

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

THE HONOURABLE MR.
JUSTICE BROWN

)
)
)

THURSDAY DAY, THE
15TH DAY OF MARCH, 2012

IN THE MATTER OF AN APPLICATION PURSUANT TO
SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C. 1985, c. B-3, AS AMENDED

BETWEEN:

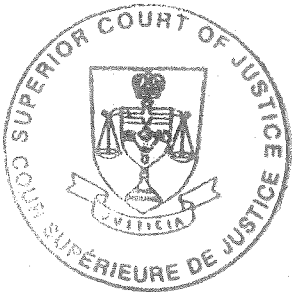
CCM MASTER QUALIFIED FUND, LTD.

Applicant

- and -

BLUTIP POWER TECHNOLOGIES LTD.

Respondent



BIDDING PROCEDURES ORDER

THIS MOTION made by Duff & Phelps Canada Restructuring Inc., in its capacity as court-appointed receiver (in such capacity, the “**Receiver**”) of blutip Power Technologies Ltd. (the “**Debtor**”) for an Order:

- a) abridging the time for service and validating the service of the Notice of Motion, the Motion Record and the First Report of the Receiver dated March 9, 2012 (the “**First Report**”) so that this Motion is properly returnable today and dispensing with further service thereof;
- b) approving the First Report and the activities of the Receiver as described therein;
- c) authorizing and directing the Receiver to execute the agreement of purchase and sale of substantially all assets of the Debtor (the “**Purchased Assets**”) between

the Receiver and CCM Master Qualified Fund, Ltd. (the “**Stalking Horse Bidder**”) dated March 9, 2012 (the “**Stalking Horse Agreement**”) attached hereto as Schedule “A” so as to set a minimum floor price in respect of the sale process for the Purchased Assets;

- d) approving and authorizing the payment of the Expense Reimbursement in the manner provided for in the Stalking Horse Agreement, in conjunction with the Bidding Procedures;
- e) approving the bidding procedures attached as Schedule “D” to the Stalking Horse Agreement (the “**Bidding Procedures**”) to be used in conjunction with the solicitation of offers or proposals for the acquisition of the Purchased Assets;
- f) deeming the Stalking Horse Agreement to be a Qualified Bid (as defined in the Bidding Procedures) and accepted solely for the purposes of the Stalking Horse Bidder’s right to participate in the Auction (as defined in the Bidding Procedures); and
- g) ordering that the Receiver’s Charge and the Receiver’s Borrowings Charge, each as defined in the Order of this Court dated February 28, 2012 (the “**Appointment Order**”), have the standard priority of such charges;

was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the material filed, including the Notice of Motion, the First Report, the Stalking Horse Agreement and the Bidding Procedures, and on hearing the submissions of counsel for the Receiver and counsel for the Stalking Horse Bidder and on being advised that the Service List was served with the Motion Record herein;

1. **THIS COURT ORDERS** that all capitalized terms used herein and not otherwise defined shall have the meaning given to them in the Stalking Horse Agreement or the Bidding Procedures.

SERVICE

2. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Motion Record and the First Report is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

RECEIVER'S ACTIVITIES

3. **THIS COURT ORDERS** that the First Report, the Sales Process (as defined therein) and the activities of the Receiver as described therein are hereby approved.

STALKING HORSE AGREEMENT

4. **THIS COURT ORDERS** that the Receiver is hereby authorized and directed to execute the Stalking Horse Agreement.

5. **THIS COURT ORDERS** that the provisions of the Stalking Horse Agreement providing for payment of the Expense Reimbursement are hereby authorized and approved and the Receiver is hereby authorized and directed to pay to the Stalking Horse Bidder, in accordance with Section 7.2(c) of the Stalking Horse Agreement, the Expense Reimbursement from the proceeds of sale of a Successful Bid or a Back-Up Bid in the event that the Stalking Horse Agreement is terminated in accordance with Section 7.1(a) thereof.

BIDDING PROCEDURES

6. **THIS COURT ORDERS** that the Bidding Procedures are hereby approved and, if one or more Qualified Bids (other than the Stalking Horse Agreement) are received, the Receiver shall be authorized to conduct the Auction as contemplated therein.

7. **THIS COURT ORDERS** that the Stalking Horse Agreement is hereby deemed to be a Qualified Bid and accepted solely for the purposes of the Stalking Horse Bidder's right to participate in the Auction.

8. **THIS COURT ORDERS** that nothing herein approves the sale of the Purchased Assets on the terms set out in the Stalking Horse Agreement and that the validity of any sale of the Purchased Assets will be determined on a subsequent motion made to this Court.

PRIORITY OF CHARGES

9. **THIS COURT ORDERS** that the Receiver's Charge (as defined in the Appointment Order) shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA").

10. **THIS COURT ORDERS** that the Receiver's Borrowings Charge (as defined in the Appointment Order) shall form a fixed and specific charge on the whole of the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

GENERAL

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 Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Receiver in any foreign proceeding, or to assist the Receiver and its agents in carrying out the terms of this Order.

12. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO.:

MAR 15 2012

SCHEDULE “A”

Stalking Horse Agreement

See attached.

**DUFF & PHELPS CANADA RESTRUCTURING INC., solely
in its capacity as court-appointed receiver of Blutip Power
Technologies Ltd. and not in its personal or corporate capacity**

- and -

**CCM MASTER QUALIFIED FUND, LTD., by its Investment Manager, COGHILL
CAPITAL MANAGEMENT, LLC, or its designee**

ASSET PURCHASE AGREEMENT

March 9, 2012

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SCHEDULE D BIDDING PROCEDURES

SCHEDULE E STALKING HORSE AND BIDDING PROCEDURES ORDER

SCHEDULE F CLAIM

THIS ASSET PURCHASE AGREEMENT is made this ____ day of March, 2012

B E T W E E N:

DUFF & PHELPS CANADA RESTRUCTURING INC., solely in its capacity as court-appointed receiver of the assets, undertakings and properties of **BLUTIP POWER TECHNOLOGIES LTD.** and not in its personal or corporate capacity,

(the “**Receiver**”)

- and -

CCM MASTER QUALIFIED FUND, LTD., a company governed by the Laws of the Cayman Islands, by its Investment Manager, **COGHILL CAPITAL MANAGEMENT, LLC**, or its designee

(the “**Purchaser**”).

RECITALS:

- A. The Receiver was appointed receiver, without security, of the assets, undertakings and properties of Blutip Power Technologies Ltd. (“**Blutip**”) acquired for, or used in relation to a business carried on by Blutip, including all proceeds thereof (the “**Property**”) pursuant to an order (as may be amended or restated from time to time, the “**Appointment Order**”) of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated February 28, 2012;
- B. The Appointment Order authorizes the Receiver to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and to negotiate such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- C. The Purchaser has agreed to act as a “stalking horse bidder” in connection with the sale of the Receiver’s and Blutip’s right, title and interest, if any, in and to the Property, meaning that, in the absence of the Receiver’s acceptance of a bid for the Purchased Assets (as defined herein) made in accordance with the Bidding Procedures (as defined herein) which is superior to this Agreement (as determined by the Receiver in accordance with the Bidding Procedures), the Purchaser has agreed to purchase the Receiver’s and Blutip’s right, title and interest, if any, in and to Purchased Assets on the terms and subject to the conditions set forth in this Agreement, in accordance with the Bidding Procedures and subject to obtaining the Vesting Order (as defined herein);
- D. The Receiver will obtain the Stalking Horse and Bidding Procedures Order (as defined

herein) authorizing the Receiver to enter into this Agreement and authorizing the sales process with respect to the Receiver's and Blutip's right, title and interest, if any, in and to Purchased Assets pursuant to the Bidding Procedures.

THEREFORE the Parties agree as follows:

ARTICLE 1

DEFINITIONS AND PRINCIPLES OF INTERPRETATION

1.1 Definitions

Whenever used in this Agreement the following words and terms shall have the meanings set out below:

"Agreement" means this asset purchase agreement, including all schedules, and all amendments or restatements, as permitted, and references to **"Article"**, **"Section"** or **"Schedule"** mean the specified Article or Section of, or Schedule to, this Agreement;

"Ancillary Agreements" means a bills of sale, assignment and assumption agreement, assignment of intellectual property, and such other agreements, documents, assignments, or instruments of transfer and conveyance reasonably satisfactory in form and substance to the Purchaser and the Receiver; none of which shall contain any representations or warranties of the Receiver except for those provided herein;

"Appointment Costs" means the Purchaser's costs of seeking and obtaining the Appointment Order, up to and including entry and service of the Appointment Order, being \$47,500, which costs are secured by the Security pursuant to paragraph 30 of the Appointment Order;

"Appointment Date" means February 28, 2012;

"Appointment Order" has the meaning given in the Recitals;

"Assumed Liabilities" has the meaning given in Section 2.3;

"Auction" has the meaning given in Section 4.1(b);

"Back-Up Bid" has the meaning given in the Bidding Procedures;

"Bidding Procedures" has the meaning given in Section 4.1(b);

"Blutip" has the meaning given in the Recitals;

"Books and Records" means the books and records of Blutip relating to the Purchased Assets, including financial, corporate, operations and sales books, records, books of account, sales and purchase records, lists of suppliers and customers, business reports, plans and projections and all other documents, surveys, plans, files, records, assessments, correspondence and other data and information, financial or otherwise, including all data, information and databases stored on computer-related or other electronic media;

“Business” means the technology business of Blutip, which business relates to the improvement of engine fuel economy and the reduction of fuel particulates through the use of certain proprietary, patented and patent-pending fuel optimization and emissions control systems and all such other commercial activities incidental and ancillary thereto;

“Business Day” means any day other than a Saturday, Sunday or statutory holiday in the Province of Ontario;

“CCM” means CCM Master Qualified Fund, Ltd.;

“Claims” includes claims, demands, complaints, grievances, actions, applications, suits, causes of action, orders, charges, indictments, prosecutions or other similar processes;

“Closing” means the completion of the transactions described in Section 2.1;

“Closing Certificate” has the meaning given in Section 8.6;

“Closing Date” has the meaning given in Section 6.1(a);

“Closing Time” has the meaning given in Section 6.1(b);

“Consent” means any approval, authorization, consent, order, license, permission, permit (including any environmental permit), qualification, exemption or waiver by any Governmental Authority or other Person;

“Contracts” means contracts, licences, leases, agreements, obligations, promises, undertakings, understandings, arrangements, documents, commitments, entitlements or engagements to which Blutip is a party or by which Blutip is bound or under which Blutip has, or will have, any liability or contingent liability (in each case, whether written or oral, express or implied) relating to the Purchased Assets and/or the Business, as same may be amended and/or restated, and including any and all related quotations, orders, proposals or tenders which remain open for acceptance, warranties and guarantees and documents ancillary thereto;

“Court” has the meaning given in the Recitals;

“Credit Bid Amount” means the aggregate amount of: (i) the Note Credit Bid Amount, (ii) the Appointment Costs, and (iii) the Term Sheet Obligations. For greater certainty, any fees, costs or expenses of CCM (including legal fees) in connection with the Transaction, and the preparation, execution and delivery of this Agreement and all documents and instruments executed pursuant to this Agreement shall form part of the Expense Reimbursement and shall be excluded from the Credit Bid Amount;

“Encumbrances” means liens, hypothecs, charges, security interests, pledges, leases, title retention agreements, mortgages, restrictions on use, development or similar agreements, easements, rights-of-way, title defects, options or adverse claims or encumbrances of any kind or character whatsoever;

