s bid for the Purchased Assets (as defined herein) on the terms set out in this Agreement as a Successful Bid (as defined in the Bidding Procedures Order).
7. The Purchaser wishes to purchase, and the Vendor has agreed to sell, the Purchased Assets pursuant to, and subject to and in accordance with the terms and conditions of this Agreement.
8. The transactions contemplated by this Agreement are subject to, *inter alia*, the approval of the Court and will be consummated pursuant to an Approval and Vesting Order (as that term is defined herein) being issued by the Court in the CCAA Proceedings.

NOW THEREFORE in consideration of the mutual covenants and agreements contained in this Agreement and for other good and valuable consideration (the receipt and sufficiency of which are acknowledged), the Parties agree as follows:

ARTICLE 1 INTERPRETATION

1.1 Defined Terms.

As used in this Agreement, the capitalized terms listed below shall have the corresponding meanings.

- (a) “**Accounts Receivable**” means all trade accounts receivable, net of accounts receivable credits but not net of Customer Deposits or deposits or upfront payments received by the Vendor from customers for Transitional Purchases, and related bills receivable, trade accounts, book debts, rebates relating to Transitional Purchases, and other amounts due, owing or accruing to the Vendor in connection with the Business, including for greater certainty, the benefit of all security (including cash deposits), guarantees and other collateral provided by or for any customer and held by the Vendor in respect of any accounts receivable, and any security, claim, remedy or other right related to any of the foregoing; provided that Excluded Receivables (as defined herein) do not and will not form part of and are excluded from the definition of Accounts Receivable.
- (b) “**Action**” means any actual or threatened claim, action, cause of action, demand, lawsuit, arbitration, inquiry, audit, notice of assessment, notice of reassessment, proceeding, litigation, summons, subpoena or investigation of any nature, civil, criminal, administrative, investigative, regulatory or otherwise, whether at law or in equity, or any other claim or demand of whatever nature or kind.
- (c) “**Affiliate**” of a Person means any other Person that directly or indirectly controls, is controlled by or is under common control with such Person, where “control” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of a Person, whether through the ownership of voting securities, by Contract or otherwise.
- (d) “**Agreement**” means this Asset Purchase Agreement and all attached Schedules, in each case as the same may be supplemented, amended, restated or replaced from time to time in accordance with the terms hereof, and the expressions “hereof”, “herein”, “hereto”, “hereunder”, “hereby” and similar expressions refer to this Agreement and all attached Schedules and unless otherwise indicated, references to Articles, Sections and Schedules are to Articles, Sections and Schedules in this Agreement.
- (e) “**Ancillary Agreements**” means all agreements, certificates and other instruments delivered or given pursuant to this Agreement.
- (f) “**Approval and Vesting Order**” means an approval and vesting order of the Court in the form attached as **Schedule “1.1(f)”** to this Agreement – or otherwise in form and in substance satisfactory to the Vendor and the Purchaser, each acting

reasonably, as confirmed in writing – among other things approving this Agreement and vesting in and to the Purchaser, all right, title and interest of the Vendor in the Purchased Assets, free and clear of and from any and all Encumbrances to the extent and as provided for in such approval and vesting order.

- (g) **“Assignment Order”** means an order of the Court, in form and substance satisfactory to the Purchaser, acting reasonably, authorizing and approving the assignment of one or more Consent Required Contracts for which the consent, approval or waiver of the party or parties thereto (other than the Vendor) is required to assign such Consent Required Contracts and such consent has not been obtained before the date the motion materials are filed for the Approval and Vesting Order.
- (h) **“Assumed Contracts”** means all of the Contracts, including pre-payments and deposits related thereto, other than the Excluded Contracts, more specifically described at **Schedule “1.1(h)”**, which Schedule also describes how all monetary and non-monetary defaults are to be remedied for each such contract or remedied on an aggregate basis for all such contracts.
- (i) **“Assumed Liabilities”** means all Liabilities and obligations of the Vendor in connection with the Purchased Assets from and after the Closing Date, including the obligation to honour pre-payments and deposits for Transitional Purchases.
- (j) **“Books and Records”** means all information in any form relating to the Purchased Assets, including books of account, financial, operations, sales books, tax, business, marketing, personnel and research information and records, technical information, operating guides and manuals and all other documents, files, correspondence and other information, including all data, information and databases stored on computer-related or other electronic media, but excluding the minute books and all other corporate records and related information of the Vendor including all corporate data, information and databases stored on computer-related or other electronic media.
- (k) **“Business”** has the meaning given to such term in the preamble to this Agreement.
- (l) **“Business Day”** means any day of the year, other than a Saturday, Sunday or any day on which major Canadian chartered banks are closed for business in the City of St. John’s, in the Province of Newfoundland and Labrador or in the Cities of Dartmouth, or Halifax, each in the Province of Nova Scotia.
- (m) **“Cash Purchase Price”** has the meaning specified in Section 3.2.
- (n) **“CCAA”** has the meaning given to such term in the preamble to this Agreement.
- (o) **“CCAA Proceedings”** has the meaning given to such term in the preamble to this Agreement.
- (p) **“Closing”** means the completion of the transaction of purchase and sale contemplated in this Agreement.

- (q) “**Closing Date**” means on or before 03 May 2024, or such other date as mutually agreed between the Parties and the Monitor.
- (r) “**Closing Documents**” has the meaning specified in Section 8.2.
- (s) “**Conditions Certificates**” has the meaning specified in Section 8.3.
- (t) “**Consent Required Contract**” means any Assumed Contract which is not assignable in whole or in part in accordance with its terms without the consent, approval or waiver of the party or parties thereto (other than the Vendor).
- (u) “**Contract**” means all contracts, letters of intent, licenses, leases, agreements, obligations, promises, undertakings, arrangements, documents, commitments, entitlements or engagements, whether written or oral, to which the Vendor is a party or by which the Vendor is bound, relating to the Purchased Assets and/or the Business (including, without limitation, the Benefit Plan), all as may be amended and/or restated, and including any and all related quotations, orders, proposals or tenders which remain open for acceptance, warranties and guarantees and documents ancillary thereto.
- (v) “**Court**” has the meaning given to such term in the preamble to this Agreement. “**Cure Costs**” means, in respect of any Consent Required Contract for which an Assignment Order is required, all amounts owing as at the Closing Date by the Vendor pursuant to such Consent Required Contract and all amounts required to be paid to cure any monetary defaults thereunder, if any, required to effect an assignment thereof from the Vendor to the Purchaser, together with any fee or other monetary concession approved by the Purchaser and granted in connection with obtaining any Assignment Order for such Consent Required Contract, including all administrative fees and counsel fees of the counterparties required to be paid to obtain such Assignment Order.
- (w) “**Customer Deposits**” means amounts paid by customers for goods and/or services in advance of receiving the related goods and/or services but does not include any deposits or upfront payments received by the Vendor from customers for Transitional Purchases.
- (x) “**Deposit**” has the meaning specified in Section 3.2.
- (y) “**Due Diligence**” means a complete investigation by the Purchaser of the Purchased Assets and the Business of the Vendor, including but not limited to operational, financial and legal due diligence, and of all associated records, data, and information.
- (z) “**Employee Plan**” means all:
 - (i) contracts, agreements, plans, arrangements or policies (written or oral) providing for incentive compensation, deferred compensation, bonuses, profit-sharing, severance or termination pay, share appreciation, share

option, share purchase or other stock related rights relating to the Business;
and

- (ii) health or other medical benefits (other than the Canadian Pension Plan, and other similar health plans established and administered by any other province and workers' compensation insurance provided pursuant to applicable Law), life or other insurance (including any self-insured arrangements), dental, disability, salary continuation, vacation, automobile, supplemental unemployment benefits, post-employment, retirement or supplemental retirement benefits (including compensation, health, medical or life insurance benefits) related to the Business;

which is maintained, administered or contributed to by or on behalf of the Vendor and to the extent which it covers any Employee or former employee of the Vendor;

- (aa) **"Employees"** means any and all (i) employees who are actively at work (including full-time, part-time or temporary employees) of the Vendor; and (ii) employees of the Vendor who are on leaves of absence (including maternity leave, parental leave, disability leave, sickness leave, workers' compensation and other statutory leaves) as at the Closing Date;
- (bb) **"Encumbrance"** means other than Permitted Encumbrances any mortgage, charge, pledge, hypothec, security interest, deemed trust (statutory or otherwise), assignment, lien (statutory or otherwise), leases, right of way, title defects, options, claim, Action, adverse claims, encumbrances, easement, right of retention, ownership or title retention agreement or arrangement, conditional sale, deemed or statutory trust, restrictive covenant, judgment, writ or notice of seizure, writ or notice of execution, notice of sale, right of a third party (including any contractual rights such as, without limitation, purchase options, rights of first refusal, rights of first offer or any other pre-emptive contractual right) or encumbrance of any nature or kind whatsoever and any agreement, option or privilege (whether by law, contract or otherwise) capable of becoming any of the foregoing (including without limitation any conditional sale or title retention agreement, or any capital or financing lease), it being understood that the definition given to such term in the Approval and Vesting Order shall supersede and be deemed to constitute the applicable definition of this term in this Agreement.
- (cc) **"Excluded Receivables"** means prepaid expenses including those related to Taxes, insurance and any other Contracts that are cancelled or otherwise terminated effective on or before the Closing Date, promotional purchase credits, rebates, deviation credits, promotional or similar payments from suppliers or their agents or buying groups or similar organization, and other similar amounts due, owing or accruing to the Vendor in connection with the conduct of the Business up to the Closing Date. For clarity, Excluded Receivables shall not include rebates relating to Transitional Purchases.
- (dd) **"Excluded Assets"** has the meaning specified in Section 2.2.

