

SUPERIOR COURT

(Commercial Division)

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

COPIE CERTIFIÉE CONFORME AU
DOCUMENT DÉTENU PAR LA COUR

No.: 500-11-065700-250

Kudmila Kuakwi
PERSONNE DÉSIGNÉE PAR LE GREFFIER
EN VERTU DE 67 C.P.C.

DATE: May 12, 2025

BEFORE THE HONOURABLE CÉLINE LEGENDRE, J.S.C.

IN THE MATTER OF THE PLAN OF ARRANGEMENT OR COMPROMISE OF:

**ENERKEM INC.
ENERKEM ALBERTA BIOFUELS G.P. INC.
ENERKEM LIMITED (UK)
ENERKEM CORPORATION (DELAWARE)
ENERKEM SPAIN HOLDINGS, SOCIEDAD LIMITADA (SPAIN)
9390-1783 QUÉBEC INC.
Debtors/Applicants**

And

**ENERKEM ALBERTA BIOFUELS L.P.
Mise-en-cause**

And

**DELOITTE RESTRUCTURING INC.
Monitor**

SALE AND INVESTMENT SOLICITATION PROCESS ORDER

- [1] **CONSIDERING** the Debtors' *Application for the Issuance of an Initial Order, an Amended and Restated Initial Order and a Sale and Investment Solicitation Process Order* of the Debtors, pursuant to the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36, as amended (the "**CCAA**"), dated May 11, 2025 (the "**Application**"), the exhibits and the affidavit, filed in support thereof;
- [2] **CONSIDERING** the Pre-Filing Report of Deloitte Restructuring Inc. ("**Deloitte**"), in its capacity as Court-appointed monitor (the "**Monitor**") dated May 11, 2025;
- [3] **CONSIDERING** the notification of the Application;
- [4] **CONSIDERING** the submissions of counsel present at the hearing on the Application and the testimony of the witnesses heard;
- [5] **GIVEN** the initial order rendered on May 12, 2025 (the "**First Day Initial Order**"),
- [6] **GIVEN** the provisions of the CCAA;

THE COURT HEREBY:

- [7] **GRANTS** the Application.

Definitions

- [8] **DECLARES** that all capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the *SISP Procedures* (as defined below).

Service

- [9] **ORDERS** that any prior delay for the presentation of the Application is hereby abridged and validated so that the Application is properly returnable today and hereby dispenses with further service thereof.
- [10] **DECLARES** that sufficient prior notice of the presentation of the Application has been given by the Debtors to interested parties.
- [11] **PERMITS** the service of the present Order (this "**Order**") at any time and place and by any means whatsoever, including by email.

SISP Approval

- [12] **APPROVES** and **RATIFIES** the conduct of a sale and investment solicitation process (the "**SISP**") in respect of the Debtors and the *Mise-en-cause* (collectively, the "**Enerkem Group**"), as set forth in the *Procedures for the Sale and Investment Solicitation Process* attached as [21]Schedule A hereto (the "**SISP Procedures**").

- [13] **AUTHORIZES** the Enerkem Group, with the assistance of the Monitor, to conduct and implement the SISP pursuant to the terms of the SISP Procedures and **AUTHORIZES** the Enerkem Group and the Monitor to take such steps and execute such documentation as may be necessary or incidental thereto, the whole in accordance with the SISP Procedures.
- [14] **ORDERS** that the Enerkem Group and the Monitor are authorized and permitted under applicable law to disclose and transfer to Potential Transaction Parties and to their Representatives (as defined below) information in the custody or control of the Enerkem Group relating to the assets, operations and business of the Enerkem Group, subject to the terms of a confidentiality agreement to be entered into by the Enerkem Group and any Potential Transaction Parties (collectively, "**Confidential Information**"), but only to the extent necessary to negotiate, determine whether to proceed with, and attempt to complete a transaction in accordance with the SISP (a "**Transaction**").
- [15] **ORDERS** that the Enerkem Group and the Monitor, and each of their respective affiliates, related persons or entities, partners, directors, officers, employees, agents, controlling persons, lenders, legal counsel and advisors (collectively, the "**Representatives**") shall have no liability with respect to any and all losses, claims, damages or liability of any nature or kind to any person in connection with or as a result of the conduct of the SISP or the performance of their duties under the SISP, except to the extent of such losses, claims, damages or liabilities resulting from gross negligence or willful misconduct of any such person or entity, as applicable, as determined by this Court.
- [16] **DECLARES** that in addition to any other protections afforded under any Order of this Court, no action or other proceedings shall be commenced against the Enerkem Group, the Monitor or any of their Representatives in connection with the SISP, its conduct thereunder or the carrying out of the provisions of any order of this Court, except with prior leave of this Court, on at least ten (10) days' notice to the Enerkem Group, the Monitor and their respective counsel.

