IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	
	)	Chapter 15
PT HOLDCO, INC., *et al.*,[1]	)	
	)	Case No. 16-10131 (___)
	)	
Debtors in a Foreign Proceeding.	)	(Joint Administration Requested)
	)	

VERIFIED PETITION FOR RECOGNITION OF
FOREIGN MAIN PROCEEDING AND RELATED RELIEF

FTI Consulting Canada Inc. ("FTI" or the "Monitor") is the court-appointed monitor and duly authorized foreign representative for PT Holdco, Inc., PTUS, Inc. Primus Telecommunications, Inc., Lingo, Inc., and Primus Telecommunications Canada Inc. (collectively, the "Debtors") in Canadian insolvency proceedings (the "Canadian Proceeding") pending in Canada before the Ontario Superior Court of Justice (Commercial List) (the "Canadian Court").[2] The Monitor, on behalf of the Debtors, by and through its undersigned counsel, Elliott Greenleaf, P.C., has commenced this chapter 15 case ancillary to the Canadian proceedings with the filing of the Official Form 401 Petition under chapter 15 of title 11 of the United States Code (the "Bankruptcy Code") for each of the Debtors, and files this Verified Petition for Recognition of Foreign Main Proceeding and Related Relief (the "Petition for

[1] The last four digits of the Employer Identification Number or Canadian Business Number, as appropriate, for each debtor follow in parentheses: PT Holdco, Inc. (3731), PTUS, Inc. (0542), Primus Telecommunications, Inc. (4563), Lingo, Inc. (7778), and Primus Telecommunications Canada, Inc. (5618).

[2] The Monitor was appointed as monitor of the Debtors pursuant to provisions of Canada's Companies' Creditors Arrangement Act (the "CCAA"), R.S.C. 1985, c. C-36, the statute under which the Debtors have been granted relief from creditors. An initial order was entered on January 19, 2016 in the Ontario Superior Court of Justice by the Honourable Mr. Justice Penny, Court File No. CV-16-11257-OOCL, In the Matter of a Plan of Compromise or Arrangement of PT Holdco, Inc., Primus Telecommunications Canada Inc., PTUS, Inc. Primus Telecommunications, Inc., and Lingo, Inc. ("Initial Order").

Recognition") pursuant to section 1515 of the Bankruptcy Code seeking (i) entry of an Order recognizing the Canadian Proceeding as a foreign main proceeding pursuant to section 1517 of the Bankruptcy Code, and (ii) relief under sections 1520 and 1521 of the Bankruptcy Code. In the alternative, if for any reason the Court finds that the Canadian Proceeding is not eligible for recognition as a foreign main proceeding as to any of the Debtors, the Monitor seeks recognition of a foreign non-main proceeding as to such entity, as defined in section 1502(5) of the Bankruptcy Code, and seeks relief under section 1521 of the Bankruptcy Code.

PRELIMINARY STATEMENT

1. The Order appointing the Monitor in the Canadian Proceeding was entered on January 19, 2016 (the "Initial Order"). The Monitor has filed an Official Bankruptcy Form 401 petition for each of the Debtors, this Petition for Recognition, along with a separate motion for provisional relief.

2. Pursuant to section 1515(b) of the Bankruptcy Code, a certified copy of the Initial Order appointing the Monitor and authorizing the Monitor to act as foreign representative in these chapter 15 proceedings is attached hereto as **Exhibit A**. Pursuant to section 1515(b) of the Bankruptcy Code and Rule 1007(a)(4) of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), a statement of all foreign proceedings with respect to the Debtors known to the Monitor, a list of all litigation in which any of the Debtors are parties in the United States which is known to the Monitor, and a list of all entities against whom provisional relief is being sought under section 1519 of the Bankruptcy Code, is attached hereto as **Exhibit B**, and was filed with each Official Form 401 for the Debtors.

3. This Petition is also supported by the Declaration of Nigel D. Meakin, (the "Meakin Declaration"), and the exhibits annexed thereto, which has been filed concurrently with this petition. Mr. Meakin is a Senior Managing Director of FTI.

4. The Monitor is the authorized foreign representative of the Debtors, and as such is entitled to petition this Court directly for recognition of the Canadian Proceeding under section 1509 of the Bankruptcy Code. The Canadian Proceeding qualifies as a "foreign main proceeding" under section 1502(4) of the Bankruptcy Code because it is pending in Ontario, Canada, and Ontario is the "center of main interests" for the Debtors.

5. Because (i) recognition of the Canadian Proceeding would not be contrary to public policy under section 1506 of the Bankruptcy Code, (ii) the Canadian Proceeding is a foreign main proceeding under section 1502(4) of the Bankruptcy Code, (iii) the Monitor is a "person" pursuant to section 101(41) of the Bankruptcy Code, and (iv) the Monitor has complied with all requirements of section 1515 of the Bankruptcy Code and Bankruptcy Rule 1007(a)(4), the Monitor is entitled to entry of an order recognizing the Canadian Proceeding as a foreign main proceeding under section 1517(b)(1) of the Bankruptcy Code, and is further entitled to the relief set forth in sections 1520 and 1521 of the Bankruptcy Code.

JURISDICTION AND VENUE

6. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 157 and 1334, the *Amended Standing Order of Reference from the United States District Court for the District of Delaware, dated February 29, 2013* (the "Order of Reference"),[3] and sections 109 and 1501 of

[3] Pursuant to Rule 9013-1(f) of the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules"), the Debtors consent to the entry of a final judgment or order with respect to this Petition for Recognition if it us determined that the Court would lack Article III jurisdiction to enter such final order or judgment absent consent of the parties.

the Bankruptcy Code. Venue of this proceeding is proper in this judicial district pursuant to 28 U.S.C. § 1410. This is a core proceeding under 28 U.S.C. § 157(b)(2)(P).