- (ee) **“Excluded Contracts”** means all of the Contracts listed in **Schedule “1.1(ff)”** to this Agreement.
- (ff) **“Excluded Liabilities”** means all Liabilities and obligations of the Vendor that are not Assumed Liabilities and includes, without limitation, all Liabilities relating to the Excluded Assets, the Excluded Contracts, and the Non-Transferred Employee Liabilities.
- (gg) **“Goodwill”** means the goodwill of the Business and documents relevant thereto including, without limitation, all of the Vendor’s right, title, interest and privileges in relation to the customer lists, telephone numbers, email addresses, brand, logos and the exclusive right of the Purchaser to represent itself as operating the Business in continuation of and in succession to the Vendor.
- (hh) **“Governmental Authorities”** means any domestic or foreign governments, regulatory authorities, governmental departments, agencies, commissions, bureaus, officials, ministers, Crown corporations, Courts, bodies, boards, tribunals or dispute settlement panels or other law or regulation-making organizations or entities: (a) having or purporting to have jurisdiction on behalf of any nation, province, territory, state or other geographic or political subdivision thereof; or (b) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power.
- (ii) **“Governmental Order”** means any order, writ, judgment, injunction, decree, stipulation, determination, award, decision, sanction or ruling entered by or with any Governmental Authority.
- (jj) **“Initial Order”** has the meaning specified in the preamble to this Agreement.
- (kk) **“Intellectual Property”** means all intellectual property of the Vendor used by or currently being developed for use in the Business or related to the Purchased Assets, and all rights of the Vendor therein, including without limitation:
 - (i) all patents, patent applications and other patent rights, including provisional and continuation patents;
 - (ii) all registered and unregistered trade-marks, service marks, logos, slogans, trade names, corporate names, business names and other indicia of origin, and all applications and registrations therefor;
 - (iii) registered and unregistered copyrights and mask works, including all copyright in and to computer software programs and applications and registrations of such copyright;
 - (iv) internet domain names, applications and reservations for internet domain names, uniform resource locators and the corresponding internet sites;
 - (v) industrial designs; and

- (vi) trade secrets and proprietary information not otherwise listed in (a) through (e) above, including, without limitation, all inventions (whether or not patentable), invention disclosures, moral and economic rights of authors and inventors (however denominated), confidential information, technical data, customer lists, corporate and business names, trade names, trade dress, brand names, know-how, mask works, circuit topography, formulae, methods (whether or not patentable), designs, processes, procedures, technology, business methods, source codes, object codes, computer software programs (in either source code or object code form), databases, data collections and other proprietary information or material of any type, and all derivatives, improvements and refinements thereof, howsoever recorded or unrecorded.
- (ll) **“Inventory”** means all inventories of every kind and nature, wheresoever situate, owned by the Vendor and pertaining to the Business including, without limitation, all inventories of raw materials, work-in-progress, finished goods, supplies, parts, packaging in connection with the Business, and those inventories listed in **Schedule “1.1(mm)”**;
- (mm) **“Laws”** means any principle of common law and all applicable (i) laws, constitutions, treaties, statutes, codes, ordinances, orders, decrees, rules, regulations and by-laws, (ii) judgments, orders, writs, injunctions, decisions, awards and directives of any governmental entity; and (iii) to the extent that they have the force of law, standards, policies, guidelines, Notices and protocols of any Governmental Authorities.
- (nn) **“Letter of Intent”** means the binding offer letter (and any appendices thereto) between the Purchaser and the Vendor, dated March 8, 2024.
- (oo) **“Liabilities”** means liabilities, obligations or commitments of any nature whatsoever, asserted or unasserted, known or unknown, absolute or contingent, accrued or unaccrued, matured or unmatured, or otherwise.
- (pp) **“Monitor’s Certificate”** means the certificate, substantially in the form to be attached to the Approval and Vesting Order, to be delivered by the Monitor to the Vendor and the Purchaser in accordance with Section 8.3, and thereafter filed by the Monitor with the Court.
- (qq) **“Non-Transferred Employee Liabilities”** means all Liabilities relating to any of the Vendor’s current or former employees who are not Transferring Employees, including wages, vacation pay, termination costs, Notice or pay in lieu of Notice, severance, wrongful and constructive dismissal damages, human rights claims, all Liabilities pursuant to any Employee Plan and any other damages arising from the loss of employment by any such employee.
- (rr) **“Notice”** has the meaning specified in Section 10.1.

- (ss) **"Parties"** collectively means the Vendor and the Purchaser and any other Person who may become a party to this Agreement.
- (tt) **"Permitted Encumbrances"** means all those Encumbrances described in Schedule **"1.1(vv)"** to this Agreement.
- (uu) **"Purchaser's Plans"** has the meaning set out in Section 6.5(b).
- (vv) **"Permits"** means all permits, licences, certificates, approvals, authorizations, and registrations, or any item with a similar effect, issued or granted by any Governmental Authority in favour of the Vendor and that is necessary or related to the Purchased Assets.
- (ww) **"Person"** means an individual, partnership, limited partnership, limited liability partnership, corporation, limited liability company, unlimited liability company, joint stock company, trust, unincorporated organization, joint venture or other entity and pronouns have a similarly extended meaning.
- (xx) **"Premises"** means, collectively, all of the locations at which the Vendor operates the Business, being the following:
 - (i) 171 John Savage Avenue Burnside Industrial Park Dartmouth, Nova Scotia, B3B 0A8; and
 - (ii) 99 Blackmarsh Road St. John's, Newfoundland and Labrador, A1E 1S6.
- (yy) **"Premises Lease"** means, collectively, all of the lease agreements for the Premises.
- (zz) **"Purchase Price"** has the meaning specified in Section 3.1, subject to any change pursuant to Section 3.1.
- (aaa) **"Purchased Assets"** has the meaning specified in Section 2.1.
- (bbb) **"Purchaser"** has the meaning specified in the preamble to this Agreement.
- (ccc) **"Real Property"** means, collectively, the Vendor's interest, if any, in any and all real or immovable property used for the Business covered by a Premises Lease, including for reference but without limitation the real property parcels described in Schedule **"1.1(eee)"** to this Agreement, together with all plants, buildings, structures, improvements, appurtenances and fixtures (including fixed machinery and fixed equipment) thereon or forming part thereof.
- (ddd) **"Sale and Investment Solicitation Process"** has the meaning specified in the preamble to this Agreement.
- (eee) **"SISP Order"** has the meaning specified in the preamble to this Agreement.
- (fff) **"Sanctions"** has the meaning specified in Section 5.2.

- (ggg) **“Successful Bid”** has the meaning specified in the Sale Process Order.
- (hhh) **“Successful Bidder”** has the meaning specified in the Sale Process Order.
- (iii) **“Tax Act”** means the *Income Tax Act* (Canada), as amended and any relevant legislation of a province imposing tax similar to the *Income Tax Act* (Canada).
- (jjj) **“Taxes”** means (i) any and all taxes, duties, fees, excises, premiums, assessments, imposts, levies, rates, withholdings, dues, contributions and other charges, collections or assessments of any kind whatsoever imposed or collected by any Governmental Authority; (ii) all interest, penalties, fines, additions to tax or other additional amounts imposed on or in respect of amounts of the type described in clause (i) above or this clause (ii); and (iii) any Liability for the payment of any amounts of the type described in clauses (i) or (ii) as a result of any express or implied obligation to indemnify any other Person or as a result of being a transferee or successor in interest to any party.
- (kkk) **“Tax Returns”** means any and all returns, reports, declarations, elections, Notices, forms, designations, filings, and other documents filed or required to be filed in respect of Taxes.
- (lll) **“Transferring Employees”** has the meaning set out in Section 6.5(b).
- (mmm) **“Transitional Purchases”** means (i) the existing and outstanding ordering or other purchase of any and all goods being produced, assembled, or held for shipping to the Vendor, (ii) goods in transit or (iii) other goods or products ordered or purchased by the Vendor with the written approval of the Purchaser, and all of which are delivered after the Closing Date for the purposes of or to better enable the Purchaser carrying on the Business after the Closing.
- (nnn) **“Vendor”** has the meaning specified in the preamble to this Agreement.
- (ooo) **“WIP”** has the meaning specified in Section 6.7(b).

1.2 References and Usage.

Unless expressly stated otherwise, in this Agreement:

- (a) reference to a gender includes all genders;
- (b) the singular includes the plural and vice versa;
- (c) “or” is used in the inclusive sense of “and/or”;
- (d) “any” means “any and all”;
- (e) the words “including”, “includes” and “include” mean “including (or includes or include) without limitation”;

- (f) the phrase “the aggregate of”, “the total of”, “the sum of”, or a phrase of similar meaning means “the aggregate (or total or sum), without duplication, of”;
- (g) \$ or dollars refers to the Canadian currency unless otherwise specifically indicated;
- (h) a statute includes all rules and regulations made under it, if and as amended, re-enacted or replaced from time to time;
- (i) a Person includes its predecessors, successors and permitted assigns;
- (j) the term “Notice” refers to oral or written Notices except as otherwise specified;
- (k) the term “Agreement” and any reference in this Agreement to this Agreement or any other agreement or document includes, and is a reference to, this Agreement or such other agreement or document as it may have been, or may from time to time be amended, restated, replaced, supplemented or novated and all schedules to it, except as otherwise provided in this Agreement; and
- (l) whenever payments are to be made or an action is to be taken on a day which is not a Business Day, such payment will be required to be made or such action will be required to be taken on or not later than the next succeeding Business Day and in the computation of periods of time, unless otherwise stated, the word “from” means “from and excluding” and the words “to” and “until” each mean “to and including”.

1.3 Headings, etc.

The use of headings (e.g. Article, Section, etc.) in this Agreement is reference only and is not to affect the interpretation of this Agreement. References in the Agreement to Article, Section etc., unless otherwise specified, shall mean the applicable Article, Section, etc. of this Agreement.

