

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
PCAS PATIENT CARE AUTOMATION SERVICES INC.  
AND 2163279 ONTARIO INC. (the "Applicants")**

**APPLICATION UNDER THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED**

**MOTION RECORD  
(returnable June 5, 2012)**

Date: June 1, 2012

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# **I N D E X**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
PCAS PATIENT CARE AUTOMATION SERVICES INC.  
AND 2163279 ONTARIO INC. (the "Applicants")**

**APPLICATION UNDER THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED**

**TABLE OF CONTENTS**

	<b>TAB NO.</b>
Notice of Motion	1
Draft Approval & Vesting Order	2
Blackline of Approval & Vesting Order against Model Order	3
Draft Ancillary Order	4
Affidavit of Farouk Ahmed sworn June 1, 2012	5
Exhibit "A" – May 14 Order	A
Exhibit "B" – SISP Marketing Teaser	B
Exhibit "C" – May 30 Shareholder Notice	C
Exhibit "D" – Redacted Purchase Agreement	D
Exhibit "E" – Form of Occupancy Agreement	E

## **TAB 1**



**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

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

**NOTICE OF MOTION  
(returnable June 5, 2012)**

PCAS Patient Care Automation Services Inc. ("PCAS") and 2163279 Ontario Inc., doing business as Touchpoint ("Touchpoint" and, together with PCAS, the "Applicants") will make a motion to a judge presiding over the Commercial List on Tuesday, June 5, 2012 (the "Return Date") at 4:30 p.m. or as soon after that time as the motion can be heard, at Courtroom 804, 393 University Avenue, Toronto, Ontario.

**PROPOSED METHOD OF HEARING:** The motion is to be heard orally.

1. **THE MOTION IS FOR** an Order, among other things:
  - (a) abridging the time for service and filing of this notice of motion and the motion record and dispensing with further service thereof;
  - (b) approving the Seventh Report (the "**Seventh Report**") of PricewaterhouseCoopers Inc. ("**PwC**"), in its capacity as the Court-appointed monitor of the Applicants (in such capacity, the "**Monitor**") and approving the actions of the Monitor described therein;

- (c) approving the agreement of purchase and sale between the Applicants and DashRx, LLC (“**DashRx**”) dated May 29, 2012 (the “**Purchase Agreement**”), and vesting the Purchased Assets (as defined in the Purchase Agreement) in DashRx;
- (d) sealing the Confidential Appendix to the Seventh Report (the “**Confidential Appendix**”);
- (e) approving occupancy agreements in respect of one or more of the Applicants’ leased premises (the “**Occupancy Agreements**”);
- (f) terminating the Administration Charge and the Directors’ Charge (each as defined in, and established by, the Initial Order of the Honourable Mr. Justice Morawetz granted on March 23, 2012 in these proceedings (the “**Initial Order**”));
- (g) approving a scheme of distribution of the cash proceeds of the transaction contemplated by the Purchase Agreement (the “**Transaction**”);
- (h) approving the distribution of non-cash proceeds of the Transaction to 2320714 Ontario Inc. (the “**DIP Lender**”) and the Applicants, in trust for unsecured creditors;
- (i) directing that amount of certain tax refunds be paid to the DIP Lender on receipt;
- (j) discharging and releasing the Monitor, upon the filing of a Monitor’s discharge certificate with the Court;
- (k) terminating these CCAA proceedings (the “**CCAA Proceedings**”), upon the filing of a Monitor’s discharge certificate with the Court; and
- (l) such further and other relief as counsel may advise and this Honourable Court may permit.

2. **THE GROUNDS FOR THE MOTION ARE:**

- (a) on March 23, 2012, the Applicants made an application under the *Companies' Creditors Arrangement Act* (the "**CCAA**") seeking court protection from their creditors, which was granted pursuant to the Initial Order;
- (b) pursuant to the Order of the Honourable Justice Brown made May 14, 2012 (the "**May 14 Order**"), a sale and investor solicitation process (the "**SISP**") was approved. A copy of the May 14 Order is attached as **Exhibit "A"** to this Affidavit;
- (c) pursuant the Order of the Honourable Justice Brown made May 28, 2012 (the "**May 28 Order**"), the Stay Period (as defined in the Initial Order) was extended to June 6, 2012;
- (d) pursuant to the Initial Order, as amended by the May 7 Order, the Applicants were authorized and empowered to obtain and borrow under a credit facility (the "**DIP Facility**") from 2320714 Ontario Inc. (the "**DIP Lender**");
- (e) pursuant the Order of the Honourable Mr. Justice Brown made May 14, 2012 (the "**May 14 Order**"), a sale and investor solicitation process (the "**SISP**") was approved;
- (f) the Applicants, with the assistance of the Monitor and PricewaterhouseCoopers Corporate Finance Inc., have conducted the SISP, and have selected a Qualified Bid from DashRx to be the Successful Bid (as such terms are defined in the SISP);
- (g) the DIP Lender has approved of the Successful Bid and agrees that it is superior to the Stalking Horse Bid (as such term is defined in the SISP);
- (h) in consultation with the Monitor and the DIP Lender, the Applicants have negotiated and executed the Purchase Agreement;

- (i) the SISP has been a fair and reasonable process, conducted in accordance with its approved terms and in close consultation with the DIP Lender and the Monitor.
- (j) an order sealing the Confidential Appendix until closing of the Transaction is required because the Confidential Appendix contains an unredacted copy of the Purchase Agreement, unredacted copies of other bids received in the SISP, and copies of communications between the various bidders and the Applicants and/or the Monitor, all of which contain commercially sensitive information, the release of which would prejudice the stakeholders of the Applicants;
- (k) DashRx requires access and occupancy of certain of the Applicants' leased premises, and the Occupancy Agreements will govern the same;
- (l) it is necessary to terminate the Administration Charge and the Directors' Charge in order to distribute the proceeds of the Transaction to other creditors;
- (m) the proposed scheme of distribution for the proceeds of the Transaction accords with the priority of claims against the Applicants except to the extent the DIP Lender has consented to distribution of cash in respect of claims subordinate to the DIP Charge (as defined in the Initial Order) and cash to fund the expected bankruptcies of the Applicants;
- (n) the Applicants intend to file assignments in bankruptcy upon closing of the Transaction;
- (o) the Monitor has filed with the Court its Seventh Report outlining, among others things: (i) the actions of the Monitor since the date of its Sixth Report; (ii) the SISP and the bids received therein; (iii) the Purchase Agreement and the Transaction; (iv) the claims and priorities of secured creditors; (v) the proposed distribution of proceeds of the Transaction; and (vi) the proposed termination of the CCAA Proceedings, discharge of the Monitor and bankruptcy of the Applicants;
- (p) the other grounds set out in the Seventh Report;

- (q) Sections 36 of the CCAA and the inherent and equitable jurisdiction of this Honourable Court;
- (r) section 137 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
- (s) rules 1.04, 2.03, 3.02, 16.08 and 37 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended; and
- (t) such further and other grounds as counsel may advise and this Honourable Court may permit.

3. **THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the motion:

- (a) the Affidavit of Farouk Ahamed sworn June 1, 2012;
- (b) the Seventh Report; and
- (c) such further and other material as counsel may submit and this Honourable Court may permit.

Date: June 1, 2012

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**TO: ATTACHED SERVICE LIST**

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
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**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
PCAS PATIENT CARE AUTOMATION SERVICES INC. AND 2163279 ONTARIO INC.  
(the "Applicants")**

Court File No. CV-12-9656-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

**Proceedings commenced at Toronto**

**NOTICE OF MOTION  
(returnable June 5, 2012)**

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## **TAB 2**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR.	)	TUESDAY, THE 5 <sup>th</sup> DAY
	)	
JUSTICE BROWN	)	OF JUNE, 2012

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
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**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
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**APPLICATION UNDER THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
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**APPROVAL AND VESTING ORDER**

**THIS MOTION**, made by PCAS Patient Care Automation Services Inc. and 2163279 Ontario Inc., doing business as Touchpoint (collectively, the "**Applicants**"), for an order approving the sale transaction (the "**Transaction**") contemplated by an asset purchase agreement of purchase and sale (the "**APA**") between the Applicants and DashRx, LLC (the "**Purchaser**") made as of June 1, 2012 and appended, in redacted form, to the affidavit of Farouk Ahamed, sworn June 1, 2012, filed (the "**June 1 Affidavit**"), and appended, in unredacted form, as a confidential appendix to the Seventh Report of PricewaterhouseCoopers Inc. ("**PwC**"), in its capacity as the Court-appointed monitor of the Applicants (in such capacity, the "**Monitor**") dated June 1, 2012, filed (the "**Seventh Report**"), and vesting in the Purchaser the Applicants' right, title and interest in and to the assets described in the Sale Agreement (the "**Purchased Assets**"), was heard this day at 393 University Avenue, Toronto, Ontario.

**ON READING** the June 1 Affidavit and the Seventh Report and on hearing the submissions of counsel for Applicants, counsel for the Monitor, counsel for the DIP Lender, counsel for Castcan Investments Inc., counsel for Royal Bank of Canada, counsel for the



Purchaser, counsel for Walgreen Co. \_\_\_\_\_ and no one appearing for any other person on the service list, although duly served as appears from the affidavit of Eunice Baltkois sworn June 1, 2012, filed:

1. **THIS COURT ORDERS AND DECLARES** that service is deemed good and sufficient for all purposes, and service on any party not named in the service list is expressly dispensed with.
2. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the APA by the Applicants is hereby authorized and approved, with such minor amendments as the Applicants, with the consent of the Monitor, may deem necessary. The Applicants are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.
3. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Monitor's certificate to the Purchaser substantially in the form attached as **Schedule "A"** hereto (the "**Monitor's Certificate**"), all of the Applicants' right, title and interest in and to the Purchased Assets described in the APA shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Orders of this Honourable Court in the within proceedings; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on **Schedule "B"** attached hereto (all of which are collectively referred to as the "**Encumbrances**") and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

4. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Monitor's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

5. **THIS COURT ORDERS AND DIRECTS** the Monitor to file with the Court a copy of the Monitor's Certificate, forthwith after delivery thereof.

6. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Applicants are authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Applicants' records pertaining to the Applicants' past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Applicants.

7. **THIS COURT ORDERS** that the Purchaser, by virtue of completion of the purchase of the Purchased Assets pursuant to the APA, is irrevocably and unconditionally released and discharged from any and all Claims against, or liabilities or obligations of, the Applicants other than the Assumed Liability (as defined in the APA) and any liability or obligation of the Applicants required to be performed on or after the date of the Monitor's Certificate under any Contract (as defined in the APA) that forms part of the Purchased Assets.

8. **THIS COURT ORDERS** that the employment of the Employees (as defined in the APA) of the Applicants that are not Transferred Employees (as defined in the APA) shall be terminated by the Vendor without any further act of formality by the Applicants and such termination shall have effect at 11:59 pm on the Closing Date. The Purchaser shall not be deemed to be an employer nor constitute a successor employer of these Employees.

9. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of any of the Applicants and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of any of the Applicants;

the APA, the transaction and distributions provided for in the APA and/or in this Order and the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of any of the Applicants and shall not be void or voidable by creditors of the Applicants, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

10. **THIS COURT ORDERS AND DECLARES** that the *Bulk Sales Act* (Ontario) does not apply to the sale of the Purchased Assets under the APA.

11. **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 and their 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.

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**Schedule "A"**  
**Form of Monitor's Certificate**

Court File No. CV-12-9656-00CL

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

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

**MONITOR'S CERTIFICATE**


**RECITALS**

A. Pursuant to an Order of the Honourable Mr. Justice Morawetz of the Ontario Superior Court of Justice (the "**Court**") dated March 23, 2012, PCAS Patient Care Automation Services Inc. and 2163279 Ontario Inc., doing business as Touchpoint (collectively, the "**Applicants**") were declared companies to which the *Companies' Creditors Arrangement Act* applied and PricewaterhouseCoopers Inc. was appointed as the Monitor of the Applicants (the "**Monitor**").

B. Pursuant to an Order of the Court dated June 4, 2012, the Court approved the asset purchase agreement made as of June 1, 2012 (the "**APA**") between the Applicants and DashRx, LLC (the "**Purchaser**") and provided for the vesting in the Purchaser of the Applicants' right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Monitor to the Purchaser of a certificate confirming: (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in Article 4 of the APA have been satisfied or waived by the Applicants (with consent of the Monitor) and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Monitor.

C. Unless otherwise indicated herein, terms with initial capitals shall have the meanings ascribed to them in the APA.

**THE MONITOR CERTIFIES** the following:

1. The Purchaser has paid and the Monitor has received, in trust, the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the APA;
2. The conditions to Closing as set out in section Article 4 of the APA have been satisfied or waived by the Applicants (with the consent of the Monitor) and the Purchaser;
3. The Transaction has been completed to the satisfaction of the Monitor; and
4. This Certificate was delivered by the Monitor at [*time*] on June , 2012.

**PricewaterhouseCoopers Inc.**, in its capacity as  
*Companies' Creditors Arrangement Act* Monitor of  
PCAS Patient Care Automation Services Inc. and  
2163279 Ontario Inc., and not in its personal or  
corporate capacity

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

**Schedule "B"**  
**Claims to be Deleted and Expunged**

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
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Court File No. CV-12-9656-00CL

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

**Proceedings commenced at Toronto**

**APPROVAL AND VESTING ORDER**

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## **TAB 3**

Revised: May 11, 2010

Court File No. CV-12-9656-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE \_\_\_\_\_ ) \_\_\_\_\_ DAY, THE \_\_\_\_\_ DAY  
JUSTICE \_\_\_\_\_ ) OF \_\_\_\_\_, 20\_\_\_\_

~~BETWEEN:~~

~~PLAINTIFF~~

Plaintiff

~~—and—~~

~~DEFENDANT~~

Defendant

THE HONOURABLE MR. ) TUESDAY, THE 5<sup>th</sup> DAY  
 )  
JUSTICE BROWN ) OF JUNE, 2012

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,  
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PCAS PATIENT CARE AUTOMATION SERVICES INC.  
AND 2163279 ONTARIO INC. (the "Applicants")

APPLICATION UNDER THE COMPANIES' CREDITORS ARRANGEMENT ACT,  
R.S.C. 1985, c. C-36, AS AMENDED

**APPROVAL AND VESTING ORDER**

**THIS MOTION**, made by [RECEIVER'S NAME] in its capacity as the Court-appointed receiver (the "Receiver") of the undertaking, property and assets of [DEBTOR] (the

~~"Debtor")PCAS Patient Care Automation Services Inc. and 2163279 Ontario Inc., doing business as Touchpoint (collectively, the "Applicants"), for an order approving the sale transaction (the "Transaction") contemplated by an asset purchase agreement of purchase and sale (the "Sale Agreement" "APA") between the ReceiverApplicants and [NAME OF PURCHASER]DashRx, LLC (the "Purchaser") dated [DATE] and appended to the Report of the Receiver dated [DATE] (the "Report") made as of June 1, 2012 and appended, in redacted form, to the affidavit of Farouk Ahamed, sworn June 1, 2012, filed (the "June 1 Affidavit"), and appended, in unredacted form, as a confidential appendix to the Seventh Report of PricewaterhouseCoopers Inc. ("PwC"), in its capacity as the Court-appointed monitor of the Applicants (in such capacity, the "Monitor") dated June 1, 2012, filed (the "Seventh Report"), and vesting in the Purchaser the Debtor'sApplicants' right, title and interest in and to the assets described in the Sale Agreement (the "Purchased Assets"), was heard this day at 330393 University Avenue, Toronto, Ontario.~~

~~ON READING the June 1 Affidavit and the Seventh Report and on hearing the submissions of counsel for the Receiver, [NAMES OF OTHER PARTIES APPEARING]Applicants, counsel for the Monitor, counsel for the DIP Lender, counsel for Castcan Investments Inc., counsel for Royal Bank of Canada, counsel for the Purchaser, counsel for Walgreen Co., \_\_\_\_\_ and no one appearing for any other person on the service list, although properlyduly served as appears from the affidavit of [NAME]Eunice Baltkois sworn [DATE]June 1, 2012, filed<sup>†</sup>:~~

~~1. **THIS COURT ORDERS AND DECLARES** that service is deemed good and sufficient for all purposes, and service on any party not named in the service list is expressly dispensed with.~~

~~<sup>†</sup>This model order assumes that the time for service does not need to be abridged. The motion seeking a vesting order should be served on all persons having an economic interest in the Purchased Assets, unless circumstances warrant a different approach. Counsel should consider attaching the affidavit of service to this Order.~~

2. ~~1.~~ **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved,<sup>2</sup> and the execution of the ~~Sale Agreement~~ APA by the ~~Receiver~~<sup>3</sup> Applicants is hereby authorized and approved, with such minor amendments as the ~~Receiver~~ Applicants, with the consent of the Monitor, may deem necessary. The ~~Receiver is~~ Applicants are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

3. ~~2.~~ **THIS COURT ORDERS AND DECLARES** that upon the delivery of a ~~Receiver~~ Monitor's certificate to the Purchaser substantially in the form attached as **Schedule "A"** hereto (the "~~Receiver~~" "Monitor's Certificate"), all of the ~~Debtor's~~ Applicants' right, title and interest in and to the Purchased Assets described in the ~~Sale Agreement~~ [and listed on Schedule B hereto]<sup>4</sup> APA shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims"<sup>5</sup>) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the ~~Order~~ Orders of ~~the~~ this Honourable Justice ~~[NAME]~~ [DATE] Court in the within proceedings; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on **Schedule** ~~"B"~~ "B" attached hereto (all of

<sup>2</sup> In some cases, notably where this Order may be relied upon for proceedings in the United States, a finding that the Transaction is commercially reasonable and in the best interests of the Debtor and its stakeholders may be necessary. Evidence should be filed to support such a finding, which finding may then be included in the Court's endorsement.

<sup>3</sup> In some cases, the Debtor will be the vendor under the Sale Agreement, or otherwise actively involved in the Transaction. In those cases, care should be taken to ensure that this Order authorizes either or both of the Debtor and the Receiver to execute and deliver documents, and take other steps.

<sup>4</sup> To allow this Order to be free-standing (and not require reference to the Court record and/or the Sale Agreement), it may be preferable that the Purchased Assets be specifically described in a Schedule.

<sup>5</sup> The "Claims" being vested out may, in some cases, include ownership claims, where ownership is disputed and the dispute is brought to the attention of the Court. Such ownership claims would, in that case, still continue as against the net proceeds from the sale of the claimed asset. Similarly, other rights, titles or interests could also be vested out, if the Court is advised what rights are being affected, and the appropriate persons are served. It is the Subcommittee's view that a non-specific vesting out of "rights, titles and interests" is vague and therefore undesirable.

which are collectively referred to as the "**Encumbrances**", ~~which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D~~) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

3. ~~THIS COURT ORDERS that upon the registration in the Land Registry Office for the [Registry Division of {LOCATION}] of a Transfer/Deed of Land in the form prescribed by the Land Registration Reform Act duly executed by the Receiver][Land Titles Division of {LOCATION}] of an Application for Vesting Order in the form prescribed by the Land Titles Act and/or the Land Registration Reform Act]~~<sup>6</sup>, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule B hereto (the "Real Property") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.

4. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds<sup>7</sup> from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver<sup>Monitor's</sup> Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale<sup>8</sup>, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

5. **THIS COURT ORDERS AND DIRECTS** the Receiver<sup>Monitor</sup> to file with the Court a copy of the Receiver<sup>Monitor's</sup> Certificate, forthwith after delivery thereof.

6. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver ~~is~~ Applicants are authorized

<sup>6</sup> Elect the language appropriate to the land registry system (Registry vs. Land Titles).

<sup>7</sup> The Report should identify the disposition costs and any other costs which should be paid from the gross sale proceeds, to arrive at "net proceeds".

<sup>8</sup> This provision crystallizes the date as of which the Claims will be determined. If a sale occurs early in the insolvency process, or potentially secured claimants may not have had the time or the ability to register or perfect proper claims prior to the sale, this provision may not be appropriate, and should be amended to remove this crystallization concept.

and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the ~~Company's~~ Applicants' records pertaining to the ~~Debtor's~~ Applicants' past and current employees, ~~including personal information of those employees listed on Schedule "B" to the Sale Agreement.~~ The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the ~~Debtor~~ Applicants.

7. THIS COURT ORDERS that the Purchaser, by virtue of completion of the purchase of the Purchased Assets pursuant to the APA, is irrevocably and unconditionally released and discharged from any and all Claims against, or liabilities or obligations of, the Applicants other than the Assumed Liability (as defined in the APA) and any liability or obligation of the Applicants required to be performed on or after the date of the Monitor's Certificate under any Contract (as defined in the APA) that forms part of the Purchased Assets.

8. THIS COURT ORDERS that the employment of the Employees (as defined in the APA) of the Applicants that are not Transferred Employees (as defined in the APA) shall be terminated by the Vendor without any further act of formality by the Applicants and such termination shall have effect at 11:59 pm on the Closing Date. The Purchaser shall not be deemed to be an employer nor constitute a successor employer of these Employees.

