

**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>			
	<b>Cumulative Three-Week Period Ended April 26, 2020</b>		
	<b>Actual</b>	<b>Budget</b>	<b>Variance</b>
<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:

<b>Milestone</b>	<b>Deadline</b>
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 TO 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 PROPOSAL 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 "A"



Industry Canada  
Office of the Superintendent  
of Bankruptcy Canada

Industrie Canada  
Bureau du surintendant  
des faillites Canada

District of Ontario  
Division No. 09 - Toronto  
Court No. 31-2636073  
Estate No. 31-2636073

In the Matter of the Notice of Intention to make a  
proposal of:

**Ferrex Engineering Ltd.**  
Insolvent Person

**MNP LTD / MNP LTÉE**  
Licensed Insolvency Trustee

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Date of the Notice of Intention: April 02, 2020

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CERTIFICATE OF FILING OF A NOTICE OF INTENTION TO MAKE A PROPOSAL  
Subsection 50.4 (1)

I, the undersigned, Official Receiver in and for this bankruptcy district, do hereby certify that the aforementioned insolvent person filed a Notice of Intention to Make a Proposal under subsection 50.4 (1) of the *Bankruptcy and Insolvency Act*.

Pursuant to subsection 69(1) of the Act, all proceedings against the aforementioned insolvent person are stayed as of the date of filing of the Notice of Intention.

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Date: April 02, 2020, 13:19

E-File/Dépôt Electronique

Official Receiver

151 Yonge Street, 4th Floor, Toronto, Ontario, Canada, M5C2W7, (877)376-9902

**Canada**

# Exhibit "B"

District of Ontario  
Division No. 09 – Toronto  
Court No. 31-2636073  
Estate No. 31-2636073

**IN THE MATTER OF THE PROPOSAL OF  
FERREX ENGINEERING LTD.  
OF THE CITY OF AJAX  
IN THE PROVINCE OF ONTARIO**

**NOTICE TO CREDITORS OF NOTICE OF INTENTION TO MAKE A PROPOSAL FILING**

**To the Creditors of Ferrex Engineering Ltd. (the “Company”)**

Please take notice that on April 2, 2020, the Company filed a Notice of Intention to Make a Proposal (the “**NOI**”) pursuant to Section 50.4(1) of Part III, Division I of the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”) and MNP Ltd. (“**MNP**”) was named as the proposal trustee (the “**Trustee**”).

Please find enclosed the following:

1. The NOI;
2. A list of the names of the known creditors with claims of \$250 or more and the amounts of their claims (the “**Creditor Listing**”);
3. The consent of MNP to act as the Trustee; and
4. The Certificate of Filing of the NOI, issued by Office of the Superintendent of Bankruptcy Canada.

Suppliers and other service providers should contact their normal representative of the Company with respect to the terms of payment for goods and/or services that are to be provided to the Company going forward.

Pursuant to Section 50.4(8) of the BIA, the Company has thirty (30) days, unless such time period is extended by the Court, to file a proposal with the Trustee. There is a stay of proceedings, and as such:

- no person may terminate or amend any agreement with the Company, or claim an accelerated payment, or a forfeiture of the term, under any agreement with the Company, by reason only that the company is insolvent or by reason of the filing of the NOI, pursuant to Section 65.1(1) of the BIA; and
- no creditor has any remedy against any of the Company or its property or shall commence or continue any action, execution, or other proceedings against the Company without leave of the Court, pursuant to Section 69(1) of the BIA.

If you have any questions please contact Sheldon Title at 416-263-6945 or by email at [sheldon.title@mnp.ca](mailto:sheldon.title@mnp.ca).

Dated at Toronto, Ontario this 9<sup>th</sup> day of April 2020.