“Employees” means any and all (i) employees who are currently employed (including full-time,

part-time and temporary employees) in connection with the Business; and (ii) employees who are currently employed in connection with the Business who are on leaves of absence (including maternity leave, parental leave, disability leave, sickness leave, workers' compensation and other statutory leaves). For greater certainty, the term "**Employees**" shall not include contractors;

"**Excluded Assets**" means the assets listed in Schedule A;

"**Excluded Contract**" means any Contract which is identified in writing by the Purchaser to the Receiver as an excluded Contract prior to the Closing Date in accordance with Section 2.4(a);

"**Excluded Employee Obligations**" means any obligation to recognize the prior service of the Employees, or to deem such service to be service with the Purchaser for any purpose (including for notice of termination and termination and severance pay) other than as required in accordance with applicable Law;

"**Expense Reimbursement**" has the meaning given in Section 7.2(c);

"**Governmental Authorities**" means governments, regulatory authorities, governmental departments, agencies, commissions, bureaus, officials, ministers, Crown corporations, courts, bodies, boards, tribunals or dispute settlement panels or other law or regulation-making organizations or entities: (a) having or purporting to have jurisdiction on behalf of any nation, province, territory, state or other geographic or political subdivision thereof; or (b) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power;

"**Intellectual Property**" means, with respect to the Receiver or Blutip, all rights in and to (a) patents, patent applications and patent disclosures, including without limitation, the Patents, (b) trademarks, trade names and corporate names and including all goodwill associated therewith, (c) works of authorship, copyrightable works, copyrights, (d) Internet addresses, domain names, websites and web pages, and (e) any and all other intellectual property and proprietary rights;

"**Laws**" means currently existing applicable statutes, by-laws, rules, regulations, orders, ordinances or judgments, in each case of any Governmental Authority having the force of law;

"**Note Credit Bid Amount**" means \$3,296,500, which represents the portion of the debt outstanding under the Notes which is secured by the Security and is being credit bid by the Purchaser;

"**Notes**" means, collectively, (a) the convertible senior secured promissory note issued by Blutip to CCM on October 21, 2011 in the principal amount of \$2,600,000; and (b) the convertible senior secured promissory note issued by Blutip to CCM on December 29, 2011 in the principal amount of \$800,000;

"**Parties**" means the Receiver and the Purchaser collectively, and "**Party**" means any one of them;

"**Patents**" means the patents and patent applications listed in Schedule C;

“Person” means any individual, sole proprietorship, partnership, firm, entity, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate, Governmental Authority, and where the context requires any of the foregoing when they are acting as trustee, executor, administrator or other legal representative;

“Property” has the meaning given in the Recitals;

“Purchaser” has the meaning given in the Recitals;

“Purchase Price” has the meaning given in Section 2.5;

“Purchased Assets” means the tangible and intangible properties, assets, interests, rights, Claims and Contracts of the Receiver and/or Blutip related to the Business, wherever located, as of the Closing Date, including without limitation the following assets, if any, to the extent related to the Business:

- (a) all inventory and accounts receivable;
- (b) all Intellectual Property;
- (c) all furniture, fixtures and equipment;
- (d) all rights under non-disclosure or confidentiality, non-compete or non-solicitation agreements with employees and agents or with third parties;
- (e) any rights, Claims or causes of action for Claims arising out of the operation of the Business;
- (f) all goodwill and other intangibles; and
- (g) all other personal property not contemplated by the foregoing;

which for greater certainty does not include the Excluded Assets;

“Qualified Bids” has the meaning given in the Bidding Procedures;

“Receiver” has the meaning given in the Recitals;

“Receiver’s Certificate” has the meaning given in the Appointment Order;

“Sale Hearing” has the meaning given in Section 4.1(b);

“Sale Motion” has the meaning given in Section 4.1(b);

“Security” means, collectively, (i) the General Security Agreement granted by Blutip in favour of CCM dated October 21, 2011; and (ii) the Receiver’s Borrowings Charge, as defined in the Appointment Order;

“Stalking Horse and Bidding Procedures Order” has the meaning given in Section 4.1(c);

“**Successful Bidder**” has the meaning given in the Bidding Procedures;

“**Target Closing Date**” has the meaning given in Section 7.1(d);

“**Tax**” and “**Taxes**” includes any taxes, duties, fees, premiums, assessments, imposts, levies and other charges of any kind whatsoever imposed by any Governmental Authority, including all interest, penalties, fines, additions to tax or other additional amounts imposed by any Governmental Authority in respect thereof, and including those levied on, or measured by, income, gross receipts, profits, capital, transfer, land transfer, sales, goods and services, harmonized sales, use, excise, withholding, business, franchising, property, development, occupancy, payroll, health, social services, education and social security taxes, all surtaxes, all customs duties and import and export taxes, countervail and anti-dumping, all licence, franchise and registration fees and all employment insurance, health insurance and Canada, and other government pension plan premiums or contributions;

“**Term Sheet**” means the Term Sheet between CCM and the Receiver dated February 27, 2012 pursuant to which CCM committed to provide to the Receiver a credit facility in the amount of \$400,000 on the terms and conditions set out therein, as amended from time to time;

“**Term Sheet Obligations**” means all outstanding obligations of any kind pursuant to the Term Sheet, as evidenced by the Receiver’s Certificates, and secured by the Security as of the Closing Date;

“**Termination Date**” has the meaning given in Section 7.1(e);

“**Transaction**” means the purchase and sale of all of the Receiver’s and Blutip’s right, title and interest, if any, in and to the Purchased Assets contemplated by this Agreement;

“**Transfer Taxes**” has the meaning given in Section 8.3(c); and

“**Vesting Order**” has the meaning given in Section 4.1(d).

1.2 Certain Rules of Interpretation

In this Agreement:

- (a) **Currency** – All references to money amounts are to lawful currency of Canada;
- (b) **Governing Law** – This Agreement is a contract made under and shall be governed by and construed in accordance with the Laws of the Province of Ontario and the federal Laws of Canada applicable in the Province of Ontario;
- (c) **Headings** – Headings of Articles and Sections are inserted for convenience of reference only and shall not affect the construction or interpretation of this Agreement;
- (d) **Including** – Where the word “including” or “includes” is used in this Agreement, it means “including (or includes) without limitation”;

- (e) **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;
- (f) **Number and Gender** – Unless the context otherwise requires, words importing the singular include the plural and vice versa and words importing gender include all genders;
- (g) **Severability** – If, in any jurisdiction, any provision of this Agreement or its application to any Party or circumstance is restricted, prohibited or unenforceable, such provision shall, as to such jurisdiction, be ineffective only to the extent of such restriction, prohibition or unenforceability without invalidating the remaining provisions of this Agreement and without affecting the validity or enforceability of such provision in any other jurisdiction or without affecting its application to other Parties or circumstances; and
- (h) **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.

1.3 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 relating 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 the Purchaser shall acquire the Receiver's and Blutip's right, title and interest, if any, in and to the Purchased Assets on an as is and where is basis. Any cost estimates, projections or other predictions contained or referred to in any other material that has been provided to the Purchaser or any of its affiliates, subsidiaries, agents or representatives are not and shall not be deemed to be representations or warranties of the Receiver or any of its affiliates, subsidiaries, agents, employees or representatives.

1.4 Schedules

The schedules to this Agreement, listed below, are an integral part of this Agreement:

<u>Schedule</u>	<u>Description</u>
Schedule A	– Excluded Assets
Schedule B	– Assumed Liabilities

<u>Schedule</u>	<u>Description</u>
Schedule C	– Patents
Schedule D	– Bidding Procedures
Schedule E	– Stalking Horse and Bidding Procedures Order
Schedule F	– Claim

ARTICLE 2 PURCHASE AND SALE

2.1 Purchase and Sale of Purchased Assets

On the Closing Date, subject to the terms and conditions of this Agreement (which conditions, for greater certainty, include the issuance of the Stalking Horse and Bidding Procedures Order, the determination by the Receiver that this Agreement is the Successful Bid (as defined in and determined in accordance with the Bidding Procedures), and the issuance of the Vesting Order), the Receiver shall transfer, sell, convey, assign and deliver unto the Purchaser, and the Purchaser shall acquire and accept all of Blutip's and the Receiver's right, title and interest, if any, in and to the Purchased Assets, which will be, pursuant to the Vesting Order, free and clear of all Encumbrances.

2.2 Excluded Assets

Notwithstanding any provision of this Agreement to the contrary, the Purchased Assets shall not include any of the Excluded Assets and nothing herein shall be deemed to sell, transfer, assign or convey the Excluded Assets.

2.3 Assumed Liabilities

The Purchaser shall assume as of the Closing Date and shall pay, discharge and perform, as the case may be, from and after the Closing Date, the liabilities and obligations with respect to the Business and/or the Purchased Assets listed on Schedule B (collectively, the "**Assumed Liabilities**").

The Purchaser shall not assume or be liable for any Encumbrances, the Excluded Employee Obligations, or any other liabilities or obligations of any nature whatsoever, other than the Assumed Liabilities.

2.4 Assignment and Assumption of Contracts

- (a) The Purchaser covenants to the Receiver that, no later than ten (10) days prior to the Target Closing Date, the Purchaser shall advise the Receiver in writing as to which Contracts shall be Excluded Contracts. For greater certainty any exclusion of Contracts pursuant to this Section 2.4 shall not affect the Purchase Price.

- (b) Subject to any rights of Consent by counterparties thereto, the terms and conditions of this Section 2.4 and the Vesting Order, the Contracts of Blutip, other than the Excluded Contracts, shall form part of the Purchased Assets assigned and transferred to the Purchaser at Closing, the consideration for which is included in the Purchase Price. The Purchaser will assume and agree to perform and discharge the Assumed Liabilities under the Contracts, other than the Excluded Contracts, pursuant to this Agreement and the applicable Ancillary Agreements.
- (c) At or prior to Closing, the Receiver shall use commercially reasonable efforts to obtain all necessary Consents to assign the Contracts (other than the Excluded Contracts) to the Purchaser. The Purchaser shall be responsible for the Receiver's reasonable routine and non-material out of pocket costs and expenses relating thereto (which, for greater certainty, shall include Transfer Taxes, fees or similar charges). If a counterparty to a Contract requires, as a condition to its Consent to the assignment of such Contract, payment of any monetary default which arose or is related to the period prior to the Appointment Date, such amounts shall be payable by the Purchaser.
- (d) Notwithstanding anything in this Agreement to the contrary, this Agreement shall not constitute an agreement to assign any Contract, to the extent such Contract is not assignable under applicable Law without the consent of any other Person party thereto where the Consent of such Person has not been given or received.
- (e) For greater certainty, if any necessary Consent is required to assign a Contract but not obtained, neither the Receiver nor the Purchaser shall be in breach of this Agreement nor shall the Purchase Price be adjusted or the Closing delayed.

2.5 Purchase Price

The purchase price for the Purchased Assets, exclusive of all applicable Transfer Taxes, shall be the aggregate of the following (the "**Purchase Price**"):

- (a) the Credit Bid Amount; and
- (b) the Assumed Liabilities.

All applicable Transfer Taxes shall be paid by the Purchaser by certified cheque or bank draft, subject to the terms hereof and the availability of any exemptions or elections under any applicable legislation for such applicable Transfer Taxes.