9. 7. THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings;
  - (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of any of the ~~Debtor~~ Applicants and any bankruptcy order issued pursuant to any such applications; and
  - (c) any assignment in bankruptcy made in respect of any of the ~~Debtor~~ Applicants;
- the APA, the transaction and distributions provided for in the APA and/or in this Order and the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of any of the

~~Debtor~~Applicants and shall not be void or voidable by creditors of the ~~Debtor~~Applicants, nor shall it constitute nor be deemed to be a ~~settlement~~, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

10. ~~8.~~ **THIS COURT ORDERS AND DECLARES** that the ~~Transaction is exempt from the application of the *Bulk Sales Act* (Ontario)~~ does not apply to the sale of the Purchased Assets under the APA.

11. ~~9.~~ **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 ~~Reeeiver~~Applicants and ~~its~~their 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 ~~Reeeiver~~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 ~~Receiver and its~~Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

Schedule "A—"  
Form of Receiver~~Monitor~~'s Certificate

Court File No. \_\_\_\_\_CV-12-9656-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
PCAS PATIENT CARE AUTOMATION SERVICES INC.  
AND 2163279 ONTARIO INC. (the "Applicants")

APPLICATION UNDER THE COMPANIES' CREDITORS ARRANGEMENT ACT,  
R.S.C. 1985, c. C-36, AS AMENDED

~~BETWEEN:~~

~~PLAINTIFF~~

Plaintiff

~~—and—~~

~~DEFENDANT~~

Defendant

~~RECEIVER~~MONITOR'S CERTIFICATE

**RECITALS**

A. Pursuant to an Order of the Honourable ~~[NAME OF JUDGE]~~Mr. Justice Morawetz of the Ontario Superior Court of Justice (the "Court") dated ~~[DATE OF ORDER]~~, ~~[NAME OF RECEIVER]~~ was appointed as the receiver (the "Receiver") of the undertaking, property and assets of ~~[DEBTOR]~~ (the "Debtor"). "Court") dated March 23, 2012. PCAS Patient Care Automation Services Inc. and 2163279 Ontario Inc., doing business as Touchpoint (collectively, the "Applicants") were declared companies to which the Companies' Creditors



Arrangement Act applied and PricewaterhouseCoopers Inc. was appointed as the Monitor of the Applicants (the "**Monitor**").

B. Pursuant to an Order of the Court dated ~~[DATE]~~ June 4, 2012, the Court approved the ~~agreement of asset purchase and sale agreement~~ made as of ~~[DATE OF AGREEMENT]~~ June 1, 2012 (the "~~Sale Agreement~~" "**APA**") between the Receiver ~~[Debtor]~~ and ~~[NAME OF PURCHASER]~~ (the "~~Applicants and DashRx, LLC~~ (the "**Purchaser**")") and provided for the vesting in the Purchaser of the ~~Debtor's~~ Applicants' right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver Monitor to the Purchaser of a certificate confirming: (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in section ~~Article 4~~ of the ~~Sale Agreement~~ APA have been satisfied or waived by the Receiver Applicants (with consent of the Monitor) and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver Monitor.

C. Unless otherwise indicated herein, terms with initial capitals shall have the meanings ~~set out ascribed to them~~ in the ~~Sale Agreement~~ APA.

**THE RECEIVER MONITOR CERTIFIES** the following:

1. The Purchaser has paid and the Receiver Monitor has received in trust the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the ~~Sale Agreement~~ APA;

2. The conditions to Closing as set out in section ~~Article 4~~ of the ~~Sale Agreement~~ APA have been satisfied or waived by the Receiver Applicants (with the consent of the Monitor) and the Purchaser; ~~and~~

3. The Transaction has been completed to the satisfaction of the Receiver Monitor; ~~and~~

4. This Certificate was delivered by the Receiver Monitor at \_\_\_\_\_ [TIME time] on \_\_\_\_\_ [DATE] ~~June <\*>~~, 2012.

5.

~~[NAME OF RECEIVER]~~ **PricewaterhouseCoopers Inc.**, in its capacity as ~~Receiver of the undertaking, property and assets of [DEBTOR]~~ Companies' Creditors Arrangement Act Monitor of PCAS Patient Care Automation Services Inc. and 2163279 Ontario Inc., and not in its personal or corporate capacity

P  
er  
:

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

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

Revised: May 11, 2010

**Schedule B—Purchased Assets**

**Schedule C—"B"**

**Claims to be ~~deleted and expunged from title to Real Property~~ Deleted and Expunged**

~~Schedule D—Permitted Eneumbrances, Easements and Restrictive Covenants  
related to the Real Property  
(unaffected by the Vesting Order)~~

~~42637237.1~~

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  
PCAS PATIENT CARE AUTOMATION SERVICES INC. AND 2163279 ONTARIO INC.

(the "Applicants")

Court File No. CV-12-9656-00C1

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST  
Proceedings commenced at Toronto

APPROVAL AND VESTING ORDER

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Document comparison by Workshare Professional on June 1, 2012 5:43:13 PM

Input:	
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Description	#12534281v4<cm> - Approval and Vesting Order - PCAS
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Moved to	1
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Format changed	0
Total changes	298

## **TAB 4**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR.	)	TUESDAY, THE 5 <sup>th</sup> DAY
	)	
JUSTICE BROWN	)	OF JUNE, 2012

**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  
PCAS PATIENT CARE AUTOMATION SERVICES INC.  
AND 2163279 ONTARIO INC. (the "Applicants")**

**APPLICATION UNDER THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED**

**ORDER**

**THIS MOTION**, made by PCAS Patient Care Automation Services Inc. ("**PCAS**") and 2163279 Ontario Inc., doing business as Touchpoint ("**Touchpoint**") and, together with PCAS, the "**Applicants**"), for an order, *inter alia*:

- (a) approving the Seventh Report of PricewaterhouseCoopers Inc. ("**PwC**"), in its capacity as the Court-appointed monitor of the Applicants (in such capacity, the "**Monitor**") dated June 1, 2012, filed (the "**Seventh Report**"), and approving the actions of the Monitor described therein;
- (b) sealing Confidential Appendix "C" to the Seventh Report;
- (c) approving an occupancy agreement between the Applicants and DashRx, LLC (the "**Purchaser**") in respect of the Applicants' premises at 2440 Winston Park Drive, Oakville, Ontario (the "**Winston Park Occupancy Agreement**") in substantially the form attached as Exhibit "E" to the affidavit of Farouk Ahamed, sworn June 1, 2012 (the "**June 1 Affidavit**");



- (d) approving any required occupancy agreement between the Applicants and the Purchaser in respect of the Applicants' premises at 2910 and 2880 Brighton Road, in substantially the form as the Winston Park Occupancy Agreement (the "**Brighton Road Occupancy Agreement**", and, together with the Winston Park Occupancy Agreement, the "**Occupancy Agreements**");
- (e) terminating the Administration Charge and the Directors' Charge (each as defined in, and established by, the Initial Order);
- (f) approving a scheme of distribution of the cash proceeds of the Transaction (as defined in the in the Order of the Honourable Mr. Justice Brown made June 4, 2012 in these proceedings (the "**CCAA Proceedings**") approving of the Sale Agreement, as defined therein (the "**Sale Agreement**"), and vesting in the Purchaser the Applicants' right, title and interest in and to the assets described in the Sale Agreement (the "**Approval and Vesting Order**"));
- (g) approving the distribution of non-cash proceeds of the Transaction to 2320714 Ontario Inc. (the "**DIP Lender**");
- (h) directing that amount of certain tax refunds be paid to the DIP Lender on receipt;
- (i) discharging and releasing the Monitor, upon the filing of the Monitor's Discharge Certificate (as defined herein) with this Court; and,
- (j) terminating the CCAA proceedings, upon the filing of the Monitor's Discharge Certificate with this Court,

was heard this day at 393 University Avenue, Toronto, Ontario.

**ON READING** the June 1 Affidavit and the exhibits thereto, filed, and the Seventh Report, filed, and on hearing the submissions of counsel for the Applicants, counsel for the Monitor, counsel for the DIP Lender, counsel for Castcan Investments Inc. ("**Castcan**"), counsel for Royal Bank of Canada ("**RBC**"), counsel for the Purchaser, counsel for Walgreen Co.

\_\_\_\_\_ and no one appearing for any other person on the

service list, although duly served as appears from the affidavit of Eunice Baltkois sworn June 1, 2012, filed,

2. **THIS COURT ORDERS** that the time for service and filing of the notice of motion and the motion record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

3. **THIS COURT ORDERS** that the Seventh Report be and is hereby approved and the actions and activities of the Monitor described therein be and are hereby approved.

4. **THIS COURT ORDERS** that, until such time as the transaction contemplated in the Sale Agreement is completed, Confidential Appendix "C" to the Seventh Report shall be sealed, kept confidential and not form part of the public record, but rather shall be placed, separate and apart from all other contents of the Court file, in a sealed envelope attached to a notice that sets out the title of these proceedings and a statement that the contents are subject to a sealing order and shall only be opened upon filing of the Monitor's Certificate (as defined in the Approval and Vesting Order).

5. **THIS COURT ORDERS** that

- (a) the Winston Park Occupancy Agreement be and is hereby approved and PCAS be and is hereby authorized and directed to enter into the Winston Park Occupancy Agreement and to complete the transactions contemplated thereby, with such minor amendments as the Applicants, with the consent of the Monitor, may deem necessary;
- (b) the Brighton Road Occupancy Agreement in respect of one or both of the Brighton Road Premises, in substantially the form of the Winston Park Occupancy Agreement, be and is hereby approved and PCAS be and is hereby authorized and directed to enter into the Brighton Road Occupancy Agreement and to complete the transactions contemplated thereby, with such minor amendments as the Applicants, with the consent of the Monitor, may deem necessary; and

(c) notwithstanding:

- (i) the pendency of the CCAA Proceedings;
- (ii) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the “BIA”) in respect of any of the Applicants and any bankruptcy order issued pursuant to any such applications; and
- (iii) any assignment in bankruptcy made in respect of any of the Applicants,

the Occupancy Agreements shall be binding on any trustee in bankruptcy that may be appointed in respect of any of the Applicants (a “Trustee”) and shall not be void or voidable by creditors of the Applicants, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

6. **THIS COURT ORDERS** that the Directors’ Charge be and is hereby terminated, released and discharged upon the filing of the Monitor’s Certificate with this Court.

7. **THIS COURT ORDERS** that distributions from the net cash proceeds of the Transaction (as defined in the Approval and Vesting Order) be made as follows:

- (a) the Applicants be and are hereby authorized and directed to distribute \$[235,315] in connection with employee wage claims, in accordance with Section 36(7) of the *Companies Creditors Arrangement Act* to those employees who are or have been terminated by the Applicants and continue to have any outstanding employee wage claims;

- (b) the Applicants be and are hereby authorized and directed to distribute or direct the Purchaser to distribute the cash component of the consideration payable to the DIP Lender under section 2.3(1)(d) of the Sale Agreement to be used by the DIP Lender (i) to obtain the consent of Royal Bank of Canada and Castcan Investments Inc. or their assignees (collectively, the “**Senior Secured Creditors**”) to the discharge of their security interests and charges over the Purchased Assets and to obtain their consent to the issuance of the Approval and Vesting Order and (ii) as to the balance, to be delivered to the DIP Lender in partial repayment of the credit facility provided pursuant to the Second Amended and Restated DIP Loan Agreement made between the DIP Lender and the Applicants (the “**DIP Facility**”);
- (c) the Applicants be and are hereby authorized and directed to distribute \$[261,000], in the aggregate, to the beneficiaries of the KERP Charge in connection with the KERP (each as defined in, and approved by, the Order of the Honourable Justice Brown made April 16, 2012); and
- (d) the Applicants be and are hereby authorized and directed to distribute \$100,000 to PwC for any fees and expenses incurred by the Monitor in connection with the CCAA Proceedings or any costs of the administration of the anticipated bankruptcies of PCAS, Touchpoint and the other direct and indirect subsidiaries of PCAS.

8. **THIS COURT ORDERS** that, subject to closing of the Transaction, the Purchaser be and is hereby authorized and directed to issue and distribute the non-cash consideration in respect of the Transaction, being the following promissory notes (collectively, the “**Notes**”), in accordance with the terms of the Sale Agreement:

- (a) the Secured Note (as defined in the Sale Agreement) to the DIP Lender;
- (b) the Unsecured Note (as defined in the Sale Agreement) to PCAS, to be held in trust for the benefit of the unsecured creditors of the Applicants;

- (c) the Additional Secured Note (as defined in the Sale Agreement), if applicable, to the DIP Lender; and
- (d) the Additional Unsecured Note (as defined in the Sale Agreement), if applicable, to PCAS or any Trustee, to be held in trust for the benefit of the unsecured creditors of the Applicants.

9. **THIS COURT ORDERS AND DIRECTS**, subject to filing of the Monitor's Certificate in accordance with the Approval and Vesting Order, the Applicants or, if appointed, the Trustee, to pay to the DIP Lender any Tax Credit Entitlements received by them, without deduction, including without limitation:

- (a) an amount equal to any payment received in respect of Touchpoint's February, 2012 Harmonized Sale Tax refund, notwithstanding Section 67 of the *Financial Administration Act*; and
- (b) an amount equal to any payment received in respect of the PCAS' 2011 Scientific Research and Development refundable tax credit entitlements.

10. **THIS COURT ORDERS** that, upon filing by the Monitor of a certificate substantially in the form attached as **Schedule "A"** hereto (the "**Monitor's Discharge Certificate**") certifying that an assignment in bankruptcy has been made in respect of the Applicants:

- (a) PwC be and is hereby discharged and relieved from any further obligations, liabilities, responsibilities or duties in its capacity as Monitor pursuant to the Initial Order, any other order of this Court in the CCAA Proceedings, the CCAA or otherwise; and
- (b) the CCAA Proceedings be and are hereby terminated.

11. **THIS COURT ORDERS** that, in addition to the protections in favour of the Monitor as set out in the Initial Order, in any other Order of this Court or reasons provided by this Court in the CCAA Proceedings or the CCAA, the Monitor shall not be liable for any act or omission on the part of the Monitor, including with respect to any reliance thereof, including without limitation, with respect to any information disclosed, any act or omission pertaining to the

discharge of the Monitor's duties in the CCAA Proceedings or with respect to any other duties or obligations of the Monitor under the CCAA or otherwise, save and except for any claim or liability arising out of any gross negligence or wilful misconduct on the part of the Monitor. Subject to the foregoing and in addition to the protections of the Monitor as set out in the Orders of this Court or any reasons provided by this Court in the CCAA Proceedings, any claims against the Monitor in connection with the performance of its duties as Monitor are hereby released, stayed, extinguished and forever barred and the Monitor shall have no liability in respect thereof.

12. **THIS COURT ORDERS** that no action or other proceeding shall be commenced against the Monitor in any way arising from or related to its capacity or conduct as Monitor except with prior leave of this Court and on prior written notice to the Monitor and such further order securing, as security for costs, the full indemnity costs of the Monitor in connection with any proposed action or proceeding as the Court hearing the motion for leave to proceed may deem just and appropriate.

13. **THIS COURT ORDERS** that, notwithstanding any provision of this Order, nothing contained in this Order shall affect, vary, derogate from or amend any of the rights, approvals and protections in favour of the Monitor pursuant to the Initial Order, any other Order of this Court or reasons provided by this Court in the CCAA Proceedings, the CCAA or otherwise, all of which are expressly continued and confirmed.

14. **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 and their 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.



**Schedule "A"**  
**Form of Monitor's Discharge Certificate**

Court File No. CV-12-9656-00CL

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

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
PCAS PATIENT CARE AUTOMATION SERVICES INC.  
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**APPLICATION UNDER THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED**

**MONITOR'S CERTIFICATE**  
**(DISCHARGE)**

**RECITALS**

A. Pursuant to an Order of the Honourable Mr. Justice Morawetz of the Ontario Superior Court of Justice (the "**Court**") dated March 23, 2012, PCAS Patient Care Automation Services Inc. and 2163279 Ontario Inc., doing business as Touchpoint (collectively, the "**Applicants**") were declared companies to which the *Companies' Creditors Arrangement Act* (the "**CCAA**") applied and PricewaterhouseCoopers Inc. ("**PwC**") was appointed as the Monitor of the Applicants (the "**Monitor**").

B. Pursuant to an Order of the Court dated June 4, 2012 (the "**Discharge Order**"), PwC was discharged as Monitor of the Applicants to be effective upon the an assignment in bankruptcy being made in respect of the Applicants.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Discharge Order.



**THE MONITOR CERTIFIES** that an assignment in bankruptcy has been made in respect of the Applicants.

**PRICEWATERHOUSECOOPERS INC.,  
solely in its capacity as *Companies' Creditors  
Arrangement Act* Monitor of PCAS Patient  
Care Automation Services Inc. and 2163279  
Ontario Inc., and not in its personal or  
corporate capacity**

Per:

---

Name:

Title:

**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  
PCAS PATIENT CARE AUTOMATION SERVICES INC. AND 2163279 ONTARIO INC.  
(the "Applicants")**

Court File No. CV-12-9656-00CL

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

**Proceedings commenced at Toronto**

**ORDER**

**AIRD & BERLIS LLP**  
Barristers and Solicitors  
Brookfield Place  
181 Bay Street, Suite 1800  
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*Lawyers for the Applicants*

## **TAB 5**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF  
PCAS PATIENT CARE AUTOMATION SERVICES INC.  
AND 2163279 ONTARIO INC. (the "Applicants")**

**APPLICATION UNDER THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED**

**AFFIDAVIT OF FAROUK AHAMED  
(sworn June 1, 2012)**

I, **FAROUK AHAMED**, of the Town of Oakville, in the Province of Ontario, **MAKE OATH AND SAY AS FOLLOWS:**

1. I am director of PCAS Patient Care Automation Services Inc. ("**PCAS**"), which indirectly owns 49% of 2163279 Ontario Inc., doing business as Touchpoint. As such, I have personal knowledge of the matters to which I hereinafter depose in this Affidavit. Where I do not have personal knowledge of the matters set out herein, I have stated the source of my information and, in all such cases, believe it to be true.

2. This Affidavit is sworn in support of a motion (the "**Motion**") by PCAS and Touchpoint (collectively, the "**Applicants**") for one or more orders, among other things:

- (a) approving the Seventh Report (the "**Seventh Report**") of PricewaterhouseCoopers Inc. ("**PwC**"), in its capacity as the Court-appointed monitor of the Applicants (in such capacity, the "**Monitor**") and approving the actions of the Monitor described therein;

- (b) approving the agreement of purchase and sale between the Applicants and DashRx, LLC (“**DashRx**”) dated June 1, 2012 (the “**Purchase Agreement**”), and vesting the Purchased Assets (as defined in the Purchase Agreement) in DashRx;
- (c) sealing the Confidential Appendix to the Seventh Report (the “**Confidential Appendix**”);
- (d) approving occupancy agreements in respect of one or more of the Applicants’ leased premises;
- (e) terminating the Administration Charge and the Directors’ Charge (each as defined in, and established by, the Initial Order);
- (f) approving a scheme of distribution of the cash proceeds of the transaction contemplated by the Purchase Agreement (the “**Transaction**”);
- (g) approving the distribution of non-cash proceeds of the Transaction to 2320714 Ontario Inc. (the “**DIP Lender**”) and the Applicants, in trust for unsecured creditors;
- (h) directing that amount of certain tax refunds be paid to the DIP Lender on receipt;
- (i) discharging and releasing the Monitor, upon the filing of a Monitor’s discharge certificate with the Court; and
- (j) terminating these CCAA proceedings (the “**CCAA Proceedings**”), upon the filing of a Monitor’s discharge certificate with the Court.

## **BACKGROUND**

3. On March 23, 2012, the Applicants made an application under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) seeking court protection from their creditors, which was granted pursuant to the Initial Order of the Honourable Mr. Justice Morawetz granted on March 23, 2012 in these proceedings (the “**Initial Order**”).

4. Pursuant to the Initial Order, PricewaterhouseCoopers Inc. was appointed as CCAA Monitor (the “**Monitor**”).

5. Pursuant the Order of the Honourable Justice Brown made May 14, 2012 (the “**May 14 Order**”), a sale and investor solicitation process (the “**SISP**”) was approved. A copy of the May 14 Order is attached as **Exhibit “A”** to this Affidavit.

6. Pursuant the Order of the Honourable Justice Brown made May 28, 2012 (the “**May 28 Order**”), the Stay Period (as defined in the Initial Order) was extended to June 6, 2012.

### **THE SALE AND INVESTOR SOLICITATION PROCESS**

7. The Applicants developed the SISP with the assistance of the Monitor, the Monitor’s agent, PricewaterhouseCoopers Corporate Finance Inc. (“**PwCCF**”) and the DIP Lender. The SISP was intended to maximize stakeholder value through either (a) a going concern sale with respect to the Applicants’ business and assets or (b) new investment and a plan of compromise or arrangement. The SISP set out the procedural and substantive requirements for a qualified purchase or investment bid (a “**Qualified Bid**”). A copy of the SISP Summary is attached as a schedule to the May 14 Order at Exhibit “A” to this Affidavit.