**MNP LTD.**,  
Trustee acting in re: the Proposal of  
Ferrex Engineering Ltd.  
Per:



Sheldon Title, CA, CPA, CIRP, LIT  
Senior Vice President

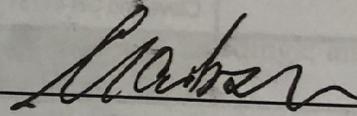
- FORM 33 -  
Notice of Intention To Make a Proposal  
(Subsection 50.4(1) of the Act)

In the matter of the proposal of  
Ferrex Engineering Ltd.  
of the City of Ajax  
in the Province of Ontario

Take notice that:

1. I, Ferrex Engineering Ltd., an insolvent person, state, pursuant to subsection 50.4(1) of the Act, that I intend to make a proposal to my creditors.
2. MNP Ltd. of 300 - 111 Richmond Street West, Toronto, ON, M5H 2G4, a licensed trustee, has consented to act as trustee under the proposal. A copy of the consent is attached.
3. A list of the names of the known creditors with claims of \$250 or more and the amounts of their claims is also attached.
4. Pursuant to section 69 of the Act, all proceedings against me are stayed as of the date of filing of this notice with the official receiver in my locality.

Dated at the City of Toronto in the Province of Ontario, this 30th day of March 2020.



Ferrex Engineering Ltd.  
Insolvent Person

To be completed by Official Receiver:

\_\_\_\_\_  
Filing Date

\_\_\_\_\_  
Official Receiver

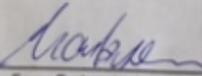
SIGNATURES FOLLOW

District of:  
Division No. -  
Court No.  
Estate No.

- FORM 33 -  
Notice of Intention To Make a Proposal  
(Subsection 50.4(1) of the Act)

In the matter of the proposal of  
Ferrex Engineering Ltd.  
of the City of Ajax  
in the Province of Ontario

List of Creditors with claims of \$250 or more.			
Creditor	Address	Account#	Claim Amount
1199541 Ontario Inc.	3592 Trimble's Lane Greenwood ON L0H 1H0		1,757,457.00
1757084 Ontario Inc.			24,143.00
Micro Fines Recycling Owego LLC Jay R. Carson	c/o Wegman Hessler 6055 Rockside Woods Blvd. Cleveland OH 44131 USA		757,441.29
<b>Total</b>			<b>2,539,041.29</b>



Ferrex Engineering Ltd.  
Insolvent Person

District of:  
Division No. -  
Court No.  
Estate No.

- FORM 33 -  
Notice of Intention To Make a Proposal  
(Subsection 50.4(1) of the Act)

In the matter of the proposal of  
Ferrex Engineering Ltd.  
of the City of Ajax  
in the Province of Ontario

<b>List of Creditors with claims of \$250 or more.</b>			
<b>Creditor</b>	<b>Address</b>	<b>Account#</b>	<b>Claim Amount</b>
1199541 Ontario Inc.	3592 Trimble's Lane Greenwood ON L0H 1H0		1,757,457.00
1757084 Ontario Inc.	1214 Abbey Rd Pickering Pickering ON L1X 1V9		24,143.00
Micro Fines Recycling Owego LLC Jay R. Carson	c/o Wegman Hessler 6055 Rockside Woods Blvd. Cleveland OH 44131 USA		757,441.29
<b>Total</b>			2,539,041.29

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Ferrex Engineering Ltd.  
Insolvent Person

-Proposal Consent-

In the matter of the proposal of Ferrex Engineering Ltd.  
of the City of Ajax  
in the Province of Ontario

To whom it may concern,

This is to advise that we hereby consent to act as trustee under the Bankruptcy and Insolvency Act for the proposal of Ferrex Engineering Ltd.

Dated at the City of Toronto in the Province of Ontario, this 2<sup>nd</sup> date of April, 2020.

MNP Ltd. – Licensed Insolvency Trustee



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300-111 Richmond Street West  
Toronto ON M5H 2G4



Industry Canada  
Office of the Superintendent  
of Bankruptcy Canada

Industrie Canada  
Bureau du surintendant  
des faillites Canada

District of Ontario  
Division No. 09 - Toronto  
Court No. 31-2636073  
Estate No. 31-2636073

In the Matter of the Notice of Intention to make a  
proposal of:

**Ferrex Engineering Ltd.**  
Insolvent Person

**MNP LTD / MNP LTÉE**  
Licensed Insolvency Trustee

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Date of the Notice of Intention: April 02, 2020

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CERTIFICATE OF FILING OF A NOTICE OF INTENTION TO MAKE A PROPOSAL  
Subsection 50.4 (1)

I, the undersigned, Official Receiver in and for this bankruptcy district, do hereby certify that the aforementioned insolvent person filed a Notice of Intention to Make a Proposal under subsection 50.4 (1) of the *Bankruptcy and Insolvency Act*.