2.6 Satisfaction of Purchase Price

The Purchaser shall satisfy the Purchase Price on Closing by:

- (a) providing a credit to Blutip in the amount of the Note Credit Bid Amount against Blutip's obligations under the Notes;

- (b) providing a credit to Blutip in the amount of the Appointment Costs against Blutip's obligations under paragraph 30 of the Appointment Order;
- (c) providing a credit to the Receiver in the amount of the Term Sheet Obligations against the Receiver's obligations under the Term Sheet as evidenced by the Receiver's Certificates;
- (d) delivering to the Receiver, for and on behalf of Blutip, fully executed releases and waivers with respect to all Appointment Costs, all amounts outstanding under the Notes, all amounts outstanding under the Term Sheet and all amounts outstanding under the Receiver's Certificates (in each case, including any accrued interest thereon and all fees thereunder); and
- (e) the assumption by the Purchaser of the Assumed Liabilities.

2.7 Purchase Price Allocation

No later than five (5) days before the Target Closing Date, the Purchaser shall prepare a written initial allocation of the Purchase Price in respect of each of the Purchased Assets. The Parties, acting reasonably, shall agree, prior to the Closing, on an allocation of the Purchase Price for Tax purposes.

2.8 Employees

- (a) Prior to but conditional on Closing and with effect as of the Closing Date, the Purchaser shall offer continuing employment to all Employees, such offers of employment to be on terms no less favourable as to salary or wages, benefits, hours of work, duties and working conditions than those in effect at Closing. The Receiver will cooperate with the Purchaser in giving notice to the Employees concerning such matters referred to in this Section 2.8(a) as are reasonable under the circumstances.
- (b) As of and following the Closing Date, the Purchaser shall assume and be responsible for all liabilities and obligations (other than the Excluded Employee Obligations), whether accrued after, on or before the Closing Date, with respect to those Employees who accept the Purchaser's offer of employment or who otherwise continue employment with the Purchaser and the Purchaser shall indemnify and save Blutip and the Receiver harmless in respect of all liabilities and obligations assumed by the Purchaser pursuant to this Section 2.8(b), including defending Blutip and the Receiver against any claims regarding such liabilities and obligations and paying all damages and all reasonable costs, expenses and legal fees.

ARTICLE 3

REPRESENTATIONS AND WARRANTIES OF THE PARTIES

3.1 Representations and Warranties of the Receiver

The Receiver hereby represents and warrants to the Purchaser, as of the date hereof and as of the Closing Date, the matters set out below.

- (a) The Receiver has been appointed by the Court as receiver of the Property pursuant to the Appointment Order, a copy of which has been provided to the Purchaser.
- (b) Subject to the issuance of the Vesting Order, the Receiver has all necessary power and authority to enter into this Agreement and to carry out its obligations under this Agreement. This Agreement constitutes a valid and binding obligation of the Receiver enforceable against it in accordance with its terms subject to any limitations imposed by Law.
- (c) Blutip is not a non-resident of Canada for the purposes of the *Income Tax Act* (Canada).
- (d) Blutip is registered for harmonized sales tax purposes under Part IX of the *Excise Tax Act* (Canada) with the following registration number: 89179 6674 RT0001.
- (e) The Receiver has not engaged in any act that has or could result in an Encumbrance affecting any of the Purchased Assets (other than any charge created by the Appointment Order or arising by operation of Law in the normal course of the Business).

3.2 Representations and Warranties of the Purchaser

The Purchaser hereby represents and warrants to the Receiver, as of the date hereof and as of the Closing Date, the matters set out below.

- (a) The Purchaser has been duly incorporated and is validly subsisting under the Laws of the jurisdiction of its incorporation, and has all requisite corporate capacity, power and authority to carry on its business as now conducted by it and to own its properties and assets and is qualified to carry on business under the Laws of the jurisdictions where it carries on a material portion of its business.
- (b) The execution, delivery and performance by the Purchaser of this Agreement:
 - (i) has been duly authorized by all necessary corporate action on the part of the Purchaser;
 - (ii) does not (or would not with the giving of notice, the lapse of time or the happening of any other event or condition) require any consent or approval under, result in a breach or a violation of, or conflict with, any of

the terms or provisions of its constating documents or by-laws or any contracts or instruments to which it is a party or pursuant to which any of its assets or property may be affected; and

- (iii) will not result in the violation of any Law.
- (c) This Agreement has been duly executed and delivered by the Purchaser and constitutes legal, valid and binding obligations of the Purchaser, enforceable against it in accordance with its terms subject only to any limitation under applicable Laws relating to: (i) bankruptcy, winding-up, insolvency, arrangement and other similar Laws of general application affecting the enforcement of creditors' rights; and (ii) the discretion that a court may exercise in the granting of equitable remedies such as specific performance and injunction.
- (d) Except for the Vesting Order, no Consent and no declaration to or filing or registration with any Governmental Authority is required in connection with the execution and delivery by the Purchaser of this Agreement or the performance by the Purchaser of its obligations hereunder.
- (e) There is no action, suit, proceeding or claim that is pending or, to the Purchaser's knowledge, threatened in any court or by or before any Governmental Authority that would adversely affect the Purchaser's ability to perform its obligations under this Agreement on a timely basis, other than as set out in Schedule F.
- (f) The Purchaser or its designee will be a registrant for the purposes of the tax imposed under Part IX of the *Excise Tax Act* (Canada) on or prior to Closing or the Purchaser will be liable for any Tax consequences of not so being.
- (g) The Purchaser or its designee will not be a non-resident of Canada for purposes of the *Income Tax Act* (Canada) on or prior to Closing or the Purchaser will be liable for any Tax consequences of not so being.
- (h) As at Closing, the Purchaser or its designee will be Canadian, or if not Canadian, will qualify as a WTO investor within the meaning of the *Investment Canada Act* (Canada).

ARTICLE 4 PROCEDURES

4.1 Stalking Horse and Bidding Procedures Order; Vesting Order

- (a) The Receiver and the Purchaser acknowledge that (i) this Agreement is subject to Court approval, and (ii) Closing the Transaction is subject to this Agreement being determined by the Receiver to be the "Successful Bid" (as defined in and determined in accordance with the Bidding Procedures), and to the issuance of the Vesting Order.

- (b) On or before March 9, 2012, the Receiver shall file and serve a motion (the “**Sale Motion**”), which Sale Motion shall seek approval of, among other things: (i) the Receiver’s execution of this Agreement as a “stalking horse” asset purchase agreement; (ii) a stalking horse sale process and related bidding procedures in connection with the sale of the Receiver’s and Blutip’s right, title and interest, if any, in and to the Purchased Assets, substantially in the form of Schedule D hereto (the “**Bidding Procedures**”); and (iii) the scheduling of an auction and sale hearing as contemplated by the Bidding Procedures (the “**Auction**” and “**Sale Hearing**”, respectively).
- (c) The Receiver shall use its commercially reasonable efforts to have the Court enter on or before March 15, 2012 an order reasonably acceptable to the Purchaser and substantially in the form of Schedule E regarding the matters set out in Section 4.1(b) above (the “**Stalking Horse and Bidding Procedures Order**”).
- (d) If the Receiver does not receive any Qualified Bids (other than this Agreement), the Receiver shall use its commercially reasonable efforts to promptly file and serve a motion with the Court for an Order (the “**Vesting Order**”) in form and substance satisfactory to the Receiver and the Purchaser, acting reasonably, approving the sale of the Receiver’s and Blutip’s right, title and interest, if any, in and to the Purchased Assets to the Purchaser pursuant to this Agreement and vesting title to the Purchased Assets in the Purchaser free and clear of all Encumbrances.
- (e) If the Receiver receives one or more Qualified Bids (other than this Agreement), the Receiver shall use its commercially reasonable efforts to conduct the Auction for the Purchased Assets on or before April 20, 2012. Upon completion of the Auction, the Receiver shall use its commercially reasonable efforts, to promptly file and serve a motion with the Court for the Vesting Order, approving the sale of the Receiver’s and Blutip’s right, title and interest, if any, in and to the Purchased Assets to the Successful Bidder and vesting title to the Purchased Assets in the Successful Bidder free and clear of all Encumbrances.
- (f) If the Purchaser is the Successful Bidder (pursuant to this Agreement or otherwise), the Purchaser shall provide any information and take such actions as may be reasonably requested by the Receiver to assist the Receiver in obtaining the Vesting Order and any other order of the Court reasonably necessary to consummate the Transaction. The Purchaser covenants to take, or cause to be taken, all commercially reasonable actions and to do, or cause to be done, all things necessary or proper, consistent with applicable Law, to consummate and make effective the Transaction as soon as possible following the issuance of the Vesting Order, and, in any case, by the Target Closing Date.
- (g) In the event that the Purchaser is the Successful Bidder (pursuant to this Agreement or otherwise), or the Successful Bidder has not yet been determined, and leave to appeal is sought, an appeal is taken or a stay pending appeal is requested with respect to the Stalking Horse and Bidding Procedures Order or the

Vesting Order, the Receiver shall promptly notify the Purchaser of such leave to appeal, appeal or stay request and shall promptly provide to the Purchaser a copy of the related notice(s) or order(s). The Receiver shall also provide the Purchaser with written notice of any motion or application filed in connection with any leave to appeal or appeal from such orders.

4.2 Pre-Closing Cooperation

- (a) Prior to the Closing, upon the terms, and subject to the conditions of this Agreement, each of the Parties shall use its commercially reasonable efforts to take, or cause to be taken, all actions and to do, or cause to be done, and cooperate with each other in order to do, all things necessary, proper or advisable under applicable Law to consummate the Transaction as soon as practicable, including the preparation and filing of all forms, registrations and notices required to be filed to consummate the Closing, and the taking of such actions as are necessary to obtain any requisite Consent, provided that the Receiver shall not be obligated to make any payment or deliver anything of value to any Person (other than filing with and payment of any application fees to Governmental Authorities, all of which shall be paid or reimbursed by the Purchaser) in order to obtain any Consent.
- (b) Each of the Receiver and the Purchaser shall promptly notify the other of the occurrence, to such Party's knowledge, of any event or condition, or the existence, to such Party's knowledge, of any fact, that would reasonably be expected to result in any of the conditions set forth in Section 5.1 or Section 5.2 not being satisfied.

4.3 Acquisition of Assets on "As Is, Where Is" Basis

The Purchaser hereby acknowledges and agrees as follows:

- (a) the Purchased Assets are being purchased on an "as is, where is" basis at the Closing Date;
- (b) it has conducted or will conduct its own searches and investigations relating to the Purchased Assets;
- (c) it has conducted such inspections of the Purchased Assets as it deemed appropriate, satisfied itself with respect to the Purchased Assets and all matters connected with or related to the Purchased Assets, and has relied entirely upon its own investigations and inspections in entering into this Agreement to acquire the Receiver's and Blutip's right, title and interest, if any, in and to the Purchased Assets without regard to any information made available or provided by the Receiver or its officers, directors, employees or agents;
- (d) it will accept the Purchased Assets in their state, condition and location as at the Closing Time and except as expressly set forth in this Agreement, the Receiver makes no representations, warranties, statements or promises on its own behalf or

on behalf of Blutip in favour of the Purchaser concerning the Purchased Assets, or the Receiver's or Blutip's right, title or interest in or to the Purchased Assets, which the Purchaser acknowledges are being acquired on an as-is where-is basis, or the uses or applications of the Purchased Assets, whether express or implied, statutory or collateral, arising by operation of Law or otherwise, including express or implied warranties of merchantability, fitness for a particular purpose, title, description, quantity, condition or quality, and that any and all conditions and warranties expressed or implied by the *Sale of Goods Act* (Ontario) do not apply to the sale of the Receiver's and Blutip's right, title and interest, if any, in and to the Purchased Assets and are hereby waived by the Purchaser; and

- (e) without limiting the generality of foregoing, it acknowledges and accepts that the description of the Purchased Assets and any portion thereof contained in the Schedules hereto or otherwise provided by the Receiver is for the purpose of identification only; and that no representation, warranty or condition has or will be given by the Receiver or any other party concerning completeness or the accuracy of such descriptions or with respect to any data room set up by the Receiver.