8. A feature of the SISP was the DIP Lender’s “stalking horse” bid (the “**Stalking Horse Bid**”) pursuant to which the DIP Lender committed to purchasing the property, assets and undertaking of the Applicants, at a price equivalent to the total indebtedness of the Applicants to the DIP Lender (the “**DIP Indebtedness**”) plus the total amount of outstanding secured claims ranking senior to the DIP Charge and the DIP Lender’s security (the “**Stalking Horse Price**”) if no other Qualified Bid offering value in excess of the Stalking Horse Price was received. The DIP Lender would pay the Stalking Horse Price by a release of the DIP Indebtedness and the assumption of the outstanding senior secured claims. The Stalking Horse Bid was not a true stalking horse bid in that, apart the Stalking Horse Price, the terms of the Stalking Horse Bid were not required to be emulated in other Qualified Bids. The Stalking Horse Bid simply served to set a floor price in the SISP. A copy of the executed Stalking Horse Bid asset purchase agreement was placed in the Data Room on May 23, 2012.

9. The SISP was conducted by the Applicants with the support and assistance of the Monitor. Since before the commencement of these CCAA proceedings, members of the board of directors of PCAS (the “**Board**”) had been in separate dialogues with a significant number of parties who were interested in either investing in the DIP Lender to provide financing to the Applicants, purchasing the assets of the Applicants, or buying PCAS itself. It was felt that continuity in these developing relationships would yield the most positive results, and therefore the Applicants chose, with the support of the DIP Lender, to lead the SISP.

10. With the assistance of PwCCF and the Monitor, PCAS:

- (a) updated and expanded the contents of the Applicants’ electronic due diligence data room (the “**Data Room**”), which revamped Data Room came online and was available on May 16, 2012, and was regularly updated with new documents as they became available;
- (b) identified 184 potential bidders from around the globe and contacted 164 of them. The list included 89 potential financial bidders and 75 potential strategic bidders such as pharmacy retailers, pharmaceutical distributors, healthcare companies and automated vending companies;
- (c) developed a three-page “teaser” (the “**Teaser**”), which was circulated to 121 of the identified parties, a copy of which Teaser is attached as **Exhibit “B”** to this Affidavit
- (d) developed a confidential information memorandum (the “**CIM**”) which was posted to the data room and sent to the all of the 18 interested parties who had executed a non-disclosure agreement;
- (e) conducted site tours at the Premises, with the Monitor in attendance, for seven potential bidders (most of whom had already been in discussions with the Board earlier in the CCAA Proceedings);
- (f) developed a non-reliance letter for Qualified Bidders to sign in order to be able to review third-party review of the PCAS technology prepared for the Board (the

**“Technology Review”**), and to speak to the authors of the Technology Review;  
and

- (g) facilitated meetings with the authors of the Technology Review at the requests of two potential bidders.

11. Under the terms of the SISP, bids were due by 12:00 p.m. on May 24, 2012 (the **“Bid Deadline”**). Two bids, including the DashRx bid, were received before the Bid Deadline, and one further bid was received on May 24, 2012 but after the BID Deadline. These three bids were reviewed in a series of meetings held by Applicants, the DIP Lender, the Monitor and their respective counsels, on May 24 and May 25, 2012. As discussed below, and in further detail in a confidential appendix to the Seventh Report, after consulting with the Monitor and the DIP Lender, the Applicants, through a Board member or their counsel, communicated with all three bidders over the course of that weekend, and selected the DashRx as the Successful Bid under the SISP on Sunday, May 27, 2012.

12. As detailed in the Affidavit of Kym Anthony sworn May 27, 2012 in support of the motion for the May 28 Order (the **“May 27 Affidavit”**), a communication was sent by email to the shareholders of PCAS the evening of Sunday, May 27, 2012, updating them on the status of the SISP. A further update was sent on May 30, 2012, a copy of which shareholder notice is attached as **Exhibit “C”** to this Affidavit.

13. The Applicants believe that the SISP has been a fair and reasonable process, conducted in accordance with its approved terms and in close consultation with the DIP Lender and the Monitor.

#### **THE UNSUCCESSFUL BIDS**

14. Both of the unsuccessful bids came from parties who had been conducting due diligence and expressing interests in making bids for a number of weeks prior to the commencement of the SISP. Throughout that time the Board was in regular contact with both of these bidders.

15. The bidder who missed the Bid Deadline (**“Unsuccessful Bidder 1”**) had been in communication with PCAS, and then both PCAS and the Monitor, since late April, had access to



the Data Room, and had attended at the Applicants' premises. Unsuccessful Bidder 1 was offered a meeting with the authors of the Technology Review, but it declined.

16. Unsuccessful Bidder 1 had previously written to PCAS and to the Monitor to express its intentions to make a bid, to present some of the expected terms of that bid, and to seek clarification of the requirements for a Qualified Bid in the SISP. Most recently, the Monitor emailed Unsuccessful Bidder 1 on May 22, 2012 to advise how the latter's proposed bid might need to be altered to meet the SISP requirements for a Qualified Bid.

17. The bid submitted by Unsuccessful Bidder 1 was received the evening of May 24. As set out in the confidential appendix to the Seventh Report, the bid provided no cash consideration to the Applicants. On the evening of May 25, 2012, the Applicants' counsel sent a letter to Unsuccessful Bidder 1 advising it that its bid was not a Qualified Bid and that certain additional details, including details regarding the valuation of the non-cash consideration, would need to be provided before it could be considered a Qualified Bid. The deficiencies in the bid were substantially the same potential deficiencies that the Monitor had warned Unsuccessful Bidder 1 about on May 22. The Applicants' counsel advised Unsuccessful Bidder 1 that the Applicants would consider asking the Monitor to consent to a request to waive certain requirements to become a Qualified Bid if the appropriate clarifications were received from Unsuccessful Bidder 1, but reserved the right not to request that the Monitor waive any requirements contained in the SISP. Unsuccessful Bidder 1 did not respond to the request for clarification or a follow-up email sent by the Applicant's counsel on May 26. This bid was therefore not treated as a Qualified Bid.

18. The one bidder other than DashRx who submitted its bid prior to the Bid Deadline ("**Unsuccessful Bidder 2**") had been in communication with the Board for approximately one month prior to the commencement of the SISP. Unsuccessful Bidder 2 had consistently expressed an intention to purchase PCAS with cash. Because Unsuccessful Bidder 2 was a foreign entity, the Board repeatedly encouraged it to retain Ontario insolvency counsel, and even introduced it to a reputable law firm that is known to provide a significant amount of service to companies from Unsuccessful Bidder 2's home country. The Board also repeatedly encouraged Unsuccessful Bidder 2 to wire funds to Canadian counsel either to serve as an investment in the DIP Facility via the DIP Lender, or as a deposit or purchase price for an eventual bid.

19. The Applicants received a letter from Unsuccessful Bidder 2 on the morning of May 23, 2012, one day before the Bid Deadline, which letter expressed, again, Unsuccessful Bidder 2's intention to make an offer to buy PCAS for cash. It was not clear, however whether this letter formed a binding offer, and it did not contain, nor was it accompanied by, sufficient evidence of Unsuccessful Bidder 2's financial ability to close the transaction it was proposing. As detailed in the confidential appendix to the Seventh Report, the Board member who had been Unsuccessful Bidder 2's primary point of contact wrote by email, on May 23, to advise Unsuccessful Bidder 2 that, and how, the bid would have to be altered to satisfy the requirements of Qualified Bid in the SISP. This email was followed up by a phone call from the same Board member and the Monitor to Unsuccessful Bidder 2 on the morning of May 24.

20. When no revised bid was received from Unsuccessful Bidder 2 by the Bid Deadline, the Board, in consultation with the Monitor, wrote, on the evening of May 24, to advise that the May 23 bid was not a Qualified Bid under the SISP, and to highlight some of the deficiencies of the bid. This email reserved the Applicants' rights not to request that the Monitor waive any requirements of the SISP in favour of Unsuccessful Bidder 2.

21. Unsuccessful Bidder 2 responded to the Applicants' inquiries on Sunday, May 27, 2012, but did not provide any material new information. Unsuccessful Bidder 2's bid was therefore not treated as a Qualified Bid under the SISP.

## **THE PURCHASE AGREEMENT**

22. DashRx submitted an earlier version of the Purchase Agreement prior to the Bid Deadline on May 24, 2012. Although not a requirement, it was the only bid received in the form of a formal asset purchase agreement. At that time DashRx also remitted a cash deposit to the Monitor.

23. As described in the May 27 Affidavit, DashRx is a Delaware limited liability corporation formed by a large, California-based investment fund (the "**Investment Manager**") to purchase the assets of the Applicants. The Investment Manager has approximately US\$500 million in assets under management, almost exclusively in the health care and pharmaceutical sectors. The Investment Manager had been performing due diligence and engaging in talks with the

Applicants for several months prior to the commencement of the CCAA Proceedings, with an aim to investing in or purchasing PCAS. PCAS was originally introduced to the Investment Manager through a PCAS management employee (soon to be DashRx employee) who had formerly worked with one of the Investment Manager's original, principal investors.

24. We are advised by counsel to DashRx and counsel to the major U.S. retail pharmacy chain, Walgreen Co. ("**Walgreen**"), that Walgreen will be participating in the Successful Bid as a substantial investor in DashRx. Walgreen is the potential large U.S. customer identified in previous affidavits as the "U.S. Chain" with and for whom PCAS has continued, throughout the CCAA Proceedings, to work toward enhancing the PharmaTrust MedCentre technology, with such work funded by the DIP Facility.

25. By the evening of Sunday, May 27, 2012, the materials terms of the Purchase Agreement were settled to a point that the Applicants, in consultation with the DIP Lender and the Monitor, were prepared to recognize the Purchase Agreement as a Qualified Bid, as a bid superior to the Staking Horse Bid, and to identify it as the Successful Bid under the SISP, subject to final negotiation of the APA.

26. In the May 27 Affidavit and before the Court on May 28, 2012, the Applicants advised the Court that they expected the Purchase Agreement to be finalized, executed and delivered by the Successful Bidder and the Applicants by May 29, 2012. In fact, the Purchase Agreement was not finalized, executed and delivered by the parties until June 1, 2012. A copy of the executed Purchase Agreement, with pricing information redacted, is attached as **Exhibit "C"** to this Affidavit. The Applicants feel such redaction is necessary to preserve the integrity of the SISP and the market value of the Applicants' assets should the Transaction fail to close and the Applicants be forced to re-start the SISP. An unredacted copy of the Purchase Agreement will be included in the confidential appendix to the Seventh Report, in respect of which appendix the Applicants will be seeking a sealing order effective until closing of the Transaction ("**Closing**").

27. The consideration to be paid under the Purchase Agreement is a combination of assumption of secured liabilities, cash, and secured and unsecured convertible promissory notes to be issued to the Applicants' creditors, including unsecured creditors. It is not expected there will be any surplus proceeds from the Transaction for PCAS shareholders. The Applicant

believe the consideration being given by DashRx in the Transaction is reasonable and fair, and reflects the market value of the Applicants' assets, property and undertaking given the large amount of post-Closing funding that will be required to bring the PharmaTrust MedCentre technology to commercialization.

28. Based on discussions with the Purchaser, the Applicants believe that the conversion features of the promissory notes given by DashRx will ensure that, up to and including the maturity date of such notes, the holders of those notes will be treated no less favourably with respect to the conversion privilege attached to the notes than the initial investors who have committed to provide the initial capitalization and operational funding for DashRx through the acquisition of convertible preferred shares. As of the time of swearing this affidavit, DashRx has not yet provided drafts of the notes to the Applicants or the DIP Lender for review and, as a result, the Applicants and the DIP Lender are proceeding in good faith on the assurances that have been provided by DashRx.

29. DashRx also committed to provide \$250,000 to fund the Applicants' operations from May 31, 2012 to Closing (no later than June 6, 2012). This funding was received on May 31, 2012.

## **DISTRIBUTION**

30. Pursuant to the Initial Order, the Administration Charge, ranks ahead of all other security interests in the Applicants property. The Applicants are, therefore, seeking to have the Administration Charge terminated, effective upon Closing, in order to allow distribution of Transaction proceeds to be made to creditors with claims otherwise ranking below the Administrative Charge.

31. Pursuant to the Initial Order the DIP Charge ranks subordinate to any perfected security interests existing on the date of the Initial Order. Initially DashRx intended to assume, as part of the purchase price, the Applicants' obligations to all the secured creditors ranking ahead of the DIP Charge, namely Royal Bank of Canada ("**RBC**"), Castcan Investments Inc. ("**Castcan**") and IBM Canada Limited ("**IBM**"). DashRx likely will assume the Applicants' obligations to IBM, but Castcan and RBC now insist on getting paid out before any cash consideration flows to the

DIP Lender. The secured claims of RBC and Castcan are therefore now going to be dealt with as detailed in paragraph 32 below.

32. The cash portion of the purchase price is designated for:

- (a) distribution in payment of all statutory priority claims, comprised of approximately \$235,000 in accrued and unpaid vacation pay;
- (b) distribution to the DIP Lender to be used by the DIP Lender:
  - (i) first, to obtain the consent of RBC and Castcan, or their respective assignees (collectively, the “**Senior Secured Creditors**”) to the discharge of their security interests and charges over the Purchased Assets and to obtain their approval of the issuance of an approval and vesting order in respect of the Sale Agreement and the Transaction (the “**Approval and Vesting Order**”); and
  - (ii) as to the balance, in partial satisfaction of the DIP Indebtedness;
- (c) payment of the amounts payable under the key employee retention plan approved by Order of the Honourable Justice Brown made May 14, 2012 (the “**KERP**”) upon Closing, as detailed in paragraphs 42 and 43 below; and
- (d) payment of \$100,000 to the Applicants, in trust for a trustee in bankruptcy to be appointed in respect of PCAS, Touchpoint and the other direct and indirect subsidiaries of PCAS (the “**Trustee**”), to pay costs of administration in their anticipated bankruptcies (as discussed in more detail at paragraph 46 and following below).

33. Although the DIP Indebtedness is not being paid out (as detail in paragraph 39 below), let alone paid out in cash, the DIP Lender has consented to the payments of cash on account of the KERP and the future costs of bankruptcy estate administration. Because the Directors’ Charge ranks ahead of the KERP Charge pursuant to the Initial Order, the Applicants are seeking to have the Director’s Charge terminated effective upon Closing.

34. The non-cash portion of the purchase price in the Transaction will be comprised of:

- (a) the assumption of secured obligations to IBM;
- (b) one or more interest bearing promissory notes issued, on direction of the Applicants, in favour of the DIP Lender, secured against the assets of DashRx and ranking junior only to the secured assumed obligations to IBM (each, a “**Secured Note**”); and
- (c) one or more interest bearing unsecured promissory notes issued to Applicants, in trust, for the pool of unsecured creditors of the Applicants (each, an “**Unsecured Notes**”).

35. The promissory notes to be issued to the DIP Financiers and to the Applicants in trust for the unsecured creditors will likely be issued in two tranches, for reasons described in paragraph 40 below, and will be convertible to common shares of the DashRx and the end of the note term.

36. Upon paying out the claims of the Senior Secured Creditors from cash proceeds it receives on Closing, the DIP Lender will be subrogated to and/or take assignment of Senior Secured Creditor’s claims. Scientific Research and Experimental Development (“**SR&ED**”) refundable tax credit entitlements, Ontario Innovation Tax Credit (“**OITC**”) refunds and harmonized sales tax (“**HST**”) refunds are now all excluded assets under the Purchase Agreement and thus the claims thereon will not be vested out by operation of the Approval and Vesting Order. The Applicants are expected to receive sizable SR&ED, OITC and HST receivables within a matter of weeks. When these refunds are received by the Applicants or a Trustee (if appointed), they will be subject to: (a) the assumed and/or subrogated claims of the DIP Lender (subject to the issues discussed in paragraph 37 below); and (b) the DIP Charge to the extent some portion of DIP Indebtedness remains outstanding as discussed in paragraph 39 below. The Applicants are seeking an order authorizing and directing the Applicants and any Trustee appointed to distribute to the DIP Lender amounts equal to any such SR&ED or OITC credits and/or HST refunds received. By such distributions, the DIP Lender is, therefore, expected to recoup at least part of the purchase price cash it will flow through to the Senior Secured Creditors on Closing.

37. The impetus for the this somewhat complicated treatment of the claims of the Senior Secured Creditors is that fact that the Monitor's counsel was unable to give the opinion that Castcan had an enforceable ownership or security interest in the February, 2012 Touchpoint HST refund (the "**HST Refund**") that it ostensibly purchased from the Applicants as part of a factoring arrangement aimed at providing emergency payroll funding to PCAS approximately two weeks prior to the Initial Order. As detailed in the Seventh Report, the Monitor's counsel has concern that, because of the Section 67 of the *Financial Administration Act* (Canada) ("**FAA**"), the purported sale of the HST Refund may be of no effect and the security granted in respect thereof may not be valid and enforceable. At the same time, however, the intercreditor agreements between the DIP Lender and Castcan embodied in the Pari Passu Priorities Agreement (that was put in place, *inter alia*, to govern the priorities between the financiers of the DIP Lender) prevent the DIP Lender from accepting a distribution until Castcan is paid in full, and require the DIP Lender to hold any such distribution in trust for, and pay it over to, Castcan.

38. The Applicants and the DIP Lender also wish to preserve the deal that their clients struck with Castcan and recognize the importance of the funding that Castcan provided through its emergency factoring. As stated in the Seventh Report, the Monitor also thinks it would be inequitable to take from Castcan and unjustly enrich the Applicants and their other creditors.

39. The DIP Lender will not need to rely on the factoring agreement and security it assumes from Castcan for its secured claim to the proceeds of the HST Refund. It can rely on the DIP Charge which will remain in place post-Closing due to the shortfall the DIP Lender will suffer because it is taking its distribution of the proceeds of the Transaction partly in promissory notes. The DIP Lender takes the position that the fair market value of such promissory notes will be less than their face value because there is no secondary market for them, thus putting any holder of the notes at risk that the notes will not hold their value until maturity. The DIP Lender is of the view that the notes should be discounted by at least the amount of the HST Refund and the Applicants and the Monitor support the DIP Lender's view

40. If the aggregate amount all SR&ED and OITC tax credits and HST refunds received by the Applicants or a Trustee post-Closing (and subsequently distributed to the DIP Lender) end up being less than the aggregate amount that the DIP Lender paid to RBC and Castcan out of the

cash proceeds of the Transaction on Closing, then the DIP Lender will be issued an additional Secured Note to cover the difference (the “**Additional Secured Note**”). The amount of the Additional Secured Note will come out of the pool of funds otherwise set aside for the unsecured creditors of the Applicants. The Unsecured Note issued on Closing will therefore be less than the total pool of possible proceeds for unsecured creditors, and an additional Unsecured Note will be issued to the Trustee for the benefit of the unsecured creditors once the face amount of the Additional Secured Note is known.

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

41. As approved by the April 16 Order, the KERP originally benefitted twenty employees and allowed for a total maximum allocation of \$500,000. The KERP was to be paid in the following instalments:

- (a) 20% upon \$8,000,000, in the aggregate, being raised by the DIP Lender for funding the DIP Facility, and PCAS receiving authorization of this Court to borrow up to or in excess of that amount;
- (b) 20% at the midway mark of a sale and investor solicitation process approved by the Court; and
- (c) the balance upon the earliest of (i) the closing of a sale of all or substantially all of the assets, property and undertaking of the Applicants or (ii) Court approval and sanction of a plan of arrangement or compromise in the CCAA Proceedings.

42. Because the commitment under the DIP Facility never reached \$8,000,000, the initial 20% payment was never made. The second scheduled 20% payment was made on May 25, 2012. The final payment of the balance or 60% will be paid from the cash proceeds of the Transaction as detailed in subparagraph 32(c) above.

43. Due to attrition, there remain only sixteen employees participating in the KERP. The final 60% instalment payable from proceeds of the Transaction will total \$242,100, at which point \$322,800 in KERP payments will have been made.



## **OCCUPANCY AGREEMENT**

44. A condition of the Sale Agreement is that PCAS provide DashRx with post-Closing occupancy and access to the Applicants' leased premises at 2440 Winston Park Drive. DashRx will pay all rent and other occupancy costs, and will appropriately indemnify the Applicants. The Applicants are seeking approval of, and authorization to enter into, an occupancy agreement with DashRx (the "**Occupancy Agreement**") in substantially the form attached as **Exhibit "E"** to this Affidavit. It is possible that short-term occupancy post-Closing occupancy of one or both of the Applicants' premises at 2910 and 2880 Brighton Road will also be required, and thus the order sought would also approve, and authorize the Applicants to enter into, an agreement in the same form as the Occupancy Agreement with respect to those other premises.

