

**BRAINHUNTER INC., TREKLOGIC INC., PROTEC EMPLOYMENT SERVICES LIMITED,
BRAINHUNTER CANADA INC., and BRAINHUNTER (OTTAWA) INC.**

AND

**TALENTPOINT INC., 2223945 ONTARIO LIMITED, 2223947 ONTARIO LIMITED, and
2223956 ONTARIO LIMITED**


AND

RAJ SINGH

ASSET PURCHASE AGREEMENT

December 1, 2009

This is Exhibit B referred to in the
affidavit of Dennis Jewitt
sworn before me, this 4
day of December 20 09.


A COMMISSIONER FOR TAKING AFFIDAVITS
C.J. Bentley

THIS ASSET PURCHASE AGREEMENT dated as of December 1, 2009

AMONG:

BRAINHUNTER INC., a corporation continued under the laws of the Province of Ontario (the "Brainhunter")

-and -

TREKLOGIC INC., a corporation incorporated under the laws of the Province of Ontario ("TrekLogic")

-and-

PROTEC EMPLOYMENT SERVICES LIMITED, a corporation incorporated under the laws of the Province of Ontario ("Protec")

-and-

BRAINHUNTER CANADA INC., a corporation continued under the laws of Canada ("Brainhunter Canada")

-and-

BRAINHUNTER (OTTAWA) INC., a corporation continued under the laws of Canada ("Brainhunter Ottawa" and, together with Brainhunter, TrekLogic, Protec, and Brainhunter Canada the "Vendor Entities" or individually, a "Vendor Entity")

- and -

TALENTPOINT INC., a corporation incorporated under the laws of the Province of Ontario ("TalentPoint")

- and -

2223945 ONTARIO LIMITED, a corporation incorporated under the laws of the Province of Ontario ("945")

- and -

2223947 ONTARIO LIMITED, a corporation incorporated under the laws of the Province of Ontario ("947")

- and -

2223956 ONTARIO LIMITED, a corporation incorporated under the laws of the Province of Ontario ("956" and, together with TalentPoint, 945 and 947 the "Purchaser Entities" or individually, a "Purchaser Entity")

-and-



RAJ SINGH, of the City of Toronto, in the Province of Ontario ("Singh")

WHEREAS:

- A. The Vendor Entities intend to file for protection under the CCAA (the "CCAA Proceedings") and intend to apply for an initial order, and intend to apply to the Court for the Approval Order (as such term is defined herein) shortly after the date of this Agreement;
- B. The Vendor Entities, subject to approval by the Court, have agreed to sell, transfer and assign to the Purchaser Entities, all of the Vendor Entities' interest in and to the Purchased Assets, and the Purchaser Entities have agreed to purchase the Purchased Assets all upon the terms and subject to the conditions set forth herein; and
- C. The Purchaser Entities have agreed that their offer contained in this Agreement will continue to be open for acceptance in accordance with the Court approved bid process as further set out in this Agreement.

NOW THEREFORE this Agreement witnesses that in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by each Party to the other, the Parties agree as follows:

**ARTICLE 1
INTERPRETATION**

1.1 Definitions

In this Agreement:

- (a) "Accounts Receivable" means, as applicable to each Vendor Entity, any and all (i) accounts receivable, notes receivable and other amounts receivable owed to the Vendor Entity (whether current or non-current), together with all security or collateral therefor and any interest or unpaid financing charges accrued thereon, including all Claims pertaining to the collection of amounts payable, or that may become payable, to the Vendor Entity with respect to products sold or services performed on or prior to the Closing Date, (ii) license and royalty receivables, (iii) all amounts receivable whether by way of refund, Scientific Research and Experimental Design program, credit, grant or otherwise owing or payable to a Vendor Entity from any Governmental Authority; and (iv) other amounts due to the Vendor Entity which have historically been classified as accounts receivable in the consolidated balance sheet of the Vendor Entity;
- (b) "Acknowledgement" has the meaning ascribed to that term in section 10.1(c);
- (c) "Acquisition Proposal" means any potential or proposed sale or other disposition of all or any portion of the Vendor Entities' interest in the Purchased Assets in substantially the same form as this Agreement;



- (d) **"Affiliate"** has the meaning ascribed to that term under the *Business Corporations Act* (Ontario);
- (e) **"Agreement"** means this asset purchase agreement and all schedules attached hereto;
- (f) **"Applicable Law"** means, in respect of any Person, property, transaction or event, any domestic or foreign statute, law (including the common law), ordinance, rule, regulation, treaty, restriction, regulatory policy, standard, code or guideline, by-law or order that applies in whole or in part to such Person, property, transaction or event;
- (g) **"Approval Order"** means an order of the Court in the form attached as Schedule 1, or in such amended or other form as the Parties may otherwise agree, approving the form of this Agreement, the sale process to be entered into by the Vendor Entities in connection with the sale of the Purchased Assets (to the satisfaction of the Purchaser Entities acting reasonably) and payment of the Break Fee;
- (h) **"Assumed Applicant Tracking System Division Liabilities"** has the meaning ascribed to that term in Section 2.5(a);
- (i) **"Assumed Liabilities"** means collectively: (i) the Assumed TrekLogic Liabilities; (ii) the Assumed Protec Liabilities; (iii) the Assumed Applicant Tracking System Division Liabilities; and (iv) the Assumed Residual Liabilities;
- (j) **"Assumed Protec Liabilities"** has the meaning ascribed to that term in Section 2.4(a);
- (k) **"Assumed Residual Liabilities"** has the meaning ascribed to that term in Section 2.6(a);
- (l) **"Assumed TrekLogic Liabilities"** has the meaning ascribed to that term in Section 2.3(a);
- (m) **"Auction"** means the part of the sales process to be carried out on January 25, 2010 or such other day as ordered by the Court, wherein the Vendor Entities shall request that any Qualified Bidders submit a Superior Bid, as more particularly described in Schedule 11 attached hereto;
- (n) **"Books and Records"** means, as applicable to each Vendor Entity, all of the Vendor Entity's books, records, books of account, supplier and customer lists, business information, research and development information, business analyses and plans, and records, and all other documents, files, records, correspondence, electronic information (including emails and web page content), and other data and information, financial or otherwise within the control or possession of the Vendor Entity (or to which the Vendor Entity has access) at the Closing Date, including all files and data related to the employment of Transferred Employees of the Vendor Entity and including all data and information stored by the Vendor Entity or its Affiliates electronically, digitally or on computer related media, but excluding any of the foregoing as applicable to any Excluded Assets or any Excluded Liabilities;



- (o) **"Break Fee"** has the meaning ascribed to that term in Section 9.2 of this Agreement;
- (p) **"Business Day"** means any day which is not a Saturday, a Sunday or a day observed as a statutory or civic holiday under the laws of the Province of Ontario or the federal laws of Canada applicable in the Province of Ontario, on which the principal commercial banks in the City of Toronto, Ontario are open for business;
- (q) **"CCAA"** means *Companies' Creditors Arrangement Act* (Canada);
- (r) **"CCAA Proceedings"** has the meaning ascribed to that term in the recitals;
- (s) **"Claim"** means any claim, action, demand, cause of action, suit, complaint, proceeding, arbitration, judgment, settlement, award, assessment, re-assessment, order, investigation, enquiry or hearing made or threatened;
- (t) **"Closing"** means the completion of the purchase by the Purchaser Entities and sale by the Vendor Entities of the Purchased Assets in accordance with the terms and conditions of this Agreement on the Closing Date at the Time of Closing and the completion of all other transactions contemplated by this Agreement that are to occur contemporaneously with such purchase and sale of the Purchased Assets;
- (u) **"Closing Date"** means February 5, 2010 or such other date as is hereafter agreed to by both the Vendor Entities and the Purchaser Entities, provided that such date is not later than February 25, 2010;
- (v) **"Confidential Information"** means information concerning the Vendor Entities and their respective businesses and affairs that is or has been disclosed to the Purchaser Entities and Singh in connection with any transaction contemplated by this Agreement, but does not include any information that is at the time of disclosure or thereafter becomes generally available to the public, other than as a result of a disclosure by the Purchaser Entities or Singh, as the case may be;
- (w) **"Consideration"** has the meaning ascribed to that term in Section 3.1;
- (x) **"Contractor"** means a corporation, partnership, a sole proprietorship or individual that provides services to a client of a Vendor Entity pursuant to a contract between the contractor and the applicable Vendor Entity, and payment is made by the applicable Vendor Entity to a contractor for such services on a time and material basis, and such time is subsequently billed by the applicable Vendor Entity to the client of such Vendor Entity pursuant to a Customer Contract;
- (y) **"Contractor Liabilities"** means all amounts due, whether billed or accrued, from the applicable Vendor Entity to a Contractor;
- (z) **"Court"** means the Ontario Superior Court of Justice;
- (aa) **"Current Employees"** means all employees of the Vendor Entities employed as of the Closing Date, whether active or not (including those on short-term disability or leave of



absence, paid or unpaid), excluding any employees of the Vendor Entities on long-term disability as of the Closing Date;

- (bb) **"Customer Contract"** is any contract between a Vendor Entity and a client of a Vendor Entity pursuant to which a Contractor, on behalf of the applicable Vendor Entity provides services to such client;
- (cc) **"Deposit"** has the meaning set out in Section 3.3(a);
- (dd) **"Employee"** means a person employed by a Vendor Entity on a full or part-time basis who is paid by that Vendor Entity on a salaried basis, and such defined term shall include the term Management Consultant;
- (ee) **"Encumbrances"** means any security interest, lien, claim, charge, hypothec, reservation of ownership, pledge, encumbrance, mortgage, adverse claim or right of a third party of any nature or kind whatsoever and any agreement, option or privilege (whether by law, contract or otherwise) capable of becoming any of the foregoing, (including any conditional sale or title retention agreement, or any capital or financing lease);
- (ff) **"Equipment"** means, as applicable to each Vendor Entity, all machinery, vehicles, tools, handling equipment, furniture, furnishings, computer hardware and peripheral equipment, telecommunication or radio-communication equipment, supplies and accessories, and any of the parts and components thereof and which for certainty are not otherwise Fixed Assets;
- (gg) **"Equipment Leases"** means, as applicable to each Vendor Entity, all leases, licences and agreements for the use of Equipment and similar personal property and other rights of use by the Vendor Entity, together with any Equipment maintenance agreements related thereto, but excluding those leases listed in Schedule 4 attached hereto;
- (hh) **"Excluded Assets"** means the Vendor Entities' interest in the following:
 - i. Excluded Contracts;
 - ii. Excluded Equipment Leases and the Equipment related thereto;
 - iii. Excluded Real Property Leases; and
 - iv. The corporate records of the Vendor Entities.
- (ii) **"Excluded Contracts"** means those contracts set out under the corresponding heading in Schedule 2 attached hereto;
- (jj) **"Excluded Employees"** has the meaning given to such term in Section 5.6(b);
- (kk) **"Excluded Equipment Leases"** means those Equipment Leases set out under the corresponding heading in Schedule 4 attached hereto;