FACTUAL BACKGROUND

A. Corporate Structure

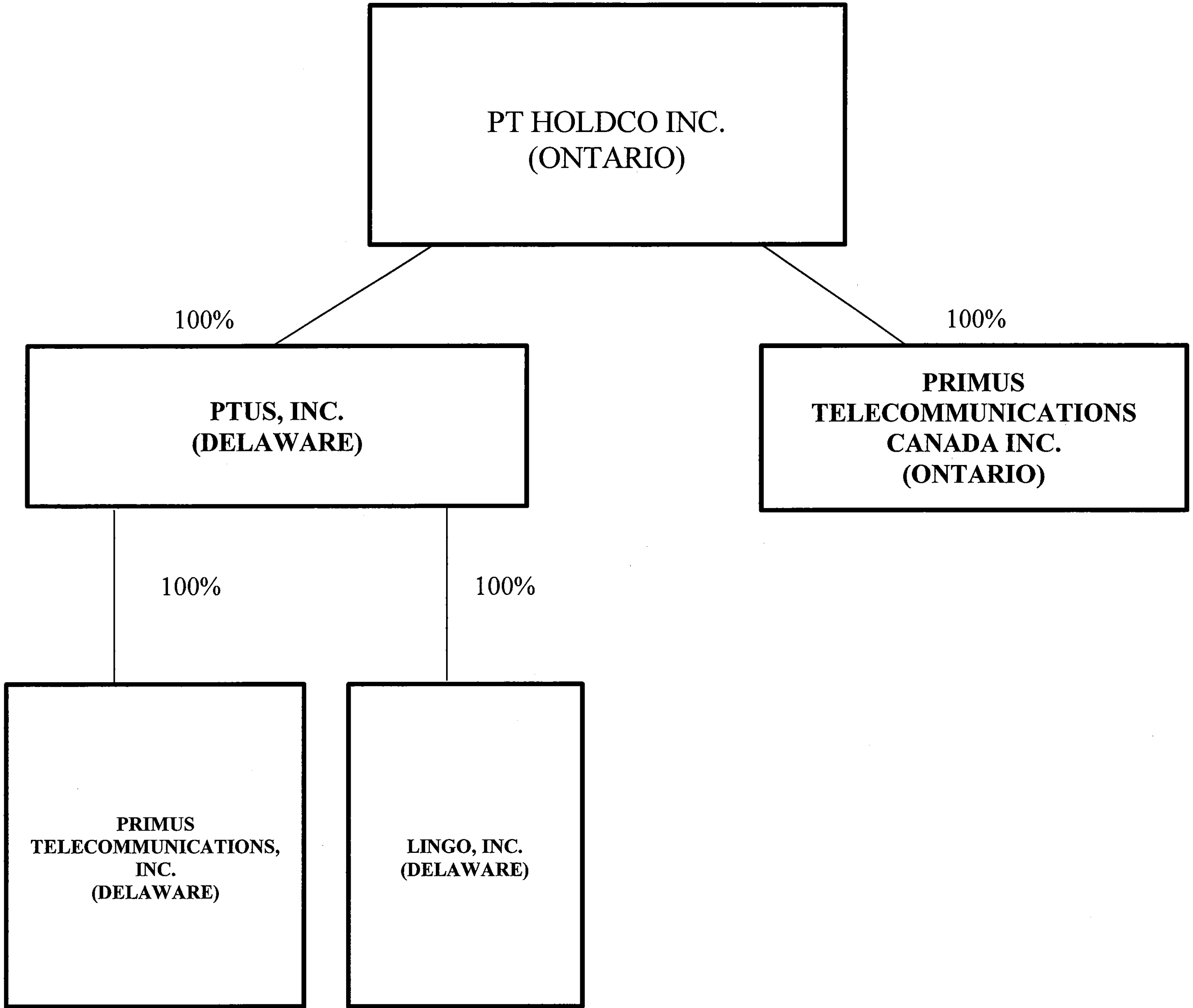
7. Holdco is a private company incorporated under the Ontario *Business Corporations Act*, R.S.O. 1900, c. B. 16 (the "OBCA"). Holdco holds 100% of the shares of Primus Canada and PTUS. Holdco's registered head office is located at 5543 Dundas Street West, Suite 400, Toronto, Ontario.

8. Primus Canada is a private company incorporated under the OBCA. Primus Canada is the Primus Entities' Canadian operating company. Primus Canada's registered head office is located at 5343 Dundas Street West, Suite 400, Toronto, Ontario.

9. PTUS is a subsidiary of Holdco and a private company incorporated under the laws of Delaware. PTUS holds 100% of the shares of PTI and Lingo, and has no independent operations. PTUS's registered head office is located at 2711 Centreville Road, Suite 400, Wilmington, New Castle County, Delaware.

10. PTI is a private company incorporated under the laws of Delaware. PTI is in the business of selling telecommunications services primarily consisting of telephone and long distance voice services. PTI's registered head office is the same as PTUS.

11. Lingo is a private company incorporated under the laws of Delaware. Lingo offers VoIP telephone and long-distance voice services to both residential and small business customers. Lingo's registered head office is the same as PTUS.


PT HOLDCO INC.
(ONTARIO)
100%
100%
PTUS, INC.
(DELAWARE)
PRIMUS
TELECOMMUNICATIONS
CANADA INC.
(ONTARIO)
100%
100%
PRIMUS
TELECOMMUNICATIONS,
INC.
(DELAWARE)
LINGO, INC.
(DELAWARE)

B. The Debtors' Business

12. The Primus Entities re-sell a wide selection of residential and business telecommunications services (with the exception of wireless phone services). The revenue generated by Primus Canada accounts for approximately 88% of the Primus Entities' gross revenue. 78% of Primus Canada's revenue is generated in Ontario, with 10% in Quebec, 6% in British Columbia, 4% in Alberta and 2% from other provinces. The U.S Primus Entities generate the balance of the Primus Entities' gross revenue.

Primus Canada

13. The Canadian telecommunications industry operates under the supervision of the Canadian Radio-television and Telecommunications Commission (the "CRTC"), and is regulated by the *Telecommunications Act*, S.C. 1993, c. 38. The CRTC regulates matters such as the rates, the terms and conditions under which carriers provide services, the exchange of telecommunications traffic between carriers, and inter-carrier arrangements.

14. The major carriers (the "Major Carriers") in Canada's telecommunications services industry are BCE Inc. ("Bell"), Rogers Communications Inc. ("Rogers"), Telus Corporation ("Telus"), MTS Inc./Allstream Inc. ("Allstream") and Shaw Communications Inc. ("Shaw" and together with Bell, Rogers, Telus and Allstream, the "Major Carriers").

15. The Major Carriers are Canada's five largest telecommunications service providers ("TSPs"). Combined, including their affiliates, they accounted for more than 84% of total market revenues in 2014. The next five largest TSPs accounted for 9% of total market revenues in 2014. Accordingly, the top 10 TSPs collectively capture 93% of industry revenues; the remaining TSPs capture the balance.

16. The top 10 TSPs are facilities-based service providers, meaning that they own and operate the majority of the transmission equipment required to provide their telecommunications services. The vast majority of the remaining TSPs are "re-sellers."[4]

17. "Re-sellers" are TSPs who acquire (and require) wholesale services from other TSPs to provide telecommunications services to their own customers. Under a typical re-selling agreement, the wholesaler is responsible for physical service delivery and the re-seller managers the customer relationship. As a result, the wholesalers own and operate the majority of the necessary infrastructure to provide telecommunications services but the consumers deal exclusively with the re-seller.

18. The CRTC has mandated that the Major Carriers make certain services available to re-sellers. The Major Carriers sell these services to Primus Canada (and other re-sellers) at prices determined by the CRTC; all other services offered by Primus Canada are purchased at negotiated rates.

19. Primus Canada offers a wide selection of residential and business telecommunications services. Residential services include VoIP, residential internet services, traditional local phone, long distance phone, and pre-paid calling cards. Business services include H-PBX, local line, long distance, internet and data access services to small-to-medium-sized businesses. Primus Canada also provides wholesale long distance capacity and ancillary services to smaller telecommunications service providers. Primus Canada provides its services exclusively through re-selling, as described below.

20. Primus Canada does not own sufficient telecommunications network infrastructure to service its customers without purchasing services from a Major Carrier.

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[4] CRTC Telecommunications Monitoring Report:
http://www.crtc.gc.ca/eng/publications/reports/policymonitoring/2014/cmr5.htm

21. Primus Canada conducts its business through re-selling other TSPs' (primarily the Major Carrier) services purchased at wholesale rates determined by the CRTC, or through rates negotiated directly with the TSPs (the "Re-Sell Services"). The majority of Primus Canada's gross revenue is earned through the provision of Re-Sell Services.

22. Certain elements of Primus Canada's services are supplied from 83 "co-locations" which it rents from Bell (74), Telus (5), and Allstream (4). The CRTC obligates the Major Carriers to make space at certain of their facilities available for rent by secondary carriers at a fixed cost (a "co-location arrangement"). Prims Canada maintains hardware at such co-locations and these co-locations allows it to supply local phone, interest and VoIP services for higher margins.

