

ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)

IN THE MATTER OF THE *COMPANIES' CREDITORS*  
*ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS  
AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE  
OR ARRANGEMENT OF BRAINHUNTER INC.,  
BRAINHUNTER CANADA INC., BRAINHUNTER  
(OTTAWA) INC., PROTEC EMPLOYMENT SERVICES  
LTD., TREKLOGIC INC.

APPLICANTS

SECOND REPORT OF THE MONITOR  
DATED JANUARY 11, 2010

INTRODUCTION

1. By Order of this Honourable Court dated December 2, 2009 (the “**Initial Order**”), Brainhunter Inc. (the “**Company**”), Brainhunter Canada Inc., Brainhunter (Ottawa) Inc., Protec Employment Services Ltd., and TrekLogic Inc. (collectively, the “**Applicants**” or “**Brainhunter**”), obtained protection from their creditors pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”). The CCAA proceeding with respect to the Applicants is referred to herein as the “**CCAA Proceeding**”.
2. Pursuant to the Initial Order, Deloitte & Touche Inc. (“**Deloitte**”) was appointed monitor of the Applicants as part of the CCAA Proceeding (the “**Monitor**”). Pursuant to the Initial Order, all proceedings against the Applicants were stayed until December 31, 2009, or such later date as this Court may order. A copy of the Initial Order is attached as Exhibit “A”.
3. By Order dated December 11, 2009 (the “**Bid Process Order**”), this Honourable Court approved the Agreement of Purchase and Sale dated December 1, 2009 (the “**Stalking**”).

**Horse APA**”) between the Applicants as Vendors and TalentPoint Inc., 2223945 Ontario Limited, 2223947 Ontario Limited and 2223956 Ontario Limited as purchasers (together, the “**Stalking Horse Purchasers**”) and Raj Singh pursuant to which the Stalking Horse Purchasers shall purchase substantially all of the assets of the Vendors. A copy of the Bid Process Order is attached as Exhibit “B”. Pursuant to the Bid Process Order, the Stalking Horse APA was approved as a stalking horse bid under the sale process and auction procedures (the “**Bid Process**”) attached as Schedule “A” to the Bid Process Order.

4. Also pursuant to the Bid Process Order, the Stay Period, as defined in paragraph 14 of the Initial Order, was extended until February 8, 2010 to permit the Applicants to carry out the Bid Process.
5. The Initial Order, the Bid Process Order, together with related Court documents, the Pre-Filing Report of Deloitte in its capacity as Proposed Monitor of the Applicants dated December 1, 2009 (the “**Pre-Filing Report**”), the Monitor’s First Report to the Court dated December 4, 2009 and the Notice to Creditors dated December 2, 2009 have been posted on the Monitor’s website at [www.deloitte.com/ca/brainhunter](http://www.deloitte.com/ca/brainhunter) (the “**Monitor’s Website**”). The Monitor has also established a toll free number at 1-877-770-4554 for creditors and other interested parties to call with questions or concerns regarding the CCAA Proceeding.
6. The purpose of this report (the “**Second Report**”) is to provide this Honourable Court with information regarding the Applicants’ motion to amend the Bid Process by extending the deadline date to submit an offer to purchase the Applicants’ assets or sponsor a plan of arrangement (the “**Bid Deadline**”) from January 13, 2010 until 5pm (Eastern Time) on Monday, January 18, 2010.
7. Unless otherwise provided, capitalized terms not otherwise defined in this Second Report are as defined in the First Report, the Initial Order, the Bid Process Order or the Stalking Horse APA.

8. In preparing the Second Report and making the comments contained herein, Deloitte has been provided with and relied upon unaudited financial information, the Applicants' books and records, the financial information prepared by the Applicants and their advisors, and discussions with management of the Applicants. Deloitte has not audited, reviewed, or otherwise attempted to verify the accuracy or completeness of the information and, accordingly, Deloitte expresses no opinion or other form of assurance on the information contained in the Second Report. An examination of the financial forecast as outlined in the Canadian Institute of Chartered Accountants ("CICA") Handbook has not been performed. Future oriented financial information referred to or relied upon in the Second Report is based on management's assumptions regarding future events and conditions that are not ascertainable. Accordingly, actual results achieved will vary from this information, and the variations may be material.
9. Unless otherwise stated, all dollar amounts contained in the Second Report are expressed in Canadian dollars.

#### **STATUS OF BID PROCESS**

10. Following approval of the Bid Process pursuant to the Bid Process Order, the following steps were taken pursuant to the marketing process incorporated therein:
  - (a) E&Y approached a qualified list of potential buyers ("**Potential Buyers**") previously identified by E&Y with the approval of the Company as part of E&Y's previous sales mandate with the Company as well as certain additional qualified prospects identified by both the Applicants and E&Y regarding the opportunity to acquire the Applicants' assets or submit a plan of arrangement for the business of the Applicants;
  - (b) Advertisements regarding the Bid Process were placed in the national edition of the Globe and Mail newspaper on December 16 and December 19, 2009;
  - (c) The Bid Process Order and the Bid Process were posted on the Monitor's website;

- (d) A confidential information memorandum was prepared by the Company and provided to all interested parties that signed a satisfactory confidentiality agreement (“**Interested Parties**”);
- (e) Those Interested Parties which signed satisfactory confidentiality agreements were provided access to the electronic data room maintained by E&Y which contains detailed information regarding the Applicants’ assets and business to permit Interested Parties to conduct their due diligence via secure web access;
- (f) E&Y and the Monitor have been responding to information requests from Interested Parties.

#### **REQUEST TO EXTEND BID DEADLINE**

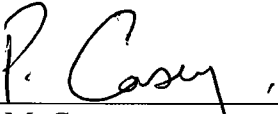
- 11. One of the Interested Parties currently conducting due diligence with respect to the Applicants’ assets and business has advised the Monitor and the Applicants that it requires additional time to review the documentation and other information provided to date in the data room and to formulate an offer. This Interested Party has requested that the Bid Deadline be extended from January 13, 2010 until Monday, January 18, 2010.
- 12. Other Interested Parties have also made requests to extend the Bid Deadline.
- 13. The Monitor has canvassed this request with the Applicants, TD Bank as DIP Lender, and Mr. Singh, who controls the Stalking Horse Purchasers. Both the Applicants and Mr. Singh will agree to an extension of the Bid Deadline as requested provided, however, that there is no further extension of the Bid Deadline.
- 14. It is a condition of the DIP Facility term sheet between TD Bank as DIP Lender and the Applicants approved by this Honourable Court pursuant to the Initial Order that binding offers to purchase the Applicants’ assets be received by the Monitor during the week of January 15, 2010. TD Bank has agreed that, notwithstanding this provision of the DIP Facility term sheet, TD Bank will agree to an extension of the Bid Deadline until January 18, 2010.

