

Kenric D. Kattner
State Bar No. 11108400
Kourtney Lyda
State Bar No. 24013330
HAYNES AND BOONE, LLP
1221 McKinney Street, Suite 2100
Houston, TX 77010
Telephone: 713.547.2000
Facsimile: 713.547.2600
Email: kenric.kattner@haynesboone.com
Email: kourtney.lyda@haynesboone.com

Ian T. Peck
State Bar No. 24013306
David Staab
State Bar No. 24093194
HAYNES AND BOONE, LLP
2323 Victory Avenue, Suite 700
Dallas, TX 75219
Telephone: 214.651.5000
Facsimile: 214.651.5940
Email: ian.peck@haynesboone.com
Email: david.staab@haynesboone.com

PROPOSED ATTORNEYS FOR DEBTORS

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re: § **Chapter 11**
§
ERICKSON INCORPORATED, et al.,¹ § **Case No. 16-34393-hdh**
§
Debtors. § **(Joint Administration Requested)**

**DEBTORS' EMERGENCY MOTION FOR ENTRY OF AN ORDER
AUTHORIZING DEBTORS TO PAY (I) CERTAIN PREPETITION AMOUNTS
TO FUEL PROVIDERS, 503(b)(9) CLAIMANTS, POTENTIAL LIEN
CLAIMANTS AND CERTAIN ESSENTIAL VENDORS; AND (II) CONFIRMING
ADMINISTRATIVE STATUS FOR CERTAIN PARTS DELIVERED TO
DEBTORS POSTPETITION PURSUANT TO SECTIONS 105(a), 363(b), AND
503(b) OF THE BANKRUPTCY CODE AND BANKRUPTCY RULE 6004**

Erickson Incorporated and its debtor affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”) file this *Debtors’ Emergency Motion for Entry of an Order Authorizing Debtors to Pay (I) Certain Prepetition Amounts to Fuel Providers, 503(b)(9) Claimants, Potential Lien Claimants, and Certain Essential Vendors;*

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: Erickson Incorporated (7561); EAC Acquisition Corporation (3733); Erickson Helicopters, Inc. (5052); Erickson Transport, Inc. (9162); Evergreen Helicopters International, Inc. (1311); Evergreen Equity, Inc. (9209); and Evergreen Unmanned Systems, Inc. (3961). The location of the Debtors’ service address is 5550 SW Macadam Avenue, Suite 200, Portland, OR 97239.



*and (II) Confirming Administrative Status for Certain Parts Delivered to Debtors Postpetition Pursuant to Sections 105(a), 363(b), and 503(b) of the Bankruptcy Code and Bankruptcy Rule 6004 (this “**Motion**”), and respectfully represent:*

Jurisdiction and Venue

1. This Court has jurisdiction to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Background

2. The Debtors, together with their non-debtor affiliates (collectively, “**Erickson**”), are a vertically-integrated manufacturer and operator of the powerful heavy-lift Erickson S-64 Aircrane helicopter (the “**Aircrane**”), and are a leading global provider of aviation services. Erickson currently possesses a diverse fleet of 69 rotary-wing and fixed-wing aircraft that support a variety of government and civil customers worldwide. These customers rely on Erickson for a broad range of aerial services, including critical supply and logistics for deployed military forces, humanitarian relief, firefighting, timber harvesting, infrastructure construction, and crewing.

3. Included among Erickson’s fleet are 20 Aircranes, for which Erickson owns the Type and Production Certificates. Erickson manufactures the Aircranes and related components for sale to government and commercial customers. Erickson also provides aftermarket support and maintenance, repair, and overhaul services for the Aircranes and other aircraft.

4. To facilitate a further restructuring of the Debtors’ businesses, on the date hereof (the “**Petition Date**”), each of the Debtors commenced cases under chapter 11 of the Bankruptcy Code (the “**Chapter 11 Cases**”). The Debtors are operating their businesses and managing their

properties as debtors in possession pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code. Concurrently with the filing of this Motion, the Debtors have requested procedural consolidation and joint administration of the Chapter 11 Cases. No request for the appointment of a trustee or examiner has been made in the Chapter 11 Cases, and no committees have been appointed or designated.

5. Additional information about Erickson's businesses, capital structure, and the circumstances leading to the commencement of these Chapter 11 Cases can be found in the *Declaration of David Lancelot in Support of the Debtors' Chapter 11 Petitions and First Day Motions* (the "**Lancelot Declaration**"), filed concurrently herewith.

Relief Requested

6. Pursuant to Sections 105(a), 363, and 503(b) of title 11 of the United States Code (the "**Bankruptcy Code**") and Rule 6004 of the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**"), the Debtors request entry of an order: (a) authorizing, but not directing, the Debtors to pay (i) certain prepetition claims of providers of fuel necessary for the Debtors' operations ("**Fuel Providers**"); (ii) 503(b)(9) Claimants (as defined below); and (iii) Potential Lien Claimants (including Repair Shops, Shippers, Warehousemen, and Other Lien Claimants (each as defined below)) that the Debtors determine, in the exercise of their business judgment, to be necessary or appropriate to obtain the release of goods, including but not limited to, aircraft parts, ground support equipment, tools, inventory, supplies, equipment, components, and other materials (collectively, the "**Parts**"), and approving related procedures, and (b) authorizing and directing financial institutions to receive, process, honor, and pay checks presented for payment and electronic payment requests relating to the foregoing. The Debtors further request authority to condition payment of any prepetition amounts owed to any Potential Lien Claimant on written

verification that such Potential Lien Claimant will abide by certain conditions described in more detail below.

7. Further, to the extent the Debtors intend to make a payment in excess of \$50,000 under this Order, such payment shall be subject to the consent of the Backstop Parties (as defined in the DIP Orders (as defined below)); provided, that if the Backstop Parties do not object in writing (including email) to the payment of such amounts within 48 hours of receiving notice (including email) from the Debtors, the Backstop Parties will be deemed to have consented.

8. A proposed form of order approving the relief requested herein on an interim basis is annexed hereto as **Exhibit A** (the “**Interim Order**”) and, pending a final hearing on this Motion (the “**Final Hearing**”), on a final basis as **Exhibit B** (the “**Final Order**”).

A. Fuel Providers

9. The Debtors seek authority to pay outstanding amounts owed to certain Fuel Providers because maintaining a continuous supply of fuel to Erickson’s fleet of aircraft is crucial to Erickson’s continued operations and successful reorganization. As noted in the Lancelot Declaration, Erickson operates in many austere and remote environments, with few sources of available fuel. Many of Erickson’s Fuel Providers cannot be replaced, and if a replacement source is available, replacement could be difficult and more costly and could cause impermissible delays in Erickson’s flight schedules.

10. Erickson’s fuel consumption varies from week to week depending on customer needs. Recently, Erickson was purchasing approximately 3,000 gallons of fuel per month at a total cost of approximately \$750,000 from 25 different Fuel Providers on an as-needed basis. Erickson is not a party to fuel supply contracts with the Fuel Providers, and the majority of the Fuel Providers are requiring Erickson to prepay for their fuel or pay very quickly upon receipt.

If the Debtors are unable to pay the Fuel Providers, Erickson's fuel supply and distribution system (and potentially its entire business) would be disrupted, thereby stranding Erickson's aircraft and suspending operations in certain locations. This would seriously damage Erickson's credibility with its existing customer base and in the marketplace.

11. Additionally, since few of the Fuel Providers are extending credit to Erickson for fuel purchases, the majority of the Fuel Providers' claims would likely qualify as priority claims under section 503(b)(9) of the Bankruptcy Code. Under section 503(b)(9), claims for the value of goods received by the Debtors in the ordinary course of their businesses during the 20-day period prior to the Petition Date are entitled to priority status. Accordingly, the Debtors request that the Court enter an order authorizing, but not directing the Debtors to pay amounts owed to Fuel Suppliers, including amounts outstanding for fuel supplied pre-petition, in the ordinary course of the Debtors' business and on such terms and conditions as set forth herein.

B. 503(b)(9) Claimants

12. The Debtors purchase various goods from certain vendors who are unaffiliated with the Debtors and are, by and large, sole source or limited source suppliers without whom the Debtors could not operate. A significant portion of these vendors have supplied goods to the Debtors within twenty (20) days of the Petition Date (the "**503(b)(9) Claimants**"), thus otherwise entitling them to an administrative claim under section 503(b)(9) of the Bankruptcy Code. While typically these vendors would be required to file a motion or wait until a plan has been approved to receive their administrative claim, the Debtors believe that certain of these vendors play such a vital role in the Debtors' successful restructuring that it is in the best interest of the estate to pay these claims at the commencement of the Chapter 11 Cases. Additionally,

many of these 503(b)(9) Claimants also provide essential services with respect to the goods that they provide, and such services are critical to the Debtors' operations.

13. The 503(b)(9) Claimants do not include all of the Debtors' vendors who would otherwise be entitled to an administrative claim, rather, the 503(b)(9) Claimants are limited to suppliers that (a) provide unique and specialized goods that are otherwise not readily available, (b) provide goods that the Debtors are unable to procure without incurring significant migration costs, operational delays, or compromising quality, (c) do not have long-term written supply contracts such that the vendor could be compelled to continue providing goods or services in a timely and cost-efficient manner without unduly disrupting the Debtors' operations postpetition,² or (d) provide goods that are impossible to replace. The Debtors believe that as of the Petition Date, the 503(b)(9) Claimants are owed approximately \$5 million.

14. Many of these 503(b)(9) Claimants are in the unique position of holding a virtual monopoly over the goods they provide (and, on occasion, certain services which relate to such goods) due to their location, FAA regulations, or both. Replacement vendors, if available, would likely result in higher costs and significant delays for the Debtors. Even in the limited circumstances when there may be an alternative vendor, if the Debtors can benefit from maintaining lower costs of goods and services purchased during the postpetition period and avoid the severe disruption that might be occasioned by the cessation of service therefrom, it is prudent for the Debtors to pay selected 503(b)(9) Claimants some or all of their prepetition claims. Except under extraordinary circumstances, however, such payment would be contingent

² Importantly, in many instances, the Debtors' contracts with certain of these vendors provide only a framework for the issuance of purchase orders that are limited in scope to particular projects or orders. Thus, the Debtors' postpetition ability to use the contracts to compel their vendors and suppliers to continue to provide goods and services may be limited.

on an agreement that the 503(b)(9) Claimants continue to sell their goods or services to the Debtors on a going forward basis postpetition on terms favorable to the Debtors.

