

**Estate No.: 31-2636073**  
**Court No.: 31-2636073**

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**  
**(IN BANKRUPTCY AND INSOLVENCY)**

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF**  
**FERREX ENGINEERING LTD.**  
**OF THE CITY OF AJAX,**  
**IN THE PROVINCE OF ONTARIO**

**SECOND REPORT TO THE COURT**  
**SUBMITTED BY MNP LTD.,**  
**IN ITS CAPACITY AS TRUSTEE UNDER THE**  
**NOTICE OF INTENTION TO MAKE A PROPOSAL OF**  
**FERREX ENGINEERING LTD.**

**June 15, 2020**

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## I. INTRODUCTION

1. On April 2, 2020 (the “**Filing Date**”), Ferrex Engineering Ltd. (“**Ferrex**” or the “**Company**”) filed a Notice of Intention to Make a Proposal (“**NOI**”) pursuant to Section 50.4 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”). MNP Ltd. was named proposal trustee in the NOI proceeding (the “**Proposal Trustee**”).
2. Notice of the NOI as prescribed by the BIA was sent on April 9, 2020 to all Ferrex’s known creditors.
3. On April 28, 2020, Ferrex filed a Notice of Motion and a Motion Record returnable May 4, 2020, seeking, among other things, a court order extending the time within which Ferrex had to file a proposal and approving the sale process (“**Sale Process**”) in respect of the Company’s assets and authorizing the Proposal Trustee to conduct the Sale Process. The Proposal Trustee served its first report, dated April 29, 2020 (the “**First Report**”) in support of Ferrex’s motion. A copy of the First Report, without exhibits, is attached hereto and marked as **Exhibit “A”**.
4. On May 4, 2020, the Court approved (the “**May 4<sup>th</sup> Court Order**”) the following:
  - a. an extension of the time for the Company to make a proposal to June 18, 2020;
  - b. the Sale Process and authorized the Proposal Trustee to conduct the Sale Process;  
and
  - c. a first ranking charge (the “**Administrative Charge**”) on the properties, assets and undertakings of the Company (collectively the “**Property**”) in an amount not to exceed \$100M in favour of the Proposal Trustee, Fogler Rubinoff LLP (“**FR**”), the Proposal Trustee’s independent legal counsel, and the Company’s legal counsel, (collectively, the “**Administrative Professionals**”) to secure payment of their reasonable fees and disbursements.
5. On April 20, 2020, Ferrex commenced Chapter 15 proceedings (the “**Chapter 15 Case**”) and on April 22, 2020, the United States Bankruptcy Court (the “**US Court**”) for the

Northern District of New York issued an Order to Show Cause with Temporary Restraining Order (“**TRO**”), staying all U.S. proceedings against Ferrex. The TRO was initially effective till May 4 but was later extended up to May 20. On May 22, 2020, the US Court issued a final order recognizing these proceedings as “foreign main proceedings”, recognizing Ferrex as the foreign representative and continuing the stay of proceedings.

6. Information regarding the NOI proceedings has been posted to the Proposal Trustee’s case website (the “**Website**”) at [www.mnpdebt.ca/Ferrex](http://www.mnpdebt.ca/Ferrex).

## **II. RESTRICTIONS**

7. In preparing this Second Report and making the comments herein, the Proposal Trustee has been provided with, and has relied upon, certain unaudited, draft and/or internal financial information, the affidavit of Thomas H. Clarkson, dated April 28, 2020 (the “**Clarkson Affidavit**”), Ferrex’s books and records, discussions with management of Ferrex (the “**Management**”) and information from other third-party sources (collectively, the “**Information**”). Except as specifically noted in this Second Report, the Proposal Trustee has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards of the Chartered Professional Accountants of Canada.
8. The Proposal Trustee also bases its report on the Company’s cash flow projections and underlying assumptions and notes that its review and commentary thereon were performed in accordance with the requirements set out in the Canadian Association of Insolvency and Restructuring Professionals’ Standards of Professional Practice No. 9 (Cash Flow Statement). Certain of the information referred to in this Second Report consists of financial forecasts and/or projections. An examination or review of financial forecasts and projections and procedures, in accordance with standards set by the Chartered Professional Accountants of Canada, has not been performed. Future oriented financial information referred to in this Second Report was prepared based on estimates and assumptions provided by Management. Readers are cautioned that since financial forecasts and/or projections are based upon assumptions about future events and conditions that are not

ascertainable, actual results will vary from the projections, and such variations could be material. On March 17, 2020, the Province of Ontario declared a state of emergency due to the COVID-19 pandemic. The effect of this declaration along with other federal, provincial and municipal actions regarding the COVID-19 pandemic on the Company's business and the economy in general has yet to be determined. In developing the Cash Flow Projections (defined below), Management has reflected its current view of the potential impact of the COVID-19 pandemic on its cash flow. However, the ongoing uncertainty and instability caused by the COVID-19 pandemic and various government regulatory actions in response thereto, may cause actual results to differ from the projected amounts and these variations may be material.

9. Unless otherwise stated, all monetary amounts contained in this Second Report are expressed in Canadian dollars.

### **III. PURPOSE OF THIS REPORT**

10. The purpose of this Second Report is, *inter alia*, to:
  - a. Update the Court with respect to:
    - i. the activities of the Company and the Proposal Trustee since the First Report;
    - ii. the results of the Sale Process; and
    - iii. report on the Company's actual cash flows for the period April 27, 2020 to June 7, 2020;
  - b. provide the Court with the Proposal Trustee's recommendation for an order, *inter alia*,
    - i. approving the Asset Purchase Agreement dated June 8, 2020 (the "APA") entered into by the Company and 1199541 Ontario Inc. ("1199541") and the transaction (the "Transaction") contemplated therein pursuant to which MSC Manufacturing Solutions Corp., as a permitted assignee under the terms of the APA ("MSC" or the "Purchaser"), has agreed to purchase all

- of the Company's right, title and interest in and to the Purchased Assets (as such term is defined in the APA);
- ii. vesting title in and to the Purchased Assets in the Purchaser or as it may direct, free and clear of any encumbrances, save and except as otherwise contemplated by the APA;
  - iii. sealing the Confidential Exhibit of the unredacted APA pending closing of the Transaction or further order of the Court;
  - iv. approving the fees and disbursements of the Proposal Trustee and FR as described herein; and
  - v. approving the activities of the Proposal Trustee as set out in this Report.

#### **IV. BACKGROUND INFORMATION**

11. Ferrex is an Ontario corporation that was carrying on business out of leased premises located at 230 Westney Road, Ajax, Ontario (the "**Leased Premises**"). However, the Company disclaimed the lease in respect of the Leased Premises with effect from May 14, 2020.
12. The Company is a multi-disciplinary professional services company that delivers an array of technical and strategic services, including engineering, automation systems and process control, information technology, project management and commissioning to the manufacturing industry.
13. As detailed in the First Report, Ferrex attributes its financial difficulties primarily to the continuing litigation with Micro Fines Recycling Oswego, LLC ("**Micro Fines**"), which culminated in a judgment (the "**Micro Fines Judgment**") in favour of Micro Fines in the amount of USD\$538,874.39 (approximately CDN\$757,441). Pursuant to an agreement between Ferrex and Micro Fines, Ferrex had supplied an industrial dryer to Micro Fines, who allege that the dryer installed was faulty and have asserted claims for breach of warranty before the US Court. Subsequently, on March 10, 2020, Micro Fines also filed a motion before the US Court seeking an order to bring funds from Ferrex's Canadian bank account to the State of New York for the purpose of attaching such funds. Such an order would have forced the Company to cease operations. Moreover, the funds held by the

Company in the Canadian bank account are subject to the security interest in favour of 1199541.

14. Prior to the Filing Date, Ferrex and Micro Fines engaged in settlement discussions to try and resolve the dispute related to the Micro Fines Judgment. Notwithstanding these efforts, the parties were unable to arrive at an agreeable settlement, which resulted in the Company proceeding to file the NOI and the Chapter 15 Case.
15. The primary purpose of the NOI proceedings and the Chapter 15 Case has been to create a stabilized environment to allow the Company to continue operating as a going concern business while it works with the Proposal Trustee to restructure its affairs. As noted in the First Report, it was contemplated that the restructuring will in part be by way of a going concern transaction of the Company's business and assets.
16. Additional information in respect of the Company, including its assets and liabilities, is set out in the First Report and the Clarkson Affidavit. The Proposal Trustee has not repeated such details in this Report.

## V. CREDITORS

### Secured Creditors

17. As noted in the First Report:
  - a. 1199541 is the only party to have registered a security interest against Ferrex under the Ontario *Personal Property Security Act* (“PPSA”)<sup>1</sup>;
  - b. based on Ferrex's books and records, 1199541 is owed approximately \$1.757MM (the “**1199541 Secured Indebtedness**”), representing a series of loan advances it made to Ferrex over an extended period to support Ferrex's operations, evidenced by a series of promissory notes in support of its loan advances;

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<sup>1</sup> Based on a search conducted under the PPSA registry with a file currency as of April 26, 2020.

- c. 1199541 holds a general security interest covering all of the Company's presently and after acquired property and it registered its security interest under the PPSA on December 8, 2011; and
- d. FR has provided the Proposal Trustee with a verbal opinion confirming that, subject to certain standard assumptions and qualifications, 1199541 has valid and enforceable security over the Property.

### **Other Creditors**

18. The NOI lists creditors with claims of \$2.539MM as at April 2, 2020 including outstanding amounts due to 1199541 totaling \$1.757MM, as noted above, and the \$757.44M liability owing to Micro Fines pursuant to Micro Fines Judgment. The NOI does not include Ferrex's contingent liability to Micro Fines for damages.

## **VI. CASH FLOW PROJECTIONS**

- 19. To date, Ferrex has provided the Proposal Trustee with its full co-operation and unrestricted access to its premises, and books and records.
- 20. On April 13, 2020, Ferrex filed a projected weekly cash flow statement for the period April 6, 2020 and ending on July 5, 2020 (the "**Projection Period**"), which was reviewed and signed by the Proposal Trustee and Ferrex (the "**Cash Flow Projections**"). A copy of the Cash Flow Projections, and related reports, were appended to the First Report.
- 21. The Proposal Trustee has implemented procedures for monitoring the Company's receipts and disbursements and has kept in close contact with Management to ensure that operations are continuing in the normal course of business and in accordance with the Cash Flow Projections.
- 22. A summary of the Company's actual receipts and disbursements as compared to the those presented in the Cash Flow Projections for the period April 27, 2020 to June 7, 2020 (the "**Monitored Period**") are as follows (subject to rounding errors):



<b>Ferrex Engineering Ltd.</b>			
<b>Actual Receipts and Disbursements</b>			
<b>For six week period ending June 7, 2020</b>			
<b>(Unaudited, in \$ CAD)</b>			
	<b>Cumulative Six-Week Period Ended June 7, 2020</b>		
	<b>Actual</b>	<b>Budget</b>	<b>Variance</b>
<b>Receipts from customers</b>	<b>163,782</b>	<b>347,352</b>	<b>(183,571)</b>
<b>Canada Emergency Wage subsidy</b>	<b>40,606</b>	<b>-</b>	<b>40,606</b>
<b>Disbursements</b>			
Payment to suppliers	(66,873)	(70,657)	3,784
Payments for operating expenses	(16,237)	(26,841)	10,604
Payroll (inc. contractors)	(92,254)	(107,822)	15,568
Tax	12,829	(3,609)	16,438
<b>Total Disbursements</b>	<b>(162,535)</b>	<b>(208,929)</b>	<b>46,394</b>
<b>Operating Net Cash Flow</b>	<b>41,853</b>	<b>138,424</b>	<b>(96,571)</b>
Administrative Fees	(14,200)	(50,000)	35,800
<b>Net Cash Flow</b>	<b>27,653</b>	<b>88,424</b>	<b>(60,771)</b>
<b>Beginning Cash</b>	<b>134,419</b>	<b>119,171</b>	<b>15,248</b>
Net Cash Flow	27,653	88,424	(60,771)
Interim Financing/(repayment)	-	-	-
<b>Ending Cash</b>	<b>162,071</b>	<b>207,595</b>	<b>(45,523)</b>

23. Overall, Ferrex realized a negative net cash flow variance of approximately \$60.77M during the Monitored Period. However, its opening balance has increased by \$20M compared to the previous closing balance as at April 26, 2020 due to its stopping payment of a cheque in favour of a supplier that the Company initially considered critical to operations and requiring payment of a pre-NOI supply. The key components of the other variance are as follows:

- a. Receipts from customers: Unfavorable variance of approximately \$183.57M primarily relates to a timing difference associated with a delay in receipt of collections from two customers amounting to approximately \$59M and \$132M, respectively. Subsequent to the Monitored Period and as of the writing of this Second Report, the Company had collected the account of approximately \$59M.

Ferrex expects to receive payment of the \$132M later in June 2020. Ferrex is also communicating with another customer to collect an amount of \$21.6M from it but is uncertain of the extent and timing of collection. Ferrex attributes this uncertainty to its customer being sent a letter, dated March 11, 2020 by Micro Fine’s counsel, providing it with copies of the Court filing filed by Micro Fines against Ferrex. The shortfall in receipts from the customers as noted above is partially offset by receipts amounting to \$32M on account of new contracts which were not considered in the Cash Flow Projections.

- b. Canada Emergency Wage Subsidy (“CEWS”): To date, the Company has received the CEWS in two (2) installments of \$23.6M and \$17.2M for the month of March and April 2020, respectively and expects to receive a further \$10M in the last week of June 2020. CEWS was not considered in the Cash Flow Projections.
- c. Payment for operating expenses: The favorable variance of \$10.6M is primarily due to lower than anticipated operating expenses, and accordingly, is largely permanent in nature. The Company has yet to make the payment of \$1.8M towards rent for the period ending May 14, 2020 which it will be paying during June 2020.
- d. Payroll (incl. contractors): The favorable variance of \$15.6M is due to reduction in number of working hours of some of the contractors and the laying off certain employees, and accordingly, such variance is a permanent difference.
- e. Administrative fees: The favorable variance is a timing difference and is expected to reverse.

## **VII. ACTIVITIES OF THE PROPOSAL TRUSTEE**

24. Since the Filing Date, the Proposal Trustee has undertaken the following activities, *inter alia*:

- a. updated the Website as necessary;
- b. prepared drafts of written communications to assist the Company in their correspondence with suppliers, customers and employees;

- c. responded to enquiries directed towards the Proposal Trustee at [Ferrex@mnp.ca](mailto:Ferrex@mnp.ca);
- d. discussed with Ferrex regarding disclaiming certain agreements, and approving one agreement disclaimer pursuant to subsection 65.11 of the BIA;
- e. monitored Ferrex's actual cash flows in comparison with the Cash Flow Projections;
- f. discussed with the Company and the Company's counsel and counsel for 1199541 regarding the ongoing efforts to restructure Ferrex's operations and the Sale Process;
- g. monitored the Chapter 15 Case;
- h. drafted this Second Report and reviewing all Court materials filed in connection with the Company's motion; and
- i. as described in greater detail below, conducted the Sale Process.

## VIII. SALE PROCESS

25. The Proposal Trustee conducted the Sale Process, as approved by the Court and described in the First Report and detailed in Exhibit "D" therein. The following steps were taken by the Proposal Trustee, with the assistance of the Company, to conduct the Sale Process:
- a. prepared a form of non-disclosure agreement ("**NDA**");
  - b. developed a teaser letter (the "**Teaser**"), a copy of which is attached as **Exhibit "B"**;
  - c. prepared a Sale Process and Notice to Readers, a copy of which was included in the secure online data room (the "**Data Room**") created by the Proposal Trustee;
  - d. Supplemented the list of potential purchasers provided to it by the Company, to include companies known by the Proposal Trustee and its affiliated MNP Corporation Finance practice to (i) potentially acquire or invest in an engineering, automation and IT service firm; and (ii) selected venture capital and other

investment firms, such that the Teaser was sent via email, on May 11, 2020, to fifty-eight (58) strategic and thirty-seven (37) financial prospective parties;

- e. Subsequent to the initial circulation of the Teaser, the Proposal Trustee sent the Teaser to two (2) additional parties, who were identified as prospective purchasers during the Sale Process;
  - f. On May 8, 2020, advertised the opportunity in the National Edition of the *National Post*. A copy of the advertisement is attached as **Exhibit “C”**;
  - g. Additional notice of the Sale Process was published in the *Insolvency Insider* e-mail publication on May 25, June 1 and June 8, 2020; and
  - h. The Data Room was set up containing additional information and documents in respect of the Company and its business and assets.
26. The Proposal Trustee, in connection with the efforts put forth to solicit interest in the Sale Process, was contacted by seven (7) parties with respect to the acquisition opportunity. These seven (7) parties executed an NDA and were provided with access to the Data-Room. However, for the reasons described below, none of these parties spent significant amount of time to review the documents uploaded in the data room and queries raised were limited to losses reported in the historical financial statements and Company’s capital assets. Certain parties withdrew from the Sale Process prior to the Bid Deadline (as such term is later defined below).
27. On June 5, 2020, the Proposal Trustee sent to all the parties that had signed an NDA and were active in the Data Room, a reminder of the Bid Deadline.
28. Offers were due at 5 PM (Toronto Time) on June 8, 2020 (the “**Bid Deadline**”).
29. Despite diligent efforts by the Proposal Trustee and the Company to find a buyer of its assets and operations on a going-concern basis, no offers were received by the Bid Deadline except an offer by the secured creditor, 1199541. Commentary from parties who conducted due diligence on their decision to not submit bids in the Sale Process included that in their opinion the historical, current and forecasted revenue numbers for the Companies were

lower than desired and the Company did not have any material capital assets or intellectual property.

## **IX. SALE APPROVAL**

30. Prior to the Bid Deadline, on June 8, 2020, 1199541, submitted the APA, which save and except for payment of a deposit, is a credit bid. A redacted and an unredacted copy of the APA are attached hereto as **Exhibit “D”** and **Confidential Exhibit “A”**, respectively. The Transaction will permit an orderly sale of Ferrex’s assets on a going concern basis. As explained in section III, pursuant to the APA, MSC, as a permitted assignee under the terms of the APA, has agreed to purchase all the Company’s right, title and interest in and to the Purchased Assets.
31. The APA is conditional on approval by this Court and the issuance of a vesting order in favour of the Purchaser.

## **X. RECOMMENDATION ON THE TRANSACTION**

32. The Proposal Trustee has considered the factors set out in Section 65.13 of the BIA and respectfully recommends that the Court make the order for the relief sought by the Company for the following reasons:
- a. the Proposal Trustee has made reasonable and good faith efforts to sell the Property of the Company on a going-concern basis to persons not related to the Company;
  - b. a broad marketing of the Property was conducted by the Proposal Trustee, with assistance of the Company, in accordance with the May 4<sup>th</sup> Court Order. The Proposal Trustee does not believe that further efforts to market the Company’s business and the Property will result in a superior transaction, in the circumstances;
  - c. the consideration offered by the APA greatly exceeds the fair market value of the Property;
  - d. given the nature and extent of Ferrex’s business and assets, a Purchaser is unlikely to pay greater than the 1199541 Secured Indebtedness. Accordingly, there is

insufficient value in the Company's assets to allow for any distribution to unsecured creditors;

- e. in the Proposal Trustee's view, the duration of the Sale Process was sufficient to allow interested parties an opportunity to perform their due diligence and submit offers;
- f. the Company's business requires the stability of a completed transaction and a timely exit from the NOI proceedings in order to continue to operate as a going-concern; and
- g. the contemplated transaction out of the ordinary course of business complies with the criteria set out in Section 65.13 of the BIA, including the ability of the Company to pay the employee-related amounts (see further details in paragraph 33 below).