## **SEALING ORDER**

45. An order sealing the Confidential Appendix until closing of the Transaction is required because the Confidential Appendix contains an unredacted copy of the Purchase Agreement, unredacted copies of the unsuccessful bids, and copies of communications between the various bidders and the Applicants and/or the Monitor, all of which contain commercially sensitive information, the release of which would prejudice the stakeholders of the Applicants;

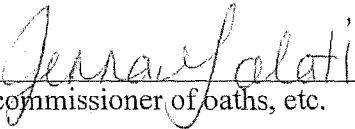
## **BANKRUPTCY**

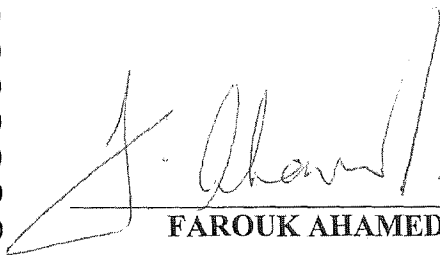
46. It is the Applicants' intention to file an assignment in bankruptcy immediately post-closing and to appoint PwC as trustee of their estates. The Applicants are therefore seeking an order terminating the CCAA Proceedings and discharging PwC as Monitor upon the bankruptcies.

47. The bankruptcy proceedings will be used to determine the entitlement of the unsecured creditors to the Unsecured Notes through the statutory claims process provided under the *Bankruptcy and Insolvency Act*.

48. This Affidavit is sworn in support of the relief requested by the Applicants and for no other or improper purpose.

**SWORN BEFORE ME** at the Town of  
Oakville, in the Province of Ontario,  
this 1<sup>st</sup> day of June, 2012.

  
A commissioner of oaths, etc.

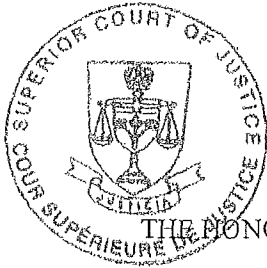
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**FAROUK AHAMED**

# **TAB A**

Attached is Exhibit "A" Referred to in the  
AFFIDAVIT OF FAROUK AHAMED  
Sworn before me this 1<sup>st</sup> day of June, 2012

A handwritten signature in cursive script, reading "Jenna Galati", is written over a horizontal line.

Commissioner for taking Affidavits, etc



Court File No. CV-12-9656-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE MR.

JUSTICE BROWN

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)  
)

MONDAY, THE 14<sup>th</sup> DAY

OF MAY, 2012

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  
PCAS PATIENT CARE AUTOMATION SERVICES INC.  
AND 2163279 ONTARIO INC. (the "Applicants")

APPLICATION UNDER THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED

ORDER

THIS MOTION, made by PCAS Patient Care Automation Services Inc. and 2163279 Ontario Inc., doing business as Touchpoint (collectively, the "Applicants"), for an order, *inter alia*: (a) approving the Fifth Report of PricewaterhouseCoopers Inc. ("PwC"), in its capacity as the Court-appointed monitor of the Applicants (in such capacity, the "Monitor") dated May 11, 2012, filed (the "Fifth Report"), and approving the actions of the Monitor described therein; (b) increasing the amount the Applicants are currently authorized to borrow under the credit facility (the "DIP Facility") from 2320714 Ontario Inc. (the "DIP Lender") from \$5,350,000 to \$6,000,000; and (c) approving a sale and investor solicitation process (the "SISP"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Loreto Grimaldi, sworn May 11, 2012 (the "May 11 Affidavit"), filed, and the exhibits thereto and the Fifth Report, and on hearing the submissions of counsel for the Applicants, counsel for the Monitor, counsel for the DIP Lender, counsel for Castcan Investments Inc., counsel for Royal Bank of Canada \_\_\_\_\_ and no one appearing for any other person on the

service list, although duly served as appears from the affidavit of Eunice Baltkois sworn May 11, 2012, filed,

1. **THIS COURT ORDERS** that the time for service and filing of the notice of motion and the motion record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof

2. **THIS COURT ORDERS** that the Fifth Report be and is hereby approved and the actions of the Monitor described therein be and are hereby approved.

3. **THIS COURT ORDERS** that paragraph 31 of the Initial Order of the Honourable Mr. Justice Morawetz granted on March 23, 2012 in these proceedings (the "Initial Order") be and is hereby amended to provide as follows:

31. **THIS COURT ORDERS** that the Applicants are hereby authorized and empowered to obtain and borrow under a credit facility from 2320714 Ontario Inc. (the "DIP Lender") in order to finance the Applicants' working capital requirements and other general corporate purposes and capital expenditures, provided that borrowings under such credit facility shall not exceed the principal amount of \$6,000,000 unless permitted by further Order of this Court.

4. **THIS COURT ORDERS THIS COURT ORDERS** that SISP as described in the May 11 Affidavit and the Fifth Report, and as attached as **Schedule "A"** hereto is hereby approved.

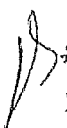
5. **THIS COURT ORDERS** that the Applicants are hereby authorized and directed to take such steps as they consider necessary or desirable to carry out the SISP and any step taken by the Applicants in connection with the SISP prior to the date hereof is hereby approved and ratified.

6. **THIS COURT ORDERS** that the Monitor, to the extent it assists with the SISP, shall have no personal or corporate liability in connection with the SISP, including, without limitation:

- (a) by advertising the SISP, including, without limitation, the opportunity to acquire all or a portion of the assets, property and undertakings of the Applicants (the "Property") or invest by way of equity or debt in the businesses of the Applicants (the "Business");

- (b) by exposing the Property to any and all parties, including, but not limited to, those parties who have made their interests known to the Monitor;
- (c) by responding to any and all requests or inquiries in regards to due diligence conducted in respect of the Applicants or the Property;
- (d) through the disclosure of any and all information regarding the Applicants or the Property arising from, incidental to or in connection with the SISP;
- (e) pursuant to any and all offers received by the Applicants in accordance with the SISP; and
- (f) pursuant to any agreements entered into by any of the Applicants in respect of the sale of any of the Property or the investment in or financing of the Business.

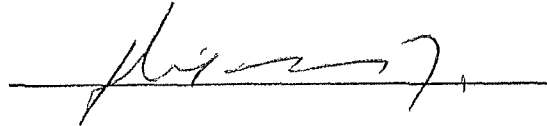
7. **THIS COURT ORDERS** that, in connection with the SISP and pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Applicants shall disclose personal information of identifiable individuals to prospective investors, financiers, purchasers or bidders and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more investment, finance or sale transactions (each, a "**Transaction**"). Each prospective investor, financier, purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Transaction, and if it does not complete a Transaction, 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 any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Applicants, and shall return all other personal information to the Applicants or the Monitor, or ensure that all other personal information is destroyed.

 8. ~~**THIS COURT ORDERS** that Paragraph 5 of the Order of the Honourable Mr. Justice Brown made on May 7, 2012 in these proceedings (the "**May 7 Order**") be and is hereby amended to provide as follows:~~

5. ~~THIS COURT ORDERS that the Monitor's powers pursuant to paragraph 23 of the Initial Order are hereby expanded to include the power to assist the Applicants in a sale and investor solicitation process.~~

9. ~~THIS COURT ORDERS that Paragraph 6 of the May 7 Order be and is hereby deleted in its entirety.~~

8-8 10. THIS COURT ORDERS that any interested party (including the Applicants and the Monitor) may bring a motion to this Court to vary or amend this Order (provided that the beneficiary of any Charge shall be entitled to rely on the Charges up to and including the day on which such Charge or the priority granted to such Charge may be varied or amended), which motion must be returnable by no later than May 18, 2012 or such later date as the parties affected may agree, on not less than three (3) days' notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.



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## SCHEDULE "A"

### PCAS Sales and Investor Search Process ("SISP") Summary

#### Defined Terms

1. All capitalized terms used but not otherwise defined herein have the meaning given to them in the Order granted by the Ontario Superior Court of Justice (the "Court") on March 23, 2012 (the "Initial Order") in respect of the Applicants proceedings commenced under the *Companies' Creditors Arrangement Act* (the "CCAA").

#### SISP Procedures

2. The SISP Procedures set forth herein describe, among other things, the Applicants' Property available for sale and the opportunity for an investment in the Applicants' business, the manner in which the prospective bidder may gain access to or continue to have access to due diligence materials, the manner in which bidders and bids become Qualified Bidders (as defined below) and Qualified Bids (as defined below), respectively, the receipt and negotiations of bids received, the ultimate selection of a Successful Bidder (as defined below) and the Court's approval thereof.
3. The Applicants, with the assistance of the Monitor (the "SISP Team"), will compile a listing of prospective purchasers and investors. The SISP Team will make best efforts to contact all parties identified in the list as well as any additional parties that the SISP Team believes could be a potential strategic or financial purchaser or investor.
4. The Applicants, with the assistance and support of the Monitor (who will also monitor the process), will conduct a sale and investor solicitation process whereby prospective purchasers and investors will have the opportunity to submit a bid for the Applicants' Property or make an investment in the Applicants.
5. As soon as possible, the SISP Team will distribute to prospective purchasers and investors a solicitation letter summarizing the acquisition and/or investment opportunity (the "Teaser"). The Teaser will include a form of confidentiality agreement ("CA") that

prospective purchasers and investors will be required to sign in order to gain access to confidential information and to perform due diligence. Those parties who have already executed a confidentiality agreement with the Applicants (also a "CA" for the purposes hereof) may not be required to execute a new confidentiality agreement.

6. In order for a prospective bidder to sign a CA and participate in the SISP, the Applicants and the Monitor must receive the following from such prospective bidder:
  - (a) information sufficient, in the Applicant's discretion and in consultation with the Monitor, to identify the prospective bidder and to prove that the prospective bidder has the financial ability to become a Qualified Bidder;
  - (b) representations and warranties that the prospective bidder is not acting as a broker, agent or other representative of any other person in connection with the transaction, and is considering the transaction only for its own account unless the Applicant, in consultation with the Monitor, expressly waives this requirement in writing.
7. The Applicants will update the existing confidential business plan (the "Business Plan") to be made available to prospective purchasers and investors that execute a CA. The Business Plan will provide an overview of the Applicants' business, assets and prospects.
8. Prospective purchasers and investors that have executed a CA will be provided with an opportunity to review financial and other information in the Applicants' online data room and will also be provided with an opportunity to meet with senior management and members of the board of directors of the Applicants and such other parties as the Applicants may arrange.
9. The sale of the Applicants' Property or the investment in the Applicants will be made on an "as is, where is" basis without surviving representations or warranties of any kind, nature, or description by the Monitor or the Applicants, except to the extent set forth in the definitive sale or investment agreement with a Successful Bidder.

### **Stalking Horse Bid**

10. The Applicants have agreed with the DIP Lender that the DIP Lender shall submit a stalking horse bid for the purchase of substantially all of the property, assets and undertaking of the Applicants on an "as is, where is" basis (the "**Stalking Horse Bid**"). The Stalking Horse Bid will allow the DIP Lender to credit bid its debt in exchange for the purchase of the Applicants' Property. The Stalking Horse Bid will provide for a purchase price equal to the amount of outstanding secured liabilities owing by the Applicants to the DIP Lender (being the principal amount of the DIP Loan advances and all interest and all reasonable fees and expenses to the closing) plus the assumption of all senior secured indebtedness of the Applicants (the "**Secured Indebtedness**"), estimated to be approximately CDN\$[7.9] million. The purchase price contained in the Stalking Horse Bid will be satisfied by the release of the liabilities owed to the DIP Lender by the Applicants plus the value of the assumed senior secured indebtedness. The Stalking Horse Bid shall not be permitted to be in an amount in excess of the Secured Indebtedness.

### **Bidding Procedures**

11. The bidding procedures are as follows (the "**Bidding Procedures**"):
  - (a) all bids for purchase and/or investment must be submitted in writing to the Monitor and received no later than noon (Toronto time) on May 24, 2012 (the "**Bid Deadline**");
  - (b) each potential bidder must submit, before the Bid Deadline, a bid including the identification of the bidder, evidence of corporate authority and proof of its financial ability to perform to the satisfaction of the Applicants and the Monitor;
  - (c) a bid should, among other things, be in the form of a binding offer capable of acceptance, irrevocable until one day after closing of the Successful Bid (as defined below), and must contemplate a purchase price (in the case of a sale bid), or an amount available for stakeholders (in the case of an investment bid) of

greater than the Secured Indebtedness (being the estimated purchase price of the Stalking Horse Bid including fees and all senior secured indebtedness of the Applicants and excluding the amount of any other assumed liabilities) in cash or other consideration acceptable to the DIP Lender and be accompanied by a refundable cash deposit in the form of a wire transfer (to a bank account specified by the Monitor) or such other form of deposit as is acceptable to the Monitor, payable to the order of the Monitor, in trust (the "**Deposit**"), in an amount equal to the greater of 10% of the purchase price or investment contemplated therein or CDN\$790,000 (each bid submitted in accordance with these bidding procedures a "**Qualified Bid**" and each such bidder a "**Qualified Bidder**").

- (d) if no Qualified Bids are received, the Stalking Horse Bid shall be deemed to be a Qualified Bid and the Successful Bid and the Applicants and the DIP Lender shall proceed to consummate the transaction contemplated thereby, subject to finalization of documentation and the Court's approval thereof.

#### **Qualified Bids**

- 12. A bid will be considered a Qualified Bid only if (i) it is submitted by a Qualified Bidder on or before the Bid Deadline or it is the Stalking Horse Bid, and (ii) the bid (for the avoidance of doubt, including a Stalking Horse Bid) complies with, among other things, the following requirements:
  - (a) it includes a letter stating that the bidder's offer is irrevocable until the business day after the closing of the Successful Bid;
  - (b) it includes (if not the Stalking Horse Bid) written evidence of a firm, irrevocable commitment for financing, or other evidence of ability to consummate the proposed transaction, that will allow the Applicants, in consultation with the Monitor, to make a reasonable determination as to the Qualified Bidder's financial and other capabilities to consummate the transaction contemplated by its bid;

- (c) in respect of a purchase of the Applicants' Property, it includes a reasonably detailed listing and description of the property to be included in the sale and in the case of an investment in the Applicants' business, it includes a reasonably detailed listing and description of any of the Applicants' Property to be divested or disclaimed prior to closing;
- (d) it includes details of the proposed number of employees of the Applicants who will become employees of the bidder (in the case of a purchase of the Applicants' Property) or shall remain as employees of the Applicants (in the case of an investment in the Applicants' business) and, in each case, provisions setting out the terms and conditions of employment for continuing employees;
- (e) it includes details of any liabilities to be assumed by the Qualified Bidder;
- (f) it is not conditional upon, among other things:
  - (i) the outcome of unperformed due diligence by the Qualified Bidder; or
  - (ii) obtaining financing;
- (g) it fully discloses the identity of each person or entity that will be sponsoring or participating in the bid, and the complete terms of such participation;
- (h) it outlines any anticipated regulatory and other approvals required to close the transaction and the anticipated time frame and any anticipated impediments for obtaining any such approvals;
- (i) it identifies with particularity the contracts and leases the bidder wishes to assume and reject, contains full details of the bidder's proposal for the treatment of related cure costs (and provides adequate assurance of future performance thereunder); and it identifies with particularity any executory contract or unexpired lease the assumption and assignment of which is a condition to closing;
- (j) it provides a timeline to closing with critical milestones;

- (k) it contains other information reasonably requested by the Applicants, in consultation with the Monitor;
  - (l) in the case of a purchase of the Applicants' Property, it includes the following: an acknowledgement and representation that the bidder: (a) has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the assets to be acquired and liabilities to be assumed in making its bid; and (b) did not rely upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express or implied (by operation of law or otherwise), regarding the assets to be acquired or liabilities to be assumed or the completeness of any information provided in connection therewith, except as expressly stated in the purchase and sale agreement; and
  - (m) in the case of an investment in the Applicants' business, it includes an acknowledgement and representation that the bidder: (a) has relied solely upon its own independent review, investigation and/or inspection of any documents in making its bid; and (b) did not rely upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express or implied (by operation of law or otherwise), regarding the business of the Applicants or the completeness of any information provided in connection therewith, except as expressly stated in the investment agreement.
13. The Applicants, with the consent of the Monitor, may waive compliance with any one or more of the requirements specified herein (except the requirement contained herein with respect to the purchase price, in the case of a purchase of the Applicants' Property, or an amount available for stakeholders, in the case of an investment in the Applicants' business, being in an amount greater than the Secured Indebtedness) and deem such non-compliant bids to be Qualified Bids.
14. A Qualified Bid may, in lieu of providing for the repayment of the amount owing to the DIP Lender in cash, provide the DIP Lender with the option (which the DIP Lender would then be entitled to flow through to the persons who have lent money to the DIP Lender in order to participate in the provision of the DIP Loan to the Applicants) to

accept equity in the bidder or other consideration acceptable to the DIP Lender in full or partial satisfaction of the amount owing to the DIP Lender.

#### **Post-Bidding Procedures**

15. If one or more Qualified Bids other than the Stalking Horse Bid are received in accordance with the Bidding Procedures, the Applicants, in consultation with the Monitor, may choose to:
  - (a) accept one Qualified Bid (the "Successful Bid" and the Qualified Bidder making the Successful Bid being the "Successful Bidder") and take such steps as are necessary to finalize and complete an agreement for the Successful Bid with the selected bidder; or
  - (b) continue negotiations with a selected number of Qualified Bidders (collectively, "Selected Bidders") with a view to finalizing an agreement with one of the Selected Bidders.
16. The Applicants shall be under no obligation to accept the highest or best offer and the selection of the Selected Bids and the Successful Bid shall be entirely in the discretion of the Applicants, after consultation with the Monitor.

#### **Other Terms**

17. All Deposits will be retained by the Monitor and invested in an interest bearing trust account. If there is a Successful Bid, the Deposit (plus accrued interest) paid by the Successful Bidder whose bid is approved by the Court will be applied to the purchase price to be paid or investment amount to be made by the Successful Bidder upon closing of the approved transaction and will be non-refundable. The Deposits (plus applicable interest) of Qualified Bidders not selected as the Successful Bidder will be returned to such bidders within 5 Business Days of the date upon which the Successful Bid is approved by the Court. If there is no Successful Bid, subject to the following paragraph, all Deposits (plus applicable interest) will be returned to the bidders within 5 Business Days of the date upon which the SISP is terminated in accordance with these procedures.

18. If a Successful Bidder breaches its obligations under the terms of the SISP, its Deposit shall be forfeited as liquidated damages and not as a penalty.
19. The Applicants will apply to the Court (the "**Approval Motion**") for an order approving the Successful Bid and authorizing the Applicants to enter into any and all necessary agreements with respect to the Successful Bid and to undertake such other actions as may be necessary or appropriate to give effect to the Successful Bid.
20. The Approval Motion will be held on a date to be scheduled by the Court upon application by the Applicants. The Approval Motion may be adjourned or rescheduled by the Applicants or the Monitor without further notice by an announcement of the adjourned date at the Approval Motion.
21. All Qualified Bids (other than the Successful Bid) will be deemed rejected on the date of approval of the Successful Bid by the Court.
22. For the avoidance of doubt, the approvals required pursuant to the terms hereof are in addition to, and not in substitution for, any other approvals required by the CCAA or any other statute or as otherwise required at law in order to implement a Successful Bid.
23. There will be no amendments to this SISP without the consent of the Applicants and the Monitor or, in the absence of such consent, the approval of the Court.
24. This SISP does not, and will not be interpreted to, create any contractual or other legal relationship between the Applicants and any bidder, other than as specifically set forth in a definitive agreement that any such bidder may enter into with the Applicants. At any time during the SISP, the Monitor may, upon reasonable prior notice to the Applicants and the DIP Lender, apply to the Court for advice and directions with respect to the discharge of its power and duties hereunder.



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  
PCAS PATIENT CARE AUTOMATION SERVICES INC. AND 2163279 ONTARIO INC.  
(the "Applicants")

Court File No. CV-12-9656-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceedings commenced at Toronto

**ORDER**

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*Lawyers for the Applicants*

## **TAB B**

Attached is Exhibit "B" Referred to in the  
AFFIDAVIT OF FAROUK AHAMED  
Sworn before me this 1<sup>st</sup> day of June, 2012

A handwritten signature in cursive script, reading "Jenna Galati", is written over a horizontal line.

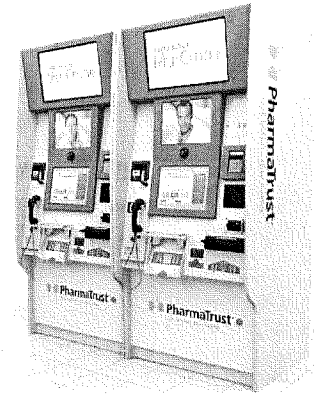
Commissioner for taking Affidavits, etc

## ACQUISITION OR INVESTMENT OPPORTUNITY

### Revolutionary automated pharmacy dispensing platform

#### Company Overview

- PCAS Patient Care Automation Services Inc. (“PharmaTrust” or the “Company”), is a healthcare technology company that has developed and is commercializing a unique, automated pharmacy dispensing platform.
- Established in 2006 and headquartered in Oakville, Ontario, the Company’s principal technology and product is The PharmaTrust MedCentre™, a pharmacist-controlled, customer interactive, prescription dispensing system akin from a patients perspective to a “pharmacy-in-a-box” or prescription ATM.
- The Company believes that The PharmaTrust MedCentre™ is currently the only commercial, scalable, platform-enabled and fully-automated remote dispensing solution for pharmaceuticals available today.
- PharmaTrust has invested over \$67 million to date in developing The PharmaTrust MedCentre™ and ensuring enterprise ready capability. The Company has successfully deployed 16 trial MedCentres™ in Canadian hospital and clinical settings and completed initial testing with a large US retail pharmacy chain.
- As a result of the large investment in building the technology and security platform, combined with the inability to raise suitable additional capital to complete the commercialization of The PharmaTrust MedCentre™ in line with PharmaTrust’s original plan, the Company obtained a stay of proceedings under the Companies’ Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended (the “CCAA”) in order to enable it to restructure its business. PricewaterhouseCoopers Inc. was appointed as monitor (“the Monitor”) under the CCAA.
- Interested parties are being provided with an opportunity to participate in a sale and investor solicitation process.



