

No. S-114513
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN

**CRAIG BARTON and
FAIRFAX FINANCIAL HOLDINGS LIMITED**

PLAINTIFFS

AND

PAKIT INC.

DEFENDENT

**THIRD REPORT OF ALVAREZ & MARSAL CANADA INC.
RECEIVER AND MANAGER
PAKIT INC.**

JUNE 8, 2012

**THIRD REPORT OF ALVAREZ & MARSAL CANADA INC.
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TABLE OF CONTENTS

1.0	INTRODUCTION	3
2.0	PURPOSE OF REPORT	3
3.0	TERMS OF REFERENCE	4
4.0	PROPOSED SALE OF ASSETS - APA.....	4
5.0	FAIRFAX APA.....	6
6.0	CASH RECEIPTS AND DISBURSEMENTS FROM FEBRUARY 2 TO JUNE 1, 2012.....	7
7.0	RECOMMENDATION	8

1.0 INTRODUCTION

- 1.1 On February 2, 2012 Alvarez & Marsal Canada Inc. ("**A&M**" or the "**Receiver Manager**") was appointed as Receiver and Manager of all the assets, undertakings and properties of Pakit Inc. ("**Pakit**" or the "**Company**") pursuant to the order (the "**Receivership Order**") pronounced by the Honourable Mr. Justice Burnyeat (the "**Order Date**") on the application of Fairfax Financial Holdings Limited ("**Fairfax**") for an order pursuant to Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") and Section 39 of the *Law and Equity Act*, R.S.B.C. 1996 c. 253, as amended.
- 1.2 Prior to the date of the Receivership Order, Pakit was operating under a stay of proceedings pursuant to an order granted on July 28, 2011 under the *Companies' Creditors Arrangement Act* (the "**CCAA**") by this Honourable Court. The proceedings under the CCAA (the "**CCAA Proceedings**") terminated when the stay of proceedings expired on February 2, 2012 contemporaneous with the date of the Receivership Order and the appointment of the Receiver Manager.
- 1.3 Pakit International Trading Company Inc. ("**Pakit International**") and Pakit USA Company Inc. ("**Pakit US**") and are wholly owned subsidiaries of Pakit. Pakit International is incorporated under the laws of Barbados. Pakit International is the sole owner of Packaging International Technology Sweden AB ("**PIT**"), a company incorporated under the laws of Sweden. References herein to the "**Pakit Group**" are references to the global enterprise as a whole.
- 1.4 The Receiver Manager has established a website www.alvarezandmarsal.com/pakit which contains relevant Court documents as well as notices to creditors, the Receiver Manager's first and second report (the "**Prior Reports**") and other related materials (the "**Receiver Manager's Website**").

2.0 PURPOSE OF REPORT

- 2.1 This is the Receiver Manager's third report (the "**Third Report**") and is intended to provide this Honourable Court and the Company's stakeholders with information in support of the Receiver Manager's notice of application served on June 8, 2012 (the "**Notice of Application**") for orders:
- a) abridging the time for service of the notice of application; and
 - b) approving the sale of the Pakit assets as set out in the asset purchase agreement between Fairfax and the Receiver Manager ("**APA**"). A copy of the APA is attached as Appendix "**A**".

3.0 TERMS OF REFERENCE

3.1 Certain of the information referred to in this report consists of financial information provided by the Pakit subsidiary companies. Historical information with respect to the Company's and/or the Pakit Group's assets and/or operations is referred to or has been relied upon in preparing this report. Although this information has been subject to review, A&M has not conducted an audit nor otherwise attempted to verify the accuracy or completeness of any of the information provided at this time.

3.2 Unless otherwise stated, all monetary amounts contained in this report are expressed in Canadian dollars.

4.0 PROPOSED SALE OF ASSETS - APA

4.1 The Receiver Manager's second report, dated March 6, 2012, set out the bidding procedures (the "**Bidding Procedures**") for the sale of the assets of Pakit Inc. The Receiver Manager sought an application for an Order granting approval of the Bidding Procedures on March 8, 2012. The Honourable Court declined to grant the Order approving the Bidding Procedures on the basis that the Receiver Manager was permitted to enter into a sales process within the powers granted to it pursuant to the Receivership Order and that a Court Order was not required to approve the Bidding Procedures.

4.2 On March 9, 2012 the Receiver Manager commenced the Bidding Procedures consistent with the procedures attached as Exhibit A to the Affidavit of Ms. Pam Boparai sworn on March 5, 2012.

4.3 The Receiver Manager followed the Bidding Procedures summarized below:

Date		Description of Bidding Procedure
March 9	Phase I	Teaser distribution, potential purchaser identification, confidentiality agreement ("CA") was distributed to in excess of 100 parties on March 9 and was made available on the Receiver Manager's website on March 12.
March 9 to April 12	Phase I	Eleven (11) Parties entered into executed CAs with the Receiver Manager and undertook various levels of due diligence. Each of the 11 parties received a copy of the confidential information memorandum.
On or before April 12 at 10:00am PST	Phase I	Three (3) Parties submitted a non-binding expression of interest with an initial deposit of \$250,000 and each of those parties as well as Fairfax qualified as Phase I Bidders.
April 13 - May 12	Phase II	Each of the four (4) Qualified Phase I Bidders undertook various levels of due diligence.
April 23	Phase II	The "Template Purchase Agreement" was circulated to the 4 Qualified Phase I Bidders on April 23, 2012.
On or before May 12 at 10:00am PST	Phase II	One (1) party submitted an APA .

4.4 The Receiver Manager undertook the following marketing activities to expose the assets of Pakit for sale:

- a) Developed a list of potential buyers with the input of Pakit International and PIT senior management and the former Chief Financial Officer of Pakit. In addition, the two former Chief Executive Officers of Pakit as well as Mr. Craig Barton (the plaintiff named in the Receivership application) were contacted to request information with respect to any parties they may be aware of that may be potentially interested in the assets of Pakit.
- b) On March 9, 2012, in excess of 100 parties were contacted by email with a copy of the business opportunity overview (the “**Teaser**”). A copy of the Teaser is attached as Appendix “**B**”).
- c) Subsequent to March 9 and before the Phase I deadline in excess of another 60 Teasers were distributed by email.
- d) Advertised the sale of the asset of Pakit in the following publications:
 - a. Packaging Strategies Digital Newsletter March 15, 2012 publication (front cover). Approximately 1,800 subscribers globally in the packaging and food industry;
 - b. Executive Briefs newsletter March 15, 2012 publication. Approximately 500-600 North American subscribers in the food service and packaging industry;
 - c. PIRA International March 14, 2012 electronic publication. Approximately 12,000 subscribers globally generally in the packaging, paper and print supply industries); and
 - d. Globe and Mail March 14, 2012 edition.

4.5 As noted above, eleven (11) CA’s were executed by interested parties and the Receiver Manager.

4.6 On April 12, 2012, three (3) non-binding expressions of interest were received (along with the refundable \$250,000 initial deposits) for the purchase of the assets of Pakit, resulting in four (4) Qualified Phase I Bidders, including Fairfax.

4.7 The due diligence undertaken by the Qualified Phase I Bidders varied in scope, and was extensive for two of the four interested parties.

4.8 On May 11, 2012, one (1) APA was received by the Receiver Manager.

- 4.9 The other remaining three (3) Qualified Phase I Bidders, who chose not to submit a binding offer by May 11, 2012, contacted the Receiver on or after May 11, 2012 and indicated that they did not submit a bid because there were too many uncertainties surrounding the potential and actual liabilities of the Pakit Group, including Pakit International and PIT. Two of the Qualified Phase I Bidders indicated that while they had a continued interest in purchasing the assets, specifically the patents held by Pakit International, the structure of the Pakit Group and the known and unknown potential liabilities were considered to be too challenging for them. One of the Qualified Phase I Bidders was of the view that it needed more time to conduct further due diligence before it would know if it wanted to proceed.
- 4.10 Despite the apparent continued interest of other parties, the Receiver Manager has received only one APA from Fairfax. The Qualified Phase I Bidders who did not submit an APA by May 11, 2012 had requested the return of the initial deposit received with the Phase I non-binding expression of interest. All initial deposits paid to the Receiver Manager have been returned to the Qualified Phase I Bidders.

5.0 **FAIRFAX APA**

- 5.1 Fairfax submitted an APA on May 11, 2012 for the purchase of the assets of Pakit. The APA was subsequently amended and executed on June 8, 2012 by the Receiver Manager. Capitalized terms referred to below are as defined in the APA. A copy of the amended APA is attached as Appendix A. A summary of the APA is as follows:

- a) The Purchase Price is the amount of the Receiver Advances outstanding as at the Closing Date (Receiver Advances to June 8, 2012 are \$2.2 million);
- b) The Closing Date is defined as the fifth (5th) Business Day following the date on which the Approval and Vesting Order is granted or such other date as may be agreed to in writing by the Parties;
- c) The Purchased Assets are, collectively, and subject to the terms of the APA, the assets of Pakit set out in Schedule "C" of the APA, which exclude unfilled subscription agreements. The Purchased Assets include the shares of Pakit International and the intercompany debt due from Pakit International to Pakit, of which at least \$1.5 million is a secured debt related to advances made by the Receiver Manager.

6.0 **CASH RECEIPTS AND DISBURSEMENTS FROM FEBRUARY 2 TO JUNE 1, 2012**

6.1 Summarized in the table below are the Receiver Manager's cash receipts and disbursements for the period February 2 to June 1, 2012.

PAKIT GROUP Summary of Cash Receipts and Disbursements For the 17-week period ending June 1, 2012 (CAD thousands)					
	Pakit Inc. (In Receivership)	PIT (Sweden)	Pakit International (Barbados)	Pakit Group Consolidated	
Receipts					
Receiver borrowings	\$ 2,200	\$ -	\$ -	\$ 2,200	
Other	163	28	925	1,115	
Total Receipts	\$ 2,363	\$ 28	\$ 925	\$ 3,315	
Disbursements					
Payroll, benefits and payroll taxes	220	713	116	1,048	
Other (G&A, including insurance)	63	33	33	129	
Rent	25	222	-	247	
Receivership professional fees	438	-	-	438	
Taxes (Sweden VAT)	-	273	-	273	
Other liabilities (Pakit International and PIT)	-	148	99	247	
Other	17	234	112	363	
Contingency	-	8	5	14	
Total Disbursements	\$ 763	\$ 1,632	\$ 364	\$ 2,759	
Net Cash Flow Before Intercompany	\$ 1,600	\$ (1,605)	\$ 561	\$ 556	
Intercompany inflow/(outflow)					
Pakit Inc. (note 1)	-	-	1,256	1,256	
Pakit International	(1,256)	1,632	-	376	
PIT	-	-	(1,632)	(1,632)	
Total Intercompany	\$ (1,256)	\$ 1,632	\$ (376)	\$ -	
Net Cash Flow	\$ 344	\$ 27	\$ 185	\$ 556	
Cash Position					
Opening Cash Position	35	34	14	83	
Closing Cash Position	\$ 379	\$ 61	\$ 199	\$ 639	

Note 1: Pakit International also received \$265,000 directly from its North American customer which represents an intercompany advance for an aggregate secured intercompany advance of \$1.5 million as at June 1, 2012.