## CONCLUSIONS AND RECOMMENDATIONS

15. The Monitor supports the proposed extension of the Bid Deadline from January 13 to January 18, 2010. In the Monitor's view, a brief extension of the Bid Deadline will facilitate completion by Interested Parties of any due diligence necessary for an Interested Party to formulate and submit an offer to purchase the Applicants' assets or sponsor a plan of arrangement under the Bid Process. The brief extension of the Bid Deadline requested will not delay the Bid Process since none of the other deadline dates referenced in the Bid Process will be extended or amended.
16. The Bid Process currently provides the Monitor with approximately one week between the existing Bid Deadline of January 13, 2010 and January 20, 2010 to review all Bids submitted by the Bid Deadline and determine if such Bids are Qualified Bids within the meaning of the Bid Process. The Monitor is required to notify Bidders if they are a Qualified Bidder not less than 48 hours before the start of the Auction, currently scheduled for Monday, January 25, 2010. Accordingly, the Monitor will be required to advise Bidders if they are Qualified Bidders by no later than Thursday, January 21, 2010. Qualified Bidders are required to advise the Monitor if they intend to participate in the Auction by no later than Friday, January 22, 2010. Although the extension of the Bid Deadline without an extension of the Auction Date will reduce the time within which the Monitor is required to qualify Bids, the Monitor believes it will still have sufficient time to carry out this process with respect to Bidder Purchase Agreements or Plan Sponsor Agreements that comply with the terms of the Bid Process.
17. In addition, since none of the other deadline dates in the Bid Process are being extended, there should be no effect upon the Applicants' ability to comply with the Cash Flow Forecast filed with this Court in connection with the application for the Initial Order.
18. For the above reasons, the Monitor recommends that this Honourable Court extend the Bid Deadline from January 13 to January 18, 2010, with all other terms of the Bid Process remaining in effect, unamended. If the Bid Deadline is extended, the Monitor will immediately advise all Interested Parties of the extension.

All of which is respectfully submitted at Toronto, Ontario this 11<sup>th</sup> day of January 2010.

**DELOITTE & TOUCHE INC.**  
in its capacity as Monitor  
of Brainhunter Inc. and the other Applicants

Per:   
\_\_\_\_\_  
Paul M. Casey, CA-CIRP  
Senior Vice-President

# Exhibit “A”

**SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR. )  
JUSTICE NEWBOULD )

WEDNESDAY, THE 2<sup>ND</sup>  
DAY OF DECEMBER, 2009

IN THE MATTER OF THE *Companies' Creditors  
Arrangement Act*, R.S.C. 1985, c. C-36, as amended

AND IN THE MATTER of a Plan of Compromise or  
Arrangement of Brainhunter Inc., TrekLogic Inc.,  
Brainhunter Canada Inc., Brainhunter (Ottawa) Inc.,  
and Protec Employment Services Limited (the  
"**Applicants**")



**FIRST AMENDED AND RESTATED INITIAL ORDER**

THIS APPLICATION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Dennis Jewitt sworn December 1, 2009 and the Exhibits thereto (the "**Jewitt Affidavit**"), on reading the report of Deloitte & Touche Inc. as proposed monitor in these proceedings (the "**Monitor**") dated December 1, 2009 and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicants, the Monitor, The Toronto-Dominion Bank ("**TD Bank**") and Roynat Capital Inc. ("**Roynat**"), Mr. Dowdall for the majority of the Noteholders, Patrick Schindler for David Eady, and no one appearing for the other parties provided with notice as set out in the Affidavit of Natalie Renner, sworn December 2, 2009 and on reading the consent of Deloitte & Touche Inc. to act as the Monitor,

## **SERVICE**

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

## **APPLICATION**

2. THIS COURT ORDERS AND DECLARES that each of the Applicants is a company to which the CCAA applies.

## **PLAN OF ARRANGEMENT**

3. THIS COURT ORDERS that the Applicants shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the "**Plan**") in accordance with the CCAA.

## **POSSESSION OF PROPERTY AND OPERATIONS**

4. THIS COURT ORDERS that the Applicants shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "**Property**"). Subject to further Order of this Court, the Applicants shall continue to carry on business in a manner consistent with the preservation of its business (the "**Business**") and Property. The Applicants shall be authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively "**Assistants**") currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. THIS COURT ORDERS that the Applicants shall be entitled to continue to utilize the central cash management system currently in place with TD Bank as described in the Jewitt Affidavit (the "**Cash Management System**") and that TD Bank in its capacity as the bank providing the Cash Management System (i) shall not be under any

obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Applicants of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, (ii) shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as defined below) other than the Applicants, pursuant to the terms of the documentation applicable to the Cash Management System, and (iii) shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

6. THIS COURT ORDERS that the Applicants shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay, bonuses and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;
- (b) all outstanding and future amounts payable on or after the date of this Order to any persons who are not employees of the Applicants ("**Contractors**") that provides services to customers of the Applicants pursuant to a Statement of Work or similar arrangement (as described in the Jewitt Affidavit);
- (c) the fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges.

7. THIS COURT ORDERS that, except as otherwise provided to the contrary herein, Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants in carrying on the Business in the ordinary course and as permitted by the Term Sheet (as defined below) on or after the date of this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and
- (b) payment for goods or services actually supplied to the Applicants on or after the date of this Order or with the prior consent of the Monitor and the DIP Lender, goods or services supplied to the Applicants before the date of this Order.

8. THIS COURT ORDERS that the Applicants shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicants.

9. THIS COURT ORDERS that until a real property lease is disclaimed or resiliated in accordance with the CCAA, the Applicants shall pay all amounts constituting rent or

payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between the Applicants and the landlord from time to time ("**Rent**"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any arrears relating to the period commencing from and including the date of this Order shall also be paid.