15. The Debtors are mindful of the requirements of the Bankruptcy Code and their fiduciary obligations to preserve and maximize the value of the Debtors' assets and their estates. Indeed, despite the critical need for the receipt of essential goods and services, the Debtors historically have sought to bargain with their vendors to achieve the lowest price, the best quality, and the most favorable payment terms possible for each necessary product. The Debtors recognize that efficiency in procurement is critical to achieving profitability, and have developed valued relationships with many suppliers who have met the Debtors' standards for price, quality and payment terms. The Debtors hope to maintain and improve upon those vendor relationships on a postpetition basis. In order to do so, the Debtors request they be authorized, but not directed, to pay the 503(b)(9) Claimants all or a portion of their 503(b)(9) claims (and in some limited circumstances, services which relate to the 503(b)(9) claims) in accordance with the procedures set forth in this Motion.

C. Other Lien Claimants³

a. The Debtors' Supply Chain Generally

16. Erickson's operations include providing helicopter services on behalf of customers and operating s helicopter maintenance, repair, and overhaul ("MRO") business that services both their own helicopter fleet as well as third party customers' fleets. To service its customers in both of these capacities and to maintain safety standards, flight schedules, and on-time performance, Erickson requires the ability to quickly replace or repair aircraft parts and aircraft. Any disruption in the flow of Parts or Parts services immediately impacts Erickson's

³ By this Motion, the Debtors do not concede that any liens described herein or paid hereunder are valid and expressly reserve the right to contest the extent, validity, priority and/or possible avoidance of any such liens.

business. If aircraft become unavailable, there is an immediate effect on customer satisfaction and revenue generation. Further, government contracts are awarded partly on the basis of past performance review, and if Erickson is unable to deliver on-time performance, they are negatively affected, and may even be disqualified from, bidding on future government contracts. The Debtors require the ability to replace or repair aircraft Parts quickly, and if access to Parts is impaired, this would result in immediate and substantial economic harm to the Debtors.

17. In connection with their businesses, the Debtors utilize a supply chain that is composed of a varied, global network of vendors who supply both Parts and/or services. As part of an aircraft or aircraft component's regular maintenance cycle or when an aircraft or aircraft component requires unscheduled repair or maintenance, Erickson analyzes the equipment to determine what maintenance and repairs are necessary and then identifies the process for securing necessary goods and services. Erickson typically removes the Parts that need to be replaced or repaired and then reinstalls the Parts obtained either from existing inventory or through purchase. Erickson repairs the removed Part in-house, or Erickson sends (using a Shipper (as defined below)) the removed Part to a third-party with the requisite expertise to repair the Part (a "**Repair Shop**"), or Erickson borrows a substitute Part from another of Erickson's aircraft for use.⁴ Once a Part that has been sent to a third-party Repair Shop is overhauled and ready to be returned (or a newly-ordered Part is available from a supplier), the Part is carried by the Shippers to one of Erickson's locations and placed in inventory (to replenish necessary stock for future aircraft repairs) or, in many cases, put directly on a waiting helicopter.

⁴ Occasionally, it is less expensive for Erickson to purchase a Part from a third party if there is an "aircraft on ground" (an "AOG") and Erickson needs to get the aircraft up and running to perform customer contracts.

18. Unlike other industries in which parts are readily available, aircraft parts suppliers are subject to mandatory certification and approval by several organizations before an airline can use the parts and, as a result, are difficult to source. The Debtors' relationship with their parts suppliers is subject to many mandatory layers of oversight and control by the FAA, the original equipment manufacturers (the "OEMs"), and the Debtors' engineers. To meet customer requirements and demands, Erickson primarily operates a legacy fleet of aircraft which is supported by a very limited total global supply base. As a result, many suppliers and/or service providers of Erickson's fleet are either "sole sourced" (i.e., they are the only source for the Part or service) or they are "single sourced" (i.e., they are the only Part or service provider who has been qualified to provide such Parts or services). In addition to limited supplier availability, the quality and range of services provided by the suppliers varies widely. Suppliers differ with respect to the products they carry, the turnaround time from order to delivery (which is vital for on-the-spot repairs), prices, the warranties they offer, and the insurance they provide on the systems and parts they sell. It can take months or even years for the Debtors to locate and groom their suppliers for maximum efficiency and effectiveness or for a new supplier entering the market to obtain FAA, OEM, and the Debtors' engineering approval. Thus, a sudden need to switch suppliers would, at the very least, place the Debtors' operations into a period of inefficiency and could severely disrupt normal flight operations. Without the requisite Parts, the Debtors will be unable to meet maintenance cycle deadlines or worse, aircraft requiring emergency repairs will be delayed and unable to fly. A single missing or "timed out" Part is all it takes to ground an aircraft. Suffering an AOG event is extremely destructive to the Debtors' businesses not only because an aircraft cannot generate revenue while it is grounded, but also because the Debtors' helicopter services business is typically assessed steep penalties for AOGs

under their customer contracts. Consequently, Erickson generally devotes significant resources to ensure that the Debtors' supply chain is robust and capable of delivering Parts to the Debtors' bases around the globe where and when they are needed.

19. The Debtors need to protect their relationships with their most essential suppliers and maintenance service providers. The Debtors' aircraft Parts and service suppliers are essential because they are frequently less expensive than their competitors, and they have been fully approved, they have proven their reliability, and in many circumstances, they are difficult if not impossible to replace.

b. Repair Shops and Repair Orders

20. While Erickson performs a portion of its own maintenance functions, it is often necessary to utilize third-party servicers, i.e., Repair Shops. Many helicopter Parts are highly specialized, expensive to replace, and, because they have a long service life, undergo regular and repeated maintenance and repairs. Applicable aviation regulations require the Debtors to track the lifecycle and usage of certain key Parts (*e.g.*, engines and helicopter blades) and periodically remove them for overhaul. When the Debtors have the proper tools, internal expertise, and requisite certifications, they will repair and overhaul Parts themselves. In many cases, however, the only option is to send Parts out to Repair Shops. The Repair Shops are subject to licensing, certification, and/or approval of relevant aviation regulatory bodies. The work of the Repair Shops must be approved by the applicable OEM or the Debtors' engineers, or both, in accordance with the Debtors' regulatory approved maintenance plan. Maintenance service providers must stay current with OEM updates, and work orders are pre-approved by the Debtors' engineers. Additionally, the legacy nature of Erickson's fleet further limits the number of Repair Shops available to service Erickson's fleet. In fact, in many cases, the only Repair

Shops certified to service critical Parts are the OEMs who manufactured the Parts in the first place. Thus, the universe of available and usable Repair Shops is limited.

21. Another issue the Debtors face relates to Parts shipped to Repair Shops for repair or maintenance prior to the Petition Date (the “**Repair Orders**”). In the ordinary course of business, the Debtors send over a hundred of Parts to Repair Shops every month. As of the Petition Date, the Debtors had approximately 600 Repair Orders outstanding (totaling approximately \$3.25 million in service costs). Many of these vendors have conditioned return of the repaired Parts on payment of the relevant invoice in full. In many circumstances, such vendors have asserted or may assert, among other rights, mechanics’ liens, artisans’ liens, materialmen’s liens, or other statutory liens under applicable non-bankruptcy law against the Debtors’ property.

22. Due to the unique nature of the repair and overhaul cycle for helicopters, some of the Repair Orders relate to Parts that were sent to Repair Shops years ago. These Parts, including helicopter engines, blades, gears, propellers and helicopter blades, are high value, critical Parts with highly regulated maintenance cycles. It is essential that the Debtors receive prompt shipment from the Repair Shops on the agreed upon schedule in accordance with the Debtors’ approved maintenance and repair programs. Any delay in shipment of the Repair Orders would disrupt the Debtors’ operations and could harm the Debtors’ reorganization efforts.

23. The Debtors seek authority to pay certain of the Repair Order invoices in full with respect to Parts that the relevant Repair Shop refuses to deliver absent payment in full, and that the Debtors determine, in their business judgment, are critical to the Debtors’ operations and could be subject to mechanics’ liens, artisans’ liens, materialmen’s liens, other statutory liens, or some other right of retention under applicable non-bankruptcy law.

c. Shippers, Warehousemen, and Other Lien Claimants

24. Another integral part of the Debtors' operations is the use of commercial common carriers, movers, shippers, freight forwarders/consolidators, delivery services, warehousing companies, customs brokers, shipping auditing services and certain other third-party services providers (collectively, the "**Shippers**") to ship, transport, store, move through customs and deliver goods through established distribution networks. The Debtors rely extensively on Shippers to transport parts, goods and packages to and from third parties including, without limitation, their Repair Shops. The Debtors also occasionally rely on third-party warehousemen, bailees, storage facilities, loading and unloading services, and other providers of storage services for the Parts (collectively, the "**Warehousemen**"), to store Parts at their facilities for the benefit of the Debtors. In the ordinary course of business, the Debtors make payments to the Shippers and Warehousemen for such services (such payments, the "**Shipping and Warehousing Charges**"). The Debtors also routinely transact business with a number of equipment manufacturers, tool makers, service technicians, mechanics, building contractors, materialmen, and other service providers (collectively with the Shippers and Warehousemen, the "**Other Lien Claimants**") who perform a variety of services for the Debtors, including the on-site repair of equipment, and the manufacturing and repair of tools that are integral to the Debtors' daily operations and are critical to the Debtors' successful reorganization. As of the Petition Date, Erickson has several helicopter shipments in transit and/or at point of delivery. Thus, paying the Shipping and Warehousing Charges is critical to avoiding delay of delivery, disembarking and transport of these aircraft to their final location.

25. The services provided by the Other Lien Claimants are integral to the Debtors' day-to-day operations. Finding replacements that can meet the Debtors' needs involves much

more than simply identifying other competitors in the industry. The Debtors must find Shippers that are capable of shipping massive helicopters and helicopter components and servicing the Debtors' remote bases around the world without causing delays. The Debtors must find Warehousemen with the appropriate experience to handle helicopter parts and equipment. All of the Other Lien Claimants have the requisite experience and certifications. Simply replacing these vendors with alternative providers is either not feasible at all, would be too costly or cause undue delay that would significantly impair the Debtors' Operations.