#### Investment / Acquisition Highlights

- ✓ *Field-tested and customer-validated technology with first-mover advantage*
  - Technological leadership positions the Company to be the first-mover in attracting strategic partners and securing significant market share of key high-traffic sites across target markets.
  - First-mover advantage secured by 29 apparatus and business method patents pending, covering PharmaTrust’s key global target markets and relating to The PharmaTrust MedCentre™, supporting infrastructure and complimentary products.
  - Product specifications or plans in place for a number of complimentary technologies including a home based compliance technology (MedHome™).
  - In April 2012, the Company commissioned a detailed review by industry-leading technology experts which validated PharmaTrust’s core technology and its potential.
- ✓ *Opportunity to capitalize on current healthcare and demographic trends*
  - Ageing population and increasingly complex health conditions are driving demand for drug therapies and healthcare services.
  - Patients are playing a more active role in personal healthcare decisions as a means of controlling costs and increasing convenience.
  - Governments and private payors are seeking innovative ways to contain escalating healthcare costs.
  - The technology enables real-time data collection and connection with payors and providers to help manage and coordinate accountable healthcare programs.

## ACQUISITION OR INVESTMENT OPPORTUNITY

### Revolutionary automated pharmacy dispensing platform

#### Investment/Acquisition Highlights

✓ *Unique value proposition and attractive economics for clients*

- The PharmaTrust MedCentre™ provides a low cost system to enhance efficiencies and profitability of existing pharmacies in addition to providing convenient access to customers 24/7.
- The PharmaTrust MedCentre™ can be placed in any location as a means to attract customers or provide convenience to consumers that results in an additional revenue source for the host.



- The PharmaTrust MedCentre™ infrastructure provides a fully integrated networked pharmacy system allowing high volume call centre type economics to be applied to dispensing. Further, the enterprise system has integration capabilities to both existing pharmacy management systems and patient electronic medical records.

✓ *Regulatory trends support PharmaTrust's business model*

- Remote dispensing of prescriptions is now legal in the Province of Ontario, while British Columbia, Manitoba and Saskatchewan all have approvals pending.
- States of Illinois, Missouri, Wisconsin, North Dakota, Iowa, Montana and Oregon have approved remote dispensing in remote areas or specific venues with seven additional state approvals expected in 2012.

✓ *Significant market potential with global application*

- Market for prescription medicines is forecast to grow globally at a compound annual growth rate of 6.2%.
- While the Company remains focused on core markets in Canada and the US, PharmaTrust has received international inquiries from the UK, Singapore, The Netherlands, Philippines, Saudi Arabia and China, amongst others.
- Global emerging markets offer a significant growth opportunity due to the potential for remote dispensing technology to provide an alternative route to building widespread pharmacy infrastructure.

✓ *Considerable progress to date with large retail US pharmacy chain*

- Successful product testing over six months has resulted in clearance for proof of concept trials with national US pharmacy and drug store chain.
- Following satisfactory completion of proof of concept, indicative agreement reached for scale trial with prospect for national roll out.
- Potential national contract with this customer could represent approximately 60% of national deployments from 2012-15.

✓ *Attractive financial model with strong revenue and deployment visibility*

- Revenue driven by multiple sources including recurring licensing revenue, product sales and upgrades.

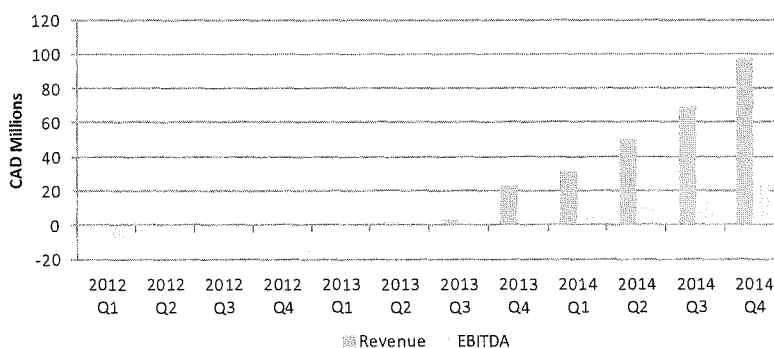
## ACQUISITION OR INVESTMENT OPPORTUNITY

Revolutionary automated pharmacy dispensing platform

### Financial Highlights

- Financial projections for the forecast period 2012 to 2014 represent Management's estimates and judgments about The PharmaTrust MedCentre™ deployments and unit and contract economics.
- While the Company has successfully completed test trials, additional investment will be required to complete the technology and bring The PharmaTrust MedCentre™ to commercialization.
- Based on an updated strategic plan prepared in conjunction with independent technology experts, the Company is projecting revenue growth from \$0.6 million in 2012 to \$247 million in 2014, with positive EBITDA in 2014 of \$50.4 million, based on the existence of a large enterprise client making significant orders in 2013.

Quarterly Forecast Revenue and EBITDA 2012 to 2014



### Sales Process

- On May 7, the Ontario Superior Court of Justice appointed PricewaterhouseCoopers Corporate Finance Inc. as the financial advisor to the Monitor to advise and assist the Company with a sales and investor solicitation process.
- The Company is seeking interested parties to invest in or acquire the business or assets of PharmaTrust under a Court approved sales process. The bid deadline is on May 24, 2012.**
- More detailed information will be available to those who execute a Confidentiality Agreement. To obtain a Confidentiality Agreement, or to discuss specific questions regarding this opportunity, please contact the Company or PwCCF.

### Contact Information

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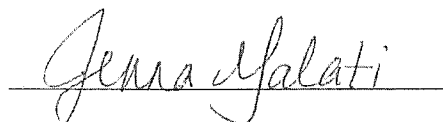
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**TAB C**

Attached is Exhibit "C" Referred to in the  
AFFIDAVIT OF FAROUK AHAMED  
Sworn before me this 1<sup>st</sup> day of June, 2012

A handwritten signature in cursive script, reading "Jenna Galati", is written over a horizontal line.

Commissioner for taking Affidavits, etc



30 May 2012

Dear Fellow PCAS Shareholder

We wrote to you last on 27 May 2012, to advise you with the current status of our Company, and as indicated at that time we are writing today to provide an update on progress at the Company.

On Monday, 28 May, the Company and the Court appointed Monitors, appeared before Justice Brown of the Superior Court of Ontario to advise that, with the approval of the Monitor, the Company had completed a Sale and Investment Solicitation Process ("SISP"), and had selected a Successful Bidder (as defined by that process).

Under the SISP the Company and the Monitor contacted a total of 164 potential purchasers or investors in the Company, distributed information on the business to 121 of these. 18 groups entered into Non Disclosure Agreements in order to access the detailed information on the Company, and to the Company management team, and during this process a total of 7 identified potential investors visited the Company.

A number of qualifying bids (as defined by the SISP) we received by the bidding deadline (noon on Thursday, 24 May 2012), and were assessed by the Board of the Company and the Monitors, with further negotiations taking place over the subsequent three days.

The Successful Bidder is named as DashRx LLC, a Delaware incorporate company funded jointly by Walgreens and a US based investment management company.

The Monitors were appointed by the Court to ensure that everyone's interests have been adequately considered and that the process undertaken by the Company is fair to all concerned. They have worked, and continue to do so, alongside your Board to ensure due process and ensure the as maximum possible value is recovered for all concerned in light of the prevailing circumstances. All substantial decisions in relation to corporate activity, including all substantive areas of corporate governance, have been made in consultation with the Monitor since the beginning of the CCAA process.

At the Court hearing the Monitors reported to the Court that in their opinion the Company had implemented a fair, transparent and efficient SISP in the circumstances in accordance with the Orders of the Court.

The Court awarded an extension to the Company's protection under the CCAA proceedings to 6 June 2012, to allow for final contractual terms to be agreed and the required asset purchase agreement to be finalized and signed. Details of the Successful Bid will be provided to the Court as and when the final Court Order to complete the sale of the business is completed.

Stakeholders in the Company will be advised in due course of the outcome of the finalized sale process, and following completion will be contacted by the Monitors in relation to the distribution of the proceeds of the sale of the business.

Yours faithfully

**Kym Anthony**  
Chairman

**Don Waugh**  
Vice Chairman

**TAB D**

Attached is Exhibit "D" Referred to in the  
AFFIDAVIT OF FAROUK AHAMED  
Sworn before me this 1<sup>st</sup> day of June, 2012

A handwritten signature in cursive script, reading "Jena Yalati", is written over a horizontal line.

Commissioner for taking Affidavits, etc

**PCAS PATIENT CARE AUTOMATION SERVICES INC.**

**- and -**

**2163279 ONTARIO INC.**

**- and -**

**DASHRX, LLC**

**ASSET PURCHASE AGREEMENT**

**JUNE 1, 2012**

## TABLE OF CONTENTS

<b>ARTICLE 1 INTERPRETATION.....</b>	<b>2</b>
1.1 Definitions.....	2
1.2 Headings and Sections.....	7
1.3 Consent.....	7
1.4 No Strict Construction.....	8
1.5 Number and Gender.....	8
1.6 Business Days.....	8
1.7 Currency.....	8
1.8 Calculation of Interest.....	8
1.9 Statute References.....	8
1.10 Section and Schedule References.....	8
<b>ARTICLE 2 PURCHASE OF PURCHASED ASSETS.....</b>	<b>8</b>
2.1 Agreement to Purchase and Sell.....	9
2.2 Deposit.....	9
2.3 Purchase Price.....	9
2.4 Promissory Notes.....	10
2.5 Allocation of Purchase Price.....	11
2.6 Transfer Taxes; GST Election.....	11
2.7 Excluded Assets.....	11
2.8 Excluded Liabilities.....	11
<b>ARTICLE 3 CLOSING ARRANGEMENTS.....</b>	<b>12</b>
3.1 Closing.....	12
3.2 Tender.....	12
3.3 Vendor's Closing Deliveries.....	12
3.4 Purchaser's Closing Deliveries.....	13
3.5 Non-Transferable and Non-Assignable Assets.....	13
<b>ARTICLE 4 CONDITIONS OF CLOSING.....</b>	<b>14</b>
4.1 Purchaser's Conditions.....	14
4.2 Condition not Fulfilled.....	15
4.3 Vendor's Conditions.....	15
4.4 Condition not Fulfilled.....	16
<b>ARTICLE 5 REPRESENTATIONS AND WARRANTIES.....</b>	<b>16</b>
5.1 Representations and Warranties of PCAS and Touchpoint.....	16
5.2 Representations and Warranties of the Purchaser.....	17
5.3 Survival of Representations and Warranties.....	18
5.4 "As is, Where is".....	18
<b>ARTICLE 6 INTERIM PERIOD.....</b>	<b>18</b>
6.1 Risk of Loss.....	19
6.2 Approval and Vesting Order.....	19

6.3 Access.....	19
<b>ARTICLE 7 EMPLOYEES .....</b>	<b>20</b>
7.1 Employees.....	20
<b>ARTICLE 8 POST-CLOSING MATTERS .....</b>	<b>21</b>
8.1 Leased Premises.....	21
8.2 Books and Records.....	21
8.3 Transferred Employees.....	21
8.4 Delivery of the Additional Secured Note and the Additional Unsecured Note.....	21
8.5 Evidence of Payments by the Vendor.....	21
<b>ARTICLE 9 GENERAL .....</b>	<b>22</b>
9.1 Expenses.....	22
9.2 Payment of Taxes.....	22
9.3 Announcements.....	22
9.4 Notices.....	22
9.5 Time of Essence.....	24
9.6 Time Periods.....	24
9.7 Entire Agreement.....	24
9.8 Amendments and Waiver.....	25
9.9 Non Merger.....	25
9.10 Further Assurances.....	25
9.11 Severability.....	25
9.12 Governing Law.....	25
9.13 Construction.....	26
9.14 Successors and Assigns.....	26
9.15 No Third Party Beneficiaries.....	26
9.16 Counterparts, Electronic Delivery.....	26

## ASSET PURCHASE AGREEMENT

This Agreement made this 1<sup>st</sup> day of June, 2012.

### AMONG:

**PCAS PATIENT CARE AUTOMATION SERVICES INC.**, a corporation incorporated under the laws of Canada, (hereinafter referred to as "**PCAS**")

-and-

**2163279 ONTARIO INC.**, a corporation incorporated under the laws of the Province of Ontario, (hereinafter referred to as "**Touchpoint**" and collectively with PCAS, the "**Vendor**")

-and-

**DASHRX, LLC**, a limited liability company formed under the laws of the State of Delaware, (hereinafter referred to as the "**Purchaser**")

**WHEREAS** on March 23, 2012, the Vendor made an application under the *Companies' Creditors Arrangement Act* (Canada) and an initial order (the "**Initial Order**") was granted by the Honourable Mr. Justice Morawetz of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") granting, *inter alia*, a stay of proceedings against the Vendor and appointing PricewaterhouseCoopers Inc. as the monitor (the "**Monitor**");

**AND WHEREAS** on May 14, 2012, the Vendor obtained an order (the "**Sales Process Order**") from the Court which, *inter alia*, authorizes the Vendor under the supervision of the Monitor to conduct a sales process with respect to the property and assets of the Vendor, subject to the approval of the Court;

**AND WHEREAS** in connection therewith, the Vendor has agreed to sell, and the Purchaser has agreed to purchase, all of the assets, property, and undertaking of the Vendor (other than the Excluded Assets (as hereinafter defined) in accordance with the terms of this Agreement;

**NOW THEREFORE**, in consideration of the premises and mutual covenants and agreements contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are each hereby acknowledged by the parties, the parties hereto agree as follows:

## **ARTICLE 1**

### **INTERPRETATION**

#### **1.1 Definitions.**

In this Agreement, the following terms shall have the meanings set out below unless the context requires otherwise:

- (1) **"Additional Secured Note"** has the meaning given to it in Section 2.4(1);
- (2) **"Additional Unsecured Note"** has the meaning given to it in Section 2.4(2);
- (3) **"Administrative Charge"** has the meaning given to it in the Initial Order;
- (4) **"Agreement"** means this Agreement, including the Schedules to this Agreement, as it or they may be amended or supplemented from time to time, and the expressions "hereof", "herein", "hereto", "hereunder", "hereby" and similar expressions refer to this Agreement and not to any particular Section or other portion of this Agreement;
- (5) **"Applicable Law"** means, with respect to any Person, property, transaction, event or other matter, all applicable laws, statutes, regulations, rules, by-laws, ordinances, protocols, regulatory policies, codes, guidelines, official directives, orders, rulings, judgments and decrees of any Governmental Entity;
- (6) **"Approval and Vesting Order"** has the meaning given in Section 6.2;
- (7) **"Assumed Liability"** means the lesser of \$245,718 and the amount owing by PCAS to IBM Canada Limited at the Closing Time pursuant to a lease agreement dated December 16, 2010;
- (8) **"Books and Records"** means all books, records, files and papers of the Vendor including drawings, engineering information, computer programs (including source code), software programs, manuals and data, sales and advertising materials, sales and purchases correspondence, trade association files, research and development records, lists of present and former customers and suppliers, personnel, employment and other records related to employees, and all copies and recordings of the foregoing;
- (9) **"Business"** means the business carried on by the Vendor which primarily involves the design, manufacture, operation and commercialization of automated pharmacy dispensing platforms;
- (10) **"Business Day"** means any day except Saturday, Sunday or any day on which banks are generally not open for business in the City of Toronto;
- (11) **"Closing"** means the completion of the purchase and sale of the Purchased Assets in accordance with the provisions of this Agreement;



- (12) "**Closing Date**" means the second (2<sup>nd</sup>) Business Day following the date on which the Approval and Vesting Order is granted, or such earlier or later date as may be agreed to in writing by the Parties;
- (13) "**Closing Time**" means the time of closing on the Closing Date provided for in Section 3.1;
- (14) "**Contracts**" means all rights and interests of the Vendor in all contracts, agreements, leases and arrangements, whether written or oral, including those listed in Schedule 1.1(14);
- (15) "**Court**" has the meaning given in the recitals above;
- (16) "**Deposit**" has the meaning given in Section 2.2;
- (17) "**DIP Facility**" has the meaning given in the Order of the Court made April 16, 2012, as amended by subsequent orders of the Court;
- (18) "**DIP Lender**" means 2320714 Ontario Inc;
- (19) "**DIP Lender Charge**" has the meaning given in the Initial Order;
- (20) "**Employee**" means an individual who is employed by the Vendor in the Business on the date immediately prior to the Closing, and "**Employees**" means every Employee;
- (21) "**Excluded Assets**" means only the following assets, property, or undertaking of the Vendor:
  - (a) all prescription pharmaceutical drugs and all refunds in respect thereof;
  - (b) all pharmacy customer files;
  - (c) the Tax Credit Entitlements and all tax refunds received in respect thereof; and
  - (d) any other assets that the Purchaser elects to exclude prior to Closing pursuant to Section 2.7;
- (22) "**Excluded Liabilities**" means all Liabilities of the Vendor other than the Assumed Liability;
- (23) "**Governmental Entity**" means any federal, provincial, or municipal court, board, tribunal, arbitrator or arbitral panel, administrative agency or commission or other governmental or regulatory agency, ministry, department or authority;
- (24) "**GST**" means the goods and services tax/harmonized sales tax imposed under Part IX of the *Excise Tax Act* (Canada);
- (25) "**Initial Order**" has the meaning given in the recitals above;

- (26) **"Intellectual Property"** means all rights to and interests in:
- (a) all business and trade names, corporate names, brand names and slogans owned by or licensed to the Vendor;
  - (b) all inventions, patents, patent rights, patent applications (including all reissues, divisionals, continuations, continuations-in-part and extensions of any patent or patent application), industrial designs and applications for registration of industrial designs owned by or licensed to the Vendor;
  - (c) all copyrights and trade-marks, (including common-law marks, product names, logos, designs, slogans, whether used with wares or services and including the goodwill attaching to such trade-marks), registrations and applications for trade-marks and copyrights (and all future income from such trade-marks and copyrights) owned by or licensed to the Vendor;
  - (d) all rights and interests in and to processes, procedures, lab journals, notebooks, data, trade secrets, designs, know-how, product formulae and information, manufacturing, engineering and other drawings and manuals, technology, blue prints, patterns, plans flow sheets, equipment and parts lists and descriptions and related instructions, research and development reports, agency agreements, technical information, technical assistance, engineering data, design and engineering specifications, and similar materials recording or evidencing expertise or information owned by or licensed to the Vendor;
  - (e) all of the intellectual property listed in Schedule 1.1(26);
  - (f) all other intellectual and industrial property rights throughout the world owned by or licensed to the Vendor;
  - (g) all licences of the intellectual property listed in items (a) to (f) above;
  - (h) all future income and proceeds from any of the intellectual property listed in items (a) to (f) above and the licences listed in item (g) above; and
  - (i) all rights to damages and profits by reason of the infringement of any of the intellectual property listed in items (a) to (g) above;
- (27) **"Interim Period"** means the period from and including the date of this Agreement to and including the Closing Date;
- (28) **"Inventories"** means all inventories of stock-in-trade and merchandise including materials, supplies, work-in-progress, finished goods, tooling, service parts and purchased finished goods of the Vendor (including those in possession of suppliers, customers and other third parties);
- (29) **"KERP"** has the meaning given to it in the First Report of the Monitor dated April 15, 2012;