1.4 Schedules.

The following schedules attached to this Agreement form an integral part of this Agreement for all purposes of it. In case of discrepancy between the content of Schedules “1.1(eee)”, “2.1” or “3.3” of this Agreement and any equivalent schedule(s) appended to the Approval and Vesting Order – whether in the form attached as Schedule “3.3” to this Agreement or otherwise in form and in substance satisfactory to the Vendor and the Purchaser, each acting reasonably, as confirmed in writing – the schedules to the Approval and Vesting Order shall supersede and be deemed to constitute the applicable schedule(s) to this Agreement.

Schedule “1.1(f)” – Draft Approval and Vesting Order

Schedule “1.1(h)” – Assumed Contracts

Schedule “1.1(ff)” – Excluded Contracts

Schedule “1.1(vv)” – Permitted Encumbrances

Schedule “1.1(eee)” – Description of Real Property

Schedule “2.1” – Encumbrances to be deleted and expunged including from title to the Real Property

Schedule “2.2(d)” – Other Excluded Assets

Schedule “2.4” – Other Excluded Liabilities

Schedule “3.3” – Purchase Price Determination

1.5 Interpretation if Closing Does Not Occur.

If Closing does not occur, each provision of this Agreement which assumes that the Purchaser has acquired the Purchased Assets shall be construed as having been contingent upon Closing having occurred.

ARTICLE 2 PURCHASE AND SALE

2.1 Purchased Assets.

Subject to the terms and conditions of this Agreement, the Vendor agrees to sell, assign and transfer to the Purchaser and the Purchaser agrees to purchase from the Vendor on the Closing Date, on an “as is, where is” basis, all of the Vendor’s right, title and interest in the Vendor’s property, assets and undertakings of every kind and description and wheresoever situate, of the Business, other than the Excluded Assets (collectively, the “**Purchased Assets**”), free and clear of all Encumbrances (including for reference but without limitation those Encumbrances affecting the Real Property described in **Schedule “2.1”** to this Agreement) other than Permitted Encumbrances, and the Purchased Assets shall include:

- (a) **Accounts Receivable.** All right, title and interest of the Vendor in and to the Accounts Receivables;
- (b) **Inventory.** All right, title and interest of the Vendor in and to the Inventory;
- (c) **Goodwill.** All of the Vendor’s right, title, interest and privileges in and to the Goodwill;
- (d) **Equipment and Supplies.** All machinery, equipment, furnishings, furniture, parts, dies, molds, tooling, tools, computer and information technology equipment and hardware, inventory, supplies, accessories, appliances, fixtures and other tangible personal and moveable property owned by the Vendor and used in connection with the Business and, notwithstanding anything to the contrary, shall not include the Inventory;
- (e) **Assumed Contracts.** All Assumed Contracts and all rights, title, interests and obligations thereunder;

- (f) **Vehicles.** All motor vehicles, including all trucks, vans, cars and forklifts registered in the name of the Vendor and used for the Business;
- (g) **Computer Software.** All software and documentation used in the Business, including, all electronic data processing systems, program specifications, input data, report layouts, formats, algorithms, record file layouts, diagrams, functional specifications, narrative descriptions, flow charts, and operating manuals;
- (h) **Real Property.** The Real Property;
- (i) **Intellectual Property.** All right, title and interest of the Vendor in and to the Intellectual Property owned by or licensed to the Vendor for use in connection with the Business or the Purchased Assets, including domain names;
- (j) **Books and Records.** The Books and Records of the Vendor related to the Business, the Purchased Assets, or the Assumed Liabilities;
- (k) **Claims.** All claims of the Vendor relating to the Business or the Purchased Assets whether choate or inchoate, known or unknown, presently discoverable or not, contingent or otherwise;
- (l) **Permits.** All Permits, to the extent the foregoing are transferable;
- (m) **Insurance.** The interest of the Vendor, relating to the period following the Closing, in (a) all contracts of insurance, insurance policies and insurance plans which are assets of or maintained in connection the Purchased Assets, (b) any insurance proceeds net of any deductibles recovered by the Vendor under all other contracts of insurance, insurance policies (excluding director and officer policies) and insurance plans between the date of this Agreement and the Closing Date, and (c) the full benefit of the Vendor's rights to insurance claims relating to the Business in respect of events occurring after the Closing and amounts recoverable in respect thereof net of any deductible to the extent any of the foregoing are transferable; but excluding the full benefit of the Vendor's rights to insurance premium or other payment or credit refunds, and claims relating to the Business and amounts recoverable in respect thereof net of any deductible to the extent any of the foregoing are transferable for the period prior to the Closing; and
- (n) **Other Property.** All other property, assets and undertakings of the Vendor of whatever nature or kind (including WIP) used in or connected to the Business and/or the Purchased Assets other than Excluded Assets and those related to Excluded Contracts.

2.2 Excluded Assets.

The Purchased Assets shall not include any of the following assets (collectively, the “**Excluded Assets**”):

- (a) the Excluded Receivables and Excluded Contracts;

- (b) the shares (including shares, other securities or similar interests issued by any other entity), corporate seals, organizational documents, minute books, share certificate books, financial statements and records, corporate Tax Returns, books of account or other records having to do with the corporate organization of the Vendor;
- (c) all Employee Plans and assets attributable thereto;
- (d) Cash on hand or in any account, including deposit accounts in banks, companies, trust companies and similar institutions in the name of or for the benefit of the Vendor;
- (e) All shares, stock, warrants, bonds, debentures, debenture stock, investment certificates or other securities together with renewals thereof, substitutions therefore, in the name of or for the benefit of the Vendor;
- (f) all other assets, properties and things listed on **Schedule “2.2(d)”** to this Agreement; and
- (g) such Purchased Assets as the Purchaser may indicate by Notice in writing to the Vendor and the Monitor prior to the filing of the motion materials for the Approval and Vesting Order, which specified Purchased Assets shall thereafter be deemed Excluded Assets, without any adjustment to the Purchase Price.

2.3 Assumed Liabilities.

Subject to this transaction Closing on the Closing Date, the Purchaser agrees to discharge, perform and fulfil the Assumed Liabilities.

2.4 Excluded Liabilities

- (a) The Purchaser shall not assume and shall have no obligation to discharge, perform or fulfil any of the Excluded Liabilities including, without limitation, any other Liabilities listed on **Schedule “2.4”** to this Agreement.
- (b) The Purchaser shall advise the Vendor and/or the SISP Advisor no less than 10 Business Days prior to the Vendor applying to the Court for approval of the subject transaction, subject to the Vendor providing the date for the approval hearing immediately upon the scheduling of the same, on excluded contracts/capital leases and/or other monthly operating costs, re. Software subscriptions, etc. that will form part of the “Excluded Assets and/or “Excluded Contracts”. The Purchaser shall make best efforts with the Vendor to identify all known capital leases, monthly operating fixed costs, etc. on a timely basis.
- (c) The Vendor shall provide all supplier agreements, customer agreements, and employment contracts for the Vendor’s employees herein to the Purchaser prior to the Closing Date. The Purchaser shall review the same and advise the Vendor and/or the SISP Advisor no less than 10 Business Days prior to the Vendor applying

to the Court for approval of the subject transaction, subject to the Vendor providing the date for the approval hearing immediately upon the scheduling of the same, which agreements the Vendor may be required to terminate prior to the Closing Date. Any such supplier agreements, customer agreements, or employee contracts so designated for termination shall be deemed to form part of "Excluded Assets" and/or "Excluded Contracts".

- (d) the Vendor shall transfer and/or assign the remaining supplier agreements to the Purchaser on the Closing Date pursuant to the relevant Closing Document(s).
- (e) the Vendor shall transfer and/or assign the remaining customer contracts/agreements to the Purchaser on the Closing Date pursuant to the relevant Closing Document(s).

2.5 Assignment and Assumption of Consent Required Contracts.

- (a) Notwithstanding anything in this Agreement, the Purchaser shall not assume and has no obligation to discharge any Liability or obligation under or in respect of any Consent Required Contract unless: (a) the consent, approval or waiver of the party or parties to such Consent Required Contract (other than the Vendor) required to assign such Consent Required Contract has been obtained on terms satisfactory to the Purchaser acting reasonably and the value of such Consent Required Contract has enured to the Purchaser; or (b) such Consent Required Contract is subject to an Assignment Order.
- (b) The Vendor, with the reasonable assistance and involvement of the Purchaser if the Vendor requests it, shall request and negotiate the consent, approval or waiver of the party or parties to each Consent Required Contract (other than the Vendor), directly with such party or parties, towards the assignment of such Consent Required Contract prior to the filing of the motion materials for the Approval and Vesting Order.
- (c) In the event that the consent, approval or waiver required to assign any Consent Required Contract is not obtained before the date the motion materials are filed for the Approval and Vesting Order, the Vendor shall, if the Purchaser requests it in writing prior to Closing, make all reasonable efforts to obtain an Assignment Order for such Consent Required Contract in form and substance satisfactory to the Vendor and the Purchaser, each acting reasonably.
- (d) Subject to Closing, the Purchaser shall be responsible for and pay directly to creditors thereof all Cure Costs for each Consent Required Contracts assigned to the Purchaser at Closing or pursuant to an Assignment Order.
- (e) Nothing in this Agreement will constitute an agreement to assign or an attempted assignment of any rights, obligations or Permits: (i) of which the assignment requires any consent or approval that has not been obtained, and the assignment of which is not or may not be effected through an Assignment Order or any other form of Order of the Court, or (ii) which under applicable Law is not assignable.

ARTICLE 3 PURCHASE PRICE

3.1 Purchase Price.

The purchase price payable by the Purchaser to the Vendor for the Purchased Assets (the "**Purchase Price**") shall be determined in accordance with Schedule 3.3 and subject to the adjustments outlined in paragraph 3.4.