Pursuant to subsection 69(1) of the Act, all proceedings against the aforementioned insolvent person are stayed as of the date of filing of the Notice of Intention.

---

Date: April 02, 2020, 13:19

E-File/Dépôt Electronique

Official Receiver

151 Yonge Street, 4th Floor, Toronto, Ontario, Canada, M5C2W7, (877)376-9902

**Canada**

# Exhibit "C"

Ferrex Engineering Ltd.  
Statement of Projected Cash Flow  
For the period ending July 5 2020

<b>Currency: CAD</b>		<b>Week 1</b>	<b>Week 2</b>	<b>Week 3</b>	<b>Week 4</b>	<b>Week 5</b>	<b>Week 6</b>	<b>Week 7</b>	<b>Week 8</b>	<b>Week 9</b>	<b>Week 10</b>	<b>Week 11</b>	<b>Week 12</b>	<b>Week 13</b>
<b>Week beginning</b>	<b>Notes</b>	<b>6-Apr-20</b>	<b>13-Apr-20</b>	<b>20-Apr-20</b>	<b>27-Apr-20</b>	<b>4-May-20</b>	<b>11-May-20</b>	<b>18-May-20</b>	<b>25-May-20</b>	<b>1-Jun-20</b>	<b>8-Jun-20</b>	<b>15-Jun-20</b>	<b>22-Jun-20</b>	<b>29-Jun-20</b>
<b>Opening cash balance</b>		<b>162,395</b>	<b>157,322</b>	<b>105,756</b>	<b>119,171</b>	<b>80,037</b>	<b>164,799</b>	<b>141,465</b>	<b>70,702</b>	<b>67,439</b>	<b>207,595</b>	<b>196,685</b>	<b>188,685</b>	<b>177,615</b>
<b>Receipts</b>														
Collection from new sales		-	-	-	-	11,005	-	710	59,146	11,644	-	-	-	11,644
Collections from existing Accounts Receivables		8,569	10,775	13,612	50,450	78,795	426	-	-	132,250	-	-	-	-
HST received		78	1,400	-	-	2,926	-	-	-	-	-	-	-	-
<b>Total receipts</b>		<b>8,647</b>	<b>12,175</b>	<b>13,612</b>	<b>50,450</b>	<b>92,726</b>	<b>426</b>	<b>710</b>	<b>59,146</b>	<b>143,894</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>11,644</b>
<b>Disbursements</b>														
Payment to suppliers		-	-	-	-	-	1,593	62,640	6,424	-	-	-	-	-
Payroll (including taxes)		3,183	19,239	-	28,221	3,183	11,050	-	18,900	3,183	-	7,370	-	40,730
Contractors		5,200	21,785	-	15,065	6,200	8,960	-	8,960	4,100	8,960	-	8,960	4,100
Rent		3,562	-	-	-	1,843	-	-	-	-	-	-	-	-
Professional fees		-	20,000	-	25,000	-	-	-	25,000	-	-	-	-	25,000
Operating and other miscellaneous expenses		620	678	197	17,198	1,400	-	560	100	5,740	-	500	160	5,250
HST payments		1,155	2,039	-	4,100	1,155	2,157	8,273	3,025	2,399	1,950	130	1,950	3,970
HST payable (receivable) to CRA		-	-	-	-	(5,816)	-	-	-	(11,684)	-	-	-	-
<b>Total disbursements</b>		<b>13,720</b>	<b>63,741</b>	<b>197</b>	<b>89,584</b>	<b>7,965</b>	<b>23,760</b>	<b>71,473</b>	<b>62,409</b>	<b>3,738</b>	<b>10,910</b>	<b>8,000</b>	<b>11,070</b>	<b>79,050</b>
<b>Closing cash balance</b>		<b>157,322</b>	<b>105,756</b>	<b>119,171</b>	<b>80,037</b>	<b>164,799</b>	<b>141,465</b>	<b>70,702</b>	<b>67,439</b>	<b>207,595</b>	<b>196,685</b>	<b>188,685</b>	<b>177,615</b>	<b>110,209</b>

The Statement of Projected Weekly Cash flow for the period from April 6, 2020 to July 5, 2020 has been prepared solely for the purpose of complying with S. 50.4(2)(a) of the *Bankruptcy and Insolvency Act* and must be read in conjunction with the the attached assumptions (hypothetical and/or probable) to these projections and the Trustee's Report on Cash-flow Statement (Form 29) and the Report on Cash-flow Statement by the Person Making the Proposal (Form 30).