6.2 Pakit receipts primarily relate to \$2.2 million the Receiver Manager borrowed from Fairfax by way of issuance of Receiver's Certificates. Pakit International has received \$1.3 million as direct secured advances from Pakit as well as indirect secured advance of \$265,000 for the receipt of funds from its North American customer (shown above in "Other") which was to be paid to Pakit but instead was received directly by Pakit International. In addition, Pakit International has received \$170,000 of other customer collections and \$490,000 of other receipts including Sweden value added tax ("VAT") that was refunded pursuant to transfer pricing agreements.

6.3 Total disbursements of \$2,759,000 includes the following:

- a) payroll and benefits costs including \$220,000 for certain employees retained by the Receiver Manager in Canada, \$713,000 for the approximately 17 PIT employees in Sweden, and \$116,000 for the President of Pakit International;
- b) total rent costs of \$247,000 primarily relating to rent and utilities for the research and development facility in Sweden;
- c) receivership professional fees of \$443,000 include \$353,000 for the Receiver, \$85,000 for the Receiver's legal counsel;
- d) other liabilities relate to payment of pre-filing amounts owing prior to the Receivership. This includes \$148,000 for arrears rent and utility invoices for PIT and \$99,000 in Pakit International relating to arrears legal fees relating to patents; and
- e) other costs primarily include raw materials, production and research and development costs (\$205,000), patent related fees (\$105,000) and other miscellaneous expenses such as IT consultant costs.

Accrued Liabilities

- 6.4 Pakit has \$379,000 of cash as at June 1, 2012 and accrued liabilities of approximately \$120,000, including professional fees and payroll related costs for wages and benefits. The \$120,000 accrual excludes professional fees for June 2012.
- 6.5 Pakit International and PIT has provided information to the Receiver Manager that there are various other accruals totalling approximately \$480,000, including payroll and payroll related benefits, source deductions and social costs, VAT, professional fees for patents and security registration costs, legal fees and rent for June 2012.
- 6.6 The Receiver Manager has insufficient funds to continue the receivership, if one was to take into consideration outstanding accrued liabilities.

7.0 RECOMMENDATION


- 7.1 The Receiver Manager respectfully recommends to this Honourable Court an Order granting the approval and vesting order for the sale of the assets of Pakit based on the following:
 - a) Extensive exposure and marketing of the assets was undertaken during the Receivership. In addition, prior to the Receivership the two previous CEOs of Pakit

undertook various financing efforts over an extended period of time in efforts to find investors;

- b) The general responses from parties familiar with the assets have been that the parties have various reservations and concerns surrounding the value of the Pakit assets, including Pakit International's potential commercial viability given the current costs of the Pakit100 machines in conjunction with the uncertainty surrounding the completeness of all liabilities and contingent claims in Pakit International and PIT;
- c) The Bidding Procedures has now concluded as outlined to the market and a significant number of parties. The Bidding Procedures specified the relevant timelines associated with Phase I and Phase II, including the related sales offer deadline. The Receiver Manager maintained the integrity of the sales process by following the Bidding Procedures; and
- d) As expected, the Receiver has insufficient funds to continue the process and has received a bid to conclude the transaction pursuant to a well defined sales process. The highest offer during the Bidding Procedures received has been accepted by the Receiver Manager subject to Court approval. The Receiver Manager supports the APA and for the above noted reasons is seeking an approval and vesting order of the APA.

All of which is respectfully submitted to this Honourable Court this 8th day of June, 2012.

**Alvarez & Marsal Canada Inc.,
in its capacity as Receiver and Manager of
Pakit Inc. and not in its personal capacity**



Per: Pam K. Boparai
Vice President

APPENDIX A

AGREEMENT OF PURCHASE AND SALE

This Agreement of Purchase and Sale (this "**Agreement**") is made and entered into as of this 11th day of May, 2012, between PAKIT INC. ("**Pakit**"), a corporation subject to the *Canada Business Corporations Act* (Canada), by its court-appointed receiver-manager, ALVAREZ & MARSAL CANADA INC. (the "**Vendor**"), and FAIRFAX FINANCIAL HOLDINGS LIMITED (the "**Purchaser**"), a corporation incorporated under the laws of Canada.

RECITALS:

- (A) Pursuant to an order of the Court made February 2, 2012 (as amended and as may be further amended or restated from time to time, the "**Receivership Order**"), Alvarez & Marsal Canada Inc. was appointed as receiver and manager of all of the assets and undertaking of Pakit (Alvarez & Marsal Canada Inc., in such capacity, the "**Receiver**") under the *Bankruptcy and Insolvency Act* (Canada) and the *Law and Equity Act* (British Columbia); and
- (B) The Vendor desires to and the Purchaser has agreed to purchase certain assets of Pakit, on the terms and subject to the conditions set forth in this Agreement.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Vendor and the Purchaser agree as follows:

SECTION 1 INTERPRETATION

1.1 Definitions

In this Agreement:

- (a) "**Affiliate**" means, with respect to any Person, any other Person who directly or indirectly Controls, is Controlled by, or is under direct or indirect common Control with, such Person, and includes any Person in like relation to an Affiliate;
- (b) "**Agreement**" has the meaning set out in the recitals hereto;
- (c) "**Applicable Law**" means, in respect of any Person, property, transaction or event, any domestic or foreign statute, law (including the common law), ordinance, rule, regulation, treaty, restriction, regulatory policy, standard, code or guideline, by-law or order, in each case, having the force of law, that applies in whole or in part to such Person, property, transaction or event;
- (d) "**Approval and Vesting Order**" means an order by the Court approving this Agreement, authorizing the Transaction and vesting in the Purchaser all the right, title and interest of the Vendor in and to the Purchased Assets, free and

clear of all Encumbrances, in form and substance acceptable to the Parties, acting reasonably;

- (e) **"Assigned Contracts"** means, collectively, the Contracts set out in Schedule "A";
- (f) **"Assignment and Assumption Agreement"** means an agreement to be entered into between the Purchaser and the Vendor to be effective as of the Closing Time wherein the Vendor shall assign the Assigned Contracts to the Purchaser and the Purchaser shall thereafter assume the Assumed Obligations;
- (g) **"Assumed Obligations"** has the meaning set out in Section 2.4;
- (h) **"Back-Up Bid"** has the meaning set out in the Bidding Procedures;
- (i) **"Benefit Plans"** means all oral or written plans, arrangements, agreements, programs, policies, practices or undertakings of each Vendor with respect to some or all of the Employees and which provide for or relate to:
 - (i) bonus, profit sharing or deferred profit sharing, performance compensation, deferred or incentive compensation, supplemental retirement arrangements, share compensation, share purchase or share option, share appreciation rights, phantom stock, vacation or vacation pay, sick pay, employee loans, or any other compensation in addition to salary; or
 - (ii) insured or self-insured benefits for or relating to income continuation or other benefits during absence from work (including short term disability, long term disability and workers compensation), hospitalization, health, welfare, legal costs or expenses, medical or dental treatments or expenses, life insurance, accident, death or survivor's benefits, supplementary employment insurance, day care, tuition or professional commitments or expenses and perquisites or similar employment benefits;
- (j) **"Bidding Procedures"** means the bidding procedures substantially in the form attached hereto as Schedule "B" or such other form as the Vendor and the Purchaser may agree;
- (k) **"Books and Records"** means all files, documents, instruments, papers, books and records (whether stored or maintained in hard copy, digital or electronic format or otherwise), including tax and accounting books and records, used or intended for use by, and in the possession of, the Vendor, in connection with the ownership, or operation of the Purchased Assets, including the Assigned Contracts, customer lists, customer information and account records, sales records, computer files, data processing records, employment and personnel records, sales literature, advertising and

marketing data and records, credit records, records relating to suppliers and other data, in each case, relating to the Purchased Assets;

- (l) **"Business"** means the business and operations of Pakit, Pakit Sweden and Pakit Barbados, and includes without limitation the development and manufacture of cellulose fibre moulding technology used to manufacture customized, scalable, environmentally sustainable packaging;
- (m) **"Business Day"** means a day on which banks are open for business in Vancouver but does not include a Saturday, Sunday or statutory holiday in the Province of British Columbia;
- (n) **"Claims"** means any claim of any nature or kind (including any cross-claim or counterclaim), demand, investigation, chose in or cause of action, suit, default, assessment, litigation, third party action, arbitral proceeding or proceeding by or before any Person;
- (o) **"Closing"** means the successful completion of the Transaction;
- (p) **"Closing Date"** means the fifth (5th) Business Day following the date on which the Approval and Vesting Order is granted or such other date as may be agreed to in writing by the Parties;
- (q) **"Closing Time"** means 2:00 p.m. (Vancouver time) on the Closing Date;
- (r) **"Consents and Approvals"** means the consents, permits, approvals, notifications or waivers from, and filings with, third parties (including any Governmental Authority) in form and substance satisfactory to the Purchaser as may be required to effectuate the Transaction or operate the Business, including those required by the terms of the Assigned Contracts;
- (s) **"Contracts"** means all of the contracts and other written agreements to which the Vendor is a party;
- (t) **"Control"** means the ability of one Person to, directly or indirectly, direct or cause the direction of the management and policies of another Person, whether through the ownership of voting securities, by contract or otherwise and **"Controlled"** has a similar meaning;
- (u) **"Court"** means the Supreme Court of British Columbia;
- (v) **"Credit Bid Amount"** means the aggregate amount of all outstanding obligations of any kind pursuant to all Receiver's Certificates (including without limitation accrued interest thereunder) issued in favour of the Purchaser as of the Closing Date;
- (w) **"Cure Costs"** means amounts that must be paid, if any, in connection with the assignment and assumption of the Purchased Assets, including costs to

obtain any Consent and Approval or to cure any defaults thereunder that are required to be cured as a condition of such assignment, as applicable;