23. The CRTC regulates what services the Major Carriers must make available to secondary carriers at co-locations. Currently, the services provided by secondary carriers like Primus from co-locations are limited. For example, the higher margin internet offered by Primus Canada through its equipment located in the co-location sites is very restricted in the speeds offered and the geographic range of service covered due to several factors regulated by the CRTC which limit competitive access to the Major Carrier fiber network from the co-location sites to the end customer.

24. Primus Canada is heavily dependent on the Major Carriers for both the Re-Sell Services business and the co-locations business. Primus Canada's largest Re-Sell Services vendors are Bell, Allstream, Rogers and Telus, accounting for approximately 50% of all supplier obligations to Primus Canada as of November 30, 2015. Bell is Primus Canada's single largest vendor.

25. Primus Canada is also heavily dependent on its credit card processing service providers, including, without limitation, Chase Paymentech Solutions, Inc. ("Chase"). Approximately 30% of Primus Canada's customers pay for their services via credit card. Customer contract for services by the Primus Entities and arrange to pay for these services going forward by credit card. The credit card issuer extends credit to the cardholder by debiting the cardholder's credit card account. Upon being notified of the transaction, Chase pays the applicable Primus Entity and subsequently receives payment from the credit card issuer who deals with payment from the credit card holder. There is a protocol in place for post-processing rejection and restitution, which is set out in the credit card processing agreement between the parties. Without Chase, Primus Canada is unable to process any credit card transactions.

26. Primus Canada has approximately 204,000 residential customers and 23,000 commercial accounts. In 2015, approximately 56% of Primus Canada's revenue was generated from residential customers, and approximately 44% was generated from commercial customers.

U.S. Primus Entities

27. The U.S. Primus Entities account for 12% of the Primus Entities' gross revenue.

28. The U.S. Primus Entities primarily offer digital home phone service via VoIP technology, which accounts for 39%, and long distance VoIP technology, which accounts for the balance of their revenue.

29. The U.S. Primus Entities' largest supplier currently is PTGi International Carrier Services, Inc. ("PTGi-ICS"). PTGi-ICS is the wholesale supplier of long-distance phone service for resale by PTI; however, PTGi-ICS recently gave notice to terminate this agreement effective March 31, 2016.

30. The U.S. Primus Entities have approximately 27,000 residential customers. Approximately 1,100 customers are located in Puerto Rico; the balance of the U.S. Primus Entities' customers are located throughout the United States.

31. The Federal Communications Commission (the "FCC") regulates telecommunications policies in the United States. Given the small size of the U.S. Primus Entities' business, changes in FCC policy are not expected to materially impact the Primus Entities' overall performance.

32. The U.S. Primus Entities are fully compliant with the American telecommunications licensing regime.

Integration between U.S. Primus Entities and Canadian Primus Entities

33. The Primus Entities' business is intertwined throughout the various Primus Entities' corporations the Primus Entities share networks, platforms, infrastructure and personnel, including senior management.

34. More particularly, certain functions are completely integrated across all Primus Entities. The Primus Entities' executive management, located in Canada, is responsible for the strategic direction of the U.S. Primus Entities, and the Primus Entities' Human Resources department, also located in Canada, is responsible for such functions on an entity-wide basis.

Employees

35. As of December 9, 2015 the Primus Entities employed approximately 500 people in Canada and 28 in the United States. The Primus Entities' employees by location are summarized below:[5]

[5] In addition to the above, there are six employees in Canada and 20 in the United States who have made arrangements to work off-site.

Location	Primus Entity	Employees
Canada		
Toronto	Primus Canada	242
London	Primus Canada	3
Vancouver	Primus Canada	11
Markham	Primus Canada	12
Ottawa	Primus Canada	81
Edmundston	Primus Canada	147
United States		
Cedar Rapids, IO	PTI	4
Tampa, FL	PTI	4

36. The Primus Entities' workforce is non-unionized.

37. The Primus Entities do not have a pension plan for their employees.

Offices and Facilities

Canada

38. Primus Canada leases its head office in Toronto, Ontario.

39. Primus Canada has two primary "switch sites"[6] located at 151 Front Street West, Toronto, Ontario, and 555 West Hastings Street, Vancouver, British Columbia.

40. Primus Canada leases sales and support offices in London, Ontario and Vancouver, British Columbia.

41. Primus Canada leases an office located in Markham, Ontario.

42. Primus Canada leases two customer support centres located in Ottawa, Ontario and Edmundston, New Brunswick.

[6] Network "hubs" – central facilities from which the Primus Entities' deliver services.

United States

43. PTI leases office space in Cedar Rapids, Iowa. Four employees work out of that location and support the Primus Entities' Canadian and U.S. operations.

44. PTI also leases and operates an office in Tampa, Florida. Four employees work out of that location and their primary role is to provide customer support for the Puerto Rico customer base.

Cash Management System

45. In the ordinary course of their business, the Primus Entities use a centralized cash management system to, among other things, collect funds and pay expenses associated with their operations. The Primus Entities maintain bank accounts in both Canada and the U.S. for their respective Canadian and U.S. operations as well as accounts related to the holding companies.

46. In the ordinary course of their business, the Primus Entities use a centralized cash management system (the "Cash Management System") to, among other things, collect funds and pay expenses associated with their operations.

47. As particularized in the Nowlan Affidavit, the Primus Entities maintain bank accounts in both Canada and the U.S. for their Canadian and U.S. operations as well as accounts related to the holding companies.

48. In the United States, the Primus Entities maintain 11 bank accounts: one account with Banco Popular in Puerto Rico, one bank account with U.S. Bancorp ("US Bank"), and 9 bank accounts with Bank of America ("BOA").

49. Continued access to the Cash Management System without disruption is critical to the ongoing business of the Applicants.

C. Assets

50. The Primus Entities prepare financial statements on a consolidated basis. As reflected in the unaudited consolidated financial statements of the Primus Entities for the eleven months' ended November 30, 2015, the assets of the Primus Entities had a net book value of approximately $145 million and consisted of the following:

Cash and equivalents	2,896,794	
Accounts receivable	11,329,605	
Prepaid expenses	2,280,362	
Inventory, deposits and other receivables	1,649,540	
Total Current Assets	**$18,151,301**	
Capital assets		26,958,328
Goodwill and other intangibles		98,596,009
Restricted cash		295,000
Deferred charges		1,142,342
		126,991,680
Total Assets		**$145,147,981**

51. Capital assets include network infrastructure equipment and associated installation costs; software and associated development costs; fiber optic network capacity that the Primus Entities own; capital costs associated with leasehold improvement work; equipment used for voice telecommunications services; infrastructure equipment for the US network; equipment provided to customers for rent; computers; office equipment and phone systems; and automobiles.

52. The "Goodwill and other intangibles" line item represents intangible assets and consists of goodwill, brand and customer list intangibles at 43%, 21% and 36%, respectively.

53. The principal debt obligations of the Primus Entities are described in more detail below.

D. Current Liabilities

54. As of November 30, 2015, the Primus Entities had liabilities on a consolidated basis totalling $100,972,326. The principal debt obligations of the Primus Entities are described in more detail below.