**MNP LTD.,**  
**Trustee acting in re the Proposal of**  
**Ferrex Engineering Ltd.**

**Ferrex Engineering Ltd.**

Per:   
Sheldon Title CA, CPA, CIRP, LIT

Per: \_\_\_\_\_  
Tom Clarkson  
President

Dated: April 13, 2020

Ferrex Engineering Ltd.  
 Statement of Projected Cash Flow  
 For the period ending July 5, 2020

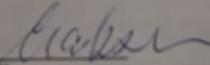
Currency: CAD	Week 1	Week 2	Week 3	Week 4	Week 5	Week 6	Week 7	Week 8	Week 9	Week 10	Week 11	Week 12	Week 13	
Week beginning	Notes	6-Apr-20	13-Apr-20	20-Apr-20	27-Apr-20	4-May-20	11-May-20	18-May-20	25-May-20	1-Jun-20	8-Jun-20	15-Jun-20	22-Jun-20	29-Jun-20
Opening cash balance		162,395	167,322	166,796	116,171	80,637	164,799	141,465	70,762	67,439	207,895	196,685	166,685	177,615
<b>Receipts</b>														
Collection from new sales		-	-	-	-	11,005	-	710	59,146	11,544	-	-	-	11,644
Collections from existing Accounts Receivables		6,569	10,775	13,612	50,450	78,795	426	-	-	132,250	-	-	-	-
HST received		78	1,400	-	-	2,925	-	-	-	-	-	-	-	-
<b>Total receipts</b>		<b>6,647</b>	<b>12,175</b>	<b>13,612</b>	<b>50,450</b>	<b>82,726</b>	<b>426</b>	<b>710</b>	<b>59,146</b>	<b>143,804</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>11,644</b>
<b>Disbursements</b>														
Payment to suppliers		-	-	-	-	-	1,593	62,640	5,424	-	-	-	-	-
Payroll (including taxes)		3,183	19,239	-	28,221	3,183	11,090	-	18,900	3,183	-	7,370	-	40,730
Contractors		5,200	21,795	-	15,065	6,200	8,960	-	8,960	4,100	8,960	-	-	8,960
Rent		3,562	-	-	-	1,843	-	-	-	-	-	-	-	-
Professional fees		-	20,000	-	25,000	-	-	-	25,000	-	-	-	-	25,000
Operating and other miscellaneous expenses		620	678	197	17,196	1,400	-	560	100	5,740	-	500	190	5,250
HST payments		1,155	2,036	-	4,100	1,155	2,157	8,273	3,025	2,399	1,950	130	1,350	3,970
HST payable (receivable) to CRA		-	-	-	-	(3,815)	-	-	-	(11,654)	-	-	-	-
<b>Total disbursements</b>		<b>13,720</b>	<b>43,741</b>	<b>197</b>	<b>48,584</b>	<b>7,868</b>	<b>23,760</b>	<b>71,473</b>	<b>62,409</b>	<b>5,724</b>	<b>10,918</b>	<b>8,090</b>	<b>11,070</b>	<b>79,980</b>
Closing cash balance		167,322	166,796	116,171	80,637	164,799	141,465	70,762	67,439	207,895	196,685	166,685	177,615	110,209

The Statement of Projected Weekly Cash flow for the period from April 5, 2020 to July 5, 2020 has been prepared solely for the purpose of complying with s. 50-AG(2)(a) of the Bankruptcy and Insolvency Act and must be read in conjunction with the attached assumptions (hypothetical and/or probable) to these projections and the Trustee's Report on Cash-flow Statement (Form 29) and the Report on Cash-flow Statement by the Person Making the Proposal (Form 30).