- (30) "**KERP Charge**" has the meaning given to it in the Order of the Court made April 16, 2012;
- (31) "**KERP Employees**" means those employees of the Vendor who have the benefit of the KERP Charge;
- (32) "**Leased Premises**" means the premises located at 2440 Winston Park Drive, Oakville, Ontario;
- (33) "**Liabilities**" means all costs, expenses, charges, debts, liabilities, claims, demands and obligations, whether primary or secondary, direct or indirect, fixed, contingent, absolute or otherwise, under or in respect of any contract, agreement, arrangement, lease, commitment or undertaking, Applicable Law and Taxes;
- (34) "**Licences and Permits**" means all licences, permits, filings, authorizations, approvals or indicia of authority related to the Business or the Purchased Assets or necessary for the operation or use of the Purchased Assets;
- (35) "**Lien**" means any lien, mortgage, charge, hypothec, pledge, security interest, prior assignment, option, warrant, lease, sublease, right to possession, encumbrance, claim, right or restriction which affects, by way of a conflicting ownership interest or otherwise, the right, title or interest in or to any particular property;
- (36) "**Monitor**" has the meaning given in the recitals above;
- (37) "**Notes**" has the meaning given in Section 2.4(3);
- (38) "**Party**" means a party to this Agreement and any reference to a Party includes its successors and permitted assigns; "**Parties**" means every Party;
- (39) "**Person**" is to be broadly interpreted and includes an individual, a corporation, a partnership, a trust, an unincorporated organization, the government of a country or any political subdivision thereof, or any agency or department of any such government, and the executors, administrators or other legal representatives of an individual in such capacity;
- (40) "**Personal Property**" means all machinery, equipment, furniture, motor vehicles and other chattels of the Vendor (including those in possession of third parties);
- (41) "**Prepaid Amounts**" means all prepayments, prepaid charges, deposits, security deposits, sums and fees of the Vendor;
- (42) "**Prospective Employees**" has the meaning given in Section 7.1(1);
- (43) "**Purchase Price**" has the meaning given in Section 2.3;
- (44) "**Purchased Assets**" means all properties, assets, undertakings, interests and rights (including all choses in action, causes in action, claims (including claims against all

former employees in respect of breach of confidentiality, non-compete and non-solicit obligations) and other litigation rights) of the Vendor including the following:

- (a) the Personal Property;
- (b) the Inventories;
- (c) the Receivables;
- (d) all rights and interests under or pursuant to all warranties, representations and guarantees, express, implied or otherwise, of or made by suppliers or others in connection with the Purchased Assets or the Assumed Liability or otherwise related to the Business;
- (e) the Intellectual Property;
- (f) the Contracts;
- (g) the Licenses and Permits;
- (h) the Prepaid Amounts;
- (i) the Books and Records; and
- (j) all goodwill related to the Business including the present telephone and facsimile numbers, internet addresses and other communications numbers and addresses of the Business,

and for greater certainty, does not include any of the Excluded Assets;

- (45) **"Purchaser's Solicitors"** means Bennett Jones LLP;
- (46) **"Receivables"** means all accounts receivable, bills receivable, trade accounts and book debts of the Vendor (and insurance claims directly relating to any of the foregoing), including recoverable deposits but excluding any unpaid interest accrued on such items and any security or collateral for such items and excluding the Tax Credit Entitlements and all tax refunds received in respect thereof;
- (47) **"Rights"** has the meaning given in Section 3.5;
- (48) **"Sales Process Order"** has the meaning given in the recitals above;
- (49) **"Secured Claims"** means the following secured Liabilities of the Vendor:
  - (a) all amounts owing by PCAS to Royal Bank of Canada at the Closing Time pursuant to a letter agreement dated October 12, 2011 between PCAS and Royal Bank of Canada; and

- (b) all amounts owing by PCAS and Touchpoint to Castcan Investments Inc. at the Closing Time pursuant to a SR&ED/OITC/HST Purchase Agreement dated as of March 6, 2012 among PCAS, Touchpoint and Castcan Investments Inc.;
- (50) "**Secured Note**" has the meaning given in Section 2.3(2);
- (51) "**Series A Shares**" means the convertible preferred shares to be issued by the Purchaser in consideration for the [REDACTED] committed by the initial investors of the Purchaser for its initial capitalization and operating expenses;
- (52) "**Tax Credit Entitlements**" means all Scientific Research and Experimental Development refundable tax credit entitlements, Ontario Innovation Tax Credit entitlements and GST refund entitlements of the Vendor;
- (53) "**Tax Refund Shortfall**" has the meaning given in Section 2.4(1);
- (54) "**Taxes**" means all taxes, charges, fees, levies, imposts and other assessments, including all income, sales, use, goods and services, harmonized, value added, capital, capital gains, alternative, net worth, transfer, profits, withholding, payroll, employer health, excise, franchise, real property and personal property taxes, and any other taxes, customs duties, fees, assessments or similar charges in the nature of a tax including Canada Pension Plan and provincial pension plan contributions, employment insurance payments and workers compensation premiums, together with any installments with respect thereto, and any interest, fines and penalties, imposed by any Governmental Entity, and whether disputed or not;
- (55) "**Transferred Employees**" has the meaning given in Section 7.1(1);
- (56) "**Unsecured Note**" has the meaning given in Section 2.3(3); and
- (57) "**Vendor's Solicitors**" means Aird & Berlis LLP.

## 1.2 Headings and Sections.

The division of this Agreement into Articles and Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

## 1.3 Consent.

Whenever a provision of this Agreement requires an approval or consent and such approval or consent is not delivered within the applicable time limit, then, unless otherwise specified, the Party whose consent or approval is required shall be conclusively deemed to have withheld its approval or consent.

1.4 **No Strict Construction.**

The language used in this Agreement is the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party.

1.5 **Number and Gender.**

Unless the context requires otherwise, words importing the singular include the plural and vice versa and words importing gender include all genders. Where the word "including" or "includes" is used in this Agreement, it means "including (or includes) without limitation".

1.6 **Business Days.**

If any payment is required to be made or other action is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be made or taken on the next Business Day.

1.7 **Currency.**

Except as otherwise expressly provided in this Agreement, all dollar amounts referred to in this Agreement are stated in Canadian dollars.

1.8 **Calculation of Interest.**

In calculating interest payable under this Agreement for any period of time, the first day of such period shall be included and the last day of such period shall be excluded.

1.9 **Statute References.**

Any reference in this Agreement to any statute or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, restated or re-enacted from time to time.

1.10 **Section and Schedule References.**

Unless the context requires otherwise, references in this Agreement to Sections or Schedules are to Sections and Schedules, as applicable, of this Agreement. The Schedules to this Agreement, listed as follows, are an integral part of this Agreement:

- 1.1(14) - Contracts
- 1.1(26) - Intellectual Property

**ARTICLE 2**  
**PURCHASE OF PURCHASED ASSETS**

## 2.1 Agreement to Purchase and Sell.

Effective as at the Closing Time, subject to the terms and conditions of this Agreement, the Vendor sells, transfers and assigns unto the Purchaser, and the Purchaser purchases, all of the Vendor's right, title and interest in and to the Purchased Assets free and clear of all Liens and the Purchaser assumes the Assumed Liability, all in accordance with and pursuant to the Approval and Vesting Order.

## 2.2 Deposit.

The Parties acknowledge that pursuant to the terms of the Sales Process Order, the Purchaser has paid to the Monitor, in trust, the sum of [REDACTED] (the "**Deposit**") as a deposit. The Deposit shall be disbursed in accordance with the following provisions:

- (1) if the purchase and sale of the Purchased Assets is completed at the Closing Time, then the Deposit plus all interest earned thereon shall be released from trust and applied towards payment of the Purchase Price;
- (2) if the purchase and sale of the Purchased Assets is not completed at the Closing Time for any reason other than the failure of the Purchaser to satisfy any of the conditions set out in Section 4.3(1) or 4.3(2), then the Deposit plus all interest thereon shall be released from trust and paid to the Purchaser (for greater certainty, it being understood that the Deposit shall be released to the Purchaser in the event of the failure of the Purchaser to satisfy either of the conditions set out in Sections 4.3(3) and 4.3(4)); and
- (3) if the purchase and sale of the Purchased Assets is not completed at the Closing Time because of the failure of the Purchaser to satisfy any of the conditions set out in Section 4.3(1) or 4.3(2), then the Deposit plus all interest earned thereon shall be released from trust and paid to the Vendor in full satisfaction of all damages, losses, costs and expenses incurred by the Vendor as a result of such failure.

## 2.3 Purchase Price.

The purchase price (the "**Purchase Price**") for all of the Purchased Assets shall comprise the following:

- (1) a cash payment by the Purchaser to the Vendor in the amount of up to [REDACTED] (such amount plus the Deposit and all interest earned thereon being the aggregate sum of):
  - (a) the lesser of Two Hundred Thirty-Five Thousand Three Hundred Fifteen Dollars (\$235,315.00) and such amounts as are actually owing by the Vendor at the Closing Time in respect of and to be used to pay statutory priority claims;
  - (b) the lesser of Two Hundred Sixty-One Thousand Dollars (\$261,000.00) and such amounts as are actually owing by the Vendor to the KERP Employees in respect of and to be used to pay the KERP amounts secured by the KERP Charge;

- (c) One Hundred Thousand Dollars (\$100,000.00) to be held in trust by the Vendor for the benefit of PricewaterhouseCoopers Inc., in its capacity as Monitor and/or in its capacity as proposed trustee in bankruptcy of the Vendor, as applicable; and
- (d) [REDACTED] which amount shall be paid to the DIP Lender (i) to be used to obtain the consent of RBC and Castcan, or their assignees, to the discharge of their Liens over the Purchased Assets and to obtain their approval to the granting of the Approval and Vesting Order and (ii) otherwise to be retained by the DIP Lender in partial repayment of the amounts then owed by the Vendor to the DIP Lender as of the Closing Date;
- (2) a secured promissory note (the "**Secured Note**") in form and substance acceptable to the DIP Lender and the Purchaser, to be settled prior to the Closing Time, acting reasonably, payable to the Vendor (or as the Vendor may otherwise direct) ranking subordinate only to the Assumed Liability, in principal amount equal to the aggregate amount of the obligations owing by the Vendor to the DIP Lender under the DIP Facility (including legal fees of the DIP Lender's legal counsel up to the Closing Date), less [REDACTED] plus the Additional Secured Note, if applicable, on account of amounts then owed by the Vendor to the DIP Lender;
- (3) an unsecured promissory note (the "**Unsecured Note**") payable to the Vendor to be held in trust for the benefit of the unsecured creditors of the Vendor in the principal amount of [REDACTED] plus the Additional Unsecured Note, if applicable; and
- (4) the assumption of the Assumed Liability by the Purchaser.

#### 2.4 Promissory Notes.

- (1) In addition to the Secured Note, if the aggregate sum of the Secured Claims which the DIP Lender has paid and/or for which the DIP Lender is responsible to pay exceeds the aggregate sum of the final tax refunds actually received by the DIP Lender pursuant to the DIP Lender Charge in respect of the Tax Credit Entitlements then, within thirty (30) days of receipt by the Purchaser of evidence regarding same from the DIP Lender satisfactory to the Purchaser, acting reasonably, the Purchaser shall issue to the DIP Lender an additional secured promissory note ranking equal in priority to the Secured Note (the "**Additional Secured Note**") in principal amount equal to such difference (such difference being referred to herein as the "**Tax Refund Shortfall**").
- (2) In addition to the Unsecured Note, the Purchaser shall issue to the Vendor, to be held in trust for the benefit of the unsecured creditors of the Vendor, an additional unsecured promissory note (the "**Additional Unsecured Note**") in principal amount equal to [REDACTED] minus the Tax Refund Shortfall, if applicable. The Additional Unsecured Note shall be issued as aforesaid within thirty (30) days of receipt of the evidence specified in Section 2.4(1).



- (3) Each of the Secured Note, the Additional Secured Note, the Unsecured Note and the Additional Unsecured Note (collectively, the "Notes") shall be in form and substance acceptable to the Purchaser and in the case of the Secured Note and the Additional Secured Note, the DIP Lender, acting reasonably, and shall have the term of [REDACTED] from the Closing Date and will, at the option of the holder, be convertible at maturity into either (a) cash at par value with [REDACTED] per annum compounded annually accrued interest, or (b) common stock of the Purchaser. The conversion price with respect to the Notes shall be [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

#### 2.5 Allocation of Purchase Price.

The Purchase Price shall be allocated among the Purchased Assets in the manner agreed to by the Purchaser and Vendor (acting reasonably) prior to Closing and the Purchaser and the Vendor shall follow the allocations set out therein in determining and reporting their liabilities for any Taxes and, without limitation, shall file their respective income tax returns prepared in accordance with such allocations.

#### 2.6 Transfer Taxes; GST Election.

- (1) The Purchaser shall be responsible for the payment on Closing of any Taxes that are required to be paid or remitted in connection with the consummation of the transactions contemplated hereunder. For greater certainty, the Purchaser agrees to indemnify and hold the Vendor harmless in respect of any Taxes which may be assessed against the Vendor in respect of the sale to the Purchaser of the Purchased Assets.
- (2) At the Closing, the Vendor and the Purchaser shall, if applicable, jointly execute elections under Section 167 of the *Excise Tax Act* (Canada) to have the sale of the Purchased Assets take place on a GST-free basis under Part IX of the *Excise Tax Act* (Canada) and the Purchaser shall file such election with its GST return for the reporting period in which the sale of the Purchased Assets takes place.

#### 2.7 Excluded Assets.

Notwithstanding anything to the contrary in this Agreement, the Purchaser may, at its option, exclude any of the Purchased Assets from the transaction contemplated hereunder prior to the Time of Closing, whereupon such Purchased Assets shall be deemed to be Excluded Assets, provided, however, that there shall be no adjustment in the Purchase Price.

#### 2.8 Excluded Liabilities.

Except for the Assumed Liability and any liability or obligation of the Vendor required to be performed on or after the Closing Date under any Contract that forms part of the Purchased Assets, the Purchaser will not assume or have any responsibility for any obligation or liability of the Vendor to any Person or of any nature whatsoever, whether known or unknown, fixed,

contingent or otherwise, including any debts, obligations, sureties, positive or negative covenants or other liabilities directly or indirectly arising out of or resulting from the conduct or operation of the Business or the Vendor's ownership of or interest in the Purchased Assets.

### **ARTICLE 3** **CLOSING ARRANGEMENTS**

#### **3.1 Closing.**

The Closing shall take place at 10:00 a.m. (Eastern Time) on the Closing Date at the offices of the Purchaser's Solicitors, or at such other time on the Closing Date or such other place as may be agreed to by the Parties.

#### **3.2 Tender.**

Any tender of documents or money under this Agreement may be made upon the Parties or their respective counsel and money may be tendered by official bank draft drawn upon a Canadian chartered bank, by negotiable cheque payable in Canadian funds and certified by a Canadian chartered bank or trust company or, by wire transfer of immediately available funds to the account specified by that Party.

#### **3.3 Vendor's Closing Deliveries.**

At the Closing, the Vendor shall deliver or cause to be delivered to the Purchaser the following documents:

- (1) assignments of the Intellectual Property or such other documentation as may be required, in the opinion of the Purchaser, to transfer all of the Vendor's right, title and interest in and to the Intellectual Property to the Purchaser and to record the aforementioned transfer with the applicable Governmental Entity, all of which shall be in form and substance satisfactory to the Purchaser;
- (2) if applicable, the election referred to in Section 2.6(2);
- (3) the Approval and Vesting Order and the vesting certificate relating thereto; and
- (4) all deeds of conveyance, bills of sale, assurances, transfers, assignments, releases by the Vendor (releasing the Purchaser, its affiliates, subsidiaries, the shareholders of the Purchaser and their respective affiliates and subsidiaries, and each of their respective shareholders, directors, officers, employees, and agents from any claims and Liabilities of or by the Vendor), consents, and such other agreements, documents and instruments as may be reasonably requested by the Purchaser to complete the transactions provided for in this Agreement.

3.4 **Purchaser's Closing Deliveries.**

At the Closing, the Purchaser shall deliver or cause to be delivered to the Vendor (or as the Vendor may otherwise direct) the following documents and payments:

- (1) the payments referred to in Section 2.3(1);
- (2) the Secured Note pursuant to Section 2.3(2)
- (3) the Unsecured Note pursuant to Section 2.3(3); and
- (4) all such other assurances, consents, agreements, documents and instruments as may be reasonably requested by the Vendor to complete the transactions provided for in this Agreement.

3.5 **Non-Transferable and Non-Assignable Assets.**

To the extent that any of the Purchased Assets to be transferred to the Purchaser on the Closing, or any claim, right or benefit arising under or resulting from such Purchased Assets (collectively, the "**Rights**") is not capable of being transferred without the approval, consent or waiver of any third Person, or if the transfer of a Right would constitute a breach of any obligation under, or a violation of, any Applicable Law unless the approval, consent or waiver of such third Person is obtained, then, except as expressly otherwise provided in this Agreement and without limiting the rights and remedies of the Purchaser contained elsewhere in this Agreement, but only if the Purchaser so elects at its sole option, this Agreement shall not constitute an agreement to transfer such Rights unless and until such approval, consent or waiver has been obtained. After the Closing and until all such Rights are transferred to the Purchaser, the Vendor shall:

- (a) hold the Rights in trust for the Purchaser;
- (b) cooperate with the Purchaser in any reasonable and lawful arrangements designed to provide the benefits of such Rights to the Purchaser; and
- (c) enforce, at the reasonable request of the Purchaser and at the expense and for the account of the Purchaser, any rights of the Vendor arising from such Rights against any third Person, including the right to elect to terminate any such Rights in accordance with the terms of such Rights upon the written direction of the Purchaser.

In order that the full value of the Rights may be realized for the benefit of the Purchaser, the Vendor shall, at the request and expense and under the direction of the Purchaser, in the name of the Vendor or otherwise as the Purchaser may specify, take all such action and do or cause to be done all such things as are, in the opinion of the Purchaser, necessary or proper in order that the obligations of the Vendor under such Rights may be performed in such manner that the value of such Rights is preserved and enures to the benefit of the Purchaser, and that any moneys due and payable and to become due and payable to the Purchaser in and under the Rights are received by the Purchaser. The Vendor shall hold in trust and promptly pay to the Purchaser

all moneys collected by or paid to the Vendor in respect of every such Right. The Purchaser shall indemnify and hold the Vendor harmless from and against any claim or liability under or in respect of such Rights arising because of any action of the Vendor taken in accordance with this Section 3.5.

#### **ARTICLE 4** **CONDITIONS OF CLOSING**

##### **4.1 Purchaser's Conditions.**

The Purchaser shall not be obliged to complete the purchase and sale of the Purchased Assets pursuant to this Agreement unless, at or before the Closing Time (or such other date as may be indicated below), each of the following conditions has been satisfied, it being understood that the following conditions are included for the exclusive benefit of the Purchaser and may be waived, in whole or in part, in writing by the Purchaser at any time; and the Vendor agrees with the Purchaser to take all such actions, steps and proceedings within its reasonable control as may be necessary to ensure that the following conditions are fulfilled at or before the Closing Time:

- (1) *Representations and Warranties.* The representations and warranties of each of PCAS and Touchpoint in Section 5.1 shall be true and correct at the Closing Time.
- (2) *Vendor's Compliance.* The Vendor shall have performed and complied with all of the terms and conditions in this Agreement on its part to be performed or complied with at or before Closing and shall have executed and delivered or caused to have been executed and delivered to the Purchaser at the Closing all the deliveries contemplated in Section 3.3 or elsewhere in this Agreement.
- (3) *No Litigation.* There shall be no litigation or proceedings pending or threatened against any of the Parties, or involving any of the Purchased Assets, for the purpose of enjoining, preventing or restraining the completion of the transactions contemplated hereby or otherwise claiming that such completion is improper.
- (4) *Assignment of Contracts.* The Purchaser shall have entered into an assignment and assumption agreement with IBM Canada Limited, in form and substance satisfactory to the Purchaser;
- (5) *Approval and Vesting Order.* The Approval and Vesting Order shall have been obtained on or by June 5, 2012.
- (6) *Material Loss.* During the Interim Period, no material loss or material damage to the Purchased Assets, or any material portion thereof, shall have occurred.
- (7) *Employees.* At least fifty percent (50%) of the Prospective Employees shall have accepted the Purchaser's good faith offer of employment.
- (8) *Delivery of Purchased Assets.* Other than that certain automated pharmacy dispensing platform located at the Vendor's facility located in Chicago, Illinois and that certain automated pharmacy dispensing platform in transit from London, England, all

Purchased Assets, including all automated pharmacy dispensing platforms, that are not currently located at the Leased Premises shall have been delivered, or be in transit to, to the Leased Premises and all prescription pharmaceutical drugs shall have been removed therefrom on or before the Closing Time.

- (9) *Leased Premises.* The Vendor shall have made arrangements with all applicable third parties satisfactory to the Purchaser in respect of the Purchaser's occupation rights pursuant to Section 8.1.

#### 4.2 **Condition not Fulfilled.**

If any condition in Section 4.1 has not been fulfilled at or before the Closing Time, then the Purchaser may, in its sole discretion, without limiting any rights or remedies available to the Purchaser at law or in equity, either:

- (1) terminate this Agreement by notice to the Vendor, in which event the Purchaser shall be released from its obligations under this Agreement and the Deposit and all accrued interest shall be promptly returned to the Purchaser; or
- (2) waive compliance with any such condition without prejudice to its right of termination in the event of non fulfillment of any other condition.