3.2 Payment of the Purchase Price.

The Purchaser shall pay and satisfy the Purchase Price as follows:

- (a) the Purchaser has paid to the Vendor's Counsel [REDACTED] (the "**Deposit**"), which Deposit shall be held in trust by the Monitor's Counsel and in accordance with the SISP Order and shall be credited towards the Purchase Price at Closing, subject to Sections 3.3, 9.1 and 9.2 of this Agreement;
- (b) the Purchaser shall pay to the Monitor in trust in accordance with the provisions of the Approval and Vesting Order an amount equal the Closing an amount equal to the Purchase Price less the Deposit [REDACTED] of the portion of the Purchase Price allocated to the Inventory (the "**Cash Purchase Price**");
- (c) [REDACTED] portion of the Purchase Price allocated to the Inventory, by way of a \$ [REDACTED] 0 payment on or before each of 30, 60 and 90 days after the Closing, and as security for the payment of said amounts, the Purchaser shall on the Closing execute and deliver to the Montior a security agreement creating a second priority security interests over the Purchased Assets;
- (d) In respect of the costs (including any transportation or delivery costs and related expenses incurred by the Vendor) of the Transitional Purchases (but less any monies collected by the Vendor for Transitional Purchases that are not replenishable and less any deposits or upfront payments received by the Vendor from customers for Transitional Purchases, without duplication), the Purchaser shall pay the full amounts relating thereto within 5 Business Days of each receipt or delivery (including in the case of any direct shipments to or as directed by a customer) of such goods to the customer or to the Vendor or its assignee as may be directed in the Approval and Vesting Order (and if not so directed by such Order then as the Vendor and Purchaser shall agree on the Closing Date); and
- (e) any adjustments to the Purchase Price shall be paid in accordance with Section 3.4.

3.3 Deposit

- (a) The Deposit shall be held by the Vendor's Counsel in a non-interest-bearing trust account.

- (b) The Deposit shall be subject to Sections 3.2, 6.4(c), 9.1, and 9.2 of this Agreement and, notwithstanding anything to the contrary, the Deposit shall be subject to Section 36 of the SISP Order.

3.4 Purchase Price Adjustments

Adjustments to the Purchase Price, as may be required, shall be made by the parties as follows:

- (a) A final Inventory amount will be determined within no more than 5 Business Days after the Closing Date and the Purchase Price that is to be paid for the Inventory, as further detailed in Schedule 3.3 hereto, shall be adjusted downward by [REDACTED] of the amount, if any, by which the value of Inventory at the time of Closing Date is less [REDACTED] Date is greater than [REDACTED]. For greater certainty, the value of Inventory for any such upward adjustment shall not include deposits. For greater certainty, all Inventory values or valuations shall be less the value of all consignment Inventory, and all value attributable to such consignment Inventory shall not be included whatsoever in any adjustment to the Purchase Price described in those paragraphs. The Vendor shall provide the Purchaser with all information, records, and agreements that the Purchaser requires, in its sole discretion, to confirm and validate all consignment Inventory and values with respect thereto.
- (b) On or before the date that is 30 days following the Closing Date, by agreement between the Vendor and the Purchaser, the Purchase Price shall be adjusted dollar for dollar, without double counting, upward or downward (the “**AR Reconciliation**”) by the amount by which the Accounts Receivable as of the Closing Date is greater than or less [REDACTED] (the “**AR Target**”). The Vendor or Purchaser, as applicable, shall then pay to the other party the adjustment within 1 business day following completion of the AR Reconciliation being agreed upon. For clarity, on the Closing Date the Vendor shall receive payment from the Purchaser based on the AR Target and then shall receive additional payment, as applicable, based on the AR Reconciliation as follows:
- [REDACTED]
- [REDACTED]
- (c) On or before the date that is 30 days following the Closing Date, by agreement between the Vendor and the Purchaser, the Purchase Price shall be adjusted dollar for dollar, without double counting, upward or downward (the “**Customer Deposit Reconciliation**”) by the amount by which the Customer Deposits as of the Closing Date is greater than or less than the estimated Customer Deposits in accordance with Schedule 3.3. The Vendor or Purchaser, as applicable, shall then pay to the other party the adjustment amount within 1 business day following completion of the Customer Deposit Reconciliation being agreed upon.

- (d) On the Closing Date, the Purchase Price shall be increased and paid to reflect the pro-rata portion of any rent or other costs incurred and paid in association with any Premises Lease or the Real Property, provided such amount is incurred and paid prior to Closing and covers the period from the Closing Date to the end of the period for which the relevant payment was made.

3.5 Purchase Price Allocation.

The Purchase Price shall be allocated among the Purchased Assets in the manner and form set out in **Schedule “3.3”** to this Agreement. Such allocation shall be binding and the Purchaser and Vendor shall report the purchase and sale of the Purchased Assets and file all filings which are necessary or desirable for purposes of any Taxes to give effect to such allocations and shall not take any position or action inconsistent with such allocation. Any post-Closing adjustments to the Purchase Price described herein shall be allocated in a manner consistent with this Section 3.3.

3.6 No Effect on Other Rights.

The determination of the Purchase Price in accordance with the provisions of this Article will not limit or affect any other rights or causes of action either the Purchaser or the Vendor may have with respect to the representations, warranties or covenants in its favour contained in this Agreement.

ARTICLE 4 TAX MATTERS

4.1 Transfer Taxes.

Subject to section 4.2, the Purchaser shall be liable for and shall pay all sales Taxes and all other similar Taxes properly payable upon and in connection with the sale, assignment and transfer of the Purchased Assets from the Vendor to the Purchaser, other than any Taxes payable on the Vendor's net income, profits or gains.

4.2 Tax Elections.

The Parties shall use their commercially reasonable efforts in good faith to minimize (or eliminate) any Taxes payable under the *Excise Tax Act* (Canada) in respect of the Closing by, among other things, making such elections and taking such steps as may be provided for under that Act (including, for greater certainty, making a joint election in a timely manner under Section 167 of that Act or Section 22 of the Tax Act) as may reasonably be requested by the Purchaser in connection with the Closing.

ARTICLE 5 REPRESENTATIONS AND WARRANTIES

5.1 Representations and Warranties of the Vendor.

The Vendor represents and warrants as follows to the Purchaser and acknowledges and agrees that the Purchaser is relying upon the representations and warranties (without which the Purchaser

would not have accepted this Agreement) in connection with its purchase of the Purchased Assets and its assumption of the Assumed Liabilities, provided that the Parties agree that all such representations and warranties shall end, be of no effect and merge upon completion of the Closing.

- (a) **Incorporation and Qualification.** Each of the corporations constituting the Vendor is a corporation incorporated and existing under the laws of jurisdiction of its formation. Each of the corporations constituting the Vendor has the corporate power and authority to own and operate its property and the Purchased Assets, carry on its Business and enter into and perform its obligations under this Agreement and each of the Ancillary Agreements to which it is a party.
- (b) **Corporate Authorization.** Subject to the issuance of the Approval and Vesting Order, the execution and delivery of and performance by the Vendor of this Agreement and each of the Ancillary Agreements to which it is a party and the consummation of the transactions contemplated by them have been duly authorized by all necessary and corporate action on the part of each of them or otherwise authorized by Order of the Court including, without limitation, the Approval and Vesting Order.
- (c) **Execution and Binding Obligation.** Subject to the issuance of the Approval and Vesting Order, this Agreement and each of the Ancillary Agreements to which the Vendor is a party have been duly executed and delivered by the Vendor and constitute legal, valid and binding agreements of it, enforceable against it in accordance with their respective terms.
- (d) **Residence of the Vendor.** The Vendor is not a non-resident of Canada within the meaning of the *Tax Act*. None of the Vendor is a non-Canadian within the meaning of the *Investment Canada Act*.
- (e) 

5.2 Representations and Warranties of the Purchaser.

The Purchaser represents and warrants as follows to the Vendor and acknowledges and agrees that the Vendor is relying on such representations and warranties in connection with its sale of the Purchased Assets:

- (a) **Incorporation and Corporate Power.** The Purchaser is an entity that is duly formed and validly existing under the laws of the jurisdiction of its formation, has full power and capacity to own the Purchased Assets and to carry on the Business as now conducted, and has the power and authority to enter into and perform its obligations under this Agreement and each of the Ancillary Agreements to which it is a party.

- (b) **Corporate Authorization.** The execution and delivery of and performance by the Purchaser of this Agreement and each of the Ancillary Agreements to which it is a party and the consummation of the transactions contemplated by them have been duly authorized by all necessary action on the part of the Purchaser.
- (c) **Execution and Binding Obligation.** This Agreement and each of the Ancillary Agreements to which the Purchaser is a party have been duly executed and delivered by the Purchaser and constitute legal, valid and binding agreements of the Purchaser, enforceable against it in accordance with their respective terms.
- (d) **No Conflict.** The execution, delivery and performance by the Purchaser of this Agreement do not (or would not with the giving of Notice, the lapse of time, or both, or the happening of any other event or condition) result in a breach or a violation of, or conflict with, or allow any other Person to exercise any rights under, any terms or provisions or obligations to which the Purchaser is bound.
- (e) **HST Registrant.** The Purchaser is, or will be as at Closing, a registrant for the purposes of the tax imposed under Part IX of the **Excise Tax Act** (the "Act").
- (f) **Sanctions Not Applicable.** None of the Purchaser, any of its subsidiaries or, to the knowledge of the Purchaser, any director, officer, agent, employee, Affiliate or representative of the Purchaser or any of its subsidiaries is, or is controlled or 50% or more owned by or is acting on behalf of, a Person currently the subject of applicable economic sanctions including those administered or enforced by the government of Canada, the United States of America, or the United Kingdom (collectively, "**Sanctions**"). None of the Purchaser or any of its subsidiaries is located, organized or resident in a country or territory that is, or whose government is, the subject of Sanctions. To the Purchaser's knowledge, neither it nor any of its subsidiaries has engaged in any dealings or transactions with or for the benefit of a Person subject to Sanctions. The Purchaser has procedures and policies in place designed to ensure compliance with Sanctions.