- (x) **"Databases"** means information and data, databases, database layouts and data structures;
- (y) **"Deposit"** has the meaning set out in Section 3.3;
- (z) **"Employee"** means an individual who is employed by Pakit, whether on a full-time or a part-time basis, whether active or inactive as of the Closing Date, and includes an employee on short term or long term disability leave;
- (aa) **"Encumbrances"** means any security interest, lien, claim, charge, hypothec, reservation of ownership, pledge, encumbrance, mortgage, adverse claim or right of a third party of any nature or kind whatsoever and any agreement, option or privilege (whether by law, contract or otherwise) capable of becoming any of the foregoing (including any conditional sale or title retention agreement, or any capital or financing lease);
- (bb) **"Excise Tax Act"** means the *Excise Tax Act* (Canada), as amended;
- (cc) **"Excluded Assets"** means any and all properties, rights, assets and undertakings of the Vendor that do not constitute Purchased Assets;
- (dd) **"Governmental Authority"** means any domestic or foreign government, whether federal, provincial, state, territorial or municipal; and any governmental agency, ministry, department, court (including the Court), tribunal, commission, stock exchange, bureau, board or other instrumentality exercising or purporting to exercise legislative, judicial, regulatory or administrative functions of, or pertaining to, government or securities market regulation;
- (ee) **"Income Tax Act"** means the *Income Tax Act* (Canada), as amended;
- (ff) **"Intellectual Property"** means the Vendor's interest in any and all intellectual and industrial property of any kind in any jurisdiction throughout the world, including all Software, Databases (whether subject to copyright protection or not), Works, Marks, Inventions, Know-How, and any other works or other subject-matter that is subject to intellectual or industrial property protection under the laws of any jurisdiction throughout the world; in all cases of the foregoing whether or not registrable, registered or the subject of applications for registration, including Intellectual Property Rights;
- (gg) **"Intellectual Property Rights"** means: (i) any and all statutory, common law or other intellectual and industrial property rights and interests of any kind or nature in and to Intellectual Property, including all copyrights and other rights in and to Software, Databases and Works, moral rights and benefits in all waivers of moral rights, patents, patent rights and other rights

in and to Inventions, rights to Marks, rights and benefits in and to domain name registrations, industrial design and design patent rights, trade secret rights and other rights in and to Know-How; (ii) all registrations, pending applications for registration, and rights to file applications, and rights of priority, renewal, extensions, divisionals, continuations (in whole or in part) or other derivative applications and registrations, for any of the foregoing; (iii) all licenses or other contractual rights in and to any of the foregoing (including third party software licenses) and all licenses granted in respect of any of the foregoing Intellectual Property, rights and interests; (iv) all future income and proceeds from any of the foregoing Intellectual Property, rights, interests or licenses; and (v) all rights of enforcement and to obtain remedies, including to damages and profits, by reason of past, present or future infringement of any of the foregoing Intellectual Property, rights, interests or licenses;

- (hh) **"Inventions"** means domain names, patents, inventions, discoveries, arts, systems, methods, processes, machines, manufactures, developments and improvements;
- (ii) **"Know-How"** means industrial designs, formulae, confidential information, proprietary information, trade secrets and know how;
- (jj) **"Marks"** means trade-marks, trade names, service marks, trade dress, logos and other marks and associated goodwill;
- (kk) **"Material Adverse Change"** means any one or more changes, effects, events or occurrences that, individually or in the aggregate, (a) is, or would reasonably be expected to be, material and adverse to the Business or the Purchased Assets or in the properties, assets, liabilities (contingent or otherwise), condition (financial or otherwise), capitalization, affairs, prospects, operations or results of operations of the Business or any of the Purchased Assets, taken as a whole, or (b) prevents or materially delays or would reasonably be expected to prevent or materially delay the Vendor from consummating the Transaction, other than, in the case of (a) or (b), any change, effect, event or occurrence (i) in or relating to the Receivership Proceedings, or (ii) in or relating to general political, economic or financial conditions;
- (ll) **"Non-Transferred Employee"** has the meaning set out in Section 7.1;
- (mm) **"Ordinary Course of Business"** means the ordinary course of business of Pakit, Pakit Sweden and Pakit Barbados, consistent with the conduct of such business as at the date of the Receivership Order;
- (nn) **"Pakit"** has the meaning set out in the recitals hereto;
- (oo) **"Pakit Barbados"** means PAKIT International Trading Company Inc., a wholly owned subsidiary of Pakit;

- (pp) **"Pakit Sweden"** means Packaging International Technology Sweden AB, a wholly owned subsidiary of Pakit Barbados;
- (qq) **"Parties"** means, collectively, the Purchaser and the Vendor, and **"Party"** means any one of them;
- (rr) **"Pension Plans"** means any registered or unregistered pension plans of or sponsored by Pakit;
- (ss) **"Person"** means any individual, partnership, limited partnership, limited liability company, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, governmental authority or other entity however designated or constituted;
- (tt) **"Post-Retirement Liabilities"** mean all liabilities and obligations for the post-retirement benefits provided under the Benefit Plans, as applicable;
- (uu) **"Purchase Price"** has the meaning set out in Section 3.1;
- (vv) **"Purchased Assets"** means, collectively, the assets of the Vendor set out in Schedule "C";
- (ww) **"Receiver"** has the meaning set out in the recitals hereto;
- (xx) **"Receiver's Certificates"** has the meaning given in the Receivership Order;
- (yy) **"Receivership Order"** has the meaning set out in the recitals hereto;
- (zz) **"Receivership Proceedings"** means the proceedings in the Court initiated by the Receivership Order;
- (aaa) **"Representative"** means, in respect of a Party, each director, officer, employee, agent, Affiliate, manager, lender, solicitor, accountant, professional advisor, consultant, contractor and other representative of such Party or such Party's Affiliates;
- (bbb) **"Sales Tax"** means all taxes, interest, penalties and fines imposed under Part IX of the Excise Tax Act and similar taxes imposed by provincial governments;
- (ccc) **"Software"** means software, computer programs, layouts, interfaces, templates, applications and tools, and code of all types, including object and source code, and including ephemeral aspects, "look and feel", graphic design and user interface design;
- (ddd) **"Specific Conveyances"** means all conveyances, deeds or transfer, share transfers, bills of sale, assignments and transfers that are reasonably required

to transfer the Purchased Assets to the Purchaser in customary form consistent with Section 2.2;

- (eee) **"Successful Bid"** has the meaning set out in the Bidding Procedures;
- (fff) **"Transaction"** means the transaction of purchase and sale contemplated by this Agreement;
- (ggg) **"Transfer Taxes"** means all present and future transfer taxes, sales taxes, use taxes, production taxes, value-added taxes, goods and services taxes, harmonized sales taxes, land transfer taxes, registration and recording fees, and any other similar or like taxes and charges imposed by a Governmental Authority in connection with the sale, transfer or registration of the transfer of the Purchased Assets, including Sales Tax but excluding any taxes imposed or payable under the Income Tax Act and any other applicable income tax legislation;
- (hhh) **"Transferred Employee"** has the meaning set out in Section 7.1;
- (iii) **"Vendor"** has the meaning set out in the recitals hereto; and
- (jjj) **"Works"** means literary, graphical, pictorial, artistic, audio-visual and other works, including webpages and webpage designs, templates, scripts, and similar material, and all compilations of any of the foregoing.

1.2 Interpretation Not Affected by Headings, etc.

The division of this Agreement into sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. The terms "this Agreement", "hereof", "herein" and "hereunder" and similar expressions refer to this Agreement and not to any particular section hereof. The expression "Section" or reference to another subdivision followed by a number mean and refer to the specified Section or other subdivision of this Agreement.

1.3 Extended Meanings

Words importing the singular include the plural and vice versa and words importing gender include all genders. The term "including" means "including, without limitation," and such terms as "includes" have similar meanings.

1.4 Schedules

The following Schedules are incorporated in and form part of this Agreement:

- Schedule "A" - Assigned Contracts
- Schedule "B" - Bidding Procedures
- Schedule "C" - Purchased Assets

SECTION 2 SALE AND PURCHASE AND ASSIGNMENT

2.1 Sale and Purchase of Assets

Subject to the terms and conditions hereof, at the Closing Time, the Vendor hereby agrees to sell, assign and transfer to the Purchaser and the Purchaser agrees to purchase from the Vendor, all of the Vendor's right, title and interest in and to the Purchased Assets free and clear of all Encumbrances. The Purchaser's offer to purchase the Purchased Assets is expressly irrevocable until the earlier of (i) thirty days after Approval and Vesting Order is granted; and (ii) 2 Business Days after closing of the sale of the Purchased Assets to the person who submits the Successful Bid, whether that is the Purchaser or another person. At any time prior to the Closing Time, the Purchaser may remove any property, asset, right or contract as a Purchased Asset upon notification to the Vendor in writing; provided, however, that there shall be no reduction in the Purchase Price as a result of such removal.

2.2 Assignment of Purchased Assets

Subject to the conditions and terms hereof, at the Closing Time, the Vendor shall assign to the Purchaser all of the Vendor's rights, benefits and interests in and to the Assigned Contracts and the Purchaser shall assume the obligations and liabilities of the Vendor under the Assigned Contracts at the Closing Time. Notwithstanding the foregoing, this Agreement and any document delivered under this Agreement shall not constitute an assignment or an attempted assignment of any Purchased Asset contemplated to be assigned to the Purchaser under this Agreement that is not assignable without the Consent and Approval of a third party unless (i) such Consent and Approval has been obtained, or (ii) the assignment has been ordered by the Court.

Prior to the application for the Approval and Vesting Order, the Vendor shall use its commercially reasonable efforts to obtain any Consents and Approvals necessary for the assignment of any Assigned Contract to the Purchaser. The Purchaser shall provide its reasonable cooperation to assist the Vendor in obtaining any such Consents and Approvals.

2.3 "As is, Where is"

The Purchaser acknowledges that the Vendor is selling the Purchased Assets on an "as is, where is" basis as they shall exist as of the date of this Agreement. No representation, warranty or condition is expressed or can be implied as to title, encumbrances, description, fitness for purpose, merchantability, condition, quantity or quality or in respect of any other matter or thing whatsoever concerning the Purchased Assets or the right of the Vendor to sell or assign same save and except as expressly represented or warranted herein. Without limiting the generality of the foregoing, any and all conditions, warranties or representations expressed or implied pursuant to the *Sale of Goods Act* (British Columbia), as amended, or similar legislation do not apply hereto and have been waived by the Purchaser. The description of the Purchased Assets contained in the Schedules is for purpose of identification only. Without limitation the Vendor makes no representation or warranties with respect to the accuracy or completeness of any information with respect to Pakit

Sweden and Pakit Barbados provided to the Purchaser in connection with the Purchaser's due diligence or otherwise.