55. In addition to the principal debt obligations as at November 30, 2015, the Primus Entities had approximately $30,386,172 of other current liabilities, including:

Accounts payable	7,887,868
Accrued liabilities	7,483,255
Income taxes payable	(23,336)
Deferred revenue	6,097,555
Other current liabilities	8,940,829
Total Current Liabilities[7]	**$30,386,172**

Credit Agreement

56. Primus Canada is indebted to the Bank of Montreal ("BMO"), HSBC Bank Canada ("HSBC") and ATB Corporate Financial Services ("ATB", and together with BMO and HSBC, the "Syndicate"), in the amount of $40,700,000 pursuant to a Credit Agreement dated July 31, 2013, such credit agreement as amended by an amending agreement (the "Amending Agreement") dated September 23, 2014 (the "Credit Agreement"). The Credit Agreement matures on July 31, 2017.

57. The Credit Agreement is comprised of two main credit facilities (the "Facilities"). Facility A is a secured revolving credit facility under which Primus Canada can draw up to $10,000,000 for general working capital purposes, subject to a borrowing base calculation.

[7] Excluding secured debt.

Facility B is a secured non-revolving credit facility under which the Syndicate made one advance to Primus Canada in the amount of $60,000,000. The Primus Entities also have a "swingline" facility under the Credit Agreement pursuant to which they have drawn a letter of credit in the approximate amount of $295,000 in relation to their tenancy at the customer support centre in Ottawa, Ontario.

58. Under the Credit Agreement, Primus Canada has granted comprehensive first-ranking security to BMO as administrative agent of the Syndicate over all of its assets pursuant to, among other things, a general security agreement.

59. Primus Canada's obligations under the Credit Agreement are guaranteed by all of the Primus Entities. Such guarantees are also secured by substantially all of the assets of the Primus Entities pursuant to, among other things, general security agreements and a deed of hypothec, with (a) *Personal Property Security Act* ("PPSA") filing statements registered in the following jurisdiction: Holdco (Ontario); Primus Canada (British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, New Brunswick and Quebec); and Lingo (Ontario); and (b) UCC registrations in the following jurisdictions: Primus Canada (District of Columbia); PTUS (Delaware); and Lingo (Delaware).

60. Counsel to the Monitor is in the process of completing a review of the security granted to the Syndicate and expects to be in a position to deliver an opinion on the validity and enforceability of such security shortly. The Monitor will report on such security opinion in due course.

61. In the event of a default under the Credit Agreement, any credit issued under the Facilities becomes due and payable upon written notice to Primus Canada.

62. Primus Canada is also a counterparty to three swap agreements (together, the "Swap Agreements") with the Syndicate lenders HSBC, ATB and BMO (each being a "Swap Bank" and together, the "Swap Banks") in the approximate amount of $20,250,000. While each agreement is distinct, the terms of each are virtually identical. Under the Swap Agreements, Primus Canada has agreed to pay each Swap Bank a fixed rate of interest (1.97%) on a notional principal amount (which declines over time) on specific dates. Concurrently, each Swap Bank has agreed to make payments based on a floating interest rate to Primus Canada on that same notional principal on the same specified dates for the same specified time period. The Primus Entities' obligations under the Swap Agreements are secured by the general security agreement.

63. If terminated on January 14, 2016 under the Swap Agreement, the Swap Banks would be entitled to a payment in the approximate amount of $375,000 from Primus. The Swap Agreements expire on July 31, 2017.

Subordinate Credit Agreement

64. Primus Canada is also indebted to the Manufacturers Life Insurance Company ("Manulife") and BMO Capital Partners ("BMOCP" and together with Manulife, the "Subordinate Lenders"), in the principal amount of $20,000,000 (the "Subordinate Debt") pursuant to a subordinate credit agreement (such credit agreement, as amended, the "Subordinate Credit Agreement") dated July 31, 2013, as amended by an amending agreement dated September 23, 2014. The Subordinate Credit Agreement matures on July 31, 2018. As of November 30, 2015, Primus Canada is indebted to the Subordinate Lenders in the amount of $22,971,359.94, inclusive of accrued interest.

65. Under the Subordinate Credit Agreement, Manulife and BMOCP each established a credit facility for Primus Canada in the maximum principal amounts of $14,600,000 and

$5,400,000, respectively. Such funds were made available to Primus Canada by way of a single advance.

66. Under the Subordinate Credit Agreement, Primus Canada has granted a security interest to Manulife as collateral agent of the Subordinate Lenders over all of its assets pursuant to, among other things, a general security agreement, which security interest ranks behind the security granted to the Syndicate pursuant to the terms of the "Intercreditor Agreement" (defined below).

67. Primus Canada's obligations under the Subordinate Credit Agreement are guaranteed by all of the Primus Entities. Such guarantees are also secured by substantially all of the assets of the Primus Entities pursuant to, among other things, general security agreements and a deed of hypothec. In an event of default, any credit issued under the Subordinate Credit Agreement becomes due and payable upon written notice to Primus Canada.

E. Financial Difficulties

68. The Primus Entities have been experiencing and continue to experience severe strains on their cash flow as a result of, among other things, declining revenues, the Primus Entities' customer base transitioning to lower profit margin services and over-leverage. The Primus Entities' significant fixed costs have hindered their ability to quickly and adequately respond to such revenue declines.

69. As a result, the Primus Entities' earnings before interest, taxes, depreciation and amortization ("EBITDA") and net operating profit have deteriorated over the last three years, and continue to deteriorate. While EBITDA was stabilized over the last seven months due to cost management and reduced marketing activities, this level of EBITDA is insufficient to meet the obligations under the secured credit agreements.

Revenue

70. Since 2012, the Primus Entities' revenue has declined an average of 9% per year. The Primus Entities' Canadian residential business, representing approximately 56% of their gross revenue for 2015, has declined an average of 9% year-over-year ("YOY") since 2012.

71. Changing technology and, as a result, consumer behaviour is the primary driver behind the residential sector revenue decline. Advances in network and wireless technology have decreased demand for long-distance and local phone, and pre-paid calling cards (the "Legacy Services"). In addition, rapid growth in the sale of bundled TV, internet, and voice services by the Major Carriers have exerted considerable price pressures on the markets that the Primus Entities compete in.

72. Consumer preferences are shifting towards mobile technology and high-speed internet. The Primus Entities do not have the capability to provide mobile services. The Primus Entities' internet services offered through their co-location sites are primarily limited to lower-speed offerings. As such, the Primus Entities' internet service customers have been rapidly transitioning from higher margin co-location services to materially lower margin re-sell services.

73. The Primus Entities' residential service offering primarily involves the provision of Legacy Services, with high-speed internet services representing a growth offering. In the past, Legacy Services were the Primus Entities' largest revenue generator. Since 2012, however, the Primus Entities' revenue from Legacy Services in Canada has declined 18% YOY and 35% YOY in the United States.

74. Moreover, in 2013, Bell accelerated the promotion of its bundled high-speed internet, TV, and voice service offerings (the "Triple Play" bundle) leading to considerable pricing pressures on the market for such services. The Primus Entities do not offer TV services,

and thus cannot create a bundle offering to compete against the bundled offerings of the Major Carriers.

75. The attraction of new customers in 2014 and Q1 2015 has also contributed to the Primus Entities' profitability decline. Each new customer represents additional marketing, hardware and installation costs, as well as staffing costs related to the on-boarding of those customers.