10. THIS COURT ORDERS that, except as specifically permitted herein and the Term Sheet (as defined below), the Applicants are hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by the Applicants to any of their creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of their Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

### **RESTRUCTURING**

11. THIS COURT ORDERS that subject to such requirements as are imposed by the CCAA and such covenants as may be contained in the Definitive Documents (as defined below), the Applicants shall have the right to take action to proceed with an orderly restructuring of the Business (the "**Restructuring**"), which includes but is not limited to:

- (a) permanently or temporarily cease, downsize or shut down any of their business or operations;
- (b) subject to Section 32 of the CCAA, terminate the employment of such of their employees or temporarily lay off such of their employees as they deem appropriate on such terms as may be agreed upon between the Applicants and such employee, or failing such agreement, to deal with the consequences thereof in the Plan; and

- (c) pursue all avenues of refinancing of the Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing.

12. THIS COURT ORDERS that the Applicants shall provide each of the relevant landlords with notice of the relevant Applicant's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Applicant's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the relevant Applicant, or by further Order of this Court upon application by the relevant Applicant on at least two (2) days notice to such landlord and any such secured creditors. If an Applicant disclaims or resiliates the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer or resiliation of the lease shall be without prejudice to the Applicant's claim to the fixtures in dispute.

13. THIS COURT ORDERS that if a notice of disclaimer or resiliation is delivered to a landlord in respect of a lease pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer or resiliation, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the relevant Applicant and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer or resiliation, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the Applicant in respect of such lease or leased premises and such landlord shall be entitled to notify the Applicant of the basis on which it is taking possession and to gain possession of and re-lease such leased premises to any third party or parties on such terms as such landlord considers advisable, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

**NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY**

14. THIS COURT ORDERS that until and including December 31, 2009, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in, or before, any court, arbitration or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

**NO EXERCISE OF RIGHTS OR REMEDIES**

15. THIS COURT ORDERS that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicants to carry on any business which the Applicants is not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (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 RIGHTS**

16. THIS COURT ORDERS that during the Stay Period, 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 Applicants, except with the written consent of the Applicants and the Monitor, or leave of this Court.

### **CONTINUATION OF SERVICES**

17. THIS COURT ORDERS that during the Stay Period, all Persons having oral or written agreements with the Applicants 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 Business or the Applicants, 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 Applicants, and that each of the Applicants shall be entitled to the continued use of its current premises, 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 Applicants in accordance with normal payment practices of the Applicants or such other practices as may be agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

### **NON-DEROGATION OF RIGHTS**

18. THIS COURT ORDERS that, subject to paragraphs 48, 49 and 50 of this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to the Applicants. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

### **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

19. THIS COURT ORDERS that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicants with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicants whereby the directors or officers are

alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

#### **DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE**

20. THIS COURT ORDERS that the Applicants shall indemnify their directors and officers from all claims, costs and expenses relating to the failure of the Applicants, after the date hereof, to make payments of the nature referred to in paragraphs 6(a), 8(a), (b) and (c) of this Order which they sustain or incur by reason of or in relation to their respective capacities as directors or officers of the Applicants, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct (the "**Directors' Indemnity**").

21. THIS COURT ORDERS that the directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "**Directors' Charge**") on the Property, which charge shall not exceed an aggregate amount of \$1,700,000, as security for the Directors Indemnity. The Directors' Charge shall have the priority set out in out in paragraphs 47 and 49 of this Order. The Directors' Charge shall be automatically released and discharged if a purchaser of substantially all of the assets of the Applicants agrees to assume the Directors Indemnity on terms approved by this Court.

22. THIS COURT ORDERS that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Applicants' directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 20 of this Order.

## **APPOINTMENT OF MONITOR**

23. THIS COURT ORDERS that Deloitte & Touche Inc. is hereby appointed pursuant to the CCAA as the Monitor of the Applicants, an officer of this Court, to monitor the business and financial affairs of the Applicants with the powers and obligations set out in the CCAA and set forth herein and that the Applicants and their shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by the Applicants pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

24. THIS COURT ORDERS that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor the Applicants' receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) assist the Applicants, to the extent required by the Applicants, in their dissemination, to the DIP Lender (as defined below) and its counsel of financial and other information no less frequently than on a weekly basis or as otherwise agreed to between the Applicants and the DIP Lender which may be used in these proceedings including reporting on a basis to be agreed with the DIP Lender;
- (d) advise the Applicants in their preparation of the Applicants' cash flow statements and reporting required by the DIP Lender, which information shall be reviewed with the Monitor and delivered to the DIP Lender and its counsel on a periodic basis, but not less than weekly, or as otherwise agreed to by the DIP Lender;

- (e) advise the Applicants in their development of the Plan and any amendments to the Plan;
- (f) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicants, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;
- (h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order; and
- (i) perform such other duties as are required by this Order or by this Court from time to time.

25. THIS COURT ORDERS that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

26. THIS COURT ORDERS that nothing herein contained shall require the Monitor 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 Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor'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.

27. THIS COURT ORDERS that that the Monitor shall provide any creditor of the Applicants and the DIP Lender with information provided by the Applicants in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Applicants is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Applicants may agree.

28. THIS COURT ORDERS that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

29. THIS COURT ORDERS that the Monitor, counsel to the Monitor and counsel to the Applicants shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor, counsel for the Applicants and EYO (as defined below) on a weekly basis and, in addition, the Applicants is hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to the Applicants, retainers in the amounts of \$85,000, \$100,000 and \$50,000, respectively, to be held by them as

security for payment of their respective fees and disbursements outstanding from time to time in addition to the Administration Charge (as defined below).

30. THIS COURT ORDERS that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

31. THIS COURT ORDERS that the Monitor, counsel to the Monitor, the Applicants' counsel, Breakwall Financial Corp. ("**Breakwall**") and Ernst & Young Orenda Corporate Finance Inc. and Ernst & Young Corporate Finance (Canada) Inc. (collectively, "**EYO**") shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$1,000,000 as security for: (i) the professional fees and disbursements incurred at the standard rates and charges of the Monitor, counsel to the Monitor and the Applicants' counsel, (ii) the obligations of the Applicants under the Breakwall Agreement (as defined below), and (iii) the obligations of the Applicants under the EYO Agreement (as defined below), both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 47 and 49 of this Order.