2.4 Assumed Obligations

The Purchaser shall assume and perform, discharge and pay when due the following obligations and liabilities of the Vendor (the "**Assumed Obligations**") after the Closing:

- (a) all debts, liabilities and obligations under the Assigned Contracts (to the extent assigned or transferred to the Purchaser on Closing), for the period from and after the Closing Date and all Cure Costs (for greater certainty, such Cure Costs may relate to periods arising prior to, on or after Closing);
- (b) all debts, liabilities and obligations for Transfer Taxes payable in connection with the Transaction;
- (c) all debts, liabilities and obligations relating to Transferred Employees arising from and after the Closing Date; and
- (d) all debts, liabilities and obligations arising from ownership and use of the Purchased Assets for the period from and after the Closing Date.

2.5 Excluded Obligations

Other than the Assumed Obligations, the Purchaser shall not assume and shall not be liable or otherwise responsible for any debts, liabilities or other obligations of the Vendor, including, without limiting the generality of the foregoing:

- (a) all debts, liabilities, obligations or Claims related to any Benefit Plans, Non-Transferred Employees, Pension Plans, Post-Retirement Liabilities or any Excluded Asset, including without limitation any severance or termination payments owing to any Non-Transferred Employee or any obligation owing to a Transferred Employee arising on or before the Closing Date;
- (b) all debts, liabilities and obligations related to any Purchased Asset (including any Assigned Contracts other than Cure Costs) arising out of or related to the period prior to the Closing Time;
- (c) all debts, liabilities and obligations for or related to any obligation for any taxes that are not expressly assumed by the Purchaser pursuant to Sections 2.4(a) and 3.5;
- (d) all taxes imposed on or relating to the Purchased Assets that are attributable to any pre-Closing tax period whether or not any such period ends on or before the Closing Date (other than any Transfer Taxes); and
- (e) all debts, liabilities and obligations of the Vendor arising under this Agreement.

SECTION 3 PURCHASE PRICE

3.1 Purchase Price

The aggregate purchase price (the “**Purchase Price**”) for the Purchased Assets is (i) the sum of the Credit Bid Amount, plus (ii) the Assumed Obligations.

3.2 Satisfaction of Purchase Price

Provided that all conditions of Closing have been satisfied or waived in accordance with Section 5, the Purchase Price shall be satisfied by the Purchaser on Closing as follows:

- (a) providing a credit to the Receiver in the amount of the Credit Bid Amount against the Receiver’s obligations under the Receiver’s Certificates issued in favour of the Purchaser;
- (b) delivering to the Receiver a fully executed release and waiver with respect to all amounts outstanding under the Receiver’s Certificates issued in favour of the Purchaser (including any accrued interest thereon); and
- (c) the assumption by the Purchaser of the Assumed Obligations.

3.3 Deposit

- (a) The Vendor acknowledges that it has received CAD\$2,200,000 from the Purchaser as evidenced by Receiver’s Certificate No. 1 dated February 6, 2012 in the principal amount of CAD\$1,000,000 and Receiver’s Certificate No. 2 dated March 16, 2012 in the principal amount of CAD\$1,200,000. The Vendor and the Purchaser acknowledge and agree that CAD\$2,000,000 of such funds shall be considered a deposit hereunder (the “**Deposit**”) and no further deposit shall be required from the Purchaser.
- (b) In the event that Closing does not occur solely as a result of the failure of the Purchaser to perform any of its obligations hereunder, the amount of the Deposit shall be credited and set off against the outstanding amounts owing to the Purchaser under the Receiver’s Certificates.
- (c) Notwithstanding any provision herein, there will be no credit or set off of any amount against the outstanding amounts owing to the Purchaser under the Receiver’s Certificates if the Transaction is not completed for any reason other than solely as a result of the failure of the Purchaser to perform any of its obligations hereunder.

3.4 Allocation of Purchase Price

The Vendor and the Purchaser shall report the sale and purchase of the Purchased Assets for all tax purposes in a manner consistent with such allocation provided by the Purchaser, and will complete all tax returns, designations and elections in a manner

consistent with such allocation and otherwise follow such allocation for all tax purposes on and subsequent to the Closing Date and may not take any position inconsistent with such allocation.

3.5 Transfer Taxes

The Parties agree that:

- (a) the Purchase Price is exclusive of all Transfer Taxes and the Purchaser shall be liable for and shall pay any and all applicable Transfer Taxes pertaining to the Purchaser's acquisition of the Purchased Assets or the registration of any Specific Conveyance necessitated hereby;
- (b) the Purchaser shall indemnify the Vendor for any Transfer Taxes (including any interest or penalties imposed by a Governmental Authority) for which the Vendor may become liable as a result of any failure by the Purchaser to pay or remit such Transfer Taxes; and
- (c) if applicable, they shall jointly elect that no tax be payable pursuant to the Excise Tax Act with respect to the purchase and sale of the Purchased Assets under this Agreement and the Purchaser will file an election pursuant to section 167 of the Excise Tax Act prepared by the Purchaser and made jointly by the Purchaser and the Vendor, in compliance with the requirements of the Excise Tax Act.

SECTION 4 REPRESENTATIONS AND WARRANTIES

4.1 Purchaser's Representations

The Purchaser represents and warrants to the Vendor as of the date hereof and as of the Closing Time as follows, and acknowledges that the Vendor is relying on such representations and warranties in connection with entering into this Agreement and performing their obligations hereunder:

- (a) the Purchaser is a corporation duly incorporated, organized and subsisting under the laws of Canada and has the requisite power and authority to enter into this Agreement and to complete the transactions contemplated hereunder;
- (b) the Purchaser has taken all necessary corporate action to authorize the entering into and performance by it of this Agreement and completion of the transactions contemplated herein will not breach its constating documents, any agreement binding upon the Purchaser or any Applicable Laws with respect to the Purchaser;
- (c) other than the Approval and Vesting Order, and any Specific Conveyances, execution, delivery and performance of this Agreement by the Purchaser

does not and will not require any consent, approval, authorization or other order of, action by, filing with or notification to, any Governmental Authority;

- (d) this Agreement and all other documents contemplated hereunder to which the Purchaser is or will be a party have been or will be, as at the Closing Time, duly and validly executed and delivered by the Purchaser and constitute or will constitute, as at the Closing Time, legal, valid and binding obligations of the Purchaser enforceable in accordance with the terms hereof or thereof;
- (e) except in connection with the Receivership Proceedings, there are no proceedings before or pending before any Governmental Authority, or threatened to be brought by or before any Governmental Authority by or against the Purchaser affecting the legality, validity or enforceability of this Agreement or the consummation of the transactions contemplated hereby by the Purchaser; and
- (f) the Purchaser is not subject to any order of any Governmental Authority, nor are there any such orders threatened to be imposed by any Governmental Authority, which could affect the legality, validity or enforceability of this Agreement or the consummation of the transactions contemplated hereby by the Purchaser.

4.2 Vendor's Representations

The Vendor represents and warrants to the Purchaser as of the date hereof and as of the Closing Time as follows, and acknowledges that the Purchaser is relying on such representations and warranties in connection with entering into this Agreement and performing its obligations hereunder:

- (a) To the best of the Vendor's knowledge based on the records of Pakit available to the Vendor: (i) Pakit is the sole and unconditional legal and beneficial owner of all of the issued shares and equity interests in the capital of Pakit Barbados; (ii) Pakit Barbados is the sole and unconditional legal and beneficial owner of all of the issued shares and equity interests in the capital of Pakit Sweden;
- (b) subject to obtaining the Approval and Vesting Order, the Vendor has the requisite power and authority to enter into this Agreement and to complete the transactions contemplated hereunder;
- (c) the Vendor is not a non-resident of Canada for purposes of section 116 of the Income Tax Act;
- (d) the Vendor is a registrant for the purposes of tax imposed under Part IX of the Excise Tax Act;

4.3 Limitations

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

SECTION 5 CONDITIONS

5.1 Conditions - Purchaser

The obligation of the Purchaser to complete the Transaction is subject to the following conditions being fulfilled or performed:

- (a) all representations and warranties of the Vendor contained in this Agreement shall be true in all material respects as of the Closing Time with the same effect as though made on and as of that date;
- (b) the Vendor shall have performed in all material respects each of its obligations under this Agreement to the extent required to be performed at or before the Closing Time;
- (c) all stays of proceedings contained in the Receivership Order shall have remained in effect except where any such stay is terminated, lifted or amended in a manner which is not prejudicial to the Purchaser or otherwise affects the Purchaser's rights under this Agreement or in respect of the Purchased Assets;
- (d) the exercise of rights contained in the Receivership Order has not been amended or modified in any manner prejudicial to the Purchaser;
- (e) each Consent and Approval shall have been obtained; and
- (f) since the date of this Agreement, there shall not have occurred any Material Adverse Change.

The foregoing conditions are for the exclusive benefit of the Purchaser. Any condition in this Section 5.1 may be waived by the Purchaser in whole or in part, without prejudice to any of its rights of termination in the event of non-fulfillment of any other condition in whole or in part. Any such waiver shall be binding on the Purchaser only if made in writing. If any condition set out in this Section 5.1 is not satisfied or performed on or prior to the date specified therefor, the Purchaser may elect, on written notice to the Vendor, to terminate this Agreement.

5.2 Conditions - Vendor

The obligation of the Vendor to complete the Transaction is subject to the following conditions being fulfilled or performed:

- (a) all representations and warranties of the Purchaser contained in this Agreement shall be true in all material respects as of the Closing Time with the same effect as though made on and as of that date; and
- (b) the Purchaser shall have performed in all material respects each of its obligations under this Agreement to the extent required to be performed at or before the Closing Time.
- (c) the Receiver shall have received sufficient funds to satisfy all amounts secured by the Receiver's Charge (as defined in the Receivership 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 to the Receiver pursuant to Receiver's Certificates (which for greater certainty, shall be included in the Credit Bid Amount); 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(c) that are not necessary to wind down and complete the receivership shall be returned to the Purchaser upon the Receiver's discharge.

The foregoing conditions are for the exclusive benefit of the Vendor. Any condition in this Section 5.2 may be waived by the Vendor in whole or in part, without prejudice to any of its rights of termination in the event of non-fulfilment of any other condition in whole or in part. Any such waiver shall be binding on the Vendor only if made in writing. If any condition set forth in this Section 5.2 is not satisfied or performed on or prior to the date specified therefor, the Vendor may elect, on written notice to the Purchaser, to terminate this Agreement.