4.4 Title and Risk

The Purchased Assets shall remain at the risk of the Receiver, to the extent of its interest therein, until Closing and at the risk of the Purchaser from and after Closing. The Receiver covenants to the Purchaser that, during the period from and including the date hereof through and including the Closing Date or the earlier termination of this Agreement, the Receiver shall use commercially reasonable efforts to conduct the Business in substantially the same manner as conducted as of the date hereof, pay all fees with respect to the Patents, to the extent such funding is available to the Receiver, and make all other filings required by Governmental Authorities to enable the Purchaser to maintain the Patents in good standing from and after Closing.

ARTICLE 5 CONDITIONS PRECEDENT

5.1 Conditions Precedent of the Purchaser

The obligations of the Purchaser to complete the purchase of all of the Receiver's and Blutip's right, title and interest, if any, in and to the Purchased Assets under this Agreement shall be subject to the satisfaction of or compliance with, at or before the Closing Time, each of the following conditions precedent (each of which is acknowledged to be inserted for the exclusive benefit of the Purchaser and may be waived by it in whole or in part):

- (a) all of the representations and warranties of the Receiver made in or pursuant to this Agreement shall be true and correct at the Closing Time and with the same effect as if made at and as of the Closing Time (except as such representations and warranties may be affected by the occurrence of events or transactions expressly contemplated and permitted by this Agreement) and the Purchaser shall

have received a certificate from a senior officer of the Receiver confirming to his knowledge, without personal liability, the truth and correctness of such representations and warranties;

- (b) the Receiver shall have performed or complied with, in all material respects, all its obligations, covenants and agreements under this Agreement;
- (c) the Receiver shall have executed and delivered, or caused to be executed and delivered, to the Purchaser on or prior to the Closing Date the documents required to complete the Transaction as may reasonably be required by the Purchaser or its solicitors;
- (d) there shall be no order issued by any Governmental Authority delaying, restricting or preventing, and no pending or threatened Claim or judicial or administrative proceeding, or investigation against any Party by any Person, for the purpose of enjoining, delaying, restricting or preventing, the consummation of the Transaction or otherwise claiming that this Agreement or the consummation of such transactions is improper or would give rise to proceedings under any Laws;
- (e) the Receiver shall have determined in accordance with the Bidding Procedures that this Agreement is the Successful Bid (as defined in the Bidding Procedures); and
- (f) the Appointment Order, the Stalking Horse and Bidding Procedures Order and the Vesting Order shall have been issued and entered by the Court and such orders shall not have been stayed, vacated or subject to pending appeal and no order shall have been issued which restrains or prohibits the completion of the Transaction.

If any of the foregoing conditions in this Section 5.1 have not been fulfilled by the Termination Date, the Purchaser may terminate this Agreement by notice to the Receiver. However, the Purchaser may waive compliance with any condition in whole or in part if it sees fit to do so, without prejudice to its rights of termination in the event of non-fulfilment of any other condition, in whole or in part, or to its rights to recover damages, if any, for the breach of any representation, warranty, covenant or condition contained in this Agreement.

For the avoidance of doubt, there shall be no conditions precedent to the Purchaser's obligation to consummate the Transaction, except for those conditions precedent specifically set forth in this Section 5.1.

5.2 Conditions Precedent of the Receiver

The obligations of the Receiver to complete the sale of the Receiver's and Blutip's right, title and interest, if any, in and to the Purchased Assets under this Agreement shall be subject to the satisfaction of or compliance with, at or before the Closing Time, each of the following conditions precedent (each of which is acknowledged to be inserted for the exclusive benefit of the Receiver and may be waived by it in whole or in part):

- (a) all of the representations and warranties of the Purchaser made in or pursuant to this Agreement shall be true and correct at the Closing Time and with the same effect as if made at and as of the Closing Time (except as such representations and warranties may be affected by the occurrence of events or transactions expressly contemplated and permitted by this Agreement) and the Receiver shall have received a certificate from a senior officer of the Purchaser confirming to his knowledge, without personal liability, the truth and correctness of such representations and warranties;
- (b) the Purchaser shall have performed or complied with, in all material respects, all its obligations, covenants and agreements under this Agreement;
- (c) the Purchaser shall have executed and delivered or caused to be executed and delivered to the Receiver on or prior to the Closing Date the documents required to complete the Transaction as may reasonably be required by the Receiver or its solicitors;
- (d) there shall be no order issued by any Governmental Authority delaying, restricting or preventing, and no pending or threatened Claim or judicial or administrative proceeding, or investigation against any Party by any Person, for the purpose of enjoining, delaying, restricting or preventing, the consummation of the Transactions or otherwise claiming that this Agreement or the consummation of such transactions is improper or would give rise to proceedings under any Laws;
- (e) the Receiver shall have determined in accordance with the Bidding Procedures that this Agreement is the Successful Bid (as defined in the Bidding Procedures);
- (f) the Appointment Order, the Stalking Horse and Bidding Procedures Order and the Vesting Order shall have been issued and entered by the Court and such orders shall not have been stayed, vacated or subject to pending appeal and no order shall have been issued which restrains or prohibits the completion of the Transaction;
- (g) if the Purchaser assigns any of its rights or obligations arising under this Agreement to an affiliate of the Purchaser at or before Closing, such affiliate shall have executed and delivered an assignment and assumption agreement (pursuant to which the Purchaser shall remain jointly and severally liable) satisfactory to the Receiver, acting reasonably; and
- (h) the Receiver shall have received sufficient funds to satisfy all amounts secured by the Receiver's Charge (as defined in the Appointment Order) to and including the Closing Date and such additional funds necessary to wind down and complete the receivership, in an amount to be agreed upon by the Purchaser and the Receiver, acting reasonably, from the Purchaser, either (i) by way of funds advanced by the Purchaser in its capacity as "Lender" to the Receiver under the Term Sheet and evidenced by Receiver's Certificates (which, for greater certainty shall be included in the Term Sheet Obligations); or (ii) by way of a cash payment by the

Purchaser to the Receiver on the Closing Date (which shall be considered part of the Purchase Price). Any amounts received by the Receiver pursuant to this Section 5.2(h) that are not necessary to wind down and complete the receivership shall be returned to the Purchaser upon the Receiver's discharge.

If any of the foregoing conditions in this Section 5.2 have not been fulfilled by the Target Closing Date, the Receiver may terminate this Agreement by notice to the Purchaser. However, the Receiver may waive compliance with any condition in whole or in part if it sees fit to do so, without prejudice to its rights of termination in the event of non-fulfilment of any other condition, in whole or in part, or to its rights to recover damages, if any, for the breach of any representation, warranty, covenant or condition contained in this Agreement.

For the avoidance of doubt, there shall be no conditions precedent to the Receiver's obligation to consummate the Transaction, except for those conditions precedent specifically set forth in this Section 5.2.

ARTICLE 6 CLOSING AND DELIVERIES

6.1 Closing

- (a) Unless otherwise agreed by the Parties, Closing shall occur as soon as practicable after the satisfaction or waiver of all conditions set out in Sections 5.1 and 5.2 (such Closing date, the "**Closing Date**").
- (b) Closing shall take place at 10:00 a.m. (the "**Closing Time**") on the Closing Date at the offices of the Receiver's solicitors, or such other time and location as the Parties may agree upon in writing. Any tender of documents or money hereunder may be made upon the Receiver or the Purchaser or upon the solicitors acting for the Party on whom tender is desired. All proceedings to be taken and all documents to be executed and delivered by all parties at the Closing shall be deemed to have been taken and executed simultaneously and no proceedings shall be deemed to have been taken nor documents executed or delivered until all have been taken, executed and delivered.

6.2 Receiver's Deliveries

At the Closing,

- (a) the sale, transfer, assignment, conveyance and delivery by the Receiver of its and Blutip's right, title and interest, if any, in and to the Purchased Assets to the Purchaser, free and clear of all Encumbrances, shall be effected by the issued and entered Vesting Order and by execution and delivery by the Receiver of the Ancillary Agreements;
- (b) the Receiver shall deliver, pursuant to the Vesting Order, free and clear title and possession of the Purchased Assets on an "as is, where is" basis in accordance

with Section 4.3, provided that delivery shall occur in situ wherever such Purchased Assets are located on the Closing Date;

- (c) the Receiver shall deliver a true and complete copy of the Vesting Order and the Closing Certificate;
- (d) the Receiver shall deliver a bring-down certificate executed by the Receiver, in a form satisfactory to the Purchaser, acting reasonably, certifying that all of the representations and warranties of the Receiver hereunder remain true and correct in all material respects as of the Closing;
- (e) Blutip or the Receiver, as applicable, shall make the elections referred to in Section 8.3, to the extent such elections are applicable to the Transaction and available to the Purchaser;
- (f) the Receiver shall deliver an agreement executed by the Receiver, in a form satisfactory to the Purchaser, acting reasonably, assigning the Receiver's and Blutip's right, title and interest in and to the Intellectual Property to the Purchaser; and
- (g) the Receiver shall deliver a document setting out the allocation of the Purchase Price, in form and substance satisfactory to the Purchaser, acting reasonably.

6.3 Purchaser's Deliveries

At the Closing,

- (a) the Purchaser shall deliver the releases and waivers set out in Section 2.6(d) executed by the Purchaser, in a form satisfactory to the Receiver, acting reasonably;
- (b) the Purchaser shall make the cash payment referred to in Section 5.2(h)(ii), if applicable;
- (c) the Purchaser shall deliver the Ancillary Agreements to which it is party, executed by the Purchaser, in a form satisfactory to the Receiver, acting reasonably;
- (d) the Purchaser shall deliver a bring-down certificate executed by the Purchaser, in a form satisfactory to the Receiver, acting reasonably, certifying that all of the representations and warranties of the Purchaser hereunder remain true and correct in all material respects as of the Closing;
- (e) the Purchaser shall make the elections referred to in Section 8.3, to the extent such elections are applicable to the Transaction, or shall make a cash payment to the Receiver in an amount sufficient to satisfy any Transfer Taxes;
- (f) the Purchaser shall deliver a document setting out the allocation of the Purchase Price, in form and substance satisfactory to the Receiver, acting reasonably.

ARTICLE 7 TERMINATION

7.1 Termination

This Agreement may be terminated at any time prior to Closing as follows:

- (a) automatically and without any action or notice by either the Receiver to the Purchaser or the Purchaser to the Receiver, immediately upon the selection by the Receiver of a Successful Bid if this Agreement is neither the Successful Bid nor the Back-Up Bid selected at such time;
- (b) subject to any approvals required from the Court, by mutual written consent of the Receiver and the Purchaser;
- (c) automatically and without any action or notice by either the Receiver to the Purchaser or the Purchaser to the Receiver, immediately upon the issuance of a final and nonappealable order, decree, or ruling or any other action by a Governmental Authority to restrain, enjoin or otherwise prohibit the transfer of the Receiver's and Blutip's right, title and interest, if any, in and to the Purchased Assets as contemplated hereby;
- (d) by the Receiver if the Closing has not occurred on or before May 3, 2012 (the "**Target Closing Date**");
- (e) by either the Receiver or the Purchaser if the Closing has not occurred on or before May 15, 2012 (the "**Termination Date**");
- (f) by the Receiver, if there has been a material violation or breach by the Purchaser of any agreement, covenant, representation or warranty which would prevent the satisfaction of any condition set forth in Section 5.2 by the Target Closing Date and such violation or breach has not been waived by the Receiver or cured by the Target Closing Date, unless the Receiver is in material breach of its obligations under this Agreement; and
- (g) by the Purchaser, if there has been a material violation or breach by the Receiver of any agreement, covenant, representation or warranty which would prevent the satisfaction of any condition set forth in Section 5.1 by the Termination Date and such violation or breach has not been waived by the Purchaser or cured by the Termination Date, unless the Purchaser is in material breach of its obligations under this Agreement.