Personal Information

- [17] **ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act* and 18(6) of the Québec *Act Respecting the Protection of Personal Information in the Private Sector*, the Enerkem Group and the Monitor are authorized and permitted to disclose and transfer to Potential Transaction Parties, and to their Representatives, information in the custody or control of the Enerkem Group relating to the assets, operations and business of the Enerkem Group, including personal information of identifiable individuals and employees of the Enerkem Group, such as human resources and payroll information, records pertaining to the Enerkem Group's past and current employees, and information about any consumer, website visitor or other individual (collectively, "**Confidential Information**"), but only to the extent necessary to negotiate, determine whether to proceed with, and attempt to complete a

transaction in accordance with the SISP (a "**Transaction**"). Each Potential Transaction Party to whom any Confidential Information is disclosed shall maintain and protect the Confidential Information with security safeguards appropriate to the sensitivity of the Confidential Information and as may otherwise be required by applicable federal or provincial privacy legislation and limit the use of such information to its evaluation, negotiation and completion of a Transaction, and if it does not complete a Transaction with the Enerkem Group, shall return all such information to the Enerkem Group, or in the alternative permanently destroy all such information.

General

- [18] **ORDERS** that the Enerkem Group and the Monitor may from time to time apply to this Court for advice and directions in respect of the SISP and/or the discharge of their respective powers and duties hereunder or under the SISP.
- [19] **REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body in any Province of Canada and any Canadian federal court or in the United States of America and any court or administrative body elsewhere, to give effect to this Order and to assist the Enerkem Group, the Monitor and their respective Representatives in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are respectfully requested to make such orders and to provide such assistance to the Enerkem Group and the Monitor as may be necessary or desirable to give effect to this Order, and to act in aid of and to be complementary to this Court, in carrying out the terms of this Order.
- [20] **ORDERS** the provisional execution of this Order notwithstanding appeal and without security.
- [21] **THE WHOLE WITHOUT COSTS.**

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Kudmila Kuakuru
PERSONNE DÉSIGNÉE PAR LE GREFFIER
EN VERTU DE 67 C.P.C.

Céline Legendre
The Honourable Céline Legendre, J.S.C.

**Schedule A
SISP Procedures**

See attached.

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Ludmila KusKusi
PERSONNE DÉSIGNÉE PAR LE GREFFIER
EN VERTU DE 67 C.P.C.

PROCEDURES FOR THE SALE AND INVESTMENT SOLICITATION PROCESS

Preamble

- A. On May 12, 2025, Enerkem Inc. ("**Enerkem Canada**") and its wholly-owned subsidiaries Enerkem Alberta Biofuels G.P., Inc. ("**EAB GP**"), Enerkem Limited ("**Enerkem UK**"), Enerkem Corporation ("**Enerkem Delaware**"), Enerkem Spain Holdings, Sociedad Limitada ("**Enerkem Spain**") and 9390-1783 Québec inc. (collectively with Enerkem, EAB GP, Enerkem UK, Enerkem Delaware and Enerkem Spain, the "**Debtors**") commenced proceedings (the "**CCAA Proceedings**") under the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**") before the Superior Court of Québec (Commercial Division) in the District of Montreal (the "**Court**") pursuant to an initial order rendered by the Court on the same day (collectively, as further amended or restated from time to time, the "**Initial Order**").
- B. The Debtors are advancing the CCAA Proceedings in accordance with the binding restructuring term sheet (the "**Restructuring Term Sheet**") entered into between the Enerkem Group and the members of the Ad Hoc Committee on May 10, 2025. The Restructuring Term Sheet, among other things, sets out the principal terms of a comprehensive credit-bid restructuring transaction with the Ad Hoc Committee (the "**Restructuring Transaction**") and the concurrent implementation of a sale and investment solicitation process ("**SISP**") in accordance with the procedures set out herein (the "**SISP Procedures**") to determine if there is a superior third-party transaction that will provide for the repayment in full in cash of all DIP Facility Claims and all Secured Notes Claims or is otherwise acceptable to the Ad Hoc Committee (a "**Superior Transaction**"). Pursuant to the terms of the Restructuring Term Sheet, if no Superior Transaction emerges from the SISP, the SISP shall be terminated and the Secured Noteholders and the Enerkem Group will implement the Restructuring Transaction, in accordance with and subject to the terms of the Restructuring Term Sheet.
- C. On May 12, 2025, the Court also issued a Sale and Investment Solicitation Process Order (the "**SISP Order**") that, among other things, authorized the Debtors and Enerkem Alberta Biofuels L.P. as Mise-en-cause (collectively, the "**Enerkem Group**") to implement the SISP in accordance with the SISP Procedures.
- D. These SISP Procedures set out the manner in which (i) binding bids for executable transaction alternatives that would constitute a Superior Transaction involving an equity investment, the acquisition of the shares of Enerkem, and/or the sale of all or parts of the business, property and assets of the Enerkem Group (collectively, the "**Business**") will be solicited from interested parties, and any such bids received will be addressed, (ii) any Successful Bid (as defined below) will be selected, and (iii) Court approval of any Successful Bid will be sought. Such transactions may include, among other things, a sale of some or all of the Business

and/or an investment in the Business, each of which shall be subject to all terms set forth in this SISP.

- E. The SISP shall be conducted by the Enerkem Group, under the supervision of the board of directors of the Company, and with the assistance of Deloitte Restructuring Inc., in its capacity as court-appointed monitor (the "**Monitor**", together with the Enerkem Group, the "**SISP Team**").
- F. Parties who wish to have their bids considered (other than the Secured Noteholders in respect of the Restructuring Transaction, which shall not be subject to the SISP) shall be expected to participate in the SISP as conducted by the SISP Team, in accordance with the present SISP Procedures, which shall govern the SISP, including the solicitation of Sale Proposals and Investment Proposals.

