

ONTARIO
SUPERIOR COURT OF JUSTICE
IN THE MATTER OF THE PROPOSAL OF
MITOMICS INC.

AMENDED PROPOSAL

Mitomics Inc. (“**Mitomics**” or the “**Debtor**”) by Dodick Landau Inc. in its capacity as court appointed receiver of all of the assets, undertakings and properties of Mitomics hereby submits the following proposal (“**Proposal**”) pursuant to the provisions of the *Bankruptcy and Insolvency Act* (Canada), R.S.C. 1985, c. B-3.

PART I

Interpretation

Definitions

- 1.1 In this Proposal unless otherwise stated or the context otherwise requires, capitalized terms shall have the following meanings:
- (a) “**Accredited Investor**” means an Accredited Investor as defined in National Instrument 45-106;
 - (b) “**Act**” means the *Bankruptcy and Insolvency Act*, (Canada) R.S.C. 1985, c. B-3, as it may be amended from time to time;
 - (c) “**Administrative Fees and Expenses**” means the proper fees and expenses of the Trustee and the Debtor incidental to the preparation, presentation, consideration and implementation of the Proposal, any amendments thereto, and the proceedings, transactions and agreements contemplated thereby or arising therefrom, including all legal fees and disbursements incurred by the Receiver/Trustee and the Debtor;
 - (d) “**Administration Charge**” has the meaning ascribed to it in the Receivership Order.
 - (e) “**Approval Order**” means an Order of the Court approving (i) this Proposal pursuant to the provisions of the Act, and (ii) the Purchase Transaction contemplated by the Purchase Agreement;
 - (f) “**Assets**” means the Purchased Assets;

- (g) “**Business Day**” means a day, other than a Saturday, Sunday or a day observed as a holiday under the laws of the Province of Ontario or the federal laws of Canada applicable therein on which banks are generally open for business in Thunder Bay, Ontario;
- (h) “**Claim**” means any right of any person against the Debtor in connection with any indebtedness, liability, or obligation of any nature whatsoever of the Debtor to any person, whether liquidated, unliquidated, fixed, contingent, matured, legal, equitable, secured, unsecured, present, future, known or unknown, and whether by guarantee, surety or otherwise, incurred or arising or relating to the period prior to the Receivership Date, where such claims are proved and allowed, and “**Claims**” has a corresponding meaning;
- (i) “**Court**” means the Ontario Superior Court of Justice;
- (j) “**Creditor**” means any person who holds one or more Claims, including Secured Creditors and Unsecured Creditors and “**Creditors**” has a corresponding meaning;
- (k) “**Creditors' Meeting**” means a meeting of the Unsecured Creditors or a meeting of the Secured Creditors called for the purpose of considering and voting on the Proposal;
- (l) “**Effective Date**” means the date upon which the Approval Order becomes final and non-appealable;
- (m) “**Event of Default**” has the meaning given to it in Part X of this Proposal;
- (n) “**Inspector**” means an inspector appointed, if any pursuant to the Proposal in accordance with the provisions of the Act;
- (o) “**Dodick Landau**” means Dodick Landau Inc.;
- (p) “**Ordinary Creditor**” means a Creditor with a Proven Claim, except for those Claims that:
- (i) the Trustee determines not to be a provable claim in accordance with section 135(1.1) of the Act;
 - (ii) have been finally and conclusively disallowed in accordance with the Act;
 - (iii) are claims by Preferred Creditors;
- and “**Ordinary Creditors**” has a corresponding meaning;
- (q) “**Performance of the Proposal**” means full performance of this Proposal as set out in Part III, section 3.2 hereof;
- (r) “**Post Receivership Goods and Services**” means the goods and services purchased by the Debtor subsequent to the Receivership Date;

- (s) **“Preferred Creditor”** means a Creditor with a Proven Claim that is required by the Act to be paid in priority to all other Claims under a proposal made by debtor and including, without limitation:
- (i) employees and former employees of the Debtor, not to include independent commissioned sales agents or contractors, for amounts equal to the amounts that they would be qualified to receive under subsection **136(1)(d)** of the Act if the Debtor had become a bankrupt on the Receivership Date, as well as wages, salaries, commissions or compensation for services rendered after that date and before Court approval of the Proposal;
 - (ii) Her Majesty in Right of Canada or a Province for all amounts that were outstanding at the Receivership Date and are of a kind that could be subject to a demand under.
 - (A) subsection 224(1.2) of the *Income Tax Act* (Canada);
 - (B) any provision of the *Canada Pension Plan* or of the *Employment Insurance Act* that refers to subsection 224(1.2) of the *Income Tax Act* (Canada) and provides for the collection of a contribution, as defined in the *Canada Pension Plan*, or an employee's premium, or employer's premium, as defined in the *Employment Insurance Act*, and of any related interest, penalties or other amounts; or
 - (C) any provision of provincial legislation that has a similar purpose to subsection 224(1.2) of the *Income Tax Act* (Canada), or that refers to that subsection, to the extent that it provides for the collection of a sum, and of any related interest, penalties or other amounts, where the sum
 - I. has been withheld or deducted by a person from a payment to another person and is in respect of a tax similar in nature to the income tax imposed on individuals under the *Income Tax Act* (Canada), or
 - II. is of the same nature as a contribution under the *Canada Pension Plan* if the province is a “province providing a comprehensive pension plan” as defined in subsection 3(1) of the *Canada Pension Plan* and the provincial legislation establishes a “provincial pension plan” as defined in that subsection;
- and **“Preferred Creditors”** has a corresponding meaning;
- (t) **“Proposal”** means this Proposal and any amendments thereto;
 - (u) **“Proof of Claim”** means the proof of claim required by the Act to be provided to each known Creditor prior to the Creditors' Meeting;
 - (v) **“Proven Claim”** of a Creditor means the amount of the Claim of such Creditor finally determined in accordance with the provisions of the Act;

- (w) **“Purchase Agreement”** means the agreement of purchase and sale between Info Ontario Inc., Dodick Landau in its capacity as Receiver and Trustee, and Mitomics made as of October 6, 2014, substantively in the form attached to this Proposal, but absent the schedules annexed thereto, collectively as **Schedule “A”**;
- (x) **“Purchase Price”** means the payments to be made to the Trustee pursuant to the provisions of Part III of this Proposal;
- (y) **“Purchase Transaction”** means the purchase and sale transaction contemplated by the Purchase Agreement and the Term Sheet;
- (z) **“Purchased Assets”** means those assets purchased by the Purchaser, as described in the Purchase Agreement;
- (aa) **“Purchaser”** means 2436884 Ontario Inc.;
- (bb) **“Receiver”** means Dodick Landau in its capacity as court appointed receiver, without security, of all of the assets, undertakings and properties of Mitomics acquired for, or sued in relation to a business carried on by Mitomics including all proceeds thereof pursuant to Receivership Order;
- (cc) **“Receiver’s Borrowings Charge”** has the meaning ascribed to it in the Receivership Order;
- (dd) **“Receivership Date”** means August 14, 2014, being the date upon which the Receiver was appointed;
- (ee) **“Receivership Order”** means the order dated August 14, 2014 appointing Dodick Landau as Receiver;
- (ff) **“Retention Charge”** has the meaning ascribed to it in the September 11, 2014 order of the Court;
- (gg) **“Secured Creditor”** means any person holding a mortgage, hypothec, pledge, charge, lien, encumbrance, security interest or privilege on or against the property of the Debtor or any part thereof as security for a Claim, and **“Secured Creditors”** has a corresponding meaning;
- (hh) **“Security Documents”** means the general security agreements between the Purchaser and each Secured Creditor and the intercreditor agreement as described in Section 4.2 (g) and (h) hereof;
- (ii) **“Term Sheet”** means the term sheet annexed hereto as **Schedule “B”**;
- (jj) **“Trustee”** means Dodick Landau, or its duly appointed successor, in its capacity as proposal trustee under the Act;
- (kk) **“Unsecured Creditors”** means, collectively, the Preferred Creditors and the Ordinary Creditors;

- (ll) **“Unsecured Payment Fund”** means, an amount up to \$20,000 made available by the Purchaser to the Trustee to pay the Proven Claims of Unsecured Creditors pursuant to Section 4.7(b); and
- (mm) **“Voting Letter”** shall mean the voting letter required by subsection 51(1) of the Act to be mailed or sent by electronic transmission to each known Creditor prior to the Creditors' Meeting.

Headings

- 1.2 The division of this Proposal into Parts and Sections and the insertion of headings are for the convenience of reference only and do not affect the construction or interpretation of this Proposal. The terms “this Proposal”, “hereof”, “hereunder” and similar expressions refer to this entire Proposal and not to any particular Part, Section or other portion hereof and include any agreement supplemental hereto. Unless something in the subject matter or context is inconsistent herewith, references herein to Parts and Sections are to Parts and Sections of this Proposal.

Extended Meanings

- 1.3 In this Proposal words importing the singular number only include the plural and vice versa, words importing any gender include all genders and words importing persons include individuals, partnerships, associations, trusts, unincorporated organizations and corporations.

Date for Any Action

- 1.4 If any date on which any action required to be taken hereunder by any of the parties is not a Business Day, such action must be taken on the next succeeding day which is a Business Day unless precluded by statute.

Stay of Proceedings

- 1.5 During the Proposal, and provided an Event of Default has not occurred and the Proposal is continuing, each Unsecured Creditor will be stayed from commencing or continuing any proceeding or remedy against the Debtor or its property including the Assets based upon a Claim existing on or before the Receivership Date.

PART II

Classification of Creditors

Classes of Creditors

- 2.1 For the purposes of voting on the Proposal, the Creditors of the Debtor shall be composed of two classes, namely, Unsecured Creditors and Secured Creditors.

PART III

Proposal

Purpose and Implementation of Proposal

- 3.1 The purpose of this Proposal is to effect a restructuring of the business and affairs of the Debtor by completion of the Purchase Transaction with the expectation that all Creditors and other stakeholders will derive a greater benefit from the continued operation of the business and affairs of the Debtor than would result from a forced liquidation of its assets.
- 3.2 The consideration for the purchase of the Purchased Assets shall be equal to the aggregate sum set out in this section 3.2, estimated to be in the amount of nineteen million, sixty-four thousand, nine hundred thirty three dollars and fifty cents (\$19,064,933.50) (the "**Purchase Price**"). The Purchase Price shall comprise the following:
- (i) The Purchaser shall pay the sum of \$50,000 (the "**Deposit**") to the Trustee to be held in trust pending completion or termination of the Purchase Agreement and to be applied towards the payment of the Administration Fees and Expenses, any balance owing in respect of the Administration Charge, the Retention Charge and the costs payable to the Applicants under Court File No. CV14-0291.
 - (ii) On closing of the Purchase Agreement the Purchaser shall assume all DIP financing obligations of the Receiver, the payment of the Retention Charge, the payment of the Receiver's Borrowings Charge and all costs payable to the Applicants under Court File No. CV14-0291 (to extent not covered by the DIP financing or the Deposit);
 - (ii) On closing of the Purchase Agreement the Purchaser shall assume the indebtedness owing to the Secured Creditors (the "**Assumed Liabilities**"), to be assumed upon the terms as to interest, payment, security and priority as more particularly set out in section 4.2 below, provided that,
 - (A) in the case of Northern Ontario Heritage Fund ("**NOHFC**") which is prohibited from accepting the amended terms as set out in Schedule "B" of the Purchase Agreement by law, NOHFC shall receive an assumption of debt by the Purchaser and amended security as more particularly set out in section 4.3 hereto and,
 - (B) in the event any other Secured Creditor shall refuse the amended terms and/or to execute the Security Documents set out in section 4.2 (g) and (h) hereto, the Purchaser shall assume one-fifth (1/5) of the debt owed by Mitomics of such refusing Secured Creditor, to be repaid as to principal and interest and upon the same terms as set out in 4.3 hereto; and
 - (iii) On closing of the Purchase Agreement the Purchaser shall issue fully participating common shares in the share capital of the Purchaser to each unsecured creditor of Mitomics as set out in Section 4.6 below.
- 3.3 The Deposit shall be distributed by the Trustee pursuant to Part IV of this Proposal and the provisions of the Act and upon payment of the Purchase Price to the Trustee, the Debtor's obligations under the Proposal shall be fully performed and the Trustee shall issue a certificate of full performance to the Debtor in accordance with section 65.3 of the Act.

Payments to Preferred and Unsecured Creditors shall be net of any applicable levy payable to the office of the Superintendent of Bankruptcy as required by the Act.