5.3 No Other Representations or Warranties.

The representations and warranties given by the Vendor in Section 5.1 are the only representations and warranties of the Vendor (which for the purposes of section 5.3 and 5.4 shall include the "SISP Advisor") in connection with this Agreement and the transactions contemplated by it. Except for the representations and warranties given by the Vendor in Section 5.1, the Purchaser is purchasing the Purchased Assets on an "as is, where is" basis and does not rely upon any statements, representations, promises, warranties, conditions or guarantees whatsoever by the Vendor or the Monitor, whether express or implied (by operation of law or otherwise), oral or written, legal, equitable, conventional, collateral or otherwise, regarding any of the assets to be acquired or any of the liabilities to be assumed or the completeness of any information provided in connection therewith. No representation, warranty or condition is expressed or can be implied as to title, Encumbrances, description, fitness for purpose, existence, merchantability, condition, quantity or

quality or in respect of any other matter or thing whatsoever concerning the Purchased Assets, the Business, or the Assumed Liabilities.

5.4 As is, Where is.

THE PURCHASER ACKNOWLEDGES AND AGREES THAT, EXCEPT AS EXPRESSLY SET FORTH HEREIN, THE PURCHASED ASSETS AND THE BUSINESS ARE PURCHASED AND THE ASSUMED LIABILITIES ARE ASSUMED BY THE PURCHASER "AS IS, WHERE IS" AS THEY MAY EXIST AT THE CLOSING DATE WITH ALL FAULTS AND WITHOUT ANY REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, IN FACT OR BY LAW WITH RESPECT TO THE PURCHASED ASSETS, THE BUSINESS, AND THE ASSUMED LIABILITIES, AND WITHOUT ANY RECOURSE TO ANY OF THE VENDOR, THE MONITOR OR ANY OF THEIR DIRECTORS, OFFICERS, SHAREHOLDERS, EMPLOYEES, AGENTS, OR OTHER REPRESENTATIVES OR ADVISORS, OTHER THAN FOR KNOWING AND INTENTIONAL FRAUD. THE PURCHASER AGREES TO ACCEPT THE PURCHASED ASSETS, THE BUSINESS, AND THE ASSUMED LIABILITIES IN THE CONDITION, STATE AND LOCATION THEY MAY BE IN ON THE CLOSING DATE BASED ON THE PURCHASER'S OWN INSPECTION, EXAMINATION AND DETERMINATION WITH RESPECT TO ALL MATTERS AND WITHOUT RELIANCE UPON ANY EXPRESS OR IMPLIED REPRESENTATIONS OR WARRANTIES OF ANY KIND OR NATURE MADE BY OR ON BEHALF OF OR IMPUTED TO ANY OF THE VENDOR OR THE MONITOR, EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT. The description of the Purchased Assets and Assumed Liabilities contained herein is for the purpose of identification only and the inclusion of any item in such description does not confirm the existence of any such items or that any such item is owned by the Vendor. Any documents, materials and information provided by the Vendor or Monitor to the Purchaser with respect to the Purchased Assets or Assumed Liabilities (including any confidential information memorandums, management presentations, or material made available in the electronic data room or in connection with the Sale Process) have been provided to the Purchaser solely to assist the Purchaser in undertaking its own due diligence, and the Vendor and/or Monitor have not made and are not making any representations or warranties, implied or otherwise, to or for the benefit of the Purchaser as to the accuracy and completeness of any such documents, materials or information or the achievability of any valuations, estimates or projections. The Purchaser acknowledges that it has not and will not rely upon any such documents, materials or information in any manner, whether as a substitute for or supplementary to its own due diligence, searches, inspections and evaluations. The Vendor and/or Monitor and their respective Affiliates, directors, officers, employees, agents and advisors shall not be liable for any inaccuracy, incompleteness or subsequent changes to any such documents, materials or information. Unless specifically stated in this Agreement, the Purchaser acknowledges and agrees that no representation, warranty, term or condition, understanding or collateral agreement, whether statutory, express or implied, oral or written, arising by custom or usage of trade, legal, equitable, conventional, collateral or otherwise, is being given by the Vendor or Monitor in this Agreement or in any instrument provided in connection with this Agreement, as to description, fitness for purpose, sufficiency to carry on any business, operation, merchantability, quantity, condition, ownership, quality, value, suitability, durability, environmental condition, assignability or marketability thereof, or in respect of any other matter or thing whatsoever, and all of the same are hereby expressly excluded.

ARTICLE 6 OTHER COVENANTS OF THE PARTIES

6.1 Motion for Approval and Vesting Order

As soon as reasonably practicable after the date of execution of this Agreement or such other time as the Purchaser may agree to in writing, the Vendor shall serve and file with the Court a motion for the issuance of the Approval and Vesting Order. The Vendor shall use their best efforts to seek the issuance and entry of the Approval and Vesting Order.

6.2 Access by Purchaser.

Subject to applicable Law, until 5 Business Days prior to the Closing:

- (a) the Vendor shall, upon reasonable Notice, allow the Purchaser and its employees, agents, counsel, accountants or other representatives, lenders, potential lenders and potential investors to have reasonable access to the premises of the Vendor, the Purchased Assets including all Books and Records, customer and supplier lists, and the Assumed Contracts. Such access shall be at the Purchaser's sole and exclusive risk and cost, during normal business hours, and without undue interference with the Vendor's operations;
- (b) notwithstanding anything to the contrary, upon the execution of this Agreement, the Vendor shall provide the Purchaser with copies of all customer and supplier contracts and the Purchaser and Vendor shall cooperate with each other to facilitate the Purchaser contacting any suppliers to, or customers of, the Business or the Vendor in the capacity of a prospective Purchaser of the Purchased Assets and the Business;
- (c) the Vendor shall, upon reasonable Notice, provide to the Purchaser or its employees, agents, counsel, accountants or other representatives such financial and operating data and other information with respect to the Purchased Assets and the Vendor (to the extent such data or information is in the Vendor's possession or, using commercially reasonable efforts, can be obtained by the Vendor or the Monitor) as the Purchaser from time to time reasonably requests; and
- (d) Notwithstanding anything to the contrary in this Agreement, the Vendor shall not be required to disclose any information to the Purchaser if such disclosure would, in the Vendor's sole discretion: (i) cause significant competitive harm to the Vendor and the Business, if the transactions contemplated by this Agreement are not consummated; (ii) jeopardize any solicitor-client, litigation or other privilege; or (iii) contravene any applicable Law, fiduciary duty or binding agreement entered into before the date of this Agreement. The Purchaser shall, and shall cause its employees, agents, counsel, accountants or other representatives to abide by the terms of the non-disclosure agreement executed between the Purchaser and the Vendor dated 4 August 2023 with respect to any access or information provided under this Section 6.2.

6.3 Access by Monitor.

From the Closing Date, the Purchaser shall, upon reasonable Notice, Permit representatives of the Monitor or any other person authorized by the Court to have reasonable access during normal business hours to the Books and Records for the purpose of completing its mandate from time to time, including and without limiting the generality of the foregoing, the Monitor, at the request of any secured creditor, shall be permitted to review all Books and Records of the Vendor and Purchaser relating to the Purchased Assets with respect to any price adjustments, allocation or determination.

6.4 Title and Risk.

- (a) The Purchased Assets shall be and remain at the risk of the Vendor until Closing and at the risk of the Purchaser from and after Closing.
- (b) If, prior to Closing, the Purchased Assets are substantially physically damaged or destroyed by fire, casualty or otherwise, then, at its sole option, the Purchaser may decline to complete the Transaction. Such option shall be exercised within 15 calendar days after notification to the Purchaser by the Vendor of the occurrence of such physical damage or destruction (or prior to the Closing Date if such occurrence takes place within 15 calendar days of the Closing Date), in which event this Agreement shall be terminated automatically. If the Purchaser does not exercise such option, it shall complete the Transaction and shall be entitled to an assignment of any proceeds of insurance referable to such damage or destruction. Where any physical damage or destruction is not substantial, the Purchaser shall complete the Transaction and shall be entitled to an assignment of any proceeds of insurance referable to such physical damage or destruction. For the purposes of this section, substantial physical damage or destruction shall be deemed to have occurred if the physical loss or damage to the Purchased Assets exceeds 15% of the total Purchase Price (inclusive of the Deposit).
- (c) If, prior to the Closing Date, all or a material part of the Purchased Assets is expropriated or a notice of expropriation or intent to expropriate all or a material part of the Real Property is issued by any Governmental Authority, the Vendor shall immediately advise the Purchaser thereof by Notice in writing. The Purchaser shall, by Notice in writing given within five Business Days after the Purchaser receives Notice in writing from the Vendor of such expropriation, elect to either: (i) complete the Transaction contemplated herein in accordance with the terms hereof without reduction of the Purchase Price, and all compensation for expropriation shall be payable to the Purchaser and all right, title and interest of Vendor to such amounts, if any, shall be assigned to the Purchaser on a without recourse basis; or (ii) terminate this Agreement and not complete the Transaction, in which case all rights and obligations of the Vendor and the Purchaser (except for those obligations which are expressly stated to survive the termination of this Agreement) shall terminate, and the Deposit shall be returned to the Purchaser forthwith.