5.3 Conditions - Purchaser and Vendor

The obligations of the Vendor and the Purchaser to complete the Transaction are subject to the following conditions being fulfilled or performed:

- (a) this Agreement is the Successful Bid (or the Back-Up Bid and the Successful Bid does not close);
- (b) the Approval and Vesting Order shall have been obtained not later than 10 Business Days following the selection of this Agreement as the Successful Bid, and shall not have been stayed, varied, vacated or appealed (or any such appeal shall have been dismissed with no further appeal therefrom);

- (c) no order shall have been issued by a Governmental Authority which restrains or prohibits the completion of the Transaction; and
- (d) no motion, action or proceedings shall be pending by or before a Governmental Authority to restrain or prohibit the completion of the Transaction contemplated by this Agreement.

The Parties hereto acknowledge that the foregoing conditions are for the mutual benefit of the Vendor and the Purchaser. If the conditions set out in this Section 5.3 are not satisfied performed or mutually waived on or before June 15, 2012, any Party shall have the option to terminate this Agreement upon written notice to the other party.

SECTION 6 CLOSING

6.1 Closing

Subject to the conditions set out in this Agreement, the completion of the Transaction shall take place at the Closing Time at the offices of Borden Ladner Gervais LLP, or as otherwise determined by mutual agreement of the Parties in writing, but, in any event, shall take place prior to June 15, 2012.

6.2 Purchaser's Deliveries on Closing

At or before the Closing Time, the Purchaser shall execute and deliver, or arrange for the delivery, as the case may be, to the Vendor the following, each of which shall be in form and substance satisfactory to the Vendor, acting reasonably:

- (a) the release and waiver provided for in Section 3.2(b) in form satisfactory to the Vendor, acting reasonably;
- (b) the Assignment and Assumption Agreement and any Specific Conveyance requiring execution by the Purchaser;
- (c) payment or evidence of payment of Transfer Taxes, or alternatively, appropriate exemption certificates as required by Section 3.5(c);
- (d) a document specifying the Purchase Price allocation for tax purposes provided for in Section 3.4;
- (e) an acknowledgement dated as of the Closing Date that each of the conditions precedent in Section 5.1 of this Agreement have been fulfilled, performed or waived as of the Closing Time;
- (f) the election(s) referred to in Section 3.5(c) executed by the Vendor; and
- (g) such further and other documentation as is referred to in this Agreement or as the Vendor may reasonably require to give effect to this Agreement.

6.3 Vendor's Deliveries on Closing

At or before the Closing Time, the Vendor shall execute and deliver, or arrange for the delivery, as the case may be, to the Purchaser the following, each of which shall be in form and substance satisfactory to the Purchaser, acting reasonably:

- (a) an executed copy of each Specific Conveyance;
- (b) all Consents and Approvals;
- (c) the Assignment and Assumption Agreement and the Books and Records relating to the Purchased Assets and the Business;
- (d) a notarial copy of the Approval and Vesting Order;
- (e) stock/unit certificates or similar documents in the possession and control of the Receiver representing shares or other equity interests held by Pakit Inc. in the capital of Pakit Barbados; and
- (f) such further and other documentation as is referred to in this Agreement or as the Purchaser may reasonably require to give effect to this Agreement.

6.4 Possession of Assets

The Vendor shall remain in possession of the Purchased Assets until Closing. Until Closing, the Vendor shall (i) subject to the Orders of the Court made in the Receivership Proceedings, use the Purchased Assets only in the Ordinary Course of Business and use commercially reasonable efforts to maintain, preserve and protect the Purchased Assets and the Business in the condition in which they exist and are conducted on the date hereof, (ii) not dispose of any of the Purchased Assets other than sale of inventory in the Ordinary Course of Business, and (iii) not enter into any material contract or agreement in respect of any of the Purchased Assets or the Business; except, in each case, with the prior written consent of the Purchaser. The Vendor covenants that until Closing it shall not cause Pakit Barbados or Pakit Sweden to do anything inconsistent with the foregoing.

On Closing, the Purchaser shall take possession of the Purchased Assets.

The Purchaser agrees to provide the Receiver with reasonable access to the books and records of Pakit, including salary records, accounting records, contracts, shareholders' register, sale and purchase invoices, contracts, letters patent, correspondence and banking records (collectively, the "Books and Records"): (a) for the period of time until the Receiver is discharged; and (b) after the Receiver is discharged so long as the Purchaser has not sold or disposed of the Books and Records.

If the Purchaser intends on selling or disposing the Books and Records after the discharge of the Receiver, the Purchaser will notify the Receiver in writing prior to such sale or disposition and will permit the Receiver to have reasonable access to the Books and Records in order to allow the Receiver to make copies of such books and records.

6.5 Material Adverse Change

The Vendor shall notify the Purchaser upon the occurrence of a Material Adverse Change in respect of the Purchased Assets or the Business, or the occurrence of any material loss or damage to the Purchased Assets.

6.6 Access Rights

Upon at least two (2) Business Days' prior notice by the Purchaser to the Vendor, the Purchaser may have reasonable access to the Purchased Assets and the Vendor shall grant access to the Books and Records, personnel and operations during normal business hours prior to Closing for the purpose of enabling the Purchaser to conduct such inspections of the Purchased Assets and the Business (including any Books and Records related to the Business) as it deems appropriate. Such inspection shall only be conducted in the presence of a representative of the Vendor, if so required at the discretion of the Vendor.

6.7 Risk

The Purchased Assets shall be and remain at the risk of the Vendor (to the extent of its interest therein) until Closing and at the risk of the Purchaser from and after Closing. If, on or after the date of this Agreement but prior to Closing, the Purchased Assets or any material parts of the assets used in the operation of the Business shall be substantially damaged or destroyed by fire or other casualty, if this Agreement is the Successful Bid, the Purchaser shall be entitled to an assignment of any proceeds of insurance received by the Vendor in connection with such damage or destruction.

6.8 Dispute Resolution

If any dispute arises with respect to any matter related to the Transaction or the interpretation or enforcement of this Agreement, such dispute will be determined by the Court, or by such other Person or in such other manner as the Court may direct.

6.9 Termination

This Agreement shall automatically terminate at any time prior to the Closing Time upon the occurrence of any of the following:

- (a) by mutual written agreement of the Vendor and the Purchaser;
- (b) if the Agreement is neither the Successful Bid nor the Back-Up Bid (as determined pursuant to the Bidding Procedures); or
- (c) if the Agreement is the Back-Up Bid and the transaction contemplated by the Successful Bid is closed.

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

- (d) by the Purchaser as provided in Section 5.1, provided that the Purchaser has not breached its obligations under this Agreement in such a manner as to cause a closing condition not to be fulfilled;
- (e) by the Purchaser as provided in Section 6.7;
- (f) by the Vendor as provided in Section 5.2, provided that the Vendor has not breached its obligations under this Agreement in such a manner as to cause a closing condition not to be fulfilled; or
- (g) by either of the Parties in accordance with Section 5.3.

If this Agreement is terminated in the circumstances set out in this Section 6.9, all further obligations of the Parties under this Agreement will terminate and neither Party shall have any liability or further obligations hereunder, except as contemplated in Section 6.10, which shall survive such termination.

6.10 Effects of Termination and Closing

- (a) If this Agreement is terminated pursuant to Section 6.9, 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 (i) Section 3.3 (Deposit); and (ii) this Section 6.10.
- (b) If the Transaction is not completed as a result of the Purchaser's material breach or failure to perform any of its obligations hereunder, then the amount of the Deposit shall be forfeited to the Vendor as liquidated damages by the granting of a credit in the amount of the Deposit set off against the outstanding amounts owing to the Purchaser under the Receiver's Certificates, and the Vendor shall have no other rights and remedies against the Purchaser available at law or in equity.
- (c) Under no circumstance shall any of the Parties, their Representatives or their respective directors, officers, employees or agents be liable for any special, punitive, exemplary, consequential or indirect damages (including loss of profits) that may be alleged to result, in connection with, arising out of, or relating to this Agreement or the transactions contemplated herein.

**SECTION 7
TRANSFERRED EMPLOYEES**

7.1 The Purchaser shall be entitled but not required to make offers of employment to any Employees on such terms as the Purchaser deems appropriate. Any Employee who accepts an offer of employment from the Purchaser shall, for the purposes of this Agreement, be a "**Transferred Employee**". Any Employee who (i) does not accept an offer of employment from the Purchaser or (ii) does not receive an offer of employment from the Purchaser shall, for the purposes of this Agreement, be a "**Non-Transferred Employee**".

**SECTION 8
GENERAL**

8.1 Notice

Any notice or other communication under this Agreement shall be in writing and may be delivered personally or transmitted by fax or e-mail, addressed:

in the case of the Purchaser, as follows:

Fairfax Financial Holdings Limited
95 Wellington Street West
Suite 800
Toronto, ON M5J 2N7

Attention: Paula Sawyers
Fax: 416-367-4946
Email: p_sawyers@fairfax.ca

with a copy to:

Blake, Cassels & Graydon LLP
595 Burrard Street
P.O. Box 49314
Suite 2600, Three Bentall Centre
Vancouver BC V7X 1L3

Attention: Peter Rubin
Fax: 604-631-3309
Email: peter.rubin@blakes.com

and in the case of the Vendor, as follows:

Alvarez & Marsal Canada Inc.
400 Burrard Street
Suite 1680, Commerce Place
Vancouver, BC V6C 3A6

Attention: Pam Boparai
Fax: (604) 638-7441
Email: pboparai@alvarezandmarsal.com

with a copy to:

Borden Ladner Gervais LLP
1200 Waterfront Centre
200 Burrard Street
P.O. Box 48600
Vancouver BC V7X 1T2

Attention: Magnus Verbrugge
Fax: (604) 622-5898
Email: mverbrugge@blg.com

Any such notice or other communication, if given by personal delivery, will be deemed to have been given on the day of actual delivery thereof and, if transmitted by fax or e-mail before 5:00 p.m. (Vancouver time) on a Business Day, will be deemed to have been given on such Business Day, and if transmitted by fax or e-mail after 5:00 p.m. (Vancouver time) on a Business Day, or on a day that is not a Business Day, will be deemed to have been given on the Business Day after the date of the transmission.

8.2 Time

Time shall, in all respects, be of the essence hereof, provided that the time for doing or completing any matter provided for herein may be extended or abridged by an agreement in writing signed by the Vendor and the Purchaser or by their respective solicitors.

8.3 Currency

Except where otherwise indicated, all references herein to money amounts are in Canadian currency.

8.4 Survival

The representations and warranties of the Parties contained in this Agreement shall merge on Closing and the covenants of the Parties contained herein to be performed after the Closing shall survive Closing and remain in full force and effect.