33. In compliance with subsection 65.13(8) of the BIA, any amounts owing to employees of the Companies with respect to wages and/or vacation pay, to a limit of \$2,000 per employee, will be paid prior to the closing of the Transaction, or from the Reserve (as such term is later defined below) to be held by the Proposal Trustee, which shall include a component to cover such amount, in this case for any potential remaining vacation pay to a maximum of \$2,000 per employee.

## **XI. VESTING ORDER**

- 34. The APA is conditional on the issuance of an order approving the Transaction and a vesting order vesting title in and to the Purchased Assets of the Company in and to the Purchaser upon the closing of the Transaction.
- 35. As at the date of filing of the NOI and based on the Proposal Trustee's review of the Company's books and records, the Company is current in its obligations to Canada Revenue Agency ("CRA") on account of outstanding payroll source deductions through May 2020. CRA has not conducted an audit/trust examination of Ferrex's books and records.

36. The Purchaser has paid a deposit to the Proposal Trustee in respect of the Transaction (the “**Reserve**”), which will be held in trust by the Proposal Trustee to be used to, among other things, satisfy amounts due under the Administrative Charge, as well as any amounts owing to CRA for post-NOI source deduction obligations and pursuant to Subsection 65.13(8) of the BIA and (as described above).

## **XII. APPROVAL OF THE FEES AND DISBURSEMENTS OF THE PROPOSAL TRUSTEE AND ITS COUNSEL AND AUTHORIZATION TO DRAW FEES**

37. MNP has issued four (4) invoices in its capacity as Proposal Trustee for the period from March 27, 2020 to June 12, 2020, which invoices include an accrual of \$3,543 for time through closing of the Transaction. Attached hereto as **Exhibit “E”** is the Affidavit of Sheldon Title sworn June 15, 2020 (the “**Title Affidavit**”), attesting to the fees and disbursements of the Proposal Trustee, in the aggregate amount of \$60,504.31 (being fees of \$51,882.58 (including the accrual), disbursements of \$1,700.00, PST of \$35.00 and HST of \$6,886.73).

38. FR has issued two (2) invoices as independent counsel to the Proposal Trustee. Attached hereto as **Exhibit “F”** is the Affidavit of Maurice V. Fleming, of FR, , sworn June 15, 2020 (the “**FR Affidavit**”), attesting to the fees and disbursements of FR, in the aggregate amount of \$46,810.15 (being fees of \$41,328, disbursements of \$96.92 and HST of \$5,385.23). Provided there are no delays, disputes or unforeseen developments in connection with the completion of the Transaction, FR estimates a further \$10,000 in fees will be incurred through closing. A copy of the unredacted invoices are attached hereto as **Confidential Exhibit “B”**.

39. It is the Proposal Trustee’s view that its fees and disbursements described in the Title Affidavit, as well as those of FR described in the FR Affidavit, are fair and reasonable in the circumstances. The Proposal Trustee therefore requests that this Court approve its fees and disbursements and the disbursement and fees of its legal counsel.

## **XIII. CONCLUSION AND RECOMMENDATION**

40. Based on the foregoing, the Proposal Trustee respectfully recommends that the Court make an order granting the relief detailed in paragraph 10.

All of which is respectfully submitted on this 15<sup>th</sup> day of June 2020.

**MNP LTD.,**  
in its capacity as Proposal Trustee under  
the Notice of Intention to Make a Proposal of  
Ferrex Engineering Ltd.  
Per:



Sheldon Title  
Licensed Insolvency Trustee



# Exhibit "A"

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**  
**(IN BANKRUPTCY AND INSOLVENCY)**

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF**  
**FERREX ENGINEERING LTD.**  
**OF THE CITY OF AJAX,**  
**IN THE PROVINCE OF ONTARIO**

**FIRST REPORT TO THE COURT**  
**SUBMITTED BY MNP LTD.,**  
**IN ITS CAPACITY AS TRUSTEE UNDER THE**  
**NOTICE OF INTENTION TO MAKE A PROPOSAL OF**  
**FERREX ENGINEERING LTD.**

**APRIL 29, 2020**

**I. INTRODUCTION**

1. On April 2, 2020 (the “**Filing Date**”), Ferrex Engineering Ltd. (“**Ferrex**” or the “**Company**”) filed a Notice of Intention to Make a Proposal (“**NOI**”) pursuant to Section 50.4 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”). MNP Ltd. was named proposal trustee in the NOI proceeding (the “**Proposal Trustee**”). A copy of the certificate of filing of the NOI is attached hereto and marked as **Exhibit “A”**.
2. Notice of the NOI as prescribed by the BIA was sent on April 9, 2020 to all of Ferrex’s known creditors. A copy of such notice is attached hereto and marked **Exhibit “B”**.
3. On April 20, 2020, the Company commenced Chapter 15 proceedings (the “**Chapter 15 Case**”) by filing, pursuant to Sections 1504 and 1515 of the U.S. Bankruptcy Code (the “**Code**”), the Verified Chapter 15 Petition for Recognition of Foreign Main Proceeding (along with the Official Form 401 (Chapter 15 Petition for Recognition of a Foreign

Proceeding); the Application for an Order (i) Scheduling Recognition Hearing; (ii) Specifying Deadline for Filing Objections; (iii) Specifying Form and Manner of Notice; and an Ex Parte Application for Temporary Restraining Order and Relief Pursuant to Sections 1519 and 105(a) of the Code and, collectively with the Verified Petition and Notice Application.

4. On April 22, 2020, the United States Bankruptcy Court (the “**US Court**”) for the Northern District of New York issued an Order to Show Cause with Temporary Restraining Order (“**TRO**”), staying all U.S. proceedings against Ferrex. The TRO is effective until May 4. On May 4, the US Court will be conducting a telephonic hearing during which it will consider whether to extend the stay afforded by the TRO until Ferrex’s hearing on its petition for recognition of the Canadian proceeding.
5. Information regarding the NOI proceedings has been posted to the Proposal Trustee’s case website at [www.mnpdebt.ca/Ferrex](http://www.mnpdebt.ca/Ferrex).
6. The primary purpose of these proceedings is to create a stabilized environment to continue operating as a going concern business while the Company works with the Proposal Trustee to restructure its affairs. It is contemplated that the restructuring of the Company will in part be by way of a going concern transaction of the Company’s business and assets. If approved by the Court (the “**Sale Process Order**”), the Proposal Trustee intends on running a sale process (the “**Sale Process**”) to solicit bids for the Company’s assets.

## **II. RESTRICTIONS**

7. In preparing this Report and making the comments herein, the Proposal Trustee has been provided with, and has relied upon, certain unaudited, draft and/or internal financial information, the affidavit of Thomas H. Clarkson, dated April 28, 2020, Ferrex’s books and records, discussions with management (“**Management**”) of Ferrex and information from other third-party sources (collectively, the “**Information**”). Except as described in this Report, the Proposal Trustee has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially

comply with Generally Accepted Assurance Standards of the Chartered Professional Accountants of Canada.

8. The Proposal Trustee also bases its Report on the Company's cash flow projections and underlying assumptions and notes that its review and commentary thereon were performed in accordance with the requirements set out in the Canadian Association of Insolvency and Restructuring Professionals' Standards of Professional Practice No. 9 (Cash Flow Statement). Certain of the information referred to in this Report consists of financial forecasts and/or projections. An examination or review of financial forecasts and projections and procedures, in accordance with standards set by the Chartered Professional Accountants of Canada, has not been performed. Future oriented financial information referred to in this Report was prepared based on estimates and assumptions provided by Management. Readers are cautioned that since financial forecasts and/or projections are based upon assumptions about future events and conditions that are not ascertainable, actual results will vary from the projections, and such variations could be material. On March 17, 2020, the Province of Ontario declared a state of emergency due to the COVID-19 pandemic. The effect of this declaration along with other federal, provincial and municipal actions regarding the COVID-19 pandemic on the Company's business and the economy in general has yet to be determined. In developing the Cash Flow Projections (defined below), Management has reflected its current view of the potential impact of the COVID-19 pandemic on its cash flow. However, the ongoing uncertainty and instability caused by the COVID-19 pandemic and various government regulatory actions in response thereto, may cause actual results to differ from the projected amounts and these variations may be material.
9. Unless otherwise stated, all monetary amounts contained in this First Report are expressed in Canadian dollars.

### III. PURPOSE OF THIS REPORT

10. The purpose of this Report is to:

- a. Provide information to the Court with respect to the administration of Ferrex's proposal proceedings, including:
  - i. background information regarding the Company's operations and the circumstances leading to the filing of the NOI;
  - ii. report on the Company's actual cash flows for the period April 6, 2020 to April 26, 2020; and
- b. Provide the Court with the Proposal Trustee's support for, and observations in respect of the Company's request that the Court grant an Order, *inter alia*:
  - i. authorizing and directing the Proposal Trustee, in consultation with the Company, to carry out the Sale Process to sell all of the properties, assets and undertakings of the Company (collectively the "**Property**");
  - ii. approving a first ranking charge on the Property in an amount not to exceed \$100M in favour of the Company's legal counsel, the Proposal Trustee, and the Proposal Trustee's legal counsel (collectively, the "**Administrative Professionals**") to secure payment of their reasonable fees and disbursements;
  - iii. approving an extension of the time for the Company to make a proposal to its creditors to June 18, 2020; and
  - iv. approving the activities of the Proposal Trustee as set out in this Report.

### IV. BACKGROUND INFORMATION

11. Ferrex is an Ontario corporation that currently carries on business out of leased premises located at 230 Westney Road, Ajax, Ontario (the "**Leased Premises**"). The Company is a multi-disciplinary professional services company that delivers an array of technical and strategic services, including engineering, automation systems and process control,

information technology, project management and commissioning to the manufacturing industry.

12. The Company attributes its financial difficulties primarily to the continuing litigation with Micro Fines Recycling Oswego, LLC (“**Micro Fines**”), which is explained below:

- a. Ferrex had sold certain industrial equipment to SGM Magnetics Corporation (“**SGM**”) who had purchased it on behalf of its subsidiary, Micro Fines. Micro Fines alleged the industrial dryer supplied by Ferrex was faulty.
- b. In December 2017, Micro Fines commenced litigation against the Company before the U.S. Court (the “**Micro Fines Litigation**”), seeking, *inter alia*, rescission of the contract in respect of the sale of the industrial equipment to SGM and asserted claims for breach of warranty.
- c. The Company did not file a defence in the Micro Fines Litigation due to its distressed financial situation and on February 24, 2020, the U.S. Court entered judgment against the Company in the amount of US\$538.87M (the “**Micro Fines Judgment**”).
- d. On March 10, 2020, Micro Fines filed a motion before the U.S. Court seeking an order directing the Company to bring funds from their Canadian bank account to the State of New York for the purpose of attaching such funds to satisfy the Micro Fines Judgment. Such an order would have forced the Company to cease operations as it would not have the necessary liquidity to continue meeting its obligations to creditors. Moreover, as detailed below, the funds held by the Company in the Canadian bank account are subject to the security interest in favour of 1199541 Ontario Inc. (“**1199541**”).
- e. Prior to the Filing Date, Ferrex and Micro Fines engaged in settlement discussions to try and resolve the dispute related to the Micro Fines Judgment. Notwithstanding these efforts, the parties were unable to arrive at an agreeable settlement, which resulted in the Company proceeding to file the NOI and the Chapter 15 Case.

13. A summary of the Company's historical financial results is set out below:<sup>1</sup>

	<b>Year ended April 30</b>	
<b>Currency: CAD'000</b>	<b>2019</b>	<b>2018</b>
Sales	1,949	2,329
Cost of Sales (incl. payroll cost)	2,672	2,905
<b>Gross Profit</b>	<b>(722)</b>	<b>(576)</b>
<b>Expenses</b>		
Other operating expenses	212	257
<b>EBITDA</b>	<b>(934)</b>	<b>(834)</b>
Investment tax credits	-	59
Interest income	0	0
<b>Net income from operations</b>	<b>(934)</b>	<b>(775)</b>

## V. ASSETS

14. The assets are primarily comprised of contracts, accounts receivable, work-in-progress, equipment and goodwill. The Company has an ongoing project wherein it is designing, installing and commissioning a software system for one of its customers. Ferrex billed its customer a portion of the total purchase price in advance of providing certain of these services, which constitutes unearned revenue. Ferrex is currently working on, amongst other things, fulfilling its obligations under that contract.

## VI. CREDITORS

### Secured Creditors

15. A search of the Ontario *Personal Property Security Act* (“PPSA”) registry, as of April 26, 2020, indicates that 1199541 is Ferrex's only secured creditor. Based on Ferrex's books and records, 1199541 is owed approximately \$1.757MM, representing a series of loan advances it made to Ferrex over an extended period of time to support Ferrex's operations. 1199541 holds a general security interest in all of the Company's presently and after

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<sup>1</sup> Based on unaudited draft financial statements.

acquired property and it registered its security interest under the PPSA on December 8, 2011.

16. Fogler Rubinoff, LLP, the Proposal Trustee's counsel, has provided the Proposal Trustee with a verbal opinion confirming that, subject to certain standard assumptions and qualifications, 1199541 has valid and enforceable security over the Property. The Proposal Trustee has sought and obtained from 1199541 copies of promissory notes in support of its loan advances to Ferrex.

### **Other Creditors**

17. The NOI lists creditors with claims of \$2.539MM as at April 2, 2020 including outstanding amounts due to 1199541 totaling \$1.757MM, as noted above, and the \$757.44MM<sup>2</sup> liability owing to Micro Fines pursuant to Micro Fines Judgment. The NOI does include Ferrex's contingent liability to Micro Fines for damages.

## **VI. CASH FLOW PROJECTIONS**

18. To date, Ferrex has provided the Proposal Trustee with its full co-operation and unrestricted access to its premises, and books and records.
19. In accordance with the provisions of the BIA, the Company filed with the Official Receiver a projected cash flow statement dated April 13, 2020, which was reviewed by the Proposal Trustee for reasonableness and signed by the Proposal Trustee and the Company (the "**Cash Flow Projections**"). The Cash Flow Projections covered the period starting on April 6, 2020 and ending on July 5, 2020 (the "**Projection Period**") A copy of the Cash Flow Projection, and related reports, are attached hereto as **Exhibit "C"**.
20. The Proposal Trustee has implemented procedures for monitoring the Company's receipts and disbursements and has kept in close contact with Management to ensure that operations

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<sup>2</sup> The US Court ordered judgment in favour of Micro Fines in the amount of USD\$538,874.39 (approximately CDN\$757,441, converted at \$1.4055 USD to CDN).



are continuing in the normal course of business and in accordance with the Cash Flow Projections.

21. The principal assumptions of the Cash Flow Projections are that:

- a. The forecasted collection time on post-NOI sales is approximately 30 days and is dependent on successful completion of milestones as per the Purchase Orders obtained from, or contracts entered into with the respective customers. In addition, existing accounts receivable will be collected within 60 days;
- b. Operating expenses are assumed to be paid on a current basis;
- c. The payroll costs (i.e. wages, benefits, government remittances, etc.) are based on the 'actual' payroll costs prior to NOI, adjusted to reflect the reductions to payroll arising out of terminations and layoffs;
- d. Professional fees include charges for Company's counsel and the Proposal Trustee's fees and expenses, including the fees and disbursements of the Proposal Trustee's independent legal counsel;
- e. Other disbursements are based on Management's best estimates;
- f. Projected rent excludes payment of rent in respect of the Leased Premises after May 14, 2020 as this commercial lease was disclaimed on April 14, 2020, which disclaimer is anticipated to become final and conclusive on May 14, 2020;
- g. Opening bank balance considered in the projections is different from the bank balance as per bank statement to the extent of cheques issued but not yet cleared. Such cheques pertain to continuing critical suppliers and the pay cheques of certain employees;
- h. No provision for income taxes has been made; and

- i. The Company has not considered benefits of government assistance related to the COVID-19 pandemic in the Cash Flow Projections. They are currently evaluating the Company's eligibility to apply for such relief.
22. A summary of the Company's actual receipts and disbursements as compared to the those presented in the Cash Flow Projections for the three weeks ended April 26, 2020 are as follows:

<b>Ferrex Engineering Ltd.</b>			
<b>Actual Receipts and Disbursements</b>			
<b>For three week period ending April 26, 2020</b>			
<b>(Unaudited, in \$ CAD)</b>			
	<i>Cumulative Three-Week Period Ended April 26, 2020</i>		
	<u>Actual</u>	<u>Budget</u>	<u>Variance</u>
<b>Receipts from customers</b>	<b>20,035</b>	<b>34,434</b>	<b>(14,399)</b>
<b>Disbursements</b>			
Payment to suppliers	-	-	-
Payments for operating expenses	4,893	5,057	(164)
Payroll (inc. contractors)	54,355	49,407	4,948
Tax	2,515	3,194	(679)
<b>Total Disbursements</b>	<b>61,763</b>	<b>57,658</b>	<b>4,105</b>
<b>Operating Net Cash Flow</b>	<b>(41,728)</b>	<b>(23,224)</b>	<b>(18,504)</b>
Administrative Fees	(7,100)	(20,000)	12,900
<b>Net Cash Flow</b>	<b>(48,828)</b>	<b>(43,224)</b>	<b>(5,604)</b>
<b>Beginning Cash</b>	162,395	162,395	-
Net Cash Flow	(48,828)	(43,224)	(5,604)
Interim Financing/(repayment)	-	-	-
<b>Ending Cash</b>	<b>113,567</b>	<b>119,171</b>	<b>(5,604)</b>

23. Overall, Ferrex realized a negative net cash flow variance of approximately \$5.6M during the Monitored Period. The key components of the variance are as follows:
- a. Receipts from customers: Unfavorable variance of approximately \$14.4M primarily relates to a timing difference associated with a delay in receipt of

collections from two customers totaling \$9M. The Company is following up with them and expects to receive in the first week of May 2020.

- b. Payroll (incl. contractors): The unfavorable variance of \$4.9M is due to payment made to certain employees amounting to \$6.5M in the week starting April 13, 2020 which was projected to be paid in the week starting April 27, 2020.
  - c. Administrative fees: The favorable variance is a timing difference and expected to reverse in the forthcoming weeks.
24. The Cash Flow Projections reflect that Ferrex has sufficient funds available during the Projection Period to carry on its operations. The Company had a cash balance of \$162.4M as at April 6, 2020, which is expected to reduce to \$110.2M at the end of the Projection Period meaning that during this period, the Company is projected to have a \$52.2M decrease in its cash position.
25. Based on the Proposal Trustee's review of the Cash Flow Projections, there are no material assumptions which seem unreasonable in Ferrex's circumstances.
26. The Cash Flow Projections sufficiently cover the period of the extension period to file a proposal contemplated and discussed later in this Report.

