

CONFIDENTIALITY AGREEMENT

This agreement is made effective as at [DATE].

[Name of Recipient]

[Address of Recipient]

Dear Sirs & Mesdames:

[Name of Recipient] (the “**Recipient**”) has expressed interest in a possible negotiated transaction between the Recipient and FTI Consulting Canada Inc. (“**FTI**”), in its capacity as court-appointed receiver of Rokstad Holdings Corporation, a British Columbia company (“**RHC**”), Rokstad Power (2018) Ltd., a British Columbia company (“**RPI 2018**”), Golden Ears Painting & Sandblasting (2018) Ltd., a British Columbia company (“**Golden Ears**”), Plowe Power Systems (2018) Ltd., a British Columbia company (“**PPS**”), Rokstad Power Construction Services Ltd., a British Columbia company (“**RP Construction**”), Rokstad Power Transmission Services Ltd., a British Columbia company (“**RP Transmission**”), Rokstad Power (Prairies) Ltd., a British Columbia company (“**RP Prairies**”), Rokstad Power Inc., a Delaware corporation (“**RPI Opco**”), Rok Air, LLC, a Delaware limited liability company (“**Rok Air**”), Rokstad Power (East) Inc., a Delaware corporation (“**RPE**” and, together with RHC, RPI 2018, Golden Ears, PPS, RP Construction, RP Transmission, RP Prairies, RPI Opco and Rok Air (each, a “**Company**” and, collectively, the “**Companies**”), and not in its personal or corporate capacity (the “**Disclosing Party**” and, together with the Recipient, the “**Parties**”) involving an acquisition of all or substantially all of the equity interests or assets of the Disclosing Party (the “**Proposed Transaction**”). In exploring the possibility of a Proposed Transaction, the Disclosing Party may furnish or cause to be furnished certain Information (as defined below). As a condition to the furnishing of such Information, the Parties agree as follows:

1. Information. The term “**Information**” means:

- (a) any information relating, directly or indirectly, to the Disclosing Party or one or more of its affiliates or any of its or their respective businesses, operations, assets, liabilities, prospects, plans, customers, suppliers, landlords or lenders, in each case regardless of whether the Information was communicated orally, visually, in writing, by electronic transmission or otherwise before or during the term of this agreement, and whether or not marked as confidential;
- (b) any summaries, notes, analyses, compilations, studies, forecasts, data or other documents, materials or records that contain or otherwise reflect or have been generated, wholly or partly, or derived from such information (“**Derivative Information**”); and
- (c) any information about an identifiable individual or other information that is subject to any applicable law of any governmental authority in Canada relating to the collection, use, storage and/or disclosure of information about an identifiable individual, including the *Personal Information and Protection of Electronic Documents Act* (Canada) and similar Canadian provincial legislation (“**Personal Information**”).

Notwithstanding the foregoing, the term “**Information**” does not include any such information (other than Personal Information) that:

- (i) is or becomes generally available to and known by the public, other than as a result of disclosure by the Recipient or its Representatives (as defined below);

- (ii) was in the Recipient's or its Representatives' lawful possession before it received such information from the Disclosing Party or any of its Representatives, or becomes available to the Recipient or its Representatives on a nonconfidential basis from a source other than the Disclosing Party or any of its Representatives, provided that, in each case, the source of such information was not prohibited from disclosing such information by a confidentiality agreement or other contractual or legal obligation of confidentiality with respect to such information; or
- (iii) was independently developed by the Recipient or its Representatives without use of or reference to any Information;

2. **Non-Disclosure and Restricted Use.**

- (a) The Recipient shall keep the Information strictly confidential. Except as expressly provided in this agreement or with the Disclosing Party's prior written consent, the Recipient shall not disclose or permit its Representatives to disclose any Information.
- (b) The Recipient shall not, without the Disclosing Party's prior written consent, use the Information for any purpose other than to evaluate the Proposed Transaction (the "**Purpose**"). Neither the Recipient nor any of its Affiliates shall alter, decompose, disassemble, reverse engineer or otherwise modify any Information that relates to the research and development, intellectual property, processes, new product developments, product designs, formulae, technical information, laboratory data, clinical data, patent information, know-how or trade secrets of the Disclosing Party or any of its affiliates.

3. **Access Limited to Representatives.** The Recipient may disclose the Information to its affiliates and its and their respective directors, officers, employees, general partners, Qualified Lenders, agents, representation and warranty insurers and professional advisors (including lawyers, accountants and financial advisors) (collectively, the Recipient's "**Representatives**") who need to know the Information for the Purpose, who are informed by the Recipient of the confidential nature of the Information, and who agree to act in accordance with the terms and conditions of this agreement.