76. It can take up to one year before the costs associated with a new customer are recovered. Therefore, adding new customers to offset the rapidly declining Legacy Services revenues requires significant capital. Due to limits imposed by its capital structure, a lack of new capital availability, and the decline of high profit margin Legacy Services and co-location services revenues, the Primus Entities have had to constrain their customer growth initiatives.

77. As a result of the decline in demand for Legacy Services, the Primus Entities' inability to offer mobile services and their inability to compete with Bell's Triple Play bundle (or similar bundles offered by the other Major Carriers), the Primus Entities' gross revenue decreased from $229,024,000 in the fiscal year ended 2012 ("FY2012") to $198,511,000 in the fiscal year ended 2013 ("FY2013") and to $180,078,000 in the fiscal year ended 2014 ("FY2014") and is forecasted to decline to $165,859,252 in the fiscal year ended 2015 ("FY2015").

Expenditures

78. The Primus Entities have high fixed overhead costs, which cannot be materially reduced as they relate to functions that are necessary to run the Primus Entities' business. Such costs stem from supporting a national telecommunications infrastructure with the related

engineering and support requirements. Moreover, as the Primus Entities' customer base has been steadily declining, any reductions in overhead costs are outweighed by declining revenue.

79. In order to maintain and grow their service offerings, the Primus Entities incur capital expenditures ("Capex") every year. Such Capex include (i) hardware related to the sales of H-PBX and VoIP; (ii) network and client premises equipment expenditures required to support new customers; (iii) maintenance and replacement of components in network infrastructure; (iv) investment in network and internet delivery infrastructure; (v) capitalized employee and consulting costs associated with network projects; and (vi) maintenance and improvements to the Primus Entities' information systems, software, servers and storage capacity.

80. Over the past four years, the Primus Entities' annual average Capex was $7,898,993 per year.

81. The Primus Entities are also carrying significant debt service obligations in respect of their secured debt facilities

82. In 2015, the Primus Entities' debt service obligations and capital expenditures totalled approximately $18,365,182[8] compared to $9,871,722 in EBITDA.

EBITDA

83. As a result of the declining Legacy Services revenues, the margin pressures exerted by the Primus Entities' changing revenue mix, and the high up-front costs associated with adding new customers, the Primus Entities' EBITDA declined from $41,442,000 in FY2012 to $36,073,000 in FY2013 and $22,499,000 in FY2014, and $9,871,722 forecasted in FY2015.

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[8] Debt service obligations ($12,295,438); capital expenditures ($6,069,744).

84. This annual downward trend has continued in the current fiscal year as a high volume of new customers were added in the fourth fiscal quarter of 2014 and the first fiscal quarter of 2015. For the first quarter of 2015, EBITDA has declined 89% over the same period in the prior year, from $7,123,000 to $753,000. Monthly EBITDA has stabilized at approximately $1 million per month for the last nine months of 2015. The stabilized EBITDA is due to the reduction in marketing initiatives resulting in lower volume of new customer sign-ups and overall cost reduction initiatives.

Net Income/Loss

85. The Primus Entities reported a net loss of $830,000 in FY 2014, and forecast a net loss of $13,078,000 for FY 2015.

86. A copy of the Primus Entities' consolidated unaudited financial statements for the eleven months ending November 30, 2015 is attached to the Nowlan Affidavit as Exhibit B.

87. A copy of the Primus Entities' consolidated financial statements prepared on a 13-month rolling basis and current to November 30, 2015, is attached to the Nowlan Affidavit as Exhibit C.

88. The Primus Entities have not finalized their FY 2015 audited financial statements.

Defaults Under the Credit Agreements

Credit Agreement

89. Under the Credit Agreement, Primus Canada is required to, among other things, maintain certain debt to EBITDA ratios. Under Facility B specifically, Primus Canada is required to, among other things, make quarterly principal repayments in the amount of $2,250,000 on the last business day of each calendar quarter. Failure to meet these covenants constitutes an event of default.

90. As of late 2014, the Primus Entities have been unable to maintain certain debt to EBITDA ratios specified under the Credit Agreement (the "Credit Agreement Defaults"), and were therefore in default under the Credit Agreement.

91. The Credit Agreement Defaults have placed the Syndicate in a position to declare a "Standstill Period" pursuant to the Intercreditor Agreement. During a Standstill Period, Primus Canada would be prohibited from making any payments due under the Subordinate Credit Agreement, other than reasonable expenses due not in excess of $100,000.

92. Primus Canada entered into a forbearance agreement with the Syndicate on February 4, 2015 (the "Syndicate Forbearance Agreement"). Under the Syndicate Forbearance Agreement, Primus Canada acknowledged the Credit Agreement Defaults and agreed to provide a revised business plan for fiscal year 2015 and specified financial information. A copy of the Syndicate Forbearance Agreement is attached as Exhibit D to the Nowlan Affidavit.

93. The Syndicate Forbearance Agreement expired on February 27, 2015.

94. On February 27, 2015, the Syndicate gave notice to Primus Canada that (i) the Syndicate reserved its rights to take the steps it believes are required to, among other things, realize on its security; (ii) the Syndicate was exercising its right to charge an additional 2% per annum interest on all amounts outstanding under the Credit Agreement; and (iii) Duff & Phelps Canada Restructuring Inc. was to be appointed pursuant to the Credit Agreement as a consultant to review and report the viability of the Primus Entities' business and strategy going forward on behalf of the Syndicate.

95. As described in detail below, on August 31, 2015, following extensive and careful arms-length negotiation commencing in July 2015, Primus Canada entered into a support

agreement with the Syndicate lenders (the "Support Agreement") further to which the Syndicate agreed to support a sale and investor solicitation process (a "SISP") on a going concern basis.

Subordinate Credit Agreement

96. Primus Canada has also defaulted under the Subordinate Credit Agreement, (the "Subordinate Credit Agreement Defaults"). Specifically, Primus Canada has not serviced its Subordinate Debt since January 31, 2015, which constitutes default under section 901(b) of the Subordinate Credit Agreement and a cross-default under section 9.01(f) of the Credit Agreement. Primus Canada also did not maintain certain debt to EBITDA rations specified under section 6.02 of the Subordinate Credit Agreement (together with section 9.01 defaults, the "Subordinate Credit Agreement Defaults").

97. Primus Canada entered into a forbearance agreement with the Subordinate Lenders on February 4, 2015 (the "Subdebt Forbearance Agreement"). Under the Subdebt Forbearance Agreement, Primus Canada acknowledged the Subordinate Credit Agreement Defaults and agreed to provide a revised business plan for fiscal year 2015 and specified financial information. Primus Canada further agreed that as a consequence of the Subordinate Credit Agreement Defaults, the Subordinate Lenders were entitled to charge an additional 2% interest in accordance with section 9.02 of the Subordinate Credit Agreement, upon written notice of same. A copy of the Subdebt Forbearance Agreement is attached as Exhibit E to the Nowlan Affidavit.

98. The Subdebt Forbearance Agreement expired on March 2, 2015. On March 9, 2015, the Subordinate Lenders gave notice to Primus Canada that (i) due to the Subordinate Credit Agreement Defaults, interest on all amounts outstanding under the Subordinate Credit Agreement were accruing interest at a rate of 15% per annum, as of January 31, 2015, in

accordance with section 3.06 of the Subordinate Credit Agreement; and that (ii) the Subordinate Lenders have reserved their rights to take the steps they believe are required to, among other things, realize on their security.