- (ll) **"Excluded Real Property Leases"** means those Real Property Leases set out under the corresponding heading in Schedule 3 attached hereto;
- (mm) **"Failure Notice"** has the meaning ascribed to that term in section 6.2(b);
- (nn) **"Fixed Assets"** means, as applicable to each Vendor Entity, all buildings, structures, erections, improvements, appurtenances, fixtures, fixed machinery, fixed Equipment and fixed infrastructure affixed to, situate on or forming part of any lands (whether or not considered fixtures under Applicable Law);
- (oo) **"GAAP"** means generally accepted accounting principles in Canada;
- (pp) **"Goodwill"** means the exclusive right of a Purchaser Entity to represent itself as carrying on all business undertakings for or related to the Vendor Entity from which it acquired the corresponding portion of the Purchased Assets, in continuation of and in succession to the Vendor Entity, including the right to use any words, names, internet domain names and trade names indicating that the business of the Vendor Entity is so carried on;
- (qq) **"Governmental Authority"** means any domestic or foreign government, whether federal, provincial, state, territorial or municipal; and any governmental agency, ministry, department, court (including the Court), Tribunal, commission, stock exchange, bureau, board or other instrumentality exercising or purporting to exercise legislative, judicial, regulatory or administrative functions of, or pertaining to, government or securities market regulation;
- (rr) **"Governmental Order"** means any order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Authority;
- (ss) **"GST"** means taxes, interest, penalties and fines imposed under Part IX of the *Excise Tax Act* (Canada) and the regulations made thereunder; and **"GST Legislation"** means such act and regulations collectively;
- (tt) **"Income Tax Act"** means, collectively, the *Income Tax Act* (Canada), the *Income Tax Application Rules* (Canada) and the *Income Tax Regulations*, in each case as amended to the date hereof;
- (uu) **"Intellectual Property"** means, as applicable to each Vendor Entity, the Vendor Entity's interest in any and all intellectual and industrial property of any kind protected or protectable in any jurisdiction throughout the world, including: all software, computer programs, layouts, interfaces, templates, applications and tools, and code of all types, including object and source code, and including ephemeral aspects, "look and feel", graphic design and user interface design ("Software"), all information and data, databases, database layouts and data structures (whether or not subject to copyright protection) ("Databases"), all literary, graphical, pictorial, artistic, audio-visual and other works, including webpages and webpage designs, templates, scripts, and similar material, and all compilations of any of the foregoing (collectively, together with Software and

Databases, "Works"); all trade-marks, trade names, service marks, trade dress, logos and other marks and associated goodwill ("Marks"); all registered domain names; all patents, inventions, discoveries, arts, systems, methods, processes, machines, manufactures, developments and improvements ("Inventions"); all industrial designs; all formulae, confidential information, proprietary information, trade secrets and know how ("Know-How"); and any other works or other subject-matter that is subject to intellectual or industrial property protection under the laws of any jurisdiction throughout the world, in all cases whether or not registrable, registered or the subject of applications for registration, including Intellectual Property Rights;

- (vv) **"Intellectual Property Rights"** means: (i) any and all statutory, common law or other intellectual and industrial property rights and interests of any kind or nature in and to Intellectual Property provided or protectable under the laws of any jurisdiction throughout the world, including all copyrights and other rights in and to Works, moral rights and benefits in all waivers of moral rights, patents, patent rights and other rights in and to Inventions, rights to Marks, rights and benefits in and to domain name registrations, industrial design and design patent rights, trade secret rights and other rights in and to Know-How, (ii) all registrations, pending applications for registration, and rights to file applications, and rights of priority, renewal, extensions, continuations (in whole or in part) or other derivative applications and registrations, for any of the foregoing; (iii) all licenses or other contractual rights in and to any of the foregoing (including third party software licenses) and all licenses granted in respect of any of the foregoing Intellectual Property, rights and interests; (iv) all future income and proceeds from any of the foregoing Intellectual Property, rights, interests or licenses; (v) all rights of enforcement and to obtain remedies, including to damages and profits, by reason of infringement of any of the foregoing Intellectual Property, rights, interests or licenses;
- (ww) **"Inventory"** means, as applicable to each Vendor Entity, all inventories, supplies, finished goods and works in progress of the Vendor Entity;
- (xx) **"Legal Proceeding"** means any trial, investigation, hearing, grievance, arbitration or other proceeding in respect of any Claim, and includes any appeal or review or retrial of any of the foregoing and any application for same;
- (yy) **"Liabilities"** means any and all debts, liabilities and obligations, whether accrued or fixed, absolute or contingent, matured or unmatured or determined or determinable, including those arising under any Applicable Law, Claim or Governmental Order, and those arising under any contract, agreement, arrangement, commitment or undertaking, but excluding those relating to claims for income taxes, interest, penalties and fines;
- (zz) **"Loss"** means any and all loss, liability, damage, cost, charge, fine, penalty or assessment, including the costs and expenses of any Legal Proceeding, assessment, judgment, settlement or compromise relating thereto, and all interest, fines and penalties and reasonable legal fees and expenses incurred in connection therewith;

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- (aaa) **"Management Consultant"** means a person who delivers services directly to a Vendor Entity under a management contract, pursuant to which the Vendor Entity is the ultimate recipient of those services;
- (bbb) **"Monitor"** means Deloitte & Touche Inc., in its capacity as the Court appointed Monitor of the Vendor Entities in the CCAA Proceedings;
- (ccc) **"Offeree"** has the meaning ascribed to that term in section 5.6(a);
- (ddd) **"Parties"** means, collectively, each of the Purchaser Entities and each of the Vendor Entities, and **"Party"** means any one of them, and for purposes of Article 10 shall include Singh;
- (eee) **"Permits and Licences"** means, as applicable to each Vendor Entity, all permits, consents, waivers, licences, sub-licences, certificates, approvals, authorizations, registrations, franchises, rights, privileges, certification, quotas and exemptions, or any item with a similar effect, issued or granted by any Governmental Authority for or related to the business of the Vendor Entity;
- (fff) **"Permitted Encumbrances"** means only those Encumbrances related to the Purchased Assets listed on Schedule 8 attached hereto;
- (ggg) **"Person"** includes individuals, corporations, limited and unlimited liability companies, general and limited partnerships, associations, trusts, unincorporated organizations, joint ventures and Governmental Authorities;
- (hhh) **"Prepaid Expenses and Deposits"** means, as applicable to each Vendor Entity, the prepaid expenses and deposits of the Vendor Entity as shown on the balance sheet of the Vendor Entity as of the Closing Date;
- (iii) **"Purchased Applicant Tracking System Division Assets"** means all of the assets set out in Schedule 7 attached hereto;
- (ijj) **"Purchased Assets"** means collectively: (i) the Purchased TrekLogic Assets; (ii) the Purchased Protec Assets; (iii) the Purchased Applicant Tracking System Division Assets; and (iv) the Purchased Residual Assets;
- (kkk) **"Purchased Residual Assets"** means all of the Vendor Entities' interest in and to all of the properties, rights, interests and other tangible and intangible assets of the Vendor Entities (wherever located and whether or not required to be reflected in a balance sheet prepared in accordance with GAAP), other than the Purchased TrekLogic Assets, the Purchased Protec Assets and the Purchased Applicant Tracking System Division Assets, and without limiting the generality of the foregoing, the Purchased Residual Assets shall include the following (but, for greater certainty, shall not include any of the Excluded Assets):
- i. all cash and cash equivalents of the Vendor Entities as of the Closing to the extent the same has not been netted against amounts owing to the Toronto-Dominion Bank;
 - ii. all Accounts Receivable of the Vendor Entities as of the Closing;

- iii. all Equipment (including all associated warranties);
 - iv. all Equipment Leases;
 - v. all Inventory;
 - vi. Goodwill;
 - vii. all Customer Contracts;
 - viii. all Books and Records;
 - ix. all Fixed Assets;
 - x. all Specified Contract Rights;
 - xi. all Intellectual Property and Intellectual Property Rights;
 - xii. all Prepaid Expenses and Deposits;
 - xiii. all Real Property Leases
 - xiv. all Permits and Licences;
 - xv. all issued and outstanding shares of: (1) Brainhunter Recruiting (India) Private Limited; (2) Brainhunter UK Limited; (3) Brainhunter.com Inc.; and (4) Vision2Hire Solutions Inc. in each case owned by Brainhunter;
 - xvi. all of the shares of Balanced Brain Initiatives Inc. owned by Brainhunter;
 - xvii. all of the shares of Siolink Solutions Inc. owned by Brainhunter; and
 - xviii. Work in Progress.
- (III) **"Purchased Protec Assets"** means all of the assets set out in Schedule 6 attached hereto;
- (mmm) **"Purchased TrekLogic Assets"** means all of the assets set out in Schedule 5 attached hereto;
- (nnn) **"Purchaser Entities' Solicitors"** means the law firm of Keyser Mason Ball, LLP or such other firm or firms of solicitors as are appointed by the Purchaser Entities from time to time and notice of which is provided to the Vendor Entities;
- (ooo) **"Qualified Bidders"** means those third party Persons identified by the Monitor during the Solicitation Period that, in the opinion of the Monitor, acting reasonably, have the cash or financing necessary to complete an Acquisition Proposal;
- (ppp) **"Real Property Leases"** means, as applicable to each Vendor Entity, all real property leases and other rights or licences of or related to real property, but excluding those listed in Schedule 3 attached hereto;
- (qqq) **"Representative"** means, in respect of a Party, each director, officer, employee, agent,

Affiliate, manager, lender, solicitor, accountant, professional advisor, consultant, contractor and other representative of such Party or such Party's Affiliates and for purposes of Article 10, shall include each director, officer, employee, agent, Affiliate, manager, lender, solicitor, accountant, professional advisor, consultant, contractor and other representative of such Affiliate;