6.5 Employees

- (a) On the Closing Date, the Vendor shall terminate all Employees of the Business and the Purchaser shall offer employment, conditional on completion of the transactions contemplated by this Agreement, to each Transferring Employee on terms and conditions substantially the same as the terms and conditions of employment provided by the Vendor to such Transferring Employees immediately prior to the Closing. All Non-Transferred Employee Liabilities shall be dealt with in the CCAA Proceedings or any subsequent bankruptcy of the Vendor in accordance with the entitlement and priority afforded to such Actions under applicable Law. The Purchaser shall not assume or be liable for any Non-Transferred Employee Liabilities.
- (b) Any employees who accept offers of employment by Purchaser and who begin active employment with Purchaser as of the Closing Date (the “**Transferring Employees**”) shall cease to participate in all Employee Plans and shall be entitled to participate in Purchaser’s benefit plans, programs, policies and arrangements (the “**Purchaser’s Plans**”). Periods of employment with Vendor, to the extent recognized under the Benefit Plans immediately before the Closing Date, shall be taken into account for purposes of determining, as applicable, eligibility for participation, eligibility for early retirement and subsidy, distributions, vestings and benefit accrual of any Transferring Employee under the applicable Purchaser’s Plans.

6.6 Accounts Receivable

- (a) The Vendor shall close its Accounts Receivable as at the Closing Date.
- (b) On the Closing Date, the Vendor shall provide an update on any outstanding Work in Progress (“**WIP**”) and the percentage of work completed on any contract(s) and/or project(s).
- (c) All new accounts receivable generated after the Closing Date by the Purchaser shall be to the exclusive benefit of the Purchaser.
- (d) If any Excluded Receivables are received by the Purchaser or if the Purchaser receives any inquiry concerning any of them, then they shall be paid or directed to be paid, as the case may be, to a bank account as directed by the Monitor in writing within 2 business days of receipt or as may otherwise be addressed in the Approval and Vesting Order.
- (e) If any Accounts Receivable are received by the Vendor or the Monitor, then they shall be paid to a bank account directed by the Purchaser in writing within 2 business days of receipt.

6.7 Inventory

- (a) The Vendor shall close its Inventory as at the Closing Date, and provide an updated “Item Velocity – Total Organization and By Warehouse” Report which includes, but is not limited to, Item Number, Item Description, Group Name, BP Name,

MRP, STKG, UOM, In Stock, On SO, On PO, Avg Cost, Last Sale, Last Purchase Date, Total Cost, and Total Units Sold.

- (b) The Purchaser shall, acting reasonably, confirm and validate the finalized Inventory value within 5 Business Days Closing Date.
- (c) The Purchaser shall have the right to conduct an Inventory count, complete test counts, cross verify cost values, review completed cycle counts, etc. prior to the Closing Date.
- (d) The Vendor shall continue to manage all Inventory purchases within the applicable limits under its Bank of Montreal credit facility. The Vendor shall not make any new purchase of items that are Transitional Purchases outside of the normal course of business, nor shall the Vendor make any new purchase of Inventory or Transitional Purchases between April 8, 2024 and the Closing Date without written consent of the Purchaser.

6.8 Notices required under Assumed Contracts.

The Vendor and the Monitor shall provide Notices (in form and substance acceptable to the Purchaser, acting reasonably) that are required by the terms of the Assumed Contracts in connection with the transaction contemplated pursuant to the Approval and Vesting Order and this Agreement.

6.9 Transfer of the Purchased Assets.

The Vendor and the Purchaser shall cooperate and take all necessary steps and proceedings to permit title to the Purchased Assets to be duly and validly transferred and assigned to the Purchaser at the Closing pursuant to the Approval and Vesting Order and this Agreement, free from all Encumbrances except Permitted Encumbrances.

6.10 Actions to Satisfy Closing Conditions.

- (a) The Vendor shall use its commercially reasonable efforts to take or cause to be taken all such actions so as to ensure compliance with all of the conditions set forth in Section 7.1.
- (b) The Purchaser shall use its commercially reasonable efforts to take or cause to be taken all such actions so as to ensure compliance with all of the conditions set forth in Section 7.2.

6.11 Prohibited Use of Name

Following the Closing Date, the Vendor shall discontinue any and all use whatsoever of the name and brand "Big Erics" and "Big Erics Inc." and similar names, and any other registered or unregistered business names used by the Vendor from time to time in the Business.

ARTICLE 7 CONDITIONS OF CLOSING

7.1 Conditions for the Benefit of the Purchaser.

The purchase and sale of the Purchased Assets and the assumption of the Assumed Liabilities are subject to the following conditions being satisfied on or prior to the Closing Date, which conditions are for the exclusive benefit of the Purchaser and may be waived, in whole or in part, by the Purchaser in its sole discretion:

- (a) **Successful Bid.** The Purchaser shall continue to be the Successful Bidder, following the completion of the Sale Process.
- (b) **Truth of Representations and Warranties.** The representations and warranties of the Vendor contained in this Agreement were true and correct as of the date of this Agreement and are true and correct as of the Closing Date with the same force and effect as if such representations and warranties had been made on and as of such date and the Vendor shall have executed and delivered a certificate of a senior officer to that effect. Upon the delivery of such certificate, the representations and warranties of the Vendor in Section 5.1 will be deemed to have been made on and as of the Closing Date with the same force and effect as if made on and as of such date.
- (c) **Performance of Covenants.** The Vendor shall have fulfilled or complied with all covenants contained in this Agreement required to be fulfilled or complied with by it at or prior to the Closing, and the Vendor shall have executed and delivered a certificate of an authorized representative to that effect.
- (d) **No Legal Action.** There shall be no order issued by any Governmental Authority to enjoin, restrict or prohibit the transaction contemplated under this Agreement.
- (e) **Deliveries.** The Vendor shall have delivered or caused to be delivered to the Purchaser the following in form and substance satisfactory to the Purchaser acting reasonably:
 - (i) the certificates referred to in Section 7.1(b) and 7.1(c);
 - (ii) the originals of the Books and Records, excluding those in connection with the Excluded Assets;
 - (iii) the Purchased Assets, which shall be delivered *in situ*, other than the cash held in the Vendor's bank accounts on the Closing Date, which shall be transferred to the Purchaser;
 - (iv) all conveyances, deeds, bills of sale, transfers, assignments, registrations, consents and other documents necessary to complete the transaction contemplated herein and to vest in the Purchaser the Vendor's right, title and interest in the Purchased Assets, duly executed by the Vendor;

- (v) proof that it has taken all corporate steps necessary to authorize and effect the transactions and documents contemplated by this Agreement and the sale of the Purchased Assets;
- (vi) a direction to make payment to the Vendor (or assignee) of the Purchase Price as contemplated in this Agreement, duly executed by the Vendor;
- (vii) a receipt for the Closing Payment made on the Closing Date, duly executed by the Vendor; and
- (viii) the HST election referred to in Section 4.2, duly executed by the Vendor.

7.2 Conditions for the Benefit of the Vendor.

The purchase and sale of the Purchased Assets and the assumption of the Assumed Liabilities are subject to the following conditions being satisfied on or prior to the Closing Date, which conditions are for the exclusive benefit of the Vendor and may be waived, in whole or in part, by the Vendor in its sole discretion.

- (a) **Truth of Representations and Warranties.** The representations and warranties of the Purchaser contained in this Agreement were true and correct as of the date of this Agreement and are true and correct as of the Closing Date with the same force and effect as if such representations and warranties had been made on and as of such date and the Purchaser shall have executed and delivered a certificate of a senior officer to that effect. Upon delivery of such certificate, the representations and warranties of the Purchaser in Section 5.2 will be deemed to have been made on and as of the Closing Date with the same force and effect as if made on and as of such date.
- (b) **Performance of Covenants.** The Purchaser shall have fulfilled or complied with all covenants contained in this Agreement required to be fulfilled or complied with by it at or prior to Closing and the Purchaser shall have executed and delivered a certificate of a senior officer to that effect.
- (c) **Deliveries.** The Purchaser shall have delivered or caused to be delivered to the Vendor the following in form and substance satisfactory to the Vendor, acting reasonably, or to such other person as may be indicated:
 - (i) all resolutions of the board of directors of the Purchaser approving the entering into and completion of the transactions contemplated by this Agreement and the Ancillary Agreements;
 - (ii) a certificate of status, compliance, good standing or like certificate with respect to the Purchaser issued by appropriate government official of the jurisdiction of its incorporation;
 - (iii) certificates referred to in Section 7.2(a) and 7.2(b);

- (iv) the HST election referred to in Section 4.2, duly executed by the Purchaser;
 - (v) the Cash Purchase Price; and
 - (vi) the Purchaser's Conditions Certificate, referred to in Section 8.3, delivered to the Monitor.
- (d) **Proceedings.** All proceedings to be taken in connection with the transactions contemplated in this Agreement and any Ancillary Agreement are reasonably satisfactory in form and substance to the Vendor, acting reasonably, and the Vendor shall have received copies of all the instruments and other evidence as it may reasonably request in order to establish the consummation of such transactions and the taking of all proceedings in connection therewith.
- (e) **Legal Action.** There shall be no order issued by any Governmental Authority delaying, restricting or preventing consummation of the transactions contemplated herein.

7.3 Conditions for the Benefit of the Purchaser and the Vendor.

The purchase and sale of the Purchased Assets is subject to the following conditions being satisfied on or prior to the Closing Date, which conditions are for the benefit of both the Vendor and the Purchaser and may be jointly waived, in whole or in part, by the Vendor and the Purchaser.

- (a) **Approval and Vesting Order.** The Approval and Vesting Order shall have been obtained and shall not have been appealed, set aside, varied or stayed or, if appealed or stayed, all appeals shall have been dismissed and all stays shall have been lifted, respectively. The Vendor and the Purchaser acknowledge and agree that this Agreement is subject to Court approval, and Closing the transactions contemplated herein is subject to the issuance of the Approval and Vesting Order.
- (b) **Monitor's Certificate.** The Monitor shall have delivered the Monitor's Certificate to the Vendor and the Purchaser.