The Recipient shall take commercially reasonable precautions or measures to prevent unauthorized use or disclosure of the Information by its Representatives and will be responsible for any breach of this agreement by any of its Representatives other than Representatives who have entered into a confidentiality agreement with the Disclosing Party in respect of the Proposed Transaction. The Recipient shall, upon becoming aware of any unauthorized use or disclosure of Information, promptly notify the Disclosing Party of the nature of the breach or disclosure.

4. **No Joint Bidding**

- (a) The Recipient hereby represents and warrants that the Recipient is not acting as a broker for or representative of any other person in connection with the Proposed Transaction, and is considering the Proposed Transaction only for its own account. Except with the prior written consent of the Disclosing Party, the Recipient shall not (i) act as a joint bidder or co-bidder with any other person with respect to the Proposed Transaction, and (ii) directly or indirectly enter into any discussions, negotiations, agreements, arrangements or understandings (whether written or oral) with any other person regarding the Proposed Transaction, or any other possible transactions with the Disclosing Party or any of its affiliates that could be an alternative to the Proposed Transaction (an "**Alternative Transaction**") or that would reasonably be expected to affect such person's actions or

decisions with respect to the Proposed Transaction or an Alternative Transaction, in each case other than the Disclosing Party and its Representatives, and the Recipient's Representatives (to the extent permitted under this agreement).

- (b) The Recipient hereby represents and warrants that neither it, nor any of its Representatives is party to any agreement, arrangement or understanding (whether written or oral) that would restrict the ability of any other person to provide equity and/or debt financing to any other person for the Proposed Transaction or an Alternative Transaction, and the Recipient hereby agrees that neither it nor any of its Representatives will enter into any such agreement, arrangement or understanding that could directly or indirectly restrict the ability of any other person to provide any such financing.

5. No Disclosure of Proposed Transaction. The Recipient shall not, except as expressly provided in this agreement, as disclosed to the court in public filings, or with the Disclosing Party's prior written consent, disclose to any person (i) the fact that Information has been or will be made available to the Recipient and its Representatives, (ii) the existence or terms of this agreement, (iii) the fact that investigations, discussions or negotiations may take place, are taking place or have taken place concerning a Proposed Transaction or that a Proposed Transaction has been or is being considered, or (iv) any of the terms, conditions, status or other facts with respect to any such Proposed Transaction (collectively, "**Transaction Information**").

6. Communications.

- (a) The Recipient agrees that all communications by the Recipient or any of its Representatives relating to the Information or the Proposed Transaction will be made through the following individuals (or any other individual specifically authorized in writing by one of such individuals): Thomas Powell, Craig Munro and Brett Wilson.
- (b) Without the Disclosing Party's prior written consent, the Recipient shall not initiate or cause to be initiated or maintain any communication with any director, officer, employee, general partner, agent or professional advisor of the Disclosing Party or any of its affiliates (other than the individuals identified or authorized in Section 6(a) above), or creditor, shareholder, customer or supplier of the Disclosing Party or any of its affiliates concerning the Disclosing Party's business, operations, prospects or finances, or the Information or the Proposed Transaction.

7. Return of Information.

- (a) At any time upon the written request of the Disclosing Party, the Recipient shall, and shall direct its Representatives to, at its and their own expense, promptly (and, in any event, within five days of such determination or request) return or destroy all Information (including all originals, copies and extracts thereof and all Information held electronically).
- (b) Notwithstanding Section 7(a):
 - (i) the Recipient may retain Information in electronic form that is retained, stored and deleted, as applicable, in back-up servers in accordance with the Recipient's *bona fide* internal document retention policies and practices, so long as (A) such Information is not accessible other than to personnel whose function is primarily information technology in nature, (B) such personnel have access to such Information only as is reasonably necessary for the performance of their ordinary course duties, and (C) if any such Information becomes accessible to personnel

whose function is not primarily information technology in nature, the Recipient shall promptly and permanently destroy such Information;

- (ii) the Recipient's legal department and external legal counsel may each retain one copy of each document containing Information (other than Personal Information) for use only in disputes relating to this agreement; and
 - (iii) the Recipient may retain such Information as is required to be retained to comply with applicable law, or professional regulatory requirements or any order, requirement or request of a governmental authority;
- (c) The Recipient shall provide written confirmation to the Disclosing Party of the Recipient's compliance with this Section 7.
- (d) Notwithstanding the return or destruction of the Information, the Recipient and its Representatives shall continue to be bound by the confidentiality and other obligations hereunder during the term of this agreement.