- (rrr) **"Roynat Debt"** means the total amount owing or guaranteed by the Vendor Entities to Roynat Capital Inc. on the day immediately preceding the Closing Date, prior to the assignment of such amount from Roynat Capital Inc. to TalentPoint and from TalentPoint to Brainhunter in accordance with Section 3.1(d) hereof, which amount is expected to be approximately \$6,300,000;
- (sss) **"Solicitation Period"** means the period immediately after the date the Approval Order is obtained and ending on the date of the Auction;
- (ttt) **"Specific Conveyances"** means all conveyances, bills of sale, assignments, transfers, and other documents or instruments that are reasonably required or desirable to convey, assign and transfer the Vendor Entities' interest in and to the Purchased Assets to the Purchaser Entities, including:
- i. a general conveyance for all of the Purchased Assets, whether or not specifically referred to in a Schedule to this Agreement;
 - ii. a bill of sale for the Equipment and the Fixed Assets ;
 - iii. specific share transfers of the shares held by the Vendor Entities in the capital of the corporations included in Purchased Residual Assets;
 - iv. specific assignments of each of the Customer Contracts;
 - v. specific assignments of each of the Real Property Leases ;
 - vi. specific assignments of each of the Permits and Licences ; and
 - vii. assignments in registrable form of all licences, trademarks and trade names (whether or not registered), patents, copyrights, and other such forms of Intellectual Property, including all Goodwill associated with same.
- (uuu) **"Specified Contract Rights"** means all rights of the Vendor Entities under non-disclosure or confidentiality, non-compete, or non-solicitation agreements with current or former employees, directors, consultants, independent contractors, and agents of the Vendor Entities to the extent relating to the business of the Vendor Entity or the Purchased Assets of the Vendor Entities (or any portion thereof);
- (vvv) **"Superior Bid"** means any bona fide, written bid for the acquisition of the Purchased Assets, or a proposal to sponsor a plan of arrangement for the Vendor Entities, made by any third party, that: in the determination of the Monitor in consultation with the board of directors of the Vendor Entities' (A) is capable of being completed without any undue delay taking into account all legal, financial, regulatory and other aspects of such proposal and the Party making such proposal, but in any event on or prior to the Closing Date; (B) would, if consummated in accordance with its terms, result in a transaction

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more favourable to the Vendor Entities from a financial point of view than the transactions contemplated by this Agreement and which would have a purchase consideration of a greater value to the Vendor Entities' creditors than the aggregate of the Consideration under this Agreement plus the Break Fee or in the case of a plan of arrangement would provide the creditors of the Vendor Entities with greater consideration (after payment of the Break Fee to the Purchaser Entities) than would be received hereunder; and (C) includes a \$500,000 deposit to be held by the Monitor on terms substantially similar to the terms of the Agreement;

- (www) **"Tax Legislation"** means, collectively, the *Income Tax Act* (Canada) and all federal, provincial, territorial, municipal, foreign, or other statutes imposing a tax, including all treaties, conventions, rules, regulations, orders, and decrees of any jurisdiction;
- (xxx) **"Tax" or "Taxes"** means all taxes, assessments, charges, dues, duties, rates, fees, imposts, levies and similar charges of any kind lawfully levied, assessed or imposed by any Governmental Authority under any applicable Tax Legislation, including, Canadian federal, provincial, territorial, municipal and local, foreign or other income, capital, goods and services, sales, use, consumption, excise, value added, business, real property, personal property, transfer, franchise, withholding, payroll, or employer health taxes, customs, import, anti dumping or countervailing duties, Canada Pension Plan contributions, employment insurance premiums, and provincial workers' compensation payments, including any interest, penalties and fines associated therewith;
- (yyy) **"Terminating Event"** has the meaning given to such term in Section 9.2(a);
- (zzz) **"Time of Closing"** means 10:00 a.m. (Toronto time) on the Closing Date or such other time as the Parties agree that the Closing shall take place;
- (aaaa) **"Transferred Employees"** has the meaning given to such term in Section 5.6(a);
- (bbbb) **"Transfer Taxes"** means all present and future transfer taxes, sales taxes, use taxes, production taxes, value-added taxes, goods and services taxes, land transfer taxes, registration and recording fees, and any other similar or like taxes and charges imposed by a Governmental Authority in connection with the sale, transfer or registration of the transfer of the Purchased Assets, including GST but excluding any taxes imposed or payable under the *Income Tax Act* and any other applicable income tax legislation;
- (cccc) **"Tribunal"** means any court (including a court of equity), arbitrator or arbitration panel and any other Governmental Authority, stock exchange, professional or business organization or association or other body exercising adjudicative, regulatory, judicial or quasi judicial powers;
- (dddd) **"Vendor Entities' Solicitors"** means the law firm Harris + Harris LLP and/or such other firm or firms of solicitors as are appointed by the Vendor Entities from time to time and notice of which is provided to the Purchaser Entities;
- (eeee) **"Vesting Orders"** means the four orders of the Court in the form attached as Schedule 10, or in such amended or other form as the Parties may otherwise agree, approving, among other things, the vesting of title to all or a portion of the Purchased Assets in each of the Purchaser Entities, as applicable, free and clear of all Encumbrances, except the

Permitted Encumbrances, and which shall, to the extent required by Applicable Law, have been endorsed or otherwise approved by any other court of applicable jurisdiction;

(fff) **“Work in Progress”** means, as applicable to each Vendor Entity, the fees earned by a Vendor Entity and payable by a client of the Vendor Entity for services rendered pursuant to a Customer Contract but which fees have not yet been billed by such Vendor Entity to such client at Closing.

1.2 Currency

All references in this Agreement to monetary amounts, unless indicated to the contrary, are to the currency of Canada.

1.3 Entire Agreement

This Agreement constitutes the entire agreement between the Parties with respect to its subject matter, and supersedes any and all prior negotiations, understandings and agreements between the Parties. This Agreement may not be amended or modified in any respect except by written instrument signed by the Parties. No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision (whether or not similar), nor shall such waiver constitute a waiver or continuing waiver unless otherwise expressly provided in writing duly executed by the Party to be bound thereby.

1.4 Governing Law

This 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 (excluding any conflict of law rule or principle of such laws that might refer such interpretation or enforcement to the laws of another jurisdiction). Each Party hereto irrevocably submits to the exclusive jurisdiction of the courts of Ontario with respect to any matter arising hereunder or relating hereto.

1.5 Singular, Plural and Gender

Words importing the singular include the plural and vice versa, and words importing gender include the masculine, feminine and neuter genders.

1.6 Certain Words

In this Agreement, the words “including” and “includes” means “including (or includes) without limitation”, and “third party” means any Person who is not a Party.

1.7 Headings and Table of Contents

The headings and any table of contents contained in this Agreement, including the separation of this Agreement into sections, subsections, paragraphs and clauses, are for convenience of reference only, and shall not affect the meaning or interpretation.

1.8 Statutory References

All references to any statute is to that statute or regulation as now enacted or as may from time to time be amended, re-enacted or replaced and includes all regulations made thereunder, unless something in the subject matter or context is inconsistent therewith or unless expressly provided otherwise in this Agreement.

1.9 Actions to be Performed on a Business Day

Whenever this Agreement provides for or contemplates that a covenant or obligation is to be performed, or a condition is to be satisfied or waived on a day which is not a Business Day, such covenant or obligation shall be required to be performed, and such condition shall be required to be satisfied or waived on the next Business Day following such day.

1.10 Schedules

The following are the Schedules attached to and incorporated in this Agreement by reference and deemed to be a part hereof.

Schedule 1 – Form of Approval Order

Schedule 2 – Excluded Contracts

Schedule 3 – Excluded Real Property Leases

Schedule 4 – Excluded Equipment Leases

Schedule 5 - Purchased TrekLogic Assets

Schedule 6 – Purchased Protec Assets

Schedule 7 – Purchased Applicant Tracking System Division Assets

Schedule 8 – Permitted Encumbrances

Schedule 9 – Allocation of Consideration and Purchased Assets Among Vendor Entities and Purchaser Entities

Schedule 10 – Form of Vesting Orders

Schedule 11 - Bid and Auction Procedures

ARTICLE 2

PURCHASE AND SALE OF PURCHASED ASSETS AND ASSUMPTION OF LIABILITIES

2.1 Agreement of Purchase and Sale

Subject to the terms and conditions of this Agreement and in accordance with Schedule 9 attached hereto, the Vendor Entities hereby agree to sell, assign and transfer to the Purchaser Entities, and the Purchaser Entities agree to purchase from the Vendor Entities, all of the Vendor Entities' interest in the Purchased Assets, free and clear of all Encumbrances whatsoever except only for the Permitted Encumbrances.

2.2 Excluded Assets

Notwithstanding anything to the contrary in Section 2.1 or elsewhere in this Agreement, the Purchased Assets shall not include the Excluded Assets, which shall remain the property of the Vendor Entities.

2.3 Assumption and Exclusion of TrekLogic Liabilities

Upon the terms and subject to the conditions set forth in this Agreement, 945 shall not, at Closing, assume, agree to pay, perform and discharge when due, or have any responsibility for any Liabilities

whatsoever other than the Assumed TrekLogic Liabilities, where the "Assumed TrekLogic Liabilities" means, exclusively, (i) all Liabilities accruing from the use of the Purchased TrekLogic Assets set out on Schedule 5 from and after the Time of Closing, and (ii) the Contractor Liabilities with respect to the Customer Contracts relating to the Purchased TrekLogic Assets as set forth on Schedule 5.

2.4 Assumption and Exclusion of Protec Liabilities

Upon the terms and subject to the conditions set forth in this Agreement, 947 shall not, at Closing, assume, agree to pay, perform and discharge when due, or have any responsibility for any Liabilities whatsoever other than the Assumed Protec Liabilities, where the "Assumed Protec Liabilities" means, exclusively, (i) all Liabilities accruing from the use of the Purchased Protec Assets set out on Schedule 6 from and after the Time of Closing, and (ii) the Contractor Liabilities with respect to the Customer Contracts relating to the Purchased Protec Assets as set forth on Schedule 6.

2.5 Assumption and Exclusion of Applicant Tracking System Division Liabilities

Upon the terms and subject to the conditions set forth in this Agreement, 956 shall not, at Closing, assume, agree to pay, perform and discharge when due, or have any responsibility for any Liabilities whatsoever other than the Assumed Applicant Tracking System Division Liabilities, where the "Assumed Applicant Tracking System Division Liabilities" means, exclusively, (i) all Liabilities accruing from the use of the Purchased Applicant Tracking System Division Assets set out on Schedule 7 from and after the Time of Closing, and (ii) the Contractor Liabilities with respect to the Customer Contracts relating to the Purchased Applicant Tracking System Division Assets as set forth on Schedule 7.

2.6 Assumption and Exclusion of Residual Liabilities

Upon the terms and subject to the conditions set forth in this Agreement, TalentPoint shall not, at Closing, assume, agree to pay, perform and discharge when due, or have any responsibility for any Liabilities whatsoever other than the Assumed Residual Liabilities, where the "Assumed Residual Liabilities" means, exclusively, (i) all Liabilities accruing from the use of the Purchased Residual Assets from and after the Time of Closing, (ii) the Contractor Liabilities with respect to the Customer Contracts relating to the Purchased Residual Assets, (iii) all the Liabilities with respect to any Equipment Leases related to the Equipment forming part of the Purchased Residual Assets, and (iv) all Liabilities with respect to unused and outstanding vacation pay, sick days, personal leave, or leave earned and/or accrued prior to the Closing Date by the Employees to be identified pursuant to and in accordance with Section 5.6(f).