#### **DIP FINANCING**

32. THIS COURT ORDERS that the Applicants are hereby authorized and empowered to obtain and borrow under a credit facility from TD Bank (in that capacity, the "**DIP Lender**") in order to finance the Applicants' working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility (the "**DIP Facility**") shall not exceed \$7 million unless permitted by further Order of this Court.

33. THIS COURT ORDERS that the DIP Facility shall be on the terms and subject to the conditions set forth in the term sheet between the Applicants and the DIP Lender attached as Exhibit "J" to the Jewitt Affidavit (the "**Term Sheet**").

34. THIS COURT ORDERS that the Applicants are hereby authorized and empowered to execute and deliver such credit agreements, mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, the "**Definitive Documents**"), as are contemplated by the Term Sheet or as may be reasonably required by the DIP Lender pursuant to the terms thereof, and the Applicants are hereby authorized and directed to pay and perform all of their indebtedness, interest, fees, liabilities and obligations to the DIP Lender under and pursuant to the Term Sheet and the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

35. THIS COURT ORDERS that the DIP Lender shall be entitled to the benefit of and is hereby granted a charge (the "**DIP Charge**") on the Property, as security for all indebtedness and obligations of the Applicants to the DIP Lender under the Term Sheet and the Definitive Documents. The DIP Charge shall have the priority set out in paragraphs 47 and 49 of this Order.

36. THIS COURT ORDERS that, notwithstanding any other provision of this Order:

- (a) the DIP Lender may take such steps from time to time as it may deem necessary or appropriate to file, register, record or perfect the DIP Charge or any of the Definitive Documents;
- (b) upon the occurrence of an event of default under the Definitive Documents or the DIP Charge, the DIP Lender, may without further notice to the Applicants, including, without limitation, statutory notice (which is hereby dispensed with), may exercise any and all of its rights and remedies against the Applicants or the Property under or pursuant to the Term Sheet, Definitive Documents and the DIP Charge (as defined below), including without limitation, to cease making advances to the Applicants and set off and/or consolidate any amounts owing by the DIP Lender to the Applicants against the obligations of the Applicants to the DIP Lender under the Term Sheet, the Definitive Documents or the DIP Charge, to make demand, accelerate payment and give other notices, or to apply to this Court for the appointment of a receiver, receiver and manager or interim receiver, or for a bankruptcy order against

the Applicants and for the appointment of a trustee in bankruptcy of the Applicants, and upon the occurrence of an event of default under the terms of the Definitive Documents, the DIP Lender shall, in addition to its existing rights under any and all assignments granted by the Applicants under the *Financial Administration Act* (Canada) to Morrison Financial Services Limited, as agent on behalf of TD Bank, the DIP Lender and Roynat, be entitled to seize and retain proceeds from the sale of the Property and the cash flow of the Applicants to repay amounts owing to the DIP Lender in accordance with the Definitive Documents and the DIP Charge, but subject to the priorities as set out in paragraphs 47 and 49 of this Order; and

- (c) the foregoing rights and remedies of the DIP Lender shall be enforceable against any trustee in bankruptcy, interim receiver, receiver or receiver and manager of the Applicants or the Property.

37. THIS COURT ORDERS that the DIP Charge is in addition to the existing security (the "**Existing TD Security**") in favour of The Toronto-Dominion Bank pursuant to the credit agreement made as of November 14, 2005, as amended and restated on September 22, 2006. All liabilities and obligations of the Applicants under the Term Sheet and the Definitive Documents shall be secured by the Existing TD Security and the DIP Charge.

38. THIS COURT ORDERS that, upon reasonable notice to the Applicants, the DIP Lender and its advisors shall, subject to claims of privilege, have clear and unfettered access to the books and records of the Applicants and such other information as the DIP Lender or its advisors reasonably requests.

39. THIS COURT ORDERS AND DECLARES that the DIP Lender shall be treated as unaffected in any plan of arrangement or compromise filed by the Applicants under the CCAA, or any proposal filed by the Applicants under the *Bankruptcy and Insolvency Act* of Canada (the "**BIA**"), with respect to any advances made under the Term Sheet or the Definitive Documents. Further, the stays of proceeding provided for herein shall not apply to the DIP Lender or its rights under or in respect of the DIP Facility or the Definitive Documents.

#### **KEY EMPLOYEE RETENTION PLAN**

40. THIS COURT ORDERS that the key employee retention plan (the "**KERP**"), as described in the Jewitt Affidavit, save for the KERP payment to Mr. Singh payable January 31, 2010 in the amount of \$50,000, be and is hereby approved and the Applicants are authorized to make payments in accordance with the terms and conditions of the KERP.

41. THIS COURT ORDERS that the obligations of the Applicants under the KERP up to a maximum of \$240,000 are hereby secured by a charge on the Property (the "**KERP Charge**") and the KERP Charge shall have the priority set out in out in paragraphs 47 and 49 of this Order.

#### **CHIEF RESTRUCTURING ADVISOR**

42. THIS COURT ORDERS that Breakwall be and is hereby appointed as Chief Restructuring Advisor of the Applicants in accordance with the terms and conditions of the agreement dated October 3, 2009 between Brainhunter Inc. and Breakwall (the "**Breakwall Agreement**"), effective as of the date of this Order.

43. THIS COURT ORDERS that the Breakwall Agreement is hereby approved and the Applicants are authorized and directed to make the payments contemplated thereunder in accordance with the terms and conditions of the Breakwall Agreement.

#### **FINANCIAL ADVISOR**

44. THIS COURT ORDERS that the agreement entered into between Brainhunter Inc. and EYO dated February 6, 2009, as amended August 21, 2009 and as further amended on October 13, 2009, attached as Exhibit "L" to the Jewitt Affidavit (the "**EYO Agreement**") is hereby approved and the Applicants are authorized and directed to make the payments contemplated thereunder in accordance with the terms of the EYO Agreement.

## **CRITICAL CONTRACTORS**

45. THIS COURT ORDERS that the Contractors are hereby declared to be suppliers whose services are critical to the Applicants' operations.