- 3.4 The Purchased Assets will be sold to the Purchaser on an “as is, where is” basis and the Debtor will not be liable or responsible in any way for the condition of the Purchased Assets or the delivery of such tangible assets to be purchased by the Purchaser.
- 3.5 The Debtor will maintain the fire, public liability and any other customary classes of insurance covering the Purchased Assets until the closing of the Purchase Agreement.
- 3.6 In the event that the Proposal is not accepted by the Unsecured Creditors or the Court refuses to issue the Approval Order, the Debtor shall become a bankrupt and the Purchase Price shall not be available to the Unsecured Creditors in accordance with their respective priorities.

PART IV

Treatment of Creditors

Payment of Administrative Fees and Expenses

- 4.1 The Administrative Fees and Expenses and the Administration Charge shall be paid prior to distribution to the Creditors.

Secured Creditors

- 4.2 The Claims of Secured Creditors shall be dealt with on the following terms:
 - (a) The Purchaser shall issue to each Secured Creditor (excluding NOHFC) a promissory note evidencing their respective Assumed Liability, with the interest rate on the Assumed Liabilities being nil in the first twenty-four (24) months following closing of the Purchase Agreement, and thereafter at the rate of eight percent (8%) per annum;
 - (b) no repayment of any interest or capital shall be made during the first twenty-four (24) months following closing of the Purchase Agreement;
 - (c) repayment of interest only after the first twenty-four (24) months until the maturity date of the loan, to be paid annually on the anniversary date of the closing of the Purchase Agreement with the first such payment made on the third anniversary date;
 - (d) the balance due under the promissory note shall be repaid in full on the fifth anniversary date of closing of the Purchase Agreement;
 - (e) the Secured Creditors shall have the option to convert their respective Assumed Liabilities to shares at the conversion rate (the “**Conversion Rate**”) of 1.66 common shares for every USD\$1.00 of Assumed Liabilities;

- (f) the Purchaser shall have the right upon fifteen (15) days written notice, to require the Secured Creditors to convert their respective Assumed Liabilities and the promissory notes representing the indebtedness at the Conversion Rate at any time in the event of any of the following:
- (i) the Purchaser shall undertake and/or participate in an initial public offering under any applicable securities legislation;
 - (ii) in the event of any amalgamation, merger, consolidation or similar transaction with any corporation dealing at arm's length with the Purchaser;
 - (iii) in the event the Purchaser shall enter into any agreement for the sale of a majority of its assets which transaction is approved by the shareholders of the Purchaser holding shares representing 66% of the total votes of the Purchaser; and
 - (iv) in the event of any bona fide offer to purchase the issued and outstanding shares of the Purchaser is received by its shareholders, which offer is conditional upon the bidder acquiring all of the issued shares and which bid is acceptable to the shareholders of the Purchaser holding shares representing 66% of the total votes of the Purchaser.
- (g) the Purchaser shall enter into a General Security Agreement with each Secured Creditor providing security over the property and assets of the Purchaser, which general security agreement shall be substantially the same as the general security agreement entered into between Mitomics and the Secured Creditors dated September, 2013;
- (h) each Secured Creditor shall enter into an Intercreditor Agreement which shall be substantially in the form as the Intercreditor Agreement between the Secured Creditors and Mitomics dated February 8, 2013 and annexed hereto as **Schedule "C"**.

4.3 The Claims of NOHFC and any other Secured Creditor that shall refuse the amended terms and/or to execute the Security Documents set out in section 4.2 (g) and (h) hereto shall be dealt with on the following terms:

- (a) the existing indebtedness shall be extinguished in consideration for the Purchaser delivering (i) in the case of NOHFC, a promissory note in the amount of Five Hundred Thousand (\$500,000.00) Dollars; and (ii) in any other case, one-fifth (1/5) of the indebtedness of Mitomics to such Secured Creditor;
- (b) the promissory notes set out in (a) shall bear interest as follows:
 - i. during the first two (2) years following closing of the Purchase Agreement, nil;
 - ii. during the third, fourth and fifth years following closing of the Purchase Agreement, at the rate equal to four (4%) percent per annum, calculated annually not in advance;

- (c) the Purchaser shall make blended payments of principal and interest due under the promissory note(s) as follows:
- i. during the first two (2) years following Closing, the Purchaser shall make annual payments of principal totalling, in the aggregate, the amount equal to five (5%) percent of the Purchaser's EBITDA, calculated in accordance with Canadian accounting standards for private enterprise. For greater certainty, in the event the Purchaser shall not have positive EBITDA no payments shall be made;
 - ii. during the third year following Closing and thereafter, the Purchaser shall make annual blended payments of principal and interest totaling, in the aggregate, the amount equal to five (5%) percent of the Purchaser's EBITDA, calculated in accordance with Canadian accounting standards for private enterprise, provided that no interest shall be paid under the NOHFC note unless and until (A) all interest payable to senior creditors shall have been paid in full; or (B) all senior debt shall have been converted into equity;
 - iii. The payments required under (i) and (ii) immediately above shall be payable annually on the date that is three (3) months following the fiscal year end of the Purchaser.
- (d) the balance of the sum represented by the note shall be payable in full on the date that is three (3) months following the fifth (5th) fiscal year end of the Purchase following closing of the Purchase Agreement.
- (e) Should the Purchaser engage in any initial public offering under any applicable securities legislation, the Purchaser shall make commercially reasonable efforts to pay out and satisfy the amount due under the NOHFC note in full.

Distribution To Preferred Creditors

- 4.4 The Proven Claims of Preferred Creditors are to be paid by the Trustee in full in priority to all claims of Unsecured Creditors in accordance with the scheme of distribution set forth in the Act.

Employee Preferred Claims

- 4.5 Amounts, if any owing to Employees as Employee Preferred Claims, shall be paid in the ordinary course by the Debtor and in any event prior to the closing of the Purchase Transaction.

Distribution To Unsecured Creditors

- 4.6 The Proven Claims of Unsecured Creditors with a value equal to or less than \$600 shall be satisfied in full by receiving a cash payment of 100% of the value of the Proven Claim.
- 4.7 Unsecured Creditors with Proven Claims having a value greater than \$600 shall elect one

of the following options to have their Proven Claim satisfied:

- (a) to reduce their Proven Claim to \$600 and receive payment in accordance with Section 4.6;
- (b) if the Unsecured Creditor is not an Accredited Investor then such Unsecured Creditor shall receive their respective *pro rata* portion of the Unsecured Payment Fund based upon the proportion their Claim bears to the total dollar value of the Claims being paid out of Unsecured Payment Fund, provided that any payments pursuant to this Subsection 4.7(b) shall not exceed the value of any Unsecured Creditors' Proven Claim; or
- (c) an Unsecured Creditor that is an Accredited Investor can elect to receive a *pro rata* payment pursuant to Section 4.7(b) or on closing of the Purchase Agreement the Purchaser shall issue fully participating common shares in the share capital of the Purchaser to each unsecured creditor of Mitomics in full satisfaction of such indebtedness, at a subscription price and stated capital value equal to the outstanding indebtedness of Mitomics to the unsecured creditors, on the basis of one (1) common share for each One (\$1.00) US Dollar of indebtedness (using the applicable exchange rate on the Receivership Date), and to be issued to such unsecured creditors on closing of the Purchase Agreement.

Claims Against Directors

- 4.8 Any Claims against the Debtor by any Creditor that are also Claims against the directors and officers of the Debtor that relate to obligations of the Debtor where directors are under any law liable in their capacity as directors for the payment of such obligations shall be, and upon Court approval of this Proposal, are hereby, to the extent permitted by the Act, compromised and released and forever discharged as against the directors of the Debtor upon acceptance of this Proposal by the Unsecured Creditors and approval by the Court.

PART V

Procedure For Validation and Valuation of Claims

Allowance or Disallowance of Claims by the Trustee

- 5.1 Upon receipt of a completed Proof of Claim, the Trustee shall examine the Proof of Claim and shall deal with each Claim in accordance with the provisions of the Act.

Valuation of Claims

- 5.2 The procedure for valuing Claims of Creditors and resolving disputes with respect to such Claims will be as provided for in the Act. The Debtor and/or the Trustee reserve the right to seek the assistance of the Court in valuing any Claim of a Creditor and in respect of any other matter as may be required.

PART VI Meetings of Creditors

Creditors' Meetings

- 6.1 On October 27, 2014, the Debtor shall hold the Creditors' Meetings in order for the Creditors to consider and vote upon the Proposal.

Notice of Creditors' Meetings

- 6.2 The Trustee shall provide the Creditors with notice of the time and place of the Creditors' Meetings by mail pursuant to the Act. All Proofs of Claim shall be delivered in accordance with the provisions of the Proposal, the Act and any order which may be issued by the Court in respect of the procedure governing the Creditors' Meetings.

Conduct of Meetings

- 6.3 The Official Receiver, or any nominee thereof, shall preside as the chair of the Creditors' Meetings and will decide all matters relating to the conduct of the Creditors' Meetings. The only persons entitled to attend the Creditors' Meetings are those persons (including the holders of proxies) entitled to vote at the Creditors' Meetings and the officers, directors and legal counsel of the Debtor together with such representatives of the Trustee as the Trustee may appoint in its discretion. Any other persons may be admitted on invitation of the chair of the Creditors' Meetings or with the consent of the Creditors.

Adjournment of Meetings

- 6.4 The Creditors' Meetings may be adjourned in accordance with section 52 of the Act.

Voting by Creditors

- 6.5 To the extent provided for herein, each Creditor will be entitled to vote to the extent of the amount which is equal to the Proven Claim of such Creditor.

Approval by Creditors

- 6.6 In order for the Proposal to be binding on all of the Creditors, it must first be accepted by the Creditors by a majority in number of the Creditors who actually vote upon the Proposal (whether in person or by proxy) at the relevant Creditors' Meeting or by a Voting Letter, representing two-thirds in value of the Proven Claims of the Creditors who actually vote upon the Proposal (whether in person or by proxy) at the relevant Creditors' Meeting or by a Voting Letter.

Appointment of Inspectors

- 6.7 At the Creditors' Meetings, the Creditors may appoint up to five (5) inspectors whose powers will include, but not be limited to, the following:
- (a) advising the Trustee concerning any dispute which may arise as to the validity of Claims;

- (b) the power to waive any default in the performance of any provisions of the Proposal; and
- (c) Advising the Trustee from time to time with respect to any other matter that the Trustee may refer to them.

Any decision, direction or act of the Inspectors may be referred to the Court by the Trustee and the Court may confirm, reverse or modify the decision, direction or act and make such order as it deems just.

The authority and term of office of the Inspectors will terminate upon the Performance of the Proposal.

PART VII

Post Receivership Date Payments

Payment of Post Receivership Goods and Services

- 7.1 All Post Receivership Goods and Services shall be paid in full in the ordinary course of the Debtor's business and on terms agreed to between the Debtor and its respective creditors. The Debtor agrees that the Receiver/Trustee shall not in any case be responsible for ensuring that payment is duly made to any person supplying Post Receivership Goods and Services.

Crown Claims

- 7.2 During the period between the Receivership Date and the Effective Date, the Debtor shall pay and keep current Her Majesty in Right of Canada and in Right of Ontario all amounts of a kind that could be subject to a demand under subsection 224(1.2) of the *Income Tax Act* (Canada) or otherwise as provided for in subsection 60(1.1) of the Act or any substantially similar provision of Ontario legislation.

PART VIII

Conditions Precedent to Implementation of the Proposal

- 8.1 As provided for in the Act, the arrangements set out in this Proposal will not take effect unless the conditions set forth below are satisfied:
- (a) all approvals and consents to the Proposal that may be required have been obtained;
 - (b) the Approval Order has been issued and the Effective Date has passed;
 - (c) no order or decree restraining or enjoining the consummation of the transactions contemplated by this Proposal has been issued;

- (d) all agreements or instruments necessary to effect the intention and purpose of this Proposal have been received by the Debtor and the Purchaser in a form satisfactory to the Debtor and Purchaser;
- (e) the Purchase Transaction shall have been completed; and
- (f) all and any orders of the Court have been obtained which are required to facilitate the transactions referred to herein.

PART IX

Miscellaneous

Effect of Payment

- 9.1 Creditors will accept the payments provided for in this Proposal in complete satisfaction of all of their Claims, and all liens, certificates of pending litigation, executions or any other similar charges or actions or proceedings in respect of such Claims will have no effect in law or in equity against the property, assets and undertaking of the Debtor including the Assets. On the Effective Date, any and all such registered liens, certificates of pending litigation, executions or other similar charges or actions will be discharged, dismissed or vacated without cost to the Debtor.