26. Because of the commencement of the Chapter 11 Cases, certain Other Lien Claimants who hold Parts for delivery to or from the Debtors may refuse to release the Parts pending receipt of payment for their prepetition services or be able to assert and perfect mechanics' liens, artisans' liens, materialmen's liens, a right of retention, or other types of possessory liens against the Debtors' property. Because the Debtors rely on the timely supply of goods and services to keep their businesses continuously running, any delay in shipment or delivery would disrupt the Debtors' operations and could harm the Debtors' reorganization efforts.

27. It is thus imperative that the Debtors be authorized to pay any Shipping and Warehousing Charges or invoices from Other Lien Claimants that the Debtors determine in their business judgment are necessary to pay to ensure the uninterrupted shipment and delivery of the Parts or to avoid the assertion of a lien over the Debtors' or their customers' property. The Debtors estimate that existing and anticipated invoices related to Shipping and Warehousing Charges incurred prior to the Petition Date total approximately \$1.5 million. The Debtors request authority, but not direction to pay such charges where necessary to secure release of critical Parts.

D. Other Essential Vendors

28. The fleet that Erickson owns and operates includes several extremely unique aircraft specifically suited to meet customer contract needs. For example, Erickson owns or operates over half of the Aircranes available in the world, which are required in connection with many of the Debtors' customer contracts. There are very few suppliers of maintenance and parts that can adequately serve Erickson's unique fleet. As discussed above, many of these suppliers are "sole sourced" or "single sourced." In fact, over half of Erickson's vendors are "sole sourced." In order to maximize the value of the Debtors' assets and keep Erickson's fleet operating, it is critical that the Debtors maintain relationships with their trusted providers of maintenance and parts (the "**Essential Vendors**"). In the event that a vendor is not classified as a 503(b)(9) Claimant or Other Lien Claimant and is absolutely essential to Erickson's continued operations, the Debtors request authority, but not direction, to be able to pay such Essential Vendors amounts owed on a prepetition basis. The Debtors believe that as of the Petition Date, the Essential Vendors and Other Lien Claimants are owed collectively approximately \$3.5 million.

E. Outstanding Purchase Orders

29. As of the Petition Date, Erickson has various outstanding purchase orders (the "**Outstanding Purchase Orders**") with various third party vendors for Parts ordered by the Debtors that have not yet been delivered to the Debtors. Certain of these vendors will likely express concerns that, because the Debtors submitted the Outstanding Purchase Orders prior to the Petition Date, such obligations will be treated as prepetition claims in the Chapter 11 Cases. Accordingly, certain of these vendors may refuse to provide Parts to the Debtors purchased pursuant to the Outstanding Purchase Orders unless the Debtors issue substitute purchase orders

postpetition or provide assurances that such amounts are permitted to be paid. The Debtors believe that they do not require the Court's approval to continue making payments pursuant to the Outstanding Purchase Orders, which are transacted in the ordinary course of business and create a benefit for the Debtors' estates that is conferred entirely postpetition; however, in an effort to avoid vendors withholding delivery on the assertion that Court approval is required and acting in an abundance of caution, the Debtors, request express authority to pay for Outstanding Purchase Orders as and when they become due and payable.

F. Proposed Conditions to Receiving Payment

30. In order to ensure that the Debtors have continued access to Parts and services offered by the Potential Lien Claimants and 503(b)(9) Claimants, the Debtors request authority to pay all, or a portion of, the prepetition amounts owed to any 503(b)(9) Claimant and Potential Lien Claimant as determined by the Debtors in their sole discretion. The Debtors propose to condition payment of Claims of 503(b)(9) Claimant and Potential Lien Claimants on the agreement of such individual 503(b)(9) Claimant or Potential Lien Claimants to continue supplying goods and services to the Debtors on the most favorable terms that existed in the one (1) year before the Petition Date, or such other favorable trade practices and programs (including, but not limited to, credit limits, pricing, cash discounts, timing of payments, allowances, rebates, coupon reconciliation, normal product mix and availability and other applicable terms and programs) that are at least as favorable to the Debtors as those in effect prior to the Petition Date (in either case, the "**Customary Trade Terms**"). The Debtors reserve the right to negotiate new trade terms with any 503(b)(9) Claimant and/or Potential Lien Claimant as a condition to payment of any 503(b)(9) Claimant and/or Potential Lien Claimant

Claim, but in no event can the new terms be less favorable than the Customary Trade Terms above.

31. To ensure that the 503(b)(9) Claimants or Potential Lien Claimants deal with the Debtors on Customary Trade Terms, the Debtors propose that (a) the Debtors be authorized, in their sole discretion, to send a letter to 503(b)(9) Claimants and Potential Lien Claimants substantially in the form attached as **Exhibit 1** to the Order to 503(b)(9) Claimants and Potential Lien Claimants, along with a copy of the Order granting this Motion, and (b) the checks used to pay Claims of 503(b)(9) Claimants and Potential Lien Claimants (to the extent checks are issued) or the letter attached as **Exhibit 1 to the Order** (to the extent payments are made by electronic transfer) contain a legend substantially in the following form:

By accepting this check, the payee agrees to the terms of that certain Order of the United States Bankruptcy Court of the Northern District of Texas, dated as of _____ 2016, in the Erickson Incorporated's Chapter 11 case (Jointly Administered under Case No. 16-34393-hdh), entitled "*Debtors' Emergency Motion for Entry of an Order Authorizing Debtors to Pay (I) Certain Prepetition Amounts to Fuel Providers, 503(b)(9) Claimants and Certain Other Potential Lien Claimants and (II) Confirming Administrative Status for Certain Parts Delivered to Debtors Postpetition Pursuant to Sections 105(a), 363(b), and 503(b) of the Bankruptcy Code and Bankruptcy Rule 6004*" (hereinafter the "**Vendor Payment Order**") (including, if applicable, any agreement entered into pursuant to that Order) and submits to the jurisdiction of the Bankruptcy Court for enforcement thereof.

32. The Debtors propose that the letter sent to 503(b)(9) Claimants and Potential Lien Claimants shall include, without limitation, the following terms:

(a) The amount of such 503(b)(9) Claimant's and Potential Lien Claimant's estimated claims, accounting for any setoffs, other credits and discounts thereto, which shall be mutually determined in good faith by the 503(b)(9) Claimant or Potential Lien Claimant and the Debtors (but such amount shall be used only for the purposes of determining such 503(b)(9) Claimant or Potential Lien Claimant Claim under the Vendor Payment Order and shall not be deemed a claim allowed by the Court, and the rights of all interested persons to object to such claim shall be fully preserved until further order of the Court);

(b) The Customary Trade Terms between such 503(b)(9) Claimant or Potential Lien Claimant and the Debtors, or such other terms as the 503(b)(9) Claimant and/or Potential Lien Claimants and the Debtors may agree, and the 503(b)(9) Claimant or Potential Lien Claimant's agreement to provide goods and services to the Debtors based upon Customary Trade Terms or upon such other favorable terms as the Debtors and the Potential Lien Claimant may agree;

(c) The 503(b)(9) Claimant and/or Potential Lien Claimant's agreement to take whatever actions are necessary to remove any lien that it might have obtained or placed on the Debtors' property;

(d) The 503(b)(9) Claimant and/or Potential Lien Claimant's acknowledgement that it has reviewed the terms and provisions of the Vendor Payment Order and consents to be bound thereby; and

(e) The 503(b)(9) Claimant and/or Potential Lien Claimant's agreement that it will not separately seek payment for reclamation claims outside the terms of the Vendor Payment Order unless the 503(b)(9) Claimant and/or Potential Lien Claimant's participation in the program to pay claims pursuant to the Vendor Payment Order is terminated; provided, however, that such reclamation claims shall, if thereafter raised by the 503(b)(9) Claimant and/or Potential Lien Claimant as permitted by the Vendor Payment Order, be treated as though raised on the date of the Vendor Payment Order.

Such a letter, once agreed to and accepted by a 503(b)(9) Claimant or Potential Lien Claimant, shall be referred to herein as a "**Vendor Agreement.**"

33. By this Motion, the Debtors request that they be authorized, but not directed, to enter into a Vendor Agreement when the Debtors determine in their discretion that such Vendor Agreement is necessary or beneficial. The Debtors seek authority to pay any 503(b)(9) Claimant claim or Potential Lien Claimant claim even if the Debtors and the 503(b)(9) Claimant or Potential Lien Claimant in question have not, despite diligent efforts, entered into a Vendor Agreement, if the Debtors determine, in their business judgment, that failure to pay the 503(b)(9)

Claimant claim or Potential Lien Claimant claim is likely to result in irreparable harm to the Debtors' business operations.⁵

34. The Debtors further propose that if a 503(b)(9) Claimant or Potential Lien Claimant fails to comply with the Customary Trade Terms of the Vendor Agreement or such other terms as were individually agreed to between the Debtors and such claimant, then the Debtors may, in their discretion, and without further order of the Court, declare that: (i) the payment of the 503(b)(9) Claimant's claim and Potential Lien Claimant's claim is a voidable postpetition transfer pursuant to Section 549(a) of the Bankruptcy Code that the Debtors may recover from the 503(b)(9) Claimant or Potential Lien Claimant in cash or in goods (including by setoff against postpetition obligations); or (ii) the 503(b)(9) Claimant or Potential Lien Claimant shall immediately return the Debtors' payment of its claim without giving effect to alleged setoff rights, recoupment rights, adjustments, or offsets of any type whatsoever, and the 503(b)(9) Claimant's claim or Potential Lien Claimant's claim shall be reinstated in an amount that will restore the Debtors and the 503(b)(9) Claimant or Potential Lien Claimant to their original positions as if the Vendor Agreement had never been entered into and the payment of such claimant's claim had not been made.

35. Some of the 503(b)(9) Claimant or Potential Lien Claimants may have perfected mechanics' liens, possessory liens, or similar trade liens on the Debtors' assets based upon the claims held by those 503(b)(9) Claimants or Potential Lien Claimants. As a further condition of receiving payment, the Debtors propose that a Potential Lien Claimant must agree to take whatever action is necessary to remove such liens at the such Potential Lien Claimant's sole cost and expense.

⁵ Nothing in this Motion shall be construed as a waiver by any of the Debtors of their rights to contest any invoice of a Potential Lien Claimant under applicable non-bankruptcy law.