46. THIS COURT ORDERS that the obligations of the Applicants to the Contractors up to a maximum of \$15,000,000 are hereby secured by a charge on the Property of TrekLogic Inc., Brainhunter Canada Inc., Brainhunter (Ottawa) Inc., and Protec Employment Services Limited (the "**Contractors' Charge**") and the Contractors' Charge shall have the priority set out in paragraphs 47 and 49 hereof. The Contractors' Charge shall be automatically released and discharged if a purchaser of substantially all of the assets of the Applicants agrees to assume all of the Applicants' obligations of the Contractors on terms approved by this Court.

46.1 THIS COURT ORDERS that the obligations of the ad hoc committee of noteholders (the "**Committee**"), represented by Fraser Milner Casgrain LLP, in respect of reasonable legal costs and the reasonable costs of any financial advisor retained by the Committee, all in connection with this proceeding, including the right to be reimbursed for any fees and expenses previously paid by the Committee, are hereby secured by a charge on the Property, which charge shall not exceed \$150,000 (the "**Noteholder's Advisor Charge**") and the Noteholder's Advisor Charge shall rank in priority immediately behind all secured creditors other than the holders of term notes issued by Brainhunter Inc.

## **VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

47. THIS COURT ORDERS that the priorities of the Directors' Charge, the Administration Charge, the DIP Charge, the KERP Charge, the Existing TD Security and the Contractors' Charge, as among them, shall be as follows:

First – Administration Charge in an amount up to \$700,000;

Second – KERP Charge;

Third – DIP Charge;

Fourth –Administration Charge for amounts in excess of \$700,000 up to \$1,000,000;

Fifth - the Existing TD Security;

Sixth – Directors' Charge; and

Seventh – Contractors' Charge.

48. THIS COURT ORDERS that the filing, registration or perfection of the priorities of the Directors' Charge, the Administration Charge, the DIP Charge, the KERP Charge, the Existing TD Security, the Contractors' Charge and the Noteholder's Advisor Charge (collectively, the "**Charges**") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

49. THIS COURT ORDERS that each of Directors' Charge, the Administration Charge, the DIP Charge and the documents delivered pursuant to the Term Sheet, the KERP Charge and the Contractors' Charge (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person, other than any charge, encumbrance or security given priority over the Charges by operation of law or pursuant to this Order.

50. THIS COURT ORDERS that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Directors' Charge, the Administration Charge, the DIP Charge, the KERP Charge, or the Contractors' Charge, unless the Applicants also obtain the prior written consent of the Monitor, the DIP Lender and the beneficiaries of the Directors' Charge, the Administration Charge, the KERP Charge, or the Contractors' Charge, or further Order of this Court.

51. THIS COURT ORDERS that Directors' Charge, the Administration Charge, the Term Sheet, the Definitive Documents and the DIP Charge, the KERP Charge, the Contractors' Charge and the Noteholder's Advisor Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "**Chargees**") and/or the DIP Lender thereunder shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "**Agreement**") which binds the Applicants.

52. THIS COURT ORDERS that notwithstanding any provision to the contrary in any Agreement:

- (a) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the Term Sheet or the Definitive Documents shall create or be deemed to constitute a breach by the Applicants of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Applicants entering into the Term Sheet, the creation of the Charges, or the execution, delivery or performance of the Definitive Documents; and
- (c) the payments made by the Applicants pursuant to this Order, the Term Sheet or the Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

53. THIS COURT ORDERS that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the Applicants' interest in such real property leases.

#### **SERVICE AND NOTICE**

54. THIS COURT ORDERS that the Monitor shall (i) without delay, publish in *The Globe & Mail* (National Edition) a notice containing the information prescribed under the CCAA, (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the Applicants of more than \$1000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder provided, however, that the Monitor shall not make the names and addresses of individuals who are creditors or Contractors publicly available.

55. THIS COURT ORDERS that the Applicants and the Monitor be at liberty to serve 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 electronic transmission to the Applicants' creditors or other interested parties at their respective addresses as last shown on the records of the Applicants and that any such service or notice by courier, personal delivery or electronic 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.

56. THIS COURT ORDERS that the Applicants, the Monitor, and any party who has filed a Notice of Appearance may serve any court materials in these proceedings by e-mailing a PDF or other electronic copy of such materials to counsels' email addresses as recorded on the service list from time to time, in accordance with the E-filing protocol of the Commercial List to the extent practicable, and the Monitor may post a copy of any or all such materials on its website at [www.deloitte.com/ca/brainhunter](http://www.deloitte.com/ca/brainhunter).

**GENERAL**

57. THIS COURT ORDERS that the Applicants or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

58. THIS COURT ORDERS that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of the Applicants, the Business or the Property.

59. 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 Applicants, the Monitor and their respective 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 Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

60. THIS COURT ORDERS that each of the Applicants and the Monitor 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 Monitor 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.

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

62. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard/Daylight Time on the date of this Order.



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ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:

DEC 14 2004

PER / PAR: TV

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF BRAINHUNTER INC., et al.

Court File No: 09-8482-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(Commercial List)**

Proceeding commenced at Toronto

**ORDER**

**Davies Ward Phillips & Vineberg LLP**  
44th Floor, 1 First Canadian Place  
Toronto, ON M5X 1B1

Jay A. Swartz (LSUC #15417L)  
James D. Bunting (LSUC #48244K)  
Natalie Renner (LSUC # 55954A)

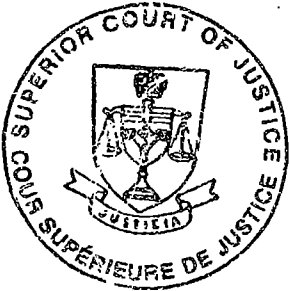
Tel: 416.863.0900  
Fax: 416.863.0871

Lawyers for the Applicants

# Exhibit “B”

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(COMMERCIAL LIST)**

THE HONOURABLE MR. ) FRIDAY, THE 11<sup>TH</sup> DAY  
JUSTICE MORAWETZ )  
) OF DECEMBER, 2009



IN THE MATTER OF the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended

AND IN THE MATTER of a Plan of Compromise or Arrangement of Brainhunter Inc., TrekLogic Inc., Brainhunter Canada Inc., Brainhunter (Ottawa) Inc. and Protec Employment Services Limited