Defined Terms

- 1. Capitalized terms used in this SISP and not defined herein have the meanings given thereto in Appendix A.

SISP Procedures

Opportunity

- 2. The SISP is intended to solicit interest in, and opportunities for: (i) one or more sales or partial sales of all, substantially all, or certain portions of the Business; and/or (ii) for an investment in, restructuring, recapitalization, refinancing or other form of reorganization of the Enerkem Group or their Business. Bids considered pursuant to the SISP may include one or more of the potential transactions referred to in clauses (i) and (ii) of this paragraph (collectively, the "**Opportunity**").
- 3. The SISP Procedures describe the manner in which prospective bidders may participate in the SISP, the requirement of and the receipt, review and negotiation of bids received, the ultimate review and selection of a Successful Bidder and the requisite approvals to be sought from the Court in connection therewith. The SISP Team shall conduct the SISP in the manner set forth herein.
- 4. In accordance with the Restructuring Term Sheet, (a) if no LOI (as defined below) is received by the Phase 1 Bid Deadline that provides for a Superior Transaction, or (b) if the preceding section 4(a) is satisfied but no Binding Offer is received by the Phase 2 Bid Deadline that provides for a Superior Transaction, the SISP shall be terminated and the Restructuring Transaction shall be implemented by the Secured Noteholders and the Enerkem Group, in accordance with and subject to the terms of the Restructuring Term Sheet.
- 5. The SISP Team may, at any time and from time to time, modify, amend, vary or supplement the SISP or the SISP Procedures, without the need for obtaining an order of the Court, provided that the Monitor determines that such modification,

amendment, variation or supplement are useful in order to give effect to the substance of the SISP, the SISP Procedures, the SISP Order and the Initial Order.

6. The Monitor shall post on the Monitor's website, as soon as practicable, any such modification, amendment, variation or supplement to the SISP Procedures and the SISP Team shall inform the bidders impacted thereby.
7. In the event of a dispute as to the interpretation or application of the SISP or SISP Procedures, the Court will have exclusive jurisdiction to hear and resolve such dispute.
8. As more particularly set out herein, a summary of the key dates pursuant to the SISP are as follows:¹

<u>Event</u>	<u>Date</u>
PHASE 1	
1. <u>Solicitation Letter</u> Monitor to distribute Solicitation Letter to potentially interested parties	Starting May 12, 2025
2. <u>CIM and VDR</u> Enerkem Group to prepare and have the CIM and VDR available for parties having executed the NDA (Potential Transaction Parties)	By no later than May 14, 2025
3. <u>Phase 1 Qualified Bidders & Bid Deadline</u> Phase 1 Bid Deadline (for delivery of non-binding LOIs by Phase 1 Qualified Bidders in accordance with the requirement of paragraph 16 of the SISP Procedures)	By no later than June 19, 2025 at 5:00 pm (ET)
If applicable, termination of SISP if none of the non-binding LOIs by Phase 1 Qualified Bidders provide for a Superior Transaction.	
4. <u>Phase 1 Satisfactory Bid</u> Monitor to notify each Phase 1 Qualified Bidder in writing as to whether its bid constituted a Phase 1 Satisfactory Bid	By no later than June 26, 2025

¹ All capitalized items not already defined are defined further below. Titles in the chart are for presentation purposes only.

<u>Event</u>	<u>Date</u>
PHASE 2	
5. <u>Phase 2 Bid Deadline & Qualified Bidders</u> Phase 2 Bid Deadline (for delivery of definitive offers by Phase 2 Qualified Bidders in accordance with the requirement of paragraph 25 of the SISP Procedures)	By no later than August 1 st , 2025 at 5 pm (ET)
If applicable, termination of SISP if none of the Binding Offers by Phase 2 Qualified Bidders provide for a Superior Transaction.	
6. <u>Selection of final Successful Bid(s)</u> Deadline for selection of final Successful Bid(s)	By no later than August 8, 2025
7. <u>Definitive Documentation</u> Completion of definitive documentation in respect of Successful Bid(s)	By no later than August 15, 2025
8. <u>Approval Application - Successful Bid(s)</u> Filing of Approval Application in respect of Successful Bid(s)	By no later than August 22, 2025
9. <u>Closing - Successful Bid(s)</u> Anticipated deadline for closing of Successful Bid(s)	By no later than August 29, 2025
10. <u>Outside Date – Closing</u> Outside Date by which the Successful Bid must close	By no later than September 5, 2025

Solicitation of Interest: Notice of the SISP

9. As soon as reasonably practicable after the granting of the SISP Order, the Monitor will, in consultation with the Enkern Group compile a list of prospective purchasers and investors, and the Monitor will use all reasonable commercial efforts to contact such prospective purchasers and investors as well as any additional parties identified as prospective purchasers or investor, including those identified by the Enkern Parties.
10. The Monitor shall send to potential transaction parties, as soon as practical after the granting of the SISP Order, a letter describing the Opportunity (a "**Solicitation**

Letter"), outlining the salient elements of the SISP and inviting recipients of the Solicitation Letter to express their interest pursuant to the SISP.