7.2 Effects of Termination

If this Agreement is terminated pursuant to Section 7.1:

- (a) all further obligations of the Parties under or pursuant to this Agreement shall terminate without further liability of any Party to the other except for the provisions of Section 7.2(c);
- (b) the Purchaser shall return to the Receiver all documents, work papers and other material of the Receiver or Blutip, as the case may be, relating to the Transaction, whether obtained before or after the execution hereof; and
- (c) if this Agreement is terminated pursuant to Section 7.1(a), and the Receiver's and Blutip's right, title and interest, if any, in and to the Purchased Assets are sold pursuant to either the Successful Bid or the Back-Up Bid, the Purchaser shall be entitled to its costs incurred in connection with the development, execution, delivery and approval by the Court of this Agreement (including, without limitation, legal expenses related thereto, and preparing and negotiating this Agreement), up to a maximum of \$75,000, from the proceeds of such sale of the Receiver's and Blutip's right, title and interest, if any, in and to the Purchased Assets (the "**Expense Reimbursement**").

ARTICLE 8 OTHER COVENANTS OF THE PARTIES; GENERAL

8.1 Books and Records

At Closing, the Receiver shall deliver to the Purchaser, at the Purchaser's sole expense, copies of the Books and Records that relate to the Purchased Assets and that are in the possession of the Receiver or that are reasonably within the Receiver's control, including personal and employment files pertaining to those Employees who accept the Purchaser's offer of employment or who otherwise continue employment with the Purchaser, to the extent permitted by applicable Law. The Purchaser shall honour and observe, in connection with the Transaction, all applicable privacy Laws with respect to the collection, use, transfer and disclosure of personal information about Employees.

8.2 Access of the Receiver to Books and Records

The Receiver, any trustee, trustee in bankruptcy or similar official appointed with respect to Blutip, and each of their representatives shall, for a period of six (6) years from the Closing Date, have access to, and the right to copy, at their expense for *bona fide* business purposes, to the extent necessary or useful in connection with their administration, including the filing of any Tax return or the defence or settlement of any litigation or to comply with any applicable Law and during usual business hours, upon reasonable prior notice to the Purchaser, all books and records relating to the Business, the Purchased Assets and the Assumed Liabilities which are to be transferred and conveyed to the Purchaser pursuant to this Agreement. The Purchaser shall use reasonable efforts to retain and preserve all such Books and Records for such six (6) year period and shall advise the Receiver and any trustee, trustee in bankruptcy or similar official appointed with respect to Blutip (if any) prior to disposing of any such Books and Records so that they may take possession of any such Books and Records, if required.

8.3 Tax Matters

- (a) The Purchaser and the Receiver agree to furnish or cause to be furnished to each other, as promptly as practicable, such information and assistance relating to the Purchased Assets and the Assumed Liabilities as is reasonably necessary for the preparation and filing of any Tax return, claim for refund or other required or optional filings relating to Tax matters, for the preparation for and proof of facts during any Tax audit, for the preparation for any Tax protest, for the prosecution of any suit or other proceedings relating to Tax matters and for the answer to any governmental or regulatory inquiry relating to Tax matters.
- (b) For all Tax purposes, the Purchaser and, to the extent applicable, the Receiver, agree to report the Transaction in a manner consistent with the Purchase Price allocation determined in accordance with Section 2.7, and the Purchaser and the Receiver shall not voluntarily take any action inconsistent therewith in any Tax return, refund claim, litigation or otherwise, unless required by applicable Tax Laws. The Purchaser and the Receiver shall each be responsible for the preparation of their own statements required to be filed under the *Income Tax Act* (Canada) and other similar forms in accordance with applicable Tax Laws.
- (c) All amounts payable by the Purchaser to the Receiver pursuant to this Agreement do not include any federal, provincial, state or local value-added, sale, use, consumption, multi-staged, ad valorem, personal property, customs, excise, stamp, transfer, land transfer, or similar Taxes, duties, or charges, or any recording or filing fees or similar charges (collectively, “**Transfer Taxes**”) and all Transfer Taxes are the responsibility of and for the account of the Purchaser. The Purchaser and the Receiver agree to cooperate to determine the amount of Transfer Taxes payable in connection with the Transaction. If the Receiver is required by applicable Law or by administration thereof to collect any applicable Transfer Taxes from the Purchaser, the Purchaser shall pay such Transfer Taxes to the Receiver on Closing, unless the Purchaser qualifies for an exemption from any such applicable Transfer Taxes, in which case the Receiver shall not collect any such applicable Transfer Taxes from the Purchaser provided the Purchaser, in lieu of payment of such applicable Transfer Taxes to the Receiver, delivers to the Receiver such certificates, elections or other documentation required by applicable Law or the administration thereof to substantiate and affect the exemption claimed by the Purchaser.
- (d) The Purchaser shall indemnify and save the Receiver harmless from and against all claims and demands for payment of the Taxes referenced in this Section 8.3, including penalties and interest thereon and any liability or costs incurred as a result of any failure to pay such Taxes when due.
- (e) If applicable, at the Closing, Blutip and the Purchaser shall jointly execute an election under Section 167(1)(b) of the *Excise Tax Act* (Canada) to have subsection 167(1.1) of the *Excise Tax Act* (Canada) apply in respect of the sale of the Receiver’s and Blutip’s right, title and interest, if any, in and to the Purchased

Assets under this Agreement. The Purchaser shall file the election in the manner and within the time prescribed by subsection 167(1.1) of the *Excise Tax Act* (Canada). Notwithstanding anything to the contrary in this Agreement, the Purchaser shall indemnify and hold Blutip and the Receiver, and their respective shareholders, directors, officers and employees, harmless in respect of any harmonized sales tax, goods and services tax, penalties, interest and other amounts which may be assessed against the Receiver and/or Blutip as a result of the Transaction not being eligible for such elections or as a result of the Purchaser's failure to file the election within the prescribed time.

- (f) If applicable, Blutip and the Purchaser shall jointly execute and file an election under subsection 20(24) of the *Income Tax Act* (Canada) in the manner required by subsection 20(25) of the *Income Tax Act* (Canada) and under the equivalent or corresponding provisions of any other applicable provincial or territorial statute, in the prescribed manners and within the time period permitted under the *Income Tax Act* (Canada) and under any other applicable provincial or territorial statute, as to such amount paid by the Receiver on behalf of Blutip to the Purchaser for assuming future obligations. In this regard, the Purchaser and Blutip acknowledge that a portion of the Purchased Assets transferred by the Receiver pursuant to this Agreement and having a value equal to the amount elected under subsection 20(24) of the *Income Tax Act* (Canada) and the equivalent provisions of any applicable provincial or territorial statute, is being transferred by the Receiver on behalf of Blutip as a payment for the assumption of such future obligations by the Purchaser.
- (g) If applicable, Blutip and the Purchaser shall jointly elect in the prescribed form under Section 22 of the *Income Tax Act* (Canada) and the corresponding provisions of any other applicable Tax statute as to the sale of accounts receivable of Blutip and designate in such election an amount equal to the portion of the Purchase Price allocated to such accounts receivable pursuant to the allocation determined in accordance with Section 2.7. This election or these elections, shall be made within the prescribed time for such elections.
- (h) The Purchaser and the Receiver shall also execute and deliver such other Tax elections and forms as they may mutually agree upon.

8.4 Receiver's Capacity

The Purchaser acknowledges and agrees that in all matters pertaining to this Agreement, including in its execution, Duff & Phelps Canada Restructuring Inc. is acting solely in its capacity as receiver of the Property pursuant to the Appointment Order and not in its personal, corporate, or any other capacity and the Receiver and its agents, officers, directors and employees will have no personal or corporate liability under or as a result of this Agreement, or otherwise in connection herewith. Any liability of the Receiver hereunder shall be limited to payment of the Expense Reimbursement from the proceeds of sale of the Receiver's and Blutip's right, title and interest, if any, in and to the Purchased Assets pursuant to the Successful Bid or

Back-Up Bid, as applicable, subject to and in accordance with Section 7.2(c), and in no circumstances will the Receiver be liable for any consequential damages including loss of profit.

8.5 Receiver Disclosures

The Receiver shall be entitled to disclose this Agreement and all information provided by the Purchaser in connection herewith to the Court, to the parties in interest to the proceedings in connection with the receivership of Blutip, and to any parties entitled to "Access" (as defined in and determined in accordance with Section 3 of the Bidding Procedures). The Parties will consult with and be cooperative with each other in respect of any press release or public statement or public communication with respect to this Agreement or Transaction.

8.6 Closing Certificate

The Parties hereby acknowledge and agree that the Receiver shall be entitled to file a certificate, substantially in the form attached to the Vesting Order (the "**Closing Certificate**"), with the Court upon receiving written confirmation from the Purchaser that all conditions of Closing have been satisfied or waived, and the Receiver shall have no liability to the Purchaser or any other person as a result of filing the Closing Certificate.

8.7 Notices

Any notice, consent or approval required or permitted to be given in connection with this Agreement shall be in writing and shall be sufficiently given if delivered (whether in person, by courier service or other personal method of delivery), or if transmitted by e-mail or facsimile:

- (a) in the case of a notice to the Purchaser at:

CCM Master Qualified Fund, Ltd.
c/o Coghill Capital Management, LLC
One North Wacker Drive, Suite 4350
Chicago, IL 60606

Attention: James Schuler
Fax: (312)324-2001
Email: jschuler@coghillcapital.com

with a copy (which shall not constitute notice) to:

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

Attention: Marc Wasserman
Fax: (416) 862-6666
Email: mwasserman@osler.com

(b) in the case of a notice to the Receiver at:

Duff & Phelps Canada Restructuring Inc.
200 King Street West
Suite 1002
Toronto, Ontario M5H 3T4

Attention: David Sieradzki
Fax: (647) 497-9470
Email: david.sieradzki@duffandphelps.com

with a copy (which shall not constitute notice) to:

Blake Cassels & Graydon LLP
199 Bay Street
Suite 4000, Commerce Court West
Toronto, ON M5L 1A9

Attention: Linc Rogers
Fax: (416) 863-2653
Email: linc.rogers@blakes.com

Any notice delivered or transmitted to a Party as provided above shall be deemed to have been given and received on the day it is delivered or transmitted, provided that it is delivered or transmitted on a Business Day prior to 5:00 p.m. local time in the place of delivery or receipt. However, if the notice is delivered or transmitted after 5:00 p.m. local time or if such day is not a Business Day then the notice shall be deemed to have been given and received on the next Business Day.

Any Party may, from time to time, change its address by giving notice to the other Party in accordance with the provisions of this Section 8.7.

8.8 Assignment

The Purchaser may at any time assign any of its rights or obligations arising under this Agreement to an affiliate of the Purchaser; provided, however, that in the event of any such assignment, the Purchaser shall be jointly and severally liable for the obligations it assigns and shall not be relieved of any liability or obligation hereunder. Subject to the foregoing, no Party may assign this Agreement or any rights or obligations arising under this Agreement without the prior written consent of the other Party.