## VII. SALE PROCESS

27. Ferrex has requested that, with the input and assistance of Ferrex, the Proposal Trustee conduct the Sale Process, as set out in **Exhibit "D"** attached hereto. In summary, the Sale Process contemplates the soliciting of offers (invitation for offers) for the purchase of the Property of Ferrex on an "as is, where is" basis, subject to Court approval, and would proceed on the following timetable:

Milestone	Deadline
Commencement of Sale Process	Not later than five (5) Business Days after the Sale Process Approval is granted

<p>Advertise for sale the Purchased Assets in The National Post and other trade publications and distribute a teaser document to Prospective Purchasers</p>	<p>Not later than five (5) Business Days after the Sale Process Approval is granted</p>
<p>Due Diligence</p>	<p>Not later than five (5) Business Days after the Sale Process Approval is granted, the Proposal Trustee shall make available to Prospective Purchasers, upon receipt of an executed non-disclosure agreement (the “NDA”) from them, access to a data room containing information reasonably required by Prospective Purchasers to consider submitting an offer for the Purchased Assets and facilitate the conduct of due diligence by the Prospective Purchasers.</p>
<p>Bid Deadline</p>	<p>June 8, 2020.</p>
<p>Qualified Bids</p>	<p>For a bid to qualify as a “Qualified Bid” it must, among other things, satisfy the following conditions:</p> <ul style="list-style-type: none"> <li>a. it includes a letter stating that the bid is irrevocable until June 30, 2020;</li> <li>b. it is not conditional upon the outcome of pending due diligence or obtaining financing;</li> <li>c. it provides proof of such offeror's financial ability to perform the proposed transaction to the satisfaction of the Proposal Trustee; and</li> <li>d. it is accompanied by a cash deposit of 10% of the total cash purchase price contemplated by such bid, which shall be paid to the Trustee by wire transfer only (to a bank account specified by the Proposal Trustee) and held in trust by the Proposal Trustee.</li> </ul>

28. During the Sale Process, the Proposal Trustee will coordinate with Ferrex to facilitate due diligence requests and virtual site visits, if necessary. Following the Bid Deadline, if one or more Qualified Offers (as defined in Exhibit “D”) are received and if appropriate, the

Proposal Trustee shall in consultation with Ferrex, negotiate with the parties in order to obtain the most favourable offer for the Property.

29. The Bid Deadline has been set for June 8, 2020, which given the nature and size of Ferrex's business, should provide prospective purchasers sufficient time to carry out due diligence. The Bid Deadline has been set also having regard to Ferrex's liquidity constraints. While the timetable governing the Sale Process is supported by 1199541, it is possible that 1199541 will participate as a bidder in the Sale Process.

30. MNP recommends the Sale Process be approved as it is consistent with insolvency industry practices in such proceedings and in like circumstances, is supported by 1199541 and, if successful, could result in greater recoveries than in a liquidation, to the benefit of all stakeholders, including secured and unsecured creditors.

#### **VIII. ADMINISTRATIVE PROFESSIONALS CHARGE**

31. In order to protect the fees and expenses of the Administrative Professionals, the Company is seeking a charge (the "**Administrative Professionals Charge**") on the Property to secure payment of the reasonable fees and expenses of the Administrative Professionals in an amount of \$100,000.

32. The Company is requesting that the Administrative Professionals Charge rank in priority to the claims of all secured and unsecured creditors over the Property.

33. The Proposal Trustee recommends the Administrative Professional Charge be approved for the following reasons:

- a. each of the professionals whose fees are to be secured by the Administrative Professionals Charge has played and will continue to play a critical role in the Company's restructuring or the Sale Process;
- b. The Company intends to satisfy the fees and disbursements of the Administrative Professionals from cash flow during the NOI proceedings. The Administrative Professionals Charge is sought to protect the Administrative Professionals in the event that the restructuring is not successful; and

- c. 1199541 has been notified of the Company's request for the Administrative Professionals Charge, and the Proposal Trustee is advised that 1199541 does not oppose the Administrative Professionals Charge.

**IX. REQUEST FOR AN EXTENSION OF TIME FOR FILING A PROPOSAL**

- 34. In order to allow Ferrex sufficient time to stabilize its operations and conduct the Sale Process, Ferrex seeks a forty-five (45) day extension of the time for filing of a proposal to June 18, 2020.
- 35. In view of the foregoing, the Proposal Trustee supports Ferrex's request for an extension and has also considered:
  - a. that Ferrex is acting in good faith and with due diligence;
  - b. that the extension should not adversely affect or materially prejudice creditors as Ferrex is projected to have sufficient funds to pay post-filing services and supplies in the amounts contemplated in the Cash Flow Projections; and
  - c. that the Sale Process could generate Offers before the end of the requested extension period and likely allow the Company to be in a position to make a viable proposal.

**X. CONCLUSION AND RECOMMENDATION**

- 36. Based on the foregoing, the Proposal Trustee respectfully recommends that the Court make an order granting the relief detailed in paragraph 10.

All of which is respectfully submitted on this 29<sup>th</sup> day of April 2020.

**MNP LTD.,**

in its capacity as Proposal Trustee under  
the Notice of Intention to Make a Proposal of  
Ferrex Engineering Ltd.

Per:



Sheldon Title  
Licensed Insolvency Trustee

Estate No.: 31-2636073  
Court No.: 31-2636073

**IN THE MATTER OF THE NOTICE OF INTENTION TIO MAKE A PROPOSAL  
OF FERREX ENGINEERING LTD., OF THE CITY OF AJAX, IN THE PROVINCE OF ONTARIO**

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***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**  
**(IN BANKRUPTCY AND INSOLVENCY)**

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**FIRST REPORT TO THE COURT SUBMITTED BY MNP  
LTD., IN ITS CAPACITY AS PRPOSAL TRUSTEE UNDER  
THE  
NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
FERREX ENGINEERING LTD.**

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**MNP LTD.**  
300-111 Richmond Street West  
Toronto, ON M5H 2G4

**Sheldon Title**  
Tel: (416) 263-6945  
Fax: (416) 323-5242  
Email: [sheldon.title@mnp.ca](mailto:sheldon.title@mnp.ca)



# Exhibit "B"

## Acquisition Opportunity

### ***FERREX ENGINEERING LTD.: Customized services for Metal Industry***

#### **Background of Ferrex Engineering Ltd. (“Ferrex” or the “Company”)**

Ferrex is a multi-disciplinary professional services company, based in Ajax, Ontario, that delivers an array of technical and strategic services, including engineering, automation systems and process control, information technology, project management and commissioning to the steel and recycling industry. The Company offers customized solutions for steel making and casting, rolling mills and recycling.

Founded in 1983 by Thomas Clarkson, an electrical engineer with more than 60 years of experience, to offer specific engineering services to the steel and recycling industry, the Company has expanded its portfolio of services within equipment design, automation, engineering and information services which is recognized by clients across Canada and specific international markets as well.

For additional information, please refer <http://www.ferrexeng.com/>

#### **Sale Process**

The sale process has been approved by the Court on May 4, 2020 and any sale transaction is subject to Court approval.

**The deadline for the submission of a bid is on or before 5:00 p.m. (Toronto, Ontario time) on June 8, 2020.**

For further information and/or to request a copy of the NDA, please contact Akhil Kapoor at the below-noted coordinates.

**Contacts:**  
MNP LTD.  
300 – 111 Richmond Street West  
Toronto, ON M5H 2G4

Sheldon Title, CPA, CA, CIRP, LIT  
Senior Vice-President  
T: 416.263.6945  
F: 416.323.5240  
E: [Sheldon.Title@mnp.ca](mailto:Sheldon.Title@mnp.ca)

Akhil Kapoor  
Manager  
T: 647.475.4573  
F: 416.596.7894  
E: [akhil.kapoor@mnp.ca](mailto:akhil.kapoor@mnp.ca)

# Exhibit "C"

TRANSPORTATION

# GREYHOUND CANADA TO TEMPORARILY SHUT ALL BUS ROUTES

**Greyhound Canada is temporarily slamming the brakes** on all of its busing routes and services as ridership plummets amid the COVID-19 pandemic. The transportation company says starting May 13 it will halt all routes until passenger demand recovers. Greyhound Canada says it made the decision after its ridership dropped by 95 per cent. The bus operator says it has already cut costs across its business and “made significant outreach efforts” to provincial and federal governments seeking financial support. It says 400 employees will be affected by the decision. Greyhound Canada has pulled back on its Canadian services in recent years. In 2018, the company announced it was cancelling buses in most of Western Canada, blaming plunging demand. *The Canadian Press*



## Planned sales of assets still on track

### BOMBARDIER

*Continued from FP1*

The results are the company's last under Alain Bellemare as chief executive. Bombardier replaced Bellemare with former Hydro-Québec CEO Éric Martel last month after a five-year run that saw Bombardier agreeing to exit such long-time businesses as trains and commercial aviation.

All previously announced divestitures are “continuing to progress toward closing,” Bombardier said Thursday. The planned sale of the CRJ program to Mitsubishi Heavy Industries, which will bring in about US\$550 mil-



HOLLIE ADAMS / BLOOMBERG FILES

**Bombardier's widely traded Class B stock dropped 13 per cent to 46 cents in early afternoon trading Thursday in Toronto. The shares are down about 75 per cent this year.**

lion, is expected close June 1. First-quarter results were “weak,” Desjardins Capital Markets analyst Benoit Poirier said Thursday in a note to clients. The cash burn “caused further deterioration in the balance sheet,” said Poirier, who cut his rat-

ing on Bombardier to “hold” Sunday while awaiting “better visibility” into the pandemic's impact.

Bombardier's widely traded Class B stock dropped 13 per cent to 46 cents in early afternoon trading Thursday in Toronto. The shares are down about 75 per cent this year.

Deliveries of private planes — which are poised to become Bombardier's sole business in 2021 — will probably sink as much as 35 per cent this year, Martel said. Production rates “are being aligned to market demand,” the company said without being specific.

Business activity will probably hit a low point in the second quarter before gradually recovering in the second half, Bombardier said.

Bombardier halted manufacturing activities in the second half of March in sev-

eral countries — including Canada — as the pandemic worsened. It announced a gradual resumption of operations on April 28.

“It is clear that we are facing a complete new reality,” Martel said Thursday on a conference call with financial analysts. “We will need to change significantly how we operate.”

Bombardier officials have also approached governments in such jurisdictions as Canada, Belgium, Germany and the U.K. to inquire about additional financial assistance if the pandemic persists, the CEO said.

Free cash flow in the first quarter was hurt by delayed aircraft deliveries and postponed train approvals due to travel restrictions and production shutdowns.

“We got caught with a lot of aircraft that we couldn't deliver,” Di Bert said.

*Postmedia News*

COMMENT

# U Guelph's stand against prosperity

## Chancellor quits over fossil fuel divestment



DIANE FRANCIS

The University of Guelph's grandstanding move to divest its endowment portfolio of fossil fuel stocks is an insult to Canada and its critically important oil and automotive sectors.

Last month, U of G's board of governors overwhelmingly voted to divest itself of oil stocks for non-financial reasons, thereby joining a coven of universities in British Columbia and Quebec that demonize oil. The Guelph, Ont.-based university caved to pressure by the student group Fossil Free Guelph, which organized a one hour sit-in and repetitive propaganda campaigns. Pathetic.

This capitulation to fanaticism led to the resignation this week of the university's chancellor, Martha Billes, a philanthropist and controlling shareholder of Canadian Tire Corp., one of Canada's most successful companies.

“For over 40 years, I have been an investor in business ventures including the oil businesses in my home city of Calgary and my family business, Canadian Tire Corp. My decision to resign as chancellor was prompted by the incompatibility of my business interests with the board of governors' decision to divest from fossil fuel companies in its endowment portfolio,” she wrote in her resignation letter.

Her remarks to a local paper were even more pointed: “If it weren't for the Canadian oil development, many of the advantages across this country would never have happened. The university, to make a statement against an industry that has been paying their bills for many years, I find untenable.”

The board's decision is hypocritical, considering that the region's economy is driven mostly by the auto industry, which is totally tied to oil. Southwestern Ontario is nearly as important as Alberta and Saskatchewan in terms of Canada's economic output and exports. Without oil and autos, the Canadian economy would be a big version of Prince Edward Island's.

I called Seymour Schulich, a business success who is Canada's largest donor to many universities, and his reaction was simply: “It is easier to find a unicorn than to find wisdom on a university board of governors.”

These boards are often comprised of inappropriate placeholders, and a few have become patsies to a larger movement that scapegoats oil, cars and free enterprise in the climate change debate. Yet their opposition to oil and cars totally misses the mark. Demand, not supply, is the cause of increased carbon emissions, along with the United Nations' glaring exemption from emissions controls on China, India and other developing countries. As a result, these countries have become monstrous pollution machines, burning mostly coal to build their economies and produce their junk exports.

The UN is a joke for allowing this, but where are the so-called environmentalists? Fossil Free Guelph should be demanding bans on all those cheap imports of clothes, furnishings, plastics, electronic devices and fresh produce that are transported on planes and giant container ships, and bought up by students and everyone else.

Not surprisingly, given Schulich's statement about how lame boards are, Billes had only one ally on the board, Garret Bos, during the vote on fossil fuel investments. Based on the brief biographies of those who sit on the board of governors, he is the only engineer and technologist in the mix. He also holds a real-world job, not an advisory, academic or public-sector position, and is the school's information security officer.

The rest of the roster is comprised of academics, students, one labour lawyer, retirees and people whose careers are, or were, attached to the public sector. Notable, however, was its chair, a retired Royal Bank of Canada executive with an arts degree whose pension-paying former bank employer is among the world's Top 10 investors in fossil fuels, according to an environmentalist website.

Fortunately, Martha Billes has taken an important stand and should be applauded. Her integrity and courage is admirable and represents a ray of hope in a country full of uninformed people who voted Liberal, Green, NDP and Bloc, in the hopes of burning the country's two key industries, and with it its standard of living, at the stake.

*Financial Post*



Martha Billes

**IN THE MATTER OF THE BANKRUPTCY OF WELCOME WAGON LTD./BIENVENUE CHEZ-NOUS LTEE. OF THE CITY OF TORONTO, IN THE PROVINCE OF ONTARIO**

Notice is hereby given that the bankruptcy of Welcome Wagon Ltd./Bienvenue Chez-Nous Ltee., a corporation that operated at 1 Sparks Avenue, Suite 13, Toronto, Ontario, occurred on May 4, 2020; and that the First Meeting of Creditors will be held via conference call on May 19, 2020 at 10:00 AM. To join the call the coordinate details are as follows: Local: +1 (647) 749-7008; Toll Free: +1 (888) 457-7239; Conference ID: 512 438 044#

DATED at Toronto this 8<sup>th</sup> day of May, 2020.

**FARBER**

**A. FARBER & PARTNERS INC., LIT**  
150 York Street, Suite 1600  
Toronto, ON M5H 3S5  
Tel: (416) 497-0150  
Fax: (416) 496-3839  
www.farbergroup.com

**IN THE MATTER OF THE BANKRUPTCY OF PROMUS INC. A COMPANY DULY INCORPORATED PURSUANT TO THE LAWS OF THE PROVINCE OF ONTARIO WITH A HEAD OFFICE IN THE CITY OF TORONTO PROVINCE OF ONTARIO**

Notice is hereby given that **PROMUS INC.**, located at 1 Yonge Street, Unit 1801, Toronto, Ontario filed an assignment in bankruptcy on the 1st day of May, 2020 and that Schwartz Levitsky Feldman Inc. was appointed as Trustee, and that the First Meeting of Creditors will be held on the 21st day of May, 2020 at the hour of 10:00 o'clock in the forenoon, at:

**Schwartz Levitsky Feldman Inc.**  
2300 Yonge Street, Suite 1500  
Toronto, Ontario  
M4P 1E4  
(416) 785-5353  
(416) 784-3025 fax

**SLF**

**ACQUISITION OPPORTUNITY**

**KMW**

By Order of the Ontario Superior Court of Justice, MNP Ltd. has been authorized to conduct a sale process and solicit bids for the purchase of the assets and going concern business of **KMW Energy Inc. ("KMW")**.

KMW has 70 years of experience in engineering and designing complete biomass boiler systems including fuel handling, combustion system, heat recovery boiler, emission control and control systems.

The sale process involves a stalking horse offer, which shall serve as the baseline bid against which all other qualifying offers shall be evaluated. Any sale transaction is subject to Court approval. **The deadline for submission of bids is 5:00 PM Toronto time on May 29, 2020.**

To obtain information concerning this opportunity and the sale process, please contact Akhil Kapoor by e-mail at akhil.kapoor@mnp.ca.

**MNP**  
LICENCED INSOLVENCY TRUSTEE  
300 - 111 Richmond Street West  
Toronto ON Canada M5H 2G4  
www.mnpdelt.ca

**ACQUISITION OPPORTUNITY**

**FERREX ENGINEERING**

By Order of the Ontario Superior Court of Justice, MNP Ltd. has been authorized to conduct a sale process and solicit bids for the purchase of the assets and going concern business of **Ferrex Engineering Ltd. ("Ferrex")**.

Ferrex started providing engineering services to the steel and recycling industry and has expanded its portfolio of services within equipment design, automation and information services across Canada and specific international markets.

The sale process has been approved by the Court on May 4, 2020 and any sale transaction is subject to Court approval. **The deadline for submission of bids is 5:00 PM Toronto time on June 8, 2020**

To obtain information concerning this opportunity and the sale process, please contact Akhil Kapoor by e-mail at akhil.kapoor@mnp.ca or by telephone at (647) 475-4573.

**MNP**  
LICENCED INSOLVENCY TRUSTEE  
300 - 111 Richmond Street West  
Toronto ON Canada M5H 2G4  
www.mnpdelt.ca

**The Canadian Bar Insurance Association – Annual Financial Statements**

Members of The Canadian Bar Insurance Association (CBIA) are hereby advised that the Report of CBIA's Public Accountant and the Financial Statements for the year ended November 30, 2019, are now available on CBIA's website at [www.lawyersfinancial.ca](http://www.lawyersfinancial.ca). To comply with emergency measures enacted by the Government of Ontario, CBIA's registered office at 5 Park Home Avenue is currently closed, with management and staff working from home. Members may request a copy of the Financial Statements by emailing CBIA at [l.sullivan@lawyersfinancial.ca](mailto:l.sullivan@lawyersfinancial.ca).

**L'Association d'assurances du Barreau canadien – États financiers annuels**

Les membres de l'Association d'assurances du Barreau canadien sont informés aux présentes que le rapport de l'expert-comptable et les états financiers de l'AABC pour l'exercice terminé le 30 novembre 2019 sont maintenant disponibles sur le site Web de l'AABC à [www.financieredesavocats.ca](http://www.financieredesavocats.ca). Pour nous conformer aux mesures d'urgence promulguées par le Gouvernement de l'Ontario, le bureau principal de l'AABC à 5 Park Home Avenue est présentement fermé, et les directeurs et les employés travaillent à partir de leur domicile. Les membres peuvent obtenir des copies des états financiers sur demande en envoyant un courriel à la secrétaire à [l.sullivan@lawyersfinancial.ca](mailto:l.sullivan@lawyersfinancial.ca).

**The Canadian Bar Insurance Association Annual General and Special Meeting**

Take notice that the 2020 Annual General and Special Meeting of The Canadian Bar Insurance Association (CBIA) shall be held on Friday, May 22, 2020, at 12:00 p.m. EDT, at CBIA's office at 500-5 Park Home Avenue, Toronto, ON (the "Meeting").

At that time, the Financial Statements and the Public Accountant's report on the Financial Statements shall be presented, the Public Accountants for the ensuing year shall be appointed, the remuneration of the Public Accountants shall be fixed or shall be referred to the Directors for decision, and amendments to the bylaw will be presented clarifying the Description of Officers clause and the Appointment of Officers clause, and permitting meetings of members to be held by electronic means.

A copy of the complete text of the resolutions to be voted on by Members and forms of proxy will be available on CBIA's website at [www.lawyersfinancial.ca](http://www.lawyersfinancial.ca) not less than 21 days before the date of the Meeting.