#### 4.3 **Vendor's Conditions.**

The Vendor shall not be obliged to complete the transactions contemplated by this Agreement unless, at or before the Closing Time, each of the following conditions has been satisfied, it being understood that the following conditions are included for the exclusive benefit of the Vendor, and may be waived, in whole or in part, in writing by the Vendor at any time; and the Purchaser agrees with the Vendor to take all such actions, steps and proceedings within the Purchaser's reasonable control as may be necessary to ensure that the following conditions are fulfilled at or before the Closing Time:

- (1) *Representations and Warranties.* The representations and warranties of the Purchaser in Section 5.2 shall be true and correct at the Closing.
- (2) *Purchaser's Compliance.* The Purchaser shall have performed and complied with all of the terms and conditions in this Agreement on its part to be to be performed by or complied with at or before the Closing Time and shall have executed and delivered or caused to have been executed and delivered to the Vendor at the Closing Time all the deliveries contemplated in Section 3.4 or elsewhere in this Agreement.
- (3) *No Litigation.* There shall be no litigation or proceedings pending or threatened against any of the Parties, or involving any of the Purchased Assets, for the purpose of enjoining, preventing or restraining the completion of the transactions contemplated hereby or otherwise claiming that such completion is improper.
- (4) *Approval and Vesting Order.* The Approval and Vesting Order shall have been obtained on or by June 5, 2012.

4.4 **Condition not Fulfilled.**

If any condition in Section 4.3 shall not have been fulfilled at or before the Closing Time, then the Vendor may, in its sole discretion but with the consent of the Monitor, without limiting any rights or remedies available to the Vendor at law or in equity, either:

- (1) terminate this Agreement by notice to the Purchaser in which event the Vendor shall be released from all obligations under this Agreement and, unless the condition that was not fulfilled was contained in Section 4.3(1) or 4.3(2), the Deposit and all accrued interest thereon shall be promptly returned to the Purchaser and the Purchaser shall be released from all obligations under this Agreement; or
- (2) waive compliance with any such condition without prejudice to its right of termination in the event of non fulfillment of any other condition.

**ARTICLE 5**  
**REPRESENTATIONS AND WARRANTIES**

5.1 **Representations and Warranties of PCAS and Touchpoint**

As a material inducement to the Purchaser entering into this Agreement and completing the transactions contemplated by this Agreement and acknowledging that the Purchaser is entering into this Agreement in reliance upon the representations and warranties of PCAS and Touchpoint set out in this Section 5.1, each of PCAS and Touchpoint hereby represents and warrants to the Purchaser as follows:

- (1) *Incorporation and Power.* Each of PCAS and Touchpoint is a corporation duly incorporated under the laws of the jurisdiction of its incorporation and is duly organized, validly subsisting and in good standing under such laws.
- (2) *Corporate Power and Authorization.* Each of PCAS and Touchpoint has the requisite corporate power to own its property and assets, including the Purchased Assets, and to carry on the Business as it is currently conducted.
- (3) *Due Authorization.* Each of PCAS and Touchpoint has all necessary corporate power, authority and capacity to enter into this Agreement and all other agreements and instruments to be executed by it as contemplated by this Agreement and to carry out its obligations under this Agreement and such other agreements and instruments. Subject to the granting of the Approval and Vesting Order, the execution and delivery of this Agreement and such other agreement and instruments and the completion of the transactions contemplated by this Agreement and such other agreements and instruments have been duly authorized by all necessary corporate action on the part of PCAS and Touchpoint.
- (4) *Enforceability of Obligations.* Subject to the granting of the Approval and Vesting Order, this Agreement and each other agreement and instrument contemplated by this Agreement to which PCAS and Touchpoint, or either of them, is a party, constitutes a valid and binding obligation of PCAS and Touchpoint, as the case may be, enforceable

against each of them, in accordance with its respective terms subject, however, to limitations on enforcement imposed by bankruptcy, insolvency, reorganization or other laws affecting the enforcement of the rights of creditors or others and to the extent that equitable remedies such as specific performance and injunctions are only available in the discretion of the court from which they are sought.

- (5) *GST.* Each of PCAS and Touchpoint is a "registrant" under Part IX of the *Excise Tax Act* (Canada) and their registration numbers are 8064 54278 RT0001 and 8202 86417 RT0001, respectively.
- (6) *Residency.* Each of PCAS and Touchpoint are not non-residents within the meaning of the *Income Tax Act* (Canada)
- (7) *No Litigation.* There is no litigation, action, suits or proceedings pending or threatened against PCAS, Touchpoint, or either of them, or involving any of the Purchased Assets, including, without limitation, for the purpose of enjoining, preventing or restraining the completion of the transactions contemplated hereby or otherwise claiming that such completion is improper.

## 5.2 **Representations and Warranties of the Purchaser.**

As a material inducement to the Vendor entering into this Agreement and completing the transactions contemplated by this Agreement and acknowledging that the Vendor is entering into this Agreement in reliance upon the representations and warranties of the Purchaser set out in this Section 5.2, the Purchaser hereby represents and warrants to the Vendor as follows:

- (1) *Incorporation of the Purchaser.* The Purchaser is a corporation duly incorporated under the laws of the jurisdiction of its incorporation and is duly organized and validly subsisting under such laws.
- (2) *Due Authorization.* The Purchaser has all necessary corporate power, authority and capacity to enter into this Agreement and all other agreements and instruments to be executed by it as contemplated by this Agreement and to carry out its obligations under this Agreement and such other agreements and instruments. The execution and delivery of this Agreement and such other agreements and instruments and the completion of the transactions contemplated by this Agreement and such other agreements and instruments have been duly authorized by all necessary corporate action on the part of the Purchaser.
- (3) *Enforceability of Obligations.* Subject to the granting of the Approval and Vesting Order, this Agreement constitutes a valid and binding obligation of the Purchaser enforceable against the Purchaser in accordance with its terms subject, however, to limitations on enforcement imposed by bankruptcy, insolvency, reorganization or other laws affecting the enforcement of the rights of creditors or others and to the extent that equitable remedies such as specific performance and injunctions are only available in the discretion of the court from which they are sought.

- (4) *Approvals and Consents.* Except as otherwise provided herein or as may be required under the *Investment Canada Act* (Canada), no authorization, consent or approval of, or filing with or notice to any governmental agency, regulatory body, court or other Person is required in connection with the execution, delivery or performance of this Agreement by the Purchaser or the purchase of any of the Purchased Assets hereunder.
- (5) *GST.* The Purchaser is or will be a "registrant" under Part IX of the *Excise Tax Act* (Canada) on the Closing Date.

### 5.3 **Survival of Representations and Warranties.**

- (1) The representations and warranties of the Vendor contained in Section 5.1 or any other agreement, certificate or instrument delivered pursuant to this Agreement shall survive the Closing.
- (2) The representations and warranties of the Purchaser contained in Section 5.2 or any other agreement, certificate or instrument delivered pursuant to this Agreement shall survive the Closing.

### 5.4 **"As is, Where is".**

The Purchaser acknowledges that the Vendor is selling the Purchased Assets on an "as is, where is" basis as they shall exist on the Closing Date. The Purchaser further acknowledges that it has entered into this Agreement on the basis that the Vendor does not guarantee title to the Purchased Assets and that the Purchaser has conducted such inspections of the condition of and title to the Purchased Assets as it deemed appropriate and has satisfied itself with regard to these matters. No representation, warranty or condition is expressed or can be implied as to title, encumbrances, description, fitness for purpose, merchantability, condition, quantity or quality or in respect of any other matter or thing whatsoever concerning the Purchased Assets or the right of the Vendor to sell or assign same save and except as expressly represented or warranted herein. Without limiting the generality of the foregoing, any and all conditions, warranties or representations expressed or implied pursuant to the *Sale of Goods Act* (Ontario) or similar legislation do not apply hereto and have been waived by the Purchaser. The description of the Purchased Assets contained in the Schedules hereto is for the purpose of identification only. No representation, warranty or condition has or will be given by the Vendor concerning completeness or the accuracy of such descriptions. The Purchaser further acknowledges that all written and oral information (including analyses, financial information and projections, compilations and studies) obtained by the Purchaser from the Vendor or the Monitor or any their directors, officers, employees, professional consultants or advisors with respect to the Purchased Assets or otherwise relating to the transactions contemplated in this Agreement has been obtained for the convenience of the Purchaser only and is not warranted to be accurate or complete.

## **ARTICLE 6** **INTERIM PERIOD**



6.1 **Risk of Loss.**

During the Interim Period, the Purchased Assets shall be and remain at the risk of the Vendor. From and after the completion of Closing, the Purchased Assets shall be and remain at the risk of the Purchaser. If, prior to the completion of the Closing, the Purchased Assets are substantially damaged or destroyed by fire or other casualty, then, at its option, the Purchaser may decline to complete the transactions contemplated herein, whereupon this Agreement shall be deemed terminated and the Deposit and all interest thereon shall be returned to the Purchaser, and no Party shall be otherwise liable to the other in respect hereof and thereof. Such option shall be exercised within three (3) days after notification to the Purchaser by the Vendor of the occurrence of damage or destruction (or prior to the Closing Date if such occurrence takes place within three (3) days of the Closing Date). If the Purchaser does not exercise such option, and provided insurance is available in respect of any such damage or destruction to the full replacement value thereof, the Purchaser shall complete the transactions contemplated herein and shall be entitled to an assignment of the proceeds of insurance referable to such damage or destruction. Where, in the opinion of the Purchaser, acting reasonably, any such damage or destruction does not affect all or substantially all of the Purchased Assets, and provided insurance is available in respect of any such damage or destruction to the full replacement value thereof, the Purchaser shall complete the transactions contemplated herein and shall be entitled to an assignment of the proceeds of insurance referable to such damage or destruction.

6.2 **Approval and Vesting Order.**

As soon as practicable after the execution and delivery of this Agreement by the Parties, and in any event by no later than three (3) Business Days following such execution and delivery, the Vendor shall file an application with the Court for an order substantially in the form and substance as approved by the Purchaser (the "**Approval and Vesting Order**") approving this Agreement, and finally and unconditionally approving the sale of the Purchased Assets to the Purchaser and the assumption of the Assumed Liability by the Purchaser and vesting, upon the filing of the Monitor's certificate referenced below, all right, title and interest of the Vendor in and to the Purchased Assets to the Purchaser, free and clear of all Liens and releasing the Purchaser from any claims against or Liabilities of the Vendor. The Approval and Vesting Order will vest title to the Purchased Assets as aforesaid in the Purchaser subject to the Monitor filing a certificate with the Court to the effect that the transactions contemplated herein have closed and the Purchase Price has been paid. The Approval and Vesting Order shall be served upon the necessary parties, and in the time frame, as approved by the Purchaser, acting reasonably.

6.3 **Access.**

The Purchaser shall have unrestricted access to the Leased Premises and all Books and Records during normal business hours and at such other times as agreed to by the Vendor to, among other things, make arrangements for the orderly transfer of the Purchased Assets from the Vendor to the Purchaser. The Purchaser shall not be provided with access to any of the foregoing to the extent that such access would violate or conflict with (i) any Law to which the Vendor or any of the Purchased Assets is subject; or (ii) any agreement, instrument or understanding by which the Vendor is bound. The Purchaser shall indemnify and hold harmless the Vendor from and against all claims, demands, losses, damages, actions and costs incurred or

arising from or in any way related to the inspection of the Purchased Assets by the Purchaser or attendance by the Purchaser at the Leased Premises, save and except for any claims, demands, losses, damages, actions and costs incurred or resulting from the negligence or wilful misconduct of the Vendor.

## **ARTICLE 7** **EMPLOYEES**

### **7.1 Employees.**

- (1) Following the execution and delivery of this Agreement by the Parties, the Purchaser may provide the Vendor with a list of twenty (20) Employees to whom it may offer employment (the "**Prospective Employees**") and shall make such offers of employment, effective as of the Closing Time, to the Prospective Employees on terms and conditions which are substantially similar in the aggregate to the current terms provided (with the exception that a written employment agreement shall be entered into between the Purchaser and each Prospective Employee which shall define the termination entitlement owed to such Prospective Employee upon his or her acceptance of the offer of employment by the Purchaser). For greater certainty, the Purchaser shall not be obligated to offer employment to any Employee. The Purchaser will provide notice to the Vendor on the Closing Date of the names of those Prospective Employees who accept employment with the Purchaser (such Employees who commence employment with the Purchaser are collectively referred to herein as the "**Transferred Employees**"). For greater certainty, pursuant to Section 4.1(7), it is a condition of the Purchaser that at least fifty percent (50%) of the Prospective Employees must accept the Purchaser's good faith offer of employment unless such condition is otherwise waived by the Purchaser pursuant to Section 4.2(2).
- (2) The Purchaser shall be liable for the payment of all legal obligations relating to the employment on and after the Closing Time of all Transferred Employees (other than accrued vacation and overtime pay accruing up to and including the Closing Date). All items in respect of the Transferred Employees including premiums for employment insurance, employer health tax, worker's compensation, benefit plans, Canada Pension Plan, accrued wages, salaries, commissions, vacation pay, incentive compensation, expenses and other employee benefits which are payable to, receivable by or accrued in favour of the Transferred Employees up to the Closing Time even if not then due, shall be the responsibility of the Vendor. It is understood that the Purchaser shall have no obligation or liability to any Employee (including the Transferred Employees) or to any Governmental Entity for any premiums for employment insurance, employer health tax, worker's compensation, benefit plans, Canada Pension Plan, accrued wages, accrued vacation pay, accrued overtime pay, salaries, commissions, incentive compensation, expenses, sick leave benefits and other employee benefits or Taxes which are payable to, received by or accrued in favour of any Employee on or prior to the Closing Time even if not then due.

- (3) The Vendor shall be responsible for all wages, notice of termination, severance pay and other obligations including entitlement to benefit coverage, stock options, incentive compensation, vacation pay and overtime pay to all Employees who are not Transferred Employees.
- (4) The Approval and Vesting Order shall include a clause declaring the Employees that are not Transferred Employees terminated and deemed not to be successor employees of the Purchaser.

## **ARTICLE 8**

### **POST-CLOSING MATTERS**

#### **8.1 Leased Premises.**

The Vendor shall provide the Purchaser with the right to occupy the Leased Premises for a period of up to thirty (30) days following the Closing Date (or such longer period as may be determined by the Purchaser in its sole discretion but, in any event, no longer than ninety (90) days from the date of any bankruptcy of the Vendor) at the Purchaser's expense. The Vendor hereby covenants and agrees that it shall not take any steps to terminate or disclaim the lease in respect of the Leased Premises during such period of occupation as aforesaid.

#### **8.2 Books and Records.**

Following the Closing Time, the Purchaser shall make available to the Vendor and/or the Monitor, on a reasonable basis, the Books and Records.

#### **8.3 Transferred Employees.**

Following the Closing Time, the Purchaser shall make available to the Vendor and/or the Monitor, on a reasonable basis and during normal business hours, the Transferred Employees as may be reasonably requested by the Vendor or the Monitor from time to time as is needed to administer their respective duties in the Vendor's proceedings under the *Companies' Creditors Arrangement Act* (Canada) provided that the provision of the Transferred Employees as aforesaid does not cause unreasonable disruption to the business operations of the Purchaser.

#### **8.4 Delivery of the Additional Secured Note and the Additional Unsecured Note.**

The Purchaser shall deliver the Additional Secured Note and the Additional Unsecured Note, as applicable, following the Closing Date in accordance with Section 2.4(1) and Section 2.4(2), respectively.

#### **8.5 Evidence of Payments by the Vendor.**

- (1) *Payment of Statutory Priority Claim Amounts.* The cash payment provided pursuant to Section 2.3(1)(a) shall be used by the Vendor to pay, and shall be in full satisfaction of, all statutory priority claim amounts owing by the Vendor as at the Closing Time and the Vendor shall provide the Purchaser with evidence of same to the satisfaction of the Purchaser.

- (2) *Satisfaction of Amounts owing to KERP Employees.* The cash payment provided pursuant to Section 2.3(1)(d) shall be used by the Vendor to pay, and shall be in full satisfaction of, all amounts owing by the Vendor to the KERP Employees as at the Closing Time and the Vendor shall provide the Purchaser with evidence of same to the satisfaction of the Purchaser.
- (3) *Payment to the DIP Lender.* The Vendor shall pay, or direct the Purchaser to pay, the amount to be paid to the Vendor pursuant to Section 2.3(1)(c), and direct the issuance of the Secured Note and the Additional Secured Note, if applicable, to the DIP Lender.

## **ARTICLE 9**

### **GENERAL**

#### **9.1 Expenses.**

Each Party shall be responsible for its own legal and other expenses (including any Taxes imposed on such expenses) incurred in connection with the negotiation, preparation, execution, delivery and performance of this Agreement and the transactions contemplated by this Agreement and for the payment of any broker's commission, finder's fee or like payment payable by it in respect of the purchase and sale of the Purchased Assets pursuant to this Agreement.

#### **9.2 Payment of Taxes.**

Except as otherwise provided in this Agreement, the Purchaser shall pay all Taxes applicable to, or resulting from, transactions contemplated by this Agreement (other than Taxes payable under Applicable Law by the Vendor) that are properly payable by the Purchaser under Applicable Law and any filing or recording fees properly payable by the Purchaser in connection with the instruments of transfer provided for in this Agreement.

#### **9.3 Announcements.**

Except as required by law including applicable regulatory and stock exchange requirements, all public announcements concerning the transactions provided for in this Agreement or contemplated by this Agreement shall be jointly approved in advance as to form, substance and timing by the Parties after consultation.

#### **9.4 Notices.**

- (1) Any notice, certificate, consent, determination or other communication required or permitted to be given or made under this Agreement shall be in writing and shall be effectively given and made if (i) delivered personally, (ii) sent by prepaid courier service or mail, or (iii) sent prepaid by fax or other similar means of electronic communication, in each case to the applicable address set out below:

- (i) if to the Vendor, to:

PCAS Patient Care Automation Services Inc. and 2163279 Ontario Inc.  
2-2880 Brighton Road

Oakville, Ontario  
L6H 5S3

Attention: Kym Anthony  
Email: [kym.anthony@yahoo.com](mailto:kym.anthony@yahoo.com)

with a copy to:

Aird & Berlis LLP  
Brookfield Place, 181 Bay Street  
Suite 1800, Box 754  
Toronto, Ontario M5J 2T9

Fax: 416.863.1515  
Attention: Sam Babe  
Email: [sbabe@airdberlis.com](mailto:sbabe@airdberlis.com)

(ii) if to the Purchaser, to:

DashRx, LLC  
100 Pine Street, Suite 1925  
San Francisco, CA  
94123

Fax: 415.449.3639  
Attention: Manager  
Email: [Gerard@redmilegrp.com](mailto:Gerard@redmilegrp.com) and [rob.monahan@walgreens.com](mailto:rob.monahan@walgreens.com)

with a copy to:

Bennett Jones LLP  
Suite 3400, 1 First Canadian Place  
P.O. Box 130  
Toronto, Ontario  
M5X 1A4

Fax: 416.863.1716  
Attention: Mark Laugesen  
Email: [laugesenm@bennettjones.com](mailto:laugesenm@bennettjones.com)

(iii) if to the Monitor:

PricewaterhouseCoopers Inc.  
PwC Tower  
18 York Street, Suite 2600  
Toronto, Ontario  
M5J 0B2

Fax: 416.814.3210  
Attention: Paul van Eyk  
Email: [vaneyk@ca.pwc.com](mailto:vaneyk@ca.pwc.com)

with a copy to:

Osler, Hoskin & Harcourt LLP  
1 First Canadian Place  
100 King Street West, Suite 6100  
Toronto, Ontario  
M5X 1B8

Fax: 416.862.6666  
Attention: Marc S. Wasserman  
Email: [mwasserman@osler.com](mailto:mwasserman@osler.com)

- (2) Any such communication so given or made shall be deemed to have been given or made and to have been received on the day of delivery if delivered, or on the day of faxing or sending by other means of recorded electronic communication, provided that such day in either event is a Business Day and the communication is so delivered, faxed or sent before 4:30 p.m. (Eastern Time) on such day. Otherwise, such communication shall be deemed to have been given and made and to have been received on the next following Business Day. Any such communication sent by mail shall be deemed to have been given and made and to have been received on the fifth Business Day following the mailing thereof; provided however that no such communication shall be mailed during any actual or apprehended disruption of postal services. Any such communication given or made in any other manner shall be deemed to have been given or made and to have been received only upon actual receipt.
- (3) Any Party may from time to time change its address under this Section 9.4 by notice to the other Party given in the manner provided by this Section.

9.5 **Time of Essence.**

Time shall be of the essence of this Agreement in all respects.

9.6 **Time Periods.**

Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next Business Day following if the last day of the period is not a Business Day.

9.7 **Entire Agreement.**

This Agreement and the agreements and other documents required to be delivered pursuant to this Agreement, constitute the entire agreement between the Parties and set out all the covenants, promises, warranties, representations, conditions, understandings and agreements

between the Parties pertaining to the subject matter of this Agreement and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written. There are no covenants, promises, warranties, representations, conditions, understandings or other agreements, oral or written, express, implied or collateral between the Parties in connection with the subject matter of this Agreement except as specifically set forth in this Agreement and any document required to be delivered pursuant to this Agreement.

9.8 **Amendments and Waiver.**

No amendment of any provision of this Agreement shall be valid unless the same shall be in writing and signed by the Purchaser and the Vendor. The Vendor and the Purchaser may consent to any such amendment at any time prior to the Closing with the prior authorization of their respective boards of directors. No waiver by either Party of any default, misrepresentation, or breach of warranty or covenant hereunder, whether intentional or not, shall be deemed to extend to any prior or subsequent default, misrepresentation, or breach of warranty or covenant hereunder or affect in any way any rights arising by virtue of any prior or subsequent such occurrence.