Virtual Data Room

11. By no later than May 14, 2025, a confidential virtual data room (the "**VDR**") in relation to the Opportunity will be made available by the SISP Team to Potential Transaction Parties that have executed the NDA (as defined below) in accordance with paragraph 12 herein. Following the completion of "Phase 1", but prior to the completion of "Phase 2", additional information may be added to the VDR to enable Phase 2 Qualified Bidders to complete any confirmatory due diligence in respect of the Enerkem Group and the Opportunity. The SISP Team may establish separate VDRs (including "**Clean Rooms**"), if the SISP Team determines that doing so would further the Enerkem Group's and any Potential Transaction Parties' compliance with applicable competition laws, or would prevent the distribution of commercially sensitive competitive information. The SISP Team may also limit the access of any Potential Transaction Party to any confidential information in the VDR where the SISP Team reasonably determines that such access could negatively impact the SISP, the ability to maintain the confidentiality of the information, the Business or its value.

PHASE 1: NON-BINDING LOIs

Phase 1 Qualified Bidders and Delivery of Confidential Information Memorandum

12. In order to participate in the SISP, and prior to the distribution of any confidential information to an interested party (including access to the VDR), such interested party must deliver to the Monitor an executed non-disclosure agreement in form and substance satisfactory to the Enerkem Group (each, an "**NDA**"). Pursuant to the terms of the NDA to be signed by a potential transaction party (each potential bidder who has executed an NDA with the Enerkem Group a "**Potential Transaction Party**"), each Potential Transaction Party will confirm that it agrees to be bound by the SISP Order and these SISP Procedures, and that it will be prohibited from communicating with any other Potential Transaction Party or any restricted party regarding the Opportunity during the term of the SISP, without the consent of the SISP Team. Prior to the Enerkem Group executing an NDA with any potential transaction party, any potential transaction party may be required to provide evidence, reasonably satisfactory to the SISP Team, of its financial wherewithal to complete a transaction in respect of the Opportunity (either with existing capital or with capital reasonably anticipated to be raised prior to closing) and/or to disclose details of their ownership and/or investors, and whether the potential transaction party has any direct or indirect interest in the Enerkem Group (including through equity, debt, convertible rights or any other rights) or in any of the Enerkem Group's creditors. For the avoidance of doubt, a party who has executed an NDA or a joinder with a Potential Transaction Party for the purpose of providing financing to a Potential Transaction Party in connection with the Opportunity (such party a "**Financing Party**") shall not be deemed a Potential

Transaction Party for purposes of the SISP, provided that such Financing Party undertakes to inform the SISP Team in the event that it elects to act as a Potential Transaction Party.

13. A Potential Transaction Party that has executed an NDA and provided any additional information required pursuant to paragraph 12, will be deemed a "**Phase 1 Qualified Bidder**" and will be promptly notified of such classification by the Monitor.
14. The Monitor shall provide any person deemed to be a Phase 1 Qualified Bidder with access to the VDR. The Enerkem Group and the Monitor and each of their respective affiliates, related persons or entities, partners, directors, officers, employees, agents, controlling persons, lenders, legal counsel and advisors (collectively, the "**Representatives**") make no representation or warranty as to the information made available pursuant to the SISP, including the information contained in the VDR.
15. If a Phase 1 Qualified Bidder wishes to submit a bid, it must deliver a non-binding letter of intent (an "**LOI**") (each such LOI, provided in accordance with paragraph 16 below, a "**Phase 1 Qualified Bid**"), to the Monitor at the address specified in Appendix B hereto (including by email) so as to be received by the Monitor not later than 5:00 p.m. (prevailing Eastern Time) on June 19, 2025 or such other date or time as may be agreed by the SISP Team, with the prior written approval of the Interim Lender (the "**Phase 1 Bid Deadline**").
16. An LOI submitted by a Phase 1 Qualified Bidder will only be considered a "**Phase 1 Qualified Bid**" if the LOI complies at a minimum with the following:
 - (a) it has been duly executed by the Phase 1 Qualified Bidder and all other required parties of the Phase 1 Qualified Bidder;
 - (b) it is received by the Phase 1 Bid Deadline;
 - (c) it contains an agreement by the Phase 1 Qualified Bidder to be bound by the terms of the SISP, which shall be deemed to supersede the terms of the LOI;
 - (d) it provides written evidence, satisfactory to the Enerkem Group, in consultation with the Monitor, of the ability to fully fund and consummate the transaction within the timeframe contemplated by the SISP and to satisfy any obligations or liabilities to be assumed on closing of the transaction, including a specific indication of the sources of capital;
 - (e) it identifies all proposed material conditions to closing including any internal, regulatory or other approvals and any form of consent, agreement or other document required from a government body, stakeholder or other third party, and an estimate of the anticipated timeframe and any

anticipated impediments for obtaining such approvals, along with information sufficient for the Enerkem Group, in consultation with the Monitor, to determine that these conditions are reasonable in relation to the Phase 1 Qualified Bidder;