8.9 Expenses

Except as set forth in Sections 5.2(h) and 7.2(c), each of the Parties shall pay their respective legal, accounting, and other professional advisory fees, costs and expenses incurred in connection with the Transaction, and the preparation, execution and delivery of this Agreement and all documents and instruments executed pursuant to this Agreement.

8.10 Time of the Essence

Time shall be of the essence in respect of the obligations of the Parties arising prior to Closing under this Agreement.

8.11 Enurement

This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors (including any successor by reason of amalgamation of any Party) and permitted assigns.

8.12 Amendment

No amendment, supplement, modification or waiver of this Agreement and, unless otherwise specified, no consent or approval by any Party, shall be binding unless executed in writing by the Party to be bound thereby.

8.13 Further Assurances

The Parties shall, with reasonable diligence, do all such things and provide all such reasonable assurances as may be required to consummate the Transaction, and each Party shall provide such further documents or instruments required by any other Party as may be reasonably necessary or desirable to effect the purpose of this Agreement and carry out its provisions, whether before or after the Closing provided that the reasonable costs and expenses of any actions taken after Closing at the request of a Party shall be the responsibility of the requesting Party.

8.14 Execution and Delivery

This Agreement may be executed by the Parties in counterparts and may be executed and delivered by facsimile or other electronic means and all such counterparts and facsimiles (or other electronic deliveries) shall together constitute one and the same agreement.

[Remainder of page intentionally left blank]

IN WITNESS OF WHICH the Parties have executed this Agreement as of the date first written above.

**DUFF & PHELPS CANADA
RESTRUCTURING INC.**, solely in its
capacity as court-appointed receiver of the
assets, undertakings and properties of **BLUTIP
POWER TECHNOLOGIES LTD.** and not in
its personal or corporate capacity

By: _____
Name:
Title:

**COGHILL CAPITAL MANAGEMENT,
LLC** in its capacity as Investment Manager of
CCM MASTER QUALIFIED FUND, LTD.

By: _____
Name: *JAMES SCHULCH*
Title: *CFO & Principal*

SCHEDULE A
EXCLUDED ASSETS

The Excluded Assets shall include:

- (a) any asset that otherwise would constitute a Purchased Asset but for the fact that it is conveyed, leased or otherwise disposed of in the ordinary course of business prior to the Closing Date not in violation of this Agreement;
- (b) the corporate books and records of internal corporate proceedings, Tax records, work papers and other records that the Receiver is required by Law to retain, provided that copies of such books and records will be provided to the Purchaser at Closing;
- (c) the rights of the Receiver under this Agreement or any Ancillary Agreement and all cash and non-cash consideration payable or deliverable to the Receiver under this Agreement or any Ancillary Agreement;
- (d) all rights under or arising out of insurance policies not relating to the Business or the Purchased Assets or non-assignable as a matter of law; and
- (e) all Excluded Contracts and rights of the Receiver and Blutip related thereto.

SCHEDULE B ASSUMED LIABILITIES

The Assumed Liabilities shall include:

- (a) ***Obligations after Receivership*** – all liabilities and obligations of the Receiver, if any, arising from the operation of the Business or the wind down and completion of the receivership, to the extent not paid or discharged at Closing and all obligations secured by Encumbrances ranking in priority to the Security to the extent not paid or discharged on Closing;
- (b) ***Obligations under Contracts*** - all of Blutip's and/or the Receiver's liabilities and obligations arising on or after the Closing Date under the Contracts (other than the Excluded Contracts), and all payments or obligations required to be paid, performed or discharged in connection with the assignment of such Contracts;
- (c) ***Obligations after Closing*** - all liabilities and obligations arising on or after the Closing Date but only to the extent that they relate to or arise out of the operation of the Business on or after the Closing Date or the Purchaser's ownership of the Purchased Assets; and
- (d) ***Employee Matters*** - all liabilities and obligations of the Purchaser pursuant to Section 2.8.

**SCHEDULE C
PATENTS**

Country	Application / Registration Number	Description
CA	2,269,382	Electrode Assembly
US	6,524,453	Electrode Assembly
US	7,651,602	Electrolyzer
US	12/514,962	Gas/Liquid Separator for Hydrogen Generating Apparatus
CA	2,670,138	Gas/Liquid Separator for Hydrogen Generating Apparatus
AU	2006201027	Hydrogen Generating Apparatus
CA	2,538,922	Hydrogen Generating Apparatus
CDN	2,368,508	Hydrogen Generating Apparatus and components therefor
US	7,240,641	Hydrogen Generating Apparatus and components therefor
US	6,817,320	Hydrogen Generating Apparatus and components therefor
US	6,332,434	Hydrogen Generating Apparatus and components therefor
CA	2,670,137	Hydrogen Generating Apparatus with Hydrogen Concentration Sensors
CA	2,534,454	Hydrogen Generating System for Operation with Engine Turbo Condition
US	12/514,571	Hydrogen Generating System for Operation with Engine Turbo Condition
AU	2007209732	Hydrogen Generating System for Operation with Engine Turbo Condition
PCT	PCT/CA2010/000831	Method and System for Improving Fuel Economy and Controlling Engine Emissions
US	7,722,066	Vehicle Operation Assembly

US	12/757,215	Vehicle Operation Assembly
CA	2,673,360	Hydrogen Generating Apparatus and components thereof
CA	2,688,798	Hydrogen Generating Apparatus and Components Therefor
CA	2,287,270	Hydrogen Generating Apparatus and components thereof
CA	2,400,775	Electrolyzer
AU	2005301052	Electrochemical Cell Electrolyte Pumping System
CA	2,586,588	Electrochemical Cell Electrolyte Pumping System

SCHEDULE D
BIDDING PROCEDURES

See attached.

Schedule "D"

Bidding Procedures

On February 28, 2012, the Ontario Superior Court of Justice, Commercial List (the "**Court**") granted an order (the "**Appointment Order**") appointing Duff & Phelps Canada Restructuring Inc. as receiver (Duff & Phelps Canada Restructuring Inc., in such capacity, the "**Receiver**") over all of the assets, undertakings and properties acquired for, or used in relation to a business carried on by Blutip Power Technologies Ltd. (the "**Debtor**").

On March 9, 2012, the Receiver filed a motion (the "**Bidding Procedures Motion**") with the Court seeking, among other things, approval of (a) the Receiver's execution of an agreement of purchase and sale of substantially all assets of the Debtor (the "**Purchased Assets**") between the Debtor and CCM Master Qualified Fund, Ltd. (the "**Stalking Horse Bidder**") dated March 9, 2012 (the "**Stalking Horse Agreement**") so as to set a minimum floor price in respect of the sale process for the Purchased Assets; (b) certain protections granted to the Stalking Horse Bidder pursuant to the Stalking Horse Agreement; and (c) certain bidding procedures for the solicitation of offers or proposals for the acquisition of the Purchased Assets (each a "**Bid**").

On March 15, 2012, the Court entered an order granting the relief requested in the Bidding Procedures Motion, including approval of the following bidding procedures (these "**Bidding Procedures**"). Accordingly, these Bidding Procedures shall govern the solicitation by the Receiver of Bids that are superior to that contemplated by the Stalking Horse Agreement and the proposed sale of the Purchased Assets.

All denominations are in Canadian Dollars.

1. Assets for Sale

The Receiver is soliciting Bids for the Purchased Assets, in whole but not in part, that are superior to that contemplated by the Stalking Horse Agreement.

2. Bidding Deadline

All Bids must be submitted in accordance with the terms of these Bidding Procedures so that they are actually received by each of the Notice Parties (as defined below) no later than 10:00 a.m. (Toronto time) on April 16, 2012 (the "**Bid Deadline**"). A Bid received by a Notice Party after the Bid Deadline shall not constitute a Qualified Bid (as defined below).

Written copies of the Bids shall be delivered via e-mail or by personal delivery so that they are received by the Bid Deadline by each of the following parties (collectively, the "**Notice Parties**"):

- (a) the Receiver at:

Duff & Phelps Canada Restructuring Inc.
200 King Street West
Suite 1002
Toronto, ON M5H 3T4

Attention: David Sieradzki
E-mail: david.sieradzki@duffandphelps.com

- (b) counsel to the Receiver at:

Blake, Cassels & Graydon LLP
199 Bay Street, Suite 4000, Commerce Court West
Toronto ON M5L 1A9

Attention: Linc Rogers
E-mail: linc.rogers@blakes.com

3. Access to Due Diligence Materials

Interested bidders that execute a Confidentiality Agreement (as defined below) are eligible to receive a confidential information memorandum describing the opportunity to acquire the Purchased Assets, a copy of the Stalking Horse Agreement, and due diligence access or additional non-public information (“Access”) upon receipt by the Receiver of such executed Confidentiality Agreement. Such party’s Access shall terminate when the earliest of the following events occur:

- (a) such party does not submit a Bid by the Bid Deadline;
- (b) the Receiver determines that such party does not constitute a Qualified Bidder (as defined below);
- (c) such party does not participate in the Auction (as defined below); or
- (d) at the conclusion of the Auction.

Notwithstanding that a party’s Access may continue until the end of the Auction, the Receiver shall not be obligated to furnish any due diligence information after the Bid Deadline.

The Receiver will designate an employee or other representative to coordinate all reasonable requests for due diligence Access or additional non-public information from all parties eligible to receive such access and information in accordance with this Section 3. The Receiver is not responsible for, and will bear no liability with respect to, any information obtained by any party in connection with the sale of the Purchased Assets and will not make any representations as to the accuracy or completeness of such information.

4. Due Diligence From Bidders

Each Bidder (as defined below) shall comply with all reasonable requests for additional information by the Receiver regarding such Bidder and its contemplated transaction. Failure by a Bidder to comply with requests for additional information will be a basis for the Receiver to determine that the Bidder is not a Qualified Bidder.

5. Bidding Procedures

The Receiver, with the assistance of its advisors, shall: (a) coordinate the efforts of Bidders in conducting their due diligence investigations, as permitted by the provisions herein; (b) receive Bids from interested parties; (c) determine whether a Bidder is a Qualified Bidder; (c) if the Auction is to take place in accordance with these Bidding Procedures, conduct the Auction in accordance with these Bidding Procedures; and (d) negotiate offers made by Bidders in accordance with these Bidding Procedures. The Receiver shall have the right to adopt such ancillary and procedural rules not otherwise set out herein for these Bidding Procedures (including rules that may depart from those set forth herein) that in its reasonable business judgment will better promote the goals of these Bidding Procedures and facilitate the Auction, if the Auction takes place; *provided that* the adoption of any rule that materially deviates from these Bidding Procedures shall require an order of the Court. The Receiver shall provide the Stalking Horse Bidder with at least five (5) days notice of any motion to the Court to adopt a rule that materially deviates from these Bidding Procedures.