ARTICLE 8 CLOSING

8.1 Date, Time and Place of Closing.

Closing will take place on the Closing Date by exchanging signature pages of the Parties electronically, or at such place, on such other date and at such other time as may be consented to by the Monitor and agreed upon in writing between the Vendor and the Purchaser.

8.2 Closing Procedures.

- (a) All documents detailed in the Closing Agenda (the "**Closing Documents**") shall be mutually agreed to and executed by the Vendor and Purchaser on or before 11 April 2024.

- (b) Subject to satisfaction or waiver by the relevant Party of the conditions of Closing, on the Closing Date, the Closing shall be deemed completed upon the Monitor lifting the escrow on the Monitor's Certificate.

8.3 Monitor's Certificate.

When the conditions to Closing set out in Sections 7.1, 7.2, and 7.3 (other than the condition in Section 7.3(b)) have been satisfied and/or waived by the Vendor and/or the Purchaser, as applicable, the Vendor and the Purchaser or their respective counsel will each deliver to the Monitor confirmation that such conditions of Closing, as applicable, have been satisfied and/or waived (the "**Conditions Certificates**"). Upon receipt of the Conditions Certificates, the Monitor shall: (a) issue the Monitor's Certificate to the Purchaser and the Buyer, at which time the Closing will be deemed to have occurred; and (b) file a copy of the Monitor's Certificate with the Court and provide a copy of same to the service list in the CCAA Proceedings. In the case of (a) and (b), the Monitor will be relying exclusively on the Conditions Certificates without any obligation whatsoever to verify the satisfaction or waiver of the applicable conditions. The Parties hereby acknowledge and agree that the Monitor shall have no liability to the Parties in connection with the Monitor's Certificate or otherwise in connection with this Agreement.

8.4 Post-Closing Receipts

If, after Closing, any Excluded Assets are paid to or otherwise received by the Purchaser, then the Purchaser shall hold such assets in trust for the Vendor and shall promptly deliver such assets to the Monitor.

ARTICLE 9 TERMINATION

9.1 Termination Rights.

- (a) This Agreement will be terminated automatically, without any action by either Party, if the Approval and Vesting Order is not granted by 30 April 2024, or such later date as may be agreed to be the Parties.
- (b) This Agreement may, by Notice in writing given on or prior to the Closing Date, be terminated:
 - (i) by mutual consent of the Vendor and the Purchaser;
 - (ii) by the Purchaser, if:
 - (A) there has been a material breach of this Agreement by the Vendor and, where such breach is reasonably capable of being cured, such breach has not been waived by the Purchaser in writing or cured within 15 days following written Notice of such breach by the Purchaser; or

- (B) any of the conditions in Section 7.1 have not been satisfied and it becomes reasonably apparent that any of such conditions will never be satisfied or will not be satisfied by the Closing Date (other than as result of the failure of the Purchaser to perform any of its material obligations under this Agreement) and the Purchaser has not waived such condition in writing at or prior to Closing;
- (c) by the Vendor, if:
 - (i) there has been a material breach of this Agreement by the Purchaser and, where such breach is reasonably capable of being cured, such breach has not been waived by the Vendor in writing or cured within 15 days following written Notice of such breach by the Vendor; or
 - (ii) any of the conditions in Section 7.2 have not been satisfied and it becomes reasonably apparent that any of such conditions will never be satisfied or will not be satisfied by the Closing Date (other than as result of the failure of the Vendor to perform any of its material obligations) and the Vendor has not waived such condition in writing at or prior to Closing.

9.2 Effect of Termination.

- (a) If this Agreement is terminated pursuant to Section 9.1(c) (and if the Vendor proves that such breach as described in Section 9.1(c)(i) is or was attributable directly to any failure or omission of the Purchaser to fulfill its obligations under this Agreement or if the Vendor proves that the Purchaser directly failed to perform any condition in Section 7.2 that is or was reasonably capable of being performed or caused to be performed by the Purchaser directly), the Deposit shall be earned by, become the property of, be paid to and be retained by the Vendor as compensation for such termination and the underlying reasons therefor, and the Vendor thereby acknowledges and agrees that such termination and payment of the Deposit shall be the Vendor's sole and exclusive compensation and remedy in respect of this Agreement, including without limitation in respect of Closing not occurring and any other matter or thing occurring or not occurring due in whole or in part to Closing or any step thereto not occurring, and the Vendor shall have no further right or claim of any nature or description whatsoever against the Purchaser or the Monitor, except solely for gross negligence or wilful misconduct as determined by final Order of the Court.
- (b) If this Agreement is terminated pursuant to Section 9.1(c) (and if the Vendor does not prove that such breach as described in Section 9.1(c)(i) is or was attributable directly to any failure or omission of the Purchaser to fulfill its obligations under this Agreement or if the Vendor does not prove that the Purchaser directly failed to perform any condition in Section 7.2 that is or was reasonably capable of being performed or caused to be performed by the Purchaser directly), the Deposit shall be returned to the Purchaser in accordance with Section 9.2(c).

- (c) If this Agreement is terminated pursuant to Section 9.1(a) or 9.1(b), or if the Deposit is to be returned pursuant Section 9.2(b), the Deposit shall be returned to the Purchaser without any interest, and the Purchaser acknowledges and agrees that such termination and return of the Deposit shall be the Purchaser's sole and exclusive compensation and remedy in respect of this Agreement, including without limitation in respect of Closing not occurring and any other matter or thing occurring or not occurring due in whole or in part to Closing or any step thereto not occurring, and the Purchaser shall have no further right or claim of any nature or description whatsoever against the Vendor or the Monitor, except solely for gross negligence or wilful misconduct as determined by final Order of the Court.

9. Survival.

If this Agreement is terminated pursuant to Section 9.1, this Agreement shall be of no further force or effect; provided, however, that this Section 9.2, ARTICLE 10, and provisions of this Agreement that by their nature should survive to the benefit of the Vendor or the Purchaser, as the case may be, shall survive such termination of this Agreement.

**ARTICLE 10
MISCELLANEOUS**

10.1 Notices.

Any notice, direction or other communication given regarding the matters contemplated by this Agreement (each a "Notice") must be in writing, sent by personal delivery, courier or email addressed:

- (a) to the Purchaser at:



With a copy to:

BOYNECLARKE LLP
99 Wyse Road, Unit 600
Dartmouth, NS B3A 4S5
Attention: Kelly J. Powell
Email: kpowell@boyneclarke.ca

- (b) to the Vendor at:

Nicole Myles Brook
c/o Suite 202, 80 Elizabeth Ave.,
St. John's, NL, A1A 1W7
Attn: Darren O'Keefe, as agent for Nicole Myles Brook
Email: nicole@mylesandcompany.com

With a copy to:

O'KEEFE & SULLIVAN
Suite 202, 80 Elizabeth Ave.,
St. John's, NL, A1A 1W7
Attn: Darren O'Keefe
Email: dokeefe@okeefesullivan.com

- (c) in each case, with a further copy to the Monitor as follows:

Grant Thornton Ltd.
Nova Centre, North Tower
Suite 1000 – 1675 Grafton Street
Halifax, NS B3J 0E9
Attn: Phil Clarke, the Montior
Email: phil.clarke@ca.gt.com

With a copy to:

STEWART MCKELVEY
1741 Lower Water St
Suite 600, Halifax, NS B3J 0J2
Attn: Sara Scott
Email: sscott@stewartmckelvey.com

A Notice is deemed to be given and received (i) if sent by personal delivery or courier, on the date of delivery if it is a Business Day and the delivery was made prior to 4:00 p.m. (local time in place of receipt) and otherwise on the next Business Day, or (ii) if sent by email, on the next Business Day. A Party may change its address for service from time to time by providing a Notice in accordance with the foregoing. Any subsequent Notice must be sent to the Party at its changed address. Any element of a Party's address that is not specifically changed in a Notice will be assumed not to be changed. Sending a copy of a Notice to a Party's legal counsel as contemplated above is for information purposes only and does not constitute delivery of the Notice to that Party.

10.2 Time of the Essence.

Time shall be of the essence in respect of the obligations of the Parties arising prior to Closing under this Agreement.

10.3 Announcements.

No press release, public statement or announcement or other public disclosure with respect to this Agreement or the transactions contemplated in this Agreement may be made prior to Closing except with the prior written consent and joint approval of the Vendor, the Purchaser and the Monitor. Where such disclosure is required by Law, the Party required to make such disclosure will use its commercially reasonable efforts to obtain the approval of the other Party as to the form, nature and extent of the disclosure. After the Closing, any disclosure by the Vendor may be made only with the prior written consent and approval of the Purchaser unless such disclosure is required by Law, in which case the Vendor shall use its commercially reasonable efforts to obtain the approval of the Purchaser as to the form, nature and extent of the disclosure. Notwithstanding the foregoing, this Agreement may be disclosed publicly in Court materials provided that the Vendor or the Monitor may make redactions and seek any sealing order they deem necessary or appropriate.

10.4 Third Party Beneficiaries.

Except as otherwise provided in this Agreement, (i) the Vendor and the Purchaser intend that this Agreement will not benefit or create any right or cause of action in favour of any Person, other than the Parties and (ii) no Person, other than the Parties, is entitled to rely on the provisions of this Agreement in any action, suit, proceeding, hearing or other forum. The Parties reserve their right to vary or rescind the rights at any time and in any way whatsoever, if any, granted by or under this Agreement to any Person who is not a Party, without Notice to or consent of that Person.

10.5 Expenses.

Except as otherwise expressly provided in this Agreement, each Party will pay for its own costs and expenses (including the fees and expenses of legal counsel, accountants and other advisors) incurred in connection with this Agreement or any Ancillary Agreements and the transactions contemplated by them.

10.6 Amendments.

This Agreement may only be amended, supplemented or otherwise modified by written agreement signed by the Vendor and the Purchaser.