Support Agreement and the SISP

99. As mentioned above, on August 31, 2015, following extensive and careful arms-length negotiations, Primus Canada entered into a support agreement with the Syndicate Lenders (the "Support Agreement") further to which the Primus Entities agreed to conduct and the Syndicate agreed to support a sale and investor solicitation process (a "SISP") on a going concern basis. A copy of the Support Agreement is attached as Exhibit F to the Nowlan Affidavit.

The Support Agreement

100. The Primus Entities elected to pursue the SISP outside of CCAA proceedings out of concern that, among other things, a prolonged period under CCAA protection necessary to implement a post-CCAA filing sales process would have a serious and detrimental impact on the Primus Entities' business and its customers which could diminish the value of the business as a whole. The bargain reflected in the Support Agreement was a product of a meticulous balancing of interests of Primus Entities' various stakeholders, the result of which was to allow the Primus Entities to implement their proposed restructuring strategy (i.e., the SISP) as a going concern while preserving the position of the Syndicate Lenders and the Primus Entities' other stakeholders if the SISP did not, ultimately, result in any restructuring transaction(s).

101. Under the Support Agreement, the Syndicate lenders agreed among other things, to:

(a) a standard forbearance in exercising their rights and remedies as creditors;

(b) a series of particular covenants to support the implementation and execution of the SISP, including not to take any action inconsistent with the Support Agreement or that would frustrate the consummation of any SISP transaction(s);

(c) support the approval of any SISP transaction(s) as promptly as practicable if the transaction is acceptable to the Syndicate lenders and BMO, in its capacity as administrative agent to the Syndicate, acting reasonably; and

(d) not to propose, vote for or otherwise support alternative arrangements under the CCAA, the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 or otherwise (thereby circumventing the SISP at a sensitive time).

102. In exchange, Primus Canada agreed, among other things:

(a) to certain reporting and monitoring requirements, particularly with regard to the progress of the SISP;

(b) not to materially increase compensation, severance or other benefits payable to their employees except in accordance with the terms of the key employee retention plan ("KERP") in the form attached to the Support Agreement[9];

(c) to adhere to an ongoing business plan, with reference to a particular cash flow projection and with detailed reporting obligations; and

(d) to implement the SISP for the purpose of identifying one or more purchasers of and/or investors in the Primus Entities' business with a targeted completion date for a transaction of December 31, 2015.

103. All material decisions with respect to the SISP (including whether to enter into a transaction and which one to enter into) remained exclusively within the sole discretion of the boards of the Primus Entities (and concomitantly their current management) to be made in accordance with their fiduciary duties with respect to securing the best available strategic alternatives for the Primus Entities.

The SISP Deadlines

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[9] The Primus Entities have entered into KERPs with 8 people, each of whom are critical to the strategic, day-to-day operations and management of the Primus Entities and/or the smooth execution and implementation of the SISP. The KERPs provide for future potential payments to the KERP participants in the maximum aggregate amount of $500,000.

104. The timeline for implementing the SISP was set out in section 5 of the Support Agreement (each step being designated a "Milestone", the execution of which was an essential precondition to the continuance of the Support Agreement). Pursuant to the Support Agreement, Primus Canada covenanted to:

(a) Commence marketing to prospective financiers, investors and/or purchasers (together, with others expressing a similar interest, the potential "Interested Parties") on or before September 1, 2015;

(b) Be in receipt of one or more Phase I Bids (which is defined as an original executed copy of a comprehensive non-binding letter of intent) on or before October 1, 2015;

(c) Be in receipt of one or more Phase II Bides (which is defined as a comprehensive final and binding proposal) on or before November 2, 2015;

(d) Enter into a binding agreement(s) with the "Successful Bidder(s)" (a bidder whose Phase I Bid was, ultimately, accepted and with whom the Primus Entities seeks to consummate a transaction) on or before November 30, 2015; and

(e) Close all agreements and transactions with the Successful Bidder(s) On or before December 31, 2015.

105. The failure to meet any of the Milestones set out above was a "Triggering Event" within the meaning of section 8 of the Support Agreement, which entitled any Syndicate lender to terminate the Support Agreement. As a result, continued and ongoing adherence to the Milestones was a necessary precondition for successfully implementing the SISP (and thereby facilitating a successful restructuring).

106. However, it was also understood that the Milestones and procedures could be amended at any time by mutual agreement should there be sufficient rationale that such amendments would be to the mutual benefit of the parties to the Support Agreement and other stakeholders of the Primus Entities.

107. On October 30, 2015, Primus Canada and the Syndicate lenders entered into an agreement (the "First Amending Agreement") extending the SISP timeline originally provided for in the Support Agreement to allow Primus Canada to be in receipt of one or more Phase II Bids on or before November 16, 2015 and to enter into a binding agreement(s) with the Successful Bidder(s) on or before December 14, 2015. The First Amending Agreement is attached as Exhibit G to the Nowlan Affidavit.

108. The SISP Milestones in the Support Agreement were extended in accordance with its terms, in part, to provide potential SISP bidders with further time to complete all required due diligence and otherwise ensure their bids could be turned into executable transactions in compliance with the SISP.

109. The SISP timeless was further extended pursuant to a second agreement (the "Second Amending Agreement") which allowed the Primus Entities: (i) to be in receipt of one or more Phase II bids on or before December 23, 2015; (ii) enter into a binding agreement with the Successful Bidder(s) on or before January 19, 2015; and (iii) close all agreement and transactions on or before February 29, 2016.

The SISP

110. Further to the timeline and conditions set out in the Support Agreement (and as will be described in greater detail in the Primus Entities' materials to be filed in support of a motion (the "Sale Approval Motion") to approve, *inter alia*, a sale of the Primus Entities' assets (if this Court grants the Initial Order sought herein)), the Primus Entities commenced the SISP in September 2015.

111. Following a competitive selection process, Origin Merchant Partners ("Origin") was engaged by Primus Canada to act as a financial advisor pursuant to an engagement letter

dated August 7, 2015 (the "Engagement Letter"), and commenced solicitation of potentially interested parties.

112. As a result of the efforts of the Primus Entities, Origin and other advisors, six interested parties emerged and submitted Phase I Bids. Three parties ultimately submitted comprehensive, final and binding offers.

113. A period of extensive and intensive arm's length negotiations followed the offers, each of which were each evaluated in accordance with the criteria enumerated in the SISP. Ultimately, the bid by Birch Communications Inc. ("Birch Communications") was determined to be the Successful Bid.

114. An essential precondition to the contemplated Asset Purchase Agreement (the "APA") between the Primus Entities and Birch Communications (in this capacity, the "Purchaser") was the expeditious application to the Canadian Court for the Initial Order.

115. In advance of filing for CCAA protection, and in order to comply with the provisions of the Support Agreement detailed above, the parties entered into two preliminary agreements:

(a) First, on December 18, 2015, the Primus Entities entered into an Escrow Agreement with the Purchaser and FTI (as escrow agent), whereby $2,000,000 would be deposited into an escrow account in contemplation of entering into the aforementioned APA to be released as part of the closing thereof; and

(b) Second, on December 22, 2015, the Primus Entities entered into an exclusivity letter agreement with the Purchaser whereby the Primus Entities agreed to terminate any existing discussions with any third party, and not to solicit, encourage or otherwise commence or continue discussions with, or provide any information to, any third party, regarding the sale to any such third party of all or any of the Purchased Assets (as defined in the APA) or any investment or other participation by any such third party in any of the business, enterprise, securities, assets or properties of any of the Primus Entities. The exclusivity letter agreement was a

condition precedent to the Purchaser pursuing the sale transaction contemplated in the APA.