ARTICLE 3 PURCHASE CONSIDERATION

3.1 Consideration


The aggregate consideration payable by the Purchaser Entities to the Vendor Entities for the sale of the Purchased Assets shall, subject to Section 3.2 and Section 3.5, consist of the following:

- (a) the total amount owing by the Vendor Entities on the Closing Date for any Encumbrances, other than the Permitted Encumbrances, ranking ahead of the Toronto-Dominion Bank;
 - (b) the total amount owing by the Vendor Entities on the Closing Date to: (i) its legal and other professional advisors (including Breakwall Financial Corporation, Ernst & Young Orenda Corporate Finance Inc. and Ernst & Young Corporate Finance (Canada) Inc.) for services provided in connection with the CCAA Proceedings; and (ii) the Monitor and its legal advisors;
 - (c) the total amount owing and guaranteed by the Vendor Entities on the Closing Date to the Toronto-Dominion Bank, including without limitation, pursuant to: (i) a \$26,000,000 Amended and Restated Credit Agreement dated September 22, 2006; and (ii) a Standstill Agreement dated April 2, 2009; and including all amounts owing pursuant to any debtor-in-possession financing provided by the Toronto-Dominion Bank to the Vendor Entities pursuant to Section 11.2(1) of the CCAA during the CCAA Proceedings, which shall include all fees of the advisors to the Toronto-Dominion Bank;
 - (d) the assignment of the Roynat Debt and all security and guarantees in support of the Roynat Debt by TalentPoint to Brainhunter, or as it may direct; and
 - (e) the assumption by the Purchaser Entities on the Closing Date of the Assumed Liabilities;
- (collectively, the "Consideration"); and which allocation of Consideration and Purchased Assets shall be in accordance with Section 3.4 hereto.

3.2 Satisfaction of Consideration

Provided that all conditions of Closing have been satisfied or waived in accordance with Article 7 hereof, the Consideration shall be satisfied on Closing in accordance with Section 3.1 above and Section 3.4 hereto.

3.3 Deposit

- (a) The Vendor Entities acknowledge receipt from TalentPoint of a deposit (the "Deposit") of \$500,000 paid by TalentPoint on its own behalf and on behalf of the other Purchaser Entities to the Vendor Entities, to be held in trust by the Monitor in an interest bearing deposit with a Schedule I Bank.
 - (b) If the Closing takes place, the Deposit and all interest accrued thereon shall be credited against the Consideration.
 - (c) The Deposit and all interest accrued thereon shall be forfeited to the Vendor Entities in the event that Closing does not occur as a result of a breach by a Purchaser Entity of a condition set out in Section 7.3.
 - (d) The Vendor Entities shall return the Deposit and all interest accrued thereon to TalentPoint on the occurrence of either of the following:
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- (i) the Purchaser Entities' Consideration or revised bid, as applicable, is not the Superior Bid or the second highest bid; or
- (ii) the Approval Order is not issued within the time set out in Section 7.1(a).

On the occurrence of an event under paragraph (i) above, the Deposit and all interest accrued thereon shall be returned to TalentPoint on the Business Day immediately following the date of the Auction, and on the occurrence of an event under paragraph (ii) above, the Deposit and all interest accrued thereon shall be returned to TalentPoint on the Business Day immediately following the expiry of the time period set out in Section 7.1(a).

- (e) If a Superior Bid is accepted by the Vendor Entities and the Purchaser Entities are the second highest bidder, the Deposit, and all interest accrued thereon, shall continue to be held in trust until the earlier of the Closing of the Superior Bid or February 25, 2010 and shall be returned to TalentPoint the Business Day immediately following such Closing, or February 25, 2010, as the case may be. If the Superior Bid does not close, and a Failure Notice is delivered pursuant to Section 6.2(b), then the Deposit shall be credited against the Consideration-as provided for in Paragraph 3.3(b) above.

3.4 Allocation of Consideration

The Vendor Entities and the Purchaser Entities agree that the allocation of the Consideration among each of the classes of Purchased Assets and among each of the Purchaser Entities shall be determined and agreed upon on a date no later than three Business Days before the Closing Date as relevant for tax purposes. Each of the Vendor Entities and each of the Purchaser Entities shall report the sale and purchase of the Purchased Assets for all Tax purposes in a manner consistent with such allocation, and will complete all tax returns, designations and elections in a manner consistent with such allocation and otherwise follow such allocation for all Tax purposes on and subsequent to the Closing Date and may not take any position inconsistent with such allocation. If such allocation is disputed by any taxation or other Governmental Authority, the Party receiving notice of such dispute will promptly notify the other Party and the Parties will use their reasonable commercial efforts to sustain the final allocation and to ensure that the transactions contemplated by this Agreement are properly, timely and consistently reported; provided that, however, if the Vendor Entities are no longer in existence, the Purchaser Entities shall be entitled to make and agree to whatever adjustments or amendments after Closing to such allocations with such taxation or Governmental Authority as the Purchaser Entities deem appropriate, and which shall be binding for all purposes on the Vendor Entities.

3.5 Transfer Taxes


The Parties agree that:

- (a) the Consideration is exclusive of all Transfer Taxes and the Purchaser Entities shall be liable for and shall pay any and all Transfer Taxes pertaining to the Purchaser Entities' acquisition of the Purchased Assets or the registration of any Specific Conveyances necessitated hereby;

- (b) where the Vendor Entities are required under Applicable Law to collect or pay Transfer Taxes, the Purchaser Entities will pay the amount of such Transfer Taxes to the Vendor Entities at Closing. The Vendor Entities shall provide the Purchaser Entities within a reasonable period of time following Closing with supporting documentation to confirm that such Transfer Taxes have been paid to the appropriate Governmental Authority within the time prescribed by the applicable Transfer Tax legislation;
- (c) except where the Vendor Entities are required under Applicable Law to collect or pay such Transfer Taxes, the Purchaser Entities shall pay such Transfer Taxes directly to the appropriate Governmental Authority or other entity within the required time period and shall file all necessary documentation with respect to such Transfer Taxes when due. The Vendor Entities will do and cause to be done such things as are reasonably requested to enable the Purchaser Entities to comply with such obligation in a timely manner. If the Vendor Entities are required under Applicable Law to pay any such Transfer Taxes, the Purchaser Entities shall promptly reimburse the Vendor Entities the full amount of such Transfer Taxes upon delivery to the Purchaser Entities of copies of receipts showing payment of such Transfer Taxes;
- (d) the Purchaser Entities shall indemnify the Vendor Entities for any Transfer Taxes (including any interest or penalties imposed by a Governmental Authority) for which the Vendor Entities may become liable as a result of any failure by the Purchaser Entities to pay or remit such Transfer Taxes; and
- (e) the Purchaser Entities shall be entitled to provide the Vendor Entities with evidence that the Purchaser Entities are exempt purchasers, in whole or in part, for purposes of relevant Transfer Tax legislation and, upon provision of such evidence satisfactory to the Vendor Entities, acting reasonably, the Purchaser Entities shall not be required to pay on Closing any Transfer Taxes in respect of which the relevant exemption is applicable.

3.6 GST Election

With respect to the GST imposed under the GST Legislation:

- (a) each Party represents and warrants to the other Party that it is (or, in the case of the Purchaser Entities, will be, on or before the Closing Date) a registrant for GST purposes and will continue to be a registrant at the Closing Date in accordance with the provisions of the GST Legislation and that such Party's respective GST registration number is: in the case of the Vendor Entities, Brainhunter 87753 6524 RT0001, TrekLogic 89048 3928 RT0001, Protec 10433 2556 RT0001, Brainhunter Canada 10436 0144 RT0001 and Brainhunter Ottawa 87871 2298 RT0001, and in the case of the Purchaser Entities, the Purchaser Entities hereby covenant and agree to provide the Vendor Entities with notice of the Purchaser Entities' GST registration numbers on or before the Closing Date;
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- (b) the Vendor Entities and Purchaser Entities acknowledge that, by the acquisition of the Purchased Assets under this Agreement, each of the Purchaser Entities are acquiring the ownership, possession or use under this Agreement of all or substantially all of the property that can reasonably be regarded as being necessary for each of the Purchaser Entities to be capable of carrying on the Vendor Entities' business or such part of the Vendor Entities' business as a business within the meaning of section 167 of the GST Legislation;
- (c) the Vendor Entities and the Purchaser Entities shall jointly prepare and execute the election prescribed by subsection 167(1) of the GST Legislation at Closing, and the Purchaser Entities shall file such election in the manner and within the time prescribed by the GST Legislation and shall provide the Vendor Entities with supporting documentation to confirm that such elections have been properly filed;
- (d) pursuant to Section 3.6(c) of this Agreement, and subsection 167(1.1) of the GST Legislation, the Parties acknowledge that no GST is payable by the Purchaser Entities to the Vendor Entities in respect of the transfer of the Purchased Assets described herein; and
- (e) notwithstanding the foregoing the Purchaser Entities hereby agree to indemnify the Vendor Entities for any assessment of GST made against the Vendor Entities as a result of the making of the election under subsection 167(1) of the GST Legislation by the Parties with respect to the acquisition of the Purchased Assets by the Purchaser Entities and the Purchaser Entities further agree to pay all such amounts including interest and penalties, if any, upon written request by the Vendor Entities provided in accordance with the provisions of Section 11.8 hereof.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES

4.1 Representations of the Vendor Entities

The Vendor Entities jointly and severally represent and warrant to the Purchaser Entities as follows and acknowledge that the Purchaser Entities are relying on such representations and warranties in connection with entering into this Agreement and performing their obligations hereunder:


- (a) Each Vendor Entity is a corporation duly incorporated and validly subsisting under the laws of the jurisdiction of its incorporation and, subject to obtaining the Approval Order and Vesting Orders, has the requisite power and authority to enter into this Agreement and to complete the transactions contemplated hereunder;
- (b) Each Vendor Entity has taken all necessary corporate action to authorize the entering into and performance by it of this Agreement and the entering into of this Agreement and completion of the transactions contemplated herein will not breach its constating documents, any agreement binding upon the Vendor Entity, or, subject to obtaining the Approval Order and the Vesting Orders in the CCAA Proceedings, any Applicable Laws;



- (c) other than the CCAA Proceedings, there are no proceedings before or pending before any Governmental Authority, or threatened to be brought by or before any Governmental Authority by or against the Vendor Entities or affecting any of the Purchased Assets, the legality, validity or enforceability of this Agreement or the consummation of the transactions contemplated hereby by the Vendor Entities;
- (d) this Agreement has been duly executed and delivered by each of the Vendor Entities and constitutes a legal, valid and binding obligation of each of the Vendor Entities and is enforceable against each of the Vendor Entities in accordance with its terms, except as enforceability may be limited by the discretion and jurisdiction of the Court in the CCAA Proceedings or any other insolvency proceeding; and
- (e) none of the Vendor Entities is a non-resident of Canada within the meaning of section 116 of the *Income Tax Act* (Canada).