Applicants

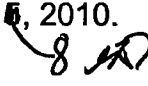
**ORDER**

**(Re Bid Process, Stalking Horse APA and Stay Extension)**

THIS MOTION, made by the Applicants for the relief set out in the Applicants' notice of motion dated December 3, 2009 was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Dennis Jewitt sworn December 4, 2009 (the "**Jewitt Affidavit**") and the First Report of Deloitte & Touche Inc. dated December 4, 2009 (the "**Report**") in its capacity as the monitor appointed in these proceedings (the "**Monitor**") and on hearing the submissions of counsel for the Applicants, the Monitor, The Toronto-Dominion Bank, Roynat Capital Inc., Mr. Dowdall for the ad hoc committee of noteholders (the "**Committee**"), no one appearing for any other person on the service list although served as appears from the Affidavit of Service of Andrea D'Aprile sworn

December 4, 2009, filed and on being advised that counsel for the Committee consents to the form of order set out herein;

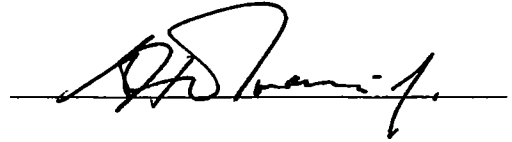
1. THIS COURT ORDERS that the time for service of the Notice of Motion, the Report and the Motion Record is hereby abridged so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. THIS COURT ORDERS that the Stay Period, defined in paragraph 14 of the Order of this Court made in these proceedings on December 2, 2009, be extended to and including February 5, 2010. 
3. THIS COURT ORDERS that the bidding procedures as described in the Jewitt Affidavit and Report and attached as Schedule "A" hereto are hereby approved and the Applicants shall be authorized to conduct the sale process and auction (the "**Bid Process**") contemplated therein.
4. THIS COURT ORDERS that the execution by the Applicants of the asset purchase agreement dated as of December 1, 2009 (the "**Stalking Horse APA**") between TalentPoint Inc., 2223945 Ontario Limited, 2223947 Ontario Limited and 2223956 Ontario Limited as purchasers (collectively, the "**Purchasers**") and each of the Applicants as vendors, in the form attached as Exhibit "B" to the Jewitt Affidavit, is hereby approved and ratified.
5. THIS COURT ORDERS that the Stalking Horse APA and the transactions contemplated therein, including, without limitation, the Break Fee (as defined in the Stalking Horse APA) are hereby approved.
6. THIS COURT ORDERS that the Applicants' right, title and interest in and to any of the property or assets of the Applicants (collectively, the "**Assets**") shall not vest in the Purchasers until the issuance of the Vesting Orders (as defined in the Stalking Horse APA).

7. THIS COURT ORDERS that, in connection with the Stalking Horse APA and the Bid Process and pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, the Applicants are authorized and permitted to disclose to prospective purchasers or bidders for the Assets and their advisors all human resources and payroll information in the Applicants' records pertaining to the Applicants' past and current employees, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Assets (a "Sale"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and shall limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall (i) return all such information to the Applicants; (ii) destroy all such information; or (iii) in the case of such information that is electronically stored, destroy all such information to the extent it is reasonably practical to do so. The purchaser of the Assets shall be entitled to continue to use the personal information provided to it, and related to the Assets, in a manner which is in all material respects similar to the prior use of such information by the Applicants, and shall (i) return all other personal information to the Applicants; (ii) ensure that all other personal information is destroyed; or (iii) in the case of all other personal information that is electronically stored, destroy all such other personal information to the extent it is reasonably practical to do so.

8. 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 Applicants, the Monitor and their respective 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 Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.


9. THIS COURT ORDERS that each of the Applicants and the Monitor 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.

A handwritten signature in black ink, written over a horizontal line. The signature is stylized and appears to be "A. D. ...".

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ON / BOOK NO:  
LE / DANS LE REGISTRE NO.:

DEC 11 2009

PER / PAR: 

**Schedule "A"**

## **PROPOSED AUCTION PROCEDURES**

Set forth below are the bid procedures to be employed with respect to the sale of substantially all of the assets and undertaking of Brainhunter Inc. (the "Company") including its subsidiaries and affiliates, TrekLogic Inc., Brainhunter Canada Inc., Brainhunter (Ottawa) Inc. and Protec Employment Services Limited (collectively, the "Vendor" or the "Applicants") as further described in the APA as defined below (the "Purchased Assets"). The terms and conditions upon which the Vendor contemplates consummating a sale of the Purchased Assets will be on substantially the same terms as the agreement of purchase and sale (the "APA") between Vendor and TalentPoint Inc., 2223945 Ontario Limited, 2223947 Ontario Limited and 2223956 Ontario Limited (collectively, the "Stalking Horse Bidder"). The bid procedures also permit the submission of a sponsored plan of arrangement for the Vendor.

### **MARKETING PROCESS**

- I. The Vendor and Deloitte & Touche Inc. (the "Monitor") will seek approval from the Ontario Superior Court of Justice (the "Court") of the conditional APA with the Stalking Horse Bidder and the bid process for the Purchased Assets set out herein (the "Bid Process"). Upon Court approval of the Bid Process, the Vendor will immediately commence the following marketing process:
  - (a) a qualified list of potential buyers ("Potential Buyers") has been identified by Ernst & Young Orenda Corporate Finance Inc. and Ernst & Young Corporate Finance (Canada) Inc. (collectively, "E&Y") with the approval of the Company as a result of an existing sales mandate with Brainhunter Inc. Potential Buyers and additional qualified prospects as identified by the Vendor or E&Y will be approached about the current opportunity to acquire the assets or submit a plan of arrangement for the business of the Vendor;
  - (b) two advertisements will be placed in the national edition of the Globe and Mail newspaper during the week immediately following Court approval of the Bid Process;
  - (c) notice(s) will be placed on the websites of the Vendor and the Monitor;
  - (d) a confidential information memorandum has been prepared by the Company and will be provided to all interested parties that sign a confidentiality agreement ("Interested Parties");
  - (e) upon execution of satisfactory confidentiality agreements, E&Y will provide Interested Parties with access to an electronic data room containing detailed information regarding the Purchased Assets and business to enable them to perform their due diligence via secure web access;

- (f) Interested Parties will be provided access to management and other key employees to supplement their due diligence, as necessary, under the supervision of Breakwall Financial, the Vendor's Restructuring Advisor, E&Y or the Monitor;
- (g) The Vendor will seek to provide Qualified Bidders (as defined below) with letters of representation from select clients with respect to certain information considered to be relevant to all Bidders, but there is no certainty that these will be available; and
- (h) Interested Parties will be provided with a template for a purchase agreement ("Template Purchase Agreement").