SMP LTD.  
 Trustee acting in re the Proposal of  
 Ferrex Engineering Ltd.

Per   
 Sharon Yee CA, CFA, CRFP, LIT  
 Date: April 13, 2020

Ferrex Engineering Ltd.

Per   
 Tom Charlton  
 President

The Statement of Projected Weekly Cash Flow of Ferrex Engineering Ltd. (the “**Company**”) includes the following Assumptions:

1. The forecasted collection time on post-NOI sales is approximately 30 days and is dependent on successful completion of milestone as per the Purchase Order.
2. Sales are based on Management’s best estimate.
3. Existing accounts receivable will be collected within 60 days from the date of the Company’s Notice of Intention to Make a Proposal (“**NOI**”).
4. Operating expenses are assumed to be paid on a current basis.
5. The Company’s rent continues until May 14, 2020, as the Company intends on disclaiming its premises lease pursuant to subsection 65.2(1) of the Bankruptcy and Insolvency Act (the “**Act**”).
6. Pursuant to Section 69(1) of the Act, all creditors' claims are subject to a stay of proceedings.
7. Subject to #12 below, no provision has been made for payment of obligations incurred prior to April 2, 2020, the filing date of the NOI, except for payment of Employee Source Deduction remittances that accrued prior to the NOI filing, but were not required to be remitted until after the NOI filing.
8. Professional fees include charges for Company’s counsel and the Trustee’s fees and expenses, including the fees and disbursements of the Trustee’s independent legal counsel.
9. Other disbursements are based on management’s best estimates.
10. No provision for income taxes has been made.
11. 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.
12. 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.
13. 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 Statement of Projected Cash Flow, 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 COVID-19 pandemic and various government regulatory actions may cause actual results to differ from the projected amounts and these variations may be material.
14. The Company has not considered benefits of government assistance related to Covid-19 pandemic in the cash flow projections. They are currently evaluating the Company’s eligibility to apply for such relief.

Dated at the City of Toronto in the Province of Ontario, this 13<sup>th</sup> day of April 2020.

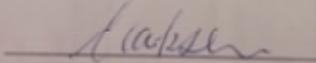
MNP Ltd. - Licensed Insolvency Trustee

  
\_\_\_\_\_  
300 - 111 Richmond Street West  
Toronto ON M5H 2G4  
Phone: (416) 596-1711 Fax: (416) 323-5242

The Statement of Projected Weekly Cash Flow of Femex Engineering Ltd. (the "Company") includes the following Assumptions:

1. The forecasted collection time on post-NOI sales is approximately 30 days and is dependent on successful completion of milestone as per the Purchase Order.
2. Sales are based on Management's best estimate.
3. Existing accounts receivable will be collected within 60 days from the date of the Company's Notice of Intention to Make a Proposal ("NOI").
4. Operating expenses are assumed to be paid on a current basis.
5. The Company's rent continues until May 14, 2020, as the Company intends on disclaiming its premises lease pursuant to subsection 65.2(1) of the Bankruptcy and Insolvency Act (the "Act").
6. Pursuant to Section 69(1) of the Act, all creditors' claims are subject to a stay of proceedings.
7. Subject to #12 below, no provision has been made for payment of obligations incurred prior to April 2, 2020, the filing date of the NOI, except for payment of Employee Source Deduction remittances that accrued prior to the NOI filing, but were not required to be remitted until after the NOI filing.
8. Professional fees include charges for Company's counsel and the Trustee's fees and expenses, including the fees and disbursements of the Trustee's independent legal counsel.
9. Other disbursements are based on management's best estimates.
10. No provision for income taxes has been made.
11. 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.
12. 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.
13. 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 Statement of Projected Cash Flow, 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 COVID-19 pandemic and various government regulatory actions may cause actual results to differ from the projected amounts and these variations may be material.
14. The Company has not considered benefits of government assistance related to Covid-19 pandemic in the cash flow projections. They are currently evaluating the Company's eligibility to apply for such relief.

Dated at the City of Toronto in the Province of Ontario, this 13<sup>th</sup> day of April 2020.

  
Femex Engineering Ltd.