4.2 Purchaser Entities' Representations

The Purchaser Entities jointly and severally represent and warrant to the Vendor Entities as follows and acknowledge that the Vendor Entities are relying on such representations and warranties in connection with entering into this Agreement and performing their obligations hereunder:

- (a) each Purchaser Entity is a corporation duly formed under the laws of the jurisdiction of its formation and has the requisite power and authority to enter into this Agreement and to complete the transactions contemplated hereunder;
 - (b) each Purchaser Entity has taken all necessary action to authorize the entering into and performance by it of this Agreement and completion of the transactions contemplated herein will not breach its constating documents, any agreement binding upon the Purchaser Entity or any Applicable Laws;
 - (c) other than the Approval Order and the Vesting Orders, execution, delivery and performance of this Agreement by the Purchaser Entities does not and will not require any consent, approval, authorization or other order of, action by, filing with or notification to, any Governmental Authority, except where failure to obtain such consent, approval, authorization or action, or to make such filing or notification, would not prevent, affect or delay the consummation by the Purchaser Entities of the transactions contemplated hereby;
 - (d) this Agreement has been duly executed and delivered by the Purchaser Entities and constitutes a legal, valid and binding obligation of the Purchaser Entities and is enforceable against the Purchaser Entities in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization or similar Applicable Laws relating to creditors' rights generally and subject to general principles of equity;
 - (e) there are no proceedings before or pending before any Governmental Authority, or threatened to be brought by or before any Governmental Authority by or against the
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Purchaser Entities affecting the legality, validity or enforceability of this Agreement or the consummation of the transactions contemplated hereby by the Purchaser Entities;

- (f) the Purchaser Entities are not subject to any order of any Governmental Authority, nor are there any such orders threatened to be imposed by any Governmental Authority, which could affect the legality, validity or enforceability of this Agreement or the consummation of the transactions contemplated hereby by the Purchaser Entities;
- (g) the Purchaser Entities have or have made adequate arrangements to have sufficient funds available to satisfy their obligations to pay the Consideration as set forth in Section 3.1;
- (h) the Purchaser Entities acknowledge and agree that, notwithstanding anything else contained herein, the Purchased Assets and the Assumed Liabilities are sold on an "as is" and "where is" basis at the Purchaser Entities' risk and peril without any representations or warranties, express or implied, in fact or by law with respect to the Purchased Assets or the Assumed Liabilities; and
- (i) the Purchaser Entities have provided to the Vendor Entities a true copy of all of the documents relating to the financing commitments necessary for the Purchaser Entities to complete the acquisition of the Purchased Assets, including all documents related to the assignment of the Roynat Debt prior to Closing from Roynat Capital Inc. to TalentPoint and such documents are in effect on the date hereof and there have been no amendments to, alterations of or variations in or to such documents.

4.3 Limitations

With the exception of the Vendor Entities' representations and warranties in Section 4.1 and the Purchaser Entities' representations and warranties in Section 4.2, neither the Vendor Entities nor the Purchaser Entities or their respective Representatives, nor any of their respective officers, directors, employees make, have made or shall be deemed to have made any other representation or warranty, express or implied, at law or in equity, in respect of the Vendor Entities, the Purchaser Entities, or the Purchased Assets or the sale and purchase of the Purchased Assets pursuant to this Agreement.

ARTICLE 5 COVENANTS

5.1 Conditions to Closing

Each of the Parties agrees not take any action that could reasonably be expected to preclude, delay or have an adverse effect on the transactions contemplated by this Agreement, except in respect of any judgments or decisions to be made herein which are expressed to be in a Party's "sole discretion", or which would render, or may reasonably be expected to render, any representation or warranty made by it in this Agreement untrue in any material respect.

5.2 Directors' and Officers' Indemnity

The Purchaser Entities shall indemnify each of the directors and officers of the Vendor Entities for Claims and Liabilities arising in connection with this Agreement or the CCAA Proceedings for the period

commencing on the day the Vendor Entities commence CCAA Proceedings until the completion of the CCAA Proceedings, in form and substance acceptable to the Vendor Entities. Such indemnity shall not apply if and to the extent that the directors and officers are insured unless the insurer fails to provide coverage or fails to agree to insure the defence of any action within 30 days of any Claim against the directors and officers of the Vendor Entities.

5.3 Approval Order

Upon execution of this Agreement, the Vendor Entities shall promptly seek to obtain from the Court a date for hearing of an application for the granting of the Approval Order by not later than the date set forth in Section 7.1(a) in accordance with the provisions of this Agreement. Written notification of the application shall be given to such Persons as shall be required by the Vendor Entities and the Purchaser Entities, each acting reasonably. The Purchaser Entities, at their own expense, shall provide reasonable assistance to the Vendor Entities by providing such information and assistance within the Purchaser Entities' power as the Vendor Entities may reasonably require to be filed in evidence in support of the Vendor Entities' application for the Approval Order, including such information as may be required to reasonably evaluate the Purchaser Entities' financial ability to perform its obligations hereunder.

5.4 Restrictions on Vendor Entities

From the date hereof until Closing, except with the prior consent of the Purchaser Entities, other than in the ordinary course of business, the Vendor Entities will not amend or terminate, or agree to any amendment or termination of any Customer Contract, Real Property Lease, Equipment Lease or Permit and License forming part of the Purchased Assets or any document, agreement or instrument relating to the Purchased Assets or enter into any new agreement or commitment relating to the Purchased Assets, and will do all things reasonably and commercially necessary (or cause such things to be done) to protect, insure, maintain, service, support, repair and preserve the value of the Purchased Assets through to the completion of Closing.

5.5 Maintenance of Books and Records; Access after Closing

The Purchaser Entities shall use their commercially reasonable efforts to retain all of the Books and Records delivered to them by the Vendor Entities hereunder and relating to any period ending on or prior to the Time of Closing for a period of six years following the Time of Closing. At any time during such six year period, each of the Vendor Entities and their Representatives shall have reasonable access thereto in connection with the affairs of the Vendor Entities relating to the Vendor Entities' ownership of the Purchased Assets prior to the Closing Time but the Purchaser Entities shall not be responsible or liable to the Vendor Entities or any other Person for or as a result of any unintentional loss or destruction of or damage to any of the Books and Records.

5.6 Employee Matters

- (a) If the Purchaser Entities are selected as the successful bidder, at least 5 Business Days prior to the Closing Date but not prior to the Auction, the Purchaser Entities shall offer to employ all or substantially all Current Employees with employment commencing as of the Closing Date. For purposes of this Agreement, each Current Employee who receives such an offer of employment shall be referred to as an "Offeree". At least five Business Days prior to the Closing Date, the Purchaser



Entities will provide the Vendor Entities with a schedule setting forth a list of the names of all Offerees and the corresponding Purchaser Entity from which an Offeree will be offered employment. Each Offeree who accepts such offer prior to the Closing Date shall be referred to herein as a "Transferred Employee". Except to the extent the Vendor Entities fail to comply in any material respects with Section 5.6(c)(ii), the Purchaser Entities hereby agree that the offer to an Offeree shall include a level of base salary, wages and benefit eligibility that are comparable in the aggregate to the base salary, wages and benefit eligibility provided to such Offeree by the Vendor Entities as of the Closing Date; provided that, for the purposes of the foregoing comparison, equity or equity based compensation and eligibility to participate in any defined benefit pension plan and retiree medical plan shall be excluded; and provided further, that for purposes of the foregoing comparison the level of long-term disability benefit eligibility provided by the Vendor Entities to an Offeree who is on long-term disability as of the Closing Date will be deemed equal to the long-term disability benefits that could be purchased by the Purchaser Entities at a cost that is comparable to the amount the applicable Vendor Entity pays for such long-term disability benefits coverage provided to such Offeree (and not the level of benefits provided to such Offeree). The Purchaser Entities acknowledge and agree that the Purchaser Entities shall be exclusively liable for any claims related to discrimination that arise solely from the Purchaser Entities' actions taken in selecting any Offerees.

- (b) Each Current Employee of the Vendor Entities or any of their Affiliates who is not a Transferred Employee shall be referred to herein as an "Excluded Employee".
- (c) At least five days Business Days prior to the Closing :
 - (i) the Vendor Entities shall not, nor shall any Vendor Entity authorize or direct or give express permission to any Affiliate, officer, director, or employee of any Vendor Entity or any Affiliate to (A) interfere with Purchaser Entities' rights under Section 5.6(a) to make offers of employment to any Offeree, or (B) solicit or encourage any Offeree not to accept, or to reject, any such offer of employment; and
 - (ii) the Vendor Entities shall provide reasonable cooperation and information to Purchaser Entities as reasonably requested by Purchaser Entities with respect to its determination of appropriate terms and conditions of employment for any Offeree.
- (d) Subject to paragraph (f) below, prior to the Closing Date, the Vendor Entities shall process the payroll for, and pay (or cause to be paid), the base wages, base salary, and ordinary course sales commissions accrued during the payroll period ending on the day prior to the Closing Date, as well as all unused and outstanding vacation, sick days, personal days or leave earned and/or accrued with respect to each Employee. The Vendor Entities shall withhold and remit all applicable payroll taxes as required by Applicable Law for each Excluded Employee and Transferred Employee for the payroll period ending on the day prior to the Closing Date.
- (e) Following the Closing, the Purchaser Entities shall process the payroll for, and pay (or cause to be paid), the base wages, base salary and ordinary course sales commissions accrued during the payroll period commencing on the Closing Date with respect to each Transferred Employee.

- (f) Notwithstanding paragraph (d) above, as of the Closing Date, TalentPoint shall assume all Liabilities in respect of the unused and outstanding vacation, sick days, personal days or leave earned and/or accrued prior to the Closing Date by no more than 12 Employees, to be identified prior to the Closing Date, provided that each of the applicable Employees referenced above have executed a waiver and release in favour of the directors and officers of the Vendor Entities and the Vendor Entities with respect to the unused and outstanding vacation, sick days, personal days or leaves earned and/or accrued which waiver and release shall be in a form and on terms satisfactory to the Vendor Entities. Upon receipt of such waiver and release, the Vendor Entities shall provide the Purchaser Entities a schedule setting forth all relevant accruals for each such person to the Closing Date.
- (g) Nothing contained herein shall be construed as requiring, and neither the Vendor Entities nor any of their Affiliates shall take any affirmative action that would have the effect of requiring the Purchaser Entities to continue any specific employee benefit plan or to continue the employment of any specific person. Nothing in this Agreement is intended to establish, create or amend, nor shall anything in this Agreement be construed as establishing, creating or amending, any employee benefit plan, practice or program of the Purchaser Entities, or any of their Affiliates, nor shall anything in this Agreement create or be construed as creating any contract of employment or as conferring upon any Transferred Employee or upon any other person, other than the parties to this Agreement in accordance with its terms, any rights to enforce any provisions of this Agreement.