8.5 Benefit of Agreement

This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns. Each Party intends that this Agreement shall not benefit or create any right or cause of action in or on behalf of any Person other than the Parties and their successors and permitted assigns, and no Person, other than the

Parties and their successors and their permitted assigns, shall be entitled to rely on the provisions hereof in any action, suit, proceeding, hearing or other forum.

8.6 Entire Agreement

This Agreement and the attached Schedules hereto constitute the entire agreement between the Parties with respect to the subject matter hereof and supersede all prior negotiations, understandings and agreements. This Agreement may not be amended or modified in any respect except by written instrument executed by all of the Parties.

8.7 Paramountcy

In the event of any conflict or inconsistency between the provisions of this Agreement, and any other agreement, document or instrument executed or delivered in connection with this Transaction or this Agreement, the provisions of this Agreement shall prevail to the extent of such conflict or inconsistency.

8.8 Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of British Columbia and the laws of Canada applicable therein and each of the Parties irrevocably attorns to the non-exclusive jurisdiction of the courts of the Province of British Columbia.

8.9 Assignment by Purchaser

The Purchaser shall be permitted to assign the benefit of all or a portion of this Agreement prior to Closing to an Affiliate thereof, including without limitation any newly formed special acquisition vehicle in which the Purchaser has a minority interest, in circumstances where (i) prior notice of such assignment is provided to the Vendor, (ii) such assignee agrees to be bound by the terms of this Agreement to the extent of the assignment, and (iii) if such assignment is prior to Closing, the Vendor is satisfied that such Affiliate assignee has taken an assignment of the Purchaser's rights under the Receiver's Certificates. For greater certainty, the Purchaser shall be permitted to assign the right to buy all or a portion of the Purchased Assets to one or more Affiliates and such assignment shall be permitted so long as the requirements of this Section 8.9 are complied with. This Agreement may not be assigned by the Vendor without the consent of the Purchaser.

8.10 Further Assurances

Each of the Parties shall, at the request and expense of the requesting party, take or cause to be taken such action and execute and deliver or cause to be executed and delivered to the other such documents (including registrations and removal of Encumbrances) and further assurances as may be reasonably necessary or desirable to give effect to this Agreement.

8.11 Counterparts

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

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IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first above written.

FAIRFAX FINANCIAL HOLDINGS
LIMITED

By: 

Name: Rick Salsberg

Title: Vice President

PAKIT INC., by its court-appointed
receiver-manager, ALVAREZ & MARSAL
CANADA INC.

By: 

Name: PAM K. BOPARAI

Title: VICE PRESIDENT.

Schedule "A"
Assigned Contracts

Any agreement, contract, lease, arrangement, commitment, security agreement, instrument or other binding arrangement or understanding, whether written or oral, and any amendments, modifications or supplements thereto, involving the Vendor and any Affiliate of the Vendor, but excluding any unfilled subscription contracts.

Schedule "B"
Bidding Procedures

See attached.

Alvarez & Marsal Canada Inc. as Court-appointed Receiver and Manager of Pakit Inc. ("Receiver Manager") is offering its right, title and interest in the assets of Pakit Inc. for sale based on the below noted summary bidding procedures. The Receiver Manager intends to follow the procedures generally outlined and elaborated upon in the Bidding Procedures included in this document.

If you have any questions regarding the Bidding Procedures, please contact Mr. Tom Powell at 604.639.0846.

Please note a copy of the Business Opportunity Overview and Confidentiality Agreement are also located in the "Sales Process and Bidding Procedures" link of this website.

Date	Description of Bidding Procedures
March 9	Initial Business Opportunity Overview distribution, potential purchaser identification, confidentiality agreement ("CA") to be made available on the Receiver Manager's website
March 12 to April 12	Phase I process outlines certain participant requirements, including proof of financial ability to close the contemplated transaction. Subject to a signed CA and as determined by the Receiver Manager, certain due diligence information will be provided to potential purchasers
On or before April 12 at 10:00am PST	"Phase I Deadline" - Submission of a non-binding letter of interest with a \$250,000 "Initial Deposit"
April 12	"Template Purchase Agreement" to be made available on the Receiver Manager's website
April 13 - May 11	Phase II process available to "Qualifying Phase 1 Bidders" - additional due diligence
On or before May 11 at 10:00am PST	"Phase II Deadline" - Submission of Phase II Bid (Purchase Agreement) with a "Deposit", inclusive of the Initial Deposit, equal to the greater of 20% of the purchase price or \$2,000,000.
On or before 5 business days after May 11	If there are 2 or more competing "Qualified Phase II Bids", an auction process may be followed

BIDDING PROCEDURES

On July 28, 2011, Pakit Inc. (the "Debtor") filed an application before the Supreme Court of British Columbia (the "Court") pursuant to the *Companies' Creditors Arrangement Act* (Canada) (the "CCAA"). The Court granted an order (the "Initial Order") on that date, granting the Debtor the protections afforded by a stay of proceedings while the Debtor pursued sources of new funding and related restructuring initiatives under the CCAA. The Initial Order also

appointed Alvarez & Marsal Canada Inc. as monitor of the business and financial affairs of the Debtor pursuant to the CCAA.

On February 2, 2012, the stay of proceedings provided for in the Initial Order expired, and pursuant to an order of the Court dated February 2, 2012, Alvarez & Marsal Canada Inc. was appointed as receiver and manager of the assets and undertakings of the Debtor (Alvarez & Marsal Canada Inc., in such capacity, the "**Receiver**") under the *Bankruptcy and Insolvency Act* (Canada) and the *Law and Equity Act* (British Columbia) (the "**Receivership Proceedings**").

The Receiver intends to follow certain bidding procedures for the solicitation of offers or proposals (each a "**Bid**") for the acquisition of all or substantially all of the assets of the Debtor (the "**Purchased Assets**") as outlined in this document (the "**Bidding Procedures**").

All denominations are in Canadian Dollars.

1. Assets for Sale

The Receiver is soliciting Bids for all of its and the Debtor's right, title and interest in and to the Purchased Assets.

2. Bidding Deadlines

All Phase I Bids (as defined below) 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. (Pacific time) on April 12, 2012 (the "**Phase I Bid Deadline**"). All Phase II Bids (as defined below) must be submitted in accordance with the terms of these Bidding Procedures so that they are actually received by each of the Notice Parties no later than 10:00 a.m. (Pacific time) on May 11, 2012 (the "**Phase II Bid Deadline**").

Written copies of the Bids shall be delivered by the applicable deadline to: (a) the Receiver at: Alvarez & Marsal Canada Inc., 400 Burrard Street, Suite 1680, Commerce Place, Vancouver, BC V6C 3A6, Attn: Pam Boparai, pboparai@alvarezandmarsal.com, and (b) counsel to the Receiver at: Borden Ladner Gervais LLP, 1200 Waterfront Centre, 200 Burrard Street, P.O. Box 48600, Vancouver, BC V7X 1T2, Attn: Magnus Verbrugge, mverbrugge@blg.com (collectively, the "**Notice Parties**").

A Bid received by a Notice Party after the Phase I Bid Deadline shall not constitute a Phase I Bid and a Phase II Bid received by a Notice Party after the Phase II Bid Deadline shall not constitute a Qualified Phase II Bid (as defined below). A Bid shall be delivered to all Notice Parties at the same time. Interested bidders requesting information about the qualification process and information in connection with their due diligence, should contact the Receiver at the contact information set out above.

3. Access to Due Diligence Materials

Parties that execute a Confidentiality Agreement (as defined below) are, at the discretion of the Receiver, eligible to receive due diligence access or additional non-public information

("Access") upon receipt by the Receiver of such Confidentiality Agreement. Such party's Access shall terminate if and when the earliest of the following events occur:

- (a) such party does not submit a Phase I Bid by the Phase I Bid Deadline;
- (b) the Receiver determines that such party does not constitute a Qualified Phase I Bidder (as defined below);
- (c) such party does not submit a Phase II Bid by the Phase II Bid Deadline;
- (d) the Receiver determines that such party does not constitute a Qualified Phase II Bidder (as defined below);
- (e) such party does not participate in the Auction or if the Auction does not occur; or
- (f) at the end 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 Phase II 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 bidders 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.

4. Due Diligence From Bidders

Each Phase I Bidder (as defined below) and each Phase II Bidder (as defined below) (each, a "**Bidder**") 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 Phase I Bidder or Qualified Phase II Bidder, as applicable.

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 Phase I Bids from interested parties; (c) determine whether a Phase I Bidder is a Qualified Phase I Bidder; (d) receive Phase II Bids from Qualified Phase I Bidders; (e) determine whether a Phase II Bidder is a Qualified Phase II Bidder; and (f) negotiate offers made by Bidders in accordance with these Bidding Procedures. Subject to these Bidding Procedures, the Receiver shall have the right to adopt such other rules 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.

6. Phase I Participant Requirements

To participate in the process detailed by these Bidding Procedures an executed confidentiality agreement (a "**Confidentiality Agreement**") in form and substance acceptable to the Receiver and its counsel, and on substantially the same terms as the template confidentiality agreement available on the Receiver's website established in connection with the Receivership Proceedings must be received by the Receiver. The Confidentiality Agreement is available on the Receiver's website at <http://www.alvarezandmarsal.com/pakit/>) (the "**Receiver's Website**") and available from the Receiver upon request. To otherwise be considered for any purpose hereunder, an interested party must submit an initial Bid to the Notice Parties on or before the Phase I Bid Deadline (a "**Phase I Bid**" and each party who so submits a Phase I Bid, a "**Phase I Bidder**"). Each Phase I Bidder must satisfactorily provide the Receiver with each of the following on or before the Phase I Bid Deadline:

- (a) Identification of Phase I Bidder. Identification of the Phase I 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) Non-Binding Expression of Interest. An executed non-binding indication of interest satisfactory to the Receiver that reasonably identifies the contemplated transaction, including the assets proposed to be acquired, the proposed purchase price, and any contingencies and conditions precedent to closing;
- (c) Corporate Authority. Written evidence of the Phase I Bidder's chief executive officer or other appropriate senior executive's approval of the contemplated transaction; and, if the Phase I Bidder is an entity specially formed for the purpose of effectuating the contemplated transaction, then the Phase I Bidder must furnish written evidence reasonably acceptable to the Receiver of the approval of the contemplated transaction by the equity holder(s) of such Phase I Bidder and any guarantor(s) of the Bid (the "**Principals**");
- (d) Proof of Financial Ability to Perform. Written evidence upon which the Receiver may reasonably conclude that the Phase I Bidder has the necessary financial ability to close the contemplated transaction and provide adequate assurance of future performance of all obligations to be assumed in such contemplated transaction; and
- (e) Deposit. The Phase I Bid must be accompanied by a cash deposit of \$250,000 (the "**Initial Deposit**"), and the Initial Deposit shall be paid to the Receiver, to be held by the Receiver in trust in accordance with these Bidding Procedures.