- (f) it (i) identifies the Phase 1 Qualified Bidder and representatives thereof who are authorized to appear and act on behalf of the Phase 1 Qualified Bidder for all purposes regarding the contemplated transaction, and (ii) fully discloses the identity of each entity or person that will be sponsoring, participating in or benefiting from the transaction contemplated by the LOI;
- (g) it contains an outline of the due diligence completed to the date of submission of the LOI and any additional due diligence required to be conducted in order to submit a binding offer;
- (h) it clearly indicates:
 - (i) whether the Phase 1 Qualified Bidder is seeking to acquire all or substantially all of the Business, whether through an asset purchase, a share purchase or a combination thereof (either one being, a "**Sale Proposal**") or some other portion of the Business (a "**Partial Sale Proposal**"); and/or
 - (ii) whether the Phase 1 Qualified Bidder is offering to make an investment in, restructure, recapitalize, reorganize or refinance the Enerkem Group or their business (an "**Investment Proposal**"); and
- (i) it contains such other information as may be reasonably requested by the SISP Team;
- (j) in the case of a Sale Proposal, or Partial Sale Proposal, it identifies or contains the following:
 - (i) the purchase price and key assumptions supporting the valuation and the anticipated amount of cash payable on closing of the proposed transaction;
 - (ii) any contemplated purchase price adjustment;
 - (iii) a description of the specific assets that are expected to be subject to the transaction and any assets expected to be excluded;
 - (iv) a description of those liabilities and obligations (including operating liabilities and obligations to employees) which the Phase 1 Qualified Bidder intends to assume and which liabilities and obligations it does not intend to assume and are to be excluded as part of the transaction;

- (v) a description of the anticipated tax planning, if any;
 - (vi) information sufficient for the SISP Team, to determine that the Phase 1 Qualified Bidder has sufficient ability to satisfy and perform any liabilities or obligations assumed pursuant to subparagraph (iv) above; and
 - (vii) any other terms or conditions of the Sale Proposal or Partial Sale Proposal that the Phase 1 Qualified Bidder believes are material to the transaction; and
- (k) in the case of an Investment Proposal, it identifies the following:
- (i) a description of how the Phase 1 Qualified Bidder proposes to structure the proposed investment, restructuring, recapitalization, refinancing or reorganization;
 - (ii) the aggregate amount of the equity and/or debt investment to be made in the Enerkem Group or their business;
 - (iii) the underlying assumptions regarding the pro forma capital structure;
 - (iv) a description of those liabilities and obligations (including operating liabilities and obligations to employees) which the Phase 1 Qualified Bidder intends to assume and which liabilities and obligations it does not intend to assume and are to be excluded as part of the transaction;
 - (v) information sufficient for the SISP Team to determine that the Phase 1 Qualified Bidder has sufficient ability to satisfy and perform any liabilities or obligations assumed pursuant to subparagraph (iv) above; and
 - (vi) any other terms or conditions of the Investment Proposal that the Phase 1 Qualified Bidder believes are material to the transaction.
17. The SISP Team may waive compliance with any one or more of the requirements specified in paragraph 16 and deem any such non-compliant LOI to be a Phase 1 Qualified Bid.
18. If no LOI is received by the Phase 1 Bid Deadline that provides for a Superior Transaction, then, as outlined above, unless the Ad Hoc Committee consents to the continuation of the SISP, the SISP shall be terminated and the Enerkem Group shall proceed to implement the Restructuring Transaction with the Secured Noteholders in accordance with and subject to the terms of the Restructuring Term Sheet.

Assessment of Phase 1 Qualified Bids and Subsequent Process

19. The SISF Team may, following the receipt of any LOI, seek clarification with respect to any of the terms or conditions of such LOI and/or request and negotiate one or more amendments to such LOI prior to determining if the LOI should be considered a Phase 1 Qualified Bid or a Phase 1 Satisfactory Bid (as defined below).
20. Following the Phase 1 Bid Deadline, the SISF Team shall determine, in accordance with the requirements of paragraph 16 and in consultation with the Ad Hoc Committee, (a) the LOI(s) that provide(s) for a Superior Transaction, if any, and (b) the LOI(s) that are selected as the most favourable Phase 1 Qualified Bid(s), which Phase 1 Qualified Bid(s) shall be deemed a "**Phase 1 Satisfactory Bid(s)**" and which Phase 1 Qualified Bidder(s) accordingly shall be deemed a "**Phase 2 Qualified Bidder(s)**", if any. For greater certainty, there can be more than one Phase 1 Qualified Bid that may be determined as being a Phase 1 Satisfactory Bid, and more than one Phase 1 Qualified Bidder that may be determined as being a Phase 2 Qualified Bidder.
21. Any LOI that contemplates the assumption of any secured debt cannot be determined to be a Phase 1 Satisfactory Bid without the written consent of the holder of the security interest that would be subject to such assumption.
22. Only Phase 2 Qualified Bidders - being those that have submitted a Phase 1 Satisfactory Bid - shall be permitted to proceed to Phase 2 of the SISF.
23. The Monitor shall notify each Phase 1 Qualified Bidder in writing as to whether its Phase 1 Qualified Bid constituted a Phase 1 Satisfactory Bid- such that it is a Phase 2 Qualified Bidder – no later than June 26, 2025, or at such later time as the SISF Team deems appropriate.
24. In the event that no Phase 1 Satisfactory Bid is selected, including, as set out above, because it is determined that no LOI received by the Phase 1 Bid Deadline provides for a Superior Transaction, unless the Ad Hoc Committee consents to the continuation of the SISF, the SISF shall be terminated and the Enerkem Group shall proceed to implement the Restructuring Transaction with the Secured Noteholders in accordance with and subject to the terms of the Restructuring Term Sheet.