## BID PROCEDURES

1. An Interested Party that desires to make a bid ("Bidder") to purchase the Purchased Assets shall deliver its bid to the Monitor not later than noon (Eastern Time) on January 13, 2010 (the "Bid Deadline").
2. All bids must include:
  - an offer to purchase the Purchased Assets pursuant to an executed copy ("Bidder Purchase Agreement") of an agreement that will be provided by the Vendor, which shall be binding and irrevocable until the date of the Auction (defined below) and shall provide for a cash purchase price greater than the aggregate consideration offered by the Stalking Horse Bidder pursuant to the APA, plus the amount of the Break Fee as defined in the APA of \$700,000. Alternatively, the offer may be an offer to sponsor a plan of arrangement (a "Plan Sponsorship Agreement") provided that the cash portion of the purchase price or the cash amount to be available to the creditors of the Applicants must be not less than the cash consideration in the Stalking Horse Bid plus the amount of the Break Fee of \$700,000. Any Plan Sponsorship Agreement must include a provision to pay the Applicants within one Business Day of acceptance of the proposal by the Vendor a non-refundable cash amount of \$700,000 so that the Company has funds to pay the Break Fee to the Stalking Horse Bidder; this is in addition to the deposit referred to in paragraph (e) below. Any Bidder Purchase Agreement or Plan Sponsorship Agreement must include an agreement to assume the obligations of the Applicants secured by the Directors' Charge and the Contractors' Charge (as defined in the Initial Order) and/or a cash payment sufficient to cover all such Charges and payments and must also include a provision to pay up to \$250,000 of costs incurred by the Applicants in connection with the continuation of CCAA or bankruptcy proceedings;
  - (a) The Bidder Purchase Agreement or Plan Sponsorship Agreement must provide that the offer contained therein, as amended by any changes agreed to by the Bidder at the Auction (as defined herein), shall continue to be open for

acceptance until the earlier to occur of the closing of a transaction with the Successful Bidder (as defined below) or February 25, 2010. Notwithstanding the foregoing, if the Bidder is neither the Successful Bidder nor the Back-Up Bidder (as defined below), the offer may cease to be open for acceptance after the Monitor gives notice of the Successful Bidder and the Back-Up Bidder.

- (b) the Bidder Purchase Agreement blacklined against the Template Purchase Agreement provided by the Vendor.
- (c) In the case of a plan sponsorship proposal, the proposed sponsor shall provide a detailed plan including a description of all securities to be issued to the Vendor's stakeholders, details of the proposed capital structure of the Vendor following the plan and details of any steps necessary to implement the plan;
- (d) a deposit of at least \$500,000 paid by way of certified cheque drawn on a Schedule 1 Canadian chartered bank or wire transfer payable to the Monitor, in trust. This amount will either (i) be applied to satisfy the purchase price; (ii) be returned to the Bidder if its bid is not successful at the Auction (subject to the other provisions of these bid procedures) or if the bid/plan is not approved by the Court, or (iii) be forfeited to the Vendor in the event that the Successful Bidder (as defined below) breaches its obligations pursuant to the Bidder Purchase Agreement or Plan Sponsorship Agreement or an Accepted Bid (as defined below);
- (e) a representation of the Bidder and written evidence of available cash and/or a commitment for financing to evidence the Bidder's ability to consummate the proposed transaction as the Monitor may reasonably request;
- (f) in the case of a Bidder Purchase Agreement where the consideration payable is in a form other than cash or the assumption of liabilities of the Vendor, the Bidder must include a detailed description of the form of consideration as well as sufficient financial information relating to the issuer of any securities (or any guarantor thereof) to enable the Monitor to assess the value and liquidity of the consideration;
- (g) a copy of a Board resolution or similar document demonstrating authority to make an irrevocable bid, and to execute the transaction contemplated by the Bidder Purchase Agreement or the Plan Sponsorship Agreement;
- (h) a disclosure of the identity of each entity (including its ultimate shareholders) that will be bidding for the Purchased Assets or otherwise participating in such bid and the complete terms of any such participation or, in the case of a plan, a description of all parties who will directly or indirectly hold securities of the Vendor upon approval of a plan (other than the current creditors);

3. The Monitor will determine in its sole discretion if a bid meets the above requirements. A bid received from a Bidder that meets the above requirements will be considered a "Qualified Bid" and each Bidder that submits a Qualified Bid will be considered a "Qualified Bidder".
4. Without limiting the Monitor's discretion to determine if a bid is a Qualified Bid, the Monitor reserves the right to reject any bid as a Qualified Bid if such bid:
  - a) is on terms that are more burdensome or conditional than the terms of the APA;
  - b) requires any indemnification of such Bidder or a hold back of the purchase price;
  - c) is not received by the Bid Deadline;
  - d) if the proposal is to sponsor a plan of arrangement, the Monitor's determination that the proposal is unlikely to receive the required vote of any proposed class of creditors or if the Monitor is of the view that the plan does not meet the requirements for approval under the CCAA;
  - e) if the proposal is to sponsor a plan of arrangement, the Monitor's determination that the Vendor does not have available to it adequate financing or cash flows to allow the Vendor sufficient time to obtain approval of the plan and to implement the plan; or
  - f) is subject to any confirmatory due diligence requirements, financing condition or other contingencies (including representations, warranties, covenants, and timing requirements) of any kind or any other conditions precedent on such party's obligation to acquire the Purchased Assets or to implement the plan of arrangement other than as may be included in the APA.
5. The APA is a Qualified Bid and the Stalking Horse Bidder is a Qualified Bidder, for all purposes and requirements pursuant to the bid procedures.
6. If the Monitor determines that it has received more than one Qualified Bid, it will invite Qualified Bidders to participate in an auction to either purchase the Purchased Assets or sponsor a plan of arrangement (the "Auction"). The Monitor will advise Bidders whether or not they are a Qualified Bidder not later than eight days after the Bid Deadline or such further period of time as the Monitor may determine in its sole discretion and not less than 48 hours before the start of the Auction. If the Monitor does not receive any Qualified Bids other than the APA, or if none of the Qualified Bidders other than the Stalking Horse Bidder indicate that they intend to participate in the Auction, it will not hold the Auction, the APA will be the Accepted Bid (as defined below) and the Stalking Horse Bidder will be named the Successful Bidder.