Basis for Relief Requested

36. Ample cause exists to authorize the payment of the Fuel Providers, the 503(b)(9)

Claimants and the Potential Lien Claimants, including, among other things, that:

- (i) the failure to pay the Fuel Providers, the 503(b)(9) Claimants, and the Potential Lien Claimants may interfere with the Debtors' continued operations and successful reorganization efforts;
- (ii) certain of the Parts over which the Potential Lien Claimants may have a right to assert a lien may not be property of the Debtors' estates;
- (iii) the failure to pay prepetition claims of Fuel Providers, the 503(b)(9) Claimants, and the Potential Lien Claimants may increase the scope of secured and priority claims held by the applicable Potential Lien Claimants against the Debtors' estates;
- (iv) the payment of Fuel Providers, the 503(b)(9) Claimants, and the Potential Lien Claimants affects only the timing of payments as most, if not all, of the Fuel Providers, the 503(b)(9) Claimants, and Potential Lien Claimants' claims are afforded priority status under the Bankruptcy Code; and
- (v) the Court has authority to grant the requested relief under Sections 105(a) and 363(b) of the Bankruptcy Code and payment of the Fuel Providers, the 503(b)(9) Claimants, and the Potential Lien Claimants is a valid exercise of the Debtors' fiduciary duties pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code. The Court should also confirm that all undisputed obligations of the Debtors arising from the postpetition delivery of Parts subject to Outstanding Purchase Orders are afforded administrative expense priority status because any delay in the shipment or delivery of Parts could bring the Debtors' operations to a halt, harming the Debtors' businesses as well as their customers' businesses.

A. Failure to Pay Fuel Providers, the 503(b)(9) Claimants, and the Potential Lien Claimants May Interfere with the Debtors' Continued Operations and Successful Reorganization Efforts

37. The Debtors seek to pay pre-petition claims of the Fuel Providers, 503(b)(9) Claimants, and Potential Lien Claimants to, among other things, prevent such vendors and providers from taking actions that may interfere with the Debtors' continued, uninterrupted operations. Nonpayment of these obligations, especially Repair Orders, may cause Potential Lien Claimants to take precipitous action, including, but not limited to, refusing to deliver fuel and

essential Parts, asserting liens, and/or seeking to lift the automatic stay, all of which would disrupt the Debtors' day-to-day operations and could potentially impose significant costs on the Debtors' estates. Additionally, failure to satisfy the Potential Lien Claimants' claims may jeopardize the Debtors' ability to comply with applicable aviation regulations, thereby grounding the Debtors' fleet, or cause the Potential Lien Claimants to withhold or assert liens against the Debtors' or even a customer's property, which would cause irreparable harm to customer relationships and revenues. Both likely outcomes would imperil a successful reorganization.

38. Further, certain foreign Potential Lien Claimants may consider themselves to be beyond the jurisdiction of this Court and may disregard the automatic stay imposed pursuant to Section 362 of the Bankruptcy Code. Foreign Potential Lien Claimants that believe the automatic stay does not govern their actions may exercise self-help (if permitted under local law), which may include, among other things, selling the Parts they hold in order to satisfy their claims. Accordingly, the Debtors submit that the proposed relief is in the best interests of the Debtors' estates.

B. The Court has Authority to Grant the Requested Relief Under Sections 363(b) and 105(a) of the Bankruptcy Code and Payment of Fuel Providers, 503(b)(9) Claimants, Potential Lien Claimants, and Certain Essential Vendors is a Valid Exercise of the Debtors' Fiduciary Duties Pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code

39. The Court may grant the relief requested herein pursuant to Section 363(b) of the Bankruptcy Code. Section 363(b) provides, in pertinent part, that "[t]he [debtor], after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate." 11 U.S.C. § 363(b)(1). Courts have long recognized that, where a sound business justification can be articulated, payment of prepetition claims under Section 363(b) of the Bankruptcy Code is permitted. *See In re Ionosphere Clubs, Inc.*, 98 B.R. 174, 175 (Bankr.

S.D.N.Y. 1989) (holding that Section 363(b) gives the court “broad flexibility” to authorize a debtor to expend funds on account of prepetition claims if there is “some business justification” to justify payment); *see also In re Montgomery Ward Holding Corp.*, 242 B.R. 147, 153 (D. Del. 1999) (use of assets outside the ordinary course of business permitted if “sound business purpose justifies such actions”); *Comm. of Asbestos-Related Litigants v. Johns-Manville Corp. (In re Johns-Manville Corp.)*, 60 B.R. 612, 616 (Bankr. S.D.N.Y. 1986) (“Where the debtor articulates a reasonable basis for its business decisions (as distinct from a decision made arbitrarily or capriciously), courts will generally not entertain objections to the debtor’s conduct”).

40. The Court also may grant the requested relief pursuant to its equitable powers under Section 105(a) of the Bankruptcy Code, which provides that “[t]he court may issue any order, process, or judgment that is necessary or appropriate to carry out the provisions of this title.” 11 U.S.C. § 105(a). Courts generally recognize that payments to prepetition creditors are appropriate pursuant to Section 105(a) of the Bankruptcy Code under the “doctrine of necessity” or the “necessity of payment” rule, where such payments are necessary to the continued operation of the debtor’s business. *See, e.g., In re CoServ, L.L.C.*, 273 B.R. 487, 487 (Bankr. N.D. Tex. 2002) (“[I]t is only logical that the bankruptcy court be able to use § 105(a) of the Bankruptcy Code to authorize satisfaction of the prepetition claim in aid of preservation or enhancement of the estate.”); *see also In re Matter of Lehigh & New England Ry. Co.*, 657 F.2d 570, 581 (3d Cir. 1981) (holding that a court may authorize payment of prepetition claims if such payment is essential to the continued operation of the debtor); *In re Friedman’s, Inc.*, 2011 WL 5975283, at *3 (Bankr. D. Del. Nov. 30, 2011) (“[M]ost courts will allow payments [for prepetition claims] under the ‘doctrine of necessity,’ if the debtor establishes that in its business judgment making such payments is critical to the survival of the debtor’s business”); *In re Just*

for Feet, Inc., 242 B.R. 821, 824–25 (D. Del. 1999) (holding that Section 105(a) “provides a statutory basis for the payment of pre-petition claims” under the doctrine of necessity and noting that the Supreme Court accepts the authority of the bankruptcy court “to authorize payment of pre-petition claims when such payment is necessary for the debtor’s survival during chapter 11.”). Indeed, a bankruptcy court’s use of its equitable powers under the “doctrine of necessity” to “authorize the payment of prepetition debt when such payment is needed to facilitate the rehabilitation of the debtor is not a novel concept.” *In re Ionosphere Clubs, Inc.*, 98 B.R. at 175. The United States Supreme Court first articulated the equitable common law principle commonly referred to as the “doctrine of necessity” over 130 years ago in *Miltenberger v. Logansport, C. & S.W.R. Co.*, 106 U.S. 286 (1882). Courts today continue to recognize that the rationale for the “doctrine of necessity” is consistent with the “paramount goal” of chapter 11: “facilitating the continued operation and rehabilitation of the debtor.” *In re Ionosphere Clubs, Inc.*, 98 B.R. at 176.

41. In addition, pursuant to Sections 1107(a) and 1108 of the Bankruptcy Code, debtors in possession are fiduciaries “holding the bankruptcy estate and operating the business for the benefit of creditors” *In re CoServ*, 273 B.R. at 497. Implicit in the duties of a chapter 11 debtor in possession is the duty “to protect and preserve the estate, including an operating business’s going-concern value.” *Id.* Courts have noted that there are instances in which a debtor in possession can fulfill its fiduciary duty “only . . . by the preplan satisfaction of a prepetition claim.” *Id.*; see also *In re Mirant Corp.*, 296 B.R. 427, 429-30 (Bankr. N.D. Tex. 2003) (allowing debtors to pay claims “reasonably believe[d]” to be authorized under the *CoServ* test or whose payment was necessary “in the exercise of their business judgment . . . in order for [the d]ebtors to continue their respective businesses”). This Court in *CoServ* noted

that preplan satisfaction of prepetition claims would be a valid exercise of a debtor's fiduciary duty when the payment "is the only means to effect a substantial enhancement of the estate." *In re CoServ*, 273 B.R. at 497. The court provided a three-pronged test for determining whether a preplan payment on account of a prepetition claim was a valid exercise of a debtor's fiduciary duty:

First, it must be critical that the debtor deal with the claimant. Second, unless it deals with the claimant, the debtor risks the probability of harm, or, alternatively, loss of economic advantage to the estate or the debtor's going concern value, which is disproportionate to the amount of the claimant's prepetition claim. Third, there is no practical or legal alternative by which the debtor can deal with the claimant other than by payment of the claim.

Id. at 498. Payment of Fuel Providers' claims, the 503(b)(9) Claimants' claims, and the Potential Lien Claimants' claims in this instance meets each element of the *CoServ* test.

42. The Debtors submit that payment of, and the Potential Lien Claimants' claims in instances in which the Debtors determine, in their business judgment, that the parts held by the Potential Lien Claimants are critical to the Debtors' operations and could be subject to mechanics' liens, artisans' liens, materialmen's liens, other statutory liens, or a right of retention under applicable non-bankruptcy law is an exercise of sound business judgment and necessary to permit a successful reorganization, as the Debtors' satisfaction of the Potential Lien Claimants' claims, and in particular the Repair Orders, is necessary to avoid creating obstacles to a smooth transition through the Chapter 11 Cases. The critical need for the continued receipt and distribution of Parts that Potential Lien Claimants may hold or assert liens upon justifies the relief sought herein. The Debtors rely heavily on the Repair Shops, Shippers, Warehousemen, and Other Lien Claimants, many of which provide critical and valuable services to the Debtors, and, in some cases, currently hold Parts that are necessary to the Debtors' continued operations and ability to meet customer needs. As described above,

there are no practical or legal alternatives by which the Debtors can deal with the Potential Lien Claimants to be paid pursuant to this Motion, other than payment of their claims.