7. Designation as Qualified Phase I Bidder

A "**Qualified Phase I Bidder**" is a Phase I Bidder that the Receiver, with the assistance of its advisors, determines (i) has satisfied all of the requirements described in Section 6 above, (ii) is reasonably likely to submit a binding *bona fide* offer that would result in value being received for the Purchased Assets for the benefit of the Debtor's creditors; and (iii) would be

able to consummate the transaction contemplated by its Phase I Bid if selected as a Successful Bidder (as defined below).

Upon the receipt from a Phase I Bidder of all of the deliveries required under Section 6 above, the Receiver shall notify such Phase I Bidder with respect to whether it is a Qualified Phase I Bidder as soon as practicable after the Phase I Bid Deadline.

Notwithstanding the requirements of Section 6 or this Section 7, Fairfax, or an affiliate or nominee, is and is deemed to be a Qualified Phase I Bidder for all purposes of these Bidding Procedures.

8. Phase II Bid Requirements

Only Qualified Phase I Bidders shall be entitled to submit a Phase II Bid. To participate in the Auction (as defined below), a Qualified Phase I Bidder must submit a Bid to the Notice Parties on or before the Phase II Bid Deadline (a "Phase II Bid" and each party who so submits a Phase II Bid is a "Phase II Bidder"), and the Phase II Bid must be determined by the Receiver, with the assistance of its advisors, to satisfy each of the following conditions:

- (a) Form and Content of Phase II Bid. The Phase II Bid must be in the form of an executed mark-up of the template asset purchase agreement available on the Receiver's Website and available from the Receiver upon request (the "Template Purchase Agreement"), on or before April 12, 2012, reflecting such Phase II Bidder's proposed changes to the Template Purchase Agreement, and must contain a written and binding commitment by the Phase II Bidder to close on the terms and conditions set forth therein;
- (b) Irrevocable. The Phase II Bid must be irrevocable until the earlier of (i) thirty (30) days after an Order from the Court is entered approving the sale of the Purchased Assets; and (ii) two (2) business days after the Purchased Assets have been sold pursuant to the closing of the sale or sales approved by the Court;
- (c) Contingencies. The Phase II 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 a Phase II Bid may not, in aggregate, in the Receiver's reasonable business judgment, be more burdensome than those set forth in the Template Purchase Agreement;
- (d) Financing Sources. The Phase II Bid must include written evidence of a commitment for financing that is not contingent, or, other evidence of ability to finance, as determined in the Receiver's reasonable business judgment, to consummate the transaction contemplated by the Phase II Bid. Notwithstanding anything herein to the contrary, if the Receiver determines, in its reasonable business judgment, that a Phase II Bidder has satisfied all conditions to becoming a Qualified Phase II Bidder other than the condition set forth in this Section 8(d), the Receiver may allow an extension of no more than ten (10) days beyond the Phase II Bid Deadline for such Phase II Bidder to satisfy the condition set forth in this Section 8(d);

- (e) No Fees payable to Qualified Bidder. The Phase II Bid may not request or entitle the Phase II Bidder to any break-up fee, expense reimbursement or similar type of payment; and
- (f) Deposit. The Phase II Bid must be accompanied by a cash deposit (the "Deposit") in an amount equal to the greater of (i) \$2,000,000; and (ii) twenty (20) percent of the purchase price, (both inclusive of the Initial Deposit already submitted) and the Deposit shall be paid to the Receiver, to be held by the Receiver in trust in accordance with these Bidding Procedures.

9. Designation as Qualified Phase II Bidder

A "Qualified Phase II Bidder" is a Phase II Bidder that satisfies all of the conditions set out in Section 8 above, and the Phase II Bid submitted by such Qualified Phase II Bidder is a "Qualified Phase II Bid".

10. Auction

If the Receiver has determined on or before 5 business days after the Phase II Bid Deadline (or 11 days after the Phase II Bid Deadline, if an extension is granted in accordance with Section 8(d)) that there are at least two (2) Qualified Phase II Bids the Receiver may conduct an auction (the "Auction") to determine the highest and/or best Bid with respect to the Purchased Assets. The Auction shall commence no later than 5 business days after the Phase II Bid Deadline (or 11 days after the Phase II Bid Deadline, if an extension is granted in accordance with Section 8(d)) at 10:00 a.m. (Pacific Time); at the offices of Alvarez & Marsal Canada Inc., 400 Burrard Street, Suite 1680, Commerce Place, Vancouver, BC V6C 3A6, or such other location as shall be determined by the Receiver.

If the Receiver determines that there is only one Qualified Phase II Bid, (i) the Auction will not take place; (ii) such Qualified Phase II Bid shall be declared the Successful Bid (as defined below); (iii) the Receiver shall seek approval of, and authority to consummate, such Qualified Phase II Bid and the transactions provided for therein at the Sale Hearing (as defined below); and (iv) the Receiver shall post notice of such facts on the Receiver's Website.

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 Phase II Bidder is eligible to participate at the Auction and only their authorized representatives (including counsel and other advisors) 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 Phase II 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 Phase II Bidder may submit no more than one

Overbid. If at the end of any round of bidding, a Qualified Phase II Bidder (other than the Qualified Phase II Bidder that submitted the Opening Bid for such round) fails to submit an Overbid, then such Qualified Phase II Bidder shall not be entitled to participate further in the Auction.

- (c) Bid Assessment Criteria. The determination of which Qualified Phase II 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 applicable Bids to the Debtor, 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 Phase II 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 impact of the contemplated transaction on any actual or potential litigation; (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 at the Auction ("Overbid") must satisfy the following conditions:

- (i) Minimum Overbid Increment

The amount of the cash purchase price consideration of any Overbid shall not be less than the cash purchase price consideration of the then existing highest and/or best Overbid/Opening Bid, plus \$250,000 or such lower amount as the Receiver may determine in order to facilitate the Auction.

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

Except as modified herein, an Overbid must comply with the conditions for a Phase II Bid set forth in Section 8 above, (A) including without limitation that the Successful Bid and Back-Up Bid must be accompanied by a Deposit which must be equal to twenty percent (20%) of the total cash purchase price contemplated by such Successful Bid and Back-Up Bid (less the Deposits and Initial Deposit already submitted), and (B) provided, however, that the Phase II Bid Deadline shall not apply.

- (iii) Announcing Highest Overbids

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

- (e) Adjournments. The Receiver reserves the right, in its reasonable business judgment, to make one or more adjournments in the Auction.
- (f) Additional Procedures. The Receiver may, with the assistance of its advisors, adopt rules for the Auction at or prior to the Auction that will better promote the goals of the Auction and that are not inconsistent with any of the provisions of these Bidding Procedures; provided that no such rules may change the following requirements: (i) all Overbids shall, unless otherwise specified by the Receiver, be made on an open (i.e. non-confidential) basis, within a defined period, (ii) the true identity of each Qualified Phase II Bidder - i.e., Principals submitting the Bid - shall be fully disclosed to all other Qualified Bidders unless otherwise specified by the Receiver and (iii) all material terms of the Opening Bid for each round of bidding will be fully disclosed to all other Qualified Bidders;
- (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) record the highest and/or best Overbid from the previous round (or the Opening Bid, if no Overbids were made in the first round of bidding) as the successful Bid (the "Successful Bid" and the entity or entities submitting such Successful Bid, the "Successful Bidder"); (ii) immediately identify and record the next highest and/or best Overbid 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.
- (h) Consent to Jurisdiction as Condition to Bid. All Qualified Phase II 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 Bidder's transaction document, as applicable.

11. Acceptance of Successful Bid

The Receiver shall complete the sale transaction with the Successful Bidder following approval of the Successful Bid 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. The Receiver will be deemed to have accepted the Back-Up Bid only if the sale transaction with the Successful Bidder does not close when it has been approved by the Court and has been deemed to be the Successful Bid.

12. "As Is, Where Is"

The sale of 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, their agents or estates except to the extent set forth in the purchase agreement of the Successful Bidder. Each Qualified Phase II Bidder shall be deemed to acknowledge and represent that it has had an opportunity to conduct any and all due diligence regarding the Purchased Assets prior to making its offer, that it has relied solely on its own independent review, investigation, and/or inspection of any documents and/or the Purchased

Assets in making its Bid, and that it did not rely on any written or oral statements, representations, promises, warranties, conditions or guaranties whatsoever, whether express, implied, by operation of law or otherwise, regarding the Purchased Assets, or the completeness of any information provided in connection therewith or the Auction, except as expressly stated in these Bidding Procedures or, as to the Successful Bidder, the terms of the sale of the Purchased Assets shall be set forth in Successful Bidder's purchase agreement.

13. Free Of Any And All Encumbrances

Except as otherwise provided in the Successful Bidder's purchase agreement, all of the Debtor's right, title, and interest in and to the Purchased Assets subject thereto shall be sold free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options, and interests thereon and there against (collectively, the "Encumbrances") in accordance with a vesting order of the Court, with such Encumbrances to attach to the net proceeds of the sale of the Purchased Assets.

14. Sale Hearing

The Receiver shall, within five (5) business days of the conclusion of the Auction, serve a notice of application (the "Sale Hearing") to approve the sale of the Purchased Assets to the Successful Bidder. The Sale Hearing shall be conducted by the Court as soon as possible thereafter at 800 Smithe street, Vancouver, British Columbia. Following the approval of the sale to the Successful Bidder at the Sale Hearing, if such Successful Bidder fails to consummate the sale in accordance with the terms and conditions of the purchase agreement of the Successful Bidder within five (5) business days of the Sales Hearing, the Receiver shall be authorized, but not required, to deem the Back-Up Bid (if any), as disclosed at the Sale Hearing, the Successful Bid and the Receiver shall be authorized, but not required, to consummate the sale with the Back-Up Bidder, subject to approval by the Court, which approval may be sought by the Receiver on a conditional basis at the Sale Hearing, at the Receiver's discretion.