Amendment to Proposal

- 9.2 This Proposal may be amended by the Debtor with the consent of the Trustee at any time prior to the conclusion of the Creditors' Meetings called to consider the Proposal, provided that any amendment made pursuant to this section shall not reduce the rights and benefits given to the Creditors under the Proposal before any such amendment, and provided further that any and all amendments shall be deemed to be effective as of the filing date of the Proposal.

Performance Certificate

- 9.3 The Trustee will give the Debtor and the Official Receiver the certificate provided for in section 65.3 of the Act within 5 Business Days following the Trustee being satisfied that all of the Purchase Agreement Conditions have been met or waived.

Court Approval

- 9.4 After the Creditors' acceptance of the Proposal, the Trustee will proceed to seek approval by the Court on, or about, November 6, 2014 and to have the Court make any ancillary orders that may be necessary or desirable to permit the transfer of the Assets to the Purchaser free and clear from all encumbrances as contemplated by the transaction or agreement including an order releasing any existing encumbrances from the Assets other than the Permitted Encumbrances as referred to in the Purchase Agreement (and continuing such encumbrances in the proceeds of sale only) and an order exempting the transfers from the provisions of the *Bulk Sales Act* (Ontario). Creditors' acceptance of the Proposal shall constitute their consent to such ancillary Court orders.

Binding Effect

- 9.5 The provisions of this Proposal will be binding on the Creditors, the Debtor, and their respective heirs, executors, administrators, successors and assigns, upon issuance of the Approval Order.

Employee Retention

- 9.6 The Purchaser shall, on closing of the Purchase Agreement, offer employment to the current employees of Mitomics on the same terms and conditions as are currently existing between the Debtor and such employees, but excluding any obligations for outstanding warrants or options, whether vested or not.

Reviewable Transactions

- 9.7 Sections 95 to 101 of the Act do not apply to this Proposal.

PART X**Event of Default**

- 10.1 The failure of the Purchaser to pay the Deposit to the Trustee will constitute an Event of Default for purposes of section 63 of the Act and otherwise under this Proposal.

PART XI**Trustee**

- 11.1 Dodick Landau, shall be the Trustee under this Proposal and all monies and shares payable under this Proposal shall be paid over to the Trustee who shall make the payment of all dividends in accordance with the terms of this Proposal.
- 11.2 Dodick Landau is acting in its capacity as Trustee under this Proposal and not in its personal capacity and no officer, director, employee or agent of Dodick Landau shall incur any obligations or liabilities in connection with this Proposal or in respect of the business or liabilities of the Debtor.
- 11.3 Any payments made by the Trustee to the Creditors hereunder shall be made by the Trustee net of any levies payable or due under the Act.
- 11.4 Upon payment by the Trustee of the amounts contemplated in Part IV of this Proposal, the Trustee shall have discharged its duties as Trustee, and the Trustee shall be entitled to apply for its discharge as Trustee hereunder. For greater certainty, the Trustee will not be responsible or liable for any obligations of the Debtor and will be exempt from any personal liability in fulfilling any duties or exercising any powers conferred upon it by the Proposal unless such acts have been carried out in bad faith and constitute a willful or wrongful act or default.

Dated at Toronto, Ontario this 22nd day of October, 2014.

MITOMICS INC. by Dodick Landau Inc. in
its capacity as court appointed receiver of all of
the assets, undertakings and properties of
Mitomics Inc.



By: _____

Name: Rahn Dodick

Title: President

I/We have authority to bind the Corporation.

SCHEDULE "A"
AGREEMENT OF PURCHASE AND SALE

AGREEMENT OF PURCHASE AND SALE

This Agreement, made this 6th day of October, 2014

BETWEEN:

**2436884 ONTARIO INC., a corporation duly incorporated pursuant to
the laws of the Province of Ontario
(hereinafter referred to as the "Purchaser")**

OF THE FIRST PART

- and -

**DODICK LANDAU INC., in its capacity as court appointed receiver of the
assets of MITOMICS INC. and as Trustee pursuant to a proposal to be filed
under the *Bankruptcy and Insolvency Act (Canada)* (the "Proposal")
(hereinafter referred to as the "Trustee")**

OF THE SECOND PART

- and -

**MITOMICS INC., a corporation duly incorporated pursuant to
the laws of the Province of Ontario
(hereinafter referred to as "Mitomics")**

OF THE THIRD PART

WHEREAS the Trustee is the court-appointed receiver (the "Receiver") of Mitomics Inc. pursuant to an order of the Ontario Superior Court of Justice dated August 14, 2014 (the "Receiver Order");

AND WHEREAS the Superior Court of Justice amended the terms of the Receiver Order by an order dated September 11, 2014 (the "Second Receiver Order") to include provisions for a further charge in favour of Robert Poulter for deferred salary, as more particularly set out in the Second Receiver Order;

AND WHEREAS pursuant to the Receiver Order and the Second Receiver Order the Receiver is entitled to sell the assets and undertaking of Mitomics and/or to file a proposal to the creditors of Mitomics pursuant to the Bankruptcy and Insolvency Act

(Canada) (the "BIA");

AND WHEREAS pursuant to the Receiver Order and the Second Receiver Order, the Trustee has not been appointed as receiver-manager, and Mitomics is entitled to continue to operate and manage its business and Mitomics is in fact doing so;

AND WHEREAS the Trustee has agreed to sell to the Purchaser and the Purchaser has agreed to purchase from the Trustee the assets and undertaking of Mitomics upon the terms and conditions hereinafter set forth;

NOW THEREFORE, in consideration of the mutual covenants and agreements set out, the parties hereto do hereby agree as follows:

1. Subject to the terms of this Agreement, the Purchaser hereby agrees to purchase and the Trustee agrees to sell, convey and assign to the Purchaser the business and assets of MITOMICS INC., (the "Purchased Assets"), such assets to include, but not be limited to:
 - (a) all cash, bank balances, monies in possession of banks and other depositories, term or time deposits, and similar cash items of, owned, or held for the benefit of Mitomics;
 - (b) the tangible assets identified and set out in Schedule "A" annexed hereto;
 - (c) all accounts receivable of Mitomics as of Closing;
 - (d) all work-in-progress of Mitomics as of Closing, including the right to invoice and receive payments therefor;
 - (e) all inventory, including raw materials, finished goods, operating supplies and packaging materials held by Mitomics as of the Closing;
 - (f) any and all shares held by Mitomics in the share capital of its subsidiary corporations;
 - (g) all patents, patents pending, inventions, trademarks, tradenames, know-how, trade secrets, technical information, processes, formulas, designs, plans, testing procedures, and all other industrial designs or other intellectual property of whatever kind and description;
 - (h) all registrations, licences, qualifications and approvals (the "Licences") of Mitomics, if any, and to the extent such Licences are transferrable;
 - (i) the goodwill of the Business including the name "Mitomics" and the

assignment and assumption of all sales and/or distribution agreements to the extent assignable at law;

- (j) the benefit of the customer list of Mitomics; and
 - (k) the right to operate the business of Mitomics.
2. The consideration for the purchase of the Purchased Assets shall be equal to the aggregate sum set out in section 3 herein, estimated to be in the amount of **Nineteen Million, Sixty-four Thousand, Nine Hundred Thirty-Three and 50/100 (\$19,064,933.50) Dollars** (the "Purchase Price") as more particularly set out in Schedule "B" hereto.
3. The Purchase Price shall be paid and satisfied by the Purchaser as follows:
- (a) by the delivery to the Trustee, upon execution of this Agreement, of the sum of Fifty Thousand (\$50,000.00) Dollars (the "Deposit") to be held in trust pending completion or termination of this Agreement and to be applied towards the payment of the Receiver's Charge (as defined in the Receiver Order) and the costs payable to the Applicants under Court File No. CV14-0291;
 - (b) on Closing, by:
 - (i) the assumption of all DIP financing obligations of the Receiver and the payment of the Receiver's Charge (as defined in the Receiver Order), and all costs payable to the Applicants under Court File No. CV14-0291 (to extent not covered by the DIP financing or the Deposit);
 - (ii) the assumption by the Purchaser of all obligations of the Receiver under the Retention Charge (as that term is defined in the Second Receiver Order), such assumption of liability not to exceed Fifty Thousand (\$50,000.00) Canadian Dollars;
 - (iii) the assumption by the Purchaser of the indebtedness owing to the secured creditors of Mitomics as fixed and determined as of the Closing Date (the "Assumed Liabilities"), to be assumed upon the terms as to interest, payment, security, and priority as more particularly set out in Schedule "C" hereto, provided that, (A) in the case of Northern Ontario Heritage Fund which is prohibited from accepting the amended terms as set out in Schedule "C" by law, such secured creditor shall receive an assumption of debt by the Purchaser and amended security as more particularly set out in Schedule "D" hereto and, (B) in the event any other secured creditor

shall refuse the amended terms and/or to execute the security documents set out in Schedule "C" hereto, the Purchaser shall assume one-fifth (1/5) of the debt owed by Mitomics to such refusing secured creditor, to be repaid as to principal and interest and upon the same terms as set out in Schedule "D" hereto; and

- (iv) the issuance by the Purchaser of fully participating common shares in the share capital of the Purchaser to each unsecured creditor of Mitomics in full satisfaction of such indebtedness, at a subscription price and stated capital value equal to the outstanding indebtedness of Mitomics to the unsecured creditors as fixed and determined as of the Closing Date and calculated using an interest rate of eight (8%) percent per annum for each such unsecured creditor from and after August 14, 2014, on the basis of one (1) common share for each One (\$1.00) US Dollar of indebtedness (using the applicable exchange rate on the closing date), and to be issued to such unsecured creditors on Closing.

- 4. The following Schedules attached hereto are incorporated by reference to this Agreement and are to be read as a part hereof:
 - (a) Schedule "A" – List of Assets
 - (b) Schedule "B" – Purchase Price Determination and Allocation
 - (c) Schedule "C" – Security Terms
 - (d) Schedule "D" – Amended Security Terms
- 5. In addition to the assumption of the DIP financing obligations as set out in subsection 3(b)(i) above, the Purchaser shall provide each person lending under such DIP financing (the "DIP Lender") with the right to convert the outstanding balance of their DIP financing assumed by the Purchaser into Class A Common Shares in the share capital of the Purchaser at the conversion rate of 2.19 Class A Common Shares for each One Dollar (\$1.00 US) of outstanding indebtedness, exercisable by such DIP Lenders at any time that the loans are outstanding.
- 6. The Trustee shall file a proposal to the creditors of Mitomics under the provisions of the BIA incorporating the terms of this Agreement and shall thereafter proceed with such proposal pursuant to the provisions of the BIA.
- 7. On closing, the Trustee shall transfer and assign the Purchased Assets to the Purchaser free and clear of any and all liens, charges, mortgages, debentures, encumbrances, claims, demands, debts, dues, actions, cause of action, or other liabilities whatsoever, saving and excepting only the Assumed Liabilities.
- 8. From and after the Closing Date, the Purchaser shall assume and perform, satisfy, pay and discharge all debts, actions, causes of action, lawsuits, claims,

demands, and other liabilities and obligations of every kind and nature, whether past, present or future, known or unknown, fixed or contingent, arising from or relating to the Assumed Liabilities, providing that the Assumed Liabilities shall be subject to the amendments set out in Schedule "C" or "D" herein.

9. On closing, the Purchaser shall issue common shares to the unsecured creditors of Mitomics, as contemplated in paragraph 3(b)(iv) herein, in accordance with the proven claims of the unsecured creditors in connection with the Proposal.
10. The Purchaser shall, on Closing, offer employment to the current employees of Mitomics on the same terms and conditions as are currently existing between Mitomics and such employees, but excluding any obligations for outstanding warrants or options, whether vested or not. The Purchaser shall not be assuming any other contractual commitments of Mitomics save and except as expressly set out herein.
11. The Purchaser represents and warrants to the Trustee that the Purchaser has good right, full power and absolute authority to enter into this Agreement and to purchase the Purchased Assets from the Trustee and to complete the transaction in the manner contemplated herein and to perform all of the Purchaser's obligations hereunder.
12. The Trustee represents and warrants to the Purchaser that, as at the Closing Date:
 - (a) the Receiver has been duly appointed as Receiver of the personal property of Mitomics by the Receiver Order and the Second Receiver Order and has full right, power and authority to accept this Offer and file the Proposal, in accordance with the terms and conditions of this Agreement.
13. Mitomics represents and warrants to the Purchaser that, as at the Closing Date:
 - (a) Mitomics is not a non-resident of Canada within the meaning and purpose of Section 116 of the *Income Tax Act* (Canada);
 - (b) Mitomics is not aware of any other person other than the Purchaser that has any agreement or option or any right capable of becoming an agreement or option for the purchase of any of the Purchased Assets, other than purchase orders accepted by Mitomics in the ordinary course of business;
 - (c) subject to any claims of set-off by the creditors of Mitomics, no part of the Purchased Assets has been taken or expropriated by any federal, provincial, state, municipal or other authority nor has any notice or proceeding in respect thereof been given or commenced nor is Mitomics aware of any intent or proposal to give such notice or commence any such

proceedings.