5.7 Post CCAA Costs

After Closing TalentPoint shall be responsible for paying and shall indemnify the Vendor Entities up to an amount of \$250,000 for any costs or expenses incurred by the Vendor Entities after the Closing in connection with the CCAA Proceedings or any wind-up of their businesses pursuant to the *Bankruptcy and Insolvency Act* (Canada).

ARTICLE 6

BID AND AUCTION PROCEDURES; SUPERIOR BIDS

6.1 Solicitation Period and Bid Procedures

- (a) Until the expiry of the Solicitation Period, the Purchaser Entities acknowledge and agree that the Vendor Entities shall be entitled to initiate or continue with discussions or solicitations of expressions of interest for the acquisition of the Purchased Assets in respect of Acquisition Proposals or for the sponsorship of a plan of arrangement for the Vendor Entities.
- (b) During the Solicitation Period, the Vendor Entities covenant that they shall not enter into any agreement or other commitment whatsoever in respect of any Acquisition Proposal (other than a confidentiality agreement) other than pursuant to the bid procedures set out in Schedule 11 attached hereto.
- (c) After the expiry of the Solicitation Period, the Vendor Entities shall cease and cause to be terminated any discussion, negotiation, solicitation, encouragement, or activity by the Vendor Entities or their Representatives or agents with any Persons other than the
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Qualified Bidders, with respect to any Acquisition Proposal or the sponsorship of a plan of arrangement for the Vendor Entities.

- (d) The procedures for submitting a bid during the Solicitation Period are set out in Schedule 11 attached hereto.

6.2 Auction

- (a) The procedures to be followed at the Auction are set out in Schedule 11 attached hereto.
- (b) If the sale transaction(s) pursuant to the Superior Bid does not close on the Closing Date and the Purchaser Entities are the second highest bidder, the Vendor Entities shall immediately provide written notice to the Purchaser Entities of this fact pursuant to the bid procedures (the "Failure Notice"). Upon receipt by the Purchaser Entities of such Failure Notice, the Purchaser Entities shall be required to close the transactions contemplated by this Agreement on the same terms set out herein, or in the Purchaser Entities' revised bid, as applicable, by no later than February 25, 2010.

ARTICLE 7 CONDITIONS

7.1 Mutual Conditions

The respective obligations of the Parties to complete the transactions contemplated hereunder are subject to the following conditions being fulfilled, performed or otherwise satisfied, unless otherwise specifically stated herein, as at or prior to the Time of Closing or such other date or time specified:

- (a) on or before 10 days after the date of this Agreement, the Court shall have granted the Approval Order and no appeal or motion to set aside the Approval Order shall be outstanding; and
- (b) on or before the Time of Closing, the Court shall have granted the Vesting Orders and no appeal or motion to set aside the Vesting Orders shall be outstanding.

The foregoing conditions are for the mutual benefit of the Vendor Entities and the Purchaser Entities and non-satisfaction or non-performance of any condition may be asserted by either the Vendor Entities or the Purchaser Entities regardless of the circumstances and may only be jointly waived or amended by the Vendor Entities and the Purchaser Entities in their sole respective discretion, in whole or in part, at any time and from time to time without prejudice to any other rights which the Vendor Entities or Purchaser Entities may have. Any such waiver is only binding on the Parties if it is made in writing and delivered forthwith.

7.2 Conditions for the Benefit of the Purchaser Entities

The obligation of the Purchaser Entities to complete the transactions contemplated hereunder is subject to the following conditions being fulfilled, performed or otherwise satisfied, as at the date or time specified:



- (a) all representations and warranties of each of the Vendor Entities contained in this Agreement shall be true and correct as at the Time of Closing with the same force and effect as if made at and as of such time, and each of the Vendor Entities shall have delivered to the Purchaser Entities a certificate signed by a senior officer or director to that effect (provided that acceptance of such evidence and the completion of the transactions contemplated hereunder shall not be a waiver of such representations and warranties) it being provided however that in the event that any such representation is untrue or incorrect, the Purchaser Entities may not rely upon the inaccuracy of the representation to fail to complete the transaction contemplated by this Agreement where Singh knew or reasonably ought to have known of the inaccuracy of the representation at the time of execution of this Agreement, or the representation becomes untrue as of the Closing Date as a direct or indirect result of Singh's conduct as CEO of the Vendor Entities;
- (b) each of the Vendor Entities shall have complied with and performed all of their covenants and obligations contained in this Agreement to be performed by them before or by the Time of Closing unless such non-performance is as a direct or indirect result of Singh's conduct as CEO of the Vendor Entities;
- (c) as of the Time of Closing, the Vendor Entities shall have delivered, or caused to be delivered to the Purchaser Entities all other items referred to in Section 8.2;
- (d) as of the Time of Closing, no action shall have been commenced or threatened by or before any Governmental Authority against either the Vendor Entities or the Purchaser Entities, seeking to restrain or materially and adversely affecting the completion of the transactions contemplated by this Agreement which, in the determination of the Purchaser Entities, acting reasonably, is likely to render it impossible or unlawful to consummate such transactions; and
- (e) between the date hereof and the Time of Closing, notwithstanding Section 11.13, if in connection with the CCAA Proceedings or otherwise the Court or any other Governmental Authority determines any provisions of this Agreement are partially or completely invalid or unenforceable and such determination is not acceptable to the Purchaser.

The foregoing conditions are for the exclusive benefit of the Purchaser Entities and non-satisfaction or non-performance of any condition may only be waived by them, in their sole discretion, in whole or in part, at any time and from time to time without prejudice to any other rights which the Purchaser Entities may have. Any such waiver is only binding on the Purchaser Entities if it is made in writing and delivered forthwith.

7.3 Conditions for the Benefit of the Vendor Entities

The obligation of the Vendor Entities to complete the transactions contemplated hereunder is subject to the following conditions being fulfilled, performed or otherwise satisfied as at the Time of Closing:

- (a) all representations and warranties of each of the Purchaser Entities contained in this Agreement shall be true and correct as at the Time of Closing with the same force and effect as if made at and as of such time, and each of the Purchaser Entities shall have delivered to the Vendor Entities a certificate signed by a senior officer or director to that effect (provided that acceptance of such evidence and the completion of the transactions contemplated hereunder shall not be a waiver of such representations and warranties);
- (b) each of the Purchaser Entities shall have complied with and performed all of their covenants and obligations contained in this Agreement to be performed by them before or by the Time of Closing; and
- (c) the Purchaser Entities shall have delivered, or caused to be delivered to the Vendor Entities the items referred to in Section 8.3.

The foregoing conditions are for the exclusive benefit of the Vendor Entities and non-satisfaction or non-performance of any condition may only be waived by them, in their sole discretion, in whole or in part, at any time and from time to time without prejudice to any other rights which the Vendor Entities may have. Any such waiver is only binding on the Vendor Entities if it is made in writing and delivered forthwith.


ARTICLE 8 CLOSING

8.1 Closing Date and Place of Closing

Subject to the conditions set out in this Agreement, the transactions contemplated by this Agreement shall close and be completed at the Time of Closing. The completion of the transactions contemplated hereunder shall take place at the offices of the Vendor Entities' Solicitors, or such other location as the Parties may agree in writing.

8.2 Deliveries on Closing by the Vendor Entities

The Vendor Entities shall deliver, or cause to be delivered to the Purchaser Entities at the Time of Closing:

- (a) a copy of the Approval Order and the Vesting Orders;
 - (b) the certificates of the Vendor Entities referred to in Sections 7.2(a);
 - (c) the Specific Conveyances required by Purchaser Entities to be delivered at Closing, in form and substance satisfactory to the Purchaser Entities, acting reasonably;
 - (d) a general conveyance conveying the Purchased Assets to the Purchaser Entities, in form and substance acceptable to the Purchaser Entities, acting reasonably;
 - (e) the originals and, if originals are not available, copies of the Books and Records;
 - (f) such other documents as may be reasonably requested by Purchaser Entities' Solicitors; and
- 

- (g) a direction to Morrison Financial Services Ltd. from each of the Toronto-Dominion Bank and Roynat Capital Inc. directing Morrison Financial Services Ltd. to remit any monies received in trust for Toronto-Dominion Bank and Roynat Capital Inc. after the Closing Date to the Purchaser Entities or as they may direct.

8.3 Deliveries on Closing by the Purchaser Entities

The Purchaser Entities shall deliver, or cause to be delivered to the Vendor Entities at the Time of Closing:

- (a) the payment of the Consideration in accordance with Section 3.2;
- (b) the certificates by the Purchaser Entities referred to in Section 7.3(a);
- (c) an assignment agreement in respect of the Roynat Debt, in form and substance acceptable to the Vendor Entities, acting reasonably, which shall include the assignment of all security documents related to the Roynat Debt;
- (d) indemnity agreements giving effect to the indemnities contained in this Agreement in form and substance satisfactory to the respective indemnitees; and
- (e) such other documents as may be reasonably requested by the Vendor Entities' Solicitors.

8.4 Risk and Insurance

The risk of Loss of the Purchased Assets shall remain with the Vendor Entities until Closing except to the extent all or any portion of such Loss is covered by insurance policies of the Vendor Entities, the proceeds of which form part of the Purchased Assets which are transferred pursuant to this Agreement. Any property, liability and other insurance maintained by the Vendor Entities shall not be transferred as of the Time of Closing, but shall remain the responsibility of the Vendor Entities until the Time of Closing. The Purchaser Entities shall be responsible for all property, liability and other insurance coverage with respect to the Purchased Assets in respect of the period from and after the Time of Closing.

8.5 Possession

The Purchaser Entities shall be entitled to possession of the Purchased Assets on and after the Time of Closing. On and after the Time of Closing, the Vendor Entities shall permit and provide the Purchaser Entities with unrestricted and unconditional access to the Purchased Assets, and the Vendor Entities shall deliver to the Purchaser Entities such authorizations, directions, consents, approvals, keys, lock and safe combinations and other similar items as the Purchaser Entities may require to obtain immediate, exclusive and full occupation and control of the Purchased Assets.

ARTICLE 9 TERMINATION

9.1 Termination



This Agreement may be terminated at any time prior to the Closing Date:

- (a) by mutual written agreement of the Vendor Entities, as authorized by its board of directors, and the Purchaser Entities;
- (b) as provided in Sections 7.1, 7.2, and 7.3; or
- (c) upon the occurrence of a Terminating Event described in section 9.2(a).

Subject to Section 9.3, if this Agreement is terminated in the circumstances set out in paragraphs (a) through (c) of this Section 9.1, all further obligations of the Parties under this Agreement will terminate and neither Party shall have any liability or further obligations hereunder, except as contemplated in Section 11.2(b), which shall survive such termination; provided that if this Agreement is terminated as a result of any breach of a representation, warranty, covenant or obligation of a Party, the terminating Party's right to pursue all legal remedies with respect to such breach shall survive such termination.