To comply with emergency measures enacted by the Government of Ontario, the CBIA Board of Directors strongly encourages Members to avoid contact with other people to help prevent the spread of COVID-19, by attending the Meeting via teleconference and/or video conference. Members who wish to vote MUST vote in advance by submitting a form of proxy provided on CBIA's website in accordance with the voting instructions provided on the form of proxy. Although Members are welcome to attend the Meeting via teleconference and/or video conference, Members will NOT have the ability to vote via teleconference and/or video conference during the Meeting. Members who wish to attend the Meeting via teleconference and/or video conference must contact CBIA in advance with their CBA Member number at [l.sullivan@lawyersfinancial.ca](mailto:l.sullivan@lawyersfinancial.ca) to obtain access instructions. You will be notified of any change in the meeting location through a website posting on <https://www.lawyersfinancial.ca/about-us/announcements>.

**Assemblée générale annuelle et assemblée extraordinaire de L'Association d'assurances du Barreau canadien**

Avis est donné aux présentes que l'assemblée générale annuelle et assemblée extraordinaire de 2020 de L'Association d'assurances du Barreau canadien (AABC) se tiendront le vendredi 22 mai 2020 à 12 h, HAE, dans les bureaux de l'AABC au 500 - 5 Park Home Avenue, Toronto (ON) (« l'assemblée »).

C'est là que les états financiers et le rapport de l'expert-comptable sur les états financiers seront soumis; l'expert-comptable de l'année suivante sera nommé; la rémunération de l'expert-comptable sera fixée ou confiée aux administrateurs aux fins de décision; et des amendements au règlement administratif seront présentés pour clarifier la clause de la description des dirigeants et la clause de nomination des dirigeants, et permettre la tenue d'assemblées des membres par moyen électronique.

Le texte intégral des résolutions soumises au vote des membres et les procurations seront publiés sur le site Web de l'AABC au [www.financieredesavocats.ca](http://www.financieredesavocats.ca) au plus tard 21 jours avant la date de l'assemblée.

Pour nous conformer aux mesures d'urgence promulguées par le Gouvernement de l'Ontario, le conseil d'administration de l'AABC incite fortement les membres à éviter tout contact avec autrui pour éviter la propagation du COVID-19 en participant à l'assemblée par téléconférence et/ou vidéoconférence. Les membres qui souhaitent voter DOIVENT voter par anticipation en soumettant un formulaire de procuration fourni sur le site Web de l'AABC, conforme aux instructions de vote fournies sur le formulaire de procuration. Quoique les membres sont invités à participer à l'assemblée par téléconférence et/ou vidéoconférence, les membres n'auront PAS la possibilité de voter par téléconférence et/ou vidéoconférence durant l'assemblée. Les membres qui souhaitent participer à l'assemblée par téléconférence et/ou vidéoconférence doivent communiquer avec l'AABC au préalable à [l.sullivan@lawyersfinancial.ca](mailto:l.sullivan@lawyersfinancial.ca) et fournir leur numéro de membre de l'ABC pour obtenir des instructions sur l'accès automatique. Vous serez notifié de tout changement du lieu de l'assemblée par un message sur <https://www.lawyersfinancial.ca/fr/propos-de-nous/annonces>.

**NOTICE TO SHAREHOLDERS OF EXOTHERMIC DISTRIBUTION CORPORATION**

All shareholders of EXOTHERMIC DISTRIBUTION CORPORATION, a corporation incorporated under the Ontario Business Corporations Act, are requested to contact corporate counsel named below by June 8, 2020.

DATED May 8, 2020

Torkin Manes LLP  
Attention: Glen Eddie  
1500-151 Yonge Street  
Toronto, ON M5C 2W7  
Tel: 416-777-5357  
Fax: 1-888-812-2557  
[gjeddie@torkinmanes.com](mailto:gjeddie@torkinmanes.com)

## **Exhibit “D”**

## ASSET PURCHASE AGREEMENT

THIS AGREEMENT DATED June 8, 2020 is made,

**B E T W E E N :**

**FERREX ENGINEERING LTD.**, a corporation incorporated under the laws of the Province of Ontario

(hereinafter referred to as the "**Vendor**")

-and-

**1199541 ONTARIO INC.**, a corporation incorporated under the laws of the Province of Ontario

(hereinafter referred to as the "**Purchaser**")

**R E C I T A L S**

**W H E R E A S :**

- A. On April 2, 2020, the Vendor filed a Notice of Intention to Make a Proposal under the provisions of the *Bankruptcy and Insolvency Act* (Canada) (the "**Proposal Proceedings**");
- B. MNP Ltd. was appointed as proposal trustee under the Proposal Proceedings (the "**Proposal Trustee**"). On May 4, 2020 Justice Conway of the Ontario Superior Court of Justice (Commercial List) issued an order (the "**Sale Process Order**") approving a process for the marketing and solicitation of offers for the Vendor's assets and undertaking (the "**Sale Process**");
- C. In accordance with the Sale Process Order, the Proposal Trustee, in consultation with the Vendor, has conducted the Sale Process;
- D. Subject to the granting of an Approval and Vesting Order (as defined herein), the Purchaser has agreed to purchase from the Vendor, and the Vendor has agreed to sell to the Purchaser, all of the Vendor's right, title and interest in and to the Purchased Assets (as that term is defined herein) in accordance with the terms of this Agreement.

**NOW THEREFORE**, in consideration of the premises and mutual covenants and agreements contained in this Agreement and other good and valuable consideration, the receipt and

sufficiency of which are hereby acknowledged by the Parties, the Parties hereto agree with each other as follows:

## **ARTICLE 1** **INTERPRETATION**

### **1.1 Definitions.**

In this Agreement, the following terms shall have the meanings set out below unless the context requires otherwise:

- (1) "**Accounts Receivables**" means all accounts receivable, bills receivable, trade accounts, book debts and insurance claims Related to the Business, including, recoverable deposits (such term to include any unpaid interest accrued on such items) as well as all amounts deposited in the Vendor's accounts in any financial institution and any security or collateral for such items.
- (2) "**Agreement**" means this Agreement, including any Schedule to this Agreement, as it or they may be amended or supplemented from time to time, and the expressions "**hereof**", "**herein**", "**hereto**", "**hereunder**", "**hereby**" and similar expressions refer to this Agreement and not to any particular Section or other portion of this Agreement.
- (3) "**Applicable Law**" means, with respect to any Person, property, transaction, event or other matter, any Law relating or applicable to such Person, property, transaction, event or other matter. Applicable Law also includes, where appropriate, any interpretation of the Law (or any part) by any Person having jurisdiction over it, or charged with its administration or interpretation.
- (4) "**Approval and Vesting Order**" means an order made by the Court approving this Agreement and the Transaction and vesting title to the Purchased Assets in the Purchaser, or a nominee of its choosing, such order to be substantially in the form attached hereto as Schedule C.
- (5) "**Assigned Contracts**" means all rights and interests of the Vendor to and in all pending and/or executory contracts set out in Schedule A and any agreements, licenses (including, without limitation, software licenses) and arrangements whether or not signed to which the Vendor and/or by which any of the Purchased Assets is bound.
- (6) "**Assumed Liabilities**" means only the Liabilities incurred under or in respect of (i) the Assigned Contracts and (ii) the Transferred Employees, in each case in respect of the period commencing at the Closing Time.
- (7) "**Benefit Plans**" means all oral or written plans, arrangements, agreements, programs, policies, practices or undertakings of the Vendor with respect to some or all of the Employees and which provide for or relate to (i) bonus, performance compensation, deferred or incentive compensation, supplemental retirement arrangements, vacation or vacation pay, sick pay or any other compensation in addition to salary; or (ii) insured or self-insured benefits for or relating to income continuation or other benefits during

absence from work (including short term disability, long term disability and workers compensation), hospitalization, health, welfare, legal costs or expenses, medical or dental treatments or expenses, life insurance, accident, death or survivor's benefits, supplementary employment insurance or similar employment benefits.

- (8) "**Books and Records**" means all books, records, files and papers Related to the Business or the Purchased Assets including, but not limited to drawings, manuals and data related to equipment, computer hardware and software and phone systems, computer system passwords, combinations and keys to locks and other safety and storage systems, sales and purchases correspondence, trade association files, lists of present and former customers and suppliers, security and alarm system records, personnel, employment and other records related to Transferred Employees, and all copies and recordings of the foregoing.
- (9) "**Business**" means the business carried on by the Vendor which primarily involves providing multi-disciplinary professional services including engineering, automation systems and process control, information technology, project management and commissioning to the manufacturing industry.
- (10) "**Business Day**" means any day except Saturday, Sunday or any day on which Canadian chartered banks are generally not open for business in the City of Toronto.
- (11) "**Canadian Dollars**" means the lawful currency of Canada.
- (12) "**Closing**" means the completion of the Transaction.
- (13) "**Closing Date**" means subject to the terms hereof, two (2) Business Days following the date on which the conditions set forth in Article 4 have been satisfied or waived by the appropriate Party or such other date as may be agreed.
- (14) "**Closing Time**" means the time of closing on the Closing Date provided for in Section 3.1.
- (15) "**Court**" means the Ontario Superior Court of Justice (Commercial List).
- (16) "**Credit Bid Amount**" means that portion of the Vendor's Indebtedness equal to the difference between the Purchase Price and the Deposit.
- (17) "**Customer Deposits**" means monies provided by the Vendor's customers for the purpose of completing purchase orders, if any.
- (18) "**Deposit**" has the meaning given in Section 2.3.
- (19) "**Employee**" means an individual who is employed by the Vendor, whether on a full-time or part-time basis, whether active or inactive as of the Closing Date, and includes an employee on short term or long term disability leave.



- (20) "**Excluded Assets**" means all of the Vendor's right, title and interest, in and to those assets and rights set forth in Schedule B or any of the Purchased Assets designated by the Purchaser as assets to be excluded from the Transaction one (1) Business Day prior to the Closing Date.
- (21) "**Finished Goods**" means goods that have been completed by the manufacturing process and which have not yet been sold by the Vendor.
- (22) "**Goodwill**" means the goodwill Related to the Business, including all right, title and interest of the Vendor in, to and in respect of all elements which contribute to the goodwill Related to the Business, including goodwill represented by customer and supplier lists and the logos of the Vendor.
- (23) "**Governmental Entities**" means 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 and "**Governmental Entity**" means any one of them.
- (24) "**HST**" means the harmonized sales tax imposed under the *Excise Tax Act* (Canada).
- (25) "**Intellectual Property**" means all intellectual property rights, whether registered or not registered, owned, used or held by the Vendor for use in or relating to the Business including, without limitation, if applicable, any or all of the following items, wherever located: all trademarks and trademark rights, trade names and trade name rights, service marks and service mark rights, service names and service name rights, copyrights and copyright rights, brand names, business and product names, domain names, corporate names, logos, slogans, trade secrets, inventions, processes, formulae, industrial models, designs, specifications, data, technology, methodologies, computer programs (including all source code), confidential and proprietary information, whether or not subject to statutory registration, all related technical information, manufacturing, engineering and technical drawings, know how, the goodwill associated with the foregoing, and the right to sue for past payment, if any, in connection with any of the foregoing, and all documents, disks and other media on which any of the foregoing is stored.
- (26) "**Law**" means common law, order, judgment, decree, law, statute, rule, or regulation of any Governmental Entity.
- (27) "**Liabilities**" means all costs, expenses, charges, debts, liabilities, claims, demands and obligations, whether primary or secondary, direct or indirect, fixed, contingent, absolute or otherwise, under or in respect of any contract, agreement, arrangement, lease, commitment or undertaking, Applicable Law and Taxes.
- (28) "**Lien**" means the Administrative Charge in the Proposal Proceedings, and any lien, mortgage, charge, hypothec, pledge, security interest, prior assignment, option, warrant,

lease, sublease, right to possession, encumbrance, claim, right or restriction which affects, by way of a conflicting ownership interest or otherwise, the right, title or interest of the Vendor in or to the Purchased Assets.

- (29) "**Party**" means a party to this Agreement and any reference to a Party includes its successors and permitted assigns; "**Parties**" means every Party.
- (30) "**Person**" is to be broadly interpreted and includes an individual, a corporation, a partnership, a trust, an unincorporated organization, the government of a country or any political subdivision thereof, or any agency or department of any such government, and the executors, administrators or other legal representatives of an individual in such capacity.
- (31) "**Personal Property**" means all personal property and other chattels Related to the Business, including, but not limited to, equipment, fixtures, furniture, shelving, computer hardware.
- (32) "**Personal Property Leases**" means chattel leases, equipment leases, rental agreements and conditional sales contracts.
- (33) "**Proposal Proceedings**" has the meaning given to it in Recital A hereto.
- (34) "**Proposal Trustee**" has the meaning given to it in Recital B hereto.
- (35) "**Purchased Assets**" means all of the Vendor's right, title and interest in, to and under or relating to the assets, property and undertaking, owned, used or held by the Vendor for use in or related to the operation of the Business as described below, but excluding the Excluded Assets:
  - (a) the Personal Property;
  - (b) the Intellectual Property and the Technical Information;
  - (c) the Assigned Contracts;
  - (d) the Books and Records; and
  - (e) the Goodwill.
- (36) "**Purchase Orders**" means all rights and interests of the Vendor to and in all customer orders for purchases, if any.
- (37) "**Purchase Price**" has the meaning given in Section 2.2.
- (38) "**Purchaser's Solicitors**" means DLA Piper (Canada) LLP.
- (39) "**Related to the Business**" means, directly or indirectly, used in, arising from, or relating in any manner to the Business or the Purchased Assets.

- (40) "**Sale Process Order**" has the meaning given to it in Recital B hereto.
- (41) "**Taxes**" means all taxes, charges, fees, levies, imposts and other assessments, including all income, sales, use, goods and services, value added, capital, capital gains, alternative, net worth, transfer, profits, withholding, payroll, employer health, excise, franchise, real property and personal property taxes, and any other taxes, customs duties, fees, assessments or similar charges in the nature of a tax including Canada Pension Plan and provincial pension plan contributions, employment insurance payments and workers compensation premiums, together with any instalments with respect thereto, and any interest, fines and penalties, imposed by any governmental authority (including federal, state, provincial, municipal and foreign governmental authorities), and whether disputed or not.
- (42) "**Technical Information**" means all know-how and related technical knowledge owned, used or held by the Vendor for use in or relating to the Company's business, including:
- (a) trade secrets, confidential information and other proprietary know-how;
  - (b) public information and non-proprietary know-how;
  - (c) information of a scientific, technical, financial or business nature regardless of its form; and
  - (d) documented research, forecasts, studies, marketing plans, budgets, market data, developmental, demonstration or engineering work, information that can be used to define a design or process or procure, produce, support or operate material and equipment, methods of production and procedures, all formulas and designs and drawings, blueprints, patterns, plans, flow charts, parts lists, manuals and records, specifications, and test data.
- (43) "**Transaction**" means the transaction of purchase and sale of the Purchased Assets contemplated by this Agreement.
- (44) "**Transferred Employees**" means employees employed in the Vendor's Business on the date immediately prior to the Closing, and who have accepted in writing an offer of employment from the Purchaser as of and following the Time of Closing.
- (45) "**Proposal Trustee**" has the meaning given to it in Recital B.
- (46) "**Proposal Trustee's Certificate**" means the certificate of the Proposal Trustee certifying that the Proposal Trustee has received written confirmation in form and substance satisfactory to the Proposal Trustee from the Parties that all conditions of Closing have been satisfied or waived by the applicable Party.
- (47) "**Vendor's Indebtedness**" means the indebtedness of the Vendor to the Purchaser secured pursuant to the general security agreement dated November 1, 2011.
- (48) "**Vendor's Solicitors**" means Walker Head LLP.

(49) "**Work in Process**" means partially finished Assigned Contracts yet to be completed by the Vendor at the Time of Closing.

## **1.2 Headings and Table of Contents.**

The division of this Agreement into Articles and Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

## **1.3 No Strict Construction.**

The language used in this Agreement is the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party.

## **1.4 Number and Gender.**

Unless the context requires otherwise, words importing the singular include the plural and vice versa and words importing gender include all genders. Where the word "including" or "includes" is used in this Agreement, it means "including (or includes) without limitation".

## **1.5 Business Days.**

If any payment is required to be made or other action is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be made or taken on the next Business Day.

## **1.6 Currency and Payment Obligations.**

Except as otherwise expressly provided in this Agreement:

- (a) all dollar amounts referred to in this Agreement are stated in Canadian Dollars; and
- (b) any payment contemplated by this Agreement shall be made by wire transfer to the offices of the relevant party's solicitors, or as the relevant party may direct in writing.

## **1.7 Statute References.**

Any reference in this Agreement to any statute or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, restated or re-enacted from time to time.

## **1.8 Section and Schedule References.**

Unless the context requires otherwise, references in this Agreement to Sections or Schedules are to Sections or Schedules of this Agreement. The Schedules to this Agreement, listed as follows, are an integral part of this Agreement:

Schedule A: Purchased Assets

Schedule B: Excluded Assets

Schedule C: Approval and Vesting Order

**ARTICLE 2**  
**PURCHASE OF ASSETS**

**2.1 Agreement to Purchase and Sell.**

At the Closing Time, subject to the terms and conditions of this Agreement, the Vendor shall sell and the Purchaser shall purchase the Purchased Assets (excluding the Excluded Assets) and the Purchaser shall assume the Assumed Liabilities.

**2.2 Amount of Purchase Price.**

The purchase price payable by the Purchaser to the Vendor for the Purchased Assets (the "**Purchase Price**") shall be [REDACTED] exclusive of any applicable Taxes.

**2.3 Deposit.**

The Vendor is holding a deposit provided by the Purchaser (the "**Deposit**") in the amount of [REDACTED]. The Vendor has no obligation to invest the Deposit into an interest bearing account, and interest shall not accrue thereon. The Purchaser authorizes the Vendor to disburse the Deposit in accordance with the following provisions:

- (1) if the Transaction is completed in accordance with the terms of this Agreement, then the Deposit shall be released from trust and applied towards payment of the Purchase Price;
- (2) if the Transaction is not completed due to a default by the Purchaser, then the Deposit shall be forfeited by the Purchaser as liquidated damages (and not as a penalty) without prejudice to any other rights and remedies of the Vendor arising from the Purchaser's default; and
- (3) if the Transaction is not completed for any other reason, then the Deposit shall be returned to the Purchaser (without any interest, whether or not accrued thereon) and the Purchaser and the Vendor shall be irrevocably released from all obligations under this Agreement.

**2.4 Payment of Purchase Price.**

The Purchase Price shall be paid and satisfied by the Purchaser at the Closing Time as follows:

- (1) the Deposit shall be paid to the Vendor and credited against the Purchase Price in accordance with Subsection 2.3(1); and

- (2) the balance shall be paid to the Vendor by crediting and setting off the Credit Bid Amount against the amount of the Purchase Price equal to the amount of the Credit Bid Amount.