6. Bid Requirements

To participate in the process detailed by these Bidding Procedures and to otherwise be considered for any purpose hereunder, an interested party (other than the Stalking Horse Bidder) (a “**Bidder**”) must satisfactorily provide the Receiver with each of the following on or before the Bid Deadline:

- (a) Identification of Bidder. Identification of the Bidder and any Principals (as defined below), and the representatives thereof who are authorized to appear and act on their behalf for all purposes regarding the contemplated transaction;
- (b) Corporate Authority. Written evidence of the Bidder’s chief executive officer or other appropriate senior executive’s approval of the contemplated transaction; and, if the Bidder is an entity specially formed for the purpose of effectuating the contemplated transaction, then the Bidder must furnish written evidence reasonably acceptable to the Receiver of the approval of the contemplated transaction by the equity holder(s) of such Bidder and any guarantor(s) of the Bid (the “**Principals**”);
- (c) Confidentiality Agreement. An executed confidentiality agreement in form and substance acceptable to the Receiver and its counsel (a “**Confidentiality Agreement**”);

- (d) Financing Sources. Written evidence of a firm, irrevocable commitment for financing from a creditworthy bank or financial institution that will provide such financing without alteration of condition(s) or delay(s) and that is not contingent, or, other evidence of the Bidder's ability, as determined in the Receiver's reasonable business judgment, to consummate the transaction contemplated by its Bid; and
- (e) Bid. A Bid which satisfies each of the following conditions:
 - (i) Form and Content. The Bid must be in the form of an executed mark-up of the Stalking Horse Agreement reflecting such Bidder's proposed changes to the Stalking Horse Agreement, and must contain a written and binding commitment by the Bidder to close on the terms and conditions set forth therein as soon as practicable after satisfaction or waiver of all conditions and a covenant to use commercial best efforts to satisfy all conditions by the Target Closing Date (as defined below);
 - (ii) Irrevocable. The Bid must be irrevocable until the earlier of (i) the day on which the Bidder is notified that the Bid is not a Qualified Bid; (ii) the day on which a Successful Bid is selected, if the Bid is neither the Successful Bid nor the Back-Up Bid selected on such day; and (iii) May 15, 2012 (the "**Termination Date**");
 - (iii) Contingencies. The Bid may not be conditional on obtaining financing or any internal approval or on the outcome or review of due diligence. Any other contingencies associated with the Bid may not, in the aggregate, be more burdensome than those set forth in the Stalking Horse Agreement;
 - (iv) No Fees payable to Bidder. The Bid may not request or entitle the Bidder (other than the Stalking Horse Bidder) to any break-up fee, expense reimbursement, termination or similar type of fee or payment;
 - (v) Good-Faith Deposit. The Bid must be accompanied by a cash deposit (the "**Good Faith Deposit**") equal to fifteen percent (15%) of the total cash purchase price contemplated by such Bid, and the Good Faith Deposit shall be paid to the Receiver, to be held by the Receiver in trust in accordance with these Bidding Procedures; and
 - (vi) Minimum Consideration. The aggregate consideration in a Bid must provide a cash purchase price of at least \$3,919,000. For greater certainty, this figure is an estimate, as of the Target Closing Date, of the aggregate of (a) the Credit Bid Amount (as defined in the Stalking Horse Agreement); (b) the maximum Expense Reimbursement (as defined in the Stalking Horse Agreement) of \$75,000; and (c) \$100,000.

7. Designation as Qualified Bidder

A “**Qualified Bidder**” is a Bidder that the Receiver, in consultation with its advisors, determines satisfies all of the conditions set out in Section 6 above, and the Bid submitted by such Qualified Bidder is a “**Qualified Bid**”. Upon the receipt from a Bidder of all of the deliveries required under Section 6 above, the Receiver shall notify such Bidder with respect to whether it is a Qualified Bidder as soon as practicable after the Bid Deadline.

As soon as practicable after the Bid Deadline, the Receiver shall provide all Qualified Bidders with a copy of the Opening Bid (as defined below) for the Auction.

For greater certainty, the Stalking Horse Bidder is and is deemed to be a Qualified Bidder for all purposes of these Bidding Procedures (including for purposes of the Auction) and the Stalking Horse Agreement is and is deemed to be a Qualified Bid for all purposes of these Bidding Procedures (including for purposes of the Auction).

8. Auction

Only if the Receiver has determined by April 18, 2012 that there is at least one Qualified Bid (other than the Stalking Horse Agreement) shall the Receiver conduct an auction (the “**Auction**”) to determine the highest and/or best Bid with respect to the Purchased Assets. The Auction shall commence on April 20, 2012, at 10:00 a.m. (Toronto time) at the offices of Blake, Cassels & Graydon LLP, 199 Bay Street, Suite 4000, Commerce Court West, Toronto, Ontario, M5L 1A9.

If the Receiver determines that there is no Qualified Bid (other than the Stalking Horse Agreement), (i) the Auction will not take place; (ii) the Stalking Horse Agreement shall be declared the Successful Bid (as defined below); (iii) the Receiver shall seek approval of, and authority to consummate, the Stalking Horse Agreement and the transactions provided for therein at the Sale Hearing (as defined below); and (iv) the Receiver shall post notice of such facts on its website established in connection with the receivership of the Debtor, at:

http://www.duffandphelps.com/services/investment_banking/Pages/RestructuringCases.aspx

If the Auction does take place, the Auction shall be conducted according to the following procedures:

- (a) Participation At The Auction. The Receiver and its professionals shall direct and preside over the Auction. Only a Qualified Bidder is eligible to participate at the Auction. Only the authorized representatives (including counsel and other advisors) of each of the Qualified Bidders, and the Receiver shall be permitted to attend at the Auction.
- (b) Rounds. Bidding at the Auction shall be conducted in rounds. The highest Qualified Bid at the beginning of the Auction shall constitute the “**Opening Bid**” for the first round and the highest Overbid (as defined below) at the end of each round shall constitute the “**Opening Bid**” for the following round. In each round, a Qualified Bidder may submit no more than one Overbid. If at

the end of any round of bidding, a Qualified Bidder (other than the Qualified Bidder that submitted the Opening Bid for such round) did not submit an Overbid, then the Receiver may, in its sole discretion, bar such Qualified Bidder from participating in the next round of bidding at the Auction. Any Qualified Bidder who bids in a round (including the Qualified Bidder that submitted the Opening Bid for such round) shall be entitled to participate in the next round of bidding at the Auction.

- (c) Bid Assessment Criteria. The determination of which Qualified Bid constitutes the Opening Bid in the first round of bidding and the determination of which Overbid constitutes the Opening Bid for each subsequent round of bidding shall take into account any factors the Receiver, with the assistance of its advisors, reasonably deems relevant to the value of the Qualified Bid/Overbid, including, among other things, the following: (i) the amount and nature of the consideration; (ii) the proposed assumption of any liabilities; (iii) the ability of the Qualified Bidder to close the proposed transaction; (iv) the proposed closing date and the likelihood, extent and impact of any potential delays in closing; (v) any purchase-price adjustments; (vi) the net economic effect of any changes from the Stalking Horse Agreement contemplated by the Qualified Bid; (vii) the net after-tax consideration to be received by the Receiver; and (viii) such other considerations as the Receiver deems relevant in its reasonable business judgment.
- (d) Overbids. All Bids made after the Opening Bid shall be Overbids, and shall be made and received on an open, non-confidential basis, and the identity of each Qualified Bidder and all material terms of each Overbid shall be fully disclosed to all other Qualified Bidders participating in the Auction. The Receiver shall maintain a transcript of the Opening Bid and all Overbids made and announced at the Auction, including the Successful Bid and the Back-Up Bid (as defined below).
- (e) Terms of Overbids. An “**Overbid**” is any Bid made at the Auction that satisfies the following conditions:

- (i) Minimum Consideration

The amount of the cash purchase price consideration of any Overbid shall not be less than the cash purchase price consideration of the Opening Bid of the applicable round of bidding, plus \$100,000 (the “**Minimum Overbid Increment**”) or such lower amount as the Receiver may determine in order to facilitate the Auction; provided, that, without duplication, application of (a) any amounts owing by the Debtor to the Stalking Horse Bidder under the Notes (as defined in the Stalking Horse Agreement), to a maximum of \$3,296,500, (b) any portion of the Appointment Costs (as defined in the Stalking Horse Agreement), and (c) any amounts advanced to the Receiver by the Stalking Horse Bidder under the Term Sheet (as defined in the

Stalking Horse Agreement) and evidenced by the Receiver's Certificates (as defined in the Appointment Order), shall be considered as cash purchase price consideration in connection with any Overbid made by the Stalking Horse Bidder.

The Receiver shall credit the maximum amount of the Expense Reimbursement to each and every Overbid submitted by the Stalking Horse Bidder at the Auction, meaning that if an Overbid made by the Stalking Horse Bidder is the Opening Bid for a round of bidding at the Auction, the cash purchase price consideration of any Overbid made in that round of bidding must exceed the Stalking Horse Bidder's Overbid by the maximum amount of the Expense Reimbursement plus the Minimum Overbid Increment (a total amount of \$175,000).

(ii) Remaining terms are the same as for Qualified Bids

Except as modified herein, an Overbid must comply with the conditions for a Bid set forth in Section 6(e) above, provided, however, that the Bid Deadline shall not apply and Overbids need not be accompanied by additional cash deposits during the Auction.

To the extent not previously provided (which shall be determined by the Receiver), a Qualified Bidder submitting an Overbid must submit, as part of its Overbid, written evidence (in the form of financial disclosure or credit-quality support information or enhancement reasonably acceptable to the Receiver) demonstrating such Qualified Bidder's ability to close the transaction contemplated by its Overbid.

(iii) Announcing Highest Overbids

At the end of each round of bidding, the Receiver, with the assistance of its advisors, shall (i) immediately review each Overbid made in such round, (ii) identify the highest and/or best such Overbid, and (iii) announce the identity of the Qualified Bidder and the terms of such highest and/or best Overbid to all Qualified Bidders entitled to participate in the next round of bidding. Such highest and/or best Overbid shall be the Opening Bid for the next round of the Auction.

- (f) Adjournments. The Receiver reserves the right, in its reasonable business judgment, to make one or more adjournments in the Auction to, among other things: (A) facilitate discussions between the Receiver and individual Qualified Bidders; (B) allow individual Qualified Bidders to consider how they wish to proceed; (C) consider and determine the current highest and/or best Overbid at any given time during the Auction; and (D) give Qualified Bidders the opportunity to provide the Receiver with such additional evidence as it may require, in its reasonable business judgment, that the Qualified Bidder has obtained all required internal corporate approvals, has sufficient

internal resources, or has received sufficient non-contingent debt and/or equity funding commitments, to consummate the proposed transaction at the prevailing Overbid amount.

- (g) Closing the Auction. If, in any round of bidding, no new Overbid is made, the Auction shall be closed and the Receiver shall, with the assistance of its advisors: (i) declare the last Opening Bid as the successful Bid (the “**Successful Bid**” and the entity or entities submitting such Successful Bid, the “**Successful Bidder**”); (ii) immediately review the other Overbids made in the previous round or the Qualified Bids if there were no Overbids made at the Auction, and identify and record the next highest and/or best Overbid or Qualified Bid to the Successful Bid (the “**Back-Up Bid**” and the entity or entities submitting such Back-Up Bid, the “**Back-Up Bidder**”); and (iii) advise the Successful Bidder and the Back-Up Bidder of such determinations and all other Qualified Bidders that they are not the Successful Bidder or Back-Up Bidder.

To the extent not already provided, the Successful Bidder and the Back-Up Bidder shall each, within two (2) business days of the conclusion of the Auction, provide the Receiver with an additional cash deposit to increase its original Good Faith Deposit to equal fifteen percent (15%) of the total cash purchase price contemplated by the Successful Bid or Back-Up Bid, as applicable, to be held by the Receiver in trust as such party’s “Good Faith Deposit” in accordance with these Bidding Procedures. For greater certainty, if the Stalking Horse Bidder submits an Overbid which is determined to be the Successful Bid or Back-Up Bid, the Stalking Horse Bidder shall, within two (2) business days of the conclusion of the Auction, provide the Receiver with a cash deposit equal to fifteen percent (15%) of the total cash purchase price (excluding any amounts which are credit bid pursuant to Section 13 hereof) contemplated by such Overbid, to be held by the Receiver in trust as the Stalking Horse Bidder’s “Good Faith Deposit” in accordance with these Bidding Procedures.