PHASE 2: FORMAL OFFERS AND REMOVAL OF CONDITIONS

Formal Binding Offers

25. Any Phase 2 Qualified Bidder that wishes to make a formal offer with respect to its Sale Proposal, Partial Sale Proposal or Investment Proposal shall submit a binding offer (a "**Binding Offer**") comprising: (a) in the case of a Sale Proposal or a Partial Sale Proposal, a draft purchase agreement or a mark-up to a draft form of

purchase agreement made available to the Phase 2 Qualified Bidder; or (b) in the case of an Investment Proposal, a plan or restructuring support agreement or a mark-up to a draft form of plan or restructuring support agreement made available to the Phase 2 Qualified Bidder (each, such Binding Offer submitted in accordance with paragraph 26 below, a "**Phase 2 Qualified Bid**") in each case to the Monitor, with a copy to the Enerkem Group, so as to be received by such parties no later than August 1st, 2025 at 5pm (ET), or such other date or time as may be agreed by the SISP Team (as may be extended the "**Phase 2 Bid Deadline**").

26. A Binding Offer will only be considered as a Phase 2 Qualified Bid if the Binding Offer:
- (a) has been received by the Phase 2 Bid Deadline;
 - (b) is a Binding Offer: (i) to purchase all, substantially all, or a portion of the Business; and/or (ii) to make an investment in, restructure, recapitalize, reorganize or refinance the Enerkem Group or their business;
 - (c) identifies all contracts of the Enerkem Group that the Phase 2 Qualified Bidder will assume and clearly describes, for each contract or on an aggregate basis, how all monetary defaults and non-monetary defaults will be remedied, as applicable;
 - (d) is not subject to any due diligence or financing condition;
 - (e) provides for an allocation of the purchase price;
 - (f) contains evidence of authorization and approval from the Phase 2 Qualified Bidder's board of directors (or comparable governing body) and, if necessary to complete the transaction, Phase 2 Qualified Bidder's equity holder(s);
 - (g) is unconditional, other than upon the receipt of the Approval Order(s) (as defined below) and satisfaction of any other conditions expressly set forth in the Binding Offer;
 - (h) specifies any regulatory or other third-party approvals the Phase 2 Qualified Bidder anticipates would be required to complete the Opportunity and contains or identifies the key terms and provisions to be included in the Approval Order;
 - (i) the Binding Offer must be accompanied by a letter that confirms that the Binding Offer: (i) may be accepted by the Enerkem Group by countersigning the Binding Offer, and (ii) is irrevocable and capable of acceptance until the earlier of (A) two Business Days after the date of closing of the Successful Bid; and (B) the Outside Date;

- (j) is accompanied by a cash deposit in the amount of not less than 10% of the cash purchase price payable on closing or total new investment contemplated, as the case may be (the "**Deposit**"), along with acknowledgement that if the Phase 2 Qualified Bidder is selected as the Successful Bidder (as defined below), that the Deposit will be non-refundable subject to approval of the Successful Bid (as defined below) by the Court and the terms described in paragraph 36 below;
- (k) contemplates and reasonably demonstrates a capacity to consummate a closing of the transaction set out therein by no later than August 29, 2025, or such earlier date as is practical for the parties to close the contemplated transaction, following the satisfaction or waiver of the conditions to closing (the "**Target Closing Date**") and in any event no later than September 5, 2025 (the "**Outside Date**");
- (l) contemplates that the Phase 2 Qualified Bidder will bear its own costs and expenses (including legal and advisor fees) in connection with the proposed transaction.

Selection of Successful Bid(s)

- 27. The SISP Team may, following the receipt of any Binding Offer, seek clarification with respect to any of the terms or conditions of such Binding Offer and/or request and negotiate one or more amendments to such Binding Offer prior to determining if the Binding Offer should be considered a Phase 2 Qualified Bid.
- 28. The SISP Team, in consultation with the Ad Hoc Committee, will: (a) review and evaluate each Phase 2 Qualified Bid with respect to, among other things, (i) the amount of consideration being offered and, if applicable, the proposed form, composition and allocation of same, (ii) the value of any assumption of liabilities or waiver of liabilities not otherwise accounted for in item (i) above; (iii) the likelihood of the Phase 2 Qualified Bidder's ability to close a transaction and the timing thereof (including factors such as the transaction structure and execution risk, including conditions to, timing of, and certainty of closing; termination provisions; financial wherewithal to meet all commitments; and required governmental or other approvals), (iv) the likelihood of the Court's approval of the Phase 2 Qualified Bid as a Successful Bid, (v) the benefit to the Enerkem Group and its stakeholders, and (vi) any other factors the SISP Team may deem relevant; (b) determine whether any the Phase 2 Qualified Bids provide for a Superior Transaction; and (c) identify the best bids (the "**Successful Bid(s)**", and the Phase 2 Qualified Bidder(s) making such Successful Bid(s), the "**Successful Bidder(s)**"). Any Successful Bid shall be subject to approval by the Court.
- 29. Any Phase 2 Qualified Bid that contemplates the assumption of any secured debt cannot be determined to be a Successful Bid without the written consent of the holder of the security interest that would be subject to such assumption.