8. Completeness and Accuracy of Information. The Disclosing Party reserves the right, in its sole discretion, to determine what information and materials it will provide or withhold, as well as the times at which it will make such information available. Neither the Disclosing Party nor any of its Representatives makes any express or implied representation or warranty as to the accuracy or completeness of the Information, and agrees that neither the Disclosing Party nor its Representatives (a) shall have any liability, direct or indirect, to the Recipient or its Representatives relating to or resulting from the Information or the use thereof, errors therein or omissions therefrom and (b) is under any obligation to update, supplement or amend the Information as a result of subsequent events or developments or otherwise. The Recipient is not entitled to rely on the accuracy or completeness of the Information except in accordance with the terms and conditions of any definitive agreement that may be entered into by the Parties relating to the Proposed Transaction and subject to any limitations and restrictions as may be specified in such definitive agreement.

9. Definitive Agreement. No agreement providing for any Proposed Transaction currently exists and none shall be deemed to exist between the Parties unless and until a definitive written agreement for any such Proposed Transaction is hereafter negotiated, executed and delivered by the Parties. The Parties further agree that unless and until a definitive agreement between them with respect to a Proposed Transaction has been executed and delivered by them, neither Party shall be under any obligation of any kind whatsoever with respect to a Proposed Transaction, including any obligation to (a) commence or continue negotiations with respect to any Proposed Transaction, (b) enter into a definitive agreement with respect to a Proposed Transaction, or (c) consummate a Proposed Transaction.

10. Required Disclosure. If the Recipient or any of its Representatives is required to disclose any Information or Transaction Information by law or the rules, policies or requirements of any securities exchange or under any requirement or request of any governmental authority having jurisdiction over the Recipient or such Representative, the Recipient shall:

- (a) promptly provide the Disclosing Party with written notice of such requirement or request so that the Disclosing Party may seek, at its sole cost and expense, a protective order or other appropriate remedy; and

- (b) cooperate with and provide reasonable assistance to the Disclosing Party, at the Disclosing Party's sole cost and expense, to obtain such protective order or other remedy.

If a protective order or other remedy is not obtained, the Recipient or Representative of the Recipient, as the case may be, shall furnish only that portion of the Information or Transaction Information which the Recipient is advised is legally required to be disclosed and shall use commercially reasonable efforts to preserve the confidentiality of the Information or Transaction Information so disclosed.

Nothing contained in this agreement will preclude the Recipient or the Disclosing Party or their respective Representatives from complying with their disclosure obligations pursuant to section 237.3 or section 237.4 of the *Income Tax Act* (Canada).

- 11. **Non-Solicitation; No-hire** – Without the prior written consent of the Disclosing Party, for a period of two years commencing on the date of this agreement, the Recipient shall not, and shall cause its affiliates and other Representatives not to, directly or indirectly, solicit for employment or employ or otherwise contract for the services of (or cause or seek to cause to leave the employ of the Disclosing Party or any of its affiliates) any person who is employed or engaged as of the date of this agreement (either as an employee or consultant) or becomes employed or engaged during the term of this agreement by the Disclosing Party or any of its affiliates.

Nothing in this Section 11 shall prevent the Recipient or any of its affiliates or other Representatives from hiring any person:

- (a) who initiates unsolicited contact with the Recipient or such affiliate or other Representative, as the case may be, regarding employment opportunities;
 - (b) that responds to a general solicitation for employment not directed at any or all employees or consultants of the Disclosing Party;
 - (c) who ceased to be employed or engaged by the Disclosing Party or its affiliates at least 12 months prior to the earlier of the date of solicitation and the commencement of employment with the Recipient or such affiliate or other Representative, as the case may be.
- 12. **Privilege.** The Recipient acknowledges that certain of the Disclosing Party's books, records or information representing or containing Information to which the Recipient may be given access are books, records and information to which solicitor-client privilege and/or litigation privilege ("**Privilege**") attaches. Except where the Information so indicates on its face, the Disclosing Party shall be required to identify to the Recipient which Information represents Privileged material (collectively, "**Privileged Material**"). The Recipient recognizes and acknowledges that the Disclosing Party has a material interest in the preservation of Privilege in respect of Privileged Material. The Recipient agrees (acting on its own behalf and as agent for its Representatives) that (a) such access is being provided solely for the purposes set out in this agreement; (b) such access is not intended and should not be interpreted as a waiver of any Privilege in respect of Privileged Material or any right to assert or claim Privilege in respect of Privileged Material, and to the extent there is any waiver, it is intended to be a limited waiver in the Recipient's favour, solely for the purposes set out in this agreement; (c) the Recipient shall keep the Privileged Material in strict confidence, and disclose such material solely to its legal counsel and to its directors, officers and employees and any affiliate and only to the extent required for the purposes of this agreement; (d) at the Disclosing Party's request, all copies of Privileged Material, and any notes that would disclose the contents of Privileged Material, will be destroyed or returned to the owner thereof; and

(e) at the Disclosing Party's request, the Recipient shall claim or assert, or co-operate to claim or assert, Privilege in respect of the Disclosing Party's Privileged Material.