# Exhibit "D"

## **Ferrex Engineering Ltd.**

### **Sale Process**

#### **Purpose**

1. The purpose of the going concern marketing and sale process for all or part of the assets of Ferrex Engineering Ltd. (“**Ferrex**”) (the "**Sale Process**") is to identify one or more purchasers of the business and/or assets of Ferrex. The Sale Process will be conducted by MNP LTD. in its capacity as the Proposal Trustee of Ferrex (the "**Proposal Trustee**"), with the input and assistance of Ferrex, in accordance with the terms and timeline set out below.
2. It is contemplated that Ferrex will seek an order (the "**Order**") of the Ontario Superior Court of Justice (Commercial List) (the "**Court**"), among other things, approving the Sale Process on or about May 4, 2020. Any sale shall be subject to approval by the Court.
3. Unless otherwise indicated herein any event that occurs on a day that is not a business day shall be deemed to occur on the next business day.

#### **Sale Process Procedures**

4. The Proposal Trustee will compile a list of prospective purchasers (together with any other party expressing an interest in the business and/or assets of Ferrex, the "**Interested Parties**"). The Proposal Trustee will make reasonable efforts to canvass the interest of all Interested Parties.

5. The Sale Process will be conducted by the Proposal Trustee with the input and assistance of Ferrex and will provide Interested Parties with the opportunity to submit offers to purchase some or all of Ferrex's business and/or assets on an "as is, where is" basis.
6. The Proposal Trustee shall cause a notice of the Sale Process to be published in the National Edition of the *National Post* Newspaper and other industry trade journals, as applicable, within five business (5) days following the date of the Order.
7. As soon as possible after the issuance of the Order, the Proposal Trustee will distribute to Interested Parties an interest solicitation letter or teaser which will provide an overview of this opportunity and Ferrex's business and assets. A form of confidentiality agreement ("CA") will be attached to the interest solicitation letter that Interested Parties will be required to sign in order to gain access to confidential information and to commence performing due diligence (each Interested Party who signs a CA being referred to herein as, a "**Prospective Offeror**"). All CA's shall enure to the benefit of any purchaser of or investor in Ferrex's business and/or assets.
8. The Proposal Trustee will provide to each Prospective Offeror (i) a confidential information memorandum prepared with information supplied by Ferrex, (ii) access to an electronic data room established by the Proposal Trustee with information and documentation supplied by Ferrex (which will include certain operational and other information with respect to Ferrex), and (iii) a proposed form of agreement of purchase and sale with Ferrex as vendor (the "**APS**"). The Proposal Trustee will also facilitate diligence by Prospective Offerors, including arranging virtual site visits, if necessary and as the Proposal Trustee determines to

be appropriate. The Proposal Trustee will participate in such virtual site visits as it considers appropriate.

9. Notwithstanding paragraph 8 above, the Proposal Trustee shall have the right to deny or limit any Prospective Offeror's access to confidential information. This will include denying or limiting access, if deemed appropriate, to parties who the Proposal Trustee reasonably believes are not likely to be serious offerors.

### **Timeline**

10. A chart summarizing material deadlines for the Sale Process is set out below:

	<b>Event</b>	<b>Timing</b>
1	National Edition of the <i>National Post</i> Newspaper and other industry trade journals as applicable	Five (5) business days from the date of the Order
2	Contact parties that are identified as Interested Parties	As soon as possible after the issuance of the Order
3	Distribute Teaser document to those identified as Interested Parties	As soon as possible, but not later than five business days after the issuance of the Order
4	Confidentiality Agreement distributed to Interested Parties	As soon as possible after the issuance of the Order and upon request
5	Confidential Information Memorandum and data room access provided to Prospective Offerors after receipt of signed Confidentiality Agreement	As soon as possible after the receipt of the Confidentiality Agreement

6	Virtual plant tours and access to management	As soon as possible after the receipt of the Confidentiality Agreement
7	Form of APS to be provided to Prospective Offerors	To be included in the data room
8	Deadline for submission of bids	June 8, 2020 (5:00 PM Toronto time)
9	Acceptance of offer	June 11, 2020
10	Court motion to approve Successful Bid	June 18, 2020
11	Complete transaction	June 30, 2020