**AUCTION PROCEDURES**

1. At least one business day prior to the Auction, each Qualified Bidder must inform the Monitor whether it intends to participate in the Auction.
2. The Monitor will promptly thereafter inform, in writing, each Qualified Bidder who has expressed its intention to participate in the Auction of the identity of all other Qualified Bidders that may participate in the Auction.
3. Unless otherwise ordered by the Court, only the authorized representatives, professional advisors or agents of the Stalking Horse Bidder and each Qualified Bidder shall be eligible to attend at the Auction. Representatives of the Lenders (counsel for Toronto Dominion Bank, Roynat Capital Inc. and Noteholders), the Monitor and the Vendor may also attend the Auction.
4. The Auction, if any, shall be conducted by the Monitor, commencing on January 25, 2010 at 10:00 a.m. (Eastern Time) at the Toronto offices of Davies Ward Phillips & Vineberg LLP, 44<sup>th</sup> Floor, 1 First Canadian Place, Toronto, Ontario.
5. The Monitor shall conduct the Auction and establish the rules and procedures for the Auction.
6. At the Auction, the bidding will start at the aggregate consideration for the Purchased Assets and terms proposed in the Qualified Bid that the Monitor selects as the highest and best offer prior to the Auction.
7. The Monitor, in its sole discretion, may adjourn the Auction at any time to permit the Qualified Bidders the opportunity to consider improved bids.
8. During the Auction, each Qualified Bidder may submit a revised bid which is higher or better than the current leading bid (a "Revised Bid"). The Monitor shall determine in its sole discretion if any bid constitutes a Revised Bid.
9. The Monitor shall have the sole right to value any non-cash consideration, including the assumption of liabilities, offered in any bid or proposal to determine whether it represents the best or highest bid at any time. If a proposal to sponsor a plan of arrangement is to be compared to a bid for assets, the Monitor shall consider which will result in the maximum consideration to the Vendor's creditors, the closing risk and conditions and such other factors as the Monitor considers appropriate, including the costs associated with the approval of a plan of arrangement and the potential risks to the operations of the Vendor's business. The Monitor need not select the highest bid for a purchase of assets if it is of the view that a plan sponsorship proposal is more favourable to the creditors of the Vendor.
10. If no Qualified Bidder submits a Revised Bid (as determined by the Monitor in its sole discretion) after a period of 15 minutes following the Monitor's acceptance of a Revised

Bid and the Monitor in its sole discretion chooses not to adjourn the Auction further, the Vendor shall enter into a binding agreement of purchase and sale or plan sponsorship on substantially the same terms as the Bidder Purchase Agreement or Plan Sponsorship Agreement, as amended by any Revised Bid, with the Qualified Bidder (the "Successful Bidder") that submitted the highest and best bid as determined by the Monitor in its sole discretion (the "Accepted Bid"), whereupon the Auction will be concluded.

11. The Monitor shall give written notice to all Qualified Bidders who participated in the Auction of the identity of the Successful Bidder and next highest or next best bid (the "Back-Up Bid")
12. The Successful Bidder agrees to do all such things as may be reasonably required by the Vendor and the Monitor to obtain Court approval of the Accepted Bid, or shall submit a proposal to call a meeting to approve the proposed plan of arrangement, within 14 days of the conclusion of the Auction.
13. If the Successful Bidder fails to close a purchase transaction within 14 days after Court approval (or such date that may otherwise be mutually agreed upon between the Vendor and the Successful Bidder), the Monitor shall be authorized but not required to deem that (a) the Successful Bidder has breached its obligations pursuant to the Accepted Bid, (b) has forfeited its deposit to the Vendor, and (c) the Vendor will be authorized to enter into a transaction with the party who has submitted the Back-Up Bid (the "Back-Up Bidder").
14. If the Successful Bidder has proposed a plan of arrangement and fails to complete the closing of the transactions necessary to complete the plan within 14 days of the date on which the Court has sanctioned the plan or fails to pay to the Company the additional \$700,000 within one business day of acceptance of the proposal as the Accepted Bid, the Monitor shall be authorized but not required to deem that (a) the Successful Bidder has breached its obligations pursuant to the Accepted Bid, (b) has forfeited its deposit to the Vendor, and (c) the Vendor will be authorized to enter into a transaction with the party who has submitted the Back-Up Bid (the "Back-Up Bidder").
15. The Vendor shall be authorized, but not required, to consummate the sale with the Back-up Bidder without a further court order.
16. Except for the Stalking Horse Bidder, Interested Parties or Qualified Bidders shall not be allowed any break, termination or similar fee. For greater certainty, Interested Parties and Qualified Bidders shall be responsible for their own fees and costs relating to their investigation or closing of any transaction in this regard.

**SUMMARY TIMELINE OF IMPORTANT DATES**

<b>Sales Procedure</b>	<b>Date</b>
<b>Court approval of Sales Process and Stalking Horse Bid</b>	<b>December 8, 2009</b>
<b>Potential bidders notified; release of Globe and Mail advertisement</b>	<b>December 8, 2009</b>
<b>Data room access granted to parties who execute NDA</b>	<b>December 8, 2009</b>
<b>Period for Due Diligence</b>	<b>December 8, 2009 – January 13, 2010</b>
<b>Bids due</b>	<b>January 13, 2010</b>
<b>Qualification of Bidders</b>	<b>January 13, 2010 – January 20, 2010</b>
<b>Notification sent to Qualified Bidders</b>	<b>January 21, 2010</b>
<b>Indication of intent to participate in the Auction by Qualified Bidders</b>	<b>January 22, 2010</b>
<b>Auction</b>	<b>January 25, 2010</b>
<b>Court motion to approval Successful Bid/call a meeting</b>	<b>January 29, 2010</b>
<b>Transaction close if sale</b>	<b>February 5, 2010</b>
<b>Transaction close if plan of arrangement</b>	<b>March 20, 2010</b>

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED  
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
BRAINHUNTER INC., et al.

Court File No: 09-8482-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(Commercial List)**

Proceeding commenced at Toronto

**ORDER**

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