9.2 Break Fee

- (a) If:
 - (i) the Purchaser Entities' Consideration or revised bid, as applicable, is not the Superior Bid or the second highest bid (regardless of whether such transactions contemplated by the Superior Bid or second highest bid close);
 - (ii) a Closing of the Superior Bid occurs where the Purchaser Entities' Consideration or revised bid, as applicable, is the second highest bid; or
 - (iii) the Closing of the Superior Bid does not occur and the Purchaser Entities, being the second highest bidder, have not been provided with a Failure Notice in accordance with Section 6.2(b) (each, a "Terminating Event"),

then, in each case, the Vendor Entities shall pay to TalentPoint, on its behalf and on behalf of the other Purchaser Entities an amount equal to \$700,000 (the "Break Fee") on the earlier of (i) the Business Day immediately following Closing of the Superior Bid, or the second highest bid, as the case may be, and (ii) February 25, 2010.

- (b) The Break Fee shall be payable as a post-filing claim in the CCAA Proceedings, which may not be compromised by the CCAA Proceedings, and which shall be due and payable in full as and when provided for in this Agreement.

9.3 Damages and Remedies

- (a) Other than a return of the Deposit to the Purchaser Entities, in accordance with section 3.3, each Party acknowledges that the unconditional and irrevocable payment in full by the Vendor Entities and receipt by the Purchaser Entities of the Break Fee in the circumstances contemplated in Section 9.2 is the sole remedy to which the Purchaser Entities are entitled on the termination of this Agreement pursuant to Section 9.1(c), and that such amount is not a penalty, but intended to reimburse the Purchaser Entities for

their time, efforts and costs (including opportunity costs), and significant contributions made by them in enhancing the value of the Purchased Assets and the return to, and recovery by, the creditors and other claimants of the Vendor Entities in the CCAA Proceedings, and in advancing the successful completion of the CCAA Proceedings, by entering into this Agreement and attempting to consummate the transactions contemplated herein. The Vendor Entities irrevocably waive any right it may have to raise as a defence that any such fee is excessive or punitive. For certainty, it is acknowledged and agreed that in the event the Break Fee becomes due and payable in accordance with Section 9.2 hereof, the Vendor Entities' obligation to pay such Break Fee to the Purchaser Entities shall not be satisfied by any partial payment thereof and in the event of any such partial payment, the Purchaser Entities shall be entitled to pursue any and all other legal remedies to ensure they receive payment of the Break Fee in full and unconditionally.

ARTICLE 10 CONFIDENTIALITY AND DISCLOSURE

10.1 Confidentiality

- (a) Each of the Purchaser Entities and Singh agree that they shall not disclose to any third party and shall hold in strict confidence, and agree to instruct its Representatives not to disclose to any third party and to hold in strict confidence all Confidential Information, without the prior written consent of the Vendor Entities.
- (b) Notwithstanding paragraph (a) above, each of the Purchaser Entities and Singh receiving the Confidential Information or to which the Confidential Information has been provided or otherwise disclosed shall be entitled to disclose Confidential Information to its Representatives who have a need to know for the purpose of the transaction contemplated hereunder and to third parties, including regulatory authorities, to the extent compelled to do so by Applicable Law.
- (c) Prior to disclosing Confidential Information pursuant to paragraph (b) above, each of the Purchaser Entities and Singh shall:
 - (i) issue appropriate instructions to such Representatives to satisfy its obligations in this Agreement and shall direct them to retain such Confidential Information on a confidential basis on the same terms and conditions contained in this Article 10 and otherwise comply with the terms hereof, and
 - (ii) require the Representatives, other than legal counsel of the Purchaser Entities and Singh or legal counsel of any of its Representatives, to enter into a confidentiality acknowledgement agreement (the "Acknowledgement").
- (d) Without limitation to any rights or remedies of the Vendor Entities against any of the Representatives of the Purchaser Entities and/or Singh, each of the Purchaser Entities and Singh shall be liable for any and all breaches of the terms of this Article 10 by its Representatives. In the event of a breach or threatened breach of the Acknowledgement

or this Article 10, each of the Purchaser Entities and Singh shall indemnify, defend and hold harmless the Vendor Entities and each of its Affiliates for any and all losses, claims, liabilities, related obligations, damages, and expenses whatsoever incurred by the Vendor Entities or its Affiliates as a result of such breach.

- (e) No Confidential Information shall be copied, reproduced in any form, or stored in a retrieval system or database by the Purchaser Entities, Singh or their Representatives without the prior written consent of the Vendor Entities, except for such copies and storage as may reasonably be required internally by the foregoing for the purposes herein described. In the event that any of the Purchaser Entities and/or Singh become aware that they or any of their Representatives have disclosed Confidential Information contrary to this Article 10 or the Acknowledgement, each of the Purchaser Entities and/or Singh shall forthwith advise the Vendor Entities in writing.

10.2 Rights and Use

All right, title and interest in and to Confidential Information shall remain the exclusive property of the Vendor Entities (save and except for any internal materials containing Confidential Information, including credit requests, models, and analyses, prepared by the Purchaser Entities, Singh or their Representatives, which internal materials shall remain the exclusive property of the Purchaser Entities, Singh or their Representatives but shall remain subject to the terms of this Agreement). No interest, licence or any right respecting the Confidential Information, other than as expressly set out in this Article 10, is granted to the Purchaser Entities or Singh under this Agreement by implication or otherwise. Neither the Purchaser Entities nor Singh shall use Confidential Information in any manner except to consider the transactions contemplated in this Agreement and provide such information to their Representatives as hereby permitted.

10.3 Return and Destruction of Confidential Information

If Closing does not occur by the Closing Date or such earlier date of termination if this Agreement is terminated in accordance with section 9.1 hereof, upon written request of the Vendor Entities, each of the Purchaser Entities and Singh shall return to the Vendor Entities or, at the Vendor Entities' option, destroy all Confidential Information in their possession or control and shall be liable for ensuring that each of the Purchaser Entities' and Singh's Representatives either return to the Vendor Entities or, at the Vendor Entities' option, destroy the Confidential Information in their respective control, and shall delete all Confidential Information from any retrieval system or database in their possession or control and shall be liable for ensuring that each of the Purchaser Entities' and Singh's Representatives delete all Confidential Information from any retrieval system or database with their respective control.

10.4 Non-Confidential Information

The obligations of each of the Purchaser Entities and Singh under this Article 10 shall not apply to Confidential Information which (a) at the time of disclosure, is readily available to the public other than by a breach of this Agreement or any other obligation of confidentiality or with respect to Confidential Information; (b) is lawfully and in good faith obtained by each of the Purchaser Entities, Singh or their

Representatives from an independent third party (or the Monitor) without breach of this Agreement or any other obligation of confidentiality, reasonably known by the Purchaser Entities, Singh or their Representatives, between such third party (or the Monitor) and any of the Vendor Entities or Representatives ; (c) each of the Purchaser Entities and Singh can establish, by documented evidence that such Confidential Information was in their possession or the possession of their Representatives prior to the disclosure of such Confidential Information by the Vendor Entities; (d) was independently developed by the Purchaser Entities, Singh or their Representatives; or (e) is necessary or appropriate in connection with any litigation or other proceedings to which the Purchaser Entities, Singh or any of their Representatives is a party or otherwise in connection with the enforcement of the Purchaser Entities', Singh's or their Representatives' rights.

10.5 Survival and Vesting

- (a) Provisions of this Article 10 shall continue notwithstanding Closing, any failure of Closing for any reason whatsoever, or any termination of this Agreement prior to Closing, for a period of two years from the date of this Agreement.
- (b) Immediately upon Closing, all of the Vendor Entities' interest, if any, in any Confidential Information and any and all rights of the Vendor Entities under this Article 10 shall automatically, without further action or notice by or on behalf of any Party, vest in and be conveyed to the Purchaser Entities absolutely.

10.6 Irreparable Harm by Disclosure

Notwithstanding Section 10.1(e), the Purchaser Entities agree that monetary damages may not alone be sufficient to remedy any breach by a Purchaser Entity, Singh or their Representatives of any term or provision of this Agreement and that the Vendor Entities shall also be entitled to seek equitable relief upon proof to a court of competent jurisdiction, including the ability to sue for damages, seek injunctive relief or specific performance, without the necessity of posting bond or security in connection therewith, in addition to any other remedy available pursuant to this Agreement or at law or in equity in the event of any threatened or actual breach of the provisions of this Article 10 by a Purchaser Entity, Singh or their Representatives.

10.7 Disclosure of Agreement

Each of the Parties agree that this Agreement shall be filed in the CCAA Proceedings.

ARTICLE 11 MISCELLANEOUS

11.1 Specific Conveyances

All Specific Conveyances will be prepared by the Purchaser Entities and delivered by the Vendor Entities to the Purchaser Entities at Closing, unless the Purchaser Entities, are satisfied that, by the terms of each of the Vesting Orders, all or any portion of the remaining Specific Conveyances will be delivered after Closing. The Purchaser Entities shall prepare the Specific Conveyances for Vendor Entities' review in advance of Closing, none of which shall confer or impose upon a Party any greater right or obligation



than contemplated in this Agreement. The Purchaser Entities shall, as applicable, be responsible for registering all Specific Conveyances and shall bear all costs incurred registering any Specific Conveyances and in preparing and registering any further assurances required.

11.2 Obligations to Survive

- (a) Notwithstanding the Closing contemplated hereunder, the obligations and covenants of the Parties set out in the following sections and articles of this Agreement shall survive Closing, shall remain in full force and effect, shall not merge as a result of Closing and shall be binding on the Parties thereafter: 3.4 [Allocation of Consideration], 3.5 [Transfer Taxes], 3.6 [GST Election], Section 5.2 [Directors' and Officers' Indemnity], 5.5 [Maintenance of Books and Records], 5.7 [Post CCAA Costs], Section 8.5 [Possession], Article 10 [Confidentiality and Disclosure], Section 11.3 [Damages], and Section 11.7 [Costs and Expenses]; and
- (b) Notwithstanding the termination of this Agreement, the obligations and covenants of the Parties set out in the following sections and articles of this Agreement shall survive termination: Section 3.3 [Deposit], Article 9 [Termination], Article 10 [Confidentiality and Disclosure], and Section 11.3 [Damages].

11.3 Damages

Under no circumstance shall any of the Parties, their Representatives or their respective directors, officers, employees or agents be liable for any special, punitive, exemplary, consequential or indirect damages (including loss of profits) that may be alleged to result, in connection with, arising out of, or relating to this Agreement or the transactions contemplated herein.

11.4 Further Assurances

Each of the Parties hereto from and after the date hereof shall, from time to time, and at the request and expense of the Party requesting the same, do all such further acts and things and execute and deliver such further instruments, documents, matters, papers and assurances as may be reasonably requested to complete the transactions contemplated by this Agreement and for more effectually carrying out the true intent and meaning of this Agreement.