9.9 **Non Merger.**

Each Party hereby agrees that all provisions of this Agreement, other than the conditions in Article 4 shall forever survive the execution, delivery and performance of this Agreement, Closing and the execution, delivery and performance of any and all documents delivered in connection with this Agreement.

9.10 **Further Assurances.**

Each Party shall promptly do, execute, deliver or cause to be done, executed and delivered all further acts, documents and things in connection with this Agreement that the other Party may reasonably require, for the purposes of giving effect to this Agreement.

9.11 **Severability.**

Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to that jurisdiction, be ineffective to the extent of such prohibition or unenforceability and shall be severed from the balance of this Agreement, all without affecting the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

9.12 **Governing Law.**

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein and shall be treated, in all respects, as an Ontario contract.

9.13 **Construction.**

The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event an 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 favoring or disfavoring either Party by virtue of the authorship of any of the provisions of this Agreement.

9.14 **Successors and Assigns.**

This Agreement shall enure to the benefit of, and be binding on, the Parties and their respective successors and permitted assigns. Neither Party may assign or transfer, whether absolutely, by way of security or otherwise, all or any part of its respective rights or obligations under this Agreement without the prior written consent of the other Party. Notwithstanding the above, the Purchaser may assign this Agreement to a related corporation and, upon such assignment and completion of the transactions contemplated by this Agreement, the Purchaser shall be released and discharged from all obligations hereunder.

9.15 **No Third Party Beneficiaries.**

This Agreement shall not confer any rights or remedies upon any Person other than the Parties and their respective successors and permitted assigns or as specifically referred to herein.

9.16 **Counterparts, Electronic Delivery.**

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument. Counterparts may be executed and delivered either in original or faxed form or by electronic delivery in portable document format (PDF) and the parties adopt any signatures received by a receiving fax machine as original signatures of the parties; provided, however, that any party providing its signature in such manner shall promptly forward to the other party an original of the signed copy of this Agreement which was so faxed or electronically delivered.

*[The remainder of this page intentionally left blank]*



IN WITNESS WHEREOF the parties have executed this Agreement.

**PCAS PATIENT CARE AUTOMATION  
SERVICES INC.**

Per: \_\_\_\_\_

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

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

**2163279 ONTARIO INC.**

Per: \_\_\_\_\_

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

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

**DASHRX, LLC**

Per: \_\_\_\_\_

*Authorized Signatory*

Per: \_\_\_\_\_

*Authorized Signatory*

IN WITNESS WHEREOF the parties have executed this Agreement.

**PCAS PATIENT CARE AUTOMATION  
SERVICES INC.**

Per: \_\_\_\_\_

Name:

Title:

**2163279 ONTARIO INC.**

Per: \_\_\_\_\_

Name: Sandeep Lalli

Title: Director of Pharmacy

**DASHRX, LLC**

Per: \_\_\_\_\_

*Authorized Signatory*

Per: \_\_\_\_\_

*Authorized Signatory*

IN WITNESS WHEREOF the parties have executed this Agreement.


PCAS PATIENT CARE AUTOMATION  
SERVICES INC.

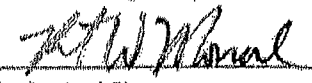
Per: \_\_\_\_\_  
Name:  
Title:

2163279 ONTARIO INC.

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

DASIRX, LLC

Per:   
Authorized Signatory Gerald van Hamel Platerink

Per:   
Authorized Signatory  
Robert W. Monahan

**Schedule 1.1(14)**

**Contracts**

1. Lease agreement dated December 16, 2010 between IBM Canada Limited and PCAS Patient Care Automation Services Inc. (Agreement No. 923329/CFC1 Contract No. 0109056VT).

**Schedule 1.1(26)**

**Intellectual Property**

**Patent Portfolio:**

<b>Jurisdiction</b>	<b>Application/Patent No.</b>	<b>Filing/Issue Date</b>	<b>Title</b>
US	60/819,622	07/11/06	Method, System and Apparatus for Dispensing Drugs
US	12/305,759	02/16/10	Method, System and Apparatus for Dispensing Drugs
US	12/707,697	02/18/10	Method, System and Apparatus for Dispensing Drugs
US	13/032,676	02/23/11	Method, System and Apparatus for Dispensing Drugs
Worldwide	PCT/CA2007/001220	07/11/07	Method, System and Apparatus for Dispensing Drugs
Australia	2007272253	07/11/07	Method, System and Apparatus for Dispensing Drugs
Australia	2010202275	06/02/10	Method, System and Apparatus for Dispensing Drugs
Canada	2,655,490	07/11/07	Method, System and Apparatus for Dispensing Drugs
European Union	07763882.3/ 2007763882	07/11/07	Method, System and Apparatus for Dispensing Drugs (handling the script)
European Union	10176201.1	07/11/07	Method, System and Apparatus for Dispensing Drugs (handling the drug)
US	12/551,456	08/31/09	Automated Apparatus For Dispensing Medicaments
Canada	2,639,239	08/29/08	Automated Apparatus For Dispensing Medicaments
Worldwide	PCT/CA2009/001186	08/28/09	Automated Apparatus For Dispensing Medicaments
China	200980101414.0	08/28/09	Automated Apparatus For Dispensing Medicaments
Hong Kong	1106095.8	06/15/11	A Completely Submerged Wave Energy Converter
Australia	2009287377	08/28/09	Automated Apparatus For Dispensing Medicaments
Korea	10-2011-7004467	08/28/09	Automated Apparatus For Dispensing Medicaments
Japan	2011-524148	08/28/09	Automated Apparatus For Dispensing Medicaments
South Africa	2011/00245	09/28/11	Automated Apparatus For Dispensing Medicaments
India	N/A	N/A	Automated Apparatus For Dispensing Medicaments
European Union	09809147.3	08/28/09	Automated Apparatus For Dispensing Medicaments
Singapore	N/A	N/A	Automated Apparatus For Dispensing Medicaments
US (Provisional)	61/170,642	04/19/09	Automated Apparatus For Dispensing Medicaments
US	12/509,989 Published 20090503989	07/16/09	Method and Apparatus for Picking a Package from a Dispensing System
Worldwide	PCT/CA2010/001098 WO2011006247	07/16/10	Method and Apparatus for Picking a Package from a Dispensing System
Worldwide	PCT/CA2010/001098	07/16/10	Method and Apparatus for Picking a Package from a Dispensing System
New Zealand	592926	07/16/10	Method and Apparatus for Picking a Package from a Dispensing System
China	201010170030.9	04/27/10	Method and Apparatus for Picking a Package from a Dispensing System
US	12/611,089	11/02/09	Automated Dispensary Apparatus for Dispensing Pills
US	12/541.307 Confirm #	08/14/09	Rack Arrangement for Kiosk Dispenser

Jurisdiction	Application/Patent No.	Filing/Issue Date	Title
	3089		
Worldwide	PCT/CA2010/001236 Published WO 2011-017805	08/13/10	Rack Arrangement for Kiosk Dispenser
Worldwide	PCT/CA2010/001236 Published WO2011-017805	02/14/12	Rack Arrangement for Kiosk Dispenser
China	201010164230.3	04/14/10	Rack Arrangement for Kiosk Dispenser
US	12/551,470	08/31/09	Method and Apparatus for Labeling
US	12/642,786	12/19/09	Method and Apparatus for Identifying Embossed Characters
US	12/701,372	02/05/10	Method and Apparatus for Handling Packages in an Automated Dispensary
Worldwide	PCT/CA2011/00135	02/04/11	Method and Apparatus for Handling Packages in an Automated Dispensary
China	201010164242.6	04/14/10	Method and Apparatus for Handling Packages in an Automated Dispensary
US	12/728,202	03/20/10	Apparatus, System and Method for Storage and Dispensing of Items; "pick and park"
Worldwide	PCT/CA2011/000280	03/17/11	Apparatus, System and Method for Storage and Dispensing of Items; "pick and park"
US	12/728,204	03/20/10	Method and Apparatus for Counting Items
Worldwide	PCT/CA2011/000279	03/17/11	Method and Apparatus for Counting Items
US(Provisional)	61/320,772	04/05/10	Medication Delivery and Compliance System, Method and Apparatus
US	13/080,466	04/05/11	Medication Delivery and Compliance System, Method and Apparatus
Worldwide	PCT/CA2011/000356; Published WO2011-123933	04/05/11	Medication Delivery and Compliance System, Method and Apparatus
US	12/881,817	09/14/10	Method of Configuring Rack Storage and a Rack Assembly
Worldwide	N/A	09/09/11	Method of Configuring Rack Storage and a Rack Assembly
US (Provisional)	61/322,506	05/07/10	Targeted Health Care Messaging
US	13/101,639	05/05/11	Targeted Health Care Messaging
Worldwide	Not Yet Available	Not Yet Available	Targeted Health Care Messaging
US (Provisional)	61/360,509	07/01/10	Method and Apparatus for Labeling
US	13/173,869	06/30/11	Method and Apparatus for Labeling
Worldwide	Not Yet Available	06/30/11	Method and Apparatus for Labeling
US (Provisional)	61/406,012	10/22/10	A Dispensing Apparatus and Method for Effecting Parallel Dispense Operations
Worldwide	PCT/US2011/057341	10/21/11	Apparatus And Method for Concurrent Item Dispensing

Jurisdiction	Application/Patent No.	Filing/Issue Date	Title
US (Provisional)	61/413,093	11/12/10	Refrigerating Apparatus for a Kiosk Dispensary
Worldwide	PCT/US2011/060390	11/11/11	Apparatus and Operation Method for Dispensing a Climate Controlled Item to a User
US (Provisional)	61/435,324	01/23/11	Dispensing Kiosk Loading Arrangement
Worldwide	PCT/US2012/22124 Confirmation No. 3460	01/21/12	Dispensing Kiosk Loading Arrangement
US	Not Yet Filed	Not Yet Filed	Remote Temperature Regime Monitoring
US	13/080,513	04/05/11	Medication Delivery and Validation System, Method and Apparatus
Worldwide	PCT/2011/000354	04/05/11	Medication Delivery and Validation System, Method and Apparatus
US (Provisional)	61/471,380; Conf# 9402	04/04/11	Systems and Methods for Compliance Based Distribution of Regulated Products
US (Provisional)	61/471,309; 8 Confirm #9451	04/04/11	Systems and Methods for Regulated Product Dispensing Payments

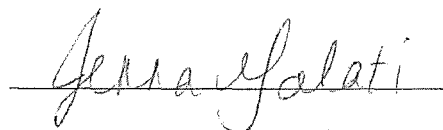
#### Trademark Portfolio:

Jurisdiction	Application/Reg. No.	Filing/Issue Date	Mark
European Union	10647238	02/15/12	TOUCHPOINT PHARMACY
European Union	10647303	02/15/12	TOUCHPOINT PHARMACY ON DEMAND
Canada	10647253	02/15/12	TOUCHPOINT PHARMACISTS ON DEMAND
Canada	1564994	02/15/12	TOUCHPOINT
Canada	1564991	02/15/12	TOUCHPOINT PHARMACY
Canada	1564992	02/15/12	TOUCHPOINT PHARMACY ON DEMAND
Canada	1564993	02/15/12	TOUCHPOINT PHARMACISTS ON DEMAND
US	85397638	08/15/11	TOUCHPOINT PHARMACY
US	85397642	08/15/11	TOUCHPOINT PHARMACY ON DEMAND
US	85397645	08/15/11	TOUCHPOINT PHARMACISTS ON DEMAND
US	85397634	08/15/11	TOUCHPOINT
Canada	1334181/TMA721042	08/15/11	PHARMATRUST
Canada	1497461	09/17/10	MORTAR & PESTLE DESIGN
Canada	1494988	02/18/10	PHARMATRUST MEDCENTRE
Canada	1494989	02/18/10	PHARMATRUST MEDCENTRE and design
Canada	1497460	07/11/07	PHARMATRUST MEDHOME and design
Canada	1497458	07/11/07	MEDHOME
US	85174263	07/11/07	MEDHOME
US	77100989/ 3763617	02/06/07 03/23/10	PHARMATRUST

# **TAB E**



Attached is Exhibit "E" Referred to in the  
AFFIDAVIT OF FAROUK AHAMED  
Sworn before me this 1<sup>st</sup> day of June, 2012

A handwritten signature in cursive script, reading "Jenna Galati", is written over a horizontal line.

Commissioner for taking Affidavits, etc

OCCUPANCY AGREEMENT

This Agreement made this 6<sup>th</sup> day of June, 2012.

**BETWEEN:**

**PCAS PATIENT CARE AUTOMATION SERVICES INC.**, a  
corporation incorporated under the laws of the Province of Ontario,  
(hereinafter referred to as "**PCAS**")

-and-

**DASHRX, LLC**, a limited liability company formed under the laws of the  
State of Delaware,  
(hereinafter referred to as the "**Purchaser**")

**WHEREAS:**

- A.** On March 23, 2012, PCAS and 2163279 Ontario Inc. (collectively, the "**Vendor**") were granted protection under the *Companies' Creditors Arrangement Act* pursuant to an initial order of the Honourable Mr. Justice Morawetz of the Ontario Superior Court of Justice (Commercial List) (the "**Court**").
- B.** The Purchaser was held to be the successful bidder in an expedited sale investor solicitation process (the "**SISP**") conducted by the Vendor approved by a court order (the "**Sales Process Order**") granted on May 14, 2012.
- C.** In connection therewith, the Vendor and Purchaser entered into an asset purchase agreement dated as of June 1, 2012 (the "**APA**"), pursuant to which, the Vendor has agreed to sell, assign, transfer and convey to the Purchaser all of its right, title and interest in and to the Purchased Assets (as defined in the APA).
- D.** The terms and provisions of the APA have been approved by the Court pursuant to an order from the Court on • (the "**Approval and Vesting Order**").
- E.** PCAS has entered into a lease agreement ("**Lease**") dated as of November 23, 2011 with 2440 Winston Park Drive Limited Partnership (the "**Landlord**") in respect of the premises of PCAS located at 2440 Winston Park Drive, Oakville, Ontario (the "**Leased Premises**").
- F.** Pursuant to the terms of the APA, PCAS is required to provide the Purchaser with the right to occupy the Leased Premises on the terms and conditions herein contained.

**NOW THEREFORE**, in consideration of the premises and the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties to this Agreement agree as follows:

1. **Occupation.**

PCAS hereby grants the Purchaser the right to occupy the Leased Premises for a period of up to thirty (30) days following the Closing Date (as defined in the APA) (or such longer period as may be determined by the Purchaser in its sole discretion) (the “**Occupation Period**”).

2. **Responsibilities of the Purchaser.**

The Purchaser shall pay any and all rent, expenses and occupation costs relating to the Leased Premises which PCAS is obligated to pay pursuant to and in accordance with the Lease during the Occupation Period (the “**Occupation Costs**”).

3. **Use of Premises**

During the Occupation Period, PCAS shall provide the Purchaser with unrestricted access to the Leased Premises. The Purchaser shall maintain the Leased Premises in the condition that they were at the commencement of the Occupation Period, ordinary wear and tear excepted. The Purchaser shall be responsible for all repair costs in respect of the Leased Premises during the Occupation Period, in accordance with and subject to the terms of the Lease.

During the Occupation Period, the Purchaser shall: (a) perform all of PCAS's obligations with respect to the Leased Premises during the Occupation Period, including those arising under the lease; (b) comply with each of the provisions of the lease and the requirements of all laws, by-laws, regulations, ordinances and orders that affect the occupation, condition, maintenance or use of the Leased Premises; (c) comply with the requirements applicable to any insurance covering the Leased Premises; and (d) not assign, sublet or otherwise permit any other person to occupy or use the Leased Premises.

4. **Indemnity.**

The Purchaser hereby indemnifies and saves harmless PCAS (together with its officers, directors, employees, agents and shareholders) from and against any and all losses, liabilities, damages, costs, expenses and claims of any kind and every kind whatsoever, including all legal and professional costs, which at any time or from time to time may be paid, incurred, or asserted against any of them for, with respect to or as a result of: (a) any injury caused to any person at the Leased Premises caused by the Purchaser (including employees of the Purchaser) during the Occupation Period; (b) any physical damage to the Premises or environmental claim asserted against PCAS directly caused by the Purchaser's occupation to the Leased Premises; and (c) any claim which the Landlord may successfully assert against PCAS in respect of any leasehold improvements located on the Leased Premises which the Purchaser damaged or removed during the Occupation Period. Notwithstanding the foregoing, the Purchaser shall not be responsible or liable for any environmental condition or damage, hazardous environmentally-regulated waste substances of any kind in, on, under the Leased Premises or in any way affecting the Leased Premises existing at the date of this Agreement, whether then known or subsequently discovered.

5. **Release.**

The Purchaser on its behalf and on behalf of its employees, agents, servants and representatives, does hereby release and forever discharge PCAS, its employees, agents, servants and representatives from all claims, actions, causes of action, losses, liabilities, debts, demands, costs, and expenses whatsoever which the Purchaser or its employees, agents, servants, representatives and invitees may hereafter have against PCAS, its employees, agents, servants, representatives and invitees, caused by, in connection with, or arising from its occupation to the Leased Premises including, without limitation, all of the acts and omissions of the Purchaser, its employees, agents, servants and invitees.

**6. No Registration.**

The Purchaser and PCAS hereby agree that this Agreement and any notice of it shall not be registered against the title to the Leased Premises. Nothing in this Agreement shall be construed to make the relationship between PCAS and the Purchaser one of landlord and tenant, joint ventures, or partners.

**7. Successors and Assigns; Amendment.**

This Agreement shall enure to the benefit of, and be binding upon the parties and their respective successors and assigns. Neither of the parties hereto may assign or transfer all or any part of its respective rights or obligations hereunder without the prior written consent of the other party. This Agreement may only be amended, modified or supplemented by a written agreement signed by the parties.

**8. Severability.**

Any provision of this Agreement which is, or becomes, illegal, invalid or unenforceable shall be severed from this Agreement and be ineffective to the extent of such illegality, invalidity or unenforceability and shall not affect or impair the remaining provisions hereof or thereof.

**9. Entire Agreement.**

This Agreement constitutes the entire agreement between the parties hereto pertaining to the subject matter hereof and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties. There are no representations, warranties, conditions or other agreements, express or implied, statutory or otherwise, between the parties in connection with the subject matter of this Agreement, except as specifically set forth herein and therein.

**10. Further Assurances.**

Each Party shall promptly do, execute, deliver or cause to be done, executed and delivered all further acts, documents and things in connection with this Agreement that the other Party may reasonably require, for the purposes of giving effect to this Agreement.

**11. Governing Law, Jurisdiction, and Venue.**

This Agreement shall be governed by and construed with the laws of the Province of Ontario and the laws of Canada applicable therein and shall be treated, in all respects, as an Ontario contract.

**12. Time of the Essence.**

Time shall be of the essence of this Agreement in all respects.

**13. Counterparts, Electronic Delivery.**

This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument. Counterparts may be executed either in original or faxed form or by electronic delivery in portable document format (PDF) and the parties adopt any signatures received by a receiving fax machine as original signatures of the Parties; provided, however, that any party providing its signature in such manner shall promptly forward to the other party an original of the signed copy of this Agreement which was so faxed or electronically delivered.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF the parties have executed this Agreement.

**PCAS PATIENT CARE AUTOMATION  
SERVICES INC.**

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

**DASHRX, LLC**

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

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

Acknowledged and agreed to this 6<sup>th</sup> day of June, 2012.

**2440 WINSTON PARK DRIVE  
LIMITED PARTNERSHIP by its sole  
general partner, 2440 WINSTON PARK  
DRIVE GP, INC.**

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

**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  
PCAS PATIENT CARE AUTOMATION SERVICES INC. AND 2163279 ONTARIO INC.  
(the "Applicants")**

Court File No. CV-12-9656-00CL

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

**Proceedings commenced at Toronto**

**AFFIDAVIT OF FAROUK AHAMED  
(sworn June 1, 2012)**

**AIRD & BERLIS LLP**  
Barristers and Solicitors  
Brookfield Place  
181 Bay Street, Suite 1800  
Toronto, Ontario M5J 2T9

**Sam Babe (LSUC # 49498B)**

Tel: 416.865.7718

Fax: 416.863.1515

Email: [sbabe@airdberlis.com](mailto:sbabe@airdberlis.com)

**Ian Aversa (LSUC # 55449N)**

Tel: 416.865.3082

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Email: [iaversa@airdberlis.com](mailto:iaversa@airdberlis.com)

*Lawyers for the Applicants*

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 PCAS PATIENT CARE AUTOMATION SERVICES INC. AND 2163279 ONTARIO INC.

Court File No. CV-12-9656-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**MOTION RECORD  
(Returnable June 5, 2012)**

**AIRD & BERLIS LLP**  
Barristers and Solicitors  
Brookfield Place  
181 Bay Street, Suite 1800  
Toronto, Ontario M5J 2T9

**Sam Babe (LSUC # 49498B)**  
Tel: 416.865.7718  
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*Lawyers for the Applicants*