30. In the event no Phase 2 Qualified Bid has been received that provides for a Superior Transaction, unless the Ad Hoc Committee consents to the continuation of the SISP, the SISP shall be terminated and the Enerkem Group shall proceed to implement the Restructuring Transaction with the Secured Noteholders in accordance with and subject to the terms of the Restructuring Term Sheet.
31. In the event that there is more than one (1) Phase 2 Qualified Bid that provides for a Superior Transaction, the SISP Team may : (a) continue negotiations with a selected number of Phase 2 Qualified Bidders (collectively, the "**Selected Transaction Parties**") with a view to finalizing an agreement with one or more of the Selected Bidders and declaring such bids to constitute Successful Bids.
32. The final Successful Bid(s) shall be selected by the SISP Team no later than August 8, 2025, and the definitive documentation in respect of the Successful Bid shall be finalized and executed no later than August 15, 2025, which definitive documentation shall be conditional only upon the receipt of the Approval Order(s) and the express conditions set out therein and shall provide that the Successful Bidder shall use all commercially reasonable efforts to close the proposed transaction by no later than the Target Closing Date, or such longer period as shall be agreed to by the SISP Team and the Successful Bidder. In any event, the Successful Bid must be closed by no later than the Outside Date.

Approval of Successful Bid(s)

33. The Enerkem Group shall apply to the Court (the "**Approval Application**") for one or more orders: (i) approving the Successful Bid(s) and authorizing the taking of such steps and actions and completing such transactions as are set out therein or required thereby; and (ii) granting a vesting order and/or reverse vesting order as contemplated by the Successful Bid(s), as applicable, (collectively, the "**Approval Order(s)**"). The Approval Application will be held on a date to be scheduled by the Enerkem Group and confirmed by the Court upon application by the Enerkem Group. With the consent of the Monitor, the Ad Hoc Committee and the Successful Bidder(s) the Approval Application may be adjourned or rescheduled by the Enerkem Group without further notice, by an announcement of the adjourned date at the Approval Application or in a notice to the service list of the CCAA Proceedings prior to the Approval Application. The Enerkem Group shall consult with the Monitor, the Ad Hoc Committee and the Successful Bidder regarding the application material to be filed by the Enerkem Group for the Approval Application.
34. Any Phase 2 Qualified Bid (other than a Successful Bid as the case may be) shall be deemed rejected on and as of the date of the closing of an overlapping Successful Bid, with no further or continuing obligation of the Enerkem Group or the Monitor to such unsuccessful Phase 2 Qualified Bidder.
35. The Enerkem Group and the Successful Bidder shall take all reasonable steps to complete the transaction contemplated by the Successful Bid as soon as possible after the Successful Bid is approved by the CCAA Court.

Deposits

36. The Deposit(s):

- (a) shall, upon receipt from the Phase 2 Qualified Bidder(s), be retained by the Monitor and deposited in a non-interest-bearing trust account;
- (b) received from the Successful Bidder(s), shall:
 - (i) be applied to the cash purchase price to be paid by the applicable Successful Bidder whose Successful Bid is the subject of an Approval Order, upon closing of the approved transaction; and
 - (ii) shall otherwise be held and refundable in accordance with the terms of the definitive documentation in respect of any Successful Bid, provided that all such documentation shall provide that the Deposit shall be retained by the Enkern Group and forfeited by the Successful Bidder, if the Successful Bid fails to close by the Outside Date, and such failure is attributable to any failure or omission of the Successful Bidder to fulfil its obligations under the terms of the Successful Bid; and
- (c) received from a Phase 2 Qualified Bidder that is not a Successful Bidder shall be fully refunded, to the Phase 2 Qualified Bidder that paid the Deposit as soon as practical following the closing of the transaction contemplated by the overlapping Successful Bid of such Successful Bidder.

"As is, Where is"

37. Any sale(s) or investment(s) made pursuant to this SISP will be on an "**as is, where is**" basis except for representations and warranties that are customarily provided in definitive documents for a company subject to CCAA proceedings. Any such representations and warranties provided for in the definitive documents shall not survive closing.

Credit Bidding

38. Any party or parties holding a valid and enforceable security interest or hypothec that may be set up against third parties and which encumbers any of the property forming part of the Business (an "**Enforceable Lien**") may, subject in all respects to such party's compliance with these SISP Procedures (including compliance with the deadlines set out hereunder), credit bid the amount of debt secured by such Enforceable Lien as part of any transaction contemplated by, and otherwise complying with, these SISP Procedures; provided, however, that such transaction shall also provide for the repayment in full in cash on the date of closing of any and all obligations secured by an Enforceable Lien against the Property that is to be acquired under such transaction that are senior to the Enforceable Lien held by

the party submitting such credit bid, unless the holder of any such senior Enforceable Lien otherwise agrees. Nothing contained in this paragraph is intended to, or shall, alter or amend the rights, terms or obligations under any intercreditor agreement or indenture.

Further Orders

39. At any time during the SISP, the Enerkem Group, the Monitor, the Interim Lender or the Ad Hoc Committee may apply to the Court for advice and directions with respect to any aspect of this SISP and the SISP Procedures including the continuation of the SISP or with respect to the discharge of their powers and duties hereunder.

Additional Terms

40. In addition to any other requirement of these SISP Procedures:
- (a) The SISP Team shall at all times prior to the selection of a Successful Bid use commercially reasonable efforts to facilitate a competitive bidding process in the SISP including by actively soliciting participation by all persons who would be customarily identified as potential bidders or transaction parties in a process of this kind.
 - (b) Any consent, approval or confirmation to be provided by the Enerkem Group, the Monitor, the Interim Lender or the Ad Hoc Committee is ineffective unless provided in writing and any approval required pursuant to the terms hereof is in addition to, and not in substitution for, any other approvals required by the CCAA or as otherwise required at law in order to implement a Successful Bid. For the avoidance of doubt, a consent, approval or confirmation provided by email shall be deemed to have been provided in writing for the purposes of this paragraph.
 - (c) The Court at all times retains the discretion to approve or not any Successful Bid, direct the clarification, termination, extension or modification of the SISP and SISP Procedures on application of any interested party.
 - (d) Prior to the seeking of Court approval for any transaction or bid contemplated by this SISP, the Monitor will provide a report to the Court on the SISP process, parts of which may be filed under seal, including in respect of any and all bids received.