116. After extensive deliberations and consultations with their professional advisors, the Primus Entities concluded, further to and on the basis of their commercial and business judgement, that the transaction contemplated in the APA represented the best offer available to them in the circumstances and that proceeding with such transactions was in the best interest of the stakeholders.

The Sale Transaction

117. The Primus Entities and the Purchaser executed and delivered a definitive version of the APA dated January 18, 2016, subject to Court approval. Further details and a copy of the APA will be served and filed with the Primus Entities' motion materials to approve same.

118. The essential terms of the definitive version of the APA and the Sale Transaction contemplated therein are as follows:

(a) The Purchaser will acquire substantially all of the business, assets and operations of the Primus Entities, including principally all of their patents, patent applications, trademarks and domains ("Purchased Assets" and "Purchased Intellectual Property" respectively, and as set out in Schedule "A" and "H" to the APA) but excluding any shares and other securities owned by any Primus Entity ("Excluded Assets", set out in Schedule "D" to the APA) on an "as is, where as" basis as existing at "Closing Time" (as defined in the APA and subject to representation and warranties therein);

(b) The aggregate purchase price ("Purchase Price") payable to the Primus Entities is calculated on the basis of the Purchase Price formula set out further to sections 3.1 and 3.7 of the APA, consisting of the following:

i. The "Base Purchase Price" of $44 million (as the term is defined in the APA and as adjusted in accordance with the formula set out therein);

ii. Less certain Cure Costs (as defined in the APA); and

iii. Less certain other amounts payable that do not constitute Cure Costs in respect of "Essential Contracts" (as defined in the APA).

(c) The Purchaser may, in its sole discretion, offer employment to any or all active and inactive Primus Entity employees (collectively "Transferred Employees") conditional on "Closing" (as each is defined in the APA);

(d) The Purchaser will assume, perform, discharge and pay the obligations of the Primus Entities ("Assumed Obligations") set out in section 2.5 of the APA, including, but not limited to, the following:

i. all debts, liabilities and obligations under an "Assumed Contract" assigned or transferred to the Purchaser on Closing for the period from and after Closing Time, provided that such debts, obligations or liabilities do not arise from or are due or attributable to:

(A) any default existing or breach by any Primus Entity occurring prior to or as a consequence of Closing, or

(B) any default, breach or violation of any Primus Entities' of any term or condition of the APA;

(ii) all debts, liabilities and obligations for which the Purchaser is responsible in respect of Transferred Employees as per the APA.

119. The Purchaser may terminate the APA, in its sole and absolute discretion, if this Court orders a post-filing sales process or it may elect not to terminate the APA and have it serve as a stalking horse offer in such post-filing sales process with customary stalking horse protections, in accordance with the terms of the exclusivity letter arrangement (which are to include, without limitation, a 3% break-free to be paid from the proceeds of any overbid in favor of the Purchaser), subject to Court approval.

120. Subject to obtaining the Initial Order being sought in the Canadian Proceeding, the Primus Entities intend to return to the Canadian Court to seek approval of the APA and various ancillary relief, including, if necessary, the assignment of certain agreements to the extent that necessary consents to such assignments are not obtained prior to the date of the Motion.

F. The Canadian Proceeding

121. Defaults under the Credit Agreement and the Subordinate Credit Agreement allow the Syndicate or Subordinate Lenders, respectively, to exercise certain remedies, including acceleration of payment of all amounts due under their agreement. Primus Canada does not have sufficient liquidity to satisfy the accelerated payment obligations arising from an event of default under either agreement.

122. The Syndicate Lenders require the Primus Entities to proceed expeditiously with obtaining approval and implement the APA and have indicated that they will not extend the forbearance under the Support Agreement otherwise.

123. Without forbearance, the Primus Entities cannot meet their liabilities as they come due and do not have sufficient cash to service their debt obligations. As such, the Primus Entities are insolvent. Therefore, the Primus Entities required CCAA protection to implement sales of their assets for the benefit of their stakeholders.

124. On January 18, 2016, the boards of the Debtors authorized the CCAA filing.

125. On January 19, 2016, an Order was entered in the Canadian Proceeding appointing FTI as Monitor and authorized Foreign Representative for the Debtors. As indicated above, a certified copy of the Order appointing the Foreign Representative (the "Initial Order") is attached hereto as **Exhibit A**.

126. The Initial Order specifically contemplates the institution of these chapter 15 proceedings by the Foreign Representative.

127. At this time, however, the Foreign Representative is only seeking recognition of the Initial Order under chapter 15 of the Bankruptcy Code.

128. Subject to obtaining the recognition being sought herein, the Debtors intend to return to the Canadian Court to seek approval of the APA and vesting of all of the Purchased

Assets in the Purchaser (as defined in the APA), free and clear, (the "Canadian Approval & Vesting Order") and various ancillary relief, including, if necessary, the assignment of certain agreement so that necessary consents to such assignments are not obtained prior to the date of the motion.

129. Subject to obtaining the Canadian Approval & Vesting Order in accordance with the requirements of Canadian Law, the Debtors intend to return to this Court to seek recognition of the Canadian Approval & Vesting Order in accordance with the requirements of chapter 15 of the Bankruptcy Code.

RELIEF REQUESTED

130. In its capacity as foreign representative of the Debtors, the Monitor seeks an Order of this Court pursuant to sections 105(a), 1507, 1517, 1520, and 1521 of the Bankruptcy Code, substantially in the form of the proposed order attached hereto as **Exhibit C**, granting the following relief:

a. Recognition of the Canadian Proceeding as a foreign main proceeding as defined in section 1502(4) of the Bankruptcy Code;

b. Recognition of the Monitor as a foreign representative;

c. Granting relief as of right upon recognition of a foreign main proceeding pursuant to section 1520 of the Bankruptcy Code, including but not limited to the "automatic stay" under Bankruptcy Code section 362, or if not as of right, then as additional relief authorized by section 1521 of the Bankruptcy Code;

d. Granting further additional relief as authorized by section 1521 of the Bankruptcy Code, including, without limitation:

   i. Authorizing the application of sections 363 and 365 of the Bankruptcy Code to these proceedings.

e. Otherwise granting comity to and giving full force and effect to the Canadian Proceeding; and

f. Awarding the Monitor such other and further relief as this Court may deem just and proper.

131. In the event the Court determines that the Canadian Proceeding is not eligible to be recognized as a foreign main proceeding as to any of the Debtors, the Monitor seeks recognition of the Canadian Proceeding as a foreign non-main proceeding as defined in section 1502(5) of the Bankruptcy Code as to those entities, and requests that the Court grant the relief requested above, and such other and further relief as is proper, pursuant to section 1521 of the Bankruptcy Code.

BASIS FOR RECOGNITION AND RELIEF REQUESTED

A. The Court has Jurisdiction to Recognize the Canadian Proceeding and Grant the Relief Requested

132. This Court has jurisdiction to hear and determine cases commencing under the Bankruptcy Code and all core proceedings arising thereunder pursuant to 28 U.S.C. §§ 157 and 1334 and section 1501 of the Bankruptcy Code, as well as the Order of Reference. A case under chapter 15 is a "case" under the Bankruptcy Code. Recognition of foreign proceedings and other matters under chapter 15 of the Bankruptcy Code have been expressly designated as core proceedings pursuant to 28 U.S.C. § 157(b)(2)(P). Venue is proper in this district pursuant to 28 U.S.C. § 1410.