14. The Purchaser shall accept the Purchased Assets on an "as is, where is" basis and agrees that the Trustee shall not be liable or responsible in any way for the condition of such assets or the delivery of such tangible assets to be purchased by the Purchaser herein.
15. Save and except where unable to do so due to lack of financial resources, Mitomics covenants and agrees to maintain the fire, public liability and any other customary classes of insurance covering the assets being sold until the closing of this transaction.
16. Save and except where unable to do so due to lack of financial resources, Mitomics shall carry on its business operations from the date of this Agreement up to and including the Closing Date as a prudent owner and shall operate the business in its usual and ordinary course so as not to damage the credit and reputation of the business.
17. The obligations of each of the Trustee, Mitomics and the Purchaser as set out herein are conditional upon (i) the obtaining of all necessary consents and approvals for the Proposal as contemplated by the BIA; and (ii) the terms of this Agreement and the consummation of the transactions set out herein being approved by Order of the Ontario Superior Court of Justice.

If any of the conditions set out in this section 17 are not satisfied by the Date of Closing, either the Trustee or the Purchaser may terminate this Agreement by notice in writing to the other and in such event, the Trustee and the Purchaser shall be released from all obligations hereunder.
18. If the transaction contemplated hereunder shall be subject to Harmonized Sales Tax ("HST") levied pursuant to the Act, then HST shall be in addition to and not included in the Purchase Price and shall be collected and remitted in accordance with the Act. The Purchaser and Trustee covenant and agree to jointly elect pursuant to the provisions of subsection 167(1) of the *Excise Tax Act* such that no HST shall be collectible on Closing.
19. This transaction shall be completed (the "Closing") by no later than **4:59 p.m. on November 17, 2014** (the "Closing Date") or such earlier or later date as the parties may agree. On Closing, possession of the Purchased Assets is to be given to the Purchaser, title to the Purchased Assets shall be conveyed to the Purchaser by bill of sale, assignment of patents, assignment of trademarks, assignment of intellectual property rights or such other documents evidencing title as reasonably requested by the Purchaser, and the Purchaser shall pay or satisfy the Purchase Price as contemplated herein.
20. Any notice given hereunder shall be in writing and delivered or communicated by

telecopier machine to:

(a) in the case of the Purchaser:

2436884 Ontario Inc.
Harry Smart
Tinkers Hill Farm
Furneux Pelham, Herts UK SG9 OLI
Email: harry.smart@binternet.com

and with a further copy to the Purchaser's Solicitors:

Buset & Partners LLP
Attention: Michael Strickland
1121 Barton Street
Thunder Bay ON P7B 5N3
Email: mstrickland@buset-partners.com

(b) and in the case of the Trustee:

Dodick Landau Inc.
Attention: Rahn Dodick
4646 Dufferin Street, Suite 6
Toronto ON M3H 5S4
Email: rahn.dodick@dodick.ca

with a copy to the Trustee's Solicitors:

Dentons Canada LLP
Attention: Ken Kraft
77 King Street West, Suite 400
Toronto ON M5K 0A1
Email: kenneth.kraft@dentons.com

Such notice shall be deemed to have been delivered upon the date of delivery if hand delivered, sent by facsimile or other electronic delivery (email) before 5:00pm Thunder Bay local time, or the day following

delivery if delivered by facsimile, or electronic transmission on or after 5:00pm Thunder Bay local time, or if delivered by postage pre-paid mail. A party may change its address and/or telecopier machine number by providing notice in accordance with this Section.

21. There is no representation, warranty, collateral agreement or condition affecting this Agreement or the transaction other than as provided for herein.
22. All the assets of the Business shall be and remain at the risk of Mitomics until the closing of the transaction contemplated herein.
23. Any tender of documents or money hereunder may be made upon the Trustee or the Purchaser or the solicitor acting for the party on whom tender is desired, and it shall be sufficient that a certified cheque or bank draft is tendered instead of cash.
24. This Offer when accepted shall constitute a binding Agreement of Purchase and Sale, and times in all respects shall be of the essence of this Agreement. The agreement arising out of this Offer and its acceptance is to be read with all changes of gender or number required by the context and it shall be binding upon the parties hereto and their respective heirs, personal representatives, successors and assigns.
25. This Agreement may be executed by the Parties in separate counterparts each of which when so executed and delivered shall be an original, and all such counterparts shall together constitute one and the same instrument.
26. This Offer may be assigned by the Purchaser to any of its affiliated or related corporations as of or before the Closing Date provided that the Purchaser shall continue to be liable for the obligations herein.
27. This Offer, counter-offers and acceptance of this Offer may be made through facsimile transmission or other electronic delivery (email) and the facsimile or pdf reproduction of this Offer bearing the signatures and/or initials of the parties shall be treated as original and binding on the parties.

IN WITNESS WHEREOF the Parties have duly executed this Agreement as of the date and year first above written.

DATED this 6 day of October, 2014.

2436884 ONTARIO INC.



Per: _____

Harry Smart

I have authority to bind the corporation.

DODICK LANDAU INC., in its capacity as court appointed receiver of the assets of MITOMICS INC. and as Trustee pursuant to a proposal to be filed under the *Bankruptcy and Insolvency Act* (Canada) and not in its personal capacity



Per: _____

Rahn Dodick

MITOMICS INC.



Per: _____

Robert Poulter

I have authority to bind the corporation.

SCHEDULE "A"

LIST OF TANGIBLE ASSETS

Any and all:

- computers, computer hardware, computer software
- furniture and fixtures
- display booth and media equipment
- laboratory equipment
- leasehold improvements
- telephone equipment

SCHEDULE "B"

CALCULATION OF APPROXIMATE PURCHASE PRICE

	CAD Amount To NOV 17	
Deposit	\$ 50,000.00	
DIP Financing	\$ 400,000.00	
Retention Charge	<u>\$ 50,000.00</u>	
Total:	\$ 500,000.00	\$ 500,000.00
 <u>Secured Creditors</u>		
Secured Notes GBP	\$ 1,438,521.95	
Secured Notes US	\$ 4,159,587.35	
Secured Notes CAD	<u>\$ 1,582,436.22</u>	
Total Secured:	\$ 7,180,545.52	\$ 7,180,545.52
 <u>Unsecured Creditors:</u>		
Unsecured Notes and Loans CAD	\$ 11,149,532.42	
Accounts Payable CAD	<u>\$ 234,855.56</u>	
Total Unsecured:	\$11,384,387.98	<u>\$11,384,387.98</u>
 TOTAL PURCHASE PRICE:		 \$19,064,933.50

SCHEDULE "C"

ASSUMED LIABILITIES AND SECURITY TERMS

- (a) The Purchaser shall issue to each secured creditor a promissory note evidencing their respective Assumed Liability, with the interest rate on the Assumed Liabilities being nil in the first twenty-four (24) months following Closing, and thereafter at the rate of eight percent (8%) per annum;
- (b) no repayment of any interest or capital shall be made during the first twenty-four (24) months following Closing;
- (c) repayment of interest only after the first twenty-four (24) months until the maturity date of the loan, to be paid annually on the anniversary date of the Closing with the first such payment made on the third anniversary date;
- (d) the balance due under the promissory note shall be repaid in full on the fifth anniversary date of Closing;
- (e) the secured creditors shall have the option to convert their respective Assumed Liabilities to shares at the conversion rate (the "Conversion Rate") of 1.66 Class A Common shares for every \$1.00 US (using the monetary exchange rate in effect on the Closing Date) of Assumed Liabilities;
- (f) The Purchaser shall have the right upon fifteen (15) days written notice, to require the secured creditors to convert their respective Assumed Liabilities and the promissory notes representing the indebtedness at the Conversion Rate at any time in the event of any of the following:
 - (i) The Purchaser shall undertake and/or participate in an initial public offering under any applicable securities legislation;
 - (ii) In the event of any amalgamation, merger, consolidation or similar transaction with any corporation dealing at arm's length with The Purchaser;
 - (iii) In the event the Purchaser shall enter into any agreement for the sale of a majority of its assets which transaction is approved by the shareholders of the Purchaser holding shares representing 66% of the total votes of the Purchaser; and
 - (iv) In the event of any bona fide offer to purchase the issued and

outstanding shares of the Purchaser is received by its shareholders, which offer is conditional upon the bidder acquiring all of the issued shares and which bid is acceptable to the shareholders of the Purchaser holding shares representing 66% of the total votes of the Purchaser.

- (g) The Purchaser shall enter into a General Security Agreement with each secured creditor providing security over the property and assets of the Purchaser, which general security agreement shall be substantially the same as the general security agreement entered into between Mitomics and the secured creditors dated September, 2013;
- (h) each secured creditor shall enter into an Intercreditor Agreement which shall be substantially in the form as the Intercreditor Agreement between the secured creditors and Mitomics dated February 8, 2013.

SCHEDULE "D"

AMENDED SECURITY TERMS

- (a) the existing indebtedness shall be extinguished in consideration for the Purchaser delivering (i) in the case of NOHFC, a promissory note in the amount of Five Hundred Thousand (\$500,000.00) Dollars; and (ii) in any other case, one-fifth (1/5) of the indebtedness of Mitomics to such unsecured creditor;
- (b) the promissory notes set out in (a) shall bear interest as follows:
- i. during the first two (2) years following Closing, nil;
 - ii. during the third, fourth and fifth years following Closing, at the rate equal to four (4%) percent per annum, calculated annually not in advance;
- (c) The Purchaser shall make blended payments of principal and interest due under the promissory note(s) as follows:
- i. during the first two (2) years following Closing, the Purchaser shall make annual payments of principal totalling, in the aggregate, the amount equal to five (5%) percent of the Purchaser's EBITDA, calculated in accordance with Canadian accounting standards for private enterprise. For greater certainty, in the event the Purchaser shall not have positive EBITDA, no payments shall be made.
 - ii. during the third year following Closing and thereafter, the Purchaser shall make annual blended payments of principal and interest totalling, in the aggregate, the amount equal to five (5%) percent of the Purchaser's EBITDA, calculated in accordance with Canadian accounting standards for private enterprise, provided that no interest shall be paid under the NOHFC note unless and until (A) all interest payable to senior creditors shall have been paid in full; or (B) all senior debt shall have been converted into equity.
 - iii. The payments required under (c)(i) and (c)(ii) herein shall be payable annually on the date that is three (3) months following the fiscal year end of the Purchaser.

- (d) the balance of the sum represented by the note shall be payable in full on the date that is three (3) months following the fifth (5th) fiscal year end of the Purchaser following Closing.
- (e) Should the Purchaser engage in any initial public offering under any applicable securities legislation, the Purchaser shall make commercially reasonable efforts to pay out and satisfy the amount due under the NOHFC note in full.

SCHEDULE "B"
TERM SHEET

TERM SHEET

**STRUCTURING OF 2436884 ONTARIO INC. ("NewCo") AND
BID ON THE ASSETS OF MITOMICS, INC. ("Mitomics")**

Incorporation: A new corporation will be incorporated for the sole purpose of bidding on, and thereafter running the former business of Mitomics, Inc.

The actual transferee of the business is currently proposed to be a newly incorporated Delaware Corporation. For expediency, the initial bidder shall be the Ontario corporation named above. The term NewCo where used herein shall refer to the Ontario corporation and/or the Delaware Corporation.

Share Structure: NewCo will have multiple classes of shares available for issuance for future planning purposes, as follows:

an unlimited number of fully participating, voting, Class A Common Shares

an unlimited number of Class A Preferred Shares with a fixed redemption amount set by the board of directors at issuance, redeemable and retractable and with 1.66 votes per share.

an unlimited number of Class B Preferred Shares with a fixed redemption amount set by the board of directors at issuance, redeemable and retractable and with 2.19 votes per share

Share Price: The subscription price for the Class A Preferred Shares and Class B Preferred Shares to be issued upon incorporation will be a nominal amount, i.e. \$1.00 in the aggregate for each shareholder.

Initial Shares: Upon incorporation, NewCo will issue Class A Preferred Shares and Class B Preferred Shares to the secured creditors of Mitomics and the DIP lenders of Mitomics, respectively.

Each secured creditor of Mitomics will be issued 1 Class A Preferred Share for each \$1.00 of secured debt currently owed to such secured creditor, calculated in US Dollars and for consideration of \$1.00, in aggregate, per creditor. The redemption amount for the Class A Preferred Shares will be nominal.

Each DIP lender of Mitomics will be issued 1 Class B Preferred Share for each \$1.00 of DIP lending currently owed to such DIP lender, calculated in US Dollars and for consideration of \$1.00, in aggregate, per creditor. The redemption amount for the Class B Preferred Shares will be nominal.

Additional common shares will be issued to the unsecured creditors upon closing of the Purchased Assets, in accordance with the Offer to the Receiver.

- Bid on Mitomics:** NewCo shall enter into an agreement of purchase and sale with the Receiver (the "APS") in an attempt to secure the assets and continue the business. A copy of the APS is attached hereto. The APS will form the basis of the Receiver making a Proposal to the creditors of Mitomics pursuant to the provisions of the Bankruptcy and Insolvency Act (Canada).
- Assets Included:** NewCo shall purchase the Intellectual Property, Equipment, WIP, A/R of Mitomics
- Purchase Price:** See the APS, attached.
- Payment Terms:** Mix of cash on closing, assumption of debt obligations and conversion of unsecured indebtedness to common shares as set out in the APS
- Financing:** The deposit portion of the Purchase Price will be financed by NewCo from lending from certain Secured Creditors. This additional financing in NewCo will be secured and bear interest at the rate as agreed between Newco and its lenders.
- Employees:** NewCo will make an offer of employment to the employees of Mitomics and will assume the obligations to the employees of Mitomics as set out in the APS.
- Repayment of Creditors:** Once the transaction with the Receiver closes, the DIP financing, Receiver fees and costs will be debt assumed by NewCo. The DIP financing and deposit will be used to cover Receiver's charges and costs of the Application.
- Reps and Warranties:** The purchase of assets from the Receiver is on an "as is, where is" basis. Receivers do not typically provide reps and warranties as to the condition of the Purchased Assets.
- No Encumbrances:** The APS will include a condition that the Purchased Assets shall be transferred free and clear of any encumbrances saving and excepting only Assumed Liabilities as defined in the APS. The Receiver will make a proposal to the creditors and seek Court approval in order to achieve this result.
- HST:** HST shall be in addition to, and not included in, the Purchase Price. The APS shall include a covenant for a joint election under subsection 167(1) of the *Excise Tax Act*.
- SECURITY FOR DIP LENDERS:** The assumption of the obligations of the Receiver to the DIP lenders will be evidenced by the following security agreements (with the following amended terms):
- (a) a Promissory Note to each DIP Lender evidencing the indebtedness, interest and repayment terms to the DIP lender, with conversion rights and obligations as follows:
 - (i) interest rate on the Assumed Liabilities being nil in the first twenty-four (24) months following Closing, and thereafter at the rate of eight

- percent (8%) per annum;
- (ii) no repayment of any interest or capital shall be made during the first twenty-four (24) months following Closing, with repayment of interest only after the first twenty-four (24) months until the maturity date of the loan, to be paid annually on the anniversary date of the Closing with the first such payment made on the third anniversary date;
- (iii) the balance due under the promissory note shall be repaid in full on the fifth anniversary date of Closing;
- (iv) the secured creditors shall have the option to convert their respective DIP lending to shares at the conversion rate (the "Conversion Rate") of 2.19 Class A Common shares for every \$1.00 US of DIP lending;
- (v) NewCo shall have the right upon fifteen (15) days written notice, to require the DIP lenders to convert their respective DIP lending and the promissory notes representing the indebtedness at the Conversion Rate at any time in the event of any of the following:
 - (A) NewCo shall undertake and/or participate in an initial public offering under any applicable securities legislation;
 - (B) In the event of any amalgamation, merger, consolidation or similar transaction with any corporation dealing at arm's length with NewCo;
 - (C) In the event NewCo shall enter into any agreement for the sale of a majority of its assets which transaction is approved by the shareholders of NewCo holding shares representing 66% of the total votes of NewCo; and
 - (D) In the event of any bona fide offer to purchase the issued and outstanding shares of NewCo is received by its shareholders, which offer is conditional upon the bidder acquiring all of the issued shares and which bid is acceptable to the shareholders of NewCo holding shares representing 66% of the total votes of NewCo.

Upon the conversion of the DIP financing for any DIP lender, the Class B Preferred Shares held by such DIP lender whose debt is being converted shall be redeemed and/or purchased by NewCo for cancellation.

- (b) General Security Agreement between NewCo and each DIP lender covering all personal property of NewCo; and
- (c) Intercreditor Agreement between all DIP lenders and secured creditors substantially in the form of the Intercreditor Agreement of Mitomics dated February 8, 2013.

**SECURITY FOR
SECURED
CREDITORS:**

As set out in the APS, the assumption of the obligations to the secured creditors of Mitomics by NewCo will be evidenced by the following security documents:

- (a) NewCo shall issue to each secured creditor a promissory note evidencing their respective Assumed Liability (as defined in the APS), with the following terms:
 - (i) interest rate on the Assumed Liabilities being nil in the first twenty-

- four (24) months following Closing, and thereafter at the rate of eight percent (8%) per annum;
- (ii) no repayment of any interest or capital shall be made during the first twenty-four (24) months following Closing, with repayment of interest only after the first twenty-four (24) months until the maturity date of the loan, to be paid annually on the anniversary date of the Closing with the first such payment made on the third anniversary date;
 - (iii) the balance due under the promissory note shall be repaid in full on the fifth anniversary date of Closing;
 - (iv) the secured creditors shall have the option to convert their respective Assumed Liabilities to shares at the conversion rate (the "Conversion Rate") of 1.66 Class A Common shares for every \$1.00 of secured lending;
 - (vi) NewCo shall have the right upon fifteen (15) days written notice, to require the secured creditors to convert their respective Assumed Liabilities and the promissory notes representing the indebtedness at the Conversion Rate at any time in the event of any of the following:
 - (A) NewCo shall undertake and/or participate in an initial public offering under any applicable securities legislation;
 - (B) In the event of any amalgamation, merger, consolidation or similar transaction with any corporation dealing at arm's length with NewCo;
 - (C) In the event NewCo shall enter into any agreement for the sale of a majority of its assets which transaction is approved by the shareholders of NewCo holding shares representing 66% of the total votes of NewCo; and
 - (D) In the event of any bona fide offer to purchase the issued and outstanding shares of NewCo is received by its shareholders, which offer is conditional upon the bidder acquiring all of the issued shares and which bid is acceptable to the shareholders of NewCo holding shares representing 66% of the total votes of NewCo.

Upon the conversion of the Assumed Liabilities for any secured creditor, the Class A Preferred Shares held by such secured lender shall be redeemed and/or purchased by NewCo for cancellation.

- (b) NewCo shall enter into a General Security Agreement with each secured creditor providing security over the property and assets of NewCo, which general security agreement shall be substantially the same as the general security agreement entered into between Mitomics and the secured creditors dated September, 2013;
- (c) each secured creditor shall enter into an Intercreditor Agreement which shall be substantially in the form as the Intercreditor Agreement between the secured creditors and Mitomics dated February 8, 2013.

SCHEDULE C
INTERCREDITOR AGREEMENT (FORM)

INTERCREDITOR AGREEMENT

Made as of February 8, 2013

Between

ROYAL BANK OF CANADA

and

**NORTHERN ONTARIO HERITAGE
FUND CORPORATION**

and

UPTTEL LIMITED

and

PERLIN FAMILY HOLDINGS INC.

and

CLIFFORD PROUD

and

FRED POULTER

and

WARREN PETERSON VETERINARY PROFESSIONAL CORPORATION

and

BILL POULTER

and

PA NOLAN

and

FRANCO CRUPI

and

MIRANDA TRENCHARD

and

HARALD SMART

and

MITOMICS INC.

INTERCREDITOR AGREEMENT

This Agreement is made as of February 8, 2013, between

ROYAL BANK OF CANADA

and

**NORTHERN ONTARIO HERITAGE
FUND CORPORATION**

and

UPTTEL LIMITED

and

PERLIN FAMILY HOLDINGS INC.

and

CLIFFORD PROUD

and

FRED POULTER

and

WARREN PETERSON VETERINARY PROFESSIONAL CORPORATION

and

BILL POULTER

and

PA NOLAN

and

FRANCO CRUPI

and

MIRANDA TRENCHARD

and

HARALD SMART

and

MITOMICS INC.

RECITALS

WHEREAS Mitomics (as hereinafter defined) is or may become indebted or obligated to the Creditors (as hereinafter defined), and the Creditors desire to enter into this Agreement to confirm their respective rights and obligations as creditors of Mitomics, including the respective priorities of the Creditors in connection with the indebtedness and obligations of Mitomics to the Creditors and the security therefor.

NOW THEREFORE THIS AGREEMENT WITNESSES that, in consideration of mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follow:

SECTION 1 - INTERPRETATION

- 1.1 **Definitions.** In this Agreement, the following defined terms will have the following meanings unless the context expressly or by necessary implication otherwise requires:
- (1) **Assumption Agreement** means the assumption agreement that must be executed and delivered by an Person that becomes a Mezzanine Creditor after the date hereof in the form attached hereto as Schedule "A".
 - (2) **Business Day** means any day on which banks are generally open for business in Toronto, Ontario, other than a Saturday, Sunday or statutory holiday.
 - (3) **Cash Proceeds of Realization of IP Security** means the aggregate of i) all Proceeds of Realization of IP Security in the form of cash, and ii) all cash proceeds of the sale or other disposition of non-cash Proceeds of Realization of IP Security.
 - (4) **Cash Proceeds of Realization of Tangible Security** means the aggregate of i) all Proceeds of Realization of Tangible Security in the form of cash, and ii) all cash proceeds of the sale or other disposition of non-cash Proceeds of Realization of Tangible Security.
 - (5) **Creditors** means the Senior Creditor, the Mezzanine Creditors and the Subordinate Creditor and **Creditor** means any one of them.
 - (6) **Default** means the occurrence of any of the defaults or events of default specified in any Loan Agreement or in any Security entitling a Creditor to Demand or accelerate payment of any Obligation, either immediately or after a cure period or grace period, or failure of Mitomics to pay any amount which is payable to a Creditor on demand within the time specified for payment in a Demand made by the Creditor.
 - (7) **Demand** means any notification by a Creditor to Mitomics of a demand for payment under any Loan Agreement or any Security.
 - (8) **Intellectual Property** means the intellectual property that is owned, used or licensed by Mitomics and includes but is not limited to: (i) all inventions (whether patentable or unpatentable and whether or not reduced to practice), all improvements thereto, and all

patents, patent applications, patent disclosures, invention disclosures, together with all reissue, divisional, continuation or continuation-in-part applications, revisions, extensions and re-examinations thereof; (ii) all trade-marks, trade dress, logos, trade-names, business names, corporate names and domain names together with all translations, adaptations, derivations and combinations thereof and including all goodwill associated therewith; (iii) all copyrightable works, all copyrights, and all applications, registrations and renewals associated therewith; (iv) all industrial designs, applications, registrations and renewals in connection therewith; (v) all proprietary or confidential information and trade-secrets and know-how; (vi) all computer software (including data and related documentation); (vii) all copies and tangible embodiments of the foregoing (in whatever form or medium); and (viii) all common law statutory and contractual rights to the intellectual property and technology referred to above.

- (9) **IP Security** means the Senior IP Security, the Mezzanine IP Security and the Subordinate IP Security.
- (10) **Lien** means any mortgage, hypothec, title retention, pledge, lien, right of set-off, charge, security interest, assignment or other encumbrance of whatsoever nature or kind, whether fixed or floating and howsoever created or arising.
- (11) **Loan Agreements** means the Senior Loan Agreement, the Mezzanine Loan Agreements and the Subordinate Loan Agreements.
- (12) **Mezzanine Creditors** means Uptel Limited, and Perlin Family Holdings Inc., and Clifford Proud, and Fred Poulter, and Warren Peterson Veterinary Professional Corporation, and Bill Poulter, and Pa Nolan, and Franco Crupi, and Miranda Trenchard, and Harald Smart and each additional Person that becomes a party to this Agreement as a Mezzanine Creditor after the date hereof by executing and delivering an Assumption Agreement.
- (13) **Mezzanine IP Security** means any and all Liens now or hereafter granted by Mitomics to the Mezzanine Creditors over the Mitomics IP Assets from time to time as security for all of or any part of the Mezzanine Obligations, in each case as the same may be amended, modified, supplemented, restated or replaced from time to time.
- (14) **Mezzanine Loan Agreements** means any and all loan agreements, debt instruments, debt securities or other agreement evidencing of indebtedness between Mitomics and the Mezzanine Creditors.
- (15) **Mezzanine Obligations** means all debts, obligations and liabilities, present or future, direct or indirect, absolute or contingent, matured or unmatured, and whether as principal debtor, guarantor, surety or otherwise at any time owing under the Mezzanine Loan Agreements by Mitomics.
- (16) **Mezzanine Security** means the Mezzanine Tangible Security and the Mezzanine IP Security.

- (17) **Mezzanine Tangible Security** means any and all Liens now or hereafter granted by Mitomics to the Mezzanine Creditors over the Mitomics Assets other than Mitomics IP Assets from time to time as security for all of or any part of the Mezzanine Obligations, in each case as the same may be amended, modified, supplemented, restated or replaced from time to time.
- (18) **Mitomics Assets** means the undertaking and all of the present and future personal property and assets, movable and immovable, of whatsoever nature and kind and wheresoever situate, of Mitomics.
- (19) **Mitomics IP Assets** means Intellectual Property and Technology.
- (20) **Obligations** means the Senior Obligations, the Mezzanine Obligations and the Subordinate Obligations.
- (21) **Payment Default** means a Default by Mitomics with respect to a payment on account of any principal of, or interest on, or any other amounts owing in respect of, any of the Obligations.
- (22) **Person** includes without limitation an individual, partnership, limited partnership, joint venture, trust, corporation, unincorporated organization or any other judicial entity or a governmental state or agency or political subdivision thereof.
- (23) **Proceeds** means, when used by itself, the Proceeds of Realization of IP Security and the Proceeds of Realization of Tangible Security.
- (24) **Proceeds of Realization of IP Security** means all proceeds (including money, choses in action, securities, assets and other property) derived from any sale or disposition of, or other enforcement or realization proceedings with respect to, any of the Mitomics IP Assets (a) after any Demand, (b) upon any dissolution, liquidation, winding-up, reorganization (including any proposal under the *Bankruptcy and Insolvency Act* (Canada) and any reorganization under the *Companies' Creditors Arrangement Act* (Canada), bankruptcy, insolvency or receivership of Mitomics or any other arrangement or marshalling of Mitomics that is similar thereto, (c) upon the enforcement of, or any action taken with respect to, any of the IP Security, (d) as insurance or expropriation proceeds or any other payment representing indemnity or compensation for loss of, damage to or interruption in the business, operation or enjoyment of all or any part of Mitomics or any proceeds thereof (including money, choses in action, securities, assets and other property), or (e) as a result of the exercise of any right of set off or other similar right or remedy, in each case net of all costs, charges and expenses or liabilities incurred in connection with such sale, disposition, enforcement or realization, including legal fees and all proper costs, charges, expenses and liabilities of any Receiver.
- (25) **Proceeds of Realization of Tangible Security** means all proceeds (including money, choses in action, securities, assets and other property) derived from any sale or disposition of, or other enforcement or realization proceedings with respect to, any of the Mitomics Assets other than Mitomics IP Assets (a) after any Demand, (b) upon any

dissolution, liquidation, winding-up, reorganization (including any proposal under the *Bankruptcy and Insolvency Act* (Canada) and any reorganization under the *Companies' Creditors Arrangement Act* (Canada), bankruptcy, insolvency or receivership of Mitomics or any other arrangement or marshalling of Mitomics that is similar thereto, (c) upon the enforcement of, or any action taken with respect to, any of the Tangible Security, (d) as insurance or expropriation proceeds or any other payment representing indemnity or compensation for loss of, damage to or interruption in the business, operation or enjoyment of all or any part of Mitomics or any proceeds thereof (including money, choses in action, securities, assets and other property), or (e) as a result of the exercise of any right of set off or other similar right or remedy, in each case net of all costs, charges and expenses or liabilities incurred in connection with such sale, disposition, enforcement or realization, including legal fees and all proper costs, charges, expenses and liabilities of any Receiver.

- (26) **Receiver** means a receiver, a manager, receiver and manager, an agent or other person having similar powers or authority appointed by a Creditor whether by way of a private or court appointment in respect of Mitomics or any of the Mitomics Assets.
- (27) **Security** means the Senior Security, the Mezzanine Security and the Subordinate Security.
- (28) **Senior Creditor** means RBC, its successor or permitted assigns.
- (29) **Senior IP Security** means any and all Liens now or hereafter granted by Mitomics to RBC over the Mitomics IP Assets from time to time as security for all of or any part of the RBC Obligations, in each case as the same may be amended, modified, supplemented, restated or replaced from time to time.
- (30) **Senior Loan Agreement** means the loan agreement between Mitomics and RBC and dated November 21, 2011, pursuant to which RBC has provided Mitomics with a revolving working capital facility of up to \$1 million in principal.
- (31) **Senior Obligations** means all debts, obligations and liabilities, present or future, direct or indirect, absolute or contingent, matured or unmatured, and whether as principal debtor, guarantor, surety or otherwise at any time owing under the Senior Loan Agreement by Mitomics to RBC.
- (32) **Senior Security** means the Senior Tangible Security and the Senior IP Security
- (33) **Senior Tangible Security** means any and all Liens now or hereafter granted by Mitomics to the Senior Creditor over the Mitomics Assets other than Mitomics IP Assets from time to time as security for all of or any part of the Senior Obligations, in each case as the same may be amended, modified, supplemented, restated or replaced from time to time.
- (34) **Subordinate Creditor** means NOHFC and its successors and assigns.

- (35) **Subordinate IP Security** means any and all Liens now or hereafter granted by Mitomics to the Subordinate Creditor over the Mitomics IP Assets from time to time as security for all of or any part of the Subordinate Obligations, in each case as the same may be amended, modified, supplemented, restated or replaced from time to time.
- (36) **Subordinate Loan Agreements** means each of the four loan agreements entered into between Mitomics and the Subordinate Creditor and dated (925011) November 28, 2005, (925049) September 7, 2007, (925106) May 14, 2010 and (925291) December 16, 2011, respectively.
- (37) **Subordinate Obligations** means all debts, obligations and liabilities, present or future, direct or indirect, absolute or contingent, matured or unmatured, and whether as principal debtor, guarantor, surety or otherwise at any time owing under any of the Subordinate Loan Agreements by Mitomics to the Subordinate Creditor and all accrued interest thereon and reasonable costs incurred in the collection thereof, and includes any extension, renewal, refunding or refinancing of any Subordinate Obligations.
- (38) **Subordinate Security** means the Subordinate Tangible Security and the Subordinate IP Security.
- (39) **Subordinate Tangible Security** means any and all Liens now or hereafter granted by Mitomics to the Subordinate Creditor over the Mitomics Assets other than Mitomics IP Assets from time to time as security for all of or any part of the Subordinate Obligations, in each case as the same may be amended, modified, supplemented, restated or replaced from time to time.
- (40) **Subsidiary** means, with respect to any Person at any time, (a) any other Person of which either i) more than 50% of the shares in the capital of which or other interests entitled to vote in the election of directors or comparable Persons performing similar functions (excluding shares or other interests entitled to vote only upon the failure to pay dividends thereon or other contingencies) or ii) more than a 50% interest in the profits or capital of such other Person, are at the time owned directly (or indirectly through one or more Subsidiaries) by such Person, or (b) any other Person whose net earnings, or any portion thereof, are consolidated with the net earnings of such Person and are recorded on the books of such Person for financial reporting purposes in accordance with GAAP, and includes any entity in like relation to a Subsidiary.
- (41) **Tangible Security** means the Senior Tangible Security, the Mezzanine Tangible Security and the Subordinate Tangible Security.
- (42) **Technology** means any information of a scientific or technical nature which is material to the business of Mitomics, including without limitation, all inventions, know how, techniques, processes, procedures, methods, trade secrets, research and technical data, records, formulae, designs, sketches, patterns, specifications, blue prints, flow charts or sheets, equipment and parts lists and descriptions, samples, reports, studies, findings,

algorithms, instructions, guides, manuals, and plans for new or revised products and/or services.

- 1.2 **References.** References to "this Agreement", "the Agreement", "hereof" "herein", "hereto" and like references refer to this Intercreditor Agreement and not to any particular Article, Section or other subdivision of this Intercreditor Agreement. Any references to "this Agreement", "the Agreement", "hereof", "herein", "hereto" and like references refer to this Intercreditor Agreement, as amended, modified, supplemented or restated from time to time in accordance with the terms hereof. In this Agreement, the word "includes" or "including" means "includes without limitation" or "including without limitation". Where the context so requires, words importing the singular number will include the plural and *vice versa*. The division of this Agreement into Articles, Sections and the insertion of headings in this Agreement are for convenience of reference only and will not affect the construction or interpretation of this Agreement. Time is of the essence of this Agreement.
- 1.3 **Currency.** Unless otherwise provided, all dollar amounts listed herein are in Canadian Dollars.
- 1.4 **Applicable Law.** This Agreement will be governed by and construed and interpreted in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.
- 1.5 **Paramountcy.** If there is a conflict or inconsistency between the provisions of this Agreement and the provisions of any other agreement which is referred to herein or delivered pursuant hereto, as between the Creditors, the provisions of this Agreement will prevail, provided that nothing in this Agreement is intended to or will impair, as between Mitomics and any of the Creditors, the obligations of Mitomics to pay the Obligations when due. For greater certainty, as between each Creditor and Mitomics, the applicable Loan Agreements shall prevail.
- 1.6 **No Rights Conferred on Debtor.** Nothing in this Agreement will be construed as conferring any rights upon Mitomics or any third party. The terms and conditions hereof are and will be for the sole and exclusive benefit of the Creditors. Mitomics, by its execution of this Agreement, hereby agrees to be bound by, and will act in accordance with, the terms, provisions and intent of this Agreement; however, Mitomics will take any right, benefit or advantage in Mitomics being a party to this Agreement, and this Agreement may be amended, modified, supplemented or restated without notice to, or the consent of Mitomics. Mitomics hereby consents to a Creditor providing the other Creditor with such information, financial or otherwise, regarding Mitomics, the Obligations and the Security as may be deemed advisable by the Creditors from time to time.

SECTION 2 - CONSENT

- 2.1 **Consent of Creditors.** Each Creditor consents to the incurring or assuming by Mitomics of the Obligations and the granting or assuming by Mitomics of the Security and confirms that such action does not and will not constitute a default under or otherwise contravene any of the Loan Agreements or any of the Security.

SECTION 3 - PRIORITY OF OBLIGATIONS AND SECURITY

- 3.1 **Priority of Obligations and Security.** Each of the Creditors agrees that, except as otherwise expressly provided herein,
- (a) Subject to 3.1(c), the Subordinate Obligations are fully subordinated to the prior repayment in full of all Mezzanine Obligations, and the Mezzanine Obligations and the Mezzanine Security will have priority, to the full extent of the Mezzanine Obligations, over the Subordinate Obligations and the Subordinate Security in all respects and at all times;
 - (b) subject to Section 3.1(d), the Mezzanine Obligations are fully subordinated to the prior payment in full of all Senior Obligations and the Senior Tangible Security will have priority, to the full extent of the Senior Obligations, over the Mezzanine Obligations in all respects and at all times;
 - (c) the Subordinate Obligations shall rank in priority to the Mezzanine Obligations until a Default has occurred and any Creditor has taken steps to enforce its Security, which shall include without limiting the generality of the foregoing providing a notice of intent to enforce security pursuant to Section 244(1) of the Bankruptcy and Insolvency Act (*Canada*).
 - (d) the Mezzanine IP Security will have priority, to the full extent of the Mezzanine Obligations, over the Senior Security in all respects and at all times; and
 - (e) the Mezzanine Obligations and the Mezzanine Security shall rank *pari passu*.

For greater certainty, the Tangible Security shall rank in descending order of priority as follows: (a) firstly, the Senior Tangible Security to the full extent of the Senior Obligations; and (b) secondly, the Mezzanine Tangible Security to the full extent of the Mezzanine Obligations (pro-rata among the Mezzanine Creditors based on the amount of the Obligations owed to them), and (c) thirdly, the Subordinate Tangible Security to the full extent of the Subordinate Obligations. The IP Security shall rank in descending order of priority as follows: (a) firstly, the Mezzanine IP Security to the full extent of the Mezzanine Obligations (pro-rata among the Mezzanine Creditors based on the amount of the Obligations owed to them); (b) the Senior IP Security to the full extent of the Senior Obligations; and (c) thirdly, the Subordinate IP Security to the full extent of the Subordinate Obligations.

- 3.2 **Payment of Mezzanine Obligations.** Subject to Section 3.3, the Subordinate Creditor agrees with the Mezzanine Creditors that, at any time, Mitomics may make and the Mezzanine Creditor may accept any payment or prepayment in respect of the Mezzanine Obligations, or any part thereof, whether or not any Default has occurred. Nothing herein contained will prevent, limit or restrict the Mezzanine Creditors in any manner from exercising all or any of their rights and remedies otherwise permitted under the terms of the Mezzanine Security in connection with the Mezzanine Obligations.
- 3.3 **Payments Before Default.** Subject to Section 3.4, while no Default exists or is continuing or would result from such payment and no Creditor has taken any steps to enforce its Security, including without limitation providing notice of its intent to enforce its Security pursuant to Section 244(1) of the *Bankruptcy and Insolvency Act* (Canada), Mitomics may make, and the Mezzanine Creditors may receive the regularly scheduled payments of interest and principal owing by Mitomics to the Mezzanine Creditors in accordance with the Mezzanine Loan Agreements. Mitomics may not make early payments of interest or early repayments of principal under the Mezzanine Obligations and the Mezzanine Creditors may not accept any early payments of interest or early repayments of principal under the Mezzanine Obligations, except (a) with the proceeds raised from the issuance and sale of any equity securities of Mitomics; or (b) with the express written consent of the Subordinate Creditor.
- 3.4 **Payments After Default.** After a Default has occurred and any Creditor has taken steps to enforce its Security (including, without limitation, providing notice of its intent to enforce its Security pursuant to Section 244(1) of the *Bankruptcy and Insolvency Act* (Canada)), Mitomics will not, until the Mezzanine Obligations have been satisfied in full, make and will not be entitled to make, and the Subordinate Creditor will not accept and will not be entitled to accept, any payment or payments of principal, interest or other amount in respect of the Subordinate Obligations, whether in the form of cash, other forms of property (except for equity securities which the Subordinate Obligations may be converted into in satisfaction of the Subordinate Obligations), by the exercise of a right of set off or other similar right or remedy, or in any other manner whatsoever until such time as the Senior Obligations and the Mezzanine Obligations have been satisfied in full.
- 3.5 **Distributions Pro Rata to Mezzanine Creditors.** Each of the Creditors agrees that, in the event of any enforcement of the IP Security or the Tangible Security that would result in a distribution of Proceeds to the Mezzanine Creditors, the Mezzanine Creditors shall share in such Proceeds in proportion to their respective shares of Mezzanine Obligations outstanding as at the date on which the Creditor(s) enforcing their security gave notice of such enforcement to Mitomics.
- 3.6 **Rights to Proceeds.** If any of the property or assets of Mitomics is dealt with, damaged, destroyed, lost or expropriated so as to give rise to Proceeds (including amounts payable under insurance policies), the relative priority of claims of the Creditors against such Proceeds shall be determined as if the claims were made against the original collateral which gave rise to such Proceeds.

- 3.7 **Creditors to Furnish Information.** Each of the Creditors shall provide to the others from time to time, upon request, full information and particulars as to the amounts owing to such Creditor by Mitomics, the performance by Mitomics of the terms and conditions of its agreements and obligations to such Creditor and any other information which the party requesting the same deems material, and Mitomics consents to such disclosure.
- 3.8 **No Challenge.** No Creditor will, in any manner, challenge, contest or bring into question the validity, priority, perfection or enforceability of any of the Obligations or the Security or take any action whereby the priorities set within this Agreement might be impaired or defeated.

SECTION 4 - ENFORCEMENT AND REMEDIES

- 4.1 **Notice.** Each Creditor agrees to give the other Creditors (a) concurrent notice of the occurrence of a Default under its Loan Agreement if notice thereof is given to or received from Mitomics, (b) concurrent notice of a Demand made by it under its Loan Agreement, and (c) prior notice of the exercise of enforcement remedies (provided that a Creditor shall not incur any liability for failure to provide such notice except as provided by any applicable law).
- 4.2 **Removal of Assets.** Each of the parties shall permit any of the other parties hereto and their employees, agents and contractors, access at all reasonable times to any property and assets of Mitomics upon which it has a prior charge or security interest in accordance with the terms hereof and to permit such other party to remove such property and assets from the premises of Mitomics at all reasonable times without interference provided that such other party shall promptly repair any damage caused to the premises by removal of such property or assets.
- 4.3 **Remedies.** Each Creditor acknowledges that all covenants, provisions and restrictions contained herein are necessary and fundamental in order to establish the respective priorities of the Creditors in connection with the Obligations and the Security, and that a breach of any such covenant, provision or restriction would result in damages that could not adequately be compensated by monetary award. Accordingly, it is expressly agreed that, in addition to all other remedies available to it, including any action for damages, a Creditor will be entitled to the immediate remedy of a restraining order, interim injunction, injunction or other form of injunctive or other relief as may be decreed or issued by any court of competent jurisdiction to restrain or enjoin the other Creditors from breaching any such covenant, provision or restriction.
- 4.4 **Application of Cash Proceeds of Realization of Tangible Security.** All Proceeds of Realization of the Tangible Security will be applied and distributed, and the Tangible Security will be deemed to have the relative priorities which would result in the Proceeds of Realization of Tangible Security being applied and distributed, as follows:
- (1) firstly, to the payment of all reasonable costs and expenses incurred by the Senior Creditor in the exercise of all or any of the powers granted to it under its Senior Tangible

Security and in payment of all of the reasonable remuneration of any Receiver and all reasonable costs incurred by such Receiver in the exercise of all or any powers granted to it under the Senior Tangible Security;

- (2) secondly, to the payment or prepayment in full of the Senior Obligations;
- (3) thirdly, to the payment of all reasonable costs and expenses incurred by Mezzanine Creditors in the exercise of all or any of the powers granted to them under their respective Mezzanine Security and in payment of the reasonable remuneration of any Receiver and all reasonable costs incurred by such Receiver in the exercise of all or any powers granted to it under the Mezzanine Tangible Security;
- (4) fourthly, to the payment or prepayment in full of the then outstanding Mezzanine Obligations on a pro-rata basis;
- (5) fifthly, to the payment of all reasonable costs and expenses incurred by Subordinate Creditor in the exercise of all or any of the powers granted to them under their respective Subordinate Tangible Security and in payment of the reasonable remuneration of any Receiver and all reasonable costs incurred by such Receiver in the exercise of all or any powers granted to it under the Subordinate Tangible Security;
- (6) sixthly, to the payment or prepayment in full of the then outstanding Subordinate Obligations on a pro-rata basis; and
- (7) the balance, if any, in accordance with applicable law.

Each Creditor acknowledges that the foregoing method of application of Proceeds of Realization of Tangible Security may be subject to the claims, if any, of prior secured creditors of Mitomics; however, this acknowledgement is not intended to, and shall not, constitute a subordination by any Creditor in favour of any other creditor of Mitomics.

4.5 Application of Cash Proceeds of Realization of IP Security. All Proceeds of Realization of the IP Security will be applied and distributed, and the IP Security will be deemed to have the relative priorities which would result in the Proceeds of Realization of IP Security being applied and distributed, as follows:

- (1) firstly, to the payment of all reasonable costs and expenses incurred by the Mezzanine Creditors in the exercise of all or any of the powers granted to it under its Mezzanine IP Security and in payment of all of the reasonable remuneration of any Receiver and all reasonable costs incurred by such Receiver in the exercise of all or any powers granted to it under the Mezzanine IP Security;
- (2) secondly, to the payment or prepayment in full of the Mezzanine Obligations on a pro-rata basis;
- (3) thirdly, to the payment of all reasonable costs and expenses incurred by Senior Creditor in the exercise of all or any of the powers granted to them under their respective Senior

IP Security and in payment of the reasonable remuneration of any Receiver and all reasonable costs incurred by such Receiver in the exercise of all or any powers granted to it under the Senior IP Security;

- (4) fourthly, to the payment or prepayment in full of the then outstanding Senior Obligations on a pro-rata basis;
- (5) fifthly, to the payment of all reasonable costs and expenses incurred by Subordinate Creditor in the exercise of all or any of the powers granted to them under their respective Subordinate IP Security and in payment of the reasonable remuneration of any Receiver and all reasonable costs incurred by such Receiver in the exercise of all or any powers granted to it under the Subordinate IP Security;
- (6) sixthly, to the payment or prepayment in full of the then outstanding Subordinate Obligations on a pro-rata basis; and
- (7) the balance, if any, in accordance with applicable law.

Each Creditor acknowledges that the foregoing method of application of Proceeds of Realization of IP Security may be subject to the claims, if any, of prior secured creditors of Mitomics; however, this acknowledgement is not intended to, and shall not, constitute a subordination by any Creditor in favour of any other creditor of Mitomics.

SECTION 5 - REPRESENTATIONS AND WARRANTIES OF CREDITORS

5.1 **Representations and Warranties.** To induce each Creditor to continue to extend credit to members of Mitomics under the Loan Agreements, each Creditor hereby represents and warrants to the other Creditors as follows and acknowledges and confirms that each Creditor is relying upon such representations and warranties in continuing to extend credit to Mitomics under the Loan Agreements:

- (1) each Creditor has all requisite capacity, power and authority to enter into and carry out the transactions contemplated by this Agreement;
- (2) all necessary action, corporate or otherwise, has been taken to authorize the execution, delivery and performance of this Agreement by each Creditor and each Creditor has duly executed and delivered this Agreement; and
- (3) this Agreement is a legal, valid and binding obligation of each Creditor, enforceable against each Creditor by the other Creditors in accordance with its terms subject to limitations with respect to enforcement imposed by law in connection with bankruptcy or similar proceedings affecting creditors' rights generally and to the extent that equitable remedies such as specific performance and injunction are in the discretion of the court from which they are sought.

SECTION 6 - MITOMICS' CONSENT

- 6.1 **Consent of Mitomics.** Mitomics covenants and agrees that so long as any of the Senior Obligations, Mezzanine Obligations and the Subordinate Obligations remain outstanding, it shall stand possessed of its assets so charged for the Creditors in accordance with their respective interests and priorities as herein set out.

SECTION 7 - MISCELLANEOUS

- 7.1 **Additional Mezzanine Creditors.** Subsequent to the date hereof, Mitomics may incur additional indebtedness for borrowed money and the lender in connection to such indebtedness may be added as a party to this Agreement as a Mezzanine Creditor, provided however, that no Person shall become a Mezzanine Creditor if (a) the total principal amount owing to all Mezzanine Creditors would exceed \$3.5 million; or (b) the total amount owing to all Mezzanine Creditors and the Senior Creditor would exceed \$4.5 million. As a condition of any creditor becoming a Mezzanine Creditor after the date hereof, such creditor shall enter into an Assumption Agreement substantially in the form attached hereto as Schedule "A" pursuant to which such creditor shall be deemed a "Mezzanine Creditor" hereunder and shall agree to assume all obligations and be bound by and comply with all of the provisions of this agreement.
- 7.2 **Application of this Agreement.** The rights of the Creditors and the priorities of the Security and the Obligations set out in this Agreement will apply irrespective of any matter or thing, including:
- (1) the validity or enforceability of any provision of the Security and any agreement forming part of the Obligations;
 - (2) the time of creation, granting, execution, delivery, attachment, registration (to the extent registration is required), filing, perfection, crystallization or enforcement of any of the Obligations or the Security or any part thereof;
 - (3) the jurisdictions where any of the Security is registered or the failure of any Creditor to properly register or perfect any of the Security in any particular jurisdiction;
 - (4) the time of any loan, advance or other extension of credit made to Mitomics by any Creditor;
 - (5) the time of Default or Demand;
 - (6) any priority otherwise accorded to the Obligations and the Security under applicable law;
 - (7) the provisions of the instruments or documents creating any of the Security; or
 - (8) any other matter whatsoever.

Any action taken or thing done by a Creditor in contravention of this Agreement will be null and void and of no effect.

- 7.3 **Agreement Not to Apply.** As between the Creditors, nothing contained in this Agreement shall be construed as entitling a Creditor to receive any Proceeds of Realization in respect of which such Creditor's Security has been i) disallowed by a trustee and such disallowance is not effectively reversed, or ii) judicially determined by final judgment to be invalid, unperfected or unenforceable against third parties. Furthermore, if any third party shall have a claim to any Proceeds of Realization in priority to or on a parity with one Creditor but not in priority to or on a parity with the other Creditor, then this Agreement shall not apply so as to diminish the rights (as such rights would have been but for the provisions hereof) of such other Creditor to such Proceeds of Realization. Nothing contained in this Agreement shall be construed as conferring any rights upon any person other than the Creditors.
- 7.4 **Continuing Agreement.** This Agreement shall constitute a continuing agreement, even though at times Mitomics may not be indebted to a Creditor under the applicable Loan Agreements and each Creditor may continue, without notice to the other Creditors, to lend money, extend credit and make other financial accommodations to or for the account of Mitomics, on the faith hereof.
- 7.5 **Waivers and Amendments.** None of the terms or provisions of this Agreement may be waived, amended, supplemented or otherwise modified except by a written instrument executed by the Creditors. No Creditor will by any act or delay, be deemed to have waived any right or remedy hereunder or to have acquiesced in any Default or in any breach of any of the terms and conditions hereof. No failure to exercise, nor any delay in exercising, on the part of any Creditor, any right, power or privilege hereunder shall operate as a waiver thereof. No single or partial exercise of any right, power or privilege hereunder will preclude any other or further exercise thereof or the exercise of any other right, power or privilege. A waiver by any Creditor of any right or remedy hereunder on any one occasion will not be construed as a bar to any right or remedy which such Creditor would otherwise have on any future occasion.
- 7.6 **Severability.** Any provision of this Agreement that is prohibited or unenforceable in any jurisdiction will, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and will be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.
- 7.7 **Counterparts and Facsimiles.** This Agreement may be executed in any number of counterparts, all of which will be deemed to be an original and such counterparts taken together will constitute one agreement and any of the parties hereto may execute this

Agreement by signing any such counterpart. Delivery of an executed copy of a signature page to this Agreement by facsimile transmission or by e-mail in .pdf or .tiff format shall be effective as delivery of a manually executed copy of this Agreement and each party hereto undertakes to provide each other party hereto with a copy of the Agreement bearing original signatures forthwith upon demand.

- 7.8 **Further Assurances.** The Creditors agree to execute and deliver such further and other documents and perform and cause to be performed such further and other acts and things as may be necessary or desirable in order to give full effect to this Agreement and every part thereof, including all acts, deeds and agreements as may be necessary or desirable for the purpose of registering or filing notice of the terms of this Agreement.
- 7.9 **Communication.** Any communication required or permitted to be given under this Agreement will be in writing and will be effectively made and given if (a) delivered personally, (b) sent by prepaid courier service, or (c) sent prepaid by facsimile transmission or other similar means of electronic communication, in each case to the address or facsimile number of the relevant Creditor set out on the signature pages to this Agreement. Any communication so given will be deemed to have been given and to have been received on the day of delivery if so delivered, or on the day of facsimile transmission or sending by other means of recorded electronic communication provided that such day is a Business Day and the communication is so delivered or sent prior to 4:30 p.m. (local time at the place of receipt). Otherwise, such communication will be deemed to have been given and to have been received on the following Business Day. Either Creditor may from time to time change their respective addresses or facsimile numbers for notice by giving notice to the other in accordance with the provisions of this Section.
- 7.10 **Successors and Assigns.** This Agreement will enure to the benefit of, and be binding on, the Creditors and their respective legal representatives, heirs, executors, administrators, successors and permitted assigns, as applicable; provided, however, that no Creditor will assign any of its right, title or interest in respect of any of the Obligations or the Security unless the assignee agrees in writing with the other Creditors to be bound by this Agreement.
- 7.11 **Entire Agreement.** This Agreement and each Assumption Agreement contains the entire understanding of the parties with respect to the priority of the Obligations and the Security and supersedes any prior agreements, undertakings, declarations, representations and understandings, both written and verbal, in respect of the priority of the Obligations and the Security. There are no restrictions, agreements, promises, warranties, covenants or undertakings relating to the priority of the Obligations and the Security other than those set forth in this Agreement.
- 7.12 **Termination.** This Agreement will terminate and shall be of no further force and effect upon the earlier of: (a) indefeasible payment in full of all Obligations owing under the Mezzanine Notes; and (b) the written agreement of the Creditors to such effect.

The parties have executed this Agreement as of the day and year first written above

Address: 1159 Alloy Drive
Thunder Bay, ON P7B 6M8

Attention: Aldo Fata
Fax No. (807) 343-9228

ROYAL BANK OF CANADA

By: _____

Name:
Title:

Address: Roberta Bondar Place
Ste 200, 70 Foster Dr,
Sault Ste Marie, ON P6A 6V8

Attention: Executive Director
Fax No. (705) 945-6701

**NORTHERN ONTARIO HERITAGE
FUND CORPORATION**

By: _____

Name:
Title:

Address: 21 Newbiggen Street,
Thaxted, Essex, UK CB11 3BL



UPTTEL LIMITED

By: _____

Name:
Title:

Address: 763 Lako Twintree Cres SE
Calgary, AB T2J 2W2

Attention: Geoff Perlin
Email: perling@shaw.ca

PERLIN FAMILY HOLDINGS INC.

By: _____

Name:
Title:

Witness:

CLIFFORD PROUD
1 Reynard Copse, Bishops Stortford,
HERTS, UK CM23 2BB
Email: clifford.proud@sky.com

Witness:

FRED POULTER
401-760 Gordon St.,
Thunder Bay, ON P7E 6S1

Email: poultjerjf@hotmail.com

Address: 92 Winnipeg Ave.
Thunder Bay, ON P7B 3P9

Attention: Warren L. Peterson
Email: wspeterson@tbaytel.net

**WARREN PETERSON VETERINARY
PROFESSIONAL CORPORATION**

By:

Name:

Title:

Witness:

BILL POULTER
601 Ashdale Place,
Thunder Bay, ON P7E 3M6
Email: billpoulter@shaw.ca


Witness:

PA NOLAN
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Dundrum, Ireland, Dublin 14
Email: pa@panolan.com

Witness:

FRANCO CRUPI
577 Eleventh Ave.
Thunder Bay, ON, P7B2R5
Email: franco@crupi.biz

Witness:

MIRANDA TRENCHARD
Tinkers Hall Farm
Furneux Pelham, HERTS, SG9 9L1, UK


Witness:

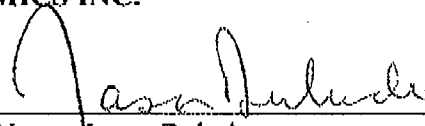
HARALD SMART
Tinkers Hall Farm
Furneux Pelham, HERTS, SG9 9L1, UK

Email: harry.smart@btinternet.com

290 Munro Street
Suite 1000
Thunder Bay, ON P7A 7T1

MITOMICS INC.

By:



Name: Jason Dulude

Title: Chief Financial Officer

Attention: Jason Dulude, CFO
Fax No. 1 (807) 768-4511

SCHEDULE "A"

Assumption Agreement

The undersigned, _____, in connection with providing a loan to Mitomics Inc. in the principal amount of \$● pursuant to _____ and entered into on ●, 2013, hereby represents and warrants that it is entitled to become and hereby agrees to become a party to the Intercreditor Agreement dated as of February 8, 2013, as amended or amended and restated from time to time, a copy of which is attached hereto (the "**Agreement**"), and hereby agrees to assume all of the obligations of a Mezzanine Creditor thereunder and to be bound by and comply with all of the provisions of the Agreement as a Mezzanine Creditor.

This Assumption Agreement shall take effect and shall become a part of the Agreement upon its execution and the delivery of an executed original counterpart hereof to each of the Creditors and Mitomics Inc. by the undersigned.

Defined terms used herein and not otherwise defined herein have the meanings assigned thereto in the Agreement.

This Assumption Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

Dated this ____ day of _____, 2013.

●
By: _____
Authorized Signing Officer

The parties have executed this Agreement as of the day and year first written above

Address: 1159 Alloy Drive
Thunder Bay, ON P7B 6M8

Attention: Aldo Fata
Fax No. (807) 343-9228

Address: Roberta Bondar Place
Ste 200, 70 Foster Dr,
Sault Ste Marie, ON P6A 6V8

Attention: Executive Director
Fax No. (705) 945-6701

Address: 21 Newbiggen Street,
Thaxted, Essex, UK CB11 3BI.

Attention: Simon Green
Email: terry.green1@btconnect.com

Address: 763 Lake Twintree Cres SE
Calgary, AB T2J 2W2

Attention: Geoff Perlin
Email: perling@shaw.ca

Witness:

Witness:

ROYAL BANK OF CANADA

By:

Name:
Title:

**NORTHERN ONTARIO HERITAGE
FUND CORPORATION**

By:

Name:
Title:

UPTTEL LIMITED

By:

Name:
Title:

PERLIN FAMILY HOLDINGS INC.

By:

Name:
Title:

CLIFFORD PROUD

1 Reynard Copse, Bishops Stortford,
HERTS, UK CM23 2BB
Email: clifford.proud@sky.com

FRED POULTER

401-760 Gordon St.,
Thunder Bay, ON P7E 6S1

The parties have executed this Agreement as of the day and year first written above

Address: 1159 Alloy Drive
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Attention: Aldo Pata
Fax No. (807) 343-9228

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Sault Ste Marie, ON P6A 6V8

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**NORTHERN ONTARIO HERITAGE
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By:

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PERLIN FAMILY HOLDINGS INC.

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Fax No. (705) 945-6701

**NORTHERN ONTARIO HERITAGE
FUND CORPORATION**

By:

Name:
Title:

Address: 21 Newbiggen Street,
Thaxted, Essex, UK ~~CM10 3BT~~
CM16 2QS

Attention: Simon Green
Email: terry.green1@btconnect.com

UPTTEL LIMITED

By:

Name: SIMON GREEN
Title: Director

Address: 763 Lake Twintree Cres SE
Calgary, AB T2J 2W2

Attention: Geoff Perlin
Email: perling@shaw.ca

PERLIN FAMILY HOLDINGS INC.

By:

Name:
Title:

Witness:

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1 Reynard Copse, Bishops Stortford,
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Witness:

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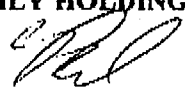
UPTTEL LIMITED

By:

Name:
Title:

PERLIN FAMILY HOLDINGS INC.

By:



Name: GEOFF PERLIN
Title: DIRECTOR

CLIFFORD PROUD

1 Reynard Copse, Bishops Stortford,
HERTS, UK CM23 2BB
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- 16 -

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PERLIN FAMILY HOLDINGS INC.

By:

Name:
Title:

Witness:

Joan Poulter

Witness:

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F. L. Poulter

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- 17 -

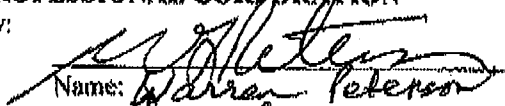
Email: poultcrjf@hotmail.com

Address: 92 Winnipeg Ave.
Thunder Bay, ON P7B 3P9

Attention: Warren L. Peterson
Email: wspeterson@tbaytel.net

**WARREN PETERSON VETERINARY
PROFESSIONAL CORPORATION**

By:


Name: Warren Peterson
Title: President

Witness:

BILL POULTER

601 Ashdale Place,
Thunder Bay, ON P7E 3M6
Email: billpoulter@shaw.ca

Witness:

PA NOLAN

Mopoon Villa, Sydenham Road,
Dundrum, Ireland, Dublin 14
Email: pa@panolan.com

Witness:

FRANCO CRUPI

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Witness:

MIRANDA TRENCHARD

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Email: miranda.trenchard@btinternet.com

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Email: poultcrjf@hotmail.com


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Attention: Warren L. Peterson
Email: wspetcrson@tbaytel.net

**WARREN PETERSON VETERINARY
PROFESSIONAL CORPORATION**

By:


Witness:

Name:
Title:


BILL POULTER
601 Ashdale Place,
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Email: billpoulter@shaw.ca

Witness:

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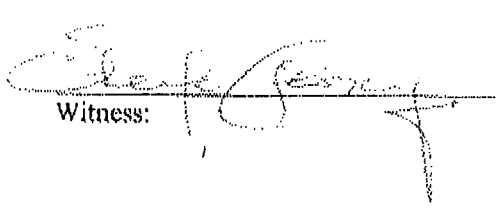
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Witness:

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