- (h) Consent to Jurisdiction as Condition to Bid. All Qualified Bidders at the Auction shall be deemed to have consented to the jurisdiction of the Court and waived any right to a jury trial in connection with any disputes relating to the Auction, and the construction and enforcement of the Qualified Bidder’s transaction document, as applicable.
- (i) Expense Reimbursement. In the event that the Stalking Horse Bidder is neither the Successful Bidder nor the Back-Up Bidder, the Stalking Horse Agreement shall be terminated pursuant to Section 7.1(a) of the Stalking Horse Agreement, and the Expense Reimbursement (in the maximum amount of \$75,000) shall be payable to the Stalking Horse Bidder in accordance with the terms of the Stalking Horse Agreement from the proceeds received upon closing of the Successful Bid or the Back-Up Bid, as applicable. Section

7.2(c) of the Stalking Horse Agreement and the rights and obligations created thereunder shall survive termination of the Stalking Horse Agreement.

9. Sale Hearing

The Receiver shall, within seven (7) days of the conclusion of the Auction, or, if there is no Auction as determined in accordance with Section 8, by April 20, 2012, serve notice of a hearing (the “**Sale Hearing**”) to approve the sale of the Purchased Assets to the Successful Bidder free and clear of all liens and encumbrances, other than those liens and encumbrances expressly to be assumed by the Successful Bidder. The Sale Hearing shall be conducted by the Court as soon as possible thereafter, and in any case, by May 1, 2012, at 330 University Avenue, Toronto, Ontario. At the Sale Hearing, the Receiver may also seek, in its sole discretion, conditional approval of the Back-Up Bid, authorizing the Receiver to close the Back-Up Bid if the Successful Bid is not closed by May 3, 2012 (the “**Target Closing Date**”).

10. Closing the Successful Bid

The Receiver and the Successful Bidder shall take all reasonable steps to complete the sale transaction contemplated by the Successful Bid as soon as possible after the Successful Bid is approved by the Court. The Receiver will be deemed to have accepted the Successful Bid only when the Successful Bid has been approved by the Court. If the transaction contemplated by the Successful Bid has not closed by the Target Closing Date or the Successful Bid is terminated for any reason prior to the Target Closing Date, the Receiver may elect, in its sole discretion to seek to complete the transaction contemplated by the Back-Up Bid, and upon making such election, the Receiver will seek Court approval of the Back-Up Bid (if such approval has not already been obtained) and promptly seek to close the transaction contemplated by the Back-Up Bid after such Court approval. The Back-Up Bid will be deemed to be the Successful Bid and the Receiver will be deemed to have accepted the Back-Up Bid only when the Back-Up Bid has been approved by the Court.

11. “As Is, Where Is”

The sale of the Purchased Assets pursuant to these Bidding Procedures shall be on an “as is, where is” basis and without representations or warranties of any kind, nature, or description by the Debtor or the Receiver, other than such limited market standard representations and warranties as may be expressly set out in the Successful Bid.

12. Return of Good Faith Deposit

- (a) All Good Faith Deposits shall be held in an interest-bearing account until returned to the applicable Bidder or otherwise dealt with in accordance with this Section 12.
- (b) Good Faith Deposits of all Bidders who are determined not to be Qualified Bidders shall be returned to such Bidder two (2) business days after the day on which the Bidder is notified that it is not a Qualified Bidder.

- (c) Good Faith Deposits of all Qualified Bidders other than the Successful Bidder and the Back-Up Bidder (if applicable) shall be returned to such Qualified Bidder two (2) business days after the day on which a Successful Bidder is selected.
- (d) The Good Faith Deposit of the Successful Bidder shall be applied to the purchase price of such transaction at closing. If the Successful Bidder fails to consummate the transaction contemplated by the Successful Bid by the Target Closing Date because of a breach or failure to perform on the part of such Successful Bidder, the Receiver shall be entitled to retain the Good Faith Deposit of the Successful Bidder as part of its damages resulting from the breach or failure to perform by the Successful Bidder. The Good Faith Deposit of the Successful Bidder shall otherwise be returned to the Successful Bidder in accordance with the terms of the Successful Bid.
- (e) If the Back-Up Bid has not been deemed to be the Successful Bid, the Good Faith Deposit of the Back-Up Bidder shall be returned to the Back-Up Bidder as soon as practicable after the earlier of (i) the Termination Date, (ii) the closing of the transaction contemplated by the Successful Bid, and (iii) the date on which the Receiver provides written notice to the Back-Up Bidder that the Receiver will not elect to complete the transaction contemplated by the Back-Up Bid.
- (f) If the Back-Up Bid is deemed to be the Successful Bid, the Good Faith Deposit of the Back-Up Bidder shall be applied to the purchase price of such transaction at closing. If the Back-Up Bidder fails to consummate the transaction contemplated by the Back-Up Bid by the Termination Date because of a breach or failure to perform on the part of such Back-Up Bidder, the Receiver shall be entitled to retain the Good Faith Deposit of the Back-Up Bidder as part of its damages resulting from the breach or failure to perform by the Back-Up Bidder. The Good Faith Deposit of the Back-Up Bidder shall otherwise be returned to the Back-Up Bidder in accordance with the terms of the Back-Up Bid.

13. Credit Bidding

For greater certainty and notwithstanding anything herein to the contrary, any lender under any Receiver's Certificate(s) and the Stalking Horse Bidder, as secured creditor pursuant to the Notes and as the creditor who applied for the Appointment Order, shall be permitted, each in their sole discretion, to credit bid up to the full amount of the debt owed to it under the Receiver's Certificate(s), and/or up to \$3,296,500 owed to it under the Notes, and/or up to the amount of the Appointment Costs, to the extent permitted under applicable law.

SCHEDULE E
STALKING HORSE AND BIDDING PROCEDURES ORDER

See attached.

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

THE HONOURABLE) THURSDAY DAY, THE
JUSTICE) 15TH DAY OF MARCH, 2012

IN THE MATTER OF AN APPLICATION PURSUANT TO
SECTION 243(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*,
R.S.C. 1985, c. B-3, AS AMENDED

BETWEEN:

CCM MASTER QUALIFIED FUND, LTD.

Applicant

- and -

BLUTIP POWER TECHNOLOGIES LTD.

Respondent

BIDDING PROCEDURES ORDER

THIS MOTION made by Duff & Phelps Canada Restructuring Inc., in its capacity as court-appointed receiver (in such capacity, the “**Receiver**”) of blutip Power Technologies Ltd. (the “**Debtor**”) for an Order:

- a) abridging the time for service and validating the service of the Notice of Motion, the Motion Record and the First Report of the Receiver dated March 9, 2012 (the “**First Report**”) so that this Motion is properly returnable today and dispensing with further service thereof;
- b) approving the First Report and the activities of the Receiver as described therein;
- c) authorizing and directing the Receiver to execute the agreement of purchase and sale of substantially all assets of the Debtor (the “**Purchased Assets**”) between

the Receiver and CCM Master Qualified Fund, Ltd. (the “**Stalking Horse Bidder**”) dated March 9, 2012 (the “**Stalking Horse Agreement**”) attached hereto as Schedule “A” so as to set a minimum floor price in respect of the sale process for the Purchased Assets;

- d) approving and authorizing the payment of the Expense Reimbursement in the manner provided for in the Stalking Horse Agreement, in conjunction with the Bidding Procedures;
- e) approving the bidding procedures attached as Schedule “D” to the Stalking Horse Agreement (the “**Bidding Procedures**”) to be used in conjunction with the solicitation of offers or proposals for the acquisition of the Purchased Assets;
- f) deeming the Stalking Horse Agreement to be a Qualified Bid (as defined in the Bidding Procedures) and accepted solely for the purposes of the Stalking Horse Bidder’s right to participate in the Auction (as defined in the Bidding Procedures); and
- g) ordering that the Receiver’s Charge and the Receiver’s Borrowings Charge, each as defined in the Order of this Court dated February 28, 2012 (the “**Appointment Order**”), have the standard priority of such charges;

was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the material filed, including the Notice of Motion, the First Report, the Stalking Horse Agreement and the Bidding Procedures, and on hearing the submissions of counsel for the Receiver and counsel for the Stalking Horse Bidder and on being advised that the Service List was served with the Motion Record herein;

1. **THIS COURT ORDERS** that all capitalized terms used herein and not otherwise defined shall have the meaning given to them in the Stalking Horse Agreement or the Bidding Procedures.

SERVICE

2. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Motion Record and the First Report is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.

RECEIVER'S ACTIVITIES

3. **THIS COURT ORDERS** that the First Report and the activities of the Receiver as described therein are hereby approved.

STALKING HORSE AGREEMENT

4. **THIS COURT ORDERS** that the Receiver is hereby authorized and directed to execute the Stalking Horse Agreement.

5. **THIS COURT ORDERS** that the provisions of the Stalking Horse Agreement providing for payment of the Expense Reimbursement are hereby authorized and approved and the Receiver is hereby authorized and directed to pay to the Stalking Horse Bidder, in accordance with Section 7.2(c) of the Stalking Horse Agreement, the Expense Reimbursement from the proceeds of sale of a Successful Bid or a Back-Up Bid in the event that the Stalking Horse Agreement is terminated in accordance with Section 7.1(a) thereof.

BIDDING PROCEDURES

6. **THIS COURT ORDERS** that the Bidding Procedures are hereby approved and, if one or more Qualified Bids (other than the Stalking Horse Agreement) are received, the Receiver shall be authorized to conduct the Auction as contemplated therein.

7. **THIS COURT ORDERS** that the Stalking Horse Agreement is hereby deemed to be a Qualified Bid and accepted solely for the purposes of the Stalking Horse Bidder's right to participate in the Auction.

8. **THIS COURT ORDERS** that nothing herein approves the sale of the Purchased Assets on the terms set out in the Stalking Horse Agreement and that the validity of any sale of the Purchased Assets will be determined on a subsequent motion made to this Court.

PRIORITY OF CHARGES

9. **THIS COURT ORDERS** that the Receiver's Charge (as defined in the Appointment Order) shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “BIA”).

10. **THIS COURT ORDERS** that the Receiver's Borrowings Charge (as defined in the Appointment Order) shall form a fixed and specific charge on the whole of the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

GENERAL

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 Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Receiver in any foreign proceeding, or to assist the Receiver and its agents in carrying out the terms of this Order.

12. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

SCHEDULE “A”

Stalking Horse Agreement

[Intentionally omitted.]

Applicant

Respondent

ONTARIO

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

Proceeding commenced at Toronto

BIDDING PROCEDURES ORDER

BLAKE, CASSELS & GRAYDON LLP
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199 Bay Street, Suite 2800
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Lawyers for the Court-appointed Receiver of
Blutip Power Technologies Ltd.

SCHEDULE F

CLAIM

Action commenced by Statement of Claim dated November 17, 2011 of Blutip Financial Corporation against Blutip Power Technologies Ltd. and Coghill Capital Management LLC, Court File No. CV-11-00439702-0000

Applicant

Respondent

ONTARIO

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

Proceeding commenced at Toronto

BIDDING PROCEDURES ORDER

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Blutip Power Technologies Ltd.

CCM MASTER QUALIFIED FUND, LTD. and BLUTIP POWER TECHNOLOGIES LTD.

Applicant Respondent

Applicant

Mar 15/12

For Records to follow, order printed. I have
signed the Bidding Procedures Order.

[Signature]
D.M. BROWNT.

Court File No: CV-12-9622-00CL

MARCH 15-12

ONTARIO

SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

Proceeding commenced at Toronto

MOTION RECORD

(RETURNABLE MARCH 15, 2012)

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