43. Bankruptcy courts in this jurisdiction and others have entered orders granting relief similar to the relief requested herein. *See, e.g., In re Energy & Expl. Partners, Inc.*, Case No. 15-44931 (RFN) (Bankr. N.D. Tex. Dec. 23, 2015) (Docket No. 146); *In re ALCO Stores, Inc.*, Case No. 14-34941 (Bankr. N.D. Tex. Oct. 16, 2014) (Docket No. 64); *In re Reddy Ice Holdings, Inc.*, Case No. 12-32349 (Bankr. N.D. Tex. Apr. 17, 2012) (Docket No. 85); *In re Pilgrim Corporation, et al.*, Case No. 08-45664 (Bankr. N.D. Tex. Dec. 3, 2008) (Docket No. 83); *see also In re Chassix Holdings Inc.*, Case No. 15-10578 (MEW) (Bankr. S.D.N.Y. Apr. 14, 2015) (Docket No. 273); *In re Energy Future Holdings Corp.*, Case No. 14-10979 (CSS) (Bankr. D. Del. June 3, 2014) (Docket No. 762); *In re AMR Corp.*, Case No. 11-15463 (SHL) (Bankr. S.D.N.Y. Dec. 22, 2011) (Docket No. 428).⁶ The Debtors submit that similar relief is warranted in the Chapter 11 Cases.

44. Accordingly, pursuant to Sections 105(a), 363(b), 1107(a), and 1108 of the Bankruptcy Code, this Court is empowered to grant the relief requested herein. Based upon the reasons outlined above, the relief requested herein is essential, appropriate, and in the best interest of the Debtors, their estates, and their creditors and, therefore, should be granted.

C. The Court Should Confirm that Outstanding Purchase Orders are Administrative Expense Priority Claims and that Payment of Such Claims is Authorized

45. It is necessary to the uninterrupted operations of the Debtors' businesses that obligations owed under the Outstanding Purchase Orders related to Parts delivered postpetition be explicitly granted administrative expense status. Pursuant to Section 503(b)(1)(A) of the Bankruptcy Code, obligations that arise in connection with the postpetition delivery of necessary

⁶ Because of the voluminous nature of the unreported orders cited herein, copies of the orders are not attached to this motion. Copies of the orders will be made available upon request.

goods and services are afforded administrative expense priority status. *See, e.g., Frito-Lay, Inc. v. LTV Steel Co. (In re Chateaugay Corp.)*, 10 F.3d 944, 956 (2d Cir. 1993) (“[A] claim will be afforded priority ‘only to the extent that the consideration supporting the claimant’s right to payment was both supplied to and beneficial to the debtor-in-possession in the operation of the business.’”) (quoting *Trustees of Amalgamated Ins. Fund v. McFarlin’s, Inc.*, 789 F.2d 98, 101 (2d Cir. 1986) (quoting *In re Mammoth Mart, Inc.*, 536 F.2d 950, 954 (1st Cir. 1976))); *In re John Clay & Co.*, 43 B.R. 797, 809-10 (Bankr. D. Utah 1984) (holding that goods ordered prepetition but delivered postpetition are entitled to administrative priority); *In re AMR Corp.*, No. 11-15463, 2011 WL 6841206 (Bankr. S.D.N.Y. Nov. 30, 2011) (final order ruling that the Debtors’ undisputed obligations that arise from the postpetition delivery of materials, goods, and services that were ordered in the prepetition period shall have administrative expense priority status pursuant to Section 503(b) of the Bankruptcy Code). Thus, the granting of the relief requested herein will not provide the vendors and suppliers with any greater priority than they otherwise would have if the relief were not granted, and will not prejudice any other parties in interest.

46. Obtaining an order confirming the Debtors’ ability to pay Outstanding Purchase Orders will provide those vendors with assurance of payment and thus, avoid potential disruption in the Debtors’ operations. As discussed, any delay in the shipment or delivery of Parts could cause significant harm to the Debtors. Further, absent the relief requested herein, the Debtors may be required to expend substantial time and effort re-issuing the Outstanding Purchase Orders. The disruption to the continuous flow of Parts to the Debtors that would be caused by this administrative burden could seriously impact the Debtors’ ability to operate their businesses.

47. Moreover, the Debtors' satisfaction of undisputed obligations owed to vendors in respect of the Outstanding Purchase Orders is consistent with their customary practices and thus also authorized under Section 363(c)(1) of the Bankruptcy Code, which provides that a debtor in possession "may use property of the estate in the ordinary course of business without notice or a hearing." Without the support of these vendors, the Debtors will incur significant costs and lose valuable business relationships to the detriment of all parties in interest.

48. Based upon the foregoing, the relief requested herein is essential, appropriate, and in the best interest of the Debtors' estates and creditors and, therefore, should be granted.

D. Banks Should be Authorized to Receive, Process, Honor and Pay Checks Issued and Transfers Requested to Pay the Potential Lien Claimants

49. The Debtors have sufficient funds to pay the amounts described herein in the ordinary course of business by virtue of expected cash flows from ongoing business operations, subject to the terms, conditions, limitations, and requirements of the financing orders entered in the Chapter 11 Cases (together with any approved budgets in connection therewith, the "**DIP Orders**") in favor of Wells Fargo Bank, N.A., as agent (the "**DIP Revolving Agent**") under the proposed first lien super-priority revolving credit facility (the "**DIP Revolving Facility**"), and Wilmington Trust, National Association, as trustee and notes collateral agent (the "**DIP Term Agent**") under the proposed second lien super-priority term loan facility (the "**DIP Term Facility**"). The Debtors further request that the Court authorize and direct the Banks to receive, process, honor and pay, to the extent of funds on deposit, any and all checks issued or to be issued, and electronic funds transfers requested or to be requested by the Debtors relating to the Potential Lien Claimants, subject to the terms and conditions of the Order attached hereto. The Debtors also seek authority, but not direction, to issue new postpetition checks or effect new postpetition electronic funds transfers in replacement of any checks or transfer requests on

account of the Potential Lien Claimants dishonored or rejected as a result of the commencement of the Debtors' Chapter 11 Cases.

Request for Waiver of Bankruptcy Rule 6004

50. The Debtors request a waiver of any stay of the effectiveness of the order approving this Motion under Bankruptcy Rule 6004(h). Pursuant to Bankruptcy Rule 6004(h), “[a]n order authorizing the use, sale, or lease of property other than cash collateral is stayed until the expiration of 14 days after entry of the order, unless the court orders otherwise.” Fed. R. Bankr. P. 6004(h). As set forth above, proposed payment on account of the Potential Lien Claimants is essential to prevent irreparable harm to the Debtors' operations. The Debtors submit that ample cause exists to justify the waiver of the fourteen-day stay imposed by Bankruptcy Rule 6004(h), to the extent such stay applies.

Reservation of Rights

51. Nothing contained herein is intended or shall be construed as (i) an admission as to the validity and/or priority of any claim against the Debtors, (ii) a waiver of the Debtors' or any party in interest's rights to dispute the amount of, basis for or validity of any claim of the Potential Lien Claimants under applicable non-bankruptcy law, (iii) a waiver of any claims or causes of action which may exist against any Fuel Provider, 503(b)(9) Claimant, and/or Potential Lien Claimant, or (iv) an assumption, adoption or rejection of any contract or lease between the Debtors and any third party under Section 365 of the Bankruptcy Code. The Debtors are in the process of reviewing these matters and reserve all of their rights under the Bankruptcy Code.

Notice

52. No trustee, examiner or creditors' committee has been appointed in the Chapter 11 Cases. Notice of this Motion will be provided to: (i) the Office of the United States Trustee;

(ii) the holders of the 20 largest unsecured claims against Erickson Incorporated and Erickson Helicopters, Inc.;⁷ (iii) Randall Klein, Goldberg Kohn, Ltd., 55 East Monroe Street, Suite 3300, Chicago, Illinois 60603-5792, lead counsel for Wells Fargo Bank, N.A., as DIP Revolving Agent and Existing First Lien Agent; (v) David Weitman, K&L Gates LLP, 1717 Main Street, Suite 2800, Dallas, Texas 75201, local counsel for Wells Fargo Bank, N.A., as DIP Revolving Agent and Existing First Lien Agent; (v) Scott L. Alberino, Akin Gump Strauss Hauer & Feld LLP, 1333 New Hampshire Avenue, N.W., Washington, DC 20036-1564, counsel for an ad hoc group of holders of 8.25% Second Priority Senior Secured Promissory Notes due 2020; (vi) Edward M. Fox, Esq., Seyfarth Shaw LLP, 620 8th Avenue, New York, NY 10018, counsel to Wilmington Trust, National Association, as indenture trustee and notes collateral agent for the 8.25% Second Priority Senior Secured Promissory Notes due 2020; (vii) the Securities and Exchange Commission; and (viii) the Internal Revenue Service. Due to the urgency of the circumstances surrounding this Motion and the nature of the relief requested herein, the Debtors respectfully submit that no further notice of this Motion is required.

⁷ Erickson Incorporated and Erickson Helicopters, Inc. are the only Debtors with holders of unsecured claims.

WHEREFORE the Debtors respectfully request that the Court grant the relief requested herein and such other and further relief as it deems just and proper.

RESPECTFULLY SUBMITTED this 9th day of November, 2016.

HAYNES AND BOONE, LLP

By: /s/ Kenric D. Kattner
Kenric D. Kattner
State Bar No. 11108400
Kourtney Lyda
State Bar No. 24013330
1221 McKinney Street, Suite 2100
Houston, TX 77010
Telephone: 713.547.2000
Facsimile: 713.547.2600
Email: kenric.kattner@haynesboone.com
Email: kourtney.lyda@haynesboone.com

and

Ian T. Peck
State Bar No. 24013306
David Staab
State Bar No. 24093194
2323 Victory Avenue, Suite 700
Dallas, TX 75219
Telephone: 214.651.5000
Facsimile: 214.651.5940
Email: ian.peck@haynesboone.com
Email: david.staab@haynesboone.com

PROPOSED ATTORNEYS FOR DEBTORS

CERTIFICATE OF CONFERENCE

I hereby certify that on or before November 8, 2016, the undersigned counsel for the Debtors conferred with and received comments to this Motion from (i) Randall Klein, Goldberg Kohn, Ltd., lead counsel for Wells Fargo Bank, N.A., as DIP Revolving Agent and Existing First Lien Agent, (ii) Scott L. Alberino and Brad M. Kahn, Akin Gump Strauss Hauer & Feld LLP, counsel for an ad hoc group of holders of 8.25% Second Priority Senior Secured Promissory Notes due 2020, and (iii) Edward M. Fox, Esq., Seyfarth Shaw LLP, counsel to Wilmington Trust, National Association, as indenture trustee and notes collateral agent for the 8.25% Second Priority Senior Secured Promissory Notes due 2020.

I hereby also certify that on November 8, 2016, the undersigned counsel for the Debtors conferred regarding this Motion with the Office of the United States Trustee for the Northern District of Texas, which has not indicated whether it consents or objects to this Motion.