15. Return of Deposits

All Initial Deposits and Deposits shall be held in an interest-bearing account. Initial Deposits of all Phase I Bidders who do not submit a Qualified Phase II Bid shall be returned to such Phase I Bidder two (2) business days after the Phase II Bid Deadline. Initial Deposits and Deposits of all Qualified Phase II Bidders, other than the Successful Bidder and the Back-Up Bidder (if applicable) shall be returned to such Qualified Phase II Bidders two (2) business days after the selection of the Successful Bidder and Back-Up Bidder. The Initial Deposit and Deposit of the Successful Bidder shall be applied to the purchase price of such transaction at closing. The Initial Deposit and Deposit of the Back-Up Bidder (if there is a Back-Up Bidder) shall be held in an interest-bearing account until two (2) business days after the closing of the transactions contemplated by the Successful Bid, and thereafter returned to the Back-Up Bidder. If a Successful Bidder fails to consummate an approved sale because of a breach or failure to perform on the part of such Successful Bidder, the Receiver shall be entitled to retain half of the Deposits (including the Initial Deposit) of the Successful Bidder as part of their damages resulting from the breach or failure to perform by the Successful Bidder. If the Successful Bidder fails to consummate an approved sale for any reason, and a transaction is completed with the Back-Up Bidder, the Deposits (including the Initial Deposit) of the Back-Up Bidder

shall be applied to the purchase price of the transactions contemplated by the purchase agreement of the Back-Up Bidder at closing.

16. Credit Bidding

Notwithstanding anything herein to the contrary, Fairfax, as lender under certain Receiver's Certificates (as defined in the Initial Order) and as secured creditor pursuant to the convertible debenture issued by the Debtor to Fairfax dated September 29, 2009 (the "Fairfax Debenture") shall be permitted, in a Phase II Bid and in any Overbid, in its sole discretion, to credit bid up to the full amount of all amounts advanced to the Debtor or the Receiver under the Receiver's Certificate(s) (including interest, fees and costs accrued thereunder) and/or all amounts outstanding under the Fairfax Debenture (including interest, fees and costs accrued thereunder). Any such amounts credit bid by Fairfax in a Phase II Bid or any Overbid shall be considered as cash purchase price in connection with such bid, save and except in respect of those amounts payable in priority to the amounts advanced to the Debtor or the Receiver under the Receiver's Certificate(s) and/or all amounts outstanding under the Fairfax Debenture, as the case may be.

17. Other

The Receiver may vary, amend or terminate these Bidding Procedures.

Schedule "C"
Purchased Assets

All tangible and intangible assets, properties, rights, interests, claims and Assigned Contracts of the Vendor related to the Business, wherever located, as of the Closing Time, including without limitation, the following assets:

- (a) all monies, sums and amounts owed to the Vendor arising from, related to or in connection with all accounts receivable, trade receivables, bills receivable, trade accounts, book debts, notes receivables, rebates, refunds and other receivables and rights to the payment of money relating to the Business which remain uncollected or unreceived as of the Closing, whether current or overdue, together with all interest accrued on such items;
- (b) all inventories of stock-in-trade and merchandise including raw materials, supplies, work-in-process, tooling, service parts, finished goods, wrapping, supply and packaging items related to the Business, now owned or hereafter purchased or held for sale, or that are otherwise included in the Purchased Assets and are permitted to be sold and transferred under Applicable Law, including those in possession of suppliers, customers and other third parties;
- (c) all deposits (including customer deposits and security documents (whether maintained in escrow or otherwise) for rent, electricity, telephone, insurance or otherwise) and prepaid charges and expenses as they relate to the Purchased Assets;
- (d) all equipment, machinery, fixtures, furniture, motor vehicles, computers, printers, tools, telephone systems, furnishings, artwork and plates and any related capitalized items and other tangible property of every kind, nature and description, or used or useful in the operation of the Business and the Purchased Assets, including any of the foregoing in possession of suppliers, customers and other third parties (including all such property that is damaged);
- (e) all Intellectual Property;
- (f) all Books and Records;
- (g) all rights under or arising out of all insurance policies relating to the Purchased Assets and all claims thereunder, unless non-assignable as a matter of law;
- (h) all rights under non-disclosure or confidentiality, non-compete or non-solicitation agreements with employees and agents or with third parties;
- (i) any rights, claims or causes of action for claims arising out of the operation of the Business;
- (j) all rights under or pursuant to all warranties, representations and guarantees made by suppliers, manufacturers and contractors to the extent relating to products sold,

or services provided, in connection with the Business or to the extent affecting any Purchased Asset;

- (k) all goodwill and other intangible assets (including all right, title and interest of the Vendor under any contract, payment intangibles, interest in business associations, licenses, permits, approvals and authorizations) associated with the Business and the Purchased Assets, including customer and supplier lists;
- (l) all issued shares and equity interests in the capital of Pakit Barbados;
- (m) all proceeds of any or all of the foregoing received or receivable after the Closing Date; and
- (n) all other personal property not contemplated by the foregoing.

APPENDIX B



PAKIT INC. (IN RECEIVERSHIP)

Sale of Assets

*Alvarez & Marsal Canada Inc. ("A&M") was appointed as Receiver and Manager (the "Receiver") of all the assets, undertakings and properties of Pakit Inc. ("Pakit" or the "Company") and is seeking offers to purchase the Receiver's right, title and interest in and to the assets of Pakit. **Non-binding expressions of interest are to be received by 10am PST on April 12, 2012.***

OVERVIEW

- Pakit is an international developer of clean technology solutions for the packaging industry.
- Pakit's head office is located in Vancouver, Canada and through its subsidiaries and affiliates has engineering, research and development facilities in Sweden and a regional office in Barbados. Pakit International Trading Company Inc. ("Pakit International") is a wholly owned subsidiary of Pakit. Pakit International is the sole owner of Packaging International Technology Sweden AB ("PIT"). Pakit, Pakit International and PIT are collectively herein referred to as the "Pakit Group".
- Since its inception in 2001, Pakit has through its subsidiaries invested significant resources in the development of a new moulded fibre packaging technology.
- Recently, the Pakit Group started commercial sales of the Pakit100™ machine and related tooling incorporating its proprietary technology to international packaging manufacturers and converters who supply distributors and end-users.
- The Receiver is seeking offers to purchase the assets of Pakit, including its right, title and interests (intercompany receivable and shares) in Pakit International. Pakit International holds various patents and shares of PIT.

INTELLECTUAL PROPERTY – PAKIT INTERNATIONAL

- Pakit International's patented process is a new and disruptive technology for producing three dimensional moulded shapes from both virgin and recycled cellulose fibres. The technology process is designed to produce a product that has attributes like plastic while being sustainable like paper.
- The intelligent use of pressure and heat during the manufacturing process allows for much higher production speeds at lower energy use due to a unique and patented tooling technology.
- Pakit International's patented technology facilitates the bonding and tensioning of fibres while they are locked between the tools which results in much stronger, denser and lighter end products.
- Pakit International has been granted a total of 13 patent families (which cover 43 country patents) and has numerous other patent applications in progress.

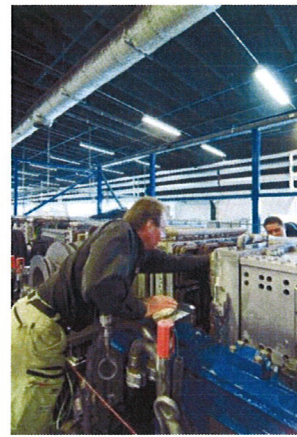
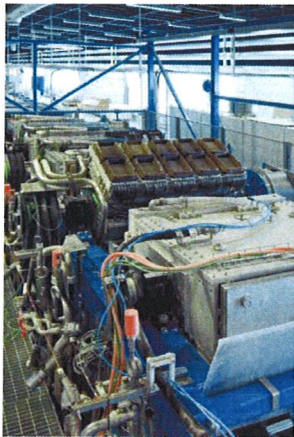
PACKAGING PRODUCTS

- Pakit International's proprietary scalable cellulose fibre moulding process manufactures customized, environmentally sustainable packaging products which have superior performance attributes and are cost competitive compared to petrochemical-based non-renewable packaging or conventional moulded fibre products.
- The Pakit100™ machines manufacture a range of packaging products including home replacement trays, hamburger clam shells, trays and disposable plates, cups and lids, green bottling solutions for beverages and liquids and jewel cases for CDs and DVDs.

PAKIT INC. (IN RECEIVERSHIP)

KEY INVESTMENT HIGHLIGHTS – PAKIT INTERNATIONAL

- I. **Disruptive Clean Packaging Technology:** Pakit provides through its subsidiaries an opportunity to acquire a new and disruptive packaging technology.
- II. **Research & Development Capability:** PIT has a dedicated R&D facility based in Sweden. Its team of engineers and scientists developed the Pakit technology.
- III. **Comprehensive Patent Portfolio:** Pakit International has a comprehensive intellectual property portfolio, which currently includes 13 granted patent families issued in relation to its tooling, manufacturing process and moulded board technology.
- IV. **Flexible Inputs:** Virtually any kind of plant fibre can be used to make moulded board: an innovative material that possesses some of the advanced properties of plastic but is sustainable.
- V. **Product Strength:** The moulded board is very strong and resilient. The processes utilized aids manufacturing of products which have increased strength, less weight and more density.
- VI. **Efficient Productive System:** Pakit International's technology produces high quality, smooth surface packaging at high productivity speeds compared to other commercial fibre techniques, while typically using less fibre than other techniques to achieve the same product strength and stiffness.
- VII. **Energy and Water Efficient:** Various closed-loop systems provide for minimal water usage and the system consumes approximately one third of the energy of conventional technology.
- VIII. **Wide Range of Packaging Products:** The non-toxic, heat resistant packaging can be used for a wide range of industries, including packaging for hot or cold takeaway foods and drinks, fruit baskets, meat and poultry trays, plates, cups, horticultural containers, and even medical supplies.
- IX. **Existing Customer Relationships:** Pakit Group has been working with some key consumer companies and converters on the development of sustainable food and beverage packaging.



pakitTM

PAKIT INC. (IN RECEIVERSHIP)

NEXT STEPS

If you are interested in receiving additional materials, including a copy of the confidential information memorandum and access to a data room, concerning this opportunity, please execute the required Confidentiality Agreement and return it via email or fax to Tom Powell (tpowell@alvarezandmarsal.com) or Callum Beveridge (cbeveridge@alvarezandmarsal.com). A copy of the Confidentiality Agreement is available on the Receiver's website www.alvarezandmarsal.com/pakit. Phase I of the sale process requires interested parties to submit a non-binding expression of interest by **10am Pacific Standard Time on April 12, 2012**.

Should you have any questions, please contact one of the members of the A&M team below.



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Disclaimer: This document has been prepared by the Receiver based on information supplied by the Company. The sole purpose of this document is to assist the recipient in deciding whether to proceed with further enquiry of this opportunity. While the information provided is believed to be appropriate for the purposes to which it is intended, the Receiver and Pakit and its employees and their affiliates and agents make no representations or warranties, express or implied, as to the accuracy or completeness of such information.