**APPENDIX A
DEFINED TERMS**

Ludmila Kuakui
PERSONNE DÉSIGNÉE PAR LE GREFFIER
EN VERTU DE 67 C.P.C.

Defined term	Meaning
"Ad Hoc Committee"	Means the ad hoc committee of the Secured Noteholders
"Amended and Restated NPA"	Means that certain amended and restated note purchase agreement dated February 16, 2024 entered into, among others, (i) Enerkem Canada, as issuer, and certain of its affiliates party thereto, as guarantors, (ii) each of the Secured Noteholders, as purchasers, and (iii) Computershare Trust Company, in its capacity as collateral agent.
"Approval Application"	Set forth in paragraph 33.
"Approval Order(s)"	Set forth in paragraph 33.
"Binding Offer"	Set forth in paragraph 25.
"Business"	Set forth in the preamble.
"Business Day"	A day on which banks are open for business in Montréal but does not include a Saturday, Sunday or statutory holiday in the Province of Québec.
"CCAA"	Set forth in the preamble.
"CCAA Proceedings"	Set forth in the preamble.
"Clean Rooms"	Set forth in paragraph 11.
"Company"	Set forth in the preamble.
"Court"	Set forth in the preamble.
"Enerkem Group"	Set forth in the preamble.
"Deposit"	Set forth in paragraph 26(j).
"DIP Facility Claims"	All outstanding obligations owing with respect to the Court-approved interim facility, including, without limitation, all outstanding principal, unpaid interest, fees, expenses, premiums or other amounts
"Enforceable Lien"	Set forth in paragraph 38.
"Financing Party"	Set forth in paragraph 12.
"Initial Order"	Set forth in the preamble.
"Investment Proposal"	Set forth in paragraph 16(h)(ii).
"Interim Lender"	means Repsol Química, S.A. as interim lender under the Court-approved interim facility
"LOI"	Set forth in paragraph 15.
"Monitor"	Set forth in the preamble.

"NDA"	Set forth in paragraph 12.
"Opportunity"	Set forth in paragraph 2.
"Original Notes"	Means (i) the CA\$95,000,000 Senior Secured Convertible CAD Notes due March 31, 2026, and (ii) the US\$48,019,200 Senior Secured Convertible USD Notes due March 31, 2026, in each case issued pursuant to the Amended and Restated NPA.
"Outside Date"	Set forth in paragraph 26(k).
"Partial Sale Proposal"	Set forth in paragraph 16(h)(i).
"Phase 1 Bid Deadline"	Set forth in paragraph 15.
"Phase 1 Qualified Bid"	Set forth in paragraph 15.
"Phase 1 Qualified Bidder"	Set forth in paragraph 13.
"Phase 1 Satisfactory Bid"	Set forth in paragraph 20.
"Phase 2 Bid Deadline"	Set forth in paragraph 25.
"Phase 2 Qualified Bid"	Set forth in paragraph 25.
"Phase 2 Qualified Bidder"	Set forth in paragraph 20.
"Potential Transaction Party"	Set forth in paragraph 12.
"Representatives"	Set forth in paragraph 14.
"Sale Proposal"	Set forth in paragraph 16(h)(i).
"Selected Bidders"	Set forth in paragraph 31.
"Secured Noteholders"	Refers to Repsol Química, S.A., ESC Sustainable Solutions Fund, L.P. (or affiliates thereof) and Monarch Alternative Capital LP (or affiliates thereof) as holders of the Senior Secured Superpriority Notes and the Original Notes issued pursuant to the Amended and Restated NPA.
"Secured Notes Claims"	Means all outstanding obligations owing with respect to the Senior Superpriority Notes and the Original Notes pursuant to the Amended and Restated NPA, including, without limitation, all outstanding principal, unpaid interest, fees, expenses, premiums, costs or other amounts.
"Senior Secured Superpriority Notes"	Means the additional senior secured notes of up to a maximum principal amount of USD equivalent of CA\$75,000,000 issued pursuant to the Amended and Restated NPA.
"SISP"	Set forth in the preamble.
"SISP Order"	Set forth in the preamble.
"SISP Procedures"	Set forth in the preamble.
"SISP Team"	Set forth in the preamble.

"Solicitation Letter"	Set forth in paragraph 10.
"Successful Bid"	Set forth in paragraph 28.
"Successful Bidder"	Set forth in paragraph 28.
"Superior Transaction"	Set forth in the preamble.
"Target Closing Date"	Set forth in paragraph 26(k).
"VDR"	Set forth in paragraph 11.

COPIE CERTIFIÉE CONFORME À L'ORIGINAL
DOCUMENT DÉTENU PAR LE CLERK

Audmila KuaKusi
PERSONNE DÉSIGNÉE PAR LE CLERK
EN VERTU DE 67 C.P.C.