## **2.5 As Is, Where is.**

Except as otherwise set out herein, the Purchaser acknowledges that the Vendor is selling the Purchased Assets on an "as is, where is" no recourse basis as they shall exist at the Closing Time. The Purchaser further acknowledges that it will conduct such inspections of the condition of and title to the Purchased Assets as it deems appropriate and that it will satisfy itself with regard to these matters. No representation, warranty or condition is expressed or can be implied pursuant to this Agreement, any schedule to this Agreement (including any list of any Purchased Assets) or otherwise as to title, encumbrances, description, fitness for purpose, merchantability, condition, assignability, collectability, quantity, outstanding amount, value or quality or in respect of any other matter or thing whatsoever concerning the Purchased Assets or the right of the Vendor to sell same, save and except as expressly represented or warranted herein. Without limiting the generality of the foregoing, any and all conditions, warranties or representations expressed or implied pursuant to the *Sale of Goods Act* (Ontario) or similar legislation in any other jurisdiction shall not apply hereto and shall be deemed to have been waived by the Purchaser. The description of the Purchased Assets contained in this Agreement is for the purpose of identification only. No representation, warranty or condition has or will be given by the Vendor concerning completeness or the accuracy of such descriptions. The Purchaser further acknowledges that all written and oral information (including, without limitation, analyses, financial information and projections, compilations and studies) obtained by the Purchaser from the Vendor with respect to the Purchased Assets or otherwise relating to the transactions contemplated in this Agreement has been obtained for the convenience of the Purchaser only and is not warranted to be accurate or complete. The Purchaser further acknowledges that the Vendor shall be under no obligation to deliver the Purchased Assets to the Purchaser and that it shall be the Purchaser's responsibility to take possession of the Purchased Assets.

## **2.6 Allocation of Purchase Price.**

The Purchase Price shall be allocated among the Purchased Assets in the manner agreed to by the Purchaser and the Vendor prior to Closing (acting reasonably) and the Parties shall ensure that the Purchaser and the Vendor shall follow the allocations set out therein in determining and reporting their liabilities for any Taxes and, without limitation, shall file their respective income tax returns prepared in accordance with such allocations.

## **2.7 Payment of Taxes and Indemnity.**

The Purchaser shall pay on Closing all Taxes resulting from the Transaction (other than Taxes payable under applicable legislation by the Vendor) and any filing or recording fees payable in connection with the instruments of transfer provided for in this Agreement. The Purchaser hereby indemnifies and saves the Vendor harmless from and against all claims and demands for the payment of Taxes exigible in connection with the Transaction, including penalties and interest thereon and any liabilities or costs incurred as a result of any failure to pay such Taxes when due.

## **2.8 HST Election.**

At the Closing, and if available at law, the Vendor and the Purchaser shall execute jointly an election under Section 167 of the *Excise Tax Act* (Canada) to have the sale of the Purchased Assets take place on a HST-free basis under Part IX of the *Excise Tax Act* (Canada) and the Purchaser shall file such election with its HST return for the reporting period in which the sale of the Purchased Assets takes place.

## **2.9 Excluded Liabilities.**

The Purchaser shall not assume and shall not be liable for any debts, liabilities or other obligations of the Vendor except the Assumed Liabilities. For greater certainty and without limitation the generality of the foregoing, the Excluded Liabilities include:

- (1) all debts, liabilities, obligations or Claims related to any Benefit Plans, Employees or any Excluded Assets;
- (2) all debts, liabilities and obligations related to any Purchased Asset arising out of or related to the period prior to the Closing Time;
- (3) all debts, liabilities and obligations for or related to any obligation for any taxes that are not expressly assumed by the Purchaser;
- (4) all taxes imposed on or relating to the Purchased Assets that are attributable to any pre-Closing tax period whether or not any such period ends on or before the Closing Date (other than any Taxes exigible in respect of the Transaction contemplated in this Agreement); and
- (5) all debts, liabilities and obligations of the Vendor arising under this Agreement.

## **2.10 Excluded Assets.**

Notwithstanding anything to the contrary in this Agreement, the Purchaser may, at its option, exclude any of the Purchased Assets from the Transaction at least one (1) Business Day prior to the Closing Time, whereupon such Purchased Assets shall be Excluded Assets, provided, however, that there shall be no adjustment in the Purchase Price.

## **2.11 No Purchase Price Adjustments.**

The Purchaser acknowledges, confirms and agrees that there shall be no adjustment of any kind to the Purchase Price for any reason.

**ARTICLE 3**  
**CLOSING ARRANGEMENTS**

**3.1 Closing.**

The Closing shall take place at 10:00 a.m. on the Closing Date at the offices of the Vendor's Solicitors, or at such other time on the Closing Date or such other place as may be agreed to in writing by the Vendor and the Purchaser.

**3.2 Vendor's Closing Deliveries.**

At the Closing, the Vendor shall deliver or cause to be delivered to the Purchaser the following documents:

- (1) the Purchased Assets, which shall, unless otherwise stated herein, be delivered *in situ* where located as of the Closing;
- (2) the HST election referred to in Section 2.78, if applicable;
- (3) a Purchase Price allocation agreement, if required;
- (4) a certificate, dated as of the Closing Date, confirming that (i) all of the representations and warranties of the Vendor contained in this Agreement are true as of the Closing Date, with the same effect as though made on and as of the Closing Date and (ii) that each of the conditions precedent in Section 4.3 of this Agreement have been fulfilled, performed or waived as of the Closing Date;
- (5) the Approval and Vesting Order;
- (6) the Proposal Trustee's Certificate; and
- (7) all deeds of conveyance, bills of sale, assurances, transfers, assignments, consents, and such other agreements, documents and instruments as may be reasonably requested by the Purchaser or the Purchaser's Solicitors to complete the Transaction.

**3.3 Purchaser's Closing Deliveries.**

At the Closing, the Purchaser shall deliver or cause to be delivered to the Vendor the following documents and payments:

- (1) all of the payments referred to in Article 2, including Section 2.4;
- (2) the HST election referred to in Section 2.8, if applicable;
- (3) a Purchase Price allocation agreement, if required;



- (4) a certificate, dated as of the Closing Date, confirming that (i) all of the representations and warranties of the Purchaser contained in this Agreement are true as of the Closing Date, with the same effect as though made on and as of the Closing Date and (ii) that each of the conditions precedent in Section 4.10 of this Agreement have been fulfilled, performed or waived as of the Closing Date;
- (5) an indemnity re: Taxes; and
- (6) all such other agreements, documents and instruments as may be reasonably requested by the Vendor or the Vendor's Solicitors to complete the Transaction.

#### **ARTICLE 4** **CONDITIONS OF CLOSING**

##### **4.1 Purchaser's Conditions.**

The Purchaser shall not be obliged to complete the Transaction unless, at or before the Closing Time, each of the following conditions has been satisfied, it being understood that the following conditions are included for the exclusive benefit of the Purchaser and may be waived, in whole or in part, in writing by the Purchaser at any time; and the Vendor agrees with the Purchaser to take all such actions, steps and proceedings within its reasonable control as may be necessary to ensure that the following conditions are fulfilled at or before the Closing Time:

- (1) **Representations and Warranties.** The representations and warranties of the Vendor in Section 5.2 shall be true and correct at the Closing.
- (2) **Vendor's Compliance.** The Vendor shall have performed and complied with all of the terms and conditions in this Agreement on its part to be performed or complied with at or before Closing and shall have executed and delivered or caused to have been executed and delivered to the Purchaser at the Closing all the documents contemplated in Section 3.2 or elsewhere in this Agreement.
- (3) **No Litigation.** There shall be no litigation or proceedings pending or threatened against any of the Parties hereto, or involving the Company's business or any of the Purchased Assets, for the purpose of enjoining, preventing or restraining the completion of the Transaction or otherwise claiming that such completion is improper.

##### **4.2 Condition Not Fulfilled.**

If any condition in Section 4.1 has not been fulfilled at or before the Closing Time, then the Purchaser in its sole discretion may, without limiting any rights or remedies available to the Purchaser at law or in equity, either:

- (1) terminate this Agreement by notice to the Vendor, in which event the Purchaser shall be released from its obligations under this Agreement and the Deposit shall be promptly returned to the Purchaser; or

- (2) waive compliance with any such condition without prejudice to its right of termination in the event of non-fulfillment of any other condition.

#### **4.3 Vendor's Conditions.**

The Vendor shall not be obliged to complete the Transaction unless, at or before the Closing Time, each of the following conditions has been satisfied, it being understood that the following conditions are included for the exclusive benefit of the Vendor, and may be waived, in whole or in part, in writing by the Vendor at any time; and the Purchaser agrees with the Vendor to take all such actions, steps and proceedings within the Purchaser's reasonable control as may be necessary to ensure that the following conditions are fulfilled at or before the Closing Time:

- (1) **Representations and Warranties.** The representations and warranties of the Purchaser in Section 5.1 shall be true and correct at the Closing.
- (2) **Purchaser's Compliance.** The Purchaser shall have performed and complied with all of the terms and conditions in this Agreement on its part to be to be performed by or complied with at or before the Closing Time and shall have executed and delivered or caused to have been executed and delivered to the Vendor at the Closing Time all the documents contemplated in Section 3.3 or elsewhere in this Agreement.
- (3) **No Litigation.** There shall be no litigation or proceedings pending or threatened against any of the Parties hereto, or involving the Company's business or any of the Purchased Assets, for the purpose of enjoining, preventing or restraining the completion of the Transaction or otherwise claiming that such completion is improper.

#### **4.4 Condition Not Fulfilled.**

If any condition in Section 4.3 shall not have been fulfilled at or before the Closing Time, then the Vendor in its sole discretion may, without limiting any rights or remedies available to the Vendor at law or in equity, either:

- (1) terminate this Agreement by notice to the Purchaser in which event the Vendor shall be released from all obligations under this Agreement and, unless the condition that was not fulfilled was contained in Subsections (1) and (2), the Deposit thereon shall be promptly returned to the Purchaser and the Purchaser shall be released from all obligations under this Agreement; or
- (2) waive compliance with any such condition without prejudice to its right of termination in the event of non-fulfillment of any other condition.

#### **4.5 Approval and Vesting Order.**

The obligations of the Vendor and the Purchaser hereunder are subject to the mutual conditions that:

- (1) the Approval and Vesting Order shall have been made by the Court on or before June 17, 2020 (or such later date agreed upon by the Parties) approving this Agreement and the Transaction and vesting in the Purchaser, or a nominee of its choosing, all the right, title and interest of the Vendor in and to the Purchased Assets free and clear of all Liens; and
- (2) the Approval and Vesting Order will not have been stayed, varied or vacated and no order will have been issued and no action or proceeding will be pending to restrain or prohibit the completion of the transactions herein contemplated.

The Parties hereto acknowledge that the foregoing conditions are for the mutual benefit of the Vendor and the Purchaser and cannot be waived by either Party.

## **ARTICLE 5**

### **REPRESENTATIONS AND WARRANTIES**

#### **5.1 Representations and Warranties of the Purchaser.**

As a material inducement to the Vendor's entering into this Agreement and completing the Transaction and acknowledging that the Vendor is entering into this Agreement in reliance upon the representations and warranties of the Purchaser set out in this Section 5.1, the Purchaser represents and warrants to the Vendor as follows:

- (1) **Incorporation and Power.** The Purchaser is, or will be at the Closing Time, a corporation duly incorporated under the laws of the jurisdiction of its incorporation and is, or will be at the Closing Time, duly organized, validly subsisting and in good standing under such laws.
- (2) **Due Authorization.** The Purchaser has, or will have at the Closing Time, all necessary corporate power, authority and capacity to enter into this Agreement and all other agreements and instruments to be executed by it as contemplated by this Agreement and to carry out its obligations under this Agreement and such other agreements and instruments. The execution and delivery of this Agreement and such other agreements and instruments and the completion of the Transaction and such other agreements and instruments have been, or will have been at the Closing Time, duly authorized by all necessary corporate action on the part of the Purchaser.
- (3) **Enforceability of Obligations.** This Agreement constitutes a valid and binding obligation of the Purchaser enforceable against the Purchaser in accordance with its terms subject, however, to limitations on enforcement imposed by bankruptcy, insolvency, reorganization or other laws affecting the enforcement of the rights of creditors or others and to the extent that equitable remedies such as specific performance and injunctions are only available in the discretion of the court from which they are sought.

- (4) **HST/GST.** The Purchaser will be a "registrant" under Part IX of the *Excise Tax Act* (Canada) at the Closing Time and will notify the Vendor of its registration number prior to such time.

## **5.2 Representations and Warranties of the Vendor.**

As a material inducement to the Purchaser's entering into this Agreement and completing the Transaction and acknowledging that the Purchaser is entering into this Agreement in reliance upon the representations and warranties of the Vendor set out in this Section 5.2, the Vendor represents and warrants to the Purchaser as follows:

- (1) **Non-Residency:** The Vendor is not now and does not intend to become, prior to Closing, a non-resident of Canada within the meaning and purpose of section 116 of the *Income Tax Act* (Canada).
- (2) **Authority to Sell:** Subject to obtaining the Approval and Vesting Order prior to Closing, on Closing the Vendor shall have the power and authority to sell the Purchased Assets, in accordance with the terms and conditions of this Agreement and the Approval and Vesting Order.

## **5.3 Survival of Representations and Warranties.**

The representations and warranties of the Purchaser and Vendor contained in Sections 5.1 and 5.2, respectively, or any other agreement, certificate or instrument delivered pursuant to this Agreement shall survive the Closing for a period of six (6) months following Closing.

## **ARTICLE 6** **EMPLOYEES**

### **6.1 Offer of Employment to Employees.**

The Purchaser may offer employment, as of the Closing Time, to those employees of the Vendor it so wishes to employ on terms and conditions of employment which are in writing and substantially similar to the current terms provided. The Purchaser shall provide the Vendor with the names of those employees who will not be offered employment or who have not accepted an offer of employment by no later than two (2) Business Days prior to Closing.

**ARTICLE 7**  
**POST-CLOSING MATTERS**

**7.1 Wiring of Funds.**

The Vendor will wire all funds on deposit in the Vendor's bank accounts immediately after Closing as directed by the Purchaser on Closing.

**7.2 Access.**

The Purchaser shall provide the Vendor, the Proposal Trustee and any trustee in bankruptcy of the Vendor with access to the Books and Records for a period of 6 years after Closing.

**7.3 Non Merger.**

Each party hereby agrees that all provisions of this Agreement, other than the conditions in Article 4, shall forever survive the execution, delivery and performance of this Agreement, Closing and the execution, delivery and performance of any and all documents delivered in connection with this Agreement.

**7.4 Further Assurances.**

Each Party shall promptly do, execute, deliver or cause to be done, executed and delivered all further acts, documents and things in connection with this Agreement that the other Party may reasonably require, at the requesting Party's expense, for the purposes of giving effect to this Agreement.

**7.5 Change of Name.**

As soon as possible following Closing and, in any event, within 5 days of Closing, the Vendor shall cause its name to be changed to a name which does not include "**Ferrex Engineering**" or any derivation thereof and provide evidence thereof to the Purchaser.

**ARTICLE 8**  
**GENERAL**

**8.1 Expenses.**

Each Party shall be responsible for its own legal and other expenses (including any Taxes imposed on such expenses) incurred in connection with the negotiation, preparation, execution, delivery and performance of this Agreement and the Transaction and for the payment of any broker's commission, finder's fee or like payment payable by it in respect of the purchase and sale of the Purchased Assets pursuant to this Agreement.

**8.2 Payment of Taxes.**

The Purchaser shall pay all Taxes resulting from the transactions contemplated by this Agreement (other than Taxes payable under applicable legislation by the Vendor) and any filing

or recording fees payable in connection with the instruments of transfer provided for in this Agreement.

### **8.3 Announcements.**

Except as required by law, all public announcements concerning the Transaction provided for in this Agreement or contemplated by this Agreement shall be jointly approved as to form, substance and timing by the parties to this Agreement after consultation.

### **8.4 Risk of Loss.**

The Purchased Assets are and shall remain at the Vendor's risk until Closing and the Vendor shall hold all insurance policies and the proceeds thereunder, in trust, for the Parties as their respective interests may appear pending Closing. In the event that the Purchased Assets shall be damaged prior to Closing, then the Vendor shall advise the Purchaser, in writing, within twenty-four (24) hours of the Vendor learning of same. In the event that the Purchased Assets shall be materially damaged prior to Closing then the Vendor or Purchaser shall be entitled, in its sole and absolute discretion, to elect to terminate this Agreement by notice, in writing, to the other party and in such event the Parties hereto shall be released from all obligations and liabilities hereunder. If the parties shall not elect to terminate this Agreement as set out above, then the Transaction shall be completed and the Purchaser shall be entitled to all proceeds of insurance payable in respect thereof, if any

### **8.5 Notices.**

- (1) Any notice, certificate, consent, determination or other communication required or permitted to be given or made under this Agreement shall be in writing and shall be effectively given and made if (i) delivered personally, (ii) sent by prepaid courier service or mail, or (iii) sent by fax or other similar means of electronic communication, in each case to the applicable address set out below:

- (i) Ferrex Engineering Ltd.  
Attention: Tom Clarkson  
3592 Trimble's Lane  
Greenwood ON L0H 1H0

with a copy to:

Walker Head  
800-1315 Pickering Parkway  
Pickering, ON L1V 7G5  
Attention: Vic Sgro  
Email: [vsgro@walkerhead.com](mailto:vsgro@walkerhead.com)

- (ii) MNP Ltd.

111 Richmond Street West, Suite 300  
Toronto, ON M5H 2G4  
Attention: Sheldon Title  
Email: [sheldon.title@mnp.ca](mailto:sheldon.title@mnp.ca)

with a copy to:

Fogler Rubinoff LLP  
77 King Street West  
Suite 3000, PO Box 95  
TD Centre North Tower  
Toronto, ON M5K 1G8  
Attention: Maurice Fleming  
Email: [mfleming@foglers.com](mailto:m Fleming@foglers.com)

(iii) if to the Purchaser, to:

1199541 ONTARIO INC.  
Attention: Tom Clarkson  
3592 Trimble's Lane  
Greenwood ON L0H 1H0

with a copy to:

DLA Piper (Canada) LLP  
Suite 6000, 1 First Canadian Place  
PO Box 367, 100 King St W  
Toronto ON M5X 1E2  
Canada  
Attention: Bruce Darlington  
Email: [bruce.darlington@dlapiper.com](mailto:bruce.darlington@dlapiper.com)

- (2) Any such communication so given or made shall be deemed to have been given or made and to have been received on the day of delivery if delivered, or on the day of faxing or sending by other means of recorded electronic communication, provided that such day in either event is a Business Day and the communication is so delivered, faxed or sent before 4:30 p.m. on such day. Otherwise, such communication shall be deemed to have been given and made and to have been received on the next following Business Day. Any such communication sent by mail shall be deemed to have been given and made and to have been received on the fifth (5th) Business Day following the mailing thereof; provided however that no such communication shall be mailed during any actual or apprehended disruption of postal services. Any such communication given or made in any other manner shall be deemed to have been given or made and to have been received only upon actual receipt.

- (3) Any Party may from time to time change its address under this Section 8.5 by notice to the other Party given in the manner provided by this Section.

### **8.6 Time of Essence.**

Time shall be of the essence of this Agreement in all respects.

### **8.7 Time Periods.**

Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next Business Day following if the last day of the period is not a Business Day.

### **8.8 Entire Agreement.**

This Agreement and the agreements and other documents required to be delivered pursuant to this Agreement, constitute the entire agreement between the Parties and set out all the covenants, promises, warranties, representations, conditions, understandings and agreements between the Parties pertaining to the subject matter of this Agreement and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written. There are no covenants, promises, warranties, representations, conditions, understandings or other agreements, oral or written, express, implied or collateral between the Parties in connection with the subject matter of this Agreement except as specifically set forth in this Agreement and any document required to be delivered pursuant to this Agreement.

### **8.9 Amendments and Waiver.**

No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by the Purchaser and the Vendor. The Vendor and the Purchaser may consent to any such amendment at any time prior to the Closing with, in the case of the Purchaser, the prior authorization of its board of directors. No waiver by either Party of any default, misrepresentation, or breach of warranty or covenant hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

### **8.10 Severability.**

Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.