### Submission of Offers

11. The Proposal Trustee shall seek binding offers and accompanying material from Prospective Offerors in accordance with the timeline above that:
- (a) provides and substantiates the identity of each person or entity (including its shareholders) that is sponsoring or participating in the offer and the complete terms of such participation, evidence of corporate authority, and proof of such offeror's financial ability to perform the proposed transaction to the satisfaction of the Proposal Trustee, acting reasonably;
  - (b) are in the form of a binding offer capable of acceptance, irrevocable until June 30, 2020;
  - (c) at the discretion of the Proposal Trustee, are accompanied by a cash deposit (the "**Deposit**") in the form of a wire transfer (to a bank account specified by the

Proposal Trustee), in an amount equal to 10% of the total consideration in the offer and otherwise on terms acceptable to the Proposal Trustee;

- (d) in the case of a proposed purchase of Ferrex's business and/or assets, is substantially in the form of the APS, with any changes to the offer blacklined against the APS;
- (e) includes: an acknowledgement and representation that the offeror: (i) has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the assets to be acquired and liabilities to be assumed in making its bid; and (ii) did not rely upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express or implied (by operation of law or otherwise), regarding the business and/or assets to be acquired or liabilities to be assumed or the completeness of any information provided in connection therewith, except as expressly stated in any definitive documents;
- (f) is not conditional upon:
  - (i) the outcome of unperformed due diligence; or
  - (ii) obtaining financing; and
  - (iii) any other conditions to closing, except the usual limited conditions to a transaction in an insolvency proceeding, such as the issuance by the Court of an order approving the transaction.

12. Each offer submitted in accordance with paragraph 11 above shall be a "**Qualified Offer**" and each such offeror a "**Qualified Offeror**".

### **Post-Offer Procedure**

13. If one or more Qualified Offers are received, Ferrex, in consultation with the Proposal Trustee, may choose to:
  - (a) accept one (or more if for distinct transactions) Qualified Offer(s) (the "**Successful Offer**" and each Qualified Offeror making the Successful Offer(s) being a "**Successful Offeror**") and take such steps as are necessary to finalize and complete an agreement for the Successful Offer(s) with the Successful Offeror(s);  
or
  - (b) continue negotiations with a selected number of offerors (collectively, "**Selected Offerors**") with a view to finalizing one or more agreements with one or more Selected Offerors.
14. Ferrex shall be under no obligation to accept the highest or best (or any) offer and any selection of the Successful Offer(s) and the Selected Offeror(s) shall be entirely in the discretion of Ferrex, in consultation with the Proposal Trustee. For greater certainty, Ferrex, in consultation with the Proposal Trustee, shall be permitted to decline acceptance of all offers.
15. No party shall be allowed any break, termination or similar fee. For greater certainty, Interested Parties and Qualified Offerors shall be responsible for their own fees and costs relating to any transaction.

## Other Terms

16. If a Successful Offeror breaches its obligations under the terms of its offer, its Deposit shall be forfeited to the Proposal Trustee as liquidated damages and not as a penalty.
17. Notwithstanding anything else contain herein, if it becomes evident to the Proposal Trustee that no Qualified Offers will be received or for other valid reason, the Proposal Trustee may terminate the Sale Process.
18. The Proposal Trustee or Ferrex shall apply to the Court (the "**Approval Motion**") for an order approving the Successful Offer(s), authorizing the Proposal Trustee and Ferrex to undertake such actions as may be necessary or appropriate to give effect to the Successful Offer(s) and vesting Ferrex's interests in the applicable assets in the Successful Offeror(s) substantially in accordance with the terms of the Court's model Approval and Vesting Order.
19. The Proposal Trustee or Ferrex will schedule the Approval Motion on the earliest reasonably possible date following the determination of the Successful Offer, subject to the timeline set out above.
20. At any time during the Sale Process, the Proposal Trustee or Ferrex may, upon reasonable notice to the service list, apply to the Court for advice and directions with respect to the discharge of the Proposal Trustee's powers and duties hereunder or the conduct of the Sale Process.
21. There shall be no material amendments to this Sale Process, including, for greater certainty the process and procedures set out herein, without further order of the Court.

Notwithstanding the foregoing, the Proposal Trustee shall be permitted to extend the dates in the Sale Process by a total of up to two (2) weeks without further order of the Court.