/s/ Ian T. Peck

Ian T. Peck

EXHIBIT A

Proposed Interim Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:	§	Chapter 11
	§	
ERICKSON INCORPORATED, et al.,¹	§	Case No. 16-34393-hdh
	§	
Debtors.	§	(Joint Administration Requested)

INTERIM ORDER AUTHORIZING DEBTORS TO PAY (I) CERTAIN PREPETITION AMOUNTS TO FUEL PROVIDERS, 503(b)(9) CLAIMANTS, POTENTIAL LIEN CLAIMANTS AND CERTAIN ESSENTIAL VENDORS; AND (II) CONFIRMING ADMINISTRATIVE STATUS FOR CERTAIN PARTS DELIVERED TO DEBTORS POSTPETITION PURSUANT TO SECTIONS 105(a), 363(b), AND 503(b) OF THE BANKRUPTCY CODE AND BANKRUPTCY RULE 6004

Upon the Motion, dated November 8, 2016 (the “**Motion**”),² of Erickson Incorporated and its above-captioned debtor affiliates, as debtors and debtors in possession (collectively, the “**Debtors**”), for an order pursuant to Sections 105(a), 363(b) and 503(b) of title 11 of the United States Code (the “**Bankruptcy Code**”) and Rule 6004 of the Federal Rules of Bankruptcy

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: Erickson Incorporated (7561); EAC Acquisition Corporation (3733); Erickson Helicopters, Inc. (5052); Erickson Transport, Inc. (9162); Evergreen Helicopters International, Inc. (1311); Evergreen Equity, Inc. (9209); and Evergreen Unmanned Systems, Inc. (3961). The location of the Debtors’ service address is 5550 SW Macadam Avenue, Suite 200, Portland, OR 97239.

² Capitalized terms not defined herein shall have the meanings ascribed to them in the Motion.

Procedure (the “**Bankruptcy Rules**”) authorizing, but not directing, the Debtors to pay, in their sole discretion, (i) certain prepetition amounts to Fuel Providers, 503(b)(9) Claimants, Potential Lien Claimants, and certain Essential Vendors (each as defined in the Motion) that the Debtors determine, in the exercise of their business judgment, to be necessary or appropriate to maintain operations and obtain the release of goods, including but not limited to, helicopter parts, ground support equipment, tools, inventory, supplies, equipment, components, and other materials (collectively, the “**Parts**”) held by any Potential Lien Claimants, (ii) confirming the administrative status of claims related to certain Parts ordered prepetition but delivered to the Debtors postpetition, and (iii) authorizing applicable banks and financial institutions (collectively, the “**Banks**”) to receive, honor, process and pay all checks issued or to be issued and electronic funds transfers requested or to be requested relating to the above, all as more fully described in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to (a) the Office of the United States Trustee; (b) the holders of the 20 largest unsecured claims against Erickson Incorporated and Erickson Helicopters, Inc.³; (c) Randall Klein, Goldberg Kohn, Ltd., 55 East Monroe Street, Suite 3300, Chicago, Illinois 60603-5792, lead counsel for Wells Fargo Bank, N.A., as DIP Revolving Agent and Existing First Lien Agent; (d) David Weitman, K&L Gates LLP, 1717 Main Street, Suite 2800, Dallas, Texas 75201, local counsel for Wells Fargo Bank, N.A., as DIP Revolving Agent and Existing First Lien Agent; (e) Scott L. Alberino, Akin Gump Strauss Hauer & Feld LLP, 1333 New Hampshire Avenue, N.W., Washington, DC 20036-1564, counsel for an ad hoc group

³ Erickson Incorporated and Erickson Helicopters, Inc. are the only Debtors with holders of unsecured claims.

of holders of 8.25% Second Priority Senior Secured Promissory Notes due 2020; (f) Edward M. Fox, Esq., Seyfarth Shaw LLP, 620 8th Avenue, New York, NY 10018, counsel to Wilmington Trust, National Association, as indenture trustee and notes collateral agent for the 8.25% Second Priority Senior Secured Promissory Notes due 2020; (g) the Securities and Exchange Commission; and (h) the Internal Revenue Service (collectively, the “**Notice Parties**”); and it appearing that no other or further notice need be provided; and a hearing having been held to consider the relief requested in the Motion (the “**Hearing**”); and upon the appearances of all interested parties having been noted in the record of the Hearing; and upon the record of the Hearing and all of the proceedings had before the Court; and upon the *Declaration of David Lancelot in Support of the Debtors’ Chapter 11 Petitions and First Day Relief*, filed contemporaneously with the Motion; and the Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors, their estates and creditors, and all parties in interest and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is hereby ORDERED that:

1. The Motion is granted on an interim basis as set forth herein.
2. The Debtors are authorized, but not directed, to make payments in an amount up to \$6 million, to Fuel Providers, 503(b)(9) Claimants, Potential Lien Claimants, and certain Essential Vendors, including, without limitation, Repair Shops, Shippers, Warehousemen, and Other Lien Claimants, whether relating to the period before or after the Petition Date, as the Debtors determine, in the exercise of their business judgment, to be necessary or appropriate to obtain access to Parts.

3. Notwithstanding anything to the contrary herein, any payments made or to be made under this Order with respect to such claims shall be subject to the terms, conditions, limitations, and requirements of the financing orders entered in the Chapter 11 Cases (together with any approved budgets in connection therewith, the “**DIP Orders**”) in favor of Wells Fargo Bank, N.A., as agent (the “**DIP Revolving Agent**”) under the proposed first lien super-priority revolving credit facility (the “**DIP Revolving Facility**”), and Wilmington Savings Fund Society, FSB, as administrative agent and collateral agent (the “**DIP Term Agent**,” together with the DIP Revolving Agent, the “**DIP Agents**”) under the proposed second lien super-priority term loan facility (the “**DIP Term Facility**,” together with the DIP Revolving Facility, the “**DIP Facility**”).

4. Any payment in excess of \$50,000 under this Order shall be subject to the consent of the Backstop Parties (as defined in the DIP Orders); provided, that if the Backstop Parties do not object in writing (including email) to the payment of such amounts within 48 hours of receiving notice (including email) from the Debtors, the Backstop Parties shall be deemed to have consented.

5. The Debtors are authorized, but not directed, to obtain written verification (a “**Vendor Agreement**”) substantially in the form as the agreement attached to this Order as Exhibit 1, before issuing payment hereunder, from any 503(b)(9) Claimant or Potential Lien Claimant that such claimant shall continue to provide services to the Debtors during the pendency of the Chapter 11 Cases on the most favorable terms that existed in the one (1) year before the Petition; provided that the absence of such written verification shall not limit the Debtors’ rights hereunder.

6. If a 503(b)(9) Claimant or Potential Lien Claimant has received payment of its claim and later refuses to continue supplying goods or services for the applicable period in compliance with a Vendor Agreement, this Order, or such terms as were individually agreed to between the Debtors and such claimant, the Debtors may, in their discretion, declare that (i) the payment of the 503(b)(9) Claimant's or Potential Lien Claimant's claim is a voidable postpetition transfer pursuant to Section 549(a) of the Bankruptcy Code that the Debtors may recover in cash or in goods from such claimant (including by setoff against postpetition obligations); or (ii) the 503(b)(9) Claimant and Potential Lien Claimant shall immediately return the payment of its claim without giving effect to alleged setoff rights, recoupment rights, adjustments, or offsets of any type whatsoever, and the claim shall be reinstated in such an amount so as to restore the Debtors and the 503(b)(9) Claimant and Potential Lien Claimant to their original positions as if the Vendor Agreement had never been entered into and no payment of the such claim had been made.

7. Nothing in this Interim Order or in the Motion shall be deemed to be a waiver of the Debtors' rights to challenge the extent, validity, or priority or seek the possible avoidance of any liens asserted or threatened by any 503(b)(9) Claimant and/or Potential Lien Claimant.

8. For any payments to 503(b)(9) Claimant or Potential Lien Claimants on account of liens obtained by the 503(b)(9) Claimant and or Lien Claimants, the such claimants receiving the payments shall take whatever action is necessary to remove such liens, if any, at such Potential Lien Claimant's sole cost and expense.

9. Pursuant to Sections 503(b) and 363(c)(1) of the Bankruptcy Code, the Debtors are authorized to pay in the ordinary course of their businesses all undisputed obligations arising from the postpetition delivery or shipment by vendors of Parts under Outstanding Purchase

Orders consistent with their customary practice. The undisputed obligations of the Debtors arising under the Outstanding Purchase Orders shall be afforded administrative expense priority status pursuant to Section 503(b)(1)(A) of the Bankruptcy Code, subject in all respects to Sections 364(c)(1) and 507(b) superpriority administrative claims in favor of the DIP Revolving Agent and the Prepetition First Lien Agent.

10. Nothing in this Interim Order or in the Motion shall be construed to limit, or in any way affect, the Debtors' ability to dispute or contest the amount of or basis for any claims against the Debtors arising in connection with the Outstanding Purchase Orders.

11. The Banks are authorized, at the Debtors' request, to receive, process, honor and pay, to the extent of cleared and sufficient funds on deposit, any and all checks issued or to be issued or electronic funds transfers requested or to be requested by the Debtors relating to this Order. The Banks shall not be liable to any party on account of: (a) following the Debtors' representations, instructions, or presentations as to any order of the Court (without any duty of further inquiry); (b) the honoring of any prepetition checks, drafts, or wires in a good faith belief or upon a representation by the Debtors that the Court has authorized such prepetition check, draft, or wire; or (c) an innocent mistake made despite implementation of reasonable handling procedures. The Banks may rely on the representations of the Debtors regarding which checks that were drawn or instructions that were issued by the Debtors before the Petition Date should be honored postpetition pursuant to an Order of this Court.

12. The Debtors are authorized, but not directed, to issue new postpetition checks, or effect new electronic fund transfers, on account of payments to Fuel Providers, 503(b)(9) Claimants, Potential Lien Claimants and/or Essential Vendors to replace any prepetition checks

or electronic fund transfer requests that may be lost or dishonored or rejected as a result of the commencement of the Debtors' chapter 11 cases.