### **8.11 Language.**

The Parties have required that this Agreement and all deeds, documents and notices relating to this Agreement be drawn up in the English language. Les parties aux présentes ont exigé que le présent contrat et tous autres contrats, documents ou avis afférents aux présentes soient rédigés en langue anglaise..

### **8.12 Governing Law.**

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable in that Province and shall be treated, in all respects, as an Ontario contract.

### **8.13 Successors and Assigns.**

No party to this Agreement shall have the right to assign any of its rights and obligations hereunder without the prior written consent of the other party hereto which consent shall not be unreasonably withheld. The Purchaser may assign its rights and obligations under this Agreement to a nominee, provided that the Purchaser remains liable, jointly, with such nominee for all the obligations of the Purchaser hereunder. To the extent that any such assignment occurs, this Agreement and all provisions hereof shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

### **8.14 No Third-Party Beneficiaries.**


This Agreement shall not confer any rights or remedies upon any Person other than the Parties and their respective successors and permitted assigns or as specifically referred to herein.

### **8.15 Counterparts.**


This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument. Counterparts may be executed either in original, faxed or email PDF form and the parties adopt any signatures received by a receiving fax machine or email PDF as original signatures of the parties; provided, however, that any party providing its signature in such manner shall promptly forward to the other party an original of the signed copy of this Agreement which was so faxed or emailed.

IN WITNESS WHEREOF the parties have executed this Agreement.

**FERREX ENGINEERING LTD.**

Per:   
Name: Tom Clarkson  
Title: Authorized Signing Officer  
*I have authority to bind the Corporation*

**1199541 ONTARIO INC.**

Per:   
Name: Tom Clarkson  
Title: Authorized Signing Officer  
*We have authority to bind the Corporation*

## **SCHEDULE A**

### **PURCHASED ASSETS**

- (a) the Personal Property;
- (b) the Intellectual Property and the Technical Information;
- (c) the Assigned Contracts;
- (d) the Books and Records; and
- (e) the Goodwill.

**SCHEDULE B**  
**EXCLUDED ASSETS**

(a) Benefit Plans

**SCHEDULE C**  
**APPROVAL AND VESTING ORDER**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)  
(IN BANKRUPTCY AND INSOLVENCY)**

THE HONOURABLE )  
JUSTICE )  
)  
)  
◇DAY, THE ◇  
DAY OF JUNE, 2020

IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS  
AMENDED

**AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A  
PROPOSAL OF FERREX ENGINEERING LTD., OF THE CITY OF AJAX, IN THE  
PROVINCE OF ONTARIO**

**APPROVAL AND VESTING ORDER**

**THIS MOTION**, made by Ferrex Engineering Ltd. (the “**Company**”) for an order, *inter alia*, approving the sale transaction (the “**Transaction**”) contemplated by an asset purchase agreement (the “**Sale Agreement**”) between the Company and 1199541 Ontario Inc. (“**1199541**”) dated June ◇, 2020 and vesting in 1199541’s permitted affiliate, ◇ (the “**Purchaser**”), all of the Company’s right, title and interest in and to the assets described in the Sale Agreement (the “**Purchased Assets**”), was heard this day by Zoom videoconference call due to the COVID-19 crisis.

**ON READING** the Second Report of MNP Ltd., in its capacity as the Company’s proposal trustee (the “**Proposal Trustee**”), dated June ◇, 2020 (the “**Second Report**”) and on hearing the submissions of counsel for the Company, the Proposal Trustee and the Purchaser, no one appearing

for any other person on the service list, although properly served as appears from the affidavit of  
◆ sworn June ◆, 2020, filed:

## **SERVICE**

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

## **SALE AGREEMENT APPROVAL**

2. **THIS COURT ORDERS** that unless otherwise indicated or defined herein, capitalized terms used in this Order shall have the meaning given to them in the Sale Agreement.

3. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Sale Agreement by the Company and the Purchaser is hereby authorized and approved, with such minor amendments as the Company and the Purchaser, with the approval of the Proposal Trustee, may agree upon. The Company and the Proposal Trustee are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

4. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Proposal Trustee's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "**Proposal Trustee's Certificate**"), all of the Company's right, title and interest in and to the Purchased Assets described in the Sale Agreement and listed on Schedule B hereto, including, without limitation, the Assigned Contracts, shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Madam Justice Conway dated May 4, 2020; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal*

*Property Security Act* (Ontario) or any other personal property registry system (all of which are collectively referred to as the “**Encumbrances**”) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

5. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Proposal Trustee’s Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

6. **THIS COURT ORDERS AND DIRECTS** the Proposal Trustee to file with the Court a copy of the Proposal Trustee’s Certificate, forthwith after delivery thereof.

7. **THIS COURT ORDERS** that the Proposal Trustee may rely on written notice from the Company and the Purchaser regarding fulfillment of conditions to closing under the Sale Agreement and shall incur no liability with respect to the delivery of the Proposal Trustee’s Certificate.

8. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Company and the Proposal Trustee are authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company’s records pertaining to the Company’s past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Company.

9. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;



- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”) in respect of the Company and any bankruptcy order issued pursuant to any such applications or otherwise; and
- (c) any assignment in bankruptcy made in respect of the Company;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Company and shall not be void or voidable by creditors of the Company, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

## **GENERAL**

10. **THIS COURT ORDERS** that for a period of not less than two years from the Closing Date, the Purchaser shall provide the Proposal Trustee and any trustee in bankruptcy of the Company with access to the books and records of the Company in the possession of the Purchaser during normal business hours upon request, and shall not thereafter alter or destroy such books and records without providing the Proposal Trustee or and any trustee in bankruptcy of the Company with 30 days prior written notice, and the trustee may make copies of same as it considers appropriate.

11. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Company and the Proposal Trustee and their agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Company and the Proposal Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this

Order or to assist the Company and the Proposal Trustee and their agents in carrying out the terms of this Order.

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**Schedule A – Form of Proposal Trustee’s Certificate**

Court File No. 31-2636073  
Estate File No. 31-2636073

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)  
(IN BANKRUPTCY AND INSOLVENCY)**

IN THE MATTER OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS  
AMENDED

**AND IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A  
PROPOSAL OF FERREX ENGINEERING LTD., OF THE CITY OF AJAX, IN THE  
PROVINCE OF ONTARIO**

**PROPOSAL TRUSTEE’S CERTIFICATE**

**RECITALS**

- A. Ferrex Engineering Ltd. (the “**Company**”) commenced these proceedings by filing a notice of intention to make a proposal under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, on April 2, 2020 (the “**NOI**”);
- B. MNP Ltd. was appointed as proposal trustee (the “**Proposal Trustee**”) under the NOI;
- C. Pursuant to an Order of the Court dated June ◆, 2020 (the “**Approval and Vesting Order**”), the Court approved the asset purchase agreement made as of June ◆, 2020 (the “**Sale Agreement**”) between the Company and 1199541 Ontario Inc. (“**1199541**”) providing for the vesting in 1199541’s permitted affiliate, ◆ (the “**Purchaser**”), of the Company’s right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Proposal Trustee to the Purchaser of a certificate confirming: (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in Article 4 of the Sale Agreement have been satisfied or

waived by the Company and the Purchaser (as applicable); and (iii) the Transaction has been completed to the satisfaction of the Proposal Trustee.

D. Pursuant to the Approval and Vesting Order, the Proposal Trustee may rely on written notice from the Company and the Purchaser regarding fulfillment of conditions to closing under the Sale Agreement.

E. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

**THE PROPOSAL TRUSTEE CERTIFIES** the following:

1. The Company and the Purchaser have each delivered written notice to the Proposal Trustee that all applicable conditions under the Sale Agreement have been satisfied and/or waived, as applicable;
2. The Proposal Trustee has received payment of the Purchase Price; and
3. The Transaction has been completed to the satisfaction of the Proposal Trustee.
4. This Certificate was delivered by the Proposal Trustee at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

**MNP Ltd., in its capacity as Proposal Trustee  
of Ferrex Engineering Ltd., and not in its  
personal capacity**

Per: \_\_\_\_\_

Name:

Title:

## **SCHEDULE A**

### **PURCHASED ASSETS**

- (a) the Personal Property;
- (b) the Intellectual Property and the Technical Information;
- (c) the Assigned Contracts;
- (d) the Books and Records; and
- (e) the Goodwill.

## **Appendix 1 to Schedule B – Assigned Contracts**

All supplier contracts to which the Company is a party, including but not limited to any and all contracts with the following parties:

- ◆

All customer contracts to which the Company is a party, including but not limited to any and all contracts with the following parties:

- ◆

# Exhibit "E"

Estate No.: 31-2636073

Court No.: 31-2636073

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)  
(IN BANKRUPTCY AND INSOLVENCY)**

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
FERREX ENGINEERING LTD.  
OF THE CITY OF AJAX,  
IN THE PROVINCE OF ONTARIO**

**AFFIDAVIT OF SHELDON TITLE  
(Sworn June 15, 2020)**

I, Sheldon Title, of the City of Richmond Hill, in the Province of Ontario,

**MAKE OATH AND SAY AS FOLLOWS:**

1. I am a Senior Vice President and a Licensed Insolvency Trustee with MNP Ltd. (“**MNP**”) the Licensed Insolvency Trustee (the “**Proposal Trustee**”) acting in the Notice of Intention to Make a Proposal (“**NOI**”) filed by Ferrex Engineering Ltd. (the “**Company**”) and as such have knowledge of the matters deposed to herein, except where such knowledge is stated to be based on information and belief, in which case I state the source of the information and verily believe such information to be true.
2. On April 2, 2020, the Company filed a NOI pursuant to section 50.4 of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3, as amended (the “**BIA**”).
3. The Proposal Trustee has prepared two Statements of Account in connection with its appointment detailing its services rendered and disbursements incurred for the period March 27, 2020 to June 2, 2020. Attached hereto and marked as Exhibit “A” to this my Affidavit is a summary of the Statements of Account.



4. Attached hereto and marked as **Exhibit "B"** are copies of MNP's Statements of Account. The average hourly rate in respect of these accounts is \$403.75.
5. The particulars of the professionals who performed the work, the time spent, and fees associated with such work are contained in the attached Statements of Account.
6. I hereby confirm that the information detailed herein and attached accurately reflects the services provided by the Proposal Trustee in this proceeding and the fees and disbursements claimed by it.
7. This affidavit is sworn in support of a motion to, *inter alia*, approve the costs of administration, and an interim taxation of the Proposal Trustee's accounts and for no other or improper purpose.

SWORN BEFORE ME by video conference )  
From the City of Richmond Hill, in the Regional )  
Municipality of York, to the Town of Erin in )  
Wellington County, on this 15<sup>th</sup> day of June, 2020 )

  
Commissioner for Taking Affidavits

  
\_\_\_\_\_  
Sheldon Title

**Matthew Eric Lem, a Commissioner, etc.,  
Province of Ontario, for MNP Ltd. and MNP LLP.  
Expires February 21, 2023.**

ATTACHED IS **EXHIBIT "A"**  
REFERRED TO IN THE  
**AFFIDAVIT OF SHELDON TITLE**  
SWORN BEFORE ME  
THIS 15<sup>TH</sup> DAY OF JUNE 2020

A handwritten signature in blue ink, appearing to be 'Lu Lu', is written over a horizontal line.

**A Commissioner, Etc.**

Invoice Number	Period	Hours	Amount	Accrual	Disbursements	HST/PST	Total	Average Rate
9352430	March 27, 2020 to May 29, 2020	91.0	\$36,606.78	\$0	\$0	\$4,758.88	\$41,365.66	\$402.27
9361717	June 1, 2020 to June 11, 2020	37.5	\$11,732.80	\$3,543.00	\$900.00	\$2,102.85	18,278.65	\$407.35
9361716	Disbursements only				\$500.00	\$60.00	\$560.00	560.00
9361715	Disbursements only				\$300.00	\$0	\$300.00	
<b>Total</b>		128.5	\$48,339.58	\$3,543.00	\$1,700.00	\$6,921.73	\$60,504.31	\$403.75

ATTACHED IS **EXHIBIT "B"**  
REFERRED TO IN THE  
**AFFIDAVIT OF SHELDON TITLE**  
SWORN BEFORE ME  
THIS 15<sup>TH</sup> DAY OF JUNE 2020

A handwritten signature in blue ink, appearing to be "Lu Lu", written over a horizontal line.

**A Commissioner, Etc.**

# Invoice



**Invoice Number :** 9352430

**Client Number :** 0818365

**Invoice Date :** Jun 3 2020

**Invoice Terms :** Due Upon Receipt

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Ferrex Engineering Ltd.  
c/o MNP Ltd. 300-111 Richmond Street West  
Toronto , ON M5H 2G4

## For Professional Services Rendered :

For the period ending May 29, 2020 related to the Proposal for Ferrex Engineering Ltd.	38,616.60
Voluntary Discount	-2,009.82
Sub Total :	<u>36,606.78</u>
Harmonized Sales Tax :	<u>4,758.88</u>
<b>Total (CAD) :</b>	<u><b>41,365.66</b></u>

HST Registration Number : 103697215 RT 0001

**Invoices are due and payable upon receipt.**

Thank you for your business. We sincerely appreciate your trust in us.

**Licensed Insolvency Trustees**  
**111 RICHMOND STREET WEST, SUITE 300;**  
**TORONTO ON; M5H 2G4**  
**P: (416) 596-1711 F: (416) 596-7894 www.MNPDebt.ca**

## DETAILED TIME CHARGES

DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS
27-Mar-2020	Sheldon Title	1.10	review of information supplied by debtor and email to Clarkson re: additional information; review of judgment/decision/emails with Darlington/Rydel on judgment and calc of interest; email from Clarkson on plan to pay down small creditors and forward same to Darlington; email to Clarkson on obtaining missing info
30-Mar-2020	Sheldon Title	.40	preparation of resolution; forward same to Sgro for review; send draft resolution/NOI to Ferrex (Mark/Tom) for review
31-Mar-2020	Sheldon Title	.50	emails to/from Bruce/Peter on timing of NOI; receipt of paperwork from Mark Clarkson; email to request signed resolution, second page of NOI and retainer; receipt from Tom of revised creditor listing page; email to Clarkson
27-Mar-2020	Jessie Hue	1.00	Enter data in Ascend in preparation of the NOI, save material in email to the directory email A. Kapoor and S. Title draft.
26-Mar-2020	Akhil Kapoor	.50	Preparing EL for Ferrex
27-Mar-2020	Akhil Kapoor	.70	Review of Court order to determine US creditor liability, damages and understanding on the interest component post judgement
30-Mar-2020	Akhil Kapoor	.20	Update on NOI docs and Ascend
31-Mar-2020	Akhil Kapoor	.20	Glancing through available information to prepare for NOI
12-Apr-2020	Jerry Henechowicz	.30	Review and amendment of cash-flow
01-Apr-2020	Sheldon Title	.80	emails with Tom Clarkson re: retrieval of original documents, update filing docs, retainer; call with Bruce Darlington after receiving email on status
02-Apr-2020	Sheldon Title	2.20	email to Jessie *2 re: to file the NOI after confirming deposit received; email to Peter Rydel, B. Darlington, V. Sgro, Mark and Tom Clarkson to advise of receipt of and need for call for next steps; skype call with Akhil, B. Darlington, Vic, Mark and Tom Clarkson and follow up emails with Rydel about scheduling a call; call with Vic Sgro after my sending AM email; email to Fleming on clearing conflicts to act as independent counsel
03-Apr-2020	Sheldon Title	.90	email to/from P. Rydel in advance of call; call with Rydel and follow up email to him to provide him with materials used

DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS
03-Apr-2020	Sheldon Title	.40	review communications
08-Apr-2020	Sheldon Title	.10	call with Darlington
08-Apr-2020	Sheldon Title	1.30	review draft Chapter 15 materials and forward same to Fleming for review; call with Fleming to discuss background
09-Apr-2020	Sheldon Title	1.30	calls with Darlington; conference call with Rydel and Fleming (.5 hour); call with Fleming (.3);
10-Apr-2020	Sheldon Title	.30	emails to/from Mark/Tom, email from/to Ryder and Fleming re: answers to Chapter 15 questions
11-Apr-2020	Sheldon Title	.30	Review of revised projections and email to Akhil re: questions to pose
11-Apr-2020	Sheldon Title	1.00	Prepare for and attend at call with Mark and Tom Clarkson; call with Bruce Darlington afterward
12-Apr-2020	Sheldon Title	.50	Assumptions and development of COVID-19 note
12-Apr-2020	Sheldon Title	.50	Prepare disclaimer and forward to Tom and Mark; continued work/development on cash flows
12-Apr-2020	Sheldon Title	.80	Conference call
13-Apr-2020	Sheldon Title	.30	receipt of messages from Tom, texts/emails with Akhil on status;
13-Apr-2020	Sheldon Title	.30	Exchanges with Tom Jessie and Bruce via email relating to landlord disclaimer given the PO address provided for Bearsfield, the landlord
13-Apr-2020	Sheldon Title	.80	Finalization of projection and call with M. Fleming on Peter Rydel's email and response to Chapter 15 strategy
14-Apr-2020	Sheldon Title	1.20	Skype calls with Darlington, Fleming and Nunes re. Foreign rep; subsequent email exchanges between Fleming and Rydel on same; second Skype call at 8:30 pm to revisit foreign rep;
16-Apr-2020	Sheldon Title	.50	consideration of declaration and revisions to same; discussions with Fleming before finalizing; forward NOI to lawyers on file
17-Apr-2020	Sheldon Title	.40	emails exchanged with Maurice on Chapter 15 proceedings
20-Apr-2020	Sheldon Title	.20	call with Darlington; email to Akhil; receipt of emails from Rydel on status
22-Apr-2020	Sheldon Title	.10	call and email to Gerald, former employee at Ferrex, on his being terminated and his rights as unsecured creditor; to sending him NOI and advising he may wish to speak to MOL
23-Apr-2020	Sheldon Title	.10	call to Darlington; review of incoming emails
23-Apr-2020	Sheldon Title	.80	phone call with Bruce Darlington re: extension; conference call with Mark, Tom and Akhil on status, extension, sale, Micro Fines, incoming email from

DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS
			Ilchenko advising he acts for Micro Fines; forward email to Maurice and Bruce;
23-Apr-2020	Sheldon Title	.40	email responses to Alex Ilchenko; call with Alex Ilchenko
24-Apr-2020	Sheldon Title	.90	email to Maurice Fleming on security opinion; conference call with Kyle (WV), Danny Nunes, Bruce Darlington, and Maurice Fleming
25-Apr-2020	Sheldon Title	.10	call with Akhil on report and strategy arising from 4/24 call with counsel for the company/Maurice
26-Apr-2020	Sheldon Title	.50	review of NOM and sale process order; email to Akhil to prepare rep letters for company to sign; email to Maurice Fleming on my comments on the draft materials
27-Apr-2020	Sheldon Title	2.50	calls and emails with Maurice Fleming, Danny Nunes and Bruce Darlington on need for company to produce evidence to support its motion; receipt of Maurice's comments on NOM and Order; review management rep letter; review and revise report; develop sale process;
28-Apr-2020	Sheldon Title	.40	call with Maurice on running a more basic sales process (no auction); review with Maurice draft documents
28-Apr-2020	Sheldon Title	1.60	work on finalizing report; review suggested changes from Lem and Fleming and modify report; development and finalization of sale process and email to Nunes on same
29-Apr-2020	Sheldon Title	1.00	receipt of Danny Nunes comments; email with Kyle Armagon on service of motion/service list; emails to/from Clarkson re: promissory note; review of promissory notes and finalization of report; emails to Maurice on serving the report
30-Apr-2020	Sheldon Title	.30	call with Maurice Fleming on issue of service; emails to/from Maurice Fleming re: ensuring service of report/motion and filing of same with court
02-Apr-2020	Jessie Hue	.70	Search for executed resolution, prepare consent and EIS with digital signature email S. Title for direction, save the resolution and executed form 33 to the directory and save as a pdf, filed the NOI with the OSB and email confirmation with S. Title.
22-Apr-2020	Jessie Hue	.80	Create website and posting documentation. Review of the friendly URL and email Morgan the live website and request friendly URL
23-Apr-2020	Jessie Hue	.20	Follow up with IT regarding email account.
27-Apr-2020	Jessie Hue	.20	Created firmex data room and set up users.



DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS
30-Apr-2020	Jessie Hue	.30	Website posting of the notice of motion and efiled the report of Trustee with the OSB. Follow up on the posting of the report of Trustee with S. Tittle.
28-Apr-2020	Matthew Lem	1.20	Review of draft report to court
02-Apr-2020	Akhil Kapoor	.90	Call with Ferrex team and the lawyers to discuss timeline for preparation of the cash flows, related issues, future course of action, communication with customers, suppliers, employees
02-Apr-2020	Akhil Kapoor	2.50	Preparation of communication letters for customers, employees and suppliers
03-Apr-2020	Akhil Kapoor	.70	1) Review of CF prepared by T. Clarkson and sharing a template with them; requesting them to provide information in the template
03-Apr-2020	Akhil Kapoor	.10	Email communication with Ferrex team; requesting them to share their cash flow template
03-Apr-2020	Akhil Kapoor	.80	1) Completing the draft communication letters (customers, suppliers and employees) and sharing with Sheldon2) Review of changes made by Sheldon and sharing it with Tom and Mark Clarkson.
06-Apr-2020	Akhil Kapoor	.50	Email exchange with Mark and commencing work on Ferrex cash flows
09-Apr-2020	Akhil Kapoor	3.50	1) Review of Ferrex cash flows provided by M. Clarkson, preparing a list of queries. 2) Review of comments and details provided by Mark and sending another list of queries to Mark for the call with Sheldon, Mark and Tom on Saturday,
11-Apr-2020	Akhil Kapoor	.75	Call with Mark, Tom and Sheldon to discuss cash flows
11-Apr-2020	Akhil Kapoor	1.10	Review of revised cash flows and sharing queries with Mark and Tom on Bank reconciliation, expected collections from new sales and AR, payroll, contractors and other expenses2) Discussion with Sheldon re few issues in cash flows
12-Apr-2020	Akhil Kapoor	.75	Call with Tom, Mark and Sheldon re revised cash flows
12-Apr-2020	Akhil Kapoor	2.00	Finalization of cash flows (including formatting) and assumptions and sharing with Sheldon for his review.2) Sharing the assumptions and cash flow with assumptions with Mark for their review
12-Apr-2020	Akhil Kapoor	.50	Retrieving Form 29 and Form 30 from Ascend and discussing them with Sheldon as we need to e-file cash flows and these forms on April 13 2020

DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS
13-Apr-2020	Akhil Kapoor	2.50	Discussion with Mark and Tom on revised contractor cost, cost benefit analysis, MCA and United contracts, understanding of work done to be done for existing ARs- Multiple emails and few calls
13-Apr-2020	Akhil Kapoor	2.50	1) Finalization of cash flows, assumptions, Form 28, 29, execution of documents and sharing the docs with Jessie for e-filing
14-Apr-2020	Akhil Kapoor	.10	Internal call with Sheldon and Jessie re communication with stakeholders
15-Apr-2020	Akhil Kapoor	.10	Emailing Q&A to handle basic queries from the suppliers, also indicated that we have a dedicated email address to handle queries from suppliers. Also updated Sheldon about it
21-Apr-2020	Akhil Kapoor	.30	Preparing outline of report for Ferrex. sending email to Tom and Mark about data room material requirement
22-Apr-2020	Akhil Kapoor	.50	Preparing Data room index and sharing with Company management for their review. Also, checking status of data room material
23-Apr-2020	Akhil Kapoor	.60	Call with Tom and Mark Clarkson, S. Title re status update and way forward to filing of First Court Report
24-Apr-2020	Akhil Kapoor	.50	1) Email communication with T and M. Clarkson re data room index and actual cash flows2) Initiating creation of Virtual Data room
27-Apr-2020	Akhil Kapoor	.50	Preparation of actual cash flows report vs projected cash flows and incorporating it in the report
27-Apr-2020	Akhil Kapoor	4.00	1) Preparation of first draft to the Court report incl. purpose of the report, background of the company, assets, creditors, Sale Process, request for extension, administration charge etc.
27-Apr-2020	Akhil Kapoor	.50	Discussion of queries in the actual cash flows with Mark Clarkson and sharing report with them along with list of queries (bank statement pending)
27-Apr-2020	Akhil Kapoor	.20	Preparation of Ferrex Management letter and sharing with Sheldon for his comments. 2) Sharing it with company for signatures
28-Apr-2020	Akhil Kapoor	.30	Preparation of historical results for the purpose of Court Report
28-Apr-2020	Akhil Kapoor	.70	Incorporating variance analysis section and historical results
28-Apr-2020	Akhil Kapoor	.30	Reviewing information received for data room (FY18 financials, employee and IP information, 2020 and 2021 projections)

DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS
28-Apr-2020	Akhil Kapoor	.30	1) Obtaining bank statements, discussing certain aspects with Company. 2) Obtaining Management Letter from the Company
28-Apr-2020	Akhil Kapoor	.50	Discussing and obtaining information for affidavit-permanent, contractual employee information, pension plan, employee terminations
29-Apr-2020	Akhil Kapoor	.40	Finalization of Court report and reading final Notice of Motion
29-Apr-2020	Akhil Kapoor	.10	Preparation of data room terms of use
29-Apr-2020	Akhil Kapoor	1.00	Discussion with Mark re data room material, emailing them list of appendences among other things
30-Apr-2020	Akhil Kapoor	.30	Discussion with CF team re providing them information to obtain list of prospective purchasers
30-Apr-2020	Akhil Kapoor	1.00	1) preparation of Q&A based on responses received from Ferrex team
03-May-2020	Sheldon Title	.20	review of ad and teaser
04-May-2020	Sheldon Title	.70	attendance at court hearing; review form of order and emails with Maurice re: same; emails with OSB; forward order to Jessie for posting/efiling;
05-May-2020	Sheldon Title	.10	email to/from Tom Clarkson on National Post advertisement
07-May-2020	Sheldon Title	.20	email exchange with Clarkson on termination of Bell contracts
13-May-2020	Sheldon Title	1.20	prepare Bell disclaimer and forward same via email to Tom Clarkson; email from Clarkson and email to Hue to direct it to Bell via courier; preparation of APA and forward same to Fleming
15-May-2020	Sheldon Title	.70	call with Fleming on revisions to APA and review of actual cash flows and email to Akhil on same
17-May-2020	Sheldon Title	.20	review and revise APA and forward comments to Maurice
04-May-2020	Jessie Hue	.30	Efiled the extension Order with the OSB, further email with S. Title and Mary at the OSB confirming same.
06-May-2020	Jessie Hue	.10	Email S. Title confirmation of received mail, re; executed documents.
11-May-2020	Jessie Hue	.30	Update the website with the report and the court order.
13-May-2020	Jessie Hue	.10	Review of PostMedia invoice and email S. Title direction for payment.
27-May-2020	Jessie Hue	.20	Website posting.
04-May-2020	Steve Smegal	3.00	Buyers list, research, capiq
05-May-2020	Steve Smegal	1.00	Buyers list edits and some contact info
01-May-2020	Akhil Kapoor	.10	Finalization of NDA for Sheldon's review

DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS
01-May-2020	Akhil Kapoor	1.50	Preparation of teaser and sharing with company for comments
01-May-2020	Akhil Kapoor	1.20	Discussing with T. Clarkson re data room index tab and finalization of Q&A sheet for prospective purchasers. Followed up and received all information applicable for Sale Process except customer contracts
01-May-2020	Akhil Kapoor	.50	Finalization of newspaper ad and sharing with company for comments
02-May-2020	Akhil Kapoor	.20	Email discussion with S. Title re status of Sale Process incl. Teaser, advertisement, NDA and prospective purchaser list
04-May-2020	Akhil Kapoor	.20	1) Revised teaser and shared teaser and newspaper with Company to request for their comments
04-May-2020	Akhil Kapoor	.10	Updating Sheldon about the critical points to discuss the plan of action to go live within 5 days of Court Order
05-May-2020	Akhil Kapoor	.20	Discussion with National Post team for an estimate of quote and updating Sheldon about it
05-May-2020	Akhil Kapoor	.10	Requesting Tom and Mark Clarkson for their comments on the teaser and advertisement and provide customer contracts for the purpose of data room
05-May-2020	Akhil Kapoor	.40	Revisions in advertisement, arranging newspaper advertisement quote from National Post, discussion with Sheldon and Jessie re finalization
05-May-2020	Akhil Kapoor	.20	Finalization of advertisement quote and proof from National Post and updating Sheldon and Company about it
06-May-2020	Akhil Kapoor	.20	Internal discussion re buyer list and communicating with Company re data room
07-May-2020	Akhil Kapoor	1.00	Reviewing information received from Mark Clarkson for data room re financial statements, employee information, IPs, Q&A (updating), 2020 and 2021 projections (to be discussed with Mark), company services and management background
07-May-2020	Akhil Kapoor	.10	Discussion re Ferrex status, utility payments, Prospective Purchaser list with Sheldon
08-May-2020	Akhil Kapoor	1.00	Finalization of data for the purpose of data room and uploading them in the data room
08-May-2020	Akhil Kapoor	.20	Discussion with Company re prospective purchaser list and request for actual cash flows
11-May-2020	Akhil Kapoor	2.50	1) Review and finalization of DR material, 2) Sending an email to Jessie to be sent to all prospective purchasers, 3) Discussion with few PPs about NDA clauses4) Providing access to the prospective

DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS
			purchasers upon receipt of NDA,5) reviewing queries received from PPs and forwarding them to the Company6) Glancing through actual cash flows received (will complete on May 12)
12-May-2020	Akhil Kapoor	2.30	1) Discussion with PP re background of the file and Court proceedings2) NDA discussion and DR access provided to PP3) Discussion of new queries received from PP, discussion with Company and uploading data for FY 2020 income and expenses and open customer orders4) Review of actual cash flows, preparing actual vs projected table for 5 weeks ended May 12 and sending queries to Company re significant variance in receipts and bank reconciliations5) Arranging and sending teaser to a competitor of Ferrex6) Review of Ferrex email to check NDAs received, organizing the email folder, replying to queries etc.
14-May-2020	Akhil Kapoor	.60	Reverting to all emails received from PPs, updating myself with Bell Disclaimer Letter and discussion with Jessie relating to it
14-May-2020	Akhil Kapoor	1.30	Noting down queries in actual cash flows vs the projections and discussing reasons with the Company (yet to discuss changes expected in execution of contracts etc.)2) Updating Sheldon about the file and its cash flows
15-May-2020	Akhil Kapoor	1.00	Review of information and sending email queries to Company and requesting for time for a call to discuss them (booked for Wed, May 20), email conversation with Sheldon re data room and actual cash flows,
19-May-2020	Akhil Kapoor	.80	1) Review of information provided by Company and preparing list of queries for the call on Wednesday at 10.30 am2) Reviewing Ferrex email box to respond to queries 3) Discussion with Insolvency Insider to post the teaser on their website
20-May-2020	Akhil Kapoor	1.10	1) Discussion with Mark and Sharon re reasons for delay in collections, mapping of open customer POs with 13 week projections, outstanding cheques and stop payment of one of the cheques, requesting for customer orders and POs etc.2) Arranging sending of NOI notice to a creditor3) Email communication regarding a NDA from PP4) Discussion with a PP re terms of sale and purchase and whether owner can take some risk instead of sale on "going co
21-May-2020	Akhil Kapoor	.80	1) Review of information shared by Company (relating to POs and customer contracts) and sending couple of queries to the Company

DATE	PROFESSIONAL	HOURS	DETAILED TIME DESCRIPTIONS
22-May-2020	Akhil Kapoor	1.00	1) Call with Sharon Sweeney to discuss open customer POs and their correlation with actual cash flows and finalizing the sheet for uploading2) Uploading open customer POs, customer PO sheet showing segregation of amounts between the PO amounts covered in the 13 week cash flow projections and amounts which are beyond 13 weeks3) Sending Ferrex NOI notice to a creditor who was not previously included in the list4) Interacting with a PP about the new data upload
27-May-2020	Akhil Kapoor	.10	Providing data room access to a PP after review of their NDA
28-May-2020	Akhil Kapoor	.90	Review of Ferrex 2 weeks cash flow and sending comparative sheet to them for the purpose of discussion with them2) Preparing list of queries for the discussion
28-May-2020	Akhil Kapoor	.70	1) Call with Ferrex and updating Sheldon about the actual cash flow status and other updates2) Review of bank statements (USD and CAD Account)3) Requesting Company to share AIM related communication docs

**SUMMARY OF TIME CHARGES**

PROFESSIONAL	AVERAGE HOURLY RATE	HOURS	AMOUNT
Jessie Hue – Estate Administrator (Corporate Insolvency)	217.00	4.2	911.40
Sheldon Title – Partner (Corporate Insolvency)	595.00	28.1	16,719.50
Akhil Kapoor – Manager (Corporate Insolvency)	366.00	53.2	19,471.20
Matthew Lem – Partner (Corporate Insolvency)	550.00	1.2	660.00
Steve Smegal – Associate (Corporate Finance)	169.00	4	676.00
Jerry Henechowicz – Partner (Corporate Insolvency)	595.00	0.3	178.50
<b>TOTAL</b>		<b>91</b>	<b>\$ 38,616.60</b>

# Invoice



**Invoice Number :** 9361717

**Client Number :** 0818365

**Invoice Date :** Jun 12 2020

**Invoice Terms :** Due Upon Receipt

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Ferrex Engineering Ltd.  
c/o MNP Ltd. 300-111 Richmond Street West  
Toronto , ON M5H 2G4

## For Professional Services Rendered :

In the matter of the proposal for Ferrex Engineering Ltd. for services rendered for the period ended June 11 2020 and accrual for services pertaining to the finalization of Second Report to the Court and the closing of the sale transaction. 15,275.80

Disbursement: 900.00  
National Post Notice May 8, 2020

Sub Total :	16,175.80
Harmonized Sales Tax :	2,102.85
<b>Total (CAD) :</b>	<b>18,278.65</b>

HST Registration Number : 103697215 RT 0001

**Invoices are due and payable upon receipt.**

Thank you for your business. We sincerely appreciate your trust in us.

**Licensed Insolvency Trustees**  
**111 RICHMOND STREET WEST, SUITE 300;**  
**TORONTO ON; M5H 2G4**  
**P: (416) 596-1711 F: (416) 596-7894 www.MNPDebt.ca**

## DETAILED TIME CHARGES

Date	Professional	Hours	Detailed time descriptions
01-Jun-2020	Sheldon Title	.10	review of NDA; forward comments to Akhil on same
01-Jun-2020	Akhil Kapoor	1.10	1) Call with a prospective purchaser about Ferrex and way forward 2) Follow up for NDA queries from a PP with legal counsel 3) Discussion and providing NDA to a PP 4) Discussion and providing NDA to another PP 5) Providing comments to a PP re changes proposed by them in the NDA
02-Jun-2020	Sheldon Title	.10	email exchange with Darlington
02-Jun-2020	Akhil Kapoor	.60	1) Discussion and review of docs sent my M. Clarkson re legal matters relating to a supplier and customer and sending final set to Sheldon for review
02-Jun-2020	Akhil Kapoor	.90	Discussion with PPs re NDA, access to DR, providing access, helping PPs to access data room who are having issues
02-Jun-2020	Akhil Kapoor	.20	Discussion, review of NDA changes and providing data room access to another PP
02-Jun-2020	Akhil Kapoor	.40	1) Providing data room access to PP 2) Discussion with PP re certain access rights in the data room 3) Updating prospective purchaser list 4) Responding to queries from PP
03-Jun-2020	Sheldon Title	.40	call with Darlington/Fleming/ email to Akhil/Jessie with instructions
03-Jun-2020	Jessie Hue	.30	Prepare the letter of direction to open account, insert digital signature and request S. Title to provide information to complete the anticipated monthly activity section.
03-Jun-2020	Akhil Kapoor	.10	Discussion re status and other activities
04-Jun-2020	Sheldon Title	.10	email with Maddie at TD on opening of trust account
04-Jun-2020	Akhil Kapoor	.10	Discussion with a PP re withdrawing their interest in bidding
05-Jun-2020	Sheldon Title	.20	emails to and from Maddie at TD and email to Darlington on same
05-Jun-2020	Akhil Kapoor	.60	1) Connecting with PPs to check their status about bid submission 2) Receiving updates and reverting to PPs
05-Jun-2020	Akhil Kapoor	.10	Review of revised draft structure received from S. Title and planning to commence writing the second report based on the reviewed set
05-Jun-2020	Akhil Kapoor	1.10	Review of docs and preparing a draft structure of Trustee's second report to Court to update them and to obtain requisite approvals.