13. Certain Definitions. In this agreement:

- (a) the term "**affiliate**" means, with respect to a person, any other person controlling, controlled by or under common control with such first person;
- (b) the term "**business day**" means any day, other than a Saturday or Sunday or any other day on which the banking institutions in Vancouver, British Columbia are required or authorized by law to close;
- (c) the term "**control**" means the possession, directly or indirectly, of the power to direct, or cause the direction of, the management policies of a person, whether through the ownership of voting securities, by contract or credit arrangement, as trustee or executor, or otherwise (and the terms "**controlling**" and "**controlled by**" have corresponding meanings);
- (d) the term "**person**" means any individual, sole proprietorship, partnership, firm, entity, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate, and where the context requires any of the foregoing when they are acting as trustee, executor, administrator or other legal representative; and
- (e) the term "**Qualified Lender**" means any financing institution that is *a bona fide* potential provider of debt (but not equity) financing to the Recipient in connection with the Potential Transaction, provided that such financing institution (i) has been approved in advance in writing by the Disclosing Party, and (ii) has agreed in writing to be bound by the terms of this agreement.

14. Governing Law. This agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia and the federal laws of Canada applicable in the Province of British Columbia.

15. Submission to Jurisdiction. The Recipient hereby irrevocably (a) submits to the exclusive jurisdiction of the courts of competent jurisdiction in the Province of British Columbia in respect of any actions or proceedings ("**Proceedings**") relating in any way to this agreement and the transactions contemplated hereby (and the Recipient agrees not to commence any Proceeding relating thereto except in such courts); and (b) waives any objection to the venue of any Proceeding relating to this agreement or the transactions contemplated hereby in the courts of competent jurisdiction in the Province of British Columbia, including the objection that any such Proceeding has been brought in an inconvenient forum.

16. Non-Waiver. No failure or delay by the Disclosing Party in exercising any right, power or privilege under this agreement will operate as a waiver thereof, nor will any single or partial exercise preclude any other or further exercise of any right, power or privilege under this agreement.

17. Notice. Any notice, consent or approval required or permitted to be given in connection with this agreement ("**Notice**") shall be in writing and shall be sufficiently given if delivered (whether in person, by courier service or other personal method of delivery), or if transmitted by e-mail:

- (a) to the Recipient at:



Attention: ●
E-mail: ●

(b) to the Disclosing Party at:

FTI Consulting Canada Inc., in its capacity as court-appointed receiver of the Companies

Attention: Thomas Powell / Craig Munro
E-mail: tom.powell@fticonsulting.com / Craig.Munro@fticonsulting.com

With a copy to:

Osler, Hoskin & Harcourt LLP
Suite 300, Bentall Four
1055 Dunsmuir Street
Vancouver, BC V7X 1K8

E-mail: muttery@osler.com / epaplowski@osler.com
Attention: Mary Buttery / Emily Paplawski

Pachulski Stang Ziehl & Jones LLP
One Sansome St, Ste 3420
San Francisco, CA 94104

E-mail: dgrassgreen@pszjlaw.com / sgolden@pszjlaw.com
Attention: Debra Grassgreen / Steven Golden

Any Notice delivered or transmitted as provided above shall be deemed to have been given and received on the day it is delivered or transmitted, provided that it is delivered or transmitted on a business day prior to 5:00 p.m. local time in the place of delivery or receipt. However, if the Notice is delivered or transmitted after 5:00 p.m. local time or if such day is not a business day then the Notice shall be deemed to have been given and received on the next business day. Either Party may, from time to time, change its respective addresses by giving Notice to the other Party in accordance with the provisions of this Section 17.