13. Nothing contained in this Interim Order or in the Motion is intended to be or shall be construed as (a) an admission as to the validity or priority of any claim against the Debtors, (b) a waiver of the Debtors' or any appropriate party in interest's rights to dispute any claim, or (c) an approval or assumption of any agreement, contract, program, policy, or lease under Section 365 of the Bankruptcy Code. Likewise any payment made pursuant to this Order is not intended to be and shall not be construed as an admission to the validity of any claim or a waiver of the Debtors' rights to dispute such claim subsequently.

14. Notwithstanding entry of this Interim Order, nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by any party.

15. Entry of this Interim Order is necessary to avoid immediate and irreparable harm and, to the extent the relief granted herein implicates the use of property of the estate and Section 363 of the Bankruptcy Code, the requirements under Bankruptcy Rule 6003(b) have been satisfied.

16. Notwithstanding any applicability of Bankruptcy Rule 6004(h), the terms and conditions of this Interim Order shall be immediately effective and enforceable upon its entry.

17. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Interim Order in accordance with the Motion.

18. This Court shall retain exclusive jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation and/or enforcement of this Interim Order.

###END OF ORDER###

Submitted by:

HAYNES AND BOONE, LLP

Kenric D. Kattner
State Bar No. 11108400
Kourtney Lyda
State Bar No. 24013330
1221 McKinney Street, Suite 2100
Houston, TX 77010
Telephone: 713.547.2000
Facsimile: 713.547.2600
Email: kenric.kattner@haynesboone.com
Email: kourtney.lyda@haynesboone.com

and

Ian T. Peck
State Bar No. 24013306
David Staab
State Bar No. 24093194
2323 Victory Avenue, Suite 700
Dallas, TX 75219
Telephone: 214.651.5000
Facsimile: 214.651.5940
Email: ian.peck@haynesboone.com
Email: david.staab@haynesboone.com

PROPOSED ATTORNEYS FOR DEBTORS

Exhibit 1

_____, 2016

TO: [Vendor Name]
[Vendor Address]

Dear Valued Vendor:

As you are no doubt aware, on November 8, 2016 (the "**Petition Date**"), Erickson, Inc. and certain of its affiliates (the "**Debtors**") filed voluntary petitions under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Northern District of Texas (the "**Bankruptcy Cases**" and the "**Bankruptcy Court**", respectively). On the Petition Date, we requested the Bankruptcy Court's authority to pay certain suppliers or service providers in recognition of the importance of our relationship with such suppliers and service providers and our desire that the Bankruptcy Cases have as little effect on them as possible. On _____, 2016, the Bankruptcy Court entered an order (the "**Order**") authorizing us, under certain conditions, to pay pre-bankruptcy claims of certain creditors that agree to the terms set forth below and agree to be bound by the terms of the Order. A copy of the Order is enclosed.

In order to receive payment on pre-bankruptcy claims, each selected Essential vendor must agree to continue supplying goods or services to the Debtors based on acceptable and "**Customary Trade Terms**." Customary Trade Terms are defined as the normal and customary trade terms, practices and programs (including, but not limited to, credit limits, pricing, cash discounts, timing of payments, allowance, rebates, coupon reconciliation, normal product mix and availability and other applicable terms and programs) in effect between such creditor and the Debtors on a historical basis one (1) year to the Petition Date or such other trade terms, practices and programs that are at least as favorable to the Debtors as those in effect at such time.

For purposes of administration of this trade program as authorized by the Bankruptcy Court, the Debtors and you agree as follows:

1. The estimated Balance of the Prepetition claim (net of any setoffs, credits or discounts (the "**Claim**")) that the Debtors will pay you is \$_____ (the "**Prepetition Claim Payment**").
2. You will provide terms as follows (if more space is required, attach continuation pages):
3. In consideration for the payment described herein, you agree that, if you have taken steps to file or assert a lien on the Debtors' assets prior to entering to this letter agreement, you agree to take all necessary steps to remove such lien as soon as possible.
4. You will hereafter extend to the Debtors all Customary Trade Terms (as defined in the Order).

Payment of your Claim in the manner set forth in the Order may occur only upon execution of this letter by a duly authorized representative of your company and the return of this letter to the Debtors. Your execution of this letter agreement and return of the same to the Debtors constitutes an agreement by

you and the Debtors. You agree to be bound by the Order and you submit to the jurisdiction of the Bankruptcy Court for enforcement thereof, and you further agree and/or represent

(a) to the Customary Trade Terms and, subject to the reservations contained in the Order, to the amount of the Trade Claim set forth above;

(b) that, for a period of no less than one year from the Petition Date, you will continue to supply the Debtors with goods or services, as applicable, pursuant to the Customary Trade Terms and that the Debtors will pay for such goods in accordance with Customary Trade Terms;

(c) that you have reviewed the terms and provisions of the Order and that you consent to be bound by such terms; and

(d) that you will not separately seek payment for reclamation and similar claims outside the terms of the Order unless your participation in the trade program authorized by the Order (the **“Trade Payment Program”**) is terminated.

5. Notwithstanding the foregoing, if you receive the Prepetition Claim Payment from the Debtors based on any pre-bankruptcy amount owing to you and you do not extend to the Debtors all Customary Trade Terms (as defined in the Order), you are required to return the Prepetition Claim Payment to the Debtors.

The Debtors and you also hereby agree that any dispute with respect to this agreement, the Order and/or your participation in the Trade Payment Program shall be determined by the Bankruptcy Court.

If you have any questions about this Agreement or our financial restructuring, please do not hesitate to call (_____) _____ or (_____) _____.

Sincerely,

Erickson Incorporated

By: _____

Its: _____

Agree and Accepted By:
[Name of Vendor]

By: _____

Its: _____

Dated _____

EXHIBIT B

Proposed Final Order

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

In re:	§	Chapter 11
	§	
ERICKSON INCORPORATED, <i>et al.</i>, ¹	§	Case No. 16-34393-hdh
	§	
Debtors.	§	(Joint Administration Requested)

FINAL ORDER AUTHORIZING DEBTORS TO PAY (I) CERTAIN PREPETITION AMOUNTS FOR FUEL PROVIDERS, 503(b)(9) CLAIMANTS, POTENTIAL LIEN CLAIMANTS AND CERTAIN ESSENTIAL VENDORS; AND (II) CONFIRMING ADMINISTRATIVE STATUS FOR CERTAIN PARTS DELIVERED TO DEBTORS POSTPETITION PURSUANT TO SECTIONS 105(a), 363(b), AND 503(b) OF THE BANKRUPTCY CODE AND BANKRUPTCY RULE 6004

Upon the Motion, dated November 8, 2016 (the “**Motion**”),² of Erickson Incorporated and its above-captioned debtor affiliates, as debtors and debtors in possession (collectively, the “**Debtors**”), for an order pursuant to Sections 105(a), 363(b) and 503(b) of title 11 of the United States Code (the “**Bankruptcy Code**”) and Rule 6004 of the Federal Rules of Bankruptcy

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: Erickson Incorporated (7561); EAC Acquisition Corporation (3733); Erickson Helicopters, Inc. (5052); Erickson Transport, Inc. (9162); Evergreen Helicopters International, Inc. (1311); Evergreen Equity, Inc. (9209); and Evergreen Unmanned Systems, Inc. (3961). The location of the Debtors’ service address is 5550 SW Macadam Avenue, Suite 200, Portland, OR 97239.

² Capitalized terms not defined herein shall have the meanings ascribed to them in the Motion.

Procedure (the “**Bankruptcy Rules**”) authorizing, but not directing, the Debtors to pay, in their sole discretion, (i) certain prepetition amounts to Fuel Providers, 503(b)(9) Claimants, Potential Lien Claimants, and certain Essential Vendors (each as defined in the Motion) that the Debtors determine, in the exercise of their business judgment, to be necessary or appropriate to maintain operations and obtain the release of goods, including but not limited to, helicopter parts, ground support equipment, tools, inventory, supplies, equipment, components, and other materials (collectively, the “**Parts**”) held by any Potential Lien Claimants, (ii) confirming the administrative status of claims related to certain Parts ordered prepetition but delivered to the Debtors postpetition, and (iii) authorizing applicable banks and financial institutions (collectively, the “**Banks**”) to receive, honor, process and pay all checks issued or to be issued and electronic funds transfers requested or to be requested relating to the above, all as more fully described in the Motion; and the Court having jurisdiction to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to (a) the Office of the United States Trustee; (b) the holders of the 20 largest unsecured claims against Erickson Incorporated and Erickson Helicopters, Inc.;³ (c) Randall Klein, Goldberg Kohn, Ltd., 55 East Monroe Street, Suite 3300, Chicago, Illinois 60603-5792, lead counsel for Wells Fargo Bank, N.A., as DIP Revolving Agent and Existing First Lien Agent; (d) David Weitman, K&L Gates LLP, 1717 Main Street, Suite 2800, Dallas, Texas 75201, local counsel for Wells Fargo Bank, N.A., as DIP Revolving Agent and Existing First Lien Agent; (e) Scott L. Alberino, Akin Gump Strauss Hauer & Feld LLP, 1333 New Hampshire Avenue, N.W., Washington, DC 20036-1564, counsel for an ad hoc group

³ Erickson Incorporated and Erickson Helicopters, Inc. are the only Debtors with holders of unsecured claims.

of holders of 8.25% Second Priority Senior Secured Promissory Notes due 2020; (f) the Securities and Exchange Commission; and (g) the Internal Revenue Service (collectively, the “**Notice Parties**”); and it appearing that no other or further notice need be provided; and a hearing having been held to consider the relief requested in the Motion (the “**Hearing**”); and upon the appearances of all interested parties having been noted in the record of the Hearing; and upon the record of the Hearing and all of the proceedings had before the Court; and upon the *Declaration of David Lancelot in Support of the Debtors’ Chapter 11 Petitions and First Day Relief*, filed contemporaneously with the Motion; and the Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors, their estates and creditors, and all parties in interest and that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is hereby ORDERED that:

1. The Motion is granted as set forth herein.
2. The Debtors are authorized, but not directed, to make payments to Fuel Providers, 503(b)(9) Claimants, Potential Lien Claimants, and certain Essential Vendors, including, without limitation, Repair Shops, Shippers, Warehousemen, and Other Lien Claimants, whether relating to the period before or after the Petition Date, as the Debtors determine, in the exercise of their business judgment, to be necessary or appropriate to obtain access to Parts.
3. Notwithstanding anything to the contrary herein, any payments made or to be made under this Order with respect to such claims shall be subject to the terms, conditions, limitations, and requirements of the financing orders entered in the Chapter 11 Cases (together with any approved budgets in connection therewith, the “**DIP Orders**”) in favor of Wells Fargo Bank, N.A., as agent (the “**DIP Revolving Agent**”) under the proposed first lien super-priority revolving credit facility (the “**DIP Revolving Facility**”), and Wilmington Savings Fund Society,

FSB, as administrative agent and collateral agent (the “**DIP Term Agent**,” together with the DIP Revolving Agent, the “**DIP Agents**”) under the proposed second lien super-priority term loan facility (the “**DIP Term Facility**,” together with the DIP Revolving Facility, the “**DIP Facility**”).