07-Jun-2020	Sheldon Title	.30	review of report outline and emails to Akhil to revise, to Fleming on need to shore up opinion, to Bruce to respond to his message
08-Jun-2020	Sheldon Title	.50	review of final APA and changes made from previous draft; emails to/from Fleming on same; emails with Akhil on confirmation no competing offers; call with Akhil on report structure
08-Jun-2020	Jessie Hue	.30	Banking, transfer from initial to estates in Ascend and set up banking details, email S. Title for confirmation of funds to transfer to trust. Further email received from TD, requesting S. Title contact info as need to contact directly to confirm e-signature.
08-Jun-2020	Akhil Kapoor	.50	1) Preparing comparative sheet of actual vs projected cash flows and sending it to company for details 2) Sharing query on employee payments
08-Jun-2020	Akhil Kapoor	4.50	Preparation of report (in progress): 1) Introduction 2) Restrictions 3) Purpose 4) background info 5) Creditors 6) Sale Process
09-Jun-2020	Sheldon Title	.60	Teams meeting with Maurice Fleming on revisions to purchaser's APS offer; emails between Fleming and Darlington
09-Jun-2020	Jessie Hue	.90	Transfer fund from the retainer to the trust account, search for Postmedia invoice, prepare the cheque requisitions for Postmedia and filing fee, request for approval of signed cheques and efiled the remittance with the OSB and email S. Title confirmation.
09-Jun-2020	Akhil Kapoor	.40	Reviewed actual vs projected revenue, supplier payments, payroll, operating expenses and others and noted queries for discussion
09-Jun-2020	Akhil Kapoor	5.20	Working on sections of the report: 1) Actual vs projected cash flows 2) Sale Approval 3) Vesting Order 4) Trustee recommendations 5) conclusions 6) Activities of the Proposal Trustee 7) Approval of Trustee and Trustee's legal counsel fees 8) Revising entire report, preparing table of contents and ensuring consistency
09-Jun-2020	Akhil Kapoor	.50	Call with company re cash flows (p/e June 7), tax return, employee payments and other issues
10-Jun-2020	Sheldon Title	2.50	report review/revisions, review/comment on draft NOM, call with Fleming
10-Jun-2020	Akhil Kapoor	.10	Review of a section of a report and informing Sheldon about a proposed change in the report re fees and disbursements

10-Jun-2020	Akhil Kapoor	.30	Going through the changes made by Sheldon in Ferrex draft report
10-Jun-2020	Akhil Kapoor	.10	Commencing review of NOM to incorporate certain sections in our report
11-Jun-2020	Akhil Kapoor	3.00	1) Discussion with Company re open issues, cash flow variances, review of the report and making changes basis discussion with company and review comments from S. Title. 2) Sharing the report with S. Title making the required changes 3) Sharing commentary of actual vs projected with the Company for their review
11-Jun-2020	Sheldon Title	1.50	Further revisions to report; review of final NOM; call with Maurice Fleming; invoicing
11-Jun-2020	Akhil Kapoor	1.50	1) Understanding questions and NTDs from S. Title, working on the changes related to cash flows among others and sharing revised version with S. Title. 2) Discussion with S. Title re receipts and variance in receipts from customers
<b>Total</b>		<b>29.10</b>	

Accruals	Professional	Hours
Finalizing report	Akhil Kapoor	2.00
Court attendance	Sheldon Title	0.40
Closing of transaction	Sheldon Title	3.00
Miscellaneous-banking, notices	Jessie Hue	3.00
<b>Total</b>		<b>8.40</b>

**SUMMARY OF TIME CHARGES**

PROFESSIONAL	AVERAGE HOURLY RATE	HOURS	AMOUNT
Jessie Hue – Estate Administrator (Corporate Insolvency)	217.00	4.5	976.50
Sheldon Title – Partner (Corporate Insolvency)	595.00	9.7	5,771.50
Akhil Kapoor – Manager (Corporate Insolvency)	366.00	23.3	8,527.80
<b>TOTAL</b>		<b>37.5</b>	<b>15,275.80</b>

# Invoice



**Invoice Number :** 9361716

**Client Number :** 0818365

**Invoice Date :** Jun 12 2020

**Invoice Terms :** Due Upon Receipt

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Ferrex Engineering Ltd.  
c/o MNP Ltd. 300-111 Richmond Street West  
Toronto , ON M5H 2G4

## For Professional Services Rendered :

Disbursement:		500.00
Firmex virtual data room		
		60.00
Add 5% GST & 7% HST		
	Sub Total :	<hr/> 560.00
	<b>Total (CAD) :</b>	<hr/> 560.00

**Invoices are due and payable upon receipt.**

Thank you for your business. We sincerely appreciate your trust in us.

**Licensed Insolvency Trustees**  
**111 RICHMOND STREET WEST, SUITE 300;**  
**TORONTO ON; M5H 2G4**  
**P: (416) 596-1711 F: (416) 596-7894 www.MNPDebt.ca**

# Invoice



**Invoice Number :** 9361715

**Client Number :** 0818365

**Invoice Date :** Jun 12 2020

**Invoice Terms :** Due Upon Receipt

---

Ferrex Engineering Ltd.  
c/o MNP Ltd. 300-111 Richmond Street West  
Toronto , ON M5H 2G4

## For Professional Services Rendered :

OSB Filing fee (no HST)	150	300.00
Court fee (no HST)	150	

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<b>Total (CAD) :</b>	<b>300.00</b>
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Invoices are due and payable upon receipt.

Thank you for your business. We  
sincerely appreciate your trust in us.

Licensed Insolvency Trustees  
111 RICHMOND STREET WEST, SUITE 300;  
TORONTO ON; M5H 2G4  
P: (416) 596-1711 F: (416) 596-7894 [www.MNPDebt.ca](http://www.MNPDebt.ca)

# Exhibit "F"

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

**(IN BANKRUPTCY AND INSOLVENCY)**

**IN THE MATTER OF THE NOTICE OF INTENTION  
TO MAKE A PROPOSAL OF FERREX ENGINEERING LTD. OF  
THE CITY OF AJAX, IN THE PROVINCE OF ONTARIO**


**AFFIDAVIT OF FEES OF COUNSEL TO PROPOSAL TRUSTEE**

I, Maurice V. Fleming, of the City of Toronto, Province of Ontario, **MAKE OATH AND SAY AS FOLLOWS:**

1. I am a Partner with the law firm Fogler Rubinoff LLP, in Toronto, engaged for and acting on behalf of the Proposal Trustee in this matter, and as such, have knowledge of the matters hereinafter deposed to, except where stated to be on information and belief, and where so stated, I verily believe to be true.
2. Attached hereto and marked as Exhibit "A" is a true copy of the Fogler Rubinoff LLP account dated May 1, 2020 in the amount of \$16,535.74 covering the period between April 6, 2020 to April 27, 2020
3. Attached hereto and marked as Exhibit "B" is a true copy of the Fogler Rubinoff LLP account dated June 11, 2020 in the amount of \$30,274.41 covering the continuation of services in the period between April 27, 2020 to June 10, 2020.
4. Based upon current available information filed in the Second Report of the Proposal Trustee for the motion scheduled June 17, 2020, including the approval of the APA, as defined therein, my estimate for a reserve covering the remainder of work reasonably anticipated for completion of work for the Proposal Trustee is \$10,000.00.

6. To the best of my knowledge, information, and belief the rates charged by Fogler Rubinoff LLP are comparable to the rates charged for the provision of similar services by qualified and experienced law firms in the Toronto market.
7. This affidavit is made in support of a Motion to, inter alia, seek approval of the foregoing fees and disbursements as fair and reasonable.

SWORN before me at the City of Toronto,  
in the Province of Ontario, this 15th day of  
June, 2020.

  
\_\_\_\_\_  
A Commissioner for taking affidavits.  
K.W. NOVAT

  
\_\_\_\_\_  
MAURICE V FLEMING

This is Exhibit "A" referred to in the affidavit of Maurice Fleming sworn before me, this 15<sup>th</sup> day of June, 2020.

Invoice Num: 22005773

May 1, 2020

MNP Ltd.  
111 Richmond Street West  
Suite 300  
Toronto ON  
M5H 2G4  
Attention: Sheldon Title  
CPA, CA, CIRP, LIT

  
A COMMISSIONER FOR TAKING AFFIDAVITS

IN ACCOUNT WITH  
Fogler, Rubinoff LLP  
77 King Street West, Suite 3000  
TD Centre North Tower  
P.O. Box 95  
Toronto, ON  
M5K 1G8  
Telephone: 416-864-9700  
Fax: 416-941-8852  
www.foglers.com

**fogler**  
rubinoff

**Our File: M4745 / 202453**  
**Ferrex Engineering Ltd.**

**TO ALL PROFESSIONAL SERVICES RENDERED** in connection with the above noted matter, including:

<u>Date</u>	<u>Lawyer</u>	<u>Description</u>	<u>Hours</u>	<u>Amount</u>
Apr-06-20	MVF	Emails with counsel, scheduling and document issues.	0.40	276.00
Apr-07-20	MVF	Counsel emails.	0.40	276.00
Apr-08-20	MVF	Emails with counsel, calls with MNP, review additional documents.	1.40	966.00
Apr-09-20	MVF	Review US materials Ch. 15, estate, client emails, attendance on call with counsel and MNP, emails and attendance on second call with US Counsel regarding BC C.15 Proceedings and timing, review BIA and potential receivership options, consultation with S. Title.	3.90	2,691.00
Apr-13-20	MVF	Emails with US counsel, Ch. 15, emails and calls MNP regarding strategic consideration in court proceedings and next steps, review BIA s. 50.14 on requirements for leave by MNP in role as PT.	2.20	1,518.00
Apr-14-20	MVF	Emails MNP and with US counsel, attendance on call with MNP and B. Darlington and D. Nunes, review BIA, emails and options on next steps in proceedings, instructions regarding receivership.	2.50	1,725.00
Apr-15-20	MVF	Emails with counsel and US counsel, MNP regarding US proceedings, emails DLA Piper on US issues.	1.60	1,104.00
Apr-16-20	MVF	Emails and calls DLA, US counsel, MNP, required declarations for US filing by MNP, review filed NOI, emails with P. Ryker, revisions to MNP filing in Ch. 15 application, calls with MNP, emails from counsel group on the filing deadline.	2.80	1,932.00



<u>Date</u>	<u>Lawyer</u>	<u>Description</u>	<u>Hrs</u>	<u>Fees</u>
Apr-30-20	MVF	Emails and calls MNP, numerous emails file counsel, service of materials and First Report on the Service List, filing of materials with the Court for motion before Conway J., responses from parties on Service List, review procedural issues for the motion, emails from A. Illchenko and US counsel to Micro, multiple emails K.Armagon and D. Nunes/.	4.40	3,036.00
May-01-20	MVF	Emails J. Carson, D. Nunes, S. Title regarding disposition and attendance at upcoming motion,.	0.60	414.00
May-04-20	MVF	Prep for and attendance at hearing, emails with Applicant counsel and emails and calls with Proposal Trustee, review draft and final orders as circulated, emails from Conway J, [REDACTED] s.	2.10	1,449.00
May-05-20	MVF	Review email from [REDACTED] regarding [REDACTED] s.	0.40	276.00
May-07-20	MVF	Emails, update and calls with S. Title.	0.50	345.00
May-12-20	MVF	Call and update S. Title.	0.30	207.00
May-13-20	MVF	Emails with counsel and calls and email with MNP regarding draft APA and AVO, in response to creditor counsel request, review draft APA from MNP.	2.80	1,932.00
May-14-20	MVF	Review update [REDACTED] regarding [REDACTED] s. [REDACTED] emails with MNP and DLA Piper regarding next steps and updates, draft APA, revisions to draft APA and discussions with MNP re same.	3.80	2,622.00
May-15-20	MVF	Drafting schedules and further revisions and blk to MNP draft APA, attendance on call with MNP to discuss, review and send revisions to MNP for approval.	2.90	2,001.00
May-18-20	MVF	Review, amend and send final form of APA to DLA Piper, with final draft changes from MNP.	1.60	1,104.00
May-22-20	MVF	Update [REDACTED]	0.20	138.00
May-27-20	MVF	Review email from US counsel, review [REDACTED] s.	0.50	345.00
Jun-02-20	MVF	Emails B. Darlington and MNP.	0.20	138.00
Jun-03-20	MVF	Emails and attendance on conference call regarding bid for assets.	0.60	414.00
Jun-04-20	MVF	Updates and emails re date for SAVO motion. Review issues regarding holding proposal and drafting.	0.40	276.00
Jun-05-20	MVF	Emails DLA and MNP, next procedural steps.	0.50	345.00
Jun-08-20	MVF	Emails and calls with S. Title regarding next report, purchase offer, update on sales process and timing of next hearing, emails with DLA Piper, Review offer and signed APA, emails regarding security opinion,.	1.90	1,311.00
Jun-09-20	MVF	Phone meeting and emails with MNP, emails DLA, call to litigation clerk regarding court filings on closing.	1.30	897.00
Jun-10-20	MVF	drafting materials, calls and emails with MNP, emails with DLA regarding sale approval motion.	1.30	897.00

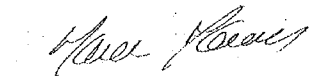
**TOTAL FEES: \$26,703.00**

**OUR FEE HEREIN \$26,703.00**

**Disbursements**

Taxable	OnCorp Fee for Electronic Filing	\$16.20	
Taxable	PPSA Search	\$8.00	
Taxable	Prints	\$47.40	
Taxable	Scanning	\$1.25	
Taxable	Telephone - conference calls	\$15.67	
	Total Disbursements		\$88.52
	Total Fees and Disbursements		\$26,791.52
	HST @ 13% on Fees and Taxable Disbursements		\$3,482.89
	<b>Total Fees, Disbursements and Taxes this Bill</b>		<b>\$30,274.41</b>
		<b>Balance Due:</b>	<b>\$30,274.41</b>

**THIS IS OUR ACCOUNT HEREIN  
FOGLER, RUBINOFF LLP**



**Maurice V. Fleming**

THIS ACCOUNT BEARS INTEREST, COMMENCING ONE MONTH AFTER DELIVERY, AT THE RATE OF 3.30% PER ANNUM AS AUTHORIZED BY THE SOLICITORS' ACT. ANY DISBURSEMENTS NOT POSTED TO YOUR ACCOUNT ON THE DATE OF THIS STATEMENT WILL BE BILLED LATER.

**E. & O.E.**

**GST/HST No : R119420859**

*Please return a copy of this account with your payment. Thank you.*

For your convenience, we have the following payment options:

- Online banking using the Bill Payment Service at most Canadian chartered banks. Please reference your file or account number in the notes box.
- Direct Deposits at a TD Branch (please provide your Fogler, Rubinoff lawyer with a copy of the cheque and deposit receipt).
- Wire transfer (please reference your file or account number).
- Electronic Funds Transfer (EFT).
- Cheque by mail or courier.

Should you require assistance, please contact our Accounts Receivable Department at 416.864.9700 x152 or by e-mail [accountsreceivable@foglerrubinoff.com](mailto:accountsreceivable@foglerrubinoff.com).

Invoice Num: 22005773

May 1, 2020

MNP Ltd.  
111 Richmond Street West  
Suite 300  
Toronto ON  
M5H 2G4  
Attention: Sheldon Title  
CPA, CA, CIRP, LIT

IN ACCOUNT WITH  
Fogler, Rubinoff LLP  
77 King Street West, Suite 3000  
TD Centre North Tower  
P.O. Box 95  
Toronto, ON  
M5K 1G8  
Telephone: 416-864-9700  
Fax: 416-941-8852  
www.foglers.com

fogler  
rubinoff

Our File: M4745 / 202453  
Ferrex Engineering Ltd.

TO ALL PROFESSIONAL SERVICES RENDERED in connection with the above noted matter, including:

<u>Date</u>	<u>Lawyer</u>	<u>Description</u>	<u>Hours</u>	<u>Amount</u>
Apr-06-20	MVF	Emails with counsel, scheduling and document issues.	0.40	276.00
Apr-07-20	MVF	Counsel emails.	0.40	276.00
Apr-08-20	MVF	Emails with counsel, calls with MNP, review additional documents.	1.40	966.00
Apr-09-20	MVF	Review US materials [REDACTED], client emails, attendance on call with counsel and MNP, emails and attendance on second [REDACTED] [REDACTED] review BIA and [REDACTED] consultation with S. Title.	3.90	2,691.00
Apr-13-20	MVF	Emails with US counsel, [REDACTED] emails and calls MNP regarding [REDACTED] [REDACTED]s, review BIA s. 50.14 on requirements for leave by MNP in role as PT.	2.20	1,518.00
Apr-14-20	MVF	Emails MNP and with US counsel, attendance on call with MNP and B. Darlington and D. Nunes, review BIA, emails [REDACTED]	2.50	1,725.00
Apr-15-20	MVF	Emails with counsel and US counsel, MNP regarding US proceedings, emails DLA Piper [REDACTED]	1.60	1,104.00
Apr-16-20	MVF	Emails and calls DLA, US counsel, MNP, required declarations for US filings [REDACTED], review filed NOI, [REDACTED] revisions to MNP filing [REDACTED], calls with MNP, emails from counsel group on the filing deadline.	2.80	1,932.00

<u>Date</u>	<u>Lawyer</u>	<u>Description</u>	<u>Hours</u>	<u>Amount</u>
Apr-17-20	MVF	Counsel emails and updates [REDACTED] emails and responses from S. Title.	0.90	621.00
Apr-18-20	MVF	Emails with MNP regarding Proposal mandate issues.	0.40	276.00
Apr-20-20	MVF	Emails and updates [REDACTED] DLA, review file, next steps and extension motion requirements.	0.90	621.00
Apr-21-20	MVF	emails and updates [REDACTED].	0.60	414.00
Apr-22-20	MVF	Emails P. Sgro, B. Darlington, [REDACTED] review file with MNP.	0.70	483.00
Apr-23-20	MVF	Emails with MNP regarding informational requests from creditor counsel, emails with DLA.	0.80	552.00
Apr-24-20	MVF	Emails and calls MNP, attendance on conference calls [REDACTED], review emails [REDACTED], emails with DLA regarding security to be reviewed for opinion, emails with T. Hill for required FR searches to backstop shared DLA searches, call and emails with MNP.	1.60	1,104.00
Apr-27-20	TH	Ordering uncertified PPSA for Ferrex Engineering Ltd.; providing to M. Fleming.	0.20	66.00

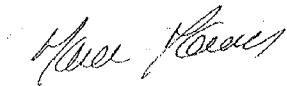
**OUR FEE HEREIN** **\$14,625.00**

**Disbursements**

Taxable	Prints	\$8.40	
	Total Disbursements		\$8.40
	Total Fees and Disbursements		\$14,633.40
	HST @ 13% on Fees and Taxable Disbursements		\$1,902.34
	<b>Total Fees, Disbursements and Taxes this Bill</b>		<b>\$16,535.74</b>

**Balance Due:** **\$16,535.74**

**THIS IS OUR ACCOUNT HEREIN  
FOGLER, RUBINOFF LLP**



**Maurice V. Fleming**

THIS ACCOUNT BEARS INTEREST, COMMENCING ONE MONTH AFTER DELIVERY, AT THE RATE OF 3.30% PER ANNUM AS AUTHORIZED BY THE SOLICITORS' ACT. ANY DISBURSEMENTS NOT POSTED TO YOUR ACCOUNT ON THE DATE OF THIS STATEMENT WILL BE BILLED LATER.

**E. & O.E.**

**GST/HST No : R119420859**

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- Direct Deposits at a TD Branch (please provide your Fogler, Rubinoff lawyer with a copy of the cheque and deposit receipt).
- Wire transfer (please reference your file or account number).
- Electronic Funds Transfer (EFT).
- Cheque by mail or courier.

Should you require assistance, please contact our Accounts Receivable Department at 416.864.9700 x152 or by e-mail [accountsreceivable@foglerrubinoff.com](mailto:accountsreceivable@foglerrubinoff.com).

**\*IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF FERREX ENGINEERING LTD**

**Court Estate No.: 31-2636073**

**Court No.: 31-2636073\***

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***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**  
**(IN BANKRUPTCY AND INSOLVENCY)**  
**PROCEEDING COMMENCED AT TORONTO**

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**AFFIDAVIT OF FEES**

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**FOGLER RUBINOFF LLP**

77 King Street West, Suite 3000

Toronto ON M5K 1G8

**Maurice V. Fleming LSUC#200450**

Tel: 416 941-8812

[mfleming@foglers.com](mailto:mfleming@foglers.com)

Fax: 416 941-8852

Lawyers for the Proposal Trustee

Estate No.: 31-2636073  
Court No.: 31-2636073

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL  
OF FERREX ENGINEERING LTD., OF THE CITY OF AJAX, IN THE PROVINCE OF ONTARIO**

---

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)  
(IN BANKRUPTCY AND INSOLVENCY)**

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**SECOND REPORT TO THE COURT SUBMITTED BY MNP  
LTD., IN ITS CAPACITY AS PROPOSAL TRUSTEE UNDER  
THE  
NOTICE OF INTENTION TO MAKE A PROPOSAL OF  
FERREX ENGINEERING LTD.**

---

**MNP LTD.**  
300-111 Richmond Street West  
Toronto, ON M5H 2G4

**Sheldon Title**  
Tel: (416) 263-6945  
Fax: (416) 323-5242  
Email: [sheldon.title@mnp.ca](mailto:sheldon.title@mnp.ca)