11.5 Assignment by Purchaser Entities

The Purchaser Entities shall be permitted to assign, upon receiving prior written consent from the Vendor Entities (which consent may be unreasonably withheld), any or all right or interest in this Agreement to any Person, provided that: (a) notice of such assignment is provided to the Vendor Entities, (b) such assignee agrees to be bound by the terms of this Agreement and (c) such assignment shall not release the Purchaser Entities from any obligation or liability for performance of the Purchaser Entities' obligations under this Agreement, including Closing, subject to the terms and conditions provided for in this Agreement.

11.6 Time of the Essence

Time shall be of the essence of this Agreement.

11.7 Costs and Expenses

Except as provided in Section 3.1, each Party hereto shall be responsible for all costs and expenses (including the fees and disbursements of legal counsel, bankers, investment bankers, accountants, brokers and other advisors) incurred by it in connection with this Agreement and the transactions contemplated herein, including that the Vendor Entities shall be solely responsible in respect of the Vendor Entities' costs and expenses. For certainty, the Purchaser Entities' costs and expenses shall include all costs, fees and expenses relating to the assignment of Permits and Licences, the assignment of, and/or amendments to, any Customer Contracts and any costs, fees or expenses related to registering the Purchased Assets in the name of the Purchaser Entities.

11.8 Notices

Any notice, demand or other communication required or permitted to be given to any Party hereunder shall be given in writing and addressed as follows:

- (a) in the case of the Vendor Entities:

Brainhunter Inc.
2 Sheppard Avenue East, Suite 2000
Toronto, Ontario, M2N 5Y7

Attention: Robert Prentice, CFO
Donald McCreesh, Lead Director

Fax: 416.225.9104
Email: robert.prentice@brainhunter.com
don.mccreesh@brainhunter.com


And with a copy (which copy shall not constitute notice) to the Vendor Entities' Solicitors:

Harris + Harris LLP
Barristers and Solicitors
2355 Skymark Avenue
Suite 300
Mississauga, ON L4W 4Y6

Attention: Gregory Harris and Derek Yu

Fax: 905.629.4350
Email: gregharris@harrisandharris.com and derekyu@harrisandharris.com

Davies Ward Phillips & Vineberg LLP
Barristers and Solicitors



44th Floor
1 First Canadian Place
Toronto, Ontario M5X 1B1

Attention: Jay Swartz

Fax: 416.863.5520
Email: jswartz@dwpy.com

(b) In the case of the Purchaser Entities:

TalentPoint Inc.
7 Bowan Court
Toronto, Ontario, M2K 3A8

Attention: Raj Singh
Email: rajsingh100@gmail.com

2223945 Ontario Limited
7 Bowan Court
Toronto, Ontario, M2K 3A8

Attention: Raj Singh
Email: rajsingh100@gmail.com

2223947 Ontario Limited
7 Bowan Court
Toronto, Ontario, M2K 3A8

Attention: Raj Singh
Email: rajsingh100@gmail.com

2223956 Ontario Limited
7 Bowan Court
Toronto, Ontario, M2K 3A8


Attention: Raj Singh
Email: rajsingh100@gmail.com

And with a copy (which copy shall not constitute notice) to the Purchaser Entities' Solicitors:

Keyser Mason Ball, LLP
Four Robert Speck Parkway
Suite 1600
Mississauga, Ontario
L4Z 1S1

Attention: John Ball

Fax: 905.276.2298



Email: johnball@kmbllaw.com

Any such notice, if personally delivered (including courier delivery), shall be deemed to have been validly and effectively given and received on the Business Day of such delivery provided such notice is received before 4:00 p.m. (addressee's local time); and if such notice is received after 4:00 p.m. (addressee's local time) or if the notice is sent by telecopy or other electronic communication with confirmation of transmission, such notice shall be deemed to have been validly and effectively given and received on the Business Day next following the day it was received.

11.9 Solicitors and Agents and Tender

Any notice, approval, waiver, agreement, instrument, document or communication permitted, required or contemplated in this Agreement may be given or delivered and accepted or received by the Purchaser Entities' Solicitors on behalf of the Purchaser Entities and by the Vendor Entities' Solicitors on behalf of the Vendor Entities and any tender of closing documents and the Consideration may be made upon the Vendor Entities' Solicitors and the Purchaser Entities' Solicitors, as the case may be.

11.10 Successors and Assigns

This Agreement shall be binding upon, and enure to the benefit of, the Parties hereto and their respective successors and permitted assigns.

11.11 No Brokers

Except as provided in Section 3.1, it is understood and agreed that the Purchaser Entities shall not be liable for any commission or other remuneration payable or alleged to be payable to any broker, agent or other intermediary who purports to act or have acted for the Vendor Entities.

11.12 Third Party Beneficiaries

Each Party hereto intends that this Agreement shall not benefit or create any right or cause of action in or on behalf of any Person other than the Parties hereto and their successors and permitted assigns, and no Person, other than the Parties hereto and their successors and their permitted assigns shall be entitled to rely on the provisions hereof in any action, suit, proceeding, hearing or other forum, save and except in the event of any action, suit, proceeding, hearing or other forum as it pertains to matters of confidentiality and any particular Representative in connection therewith.

11.13 Severability

If any provision of this Agreement or any document delivered in connection with this Agreement is partially or completely invalid or unenforceable, the invalidity or unenforceability of that provision shall not affect the validity or enforceability of any other provision of this Agreement, all of which shall be construed and enforced as if that invalid or unenforceable provision were omitted. The invalidity or unenforceability of any provision in one jurisdiction shall not affect such provision validity or enforceability in any other jurisdiction.

11.14 Counterparts



This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which shall constitute one and the same agreement. Transmission by facsimile or other electronic means of an executed counterpart of this Agreement shall be deemed to constitute due and sufficient delivery of such counterpart.

11.15 No Strict Construction

The parties have participated jointly in the negotiation and drafting of this Agreement. In the event any ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties, and no presumption or burden of proof shall arise favouring or disfavouring either Party by virtue of authorship of any provision of this Agreement.

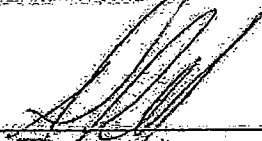
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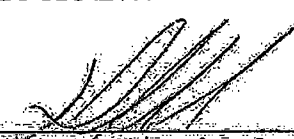
IN WITNESS WHEREOF this Agreement has been properly executed by the Parties hereto as of the date first above written.

BRAINHUNTER INC.

Per: 
Name: DON MCCREESH
Title: CHAIR, BRAINHUNTER INC

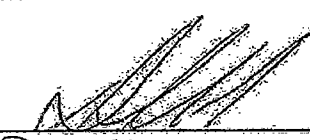
I/We have the authority to bind the corporation

TREKLOGIC INC.

Per: 
Name: DON MCCREESH
Title: CHAIR, BRAINHUNTER INC.

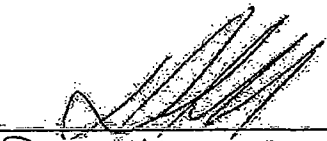
I/We have the authority to bind the corporation

PROTEC EMPLOYMENT SERVICES LIMITED

Per: 
Name: DON MCCREESH
Title: CHAIR, BRAINHUNTER INC

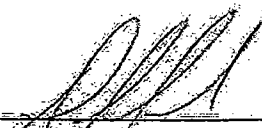
I/We have the authority to bind the corporation

BRAINHUNTER CANADA INC.

Per: 
Name: DON MCCREESH
Title: CHAIR, BRAINHUNTER INC.

I/We have the authority to bind the corporation

BRAINHUNTER (OTTAWA) INC.

Per: 
 Name: DON MCCREESH
 Title: CHAIR, BRAINHUNTER INC.

I/We have the authority to bind the corporation

TALENTPOINT INC.

Per: 
 Name:
 Title:

I/We have the authority to bind the corporation

2223945 ONTARIO LIMITED

Per: 
 Name:
 Title:

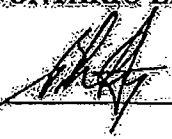
I/We have the authority to bind the corporation

2223947 ONTARIO LIMITED

Per: 
 Name:
 Title:

I/We have the authority to bind the corporation

2223956 ONTARIO LIMITED

Per: 
 Name:
 Title:

I/We have the authority to bind the corporation

SIGNED, SEALED AND DELIVERED

In the presence of:

P. Casey
Witness
P. Casey

RAJ SINGH solely in connection with the provisions of Article 10 entitled "Confidentiality and Disclosure"

SCHEDULE 1

to the Asset Purchase Agreement among the Vendor Entities and the Purchaser Entities dated as of
December 1, 2009

FORM OF APPROVAL ORDER

[ATTACHED HERETO]

8.

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

THE HONOURABLE M) TUESDAY, THE 8TH 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

Applicants

**ORDER
(Bid Procedures and Approval Order)**

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

ON READING the affidavit of [Dennis Jewitt] sworn December ■, 2009 and the Exhibits thereto (collectively, the "Jewitt Affidavit") and the [First] Report of Deloitte & Touche Inc. dated December ■, 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, ■, no one appearing for any other person on the service list although served as appears from the affidavit of service of [Name] sworn December ■, 2009, filed.

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 bidding procedures as described in the Jewitt Affidavit and Report and attached as Schedule "A" hereto (the "**Bidding Procedures**") are hereby approved and the Applicants shall be authorized to conduct the sale process and auction (the "**Stalking Horse Process**") contemplated therein.
3. 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 "■"** to the Jewitt Affidavit, is hereby ratified and approved.
4. 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.
5. 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).
6. THIS COURT ORDERS that, in connection with the Stalking Horse APA and the Stalking Horse 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.

7. 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.

8. 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.

Schedule "A"

SCHEDULE 2

to the Asset Purchase Agreement among the Vendor Entities and the Purchaser Entities dated as of December 1, 2009

EXCLUDED CONTRACTS**Brainhunter Inc.**

- Amending Agreement dated April 1, 2009 ("Amending Agreement #1") entered into among Brainhunter and various lenders regarding a loan transaction which closed in stages on October 15, 2005, November 14, 2005 and December 14, 2005, pursuant to which Brainhunter issued \$7,856,000 of 8% convertible promissory notes and which notes were cancelled pursuant to Amending Agreement #1 in favour of new Term Notes (as defined below)
- Amending Agreement dated April 1, 2009 ("Amending Agreement #2") entered into among Brainhunter and various lenders regarding a loan transaction which closed in stages on January 27, 2007 and February 2, 2007 pursuant to which Brainhunter issued \$2,586,000 of 10% convertible promissory notes and which notes were cancelled pursuant to Amending Agreement #2 in favour of new Term Notes (as defined below)
- All documents contemplated in Amending Agreement #1 and Amending Agreement #2, including but without limiting the generality of the foregoing, secured subordinated promissory notes ("Term Notes") dated April 1, 2009 with a due date of January 31, 2010 in the approximate aggregate principal amount of \$11,000,000