4. Any payment in excess of \$50,000 under this Order shall be subject to the consent of the Backstop Parties (as defined in the DIP Orders); provided, that if the Backstop Parties do not object in writing (including email) to the payment of such amounts within 48 hours of receiving notice (including email) from the Debtors, the Backstop Parties shall be deemed to have consented.

5. The Debtors are authorized, but not directed, to obtain written verification (a “**Vendor Agreement**”) substantially in the form as the agreement attached to this Order as Exhibit 1, before issuing payment hereunder, from any 503(b)(9) Claimant or Potential Lien Claimant that such claimant shall continue to provide services to the Debtors during the pendency of the Chapter 11 Cases on the most favorable terms that existed in the one (1) year before the Petition; provided that the absence of such written verification shall not limit the Debtors’ rights hereunder.

6. If a 503(b)(9) Claimant or Potential Lien Claimant has received payment of its claim and later refuses to continue supplying goods or services for the applicable period in compliance with a Vendor Agreement, this Order, or such terms as were individually agreed to between the Debtors and such claimant, the Debtors may, in their discretion, declare that (i) the payment of the 503(b)(9) Claimant’s or Potential Lien Claimant’s claim is a voidable postpetition transfer pursuant to Section 549(a) of the Bankruptcy Code that the Debtors may recover in cash or in goods from such claimant (including by setoff against postpetition obligations); or (ii) the 503(b)(9) Claimant and Potential Lien Claimant shall immediately return

the payment of its claim without giving effect to alleged setoff rights, recoupment rights, adjustments, or offsets of any type whatsoever, and the claim shall be reinstated in such an amount so as to restore the Debtors and the 503(b)(9) Claimant and Potential Lien Claimant to their original positions as if the Vendor Agreement had never been entered into and no payment of the such claim had been made.

7. Nothing herein or in the Motion shall be deemed to be a waiver of the Debtors' rights to challenge the extent, validity, or priority or seek the possible avoidance of any liens asserted or threatened by any 503(b)(9) Claimant or Potential Lien Claimant.

8. For any payments to 503(b)(9) Claimant or Potential Lien Claimants on account of liens obtained by the 503(b)(9) Claimant and or Lien Claimants, the such claimants receiving the payments shall take whatever action is necessary to remove such liens, if any, at such Potential Lien Claimant's sole cost and expense.

9. The undisputed obligations of the Debtors arising under the Outstanding Purchase Orders shall be afforded administrative expense priority status pursuant to Section 503(b)(1)(A) of the Bankruptcy Code, subject in all respects to the Sections 364(c)(1) and 507(b) superpriority administrative claims in favor of the DIP Revolving Agent and the Prepetition First Lien Agent.

10. Pursuant to Sections 503(b) and 363(c)(1) of the Bankruptcy Code, the Debtors are authorized to pay in the ordinary course of their businesses all undisputed obligations arising from the postpetition delivery or shipment by vendors of Parts under Outstanding Purchase Orders consistent with their customary practice.

11. Nothing herein or in the Motion shall be construed to limit, or in any way affect, the Debtors' ability to dispute or contest the amount of or basis for any claims against the Debtors arising in connection with the Outstanding Purchase Orders.

12. The Banks are authorized, at the Debtors' request, to receive, process, honor and pay, to the extent of cleared and sufficient funds on deposit, any and all checks issued or to be issued or electronic funds transfers requested or to be requested by the Debtors relating to this Order. The Banks shall not be liable to any party on account of: (a) following the Debtors' representations, instructions, or presentations as to any order of the Court (without any duty of further inquiry); (b) the honoring of any prepetition checks, drafts, or wires in a good faith belief or upon a representation by the Debtors that the Court has authorized such prepetition check, draft, or wire; or (c) an innocent mistake made despite implementation of reasonable handling procedures. The Banks may rely on the representations of the Debtors regarding which checks that were drawn or instructions that were issued by the Debtors before the Petition Date should be honored postpetition pursuant to an Order of this Court.

13. The Debtors are authorized, but not directed, to issue new postpetition checks, or effect new electronic fund transfers, on account of payments to Fuel Providers, 503(b)(9) Claimants, Potential Lien Claimants and Essential Vendors to replace any prepetition checks or electronic fund transfer requests that may be lost or dishonored or rejected as a result of the commencement of the Debtors' chapter 11 cases.

14. Nothing contained in this Order or in the Motion is intended to be or shall be construed as (a) an admission as to the validity or priority of any claim against the Debtors, (b) a waiver of the Debtors' or any appropriate party in interest's rights to dispute any claim, or (c) an approval or assumption of any agreement, contract, program, policy, or lease under Section 365 of the Bankruptcy Code. Likewise any payment made pursuant to this Order is not intended to be and shall not be construed as an admission to the validity of any claim or a waiver of the Debtors' rights to dispute such claim subsequently.

15. Notwithstanding entry of this Order, nothing herein shall create, nor is intended to create, any rights in favor of or enhance the status of any claim held by any party.

16. Notwithstanding any applicability of Bankruptcy Rule 6004(h), the terms and conditions of this Order shall be immediately effective and enforceable upon its entry.

17. The Debtors are authorized to take all actions necessary to effectuate the relief granted pursuant to this Order in accordance with the Motion.

18. This Court shall retain exclusive jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation and/or enforcement of this Order.

###END OF ORDER###

Submitted by:

HAYNES AND BOONE, LLP

Kenric D. Kattner
State Bar No. 11108400
Kourtney Lyda
State Bar No. 24013330
1221 McKinney Street, Suite 2100
Houston, TX 77010
Telephone: 713.547.2000
Facsimile: 713.547.2600
Email: kenric.kattner@haynesboone.com
Email: kourtney.lyda@haynesboone.com

and

Ian T. Peck
State Bar No. 24013306
David Staab
State Bar No. 24093194
2323 Victory Avenue, Suite 700
Dallas, TX 75219
Telephone: 214.651.5000
Facsimile: 214.651.5940
Email: ian.peck@haynesboone.com
Email: david.staab@haynesboone.com

PROPOSED ATTORNEYS FOR DEBTORS

Exhibit 1

_____, 2016

TO: [Vendor Name]
[Vendor Address]

Dear Valued Vendor:

As you are no doubt aware, on November 8, 2016 (the "**Petition Date**"), Erickson, Inc. and certain of its affiliates (the "**Debtors**") filed voluntary petitions under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the Northern District of Texas (the "**Bankruptcy Cases**" and the "**Bankruptcy Court**", respectively). On the Petition Date, we requested the Bankruptcy Court's authority to pay certain suppliers or service providers in recognition of the importance of our relationship with such suppliers and service providers and our desire that the Bankruptcy Cases have as little effect on them as possible. On _____, 2016, the Bankruptcy Court entered an order (the "**Order**") authorizing us, under certain conditions, to pay pre-bankruptcy claims of certain creditors that agree to the terms set forth below and agree to be bound by the terms of the Order. A copy of the Order is enclosed.

In order to receive payment on pre-bankruptcy claims, each selected Essential vendor must agree to continue supplying goods or services to the Debtors based on acceptable and "**Customary Trade Terms**." Customary Trade Terms are defined as the normal and customary trade terms, practices and programs (including, but not limited to, credit limits, pricing, cash discounts, timing of payments, allowance, rebates, coupon reconciliation, normal product mix and availability and other applicable terms and programs) in effect between such creditor and the Debtors on a historical basis one (1) year prior to the Petition Date or such other trade terms, practices and programs that are at least as favorable to the Debtors as those in effect at such time.

For purposes of administration of this trade program as authorized by the Bankruptcy Court, the Debtors and you agree as follows:

1. The estimated Balance of the Prepetition claim (net of any setoffs, credits or discounts (the "**Claim**")) that the Debtors will pay you is \$_____ (the "**Prepetition Claim Payment**").
2. You will provide terms as follows (if more space is required, attach continuation pages):
3. In consideration for the payment described herein, you agree that, if you have taken steps to file or assert a lien on the Debtors' assets prior to entering to this letter agreement, you agree to take all necessary steps to remove such lien as soon as possible.
4. You will hereafter extend to the Debtors all Customary Trade Terms (as defined in the Order).

Payment of your Claim in the manner set forth in the Order may occur only upon execution of this letter by a duly authorized representative of your company and the return of this letter to the Debtors. Your execution of this letter agreement and return of the same to the Debtors constitutes an agreement by

you and the Debtors. You agree to be bound by the Order and you submit to the jurisdiction of the Bankruptcy Court for enforcement thereof, and you further agree and/or represent

(a) to the Customary Trade Terms and, subject to the reservations contained in the Order, to the amount of the Trade Claim set forth above;

(b) that, for a period of no less than one year from the Petition Date, you will continue to supply the Debtors with goods or services, as applicable, pursuant to the Customary Trade Terms and that the Debtors will pay for such goods in accordance with Customary Trade Terms;

(c) that you have reviewed the terms and provisions of the Order and that you consent to be bound by such terms; and

(d) that you will not separately seek payment for reclamation and similar claims outside the terms of the Order unless your participation in the trade program authorized by the Order (the "**Trade Payment Program**") is terminated.

5. Notwithstanding the foregoing, if you receive the Prepetition Claim Payment from the Debtors based on any pre-bankruptcy amount owing to you and you do not extend to the Debtors all Customary Trade Terms (as defined in the Order), you are required to return the Prepetition Claim Payment to the Debtors.

The Debtors and you also hereby agree that any dispute with respect to this agreement, the Order and/or your participation in the Trade Payment Program shall be determined by the Bankruptcy Court.

If you have any questions about this Agreement or our financial restructuring, please do not hesitate to call (_____) _____ or (_____) _____.

Sincerely,

Erickson Incorporated

By: _____

Its: _____

Agree and Accepted By:
[Name of Vendor]

By: _____

Its: _____

Dated _____