- 18. Waiver of Conflict.** The Recipient acknowledges that the Disclosing Party has engaged Osler, Hoskin & Harcourt LLP (“**Osler**”) as its legal counsel in connection with the Proposed Transaction, and the Recipient hereby (a) consents to the continued representation of the Disclosing Party by Osler in connection with the Proposed Transaction notwithstanding the fact that Osler may have represented, and may currently or in the future represent, the Recipient and/or any of its affiliates with respect to unrelated matters, and (b) waives any actual or alleged conflict and actual or alleged violation of ethical or comparable rules applicable to Osler that may arise from its representation of the Disclosing Party in connection with the Proposed Transaction, including but not limited to representing the Disclosing Party against the Recipient and/or any of its affiliates in litigation, arbitration, or mediation in connection with the Proposed Transaction. In addition, the Recipient hereby acknowledges that its consent and waiver under this paragraph is voluntary and informed, and that the Recipient has obtained independent legal advice with respect to this consent and waiver.
- 19. Indemnity.** The Recipient shall indemnify and hold harmless the Disclosing Party and its Representatives from any damages, losses, costs or liabilities (including reasonable legal fees and

the cost of enforcing this indemnity) arising out of or resulting from any breach of this agreement by the Recipient or any of its Representatives.

20. **Injunctive Relief.** The Recipient acknowledges that the disclosure of Information or other breach of this agreement would cause serious and irreparable damage and harm to the Disclosing Party and that remedies at law (including monetary damages) would be inadequate. The Disclosing Party shall therefore be entitled to specific performance and injunctive and other equitable relief as a remedy for any such breach without the requirement for securing or posting of any bond or other security by the Disclosing Party and without proof of actual damages, in addition to any other remedy to which the Disclosing Party would be entitled. The Recipient agrees that it shall not oppose the granting of such relief on the basis that the Disclosing Party has an adequate remedy at law and that it shall pay any reasonable and documented fees and expenses that the Disclosing Party may incur in enforcing this agreement.
21. **Term.** This agreement shall terminate on the earlier of (a) the date of completion of the Proposed Transaction; and (b) two years from the date of this agreement. In the case of Information permitted to be retained under Section 7(b), the confidentiality and non-use obligations in this agreement shall be binding until the later of (i) four years from the date of this agreement and (ii) the date the Recipient and its Representatives cease to retain the Information permitted by Section 7(b). Notwithstanding the foregoing, the confidentiality and non-use obligations in this agreement pertaining to Personal Information shall survive any termination or expiration of this agreement indefinitely.
22. **Assignment; Successors and Assigns.** Neither this agreement nor any of the rights or obligations under this agreement may be assigned by either Party without the prior written consent of the non-assigning Party. Any purported assignment without such consent shall be void and unenforceable. This agreement is for the sole benefit of the Parties hereto and their respective affiliates and each of their respective successors and permitted assigns and is binding upon the Parties and their respective affiliates, successors and permitted assigns.
23. **Amendment.** This agreement may be amended only by a written instrument executed by each of the Parties.
24. **Severability.** If any term or provision of this agreement is invalid, illegal or unenforceable in any jurisdiction, such invalidity, illegality or unenforceability shall not affect any other term or provision of this agreement or invalidate or render unenforceable such term or provision in any other jurisdiction.
25. **Entire Agreement; Data Sites.** This agreement constitutes the entire agreement between the Parties with respect to the subject matter of this agreement and supersedes any prior understandings and agreements between the Parties with respect thereto. There are no understandings, representations, warranties, terms, conditions, undertakings or collateral or other agreements, express, implied or statutory, between the Parties with respect to the subject matter of this agreement other than as expressly set forth in this agreement.

The terms of this agreement shall prevail over any additional purported confidentiality requirements or obligations imposed by any virtual data room or similar repository of Information to which the Recipient or any of its Representatives are provided access in connection with the Proposed Transaction.

- 26. Counterparts.** This agreement may be executed and delivered by electronic means, and may be validly executed in any number of counterparts, all of which taken together shall constitute one and the same agreement and each of which shall constitute an original.

[The next page is the signature page.]

The Parties have executed this agreement as of the date first written above.

FTI CONSULTING CANADA INC., solely in its capacity as court-appointed receiver of ROKSTAD HOLDINGS CORPORATION, ROKSTAD POWER (2018) LTD., GOLDEN EARS PAINTING AND SANDBLASTING (2018) LTD., PLOWE POWER SYSTEMS (2018) LTD., ROKSTAD POWER CONSTRUCTION SERVICES LTD., ROKSTAD POWER TRANSMISSION SERVICES LTD., ROKSTAD POWER (PRAIRIES) LTD., ROKSTAD POWER INC., ROKSTAD POWER (EAST), INC., and ROK AIR, LLC, and not in its personal or corporate capacity

By: _____
Name:
Title:

[RECIPIENT]

By: _____
Name:
Title:

By: _____
Name:
Title: