

# DODICK LANDAU

October 8, 2014

## **CREDITOR PACKAGE**

### **To the Creditors of Mitomics Inc.,**

Please be advised that on October 7, 2014 Dodick Landau Inc., in its capacity as court-appointed receiver ("**Receiver**") of all of the assets, undertakings and properties of Mitomics Inc. ("**Mitomics**"), filed with the Official Receiver in Canada a proposal in the name, and on behalf, of Mitomics (the "**Proposal**"), and Dodick Landau Inc. was named Proposal Trustee (the "**Trustee**").

The reason you are receiving this letter and the enclosed creditor information ("**Creditor Package**") is because Mitomics advised the Trustee that you are a creditor of Mitomics and are eligible to vote in the Proposal. The purpose of the Creditor Package is to provide you with the information you require to evaluate, and vote on, the Proposal.

Enclosed in this Creditor Package are the following documents:

- 1) Proposal
- 2) Trustee's Report on Proposal
- 3) Statement of Affairs
- 4) Notice of Proposal to Creditors
- 5) Proof of Claim form with instructions
- 6) Proxy
- 7) Voting Letter
- 8) If you are a secured or unsecured noteholder, a Unique Schedule A (trade creditors do not receive this)

**Meetings of the Creditors to consider the Proposal will be held at the Valhalla Inn, located at 1 Valhalla Inn Road, Thunder Bay, Ontario, P7E 6J1, on October 27, 2014. There will be two Creditor Meetings that will take place on October 27, 2014, as follows:**

- 1) Secured Creditors Meeting - 1:00 p.m.**
- 2) Unsecured Creditors Meeting - 1:30 p.m.**

In order to be eligible to attend and vote at the meetings of creditors, Creditors must have filed with the Trustee, Dodick Landau Inc., before the meetings, a proof of claim form signed and witnessed as required and accompanied by a statement of account. Those Creditors who do not intend to have a personal representative at the meetings held on October 27, 2014, may complete and submit the voting letter which is enclosed in this

# DODICK LANDAU

Creditor Package prior to the meetings indicating their vote for or against the acceptance of the Proposal. The Trustee has also enclosed a form of proxy should a Creditor wish to appoint a proxy to represent them at the meetings. Additional details relating to the filing of claims, and other documents, prior to the meetings of the creditors are outlined in the Report of the Trustee on the Proposal.

For creditors of Mitomics who are noteholders, the Trustee has obtained from Mitomics' records a calculation of all noteholders principle and accrued interest. Using this information, the Trustee then prepared a unique Schedule "A" for each noteholder and included it in each noteholder's Creditor Package. If you are a noteholder and agree with the calculation on the Schedule "A" provided to you in your Creditor Package than you need only complete your proof of claim form and submit it to the Trustee along with the Schedule "A" provided. If you disagree with the calculation on the Schedule "A" provided to you, please submit a revised Schedule "A" with your proof of claim form and include with your proof of claim any documentation required to support your revised calculation on your Schedule "A".

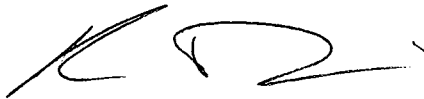
Completed proofs of claim, and other documents, may be returned to the Trustee to the attention of Stephanie Toye by fax (416-649-7725) or electronic mail ([stephanie@dodicklandau.ca](mailto:stephanie@dodicklandau.ca)). Should you need further assistance, you may contact Stephanie Toye by phone at 416-736-4357.

To access further information pertaining to the Mitomics proceedings, including an electronic copy of the Creditor Package, please visit the Trustee's website (<http://dodick.ca/public-documents/>).

## **DODICK LANDAU INC.**

Proposal Trustee of the estate of Mitomics Inc.  
and not in its personal or corporate capacity.

Per:



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Rahn Dodick, CPA, CIRP

# **PROPOSAL**



**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**IN THE MATTER OF THE PROPOSAL OF  
MITOMICS INC.**

**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) “**Act**” means the *Bankruptcy and Insolvency Act*, (Canada) R.S.C. 1985, c. B-3, as it may be amended from time to time;
  - (b) “**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;
  - (c) “**Administration Charge**” has the meaning ascribed to it in the Receivership Order.
  - (d) “**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;
  - (e) “**Assets**” means the Purchased Assets;
  - (f) “**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;

- (g) “**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;
- (h) “**Court**” means the Ontario Superior Court of Justice;
- (i) “**Creditor**” means any person who holds one or more Claims, including Secured Creditors and Unsecured Creditors and “**Creditors**” has a corresponding meaning;
- (j) “**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;
- (k) “**Effective Date**” means the date upon which the Approval Order becomes final and non-appealable;
- (l) “**Event of Default**” has the meaning given to it in Part X of this Proposal;
- (m) “**Inspector**” means an inspector appointed, if any pursuant to the Proposal in accordance with the provisions of the Act;
- (n) “**Dodick Landau**” means Dodick Landau Inc.;
- (o) “**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;
- (p) “**Performance of the Proposal**” means full performance of this Proposal as set out in Part III, section 3.2 hereof;
- (q) “**Post Receivership Goods and Services**” means the goods and services purchased by the Debtor subsequent to the Receivership Date;
- (r) “**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 244(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 244(2.2) 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 244(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;

- (s) "**Proposal**" means this Proposal and any amendments thereto;
- (t) "**Proof of Claim**" means the proof of claim required by the Act to be provided to each known Creditor prior to the Creditors' Meeting;
- (u) "**Proven Claim**" of a Creditor means the amount of the Claim of such Creditor finally determined in accordance with the provisions of the Act;
- (v) "**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”**;

- (w) **“Purchase Price”** means the payments to be made to the Trustee pursuant to the provisions of Part III of this Proposal;
- (x) **“Purchase Transaction”** means the purchase and sale transaction contemplated by the Purchase Agreement and the Term Sheet;
- (y) **“Purchased Assets”** means those assets purchased by the Purchaser, as described in the Purchase Agreement;
- (z) **“Purchaser”** means 2436884 Ontario Inc.;
- (aa) **“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;
- (bb) **“Receiver’s Borrowings Charge”** has the meaning ascribed to it in the Receivership Order;
- (cc) **“Receivership Date”** means August 14, 2014, being the date upon which the Receiver was appointed;
- (dd) **“Receivership Order”** means the order dated August 14, 2014 appointing Dodick Landau as Receiver;
- (ee) **“Retention Charge”** has the meaning ascribed to it in the September 11, 2014 order of the Court;
- (ff) **“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;
- (gg) **“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;
- (hh) **“Term Sheet”** means the term sheet annexed hereto as **Schedule “B”**;
- (ii) **“Trustee”** means Dodick Landau, or its duly appointed successor, in its capacity as proposal trustee under the Act;
- (jj) **“Unsecured Creditors”** means, collectively, the Preferred Creditors and the Ordinary Creditors; and



- (kk) **“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 Twenty Million, Three Hundred and Ninety-two Thousand Dollars (\$20,392,000) (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 shall be paid as follows:
  - (a) 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**

- 4.7 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 28, 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**

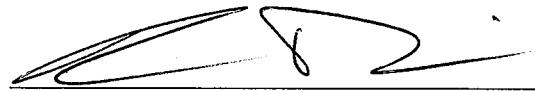
- 10.1 The failure of the Purchaser to pay the Deposit to the Trustee will constitute an Event of Default for purposes of section 63 of the Act and otherwise under this Proposal.

**PART XI****Trustee**

- 11.1 Dodick Landau, shall be the Trustee under this Proposal and all monies 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 6<sup>th</sup> 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 6<sup>th</sup> 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](mailto: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](mailto: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](mailto: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](mailto: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

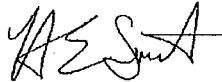
delivery if delivered by facsimile, or electronic transmission on or after 5:00pm Thunder Bay local time, or if delivered by postage pre-paid mail. A party may change its address and/or telecopier machine number by providing notice in accordance with this Section.

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>
 <b>TOTAL PURCHASE PRICE:</b>		 <b>\$19,064,933.50</b>

## **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 (5<sup>th</sup>) 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<sup>11</sup>**  
**INTERCREDITOR AGREEMENT (FORM)**



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**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.**

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**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**

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**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, moveable 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

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 3BL



Address: 763 Lako 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

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**

Mopoon Villa, Sydenham Road,

Dundrum, Ireland, Dublin14

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:

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**HARALD SMART**

Tinkers Hall Farm

Furneux Pelham, HERTS, SG9 9L1, UK

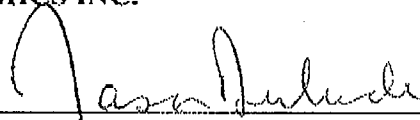
- 18 -

Email: [harry.smart@btinternet.com](mailto:harry.smart@btinternet.com)

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

**MITOMICS INC.**

By:

A handwritten signature in cursive script, appearing to read "Jason Dulude", is written over a horizontal line.

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 3BL

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

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Witness:

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Witness:

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By:

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Fax No. (705) 945-6701

**NORTHERN ONTARIO HERITAGE  
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By:

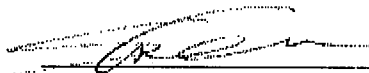
\_\_\_\_\_  
Name:  
Title:

Address: 21 Newbiggen Street,  
Thaxted, Essex, UK ~~CB10 3BT~~  
CM6 2GS

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

**UPTCL 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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**UPTTEL LIMITED**

By:

\_\_\_\_\_  
Name:  
Title:

**PERLIN FAMILY HOLDINGS INC.**

By:

  
\_\_\_\_\_  
Name: GEOFF PERLIN  
Title: DIRECTOR

**CLIFFORD PROUD**

1 Reynard Copse, Bishops Stortford,  
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Title:

**UPTTEL LIMITED**

By:

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Name:  
Title:

**PERLIN FAMILY HOLDINGS INC.**

By:

\_\_\_\_\_  
Name:  
Title:

\_\_\_\_\_  
Witness:

*Joan Poulter*  
\_\_\_\_\_  
Witness:

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

*F. J. Poulter*  
\_\_\_\_\_  
**FRED POULTER**  
401-760 Gordon St.,  
Thunder Bay, ON P7E 6S1

- 17 -

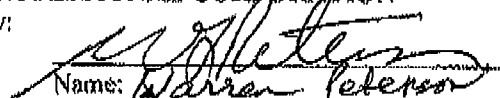
Email: poultcrjf@hotmail.com

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

Witness:

**MIRANDA TRENCHARD**  
Tinkers Hall Farm  
Furneux Pelham, HERTS, SG9 9LI, UK  
Email: miranda.trenchard@btinternet.com

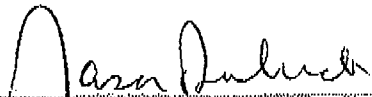
Witness:

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

Email: poultcrjf@hotmail.com

Address: 92 Winnipeg Ave.  
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Attention: Warren L. Peterson  
Email: wspeterson@tbaytel.net

  
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Witness:

**WARREN PETERSON VETERINARY  
PROFESSIONAL CORPORATION**

By:

\_\_\_\_\_  
Name:

Title:



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

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**MIRANDA TRENCHARD**  
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Email: miranda.trenchard@btinternet.com

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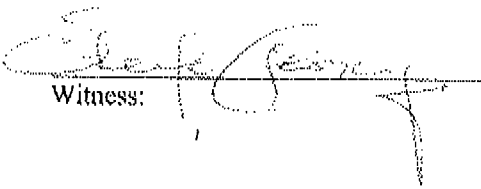
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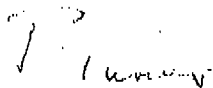
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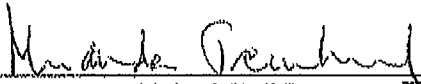
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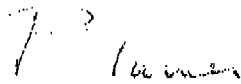
**PA NOLAN**  
Mopoon Villa, Sydenham Road,  
Dundrum, Ireland, Dublin 14  
Email: pa@panolan.com

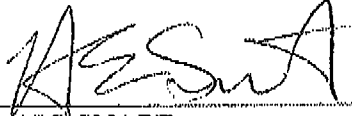
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Witness:

  
**HAROLD SMART**  
Tinkers Hall Farm  
Furneux Pelham, HERTS, SG9 9LI, UK

# **TRUSTEE'S REPORT ON PROPOSAL**





IN THE MATTER OF THE PROPOSAL OF  
MITOMICS INC.  
OF THE CITY OF THUNDER BAY  
IN THE PROVINCE OF ONTARIO

REPORT OF TRUSTEE ON PROPOSAL

INTRODUCTION

*Receivership*

1. On August 7, 2014, William Poulter and Harald Smart (the "**Lenders**") issued an application (the "**Receivership Application**") under sub-section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") and section 101 of the *Courts of Justice Act*, R.S.O. 1990 c. C.43, as amended (the "**CJA**"), before the Ontario Superior Court of Justice (the "Court") for an order appointing Dodick Landau Inc. ("**DLI**") as receiver (in such capacity, the "**Receiver**") of all of the assets, undertakings and properties (collectively, the "**Property**") of Mitomics Inc. (the "**Company**" or "**Mitomics**"). In support of the Receivership Application were two affidavits, one from Harald Smart, sworn August 10, 2014 (the "**Smart Affidavit**"), and one from William Poulter, sworn August 8, 2014 (the "**Poulter Affidavit**").
2. On August 14, 2014, the Court granted the Receivership Application and DLI was appointed Receiver of all the Property of Mitomics (the "**Appointment Order**"). The Appointment Order does not require DLI to manage the Debtor or take control of the property, operate the business or employ any of the Debtor's employees. As a result, Mitomics' management ("**Management**") has retained control over the day to day operations of the business, subject to the oversight of the Receiver. However, the Appointment Order does, among other things, authorize the Receiver to prepare and file a proposal pursuant to Part III Division 1 of the BIA in the name and on behalf of the Debtor. A copy of the Appointment Order is attached as **Appendix "A"**.

*Proposal*

3. On October 8, 2014 Dodick Landau Inc., in its capacity as court-appointed receiver of all of the assets, undertakings and properties of Mitomics, filed with the Official Receiver a

proposal in the name, and on behalf, of Mitomics (the “**Proposal**”), and Dodick Landau Inc. was named Proposal Trustee (the “**Trustee**”).

4. The purpose of this report (“**Report**”) is to provide information to the creditors of Mitomics (“**Creditors**”) to assist in their evaluation of the Proposal.
5. The Proposal has been developed to effect a restructuring of the business and affairs of the Company by completion of a sale of all the assets, undertakings and properties of Mitomics, as contemplated in the Purchase Agreement (as defined in paragraph 28), with the expectation that all existing creditors will derive a greater benefit from the continued operation and affairs of the business than would result from a forced sale of its assets in a liquidation.
6. On September 11, 2014, the Court ordered the Receiver (“September 11, 2014 Court Order”) not to pursue a sale of Mitomics’ business if Management of Mitomics confirmed by September 19, 2014, that a viable Proposal could be made by the Receiver to Mitomics’ Creditors. Management provided confirmation to the Receiver on September 19, 2014, that the offer from the Purchaser was forthcoming and, in Management’s opinion, would result in a viable Proposal that could be made to the Creditors. Management had indicated that it had discussions with a number of Creditors who provided verbal support of the terms of the offer to be made by the Purchaser which was provided to these Creditors in the form of a term sheet substantially in the form of the term sheet marked as Schedule “B” to the Proposal.
7. **Meetings of the Creditors to consider the Proposal will be held at the Valhalla Inn, located at 1 Valhalla Inn Road, Thunder Bay, Ontario, P7E 6J1, on October 27, 2014. There will be two Creditor Meetings. The first will be held for the secured creditors of Mitomics and will take place at 1:00 p.m., and the second will be held for the unsecured creditors of Mitomics (“Unsecured Creditors”) and will take place at 1:30 p.m. Details relating to the filing of claims, and other documents, prior to the meetings of the creditors are outlined in this report and will be mailed to each known creditor of the Company, or their duly appointed representative.**

## DISCLAIMER

8. In preparing this Report of the Trustee, the Trustee has relied upon certain unaudited, draft and/or internal financial information, the Company's books and records, discussions with Management, Creditors and the Purchaser and information from other third-party sources (collectively, the "**Information**"). Except as described in this Report:
- a) the Trustee has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Generally Accepted Assurance Standards pursuant to the Canadian Institute of Chartered Accountants Handbook and, accordingly, the Trustee expresses no opinion or other form of assurance in respect of the Information;
  - b) some of the information referred to in this Report consists of forecasts and projections. An examination or review of the financial forecast and projections, as outlined in the Canadian Institute of Chartered Accountants handbook, has not been performed; and
  - c) the Trustee has prepared this Report in its capacity as a Court appointed officer and has made a copy of this Report available on DLI's website at [www.dodick.ca](http://www.dodick.ca). Parties using this Report, other than for the purpose of evaluating the Proposal, are cautioned that it may not be appropriate for their purposes. DLI will continue to maintain on its website copies of any court orders, reports and other material public filings it considers relevant to this proceeding.
9. Future oriented financial information referred to in this Report was prepared based on Management's estimates and assumptions. Readers are cautioned that since projections are based upon assumptions about future events and conditions that are not ascertainable, the actual results will vary from the projections, even if the assumptions materialize, and the variations could be significant.
10. The capitalized terms not defined in this report are defined in the Proposal and this report should only be read in conjunction with the Proposal. While this Report summarizes key aspects of the Proposal, Creditors are advised to carefully read the

Proposal in full. Should there be any discrepancy between the summary contained in this Report and the Proposal, the Proposal shall govern.

11. Unless otherwise stated, all monetary amounts contained herein are in Canadian dollars.

## **BACKGROUND**

### **Operations**

12. Mitomics was formed by the amalgamation of 1304854 Ontario Ltd. and Genesis Genomics Inc. on October 1, 2006. Mitomics is a molecular diagnostic company engaged in research, development and implementation of medical tests and devices for the early detection of cancer. Mitomics has numerous patent registrations and patents pending in Canada, the United States of America ("**USA**"), and other jurisdictions, as well as various other trade secrets, know-how and intellectual property rights. According to the Company, its intellectual property and trade secrets are its most valuable assets.
13. Mitomics wholly owns two subsidiaries, Mitovision Inc. ("**Mitovision**") and Mitomics UK Ltd. ("**Mitomics UK**") which are domiciled in the USA and the United Kingdom, respectively. We understand that:
  - a) Mitovision does not have any operations and employs only one person in the USA who does work for Mitomics and whose salary is funded by it;
  - b) Mitomics UK employs one person to carry out research and development services for Mitomics and Mitomics funds all its operating costs;
  - c) based on the internal financial statements of Mitovision and Mitomics UK, both entities do not generate any revenue but exist only to service Mitomics; and
  - d) Mitovision has no assets while Mitomics UK's assets are comprised of furniture and laboratory equipment.
14. According to Management, prior to the creation of Mitovision, Mitomics had another wholly owned subsidiary, Mitomics (USA) Inc. ("**Mitomics USA**"), which carried out operations from a laboratory in the USA until it entered liquidation proceedings in November 2013.

15. Currently:
- a) Mitomics employs directly and indirectly, through its wholly owned subsidiaries, six (6) non-unionized employees; and
  - b) Mitomics operates out of leased premises at 96 High Street North, Suite 413, Thunder Bay, Ontario P7A 5R3 (the “**Premises**”). Mitomics also leases a storage unit in Denver, Colorado, which stores excess laboratory equipment.
16. Mitomics’ customers are patients, located primarily in the USA, who are prescribed the Mitomics’ cancer tests by their physicians. Normally, the patient’s health insurer pays Mitomics for these tests. Subject to available ongoing financing throughout the Proposal period, Mitomics intends to continue to operate its business and sell its cancer tests in order to preserve its assets and business operations.

### **Financial Results**

17. Mitomics’ internally prepared non-consolidated financial statements indicate that for its fiscal years ended September 30, 2012, September 30, 2013, and 9 months ended June 30, 2014, it:
- a) incurred operating losses of approximately \$1.9 million , \$2.6 million, and \$1.4 million, respectively, or a total of approximately \$5.9 million over this period;
  - b) had total debt at the end of each period of approximately \$10.7 million, \$15.2 million, and \$20.8 million, respectively; and
  - c) had a shareholder deficiency of \$2.5 million, \$13.6 million, and \$17.1 million, respectively.

### **Secured and Unsecured Debt**

18. A search conducted of the Ontario Personal Property Security Registry in respect of Mitomics revealed registrations by numerous entities, representing some 95 creditors, which the Trustee understands are owed approximately \$8.4 million as at August 13, 2014. In addition, the Trustee understands that certain secured creditors have entered

into inter-creditor agreements, including subsequent amendments to these agreements, which govern the priority and/or subordination of their security interests.

19. A legal opinion has been prepared by the Trustee's independent legal counsel, Dentons Canada LLP ("**Dentons**"), on the validity and enforceability of the Secured Creditors debt. Subject to certain assumptions and restrictions detailed in Dentons letter to the Trustee, Dentons concluded that all the Secured Creditors' debt is valid and enforceable as against a Trustee except the security of one creditor with a combined total debt of just over \$80,000. Dentons continues to review the security of this creditor and is expected to finalize its review of its security prior to the Meetings of Creditors. Should Dentons' final determination be that this creditor's security is invalid and unenforceable, its claim will be recognized as part of the Unsecured Creditor class and not the Secured Creditor class.
20. According to the Company's financial statements, unsecured debt, including unsecured convertible debentures, totaled over \$11.2 million at August 13, 2014, with the majority of the balance being the amounts owed under the unsecured debentures. The unsecured indebtedness is owed to approximately 72 unsecured debentureholders and the Trustee understands that there is a considerable overlap between the secured creditors and the unsecured debentureholders.

## **CAUSES OF FINANCIAL DIFFICULTIES**

21. We have been advised by Management that following the closure of Mitomics USA, Mitomics was forced to abandon its Clinical Laboratory Improvement Amendments registration and Medicare numbers which are required for it to be able to bill and collect from the insurers of patients who reside in the USA and who comprise almost all of its customers. In addition, Mitomics was required to outsource the laboratory processing of its tests at significantly higher rates since its own laboratory had closed prior to the shutdown of Mitomics USA. Concurrent with these events, Mitomics USA's third party billing and collection contractor resigned.
22. As a result, since November 2013, Mitomics in Canada continued to sell its cancer test to patients in the USA, albeit at a loss, and without the ability of billing and collecting revenues. According to Management, this resulted in an accumulation of net unbilled revenue from insurers estimated at \$US 320,000 by August 22, 2014.

23. According to Management, the gross unbilled revenues which are actually the gross amounts invoiced to patients are much greater than what is actually collected by Mitomics from the patients' insurers. Management estimates gross unbilled revenues to be approximately \$2.0 million at August 22, 2014. However, the insurance companies only pay approximately between 20% and 30% of the gross billed amounts and excluding insurance claim denials. After taking into consideration denial of claims by insurers, the actual realizable value is only estimated at 15% to 20% of the gross billings and the balance is considered to be uncollectible.
24. As described above, beginning in November 2013 following the resignation of the third party billing and collection contractor, Mitomics entered into discussions and negotiations with its existing distribution partners in the USA to carry out billings and collections on its behalf. On July 31, 2014, a memorandum of understanding ("**Billing Agreement**") was reached with one major distribution partner to bill and collect revenues from sales of Mitomics' tests that such party distributes. According to Management, this distributor has commenced billing and collecting on behalf of Mitomics in September 2014. However, Mitomics does not expect to receive any net cash receipts from this distributor until December 2014 since Management believes it will take up to approximately sixteen weeks for insurers to start releasing funds to this distributor.
25. Management indicated that while Mitomics is unable to maintain profitability at these low collection rates, other companies with their own in-house laboratory processing facilities are able to realize a profit even at these low collection rates due to significantly lower in-house test processing costs. For this reason, Management believes it is important to continue to sell its tests, even at a loss, in order that it may maintain and grow its customer base until Mitomics' operations can either be restructured or sold to a party with its own in-house laboratory processing facilities.
26. According to Management, future research conducted by the Purchaser will include developing blood tests for early detection of cancers. Blood will be used as a sample for testing instead of using tissue which is the current method for testing. A newly developed blood test will be easier to administer and less costly, thus increasing the likelihood that doctors will prescribe the blood test to its patients increasing the volume of test sales overall. The blood test market launch remains subject to further clinical development and will require significant additional investment by the Purchaser. In

addition, we understand that the Purchaser will carry-out additional operational changes to the business, including outsourcing non-proprietary product development and leveraging commercial laboratory and distributor relationships to carry-out commercial sales and testing activities.

## **OVERVIEW OF THE PROPOSAL**

27. Until an operational restructuring or sale can occur, the Company will require external funding to finance its losses which historically have been the result of high research and development costs, and losses generated from the sale of its tests, as described above. Prior to the Receivership Application, the Company was unable to raise sufficient capital to finance these losses. As a result, the Lenders applied for the appointment of a Receiver, which was approved by the Court on August 14, 2014, and have now through a new company, 2436884 Ontario Inc., made an offer (the “**Offer**”) to the Receiver to purchase all the assets, undertakings and property of Mitomics (“**Purchase Agreement**”, as defined in the Proposal).
28. As described above, Management confirmed on September 19, 2014, that the Offer from the Purchaser would result in a viable Proposal that could be made to the Creditors. As such, in accordance with the September 11, 2014 Court Order, the Receiver has filed the Proposal with the Office of the Superintendent of Bankruptcy on October 8, 2014. The Receiver will mail a copy of the Proposal to each of its Creditors, along with this Report and other requisite documents, in order that the Offer may be considered by the Creditors prior to the vote on the Proposal which will take place at the Creditors’ Meetings on October 27, 2014, at the Valhalla Inn, Thunder Bay, Ontario.
29. The Proposal provides for the restructuring of the business and affairs of the Debtor by completion of a sale of all the assets, undertakings and properties of Mitomics to the Purchaser, as contemplated in the Purchase Transaction, on an “as is where is” basis, with a closing date no later than November 17, 2014. The assets, undertakings and properties include, among other things, all of Mitomics’ intellectual property, accounts receivable, inventory, cash-in-bank, customer list and shares in its subsidiaries.
30. The Purchaser has indicated that it will need to raise approximately \$3.5 million of new capital following closing of the Purchase Transaction in order to be in a position to fund the operations of Mitomics until either the operation can be restructured or sold



to/merged with a third party which appears to be the Purchaser's ultimate objective. According to the Purchaser, efforts to raise this financing is already underway and is expected to be funded from a combination of existing lenders of Mitomics, and through an investment bank which is currently being engaged by the Purchaser for this purpose. Should this funding not be available, the Purchaser will likely not be able to continue as a going concern and be forced to sell the assets it had purchased from Mitomics. The Receiver requested assurances from the Purchaser that the new funding will be available to the Purchaser, however, the Purchaser is unable to provide these assurances at this time, and will be unable to do so until commitments have been received from the prospective lenders/investors. According to the Purchaser, efforts to obtain these financing commitments are underway.

31. The Purchase Agreement contemplates the compromise of the rights and claims of the Secured and Unsecured Creditors of Mitomics. According to the Purchase Agreement, the Purchaser will:
- a) assume the indebtedness owing to the Secured Creditors with changes to the terms as to interest, payment, security, and priority as set out in Schedule "C" to the Purchase Agreement, however, in the case of:
    - i. Northern Ontario Heritage Fund ("**NOHF**"), which the Purchaser understands is prohibited from accepting the amended terms as set out in Schedule "C" to the Purchase Agreement, NOHF is being offered an assumption of debt by the Purchaser and amended security as detailed in Schedule "D" to the Purchase Agreement; and
    - ii. any secured creditor, other than NOHF, who refuses to accept the amended terms set out in Schedule "C" of the Purchase Agreement, then the Purchaser will assume one-fifth (1/5) of the debt owed by Mitomics to that secured creditor, and such secured creditor will be repaid as to principal and interest on the terms as set out in Schedule "D" to the Purchase Agreement.
  - b) pay all the indebtedness owing to all preferred creditors of Mitomics (as set out in S.136 of the BIA), or provide the Trustee with the funds to pay these amounts, prior to the Closing Date, if any;

- c) issue common shares in the share capital of the Purchaser to each Unsecured Creditor of Mitomics in satisfaction of their indebtedness, at a subscription price and stated capital value equal to the outstanding indebtedness of Mitomics to the Unsecured Creditors as of the closing date of the transaction contemplated in the Purchase Agreement, 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
  - d) assume all obligations of the Receiver under the Administration Charge, Borrowing Charge (as defined in the Appointment Order) and Retention Charge (as that term is defined in the September 11, 2014 Court Order), and all costs payable to the Lenders under Court File No. CV14-0291, and the Purchaser will pay a deposit of \$50,000 towards these costs to be held in trust pending completion of the Purchase Agreement.
32. According to the Purchaser, the Purchase Price of the assumed debt and the newly issued common shares described in the Purchase Agreement, and summarized above, is estimated to be \$19.1 million at the Closing Date. This amount is summarized by the Purchaser in Schedule "B" to the Purchase Agreement and is based on the face value of the Mitomics debt, including accrued and unpaid interest to the Closing Date, if applicable, except in the case of the Northern Ontario Heritage Fund which debt is valued at a reduced amount of \$500,000.
33. In the event that the Proposal is not accepted by the Unsecured Creditors, or the Court refuses to grant the Approval Order (as defined in paragraph 40 below), the Debtor will become bankrupt and the Purchase Agreement will not be available to the Creditors.
34. According to the Purchase Agreement, the existing shareholders of Mitomics will not receive any distribution from, nor retain any equity interest in, the Purchaser.
35. Implementation of the Proposal is subject to the satisfaction or waiver of a number of conditions, including:

- a) each class of Creditors approves the Proposal at the Creditors' Meetings<sup>1</sup> and any other approvals and consents to the Proposal that may be required have been obtained;
  - b) the Court grants the Approval, and the Closing Date has passed;
  - c) no order or decree restraining or enjoining the consummation of the transactions contemplated by the Proposal has been issued;
  - d) all agreements or instruments necessary to effect the intention and purpose of the Proposal have been received by the Debtor and the Purchaser from the applicable Creditors in a form satisfactory to the Debtor and Purchaser;
  - e) the Purchase Agreement shall have been completed; and
  - f) any further orders of the Court have been obtained which are required to facilitate the transactions referred to in the Proposal.
36. Upon being satisfied that all the conditions in the Purchase Agreement have been met or waived, the Trustee will file a certificate with the Court. The arrangements set out in the Proposal will become effective on the date on which the Trustee's certificate is filed.
37. The Proposal provides a release in favour of the directors and officers of the Company for any provable claims ("Provable Claims") against the Company by any Creditor that are also claims against the directors and officers of the Company.
38. Mitomics may vary, amend, modify or supplement the Proposal with the consent of the Trustee at any time prior to the conclusion of the Creditors' Meetings. As at the date of this Report, there have been no amendments, modifications or supplements to the Proposal.

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<sup>1</sup> In order for the Proposal to be approved by a particular class, not less than a majority in the number of creditors representing two-thirds in the value of the proven claims in that class, present and voting, in person or by proxy or by voting letter, at the applicable Creditors' Meetings must vote in favour of the Proposal.

## CREDITORS' MEETINGS/VOTING PROCEDURE AND CLASSES OF CREDITORS

### *Creditors' Meetings/Voting Procedure*

39. The primary purpose of the Creditors' Meetings is to permit Creditors to consider the acceptance or rejection of the Proposal. For the Proposal to be accepted, at least two-thirds (66.67%) of each class of creditor by dollar value, and more than 50% of each class of creditor by number, vote in favour of the Proposal at the meeting either in person, by proxy or by mailing a voting letter to the Trustee in advance of the meeting. Only Creditors who actually vote are counted for the purpose of determining whether the necessary thresholds have been reached.
40. **To be eligible to vote on the Proposal, Creditors must have filed with the Trustee, Dodick Landau Inc., before the meetings, a proof of claim form signed and witnessed as required and accompanied by a statement of account. Those Creditors who do not intend to have a personal representative at the meetings held on October 27, 2014, may complete and submit the voting letter which is enclosed in the creditor package prior to the meetings indicating their vote for or against the acceptance of the Proposal. The Trustee has also enclosed a form of proxy should a Creditor wish to appoint a proxy to represent them at the meetings. If the Proposal is not accepted by the requisite majority of unsecured creditors, the Company will automatically be deemed to have immediately made an assignment in bankruptcy.**
41. If the Proposal is accepted by the statutory majorities referenced above, the Trustee will then make an application to the Court on November 6, 2014 for approval of the Proposal. If the Court provides such approval ("**Approval Order**"), the Proposal will be binding on all Creditors and such Creditors and their respective heirs, executors, administrators, successors and assigns shall have no further Claim against Mitomics other than for the distributions provided in the Proposal.

### *Classes of Creditors*

42. For purposes of considering, and voting on, the Proposal, and receiving a distribution pursuant to the Proposal, the Creditors are grouped in the following two (2) classes:

*Class 1* - This class will be composed of the Proven Claims of the Secured Creditors against the Company. All the Secured Creditors of the Company are included in the Proposal. There are numerous creditors who have security registered against the Company under the *Personal Property Securities Act* (Ontario). Should a Creditor's security be valued at zero, the Proven Claim will be accepted as an Unsecured Claim against the Company.

*Class 2* - This class will be composed of the Proven Claims of the Unsecured Creditors against the Company.

Each Creditor, regardless of class, is required to prove its claim during the Proposal to be eligible to vote on the Proposal at the Creditors' Meetings. In the case of Secured Creditors, the party must also prove the existence and value of their security in order to have a valid secured claim and vote in Class 1.

43. The distinction between the classes is based on the fact that the Secured Creditors hold a valid and enforceable security interest over the assets of the Debtor and, as such, the Secured Creditors have a priority to the assets of the Debtor over other creditors.
44. The Proposal does not compromise or otherwise affect certain creditor claims, specifically:
- a) claims for goods and/or services delivered to the Company on or after the Appointment Order date;
  - b) claims secured by the Administration Charge, Retention Charge or the Borrowing Charge (all as defined in the Appointment Order and the September 11, 2014 Court Order);
  - c) claims of Her Majesty in Right of Canada and in Right of Ontario in respect of unremitted employee payroll source deductions; and

- d) proven Claims of Preferred Creditors, if any, to be funded by the Purchaser, and 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 BIA.
45. Distributions in relation to the Secured Creditors' Class will be made as contemplated by the restructuring transactions set out on Schedule "C" to the Purchase Agreement. Distributions in relation to the Unsecured Creditors' Class will be made upon closing of the Purchase Agreement.

#### **ALTERNATIVES TO THE PROPOSAL**

46. At the Creditors' Meetings, the Creditors are being asked by the Receiver to choose between two alternatives, namely accepting the Proposal or rejecting the Proposal.
47. The Trustee believes that, if the Proposal is not approved by the Creditors, the most likely alternative would be a forced liquidation of the assets of the Company pursuant to the BIA, or other statute, and the distribution of the net proceeds from such a forced liquidation to the Creditors in accordance with their respective priorities. Any forced liquidation process would be fraught with considerable execution risk and cost. Further, any sale process carried out in a bankruptcy proceeding while the business is operating would most likely require funding through an extension of the current interim financing facility, or alternate financing, neither of which are presently available to the Company.
48. In order to forecast the realizations available to Creditors in a bankruptcy situation, the Trustee would normally attempt to evaluate the assets of the debtor by class and disclose the basis of its valuation. In these circumstances, the assets consist primarily of intellectual property (e.g. patents) which are intangible in nature, are numerous and are located in multiple jurisdictions. Intellectual property derives its value from a wide range of parameters such as market share, barriers to entry, legal protection, intellectual property's profitability, industrial and economic factors, growth projections, remaining economic life, and new technologies. Consequently, an attempt to value Mitomics' intellectual property has not been done since it would take too long and would be expensive. In addition, even if a valuation was done, it may still not provide a reliable value which can be used to compare against the value provided in the Purchase Agreement by the Purchaser for the assets of Mitomics due to the significant assumptions that would be relied upon in a valuation of such intangible property.

49. In addition, all of Mitomics' intellectual property is encumbered in favour of the Secured Creditors. Therefore, in a going concern sale or forced liquidation scenario, along with the additional financing risk and costs associated with such scenarios, any realizable value after costs would first be paid to the Secured Creditors.
50. For the reasons described above, the Trustee is of the view that the Proposal will produce a more favourable result for the Secured and Unsecured Creditors of Mitomics than would a forced liquidation of the assets of the Debtor in a bankruptcy.

## **CONDUCT OF THE DEBTOR**

### *Preference Transactions and Transfers at Undervalue*

51. The Proposal contemplates that Sections 95-101 of the BIA shall not apply in connection with this Proposal and as a result the Trustee shall have no responsibility, liability or authority whatsoever in connection herewith. Accordingly, the Trustee has not undertaken a detailed review for possible preference transactions or transfers at undervalue.
52. If Mitomics was to become a bankrupt, and either preference transactions or transfers at undervalue did exist, it is possible that certain of these transactions could be voided. The Trustee is not aware of any such transactions existing.

### *Conduct Post Filing*

53. Pursuant to Section 50(10) of the BIA, the Trustee is required to monitor the affairs of the Company until the Proposal is approved by the Court. Pursuant to the Appointment Order, the Receiver has been monitoring the Company since the date of the Appointment Order.
54. The Company is working diligently to assist the Receiver to complete the Proposal. The Company continues to actively solicit new business, is planning its next phase of research and development to bring its next products to market, and is reducing costs where possible to improve its cash flow and meet its liquidity needs in order to be able to successfully implement the Proposal.

## **CREDITORS' CLAIMS**

55. To date, no proofs of claim in the Proposal have been received by the Trustee.

## **PREVIOUS BUSINESS DEALINGS WITH THE DEBTOR**

56. On July 23, 2014, Mitomics engaged DLI to provide it with advisory services. Following the issuance of certain secured creditors' notices of intention to enforce on their security pursuant to S.244 of the BIA, and Mitomics' consent to these enforcements, Mitomics consented to DLI acting as Court-appointed Receiver. On August 6, 2014, DLI issued its consent to act as Court-appointed Receiver and was appointed Receiver on August 14, 2014.

57. The Trustee is not in a conflict of interest as a result of having provided the services described above.

## **SUMMARY COMMENTS/RECOMMENDATION**

58. It is the Trustee's opinion that the Purchase Agreement will allow for a greater recovery to the Creditors in the longer term, which could only be achieved through the continued operation of the business, including its continued research and development activities, and which, under the circumstances, will not otherwise be available to the Creditors except as a result of the Proposal.

59. For the reasons set out in this Report, it is the opinion of the Trustee that acceptance of the Proposal is in the best interest of the Creditors. If the Proposal is rejected by the Creditors a bankruptcy will ensue and it is uncertain what the realizable values of the assets of Mitomics will be in a bankruptcy scenario and whether there will be sufficient realizable value to repay the Secured Creditors and provide value to the Unsecured Creditors. Accordingly, the Trustee recommends that the Creditors vote in favour of the Proposal.

Yours very truly,

### **DODICK LANDAU INC.**

Trustee *re* the Proposal of Mitomics Inc.

Per:



Rahn Dodick, CPA, CIRP



**ONTARIO**

**SUPERIOR COURT OF JUSTICE**

THE HONOURABLE **MADAM** )  
JUSTICE **H.M. PIERCE** )  
)

THURSDAY, THE 14<sup>th</sup>  
DAY OF AUGUST, 2014

WILLIAM POULTER and HARALD SMART

Applicants

- and -

MITOMICS INC.

Respondent

**APPLICATION UNDER SUBSECTION 243(1) OF THE *BANKRUPTCY AND  
INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED AND SECTION 101 OF THE  
*COURTS OF JUSTICE ACT*, R.S.O. 1990, c. C.43, AS AMENDED**

**ORDER**  
**(appointing Receiver)**

**THIS APPLICATION** made by the Applicants for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA") appointing Dodick Landau Inc. ("Dodick") as receiver (in such capacities, the "Receiver") of all of the assets, undertakings and properties of Mitomics Inc. (the "Debtor") acquired for, or used in

relation to a business carried on by the Debtor including all proceeds thereof (collectively, the "Property"), was heard this day at 125 Brodie St N, Thunder Bay, Ontario.

**ON READING** the Application Record, filed, including the affidavits of William Poulter sworn August 8, 2014 and August 12, 2014 the Exhibits thereto, and Harald Smart sworn August 10, 2014 and the Exhibits thereto, the Report of Dodick in its capacity as prospective Receiver dated August 11, 2014 the Factum and Applicant's Book of Authorities and on hearing the submissions of counsel for the Applicants and the proposed Receiver, and no one appearing for any other party although duly served as appears from the affidavits of service of Stacey Pawluk sworn August 11, 2014, August 12, 2014 and August 13, 2014, and on reading the consent of Dodick to act as the Receiver and the Consent of the Respondent to the order being sought by the Applicants,

#### **SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this application is properly returnable today and hereby dispenses with further service thereof.

#### **APPOINTMENT**

2. **THIS COURT ORDERS** that pursuant to section 243(1) of the BIA and section 101 of the CJA, Dodick is hereby appointed Receiver, without security, of all of the Property.

#### **RECEIVER'S POWERS**

3. **THIS COURT ORDERS** that except as expressly set out herein or in a further Order of the Court, the Receiver is not appointed as manager of the Debtor and shall not take possession or control of the Property or operate the business of the Debtor or employ any of the Debtor's employees (and for greater certainty, subject to the terms of this Order or any further Order of the Court, the Property shall remain in the possession and control of the Debtor), but the Receiver is hereby expressly empowered and authorized, but not obligated, to do any of the following where the Receiver considers it necessary or desirable:

- (a) to prepare and file a Proposal and/or a Notice of Intention to file a Proposal pursuant to Part III the BIA in the name and on behalf of the Debtor;
- (b) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (c) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (d) to settle, extend or compromise any indebtedness owing to the Debtor;
- (e) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (f) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (g) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;

- (h) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
  - (i) without the approval of this Court in respect of any transaction not exceeding \$50,000, provided that the aggregate consideration for all such transactions does not exceed \$250,000; and
  - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply.
- (i) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (j) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable, including, without limitation, cash flows and other financial reporting.
- (k) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (l) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;

- (m) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (n) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have;
- (o) to make an assignment in bankruptcy on behalf of the Debtor; and
- (p) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations;

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

4. **THIS COURT ORDERS** that neither the making of this Order nor anything in this Order shall deem the Receiver to be an owner of any of the Property for any purpose and that neither the making of this Order or anything in this Order shall vest in the Receiver the care, ownership, control, charge, occupation, possession or management of any of the Property, or the business or operations of the Debtor. .

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

5. **THIS COURT ORDERS** that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

6. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "Records") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 6 or in paragraph 7 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

7. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

8. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

**NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY**

9. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

**NO EXERCISE OF RIGHTS OR REMEDIES**

10. **THIS COURT ORDERS** that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

**NO INTERFERENCE WITH THE RECEIVER**

11. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Receiver or leave of this Court.

**CONTINUATION OF SERVICES**

12. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Debtor, and that the Debtor shall be entitled to the continued use of the Debtor's current

telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Debtor in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Debtor, or as may be ordered by this Court.

### **RECEIVER TO HOLD FUNDS**

13. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "Post Receivership Accounts") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

### **EMPLOYEES**

14. **THIS COURT ORDERS** that all employees of the Debtor shall remain the employees of the Debtor until such time as the Debtor may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

### **PIPEDA**

15. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "Sale"). Each prospective or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and



limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

#### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

16. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

#### **LIMITATION ON THE RECEIVER'S LIABILITY**

17. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in

this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

#### **RECEIVER'S ACCOUNTS**

18. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges. The Receiver and its legal counsel shall pass its accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are hereby referred to a judge of the Ontario Superior Court of Justice.

19. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the normal rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

#### **ADMINISTRATION CHARGE**

20. **THIS COURT ORDERS** that the Receiver, counsel to the Receiver and counsel to the Respondent shall be entitled to and are hereby granted a charge (the "Administration Charge") on the Property, which charge shall not exceed an aggregate amount of \$300,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Receiver and such counsel, both before and after the making of this Order in respect of these proceedings, and that the Administration Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

#### **FUNDING OF THE RECEIVERSHIP**

21. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$400,000.00 (or such greater amount as this Court may by further Order authorize) at any time,

at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

22. **THIS COURT ORDERS** that neither the Receiver's Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

23. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as Schedule "A" hereto (the "Receiver's Certificates") for any amount borrowed by it pursuant to this Order.

24. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver's Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver's Certificates.

#### **SERVICE AND NOTICE**

25. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission.

26. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

#### **GENERAL**

27. **THIS COURT ORDERS** that the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

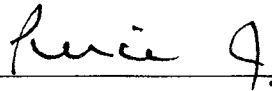
28. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a proposal trustee or court-appointed monitor of the undertakings, property and assets of the Debtor or a trustee in bankruptcy of the Debtor.

29. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

30. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

31. **THIS COURT ORDERS** that the Applicant shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a substantial indemnity basis to be paid by the Receiver from the Debtor's estate with such priority and at such time as this Court may determine.

32. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

  
\_\_\_\_\_

## SCHEDULE "A"

### RECEIVER CERTIFICATE

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. **THIS IS TO CERTIFY** that Dodick Landau Inc., the receiver (the "Receiver") of the assets, undertakings and properties Mitomics Inc. (the "Debtor") acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "Property") appointed by Order of the Ontario Superior Court of Justice (the "Court") dated the \_\_\_ day of \_\_\_\_\_, 2014 (the "Order") made in an application having Court file number \_\_\_-CL-\_\_\_\_\_, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$\_\_\_\_\_, being part of the total principal sum of \$\_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded monthly not in advance on the \_\_\_ day of each month after the date hereof at a notional rate per annum equal to the rate of \_\_\_\_\_ per cent above the prime commercial lending rate of Bank of \_\_\_\_\_ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the 14<sup>th</sup> day of August, 2014.

DODICK LANDAU INC., solely in its capacity  
as Receiver of the Property, and not in its  
personal capacity

ENTRE            BOOK             
INSUIT            REGISTRAR             
DATE Aug. 14, 2014  
No. 1612 PER             
No.            POUR           

Per:           D. Menables            
Name:  
Title: Registrar

WILLIAM POULTER and HARALD SMART  
Applicants

-and-

MITOMICS INC.  
Respondent

Court File No. CV14-0291

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT  
THUNDER BAY

**ORDER**  
(appointing Receiver)

**BUSET & PARTNERS LLP**  
Barristers & Solicitors  
1121 Barton Street  
Thunder Bay ON P7B 5N3

Michael Strickland (414020)  
[mstrickland@buset-partners.com](mailto:mstrickland@buset-partners.com)  
Tel: 807-623-2500  
Fax: 807-622-7808

Lawyers for the Applicants



# **STATEMENT OF AFFAIRS**



Court No. CV14-0291  
 Estate No. 21-1919705

-- Form 78 --  
 Statement of Affairs (Business Proposal) made by an entity  
 (Subsection 49(2) and Paragraph 158(d) of the Act / Subsections 50(2) and 62(1) of the Act)

In the matter of the proposal of  
 Mitomics Inc., in Receivership  
 of the city of Thunder Bay, in the Province of Ontario

To the debtor:

You are required to carefully and accurately complete this form and the applicable attachments showing the state of your affairs on the date of the filing of your proposal, on the 8th day of October 2014. When completed, this form and the applicable attachments will constitute the Statement of Affairs and must be verified by oath or solemn declaration.

LIABILITIES (as stated and estimated by the officer)		ASSETS (as stated and estimated by the officer)	
1. Unsecured creditors as per list "A" .....	11,154,748.21	1. Inventory .....	75,711.00
Balance of secured claims as per list "B" .....	7,762,341.11	2. Trade fixtures, etc. ....	98,336.00
Total unsecured creditors .....	<u>18,917,089.32</u>	3. Accounts receivable and other receivables, as per list "E"	
		Good .....	256,790.00
		Doubtful .....	0.00
2. Secured creditors as per list "B" .....	644,744.00	Bad .....	0.00
3. Preferred creditors as per list "C" .....	0.00	Estimated to produce .....	256,790.00
4. Contingent, trust claims or other liabilities as per list "D"		4. Bills of exchange, promissory note, etc., as per list "F" .....	0.00
estimated to be reclaimable for .....	0.00	5. Deposits in financial institutions .....	0.00
Total liabilities .....	<u>19,561,833.32</u>	6. Cash .....	187,590.00
Surplus .....	<u>NIL</u>	7. Livestock .....	0.00
		8. Machinery, equipment and plant .....	0.00
		9. Real property or immovable as per list "G" .....	0.00
		10. Furniture .....	0.00
		11. RRSPs, RRIFs, life insurance, etc. ....	0.00
		12. Securities (shares, bonds, debentures, etc.) .....	0.00
		13. Interests under wills .....	0.00
		14. Vehicles .....	0.00
		15. Other property, as per list "H" .....	26,317.00
		If debtor is a corporation, add:	
		Amount of subscribed capital .....	13,726,130.00
		Amount paid on capital .....	13,726,130.00
		Balance subscribed and unpaid .....	0.00
		Estimated to produce .....	0.00
		Total assets .....	644,744.00
		Deficiency .....	<u>18,917,089.32</u>

I, Robert Poulter, of the city of Thunder Bay in the Province of Ontario, do swear (or solemnly declare) that this statement and the attached lists are to the best of my knowledge, a full, true and complete statement of my affairs on the 8th day of October 2014 and fully disclose all property of every description that is in my possession or that may devolve on me in accordance with the Act.

SWORN (or SOLEMNLY DECLARED)

before me at the city of Thunder Bay, in the Province of Ontario, on this 8th day of October 2014.

\_\_\_\_\_  
 Robert Poulter

District of: Ontario  
 Division No. 21  
 Court No. CV14-0291  
 Estate No. 21-1919705

FORM 78 -- Continued  
 List "A"  
 Unsecured Creditors

Mitomics Inc.

No.	Name of creditor	Address	Unsecured claim
1	ALERE ULC ALERE	1-57 Iber Road Ottawa ON K2S 1E7 CAD	152.81
2	ARTCO ARTCO	155 WILL DR CANTON MA 02021 USA	1,428.39
3	BDO Canada LLP	1095 Barton St. Thunder Bay ON P7B 5N3	4,000.00
4	BLAKE, CASSELS & GRAYDON LLP BLAKE	SUITE 4000 COMMERCE CRT W 199 BAY ST TORONTO ON M5L 1A9 CAD	59,795.65
5	BMO Nesbitt Burns ITF Mark Moulson BMO Nesbitt Burns ITF Mark Mous	1062 Foxborough Pl Thunder Bay ON P7J 0A1	30,598.03
6	Brook, Iain Brook, Iain	Oaktree House, Red Hill, Rushden Buntington, Hertfordshire UK SG90TG United Kingdom	19,582.74
7	Brook, Stephen Harold Brook, Stephen Harold	Oaktree House, Red Hill, Rushden Buntington, Hertfordshire UK SG90TG United Kingdom	105,869.17
8	BURNS MARKETING **USD** BURNS	4848 THOMPSON PARKWAY, FL4 JOHNSTOWN CO 80534 USA	300.00
9	CAROLINA UROLOGY PARTNERS CAROLI	9735 KINCEY AVE SUITE 200 HUNTERSVILLE NC 28078 USA	16,662.00
10	CHEADLES LLP CHEAD	STE 2000, 715 HEWITSON ST PO BOX 10429 THUNDER BAY ON P7B 6T8 CAD	5,023.31
11	CITRIX ONLINE, LLC CITRIX	FILE 50264 LOS ANGELES CA 90074-0264 USA	117.00
12	CLEAN HARBORS CANADA INC	PO BOX 46227, POSTAL STN A Toronto ON M5W 4K9	5,969.28
13	CLINICAL REFERENCE LAB CRL	PO BOX 802273 KANSAS CITY MO 64180-2273 USA	7,855.00
14	Collie, Inez Collie, Inez	101B-1001 William St Thunder Bay ON P7B 6M1	61,196.05
15	Collie, James & Collie, Inez Collie, James & Collie, Inez	101B-1001 William St Thunder Bay ON P7B 6M1	122,392.11
16	Collie, James Collie, James	101B-1001 William St Thunder Bay ON P7B 6M1	30,598.03
17	Costelloe, Daphne Costelloe, Daphne	8 Bishops Close Hillingdon, MDDX UK UB10GX United Kingdom	19,582.74
18	CRA - Canada Revenue Agency - Tax - Ontario Attn: c/o London Taxes Services Office Division Regional Intake Centre for Insol	451 Talbot St., 3rd Floor, PO Box 5548 London ON N6A 4R3	1.00
19	Crandall, Donald K Crandall, Donald K	3981 Norton Hills Road Muskegon MI 49441 USA	30,598.03

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FORM 78 -- Continued  
 List "A"  
 Unsecured Creditors

Mitomics Inc.

20	Crandall, Keith A. Crandall, Dr Keith	15334 Hillsboro Road Purcellville VA 20132 USA	30,598.03
21	Davis, John Davis, John	24 Yeomans Row London UK SW32AH United Kingdom	367,176.33
22	Dawe, Oral W	31 Belmont Rd Singapore SI 269 913	503,671.23
23	Deamer, Colette and Deamer, Kevin Deamer, Colette and Deamer Kevin	Highfield Lodge, Ravenstock Lane Little Walden, Essex UK CB101XG United Kingdom	39,165.48
24	Deamer, Colette Deamer, Colette	Highfield Lodge, Ravenstock Lane Little Walden, Essex UK CB101XG United Kingdom	30,598.03
25	Deamer, Kevin Deamer, Kevin	Highfield Lodge, Ravenstock Lane Little Walden, Essex UK CB101XG United Kingdom	29,374.11
26	DERINGER DERING	PO BOX 11349 SUCCURSALE CENTRE-VILLE MONTREAL PQ H3C5H1 CAD	525.00
27	DeSa, Dr Vincent and Freida Desa, Dr Vincent and Freda	153 Bentwood Dr Thunder Bay ON P7A 7A7	61,196.05
28	DiGregorio, Silvio In Trust DiGregorio, Silvio In Trust	1540 Oliver Rd Thunder Bay ON P7G 1N6	85,674.48
29	Dovichi, Patricia Dovichi, Patricia	209-1075 Foxfire Lane Naples FL 34104 USA	30,598.03
30	Dulude, Jason Dulude, Jason	772 Lexington Cres Thunder Bay ON P7B 7B8	56,663.01
31	Elliott, Michael Elliott, Michael	20 Millington Rd Cambridge UK CB39HP United Kingdom	48,956.84
32	ENVIROSHRED ENVIR	66 TWIN CITY CROSSROADS ROSSLYN ON P7K 0C6 CAD	195.41
33	Equity Trust Company ITF Equity Trust Company ITF	c/o Steve Galliker 34 Fairway Lane Mashpee MA 02649 USA	30,598.03
34	Eschler Global Fund SPC Eschler Global Fund SPC	Attn: Theron de Ris 7th Floor, Heathcoat House London UK W1S 3PR United Kingdom	238,664.61
35	Evgeny Novikov	Kantemirovskaya St. 16-1-387 RU 115 522 Russa	30,598.03
36	Fallon, Kenneth Fallon, Kenneth	5473 FoxHallow Drive Naples FL 34104 USA	122,392.11
37	Fanti Physiotherapy Professional Corp Fanti Physiotherapy Prof Corp	678 John St Thunder Bay ON P7B 1Z6	61,196.05
38	Fanti, Michael Fanti, Michael	3110 Oriole St Thunder Bay ON P7K 1B9	42,837.24
39	FEDERAL EXPRESS CANADA LTD FED	PO BOX 4626 TORONTO STN A TORONTO ON M5W 5B4 CAD	48.43

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 List "A"  
 Unsecured Creditors

Mitomics Inc.

40	FISHER SCIENTIFIC FISH	c/o T10078 PO BOX 10078 POSTAL STN A TORONTO ON M5W 2B1 CAD	3,776.70
41	Flasza, Walter J Flasza, Walter J	50 Water Street South, Unit 201 Thunder Bay ON P7B 6Y9	122,392.11
42	Foote, Marianne T Foote, Marianne T	185 South St Northampton MA 01060 USA	122,392.11
43	Fortuna, Daniel & Gail Fortuna, Daniel & Gail	38 Sedgewick Dr Scituate MA 02066 USA	122,392.11
44	FRANCOTYP-POSTALIA CANADA INC. FRAN	82 CORSTATE AVE Concord ON L4K 4X2 CAD	192.55
45	GGB Medical Management Services GGB Medical Management Services	9301 Oakdale Ave, Ste 300 Chatsworth CA 91311 USA	111,883.88
46	Gibson, Michelle Gibson, Michelle	198 Peter St Thunder Bay ON P7A 5H7	19,582.74
47	GRANT THORNTON LLP GRANT	350 BURNHAMTHORPE ROAD W SUITE 401 MISSISSAUGA ON L5B 3J1 CAD	34,985.56
48	Green, Andrew C Green, Andrew C	Kingfishers Bridge, 40 Stretham Rd Wicken, Ely Cambs UK CB75XL United Kingdom	91,794.08
49	Gundyco ITF "Heather Poulter" Gundyco ITF "Heather Poulter"	180 Park Avenue Thunder Bay ON P7B 6J4	30,598.03
50	Halfmoon Bay Capital Ltd	Ste 10.3 Lvl 10 West Wing Rohas Perkasa No. 9 Jalan P Ramlee 50250 Kuala Lumpur Unkown MA Malaysia	1,040,332.93
51	Hekla Investments Ltd	IFS Court, 28 Cybercity, Ebene MA MAU RITIUS	305,980.27
52	Industry Canada / FedNor Industry Canada / FedNor	244 Lincoln Street, Mezzanine Thunder Bay ON P7B 5L2	2,149,678.00
53	INTEGRATED DNA TECHNOLOGIES INTUS	PO BOX 8491 STN A Toronto ON M5W 3P1 CAD	2,512.74
54	James R. Malo Engineer Inc James R. Malo Engineer Inc	131 Court St N Thunder Bay ON P7A 4V1	18,358.82
55	Joy Holdings Inc. Joy Holdings Inc. c/o Northco Gr	101B-1001 William St Thunder Bay ON P7E 3M6	61,196.05
56	Keeper, Robert M Keeper, Robert M	4240 Broad Oaks Dr Thunder Bay ON P7J 1A7	122,392.11
57	Kondratiev, Viatcheslav Kondratiev, Viatcheslav	22 Melbourne Dr. Richmond Hill ON L4S 2V3	30,598.03
58	LaFrance Family Trust	37 Somersby Way Farmington CT 06032 USA	312,099.88
59	LAKEHEAD UNIV PALEO-DNA LAB PAL	955 OLIVER RD Thunder Bay ON P7B 5E1 CAD	4,252.47
60	Lane, Brian & Linda Lane, Brian & Linda	897 MacEwen Dr Osprey FL 34229 USA	124,839.95

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FORM 78 -- Continued  
 List "A"  
 Unsecured Creditors

Mitomics Inc.

61	LOWERY'S LIMITED LOW	540 CENTRAL AVE Thunder Bay ON P7B 6B4 CAD	328.18
62	Macpherson, Kathryn Macpherson, Kathryn	434 South Norah St Thunder Bay ON P7E 1N9	15,910.97
63	Macpherson, Michael Macpherson, Michael	434 South Norah St Thunder Bay ON P7E 1N9	15,910.97
64	MCAFEE INC **USD** MCAFEE	6052 PAYSHERE CIRCLE CHICAGO IL 60674-6052 USA	49.00
65	Mehagan, Diane C. Mehagan, Diane C.	601 Grenville Ave Thunder Bay ON P7A 7C8	36,717.63
66	METTLER TOLEDO INC MET	PO BOX 1518 STN A Toronto ON M5W 3N9 CAD	426.86
67	Ministry of Finance - ON PST, EHT & Other Taxes Attn: Mrs. Asta Albery	Ministry of Revenue 33 King Street West 6th Floor Oshawa ON L1H 8H5	1.00
68	MTS ALLSTREAM INC ALL	PO BOX 3500 STN MAIN Winnipeg MB R3C 0B7 CAD	474.71
69	Nolan, Pa	Mopoon Villa, Sydenham Rd Dundrum, Dublin 14 IRE Ireland	183,588.16
70	NORGEN BIOTEK CORPORATION NORGEN	3430 SCHMON PKWY THOROLD ON L2V 4Y6 CAD	327.87
71	OTTO ANDERS OTTO	316 BROWN ST Thunder Bay ON P7E 2J8 CAD	180.50
72	Panda Bay Estates (1990) Limited Panda Bay Estates (1990) Limited	1001 William St, Suite 101-B Thunder Bay ON P7B 6M1	367,176.33
73	Pankhurst, Julie Pankhurst, Julie	16 Ravenscroft Park Barnet Hurts UK EN54ND United Kingdom	489,568.44
74	Pankhurst, Stephen Pankhurst, Stephen	16 Ravenscroft Park Barnet Hurts UK EN54ND United Kingdom	356,773.00
75	PATH-TEC LLC PATH	DEPT 3401, PO BOX 123401 DALLAS TX 75312-3401 USA	1,556.72
76	Paul Ceccarelli	52 Doten Rd., Plymouth MA 02360 USA	30,598.03
77	Poulter, William Poulter, William	601 Ashdale Place Thunder Bay ON P7E 3M6	220,305.80
78	PRAXAIR DISTRIBUTION PRAX	DIV OF PRAXAIR CANADA INC PO BOX 400, STN D SCARBOROUGH ON M1R 5M1 CAD	17.46
79	Reish, Elizabeth Reish, Elizabeth	334 Lincoln St Denver CO 80203 USA	30,598.03
80	Richard A. Dobbins	Box 35 Duxbury MA 02331 USA	30,598.03
81	Ruoho, Donald & Kit Ruoho, Donald & Kit	137 Hogan Road Nipigon ON P0T 2J0	61,196.05

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 List "A"  
 Unsecured Creditors

Mitomics Inc.

82	SAPIO SCIENCES **USA** SAPIO	555 Ryan Run Rd. Suite J. YORK PA 17404 USA	533.00
83	Schlereth, Lorraine Schlereth, Lorraine	354 Summerhill Drive Thunder Bay ON P7B 7B9	244,784.22
84	Scotia McLeod ITF Frederick Poulter Poulter, Frederick	401-760 Gordon St Thunder Bay ON	30,598.03
85	Shells, Liam Shells, Liam	31 Rylstone Way, Saffron Walden Essex UK CB113BL United Kingdom	39,165.48
86	SichenziaRossFriedmanFERENCEUS SICHE	61 BROADWAY NEW YORK NY 10006 USA	3,625.00
87	Smart, Erik Robert Smart, Erik Robert	3 Whitby Cresc Redcar, Clerland UK TS103QN United Kingdom	30,598.03
88	Smart, Harald Ernst Smart, Harald Ernst	Tinkers Hall Farm, Furneux Pelham Hurts UK SG90LI United Kingdom	285,785.58
89	Smart, Kathleen Mary Smart, Kathleen Mary	3 Whitby Cresc Redcar, Clerland UK TS10 3QN United Kingdom	29,374.11
90	Stura, Gary A Stura, Gary A	1717 Lincoln Ave Mt Dora FL 32757 USA	122,392.11
91	Swallow, Keith William Swallow, Keith William	9 Gurney Court Rd St Albans, Herts UK AL14QV United Kingdom	30,598.03
92	Syrek, Ted Syrek, Ted	678 Lakeshore Dr Thunder Bay ON P7B 5E4	61,196.05
93	Taylor, Darren Charles Taylor, Darren Charles	14 Braybrook Gardens Saffron Walden, Essex UK CB113WH United Kingdom	159,109.74
94	Taylor, Jeremy David Taylor, Jeremy David	Monk St Farm, Monk St Thaxted, Dunmon, Essex UK CM62NR United Kingdom	97,913.69
95	Trenchard, Miranda Trenchard, Miranda	Tinkers Hall Farm, Furneux Pelham Hurts UK SG90L1 United Kingdom	85,674.48
96	TRISTATE UROLOGIC SERVICES PSC THEURO	DBA THE UROLOGY GROUP 2000 JOSEPH E SANKER BLVD CINCINNATI OH 45212 USA	24,300.00
97	Uptel Limited and Harald Ernest Smart Uptel Limited and Harald Ernest	21 Newbiggen St Thaxted Essex UK CM62QS United Kingdom	110,152.90
98	VALERIE BYGATE BYGATE	2419 CASPIAN ST Thunder Bay ON P7J 1A1 CAD	114.00
99	Walter Kuch Architect Inc. Quatro Investments Corp	2225 Hilldale Rd Gorham ON P7G 0H8	18,190.09
100	Ward, Tim Ward, Tim	Flat 7, 15 Kean St London UK WC2B4AZ United Kingdom	673,156.60
101	Warner-Smith, Robin David Warner-Smith, Robin David	Boxbury Farm, Walkem Stevenage Herts UK SG27AD United Kingdom	30,598.03

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List "A"  
Unsecured Creditors

Mitomics Inc.

102	Warren Peterson Veterinary Prof Corp Warren Peterson Veterinary Prof	92 Winnipeg Ave Thunder Bay ON P7B 3P9	36,717.63
103	Whitaker, Kenneth	Block 12 Costa Bello, 288 Hong Kin Road, Sai Kung NT NEW TERRITORIES	30,598.03
104	YOURWAY TRANSPORT INC. YOURWA	6681 SNOWDRIFT RD ALLENTOWN PA 18106 USA	6,590.65
<b>Total:</b>			<b>11,154,748.21</b>

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List "B"  
 Secured Creditors

Mitomics Inc.

No.	Name of creditor	Address	Amount of claim
1	1204742 Ontario Ltd.	665 Hewitson Street Thunder Bay ON P7B 5V5	32,974.19
2	Aemi, Bert Aemi, Bert	13659 W 59th Dr, Arvada, CO, 80004-3741	33,557.71
3	Alan D Matthes Revocable Trust Alan D Matthes Revocable Trust	4179 W Dunbar Rd, Monroe, MI, 48161-9008	22,371.81
4	Benach, Robert Benach, Robert	3382 Degas Dr W, Palm Beach Gardens, FL, 33410-1275	111,859.04
5	Benaderet, David H - Revocable Trust Benaderet, David H - Revocable T	3715 Sleepy Fox Dr, Rochester Hills, MI, 48309-4518	167,788.56
6	Brook, Stephen Harold Brook, Stephen Harold	Oaktree House, Red Hill, Rushden Buntington, Hertfordshire UK SG9OTG United Kingdom	30,066.60
7	Cant, Geoffrey Cant, Geoffrey	1510 Northshore Dr, Sandpoint, ID, 83864-2714	22,371.81

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List "B"  
Secured Creditors

Mitomics Inc.

8	Chiarelli, Santo Chiarelli, Santo	37 Laurelwood Dr, Colts Neck, NJ, 07722	11,185.90
9	Collins, Joe Collins, Joe	227 Coleman Rd, Hampton, TN, 37658	22,371.81
10	Conlin, Robert G. Conlin, Robert G.	17868 N County Road 100E, Arthur, IL, 61911-7005	22,371.81
11	Crupi Consulting	577 Eleventh Ave Thunder Bay ON P7B 2R5	29,254.98
12	Davis, John Davis, John	24 Yeomans Row London UK SW32AH United Kingdom	60,279.52
13	Deamer, Colette and Deamer, Kevin Deamer, Colette and Deamer Kevin	Highfield Lodge, Ravenstock Lane Little Walden, Essex UK CB101XG United Kingdom	20,044.39
14	Dennis, Patrick Dennis, Patrick	PO Box 666, Foreman, AR, 71836-0666	27,964.76
15	Edward H Gross & Suanne P Gross Jtwros Edward H Gross & Suanne P Gross	5508 Hardison Rd, Charlotte, NC, 28226-6430	16,778.86

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List "B"  
Secured Creditors

Mitomics Inc.

16	Edward Vander Meulen & Carol Vander Meulen Edward Vander Meulen & Carol Van	444 Leona Dr, Livermore, CA, 94550	27,964.76
17	Embry Living Trust Embry Living Trust	1610 Barry Lane, Glenview, IL, 60025-1225	111,859.04
18	Fish, Hamilton Fish, Hamilton	1998 West Lake Rd, Skaneateles, NY, 13152-9674 USA	11,185.90
19	Frederick L. Poulter Poulter, Frederick	401-760 Gordon St Thunder Bay ON	29,849.03
20	Gaur, Jean Gaur, Jean	32 Blueberry Hill Pl, Wilton, CT, 06897	39,150.66
21	Ginsberg, Daniel Ginsberg, Daniel	220 East 67th St, #4H, New York, NY, 10065	16,778.86
22	JAYVEE & CO SCTF 3001 0002 PORTMAN CAPITAL MANAGEMENT LIMIT	320 Bay St, PO Box 1 Toronto ON M5H 4A6	54,956.99
23	Jeffery S & Kimberly L Hinkle Jt Ten Jeffery S & Kimberly L Hinkle Jt	7 Fawn LaneMartinsville, NJ, 08836-2368	44,743.61

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List "B"  
Secured Creditors

Mitomics Inc.

24	Jiyuan, LLC. Jiyuan, LLC.	4424 Secor Rd, Toledo, OH, 43623	167,788.56
25	JL Investments Ltd JL Investments Ltd	6025 12th St SE, Bay 8 Calgary AB T2H 2K1	27,478.50
26	John T Bloom Jr & Janet G Bloom John T Bloom Jr & Janet G Bloom	12131 Perthshire, Houston, TX, 77024-4209	27,964.76
27	Kaplanis, Marlene Marlene Kaplanis	434 Van Norman St Thunder Bay ON P7A 4E1	10,991.40
28	Kardon, Carol Kardon, Carol	338 Main St, Lumberton, NJ, 8048	27,964.76
29	Krushinsky, Michael Krushinsky, Michael	11748 24th Ave, Marme, MI, 49435-9716	11,185.90
30	LaBelle, Carla LaBelle, Carla	180 Kamwood Drive Thunder Bay ON P7J 1M2	27,300.71
31	Langer, Milton Langer, Milton	7343 Lyons St, Morton Grove, IL, 60053-1112	22,371.81
32	MacRae, Tim MacRae, Tim	12 Mettle Lane, Wharton, NJ, 07885-1031	22,371.81

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List "B"  
Secured Creditors

Mitomics Inc.

33	Martin, Carol Martin, Carol	226 W Rittenhouse Sq Apt 1910, Philadelphia, PA, 19103	11,185.90
34	Mayster, Melvin Mayster, Melvin	757 Carlyle Ct, Northbrook, IL, 60062-2262	11,185.90
35	McQuaide, Thomas J McQuaide, Thomas J	5932 Oakmont Dr, Banning, CA, 92220-5337	16,778.86
36	Mills, Kenneth Mills, Kenneth	11571 Crosby Rd, Morrison, IL, 61270	11,185.90
37	Mintz, Gary Mintz, Gary	822 East Capitol St NE, Washington, DC, 20003-1373	55,929.52
38	Mitchell R Setzer & Nancy P Setzer Jt Ten Mitchell R Setzer & Nancy P Setz	PO Box 2185, Hickory, NC, 28603	11,185.90
39	Money Market Investment Club of Toledo Money Market Investment Club of	1351 Eleanor Ave, Toledo, OH, 43612-2265	27,964.76

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List "B"  
Secured Creditors

Mitomics Inc.

40	Monte and Janet Anglin Revocable Living Trust Monte and Janet Anglin Revocable	1295 Meridian Ranch Dr, Reno, NV, 89523-3910	27,964.76
41	Montieth, David V Montieth, David V	22 Mead Ridge Lane, Ridgefield, CT, 06877-4823	31,320.53
42	Neal, Sheldon Neal, Sheldon	103 Cedar Ave, Maywood, NJ, 07607-2103	55,929.52
43	Nedbalek, Bobby Nedbalek, Bobby	PO Box 1063, Sinton, TX, 78387-1063	111,859.04
44	Nedbalek, Troy Nedbalek, Troy	10123 County Rd 1541, Mathis, TX, 78368	27,964.76
45	Neville-Landwher, Rita Neville-Landwher, Rita	9625 Maple St, Wichita, KS, 67209-3101	27,964.76
46	Nolan, Pa	Mopoon Villa, Sydenham Rd Dundrum, Dublin 14 IRE Ireland	299,770.55
47	Northern Ontario Heritage Fund Corporation Northern Ontario Heritage Fund C	181 Bay Street, Suite 1400 Toronto ON M5J 2V1	1,902,474.87

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List "B"  
Secured Creditors

Mitomics Inc.

48	Panda Bay Estates (1990) Limited Panda Bay Estates (1990) Limited	1001 William St, Suite 101-B Thunder Bay ON P7B 6M1	82,500.00
49	Pankhurst, Stephen Pankhurst, Stephen	16 Ravenscroft Park Barnet Hurts EN54ND United Kingdon	180,545.89
50	Pat S West & Patricia Kay West Pat S West & Patricia Kay West	PO Box 851, Poteet, TX 78065	11,185.90
51	Patel, Manish Patel, Manish	4 Spruce Cr. Plainsboro, NJ, 08536-2062	11,185.90
52	Perlin Family Holdings Inc. Perlin Family Holdings Inc.	763 Lake Twintree Cres. SE Calgary, AB T2J 2W2	146,896.14
53	Peter Coppola and Sharon Coppola Peter Coppola and Sharon Coppola	307 Tuttle Ave, Spring lake, NJ, 07762	55,959.52
54	Peterson, Robert Peterson, Robert	290 Waterview Lane, Lumberton, NC, 28358	11,185.90
55	Phyllis Kargher + Jonathan Kushner Jt Ten Phyllis Kargher + Jonathan Kushn	64 Foxwood Dr, Moorestown, NJ, 08057	27,964.76

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List "B"  
Secured Creditors

Mitomics Inc.

56	Polakoff, Stephen Polakoff, Stephen	9 Hooper Ave, Atlantic Highlands, NJ, 07716	27,964.76
57	Polakoff, Victor Polakoff, Victor	9 Hooper Ave, Atlantic Highlands, NJ, 07716	27,964.76
58	Poulter, William Poulter, William	601 Ashdale Place Thunder Bay ON P7E 3M6	289,051.20
59	Proud, Clifford Joseph Proud, Clifford	1 Reynard Copse, Bishops Stortford Hertfordshire UK CM232BB United Kingdom	85,854.31
60	Ragonese III, Patsy Ragonese III, Patsy	42 Crest Dr, Baskin Ridge, NJ, 07920	27,964.76
61	Rahaim, T. Michael Rahaim, T. Michael	515 W Greens Rd Suite 1200, Houston, TX, 77067-5714	60,460.17
62	Reklau, David L Reklau, David L	3603 Camden Falls Circle, Greensboro, NC, 27410-2192	22,371.81
63	Rhodes, Carol Rhodes, Carol	11456 Quail Village Way, Naples, FL, 34119-8950	55,929.52

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List "B"  
 Secured Creditors

Mitomics Inc.

64	Robert L Boxer & Susan S Rodio Robert L Boxer & Susan S Rodio	78 Pavillion Park, Rochester, NY, 14620-2852	78,301.33
65	Schleyer, John Schleyer, John	98 Twigkenham Drive, Richboro, PA, 18954-1407	22,371.81
66	Shayman, Stuart Shayman, Stuart	840 Northwoods Dr, Deerfield, IL, 60015-2219	27,964.76
67	Sheils, Liam Sheils, Liam	31 Rylstone Way, Saffron Walden Essex UK CB113BL United Kingdom	10,022.19
68	Simmons, Douglas Simmons, Douglas	160 Youngs Rd, Fort Plain, NY, 13339	11,185.90
69	Smart, Erik Robert Smart, Erik Robert	3 Whitby Cresc Redcar, Clerland UK TS103QN United Kingdom	20,174.92
70	Smart, Harald Ernst Smart, Harald Ernst	Tinkers Hall Farm, Furneux Pelham Hurts UK SG90LI United Kingdom	331,548.60
71	Stanley E Ginsberg & Arlene D Ginsberg Jt Ten Stanley E Ginsberg & Arlene D Gi	4 Old Farm Ct, West Nyack, NY, 10994-1210	27,964.76

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List "B"  
Secured Creditors

Mitomics Inc.

72	Steven & Barbara Young Steven & Barbara Young	PO Box 98989, Raleigh, NC, 27624	16,778.86
73	Suntup, Alan Suntup, Alan	26 Richfield Way, Hilton Head, SC, 29926	27,964.76
74	Suntup, Paul Suntup, Paul	650 Shore Road, Apt 4T, Long Beach, NY, 11561-4613	55,929.52
75	Suresh, Sharma Suresh, Sharma	75 Ruff Circle, Glastonbury, CT, 6033	11,185.90
76	Taylor, Darren Charles Taylor, Darren Charles	14 Braybrook Gardens Saffron Walden, Essex UK CB113WH United Kingdom	48,106.56
77	Taylor, Jeremy David Taylor, Jeremy David	Monk St Farm, Monk St Thaxted, Dunmon, Essex UK CM62NR United Kingdom	30,066.60
78	The Goodrich Family Trust The Goodrich Family Trust	140 Rulofson St, Santa Cruz, CA, 95060-2518	27,964.76
79	Thomas R Gardner Trust Thomas R Gardner Trust	511 Tressler Dr, Salisbury, MD, 21801	11,185.90

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List "B"  
 Secured Creditors

Mitomics Inc.

80	Thunder Bay Financial, LLC Thunder Bay Financial, LLC	766 Shrewsbury Ave, Suite E-401 Tinton Falls NJ 07747 USA	1,684,082.40
81	Thunder Bay Regional Health Sciences Centre Thunder Bay Regional Health Scie	980 Oliver Road Thunder Bay ON P7B 6V4	244,797.23
82	Timothy & Loretta Werkley Timothy & Loretta Werkley	10 Lamoureux Lane, Wayne, NJ, 07470	11,185.90
83	Trenchard, Miranda Trenchard, Miranda	Tinkers Hall Farm, Furneux Pelham Hurts UK SG90L1 United Kingdom	109,576.99
84	Uptel Limited and Harald Ernest Smart Uptel Limited and Harald Ernest	21 Newbiggen St Thaxted Essex UK CM62QS United Kingdom	65,746.20
85	Villafana, Martin Villafana, Martin	3055 Degen Dr, Bonita, CA, 91902	55,929.52
86	Walter Kuch Architect Inc. Quatro Investments Corp	2225 Hilldale Rd Gorham ON P7G 0H8	21,359.23
87	Ward, Tim Ward, Tim	Flat 7, 15 Kean St London UK WC2B4AZ United Kingdom	120,412.70
88	Warner-Smith, Robin David Warner-Smith, Robin David	Boxbury Farm, Walkern Stevenage Herts UK SG27AD United Kingdom	20,044.39
89	Warren Peterson Veterinary Prof Corp Warren Peterson Veterinary Prof	92 Winnipeg Ave Thunder Bay ON P7B 3P9	58,509.97

08-Oct-2014

Date

Robert Poulter

District of: Ontario  
Division No. 21  
Court No. CV14-0291  
Estate No. 21-1919705

FORM 78 -- Continued

List "B"  
Secured Creditors

Mitomics Inc.

90	Weber, Mark Weber, Mark	1351 Eleanor Ave, Toledo, OH, 43612-2265	27,964.76
91	William B Telfair & Carole H Telfair Jt Ten William B Telfair & Carole H Tel	307 Rudder Road, Shepherdstown, WV, 25443	39,150.66
92	William H Bayer & Linda G Bayer TIC William H Bayer & Linda G Bayer	1086 Edgewood Ave, Rochester, NY, 14618-5357	27,964.76
93	Williams, David Williams, David	PO Box 384, Eddyville, KY, 42038-0384	27,964.76
94	Young, Robert M Young, Robert M	415 Happy Trail, San Antonio, TX, 78231	54,024.77
<b>Total:</b>			<b>8,407,085.11</b>

08-Oct-2014

Date

Robert Poulter

District of: Ontario  
Division No. 21  
Court No. CV14-0291  
Estate No. 21-1919705

FORM 78 -- Continued  
List "C"  
Preferred Creditors for Wages, Rent, etc.

Mitomics Inc.

No.	Name of creditor	Address and occupation	Nature of claim	Period during which claim accrued	Amount of claim	Amount payable in full	Difference ranking for dividend
Total:					0.00	0.00	0.00

08-Oct-2014

\_\_\_\_\_  
Date

\_\_\_\_\_  
Robert Poulter

District of: Ontario  
Division No. 21  
Court No. CV14-0291  
Estate No. 21-1919705

FORM 78 – Continued  
List "D"  
Contingent or Other  
Liabilities Mitomics Inc.

No.	Name of creditor or claimant	Address and occupation	Amount of liability or claim	Amount expected to rank for dividend	Date when liability incurred	Nature of liability
<b>Total:</b>			<b>0.00</b>	<b>0.00</b>		

08-Oct-2014

\_\_\_\_\_  
Date

\_\_\_\_\_  
Robert Poulter

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

FORM 78 -- Continued  
 List "E"  
 Debts Due to the Debtor  
 Mitomics Inc.

No.	Name of debtor	Address and occupation	Nature of debt	Amount of debt (good, doubtful, bad)	Folio of ledgers or other book where particulars to be found	When contracted	Estimated to produce	Particulars of any securities held for debt
Total:				256,790.00 0.00 0.00		256,790.00		

06-Oct-2014

\_\_\_\_\_  
 Date

Robert Poulter \_\_\_\_\_



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

FORM 78 -- Continued  
List "F"

Bills of Exchange, Promissory Notes, Lien  
Notes, Chattel Mortgages, etc., Available as  
Assets Mitomics Inc.

No.	Name of all promissory, acceptors, endorsers, mortgagors, and guarantors	Address	Occupation	Amount of bill or note, etc.	Date when due	Estimated to produce	Particulars of any property held as security for payment of bill or note, etc.
Total:				0.00		0.00	

06-Oct-2014

\_\_\_\_\_  
Date

\_\_\_\_\_  
Robert Poulter

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

FORM 78 -- Continued  
List "G"  
Real Property or Immovables Owned by Debtor

Mitomics Inc.

Description of property	Nature of debtor interest	In whose name does title stand	Total value	Particulars of mortgages, hypothecs, or other encumbrances (name, address, amount)	Equity or surplus
Total:			0.00		0.00

06-Oct-2014

\_\_\_\_\_  
Date

\_\_\_\_\_  
Robert Poulter

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

FORM 78 -- Concluded

List "H"  
 Property

Mitomics Inc.

FULL STATEMENT OF PROPERTY

Nature of property	Location	Details of property	Original cost	Estimated to produce
(a) Stock-in-trade			0.00	75,711.00
(b) Trade fixtures, etc.		Trade Fixtures	0.00	98,336.00
(c) Cash in financial institutions			0.00	0.00
(d) Cash on hand		Cash on hand	187,590.00	187,590.00
(e) Livestock			0.00	0.00
(f) Machinery, equipment and plant			0.00	0.00
(g) Furniture			0.00	0.00
(h) Life insurance policies, RRSPs, etc.			0.00	0.00
(i) Securities			0.00	0.00
(j) Interests under wills, etc.			0.00	0.00
(k) Vehicles			0.00	0.00
(l) Taxes			0.00	0.00
(m) Other		Account Receivables	0.00	256,790.00
		Inventory	0.00	75,711.00
		Prepaid Expenses	0.00	20,706.00
		Income Tax	0.00	5,611.00
			<b>Total:</b>	<b>644,744.00</b>

06-Oct-2014

Date

Robert Poulter

# **NOTICE OF PROPOSAL TO CREDITORS**



District of: Ontario  
Division No. 21 - Thunder Bay  
Court No. CV14-0291  
Estate No. 21-1919705

FORM 92  
Notice of Proposal to Creditors  
(Section 51 of the Act)

In the matter of the proposal of  
Mitomics Inc., in Receivership  
of the city of Thunder Bay, in the Province of Ontario

Take notice that Mitomics Inc. of the city of Thunder Bay in the Province of Ontario has lodged with us a proposal under the Bankruptcy and Insolvency Act.

A copy of the proposal, a condensed statement of the debtor's assets, and liabilities, and a list of the creditors affected by the proposal and whose claims amount to \$250 or more are enclosed herewith.

**Meetings of the Creditors to consider the Proposal will be held at the Valhalla Inn, located at 1 Valhalla Inn Road, Thunder Bay, Ontario, P7E 6J1, on October 27, 2014. There will be two Creditor Meetings that will take place on October 27, 2014, as follows:**

- 1) **Secured Creditors Meeting - 1:00 p.m.**
- 2) **Unsecured Creditors Meeting - 1:30 p.m.**

The creditors or any class of creditors qualified to vote at the meeting may by resolution accept the proposal either as made or as altered or modified at the meeting. If so accepted and if approved by the court the proposal is binding on all the creditors or the class of creditors affected.

Proofs of claim, proxies and voting letters intended to be used at the meeting must be lodged with us prior to the commencement of the meeting.

Dated at the city of Toronto in the Province of Ontario, this 8th day of October 2014.

Dodick Landau Inc. - Trustee



4646 Dufferin St., Suite 6  
Toronto ON M3H 5S4  
Phone: (416) 736-4357 Fax: (416) 649-7725

**PROOF OF CLAIM FORM WITH  
INSTRUCTIONS**





District of: Ontario  
Division No. 21 - Thunder Bay  
Court No. CV14-0291  
Estate No. 21-1919705

FORM 31

Proof of Claim

(Sections 50.1, 81.5, 81.6, Subsections 65.2(4), 81.2(1), 81.3(8), 81.4(8), 102(2),  
124(2), 128(1), and Paragraphs 51(1)(e) and 66.14(b) of the Act)

In the matter of the proposal of  
Mitomics Inc., in Receivership of the city  
of Thunder Bay, in the Province of Ontario

All notices or correspondence regarding this claim must be forwarded to the following address:

---

---

In the matter of the proposal of Mitomics Inc. of the city of Thunder Bay in the Province of Ontario and the claim of \_\_\_\_\_ creditor.

I, \_\_\_\_\_ (name of creditor or representative of the creditor), of the city of \_\_\_\_\_ in the province of \_\_\_\_\_, do hereby certify:

1. That I am a creditor of the above named debtor (or I am \_\_\_\_\_ (position/title) of \_\_\_\_\_, creditor).

2. That I have knowledge of all the circumstances connected with the claim referred to below.

3. That the debtor was, at the date of proposal, namely the 8th day of October 2014, and still is, indebted to the creditor in the sum of \$ \_\_\_\_\_, as specified in the statement of account (or affidavit) attached and marked Schedule "A", after deducting any counterclaims to which the debtor is entitled. (The attached statement of account or affidavit must specify the vouchers or other evidence in support of the claim.)

4. (Check and complete appropriate category.)

A. UNSECURED CLAIM OF \$ \_\_\_\_\_

(other than as a customer contemplated by Section 262 of the Act)

That in respect of this debt, I do not hold any assets of the debtor as security and  
(Check appropriate description.)

Regarding the amount of \$ \_\_\_\_\_, I claim a right to a priority under section 136 of the Act.

Regarding the amount of \$ \_\_\_\_\_, I do not claim a right to a priority.  
(Set out on an attached sheet details to support priority claim.)

B. CLAIM OF LESSOR FOR DISCLAIMER OF A LEASE \$ \_\_\_\_\_

That I hereby make a claim under subsection 65.2(4) of the Act, particulars of which are as follows:

(Give full particulars of the claim, including the calculations upon which the claim is based.)

C. SECURED CLAIM OF \$ \_\_\_\_\_

That in respect of this debt, I hold assets of the debtor valued at \$ \_\_\_\_\_ as security, particulars of which are as follows:

(Give full particulars of the security, including the date on which the security was given and the value at which you assess the security, and attach a copy of the security documents.)

D. CLAIM BY FARMER, FISHERMAN OR AQUACULTURIST OF \$ \_\_\_\_\_

That I hereby make a claim under subsection 81.2(1) of the Act for the unpaid amount of \$ \_\_\_\_\_  
(Attach a copy of sales agreement and delivery receipts.)



E. CLAIM BY WAGE EARNER OF \$ \_\_\_\_\_

That I hereby make a claim under subsection 81.3(8) of the Act in the amount of \$ \_\_\_\_\_.

That I hereby make a claim under subsection 81.4(8) of the Act in the amount of \$ \_\_\_\_\_.

F. CLAIM BY EMPLOYEE FOR UNPAID AMOUNT REGARDING PENSION PLAN OF

\$ \_\_\_\_\_

That I hereby make a claim under subsection 81.5 of the Act in the amount of

\$ \_\_\_\_\_, That I hereby make a claim under subsection 81.6 of the Act in

the amount of \$ \_\_\_\_\_.

G. CLAIM AGAINST DIRECTOR \$ \_\_\_\_\_

*(To be completed when a proposal provides for the compromise of claims against directors.)*

That I hereby make a claim under subsection 50(13) of the Act, particulars of which are as follows:

*(Give full particulars of the claim, including the calculations upon which the claim is based.)*

H. CLAIM OF A CUSTOMER OF A BANKRUPT SECURITIES FIRM \$ \_\_\_\_\_

That I hereby make a claim as a customer for net equity as contemplated by section 262 of the Act, particulars of which are as follows: *(Give full particulars of the claim, including the calculations upon which the claim is based.)*

5. That, to the best of my knowledge, I \_\_\_\_\_ (am/am not) (or the above-named creditor \_\_\_\_\_ (is/is not)) related to the debtor within the meaning of section 4 of the Act, and \_\_\_\_\_ (have/has/have not/has not) dealt with the debtor in a non-arm's-length manner.

6. That the following are the payments that I have received from, and the credits that I have allowed to, and the transfers at undervalue within the meaning of subsection 2(1) of the Act that I have been privy to or a party to with the debtor within the three months (or, if the creditor and the debtor are related within the meaning of section 4 of the Act or were not dealing with each other at arm's length, within the 12 months) immediately before the date of the initial bankruptcy event within the meaning of Section 2 of the Act: *(Provide details of payments, credits and transfers at undervalue.)*

7. *(Applicable only in the case of the bankruptcy of an individual.)*

Whenever the trustee reviews the financial situation of a bankrupt to redetermine whether or not the bankrupt is required to make payments under section 68 of the Act, I request to be informed, pursuant to paragraph 68(4) of the Act, of the new fixed amount or of the fact that there is no longer surplus income.

I request that a copy of the report filed by the trustee regarding the bankrupt's application for discharge pursuant to subsection 170(1) of the Act be sent to the above address.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Creditor

Phone Number: \_\_\_\_\_

Fax Number : \_\_\_\_\_

E-mail Address : \_\_\_\_\_

NOTE: If an affidavit is attached, it must have been made before a person qualified to take affidavits.

WARNINGS: A trustee may, pursuant to subsection 128(3) of the Act, redeem a security on payment to the secured creditor of the debt or the value of the security as assessed, in a proof of security, by the secured creditor.

Subsection 201(1) of the Act provides severe penalties for making any false claim, proof, declaration or statement of account.



## Appendix A

### Checklist for Proof of Claim

This checklist is provided to assist you in preparing the proof of claim form and, if appropriate, the proxy form in a complete and accurate manner. Please check each requirement.

#### General

- The **signature of a witness** is required.
- The document **must be signed** by the individual completing the declaration.
- **Provide the complete address** where all notices or correspondence are to be forwarded along with your phone number, fax number and email address where appropriate.

#### Notes

- It is permissible to file a proof of claim by fax or electronics mail.
- A creditor may vote either in person or by proxy at any meeting of creditors if the proof of claim is filed with the trustee prior to the time appointed for the meeting.
- A quorum at any meeting of creditors consists of at least one creditor with a valid proof of claim in attendance in person or by proxy.
- A corporation may vote through an authorized agent or mandatary at meetings of creditors.
- In order for a duly authorized person to have a right to vote, they must be a creditor or be the holder of a properly executed proxy. The name of the creditor must appear in the proxy.
- A creditor who is participating in any distribution from an estate must have filed a proof of claim prior to the distribution being declared.
- In the case of an individual bankrupt, by checking the appropriate box or boxes at the bottom of the proof of claim form, you may request that the trustee advise you of any material change in the financial situation of the bankrupt or the amount the bankrupt is required to pay into the bankruptcy, and a copy of the trustee's report on the discharge of the bankrupt.

#### Paragraph 1

- The creditor must state the full and complete legal name of the individual, company or firm.
- If the individual completing the proof of claim is a representative of the creditor, the individual's position or title must be identified.

#### Paragraph 3

- The amount owing must be set out in paragraph 3.
- If you are a noteholder, and agree with the calculations on Schedule "A" provided in this package, then you only need to complete your proof of claim form and submit it to the Trustee along with the Schedule "A". If you disagree with the calculations on the Schedule "A", please submit a revised Schedule "A" with your proof of claim and include any documentation required to support your revised calculations.



## Paragraph 4

### Notes

- **Paragraph A** applies to *ordinary unsecured claims*. In addition to recording the amount of the claim, please indicate whether the claim has a priority pursuant to section 136 of the Act.
- **Paragraph B** applies to *lessor claims* in a commercial proposal. Please ensure that the claim applies to a commercial proposal and, if so, include the full particulars of the claim.
- **Paragraph C** applies to *secured claims*. Please indicate the dollar value of the security and attach copies of the security document. In addition, please attach copies of the security registration documents, where appropriate. If you are a noteholder, attaching these documents is not necessary if you are in agreement with the amount on the Schedule "A" provided to you.
- **Paragraph D** applies to *inventory claims of farmers, fishermen and aquaculturists*. Please note that such claims apply only to inventory supplied from farmers, fishermen and aquaculturists within 15 (fifteen) days of the date of bankruptcy. In addition, please attach copies of any applicable sales agreements and delivery slips.
- **Paragraph E** applies to *claims by wage earners*. Please note that such claims apply only for unpaid wages owed upon the bankruptcy of an employer or when the employer becomes subject to a receivership.
- **Paragraph F** applies to *claims by employees for unpaid amounts regarding pension plans*. Please note that such claims apply only to unremitted pension contributions outstanding when the sponsoring employer becomes bankrupt or is subject to a receivership.
- **Paragraph G** applies to *claims against directors*. Please note that such claims apply only to directors of corporations that have filed a commercial proposal to creditors that includes a compromise of statutory claims against directors.
- **Paragraph H** applies to *claims of customers of a bankrupt securities firm*. Please ensure that the claim of the customer is for net equity and, if so, include the full particulars of the claim, including the calculations upon which the claim is based.

## Paragraph 5

- All claimants must indicate whether or not they are related to the debtor, as defined in section 4 of the Act, or dealt with the debtor in a non-arm's-length manner.

## Paragraph 6

- All claimants must attach a detailed list of **all payments or credits** received or granted as follows:
  - a. **within the three (3) months preceding** the initial bankruptcy event (including the bankruptcy or the proposal);
  - b. **within the twelve (12) months preceding** the initial bankruptcy event (including the bankruptcy or the proposal) in the case where the claimant and the debtor **were not** dealing at arm's length.

## Proxyholder

### Note

The Act permits a proof of claim to be made by a duly authorized representative of a creditor but, in the absence of a properly executed proxy, does not give such an individual the power to vote at the first meeting of creditors nor to act as the proxyholder of the creditors.





**General**

- In order for duly authorized persons to have a right to vote, they must themselves be creditors or be the holders of a properly executed proxy. The name of the creditor must appear in the proxy.

**Notes**

- A creditor may vote either in person or by proxyholder.
- A proxy may be filed at any time prior to a vote at a meeting of creditors.
- A proxy can be filed with the trustee in person, by mail or by any form of telecommunication.
- A proxy does not have to be under the seal of a corporation unless required by its incorporating documents or its bylaws.
- The individual designated in a proxy cannot be substituted unless the proxy provides for a power of substitution.
- Bankrupts/debtors may not be appointed as proxyholders to vote at any meeting of their creditors.
- The trustee may be appointed as a proxyholder for any creditor.
- A corporation cannot be designated as a proxyholder.



# **PROXY**



District of: Ontario  
Division No. 21 - Thunder Bay  
Court No. CV14-0291  
Estate No. 21-1919705

FORM 36

Proxy

(Subsection 102(2) and paragraphs 51(1)(e) and 66.15(3)(b) of the Act)

In the matter of the proposal of  
Mitomics Inc., in Receivership  
of the city of Thunder Bay, in the Province of Ontario

I, \_\_\_\_\_, of \_\_\_\_\_, a creditor in the above  
matter, hereby appoint \_\_\_\_\_, of  
\_\_\_\_\_, to be my proxyholder in the above matter,  
except as to the receipt of dividends, \_\_\_\_\_ (with or without) power to appoint  
another proxyholder in his or her place.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of  
\_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Individual Creditor: Print Name

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Individual Creditor: Signature

\_\_\_\_\_  
Name of Corporate Creditor

Per \_\_\_\_\_  
Name and Title of Signing Officer

Return To:

Dodick Landau Inc. - Trustee

\_\_\_\_\_  
4646 Dufferin St., Suite 6  
Toronto ON M3H 5S4  
Phone: (416) 736-4357 Fax: (416) 649-7725  
E-mail: stephanie@dodick.ca



# **VOTING LETTER**





District of: Ontario  
Division No. 21 - Thunder Bay  
Court No. CV14-0291  
Estate No. 21-1919705

FORM 37

Voting Letter  
(Paragraph 51(1)(f) of the Act)

In the matter of the proposal of  
Mitomics Inc., in Receivership  
of the city of Thunder Bay, in the Province of Ontario

I, \_\_\_\_\_, creditor (or I, \_\_\_\_\_,  
representative of \_\_\_\_\_, creditor), of \_\_\_\_\_, a  
creditor in the above matter for the sum of \$ \_\_\_\_\_, hereby request the trustee  
acting with respect to the proposal of Mitomics Inc., to record my vote \_\_\_\_\_ (for or against)  
the acceptance of the proposal as made on the \_\_\_\_\_ day of \_\_\_\_\_,  
\_\_\_\_\_.

Dated at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_  
\_\_\_\_\_.

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Individual Creditor: Print Name

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Individual Creditor: Signature

\_\_\_\_\_  
Name of Corporate Creditor

Per \_\_\_\_\_  
Name and Title of Signing Officer

Return To:

Dodick Landau Inc. - Trustee

\_\_\_\_\_  
4646 Dufferin St., Suite 6  
Toronto ON M3H 5S4  
Phone: (416) 736-4357 Fax: (416) 649-7725  
E-mail: stephanie@dodick.ca