10.7 Waiver.

No waiver of any of the provisions, in whole or in part, of this Agreement or any Ancillary Agreement will constitute a waiver of any other provision (whether or not similar) nor shall such waiver constitute a continuing waiver unless otherwise expressly provided. No waiver will be binding unless executed in writing by the Party to be bound by the waiver. A Party's acceptance of any certificate delivered on Closing or failure or delay in exercising any right under this Agreement will not operate as a waiver of that right. A single or partial exercise of any right will not preclude a Party from any other or further exercise of that right or the exercise of any other right.

10.8 Entire Agreement.

This Agreement, together with the Ancillary Agreements, (i) constitutes the entire agreement between the Parties; (ii) supersedes all prior agreements, understandings, negotiations, and discussions of the Parties, whether written or verbal; and (iii) sets forth the complete and exclusive agreement between the Parties, in all cases, with respect to the subject matter herein. For greater certainty and without limiting the foregoing, this Agreement supersedes and fully replaces the Letter of Intent, which Letter of Intent shall be terminated as of the date hereof.

10.9 Successors and Assigns

- (a) Upon execution of the Agreement by the Parties, it will be binding upon and enure to the benefit of the Vendor, the Purchaser and their respective successors and permitted assigns.
- (b) Except as provided in this Section 10.9, neither this Agreement nor any of the rights or obligations under this Agreement may be assigned or transferred, in whole or in part, by any Party without the prior written consent of the other Party. Upon giving Notice to the Vendor at any time on or prior to the Closing Date, the Purchaser may assign this Agreement or any of its rights and/or obligations under this Agreement to any of its Affiliates, provided that such Affiliate and the Purchaser shall be jointly and severally liable with respect to all of the obligations of the Purchaser, including the representations, warranties, covenants, indemnities and agreements of the Purchaser.

10.10 Severability.

If any provision of this Agreement is determined to be illegal, invalid or unenforceable by an arbitrator or any Court of competent jurisdiction, that provision will be severed from this Agreement and the remaining provisions will remain in full force and effect.

10.11 Governing Law.

- (a) This Agreement is governed by and will be interpreted and construed in accordance with the laws of the Province of Newfoundland and Labrador and the federal laws of Canada applicable therein.
- (b) Each Party irrevocably attorns and submits to the exclusive jurisdiction of the Court (and appellate Courts therefrom) and waives objection to the venue of any proceeding in such Court or that such Court provides an inappropriate forum.

10.12 Counterparts.

This Agreement may be executed (including by electronic means) in any number of counterparts, each of which (including any electronic transmission of an executed signature page), is deemed to be an original, and such counterparts together constitute one and the same instrument.

10.13 Monitor

In addition to all of the protections granted to the Monitor under the CCAA or any order of the Court in these CCAA Proceedings, the Vendor and the Purchaser acknowledge and agree that the Monitor shall have no liability whatsoever with respect to this Agreement.

[Remainder of page intentionally left blank. Signature pages follow.]

IN WITNESS WHEREOF the Parties have executed this Asset Purchase Agreement.

BIG ERICS INC.

Per:

Name: Nicole Myles Brook
Title: President

Schedule “1.1(f)”
Draft Approval and Vesting Order

Attached.

Schedule “1.1(h)”
Assumed Contracts

All contracts contained in the Share File as agreed to by the Purchaser and Vendor.

Schedule "1.1(ff)"
Excluded Contracts

[REDACTED]

[REDACTED]

Schedule “1.1(vv)”
Permitted Encumbrances

The Premises Lease as defined herein.

Schedule “1.1(eee)”
Description of Real Property

Nil.

Schedule “2.1”

Encumbrances to be deleted and expunged including from title to the Real Property (all information as registered per Registry of Deeds of Newfoundland and Labrador).

Nil.

Schedule “2.2(d)”
Other Excluded Assets

Nil.

Schedule “2.4”
Other Excluded Liabilities

- (a) any Liabilities of the Vendor arising or incurred in connection with the negotiation, preparation, investigation and performance of this Agreement, the transaction documents ancillary to this Agreement and the transactions contemplated hereby and thereby, including fees and expenses of counsel, accountants, consultants, advisers and others;
- (b) any Liabilities in respect of all indebtedness of the Vendor to all persons;
- (c) any Liabilities for Taxes payable by the Vendor;
- (d) any Liabilities related to the Non-Transferred Employee Liabilities;
- (e) any Liabilities in respect of any pending or threatened Action arising out of, relating to or otherwise in respect of the operation of the Business or the Purchased Assets to the extent such Action relates to such operation on or before the Closing Date;
- (f) any product Liability or similar claim or Action for injury to a person or property which arises out of or is based upon any express or implied representation, warranty, agreement or guarantee made by the Vendor, or by reason of the improper performance or malfunctioning of a product, improper design or manufacture, failure to adequately package, label or warn of hazards or other related product defects of any products at any time manufactured or sold or any service performed by the Vendor;
- (g) any recall, design defect or similar claims or Actions of any products manufactured or sold or any service performed by the Vendor;
- (h) any Liabilities of the Vendor in respect of the Transferring Employees to the extent that such Liabilities are based on facts, circumstances or events that arise on or before the Closing on the Closing Date and any Liabilities of the Vendor in respect of any employees of the Vendor including, without limitation, wages, salary, bonus, vacation pay and other compensation, all Liabilities under employee Benefit Plans of the Vendor relating to employment of all persons in the Business prior to the Closing Date, all severance and seniority payments, damages for wrongful dismissal and all related costs in respect of the termination by the Vendor of the employment of any employee who does not accept the Purchaser’s offer of employment referred to in Section 6.5(a);
- (i) all liabilities for claims and Actions for injury, disability, death or workers’ compensation arising from or related to employment in the Business prior to the Closing Date;
- (j) any environmental Actions, or Liabilities under environmental laws, to the extent arising out of or relating to facts, circumstances or conditions existing on or before

the Closing on the Closing Date or otherwise to the extent arising out of any actions or omissions of the Vendor;

- (k) any trade accounts payable of the Vendor;
- (l) any Liabilities of the Business relating or arising from unfulfilled commitments, quotations, purchase orders, customer orders or work orders;
- (m) any Liabilities to indemnify, reimburse or advance amounts to any present or former officer, director, employee or agent of the Vendor (including with respect to any breach of obligations by such person);
- (n) any Liabilities associated with debt, loans or credit facilities of the Vendor or the Business owing to financial institutions or creditors;
- (o) any Liabilities payable by the Vendor under any Lease for the Business' Premises; and
- (p) any Liabilities arising out of, in respect of or in connection with the failure of the Vendor or any of its Affiliates to comply with any Law or Governmental Order.

[illegible]

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Confidential Appendix G

Proposed Transaction and Execution Copy of the APA

[Confidential]

Appendix H

BEI – Budget to Actual Results from March 1, 2024 to March 29, 2024

And from July 2, 2024 to March 29, 2024

Big Erics Inc. - Cash Flow						
	March 4, 2024 to March 29, 2024 Weeks 36-39			July 2, 2023 to March 29, 2024 Weeks 1-39		
	Budget	Actual	Variance	Budget	Actual	Variance
Gross Sales	2,399,956	1,760,155	(639,801)	18,764,885	16,275,959	(2,488,926)
<i>Cash Receipts</i>						
Collection of Accounts Receivable	2,308,445	1,776,474	(531,971)	19,522,731	19,758,712	235,981
Miscellaneous	90,000	93,795	3,795	247,190	93,891	(153,299)
Total Cash Receipts	2,398,445	1,870,269	(528,176)	19,769,921	19,852,603	82,682
<i>Operational Disbursements</i>						
Cost of Sales	(1,411,240)	(1,388,051)	23,189	(13,542,477)	(13,060,312)	482,165
Rent & Municipal Taxes	(65,466)	(190,503)	(125,037)	(565,128)	(806,993)	(241,865)
Utilities	(15,000)	(12,622)	2,378	(114,408)	(87,548)	26,860
Insurance	(6,000)	(639)	5,361	(41,070)	(66,029)	(24,959)
Payroll	(318,822)	(257,381)	61,441	(3,069,486)	(2,753,676)	315,810
Key Employee Retention Payments	-	-	-	(108,000)	(32,300)	75,700
Warehouse Expenses	(65,700)	(89,902)	(24,202)	(578,945)	(872,093)	(293,148)
Selling Expenses	(35,000)	(7,125)	27,875	(248,678)	(122,348)	126,330
Bank Charges and POS Transaction Fees	(16,000)	(310)	15,690	(180,155)	(95,482)	84,673
HST Payable/Refund	(60,000)	(23,612)	36,388	(334,368)	(292,451)	41,917
Administrative and Miscellaneous	(35,000)	(42,508)	(7,508)	(297,364)	(379,908)	(82,544)
Total Operational Disbursements	(2,028,228)	(2,012,653)	15,575	(19,080,079)	(18,569,140)	510,939
Professional Fees	(28,000)	(173,781)	(145,781)	(454,000)	(690,258)	(236,258)
Total Disbursements	(2,056,228)	(2,186,434)	(130,206)	(19,534,079)	(19,259,398)	274,681
Net Cash Flow	342,217	(316,165)	(658,382)	235,842	593,205	357,363
Operating Line - Opening	(4,802,500)	(4,021,197)	781,303	(4,930,567)	(4,930,567)	-
Net Cash Flow	342,217	(316,165)	(658,382)	235,842	593,205	357,363
Operating Line - Closing	(4,460,283)	(4,337,362)	122,921	(4,694,725)	(4,337,362)	357,363
Less: Borrowing Base	(4,931,000)	(4,931,000)	-	(4,930,567)	(4,931,000)	(433)
Line of Credit Liquidity	470,717	593,638	122,921	235,842	593,638	357,796