B. These Cases are Proper Under Chapter 15

133. Chapter 15 of the Bankruptcy Code applies where a foreign representative seeks the assistance of a United States bankruptcy court in connection with a foreign proceeding. *See* 11 U.S.C. § 1501(b)(1). The Debtors' cases are proper under chapter 15 because (a) these cases concern a "foreign proceeding," (b) these cases were commenced by the Monitor, a duly authorized "foreign representative" of the Debtors, (c) the Petitions for Recognition, and all

required supporting documentation, were properly filed, and (d) the relief sought by the Petitions for Recognition is consistent with the objectives of chapter 15.

134. *The Canadian Proceeding is a "Foreign Proceeding."* Section 101(23) of the Bankruptcy Code defines a "foreign proceeding" as:

> a collective judicial or administrative proceeding in a foreign country, including an interim proceeding, under a law relating to insolvency or adjustment of debt in which proceeding the assets and affairs of the debtor are subject to control or supervision by a foreign court, for the purpose of reorganization or liquidation.

11 U.S.C. § 101(23). The Canadian Proceeding fits squarely within the Bankruptcy Code's definition of a "foreign proceeding," as it is an action brought under the CCAA. As set forth more fully in the Meakin Declaration, the CCAA Proceeding is a judicial proceeding brought under the CCAA that is supervised by the Canadian Court. The CCAA provides for a controlled reorganization procedure designed to enable financially distressed companies to avoid foreclosure or seizure of assets while maximizing the company's value as a going concern for the benefit of creditors and other parties in interest.

135. As detailed in the Meakin Declaration, although the Debtors' management and board of directors remain in place, and the board maintains its power under Canadian law to approve significant actions, including disposing of important assets, borrowing significant amounts, or changing corporate structures, such actions are subject to Canadian Court approval, and the Debtors' assets and affairs are subject to the supervision of the Canadian Court during the pendency of a CCAA Proceeding. In addition, the Canadian Court appoints a monitor who functions as an independent officer of the Canadian Court and (i) monitors the Debtors' ongoing operations, (ii) reports to the Canadian Court on any major events affecting the Debtors, (iii) assists with preparing, filing, and holding meetings for voting on any plan of compromise or arrangement, and (iv) prepares a report on the plan of compromise or arrangement, if filed. The

Canadian Court, through the CCAA Proceeding, is properly exercising its jurisdiction over the Debtors.

136. In connection with the CCAA Proceeding, on January 19, 2016, the Canadian Court entered the Initial Order. The Initial Order provides for certain relief, including, among other things, (i) a stay of all proceedings and actions against the Debtors, (ii) a charge on the Debtors' assets to secure payment in favor of indemnities granted to the Debtors' directors and officers), (iii) an order prohibiting all of the Debtors' suppliers from interfering with the supply of goods or services to the Debtors, and (iv) an administration charge on the Debtors' assets to secure fees and disbursements incurred in connection with professional services rendered to the Debtors, including the Monitor's fees and legal fees of the Monitor.

137. Courts have consistently recognized that a Canadian restructuring proceeding under the CCAA constitutes a "foreign proceeding," as defined in the Bankruptcy Code. *See, e.g., In re Thane International, Inc., et al.,* No. 15-12186 (KG)(Bankr. D. Del. December 1, 2015 [D.I. 41]; *In re Essar Algomar,* No. 15-12271 (BLS)(Bankr. D. Del. December 1, 2015) [D.I. 97]; *In re Lone Pine Res. Inc.*, No. 13-12487 (BLS) (Bankr. D. Del. Sept. 26, 2013 [D.I. 18]; *In re Xentel Inc.*, No. 13-10888 (KG) (Bankr. D. Del. Apr. 12, 2013) [D.I. 15]; *In re Cinram Int'l Inc.*, No. 12-11882 (KJC) (Bankr. D. Del. June 26, 2012 [D.I. 30]; *In re Arctic Glacier Int'l Inc.*, No. 12-10605 (KG) (Bankr. D. Del. Mar. 16, 2012) [D.I. 28]; *In re Angiotech Pharm., Inc.*, No. 11-10269 (KG) (Bankr. D. Del. Feb. 22, 2011) [D.I. 26]; *In re Grant Forest Prod. Inc.*, No. 10-11132 (PJW) (Bankr. D. Del. Apr. 26, 2010) [D.I. 47]; *In re Fraser Papers*, No. 09-12123 (KJC) (Bankr. D. Del. July 13, 2009) [D.I. 30]; *In re W.C. Wood Corp., Ltd.*, No. 09-11893 (KG) (Bankr. D. Del. June 18, 2009) [D.I.26]; *In re Nortel Networks Corp.*, No. 09-10164 (KG)

(Bankr. D. Del. Feb. 27, 2009) [D.I. 40]; *In re MAAX Corp.*, No. 08-11443 (CSS)(Bankr. D. Del. Aug. 5, 2008) [D.I. 22].

138. *The Monitor is a Proper "Foreign Representative."* Section 101(24) of the Bankruptcy Code provides that:

> The term "foreign representative" means a person or body, including a person or body appointed on an interim basis, authorized in a foreign proceeding to administer the reorganization or the liquidation of the debtor's assets or affairs or to act as a representative of such foreign proceeding.

11 U.S.C. § 101(24). The Monitor is a "person" within the meaning of section 101(41) of the Bankruptcy Code, to assist the Debtors and the Canadian Court, and fulfill its duties in the Canadian Proceeding. Moreover, pursuant to the Initial Order, the Canadian Court named the Monitor the foreign representative for the Debtors, and authorized and empowered the Monitor as a foreign representative for purposes of filing chapter 15 petitions in the United States. At Paragraph 38 of the Initial Order, the Canadian Court ordered:

> ...[T]hat the Monitor is hereby authorized and empowered, but not required, to act as the foreign representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside of Canada including, if deemed advisable by the Monitor, to apply for recognition of these proceedings in the United States pursuant to Chapter 15 of Title 11 of the United States Code...and to take such other steps as may be authorized by the Court and any ancillary relief in respect thereto.

139. Accordingly, the Monitor is a "foreign representative" as authorized by the Canadian Court and as defined in the Bankruptcy Code.

140. *The Foreign Representative Properly Filed these Cases.* These cases were duly and properly commenced as required by sections 1504 and 1509(a) of the Bankruptcy Code by the filing of the Petitions for Recognition pursuant to section 1515(a) of the Bankruptcy Code, which was accompanied by all documents and information required by sections 1515(b) and (c).

See In re Bear Stearns High-Grade Structured Credit Strategies Master Fund, Ltd., 374 B.R. 122, 127 (Bankr. S.D.N.Y. 2007) ("A case under chapter 15 is commenced by a foreign representative filing a petition for recognition of a foreign proceeding pursuant to section 1515 of the Bankruptcy Code"), *aff'd*, 389 B.R. 325 (S.D.N.Y. 2008). Because the Foreign Representative has satisfied the requirements set forth in section 1515 of the Bankruptcy Code, these cases have been properly commenced.

141. *The Petitions for Recognition are Consistent with the Purpose of Chapter 15.* One of the stated objectives of chapter 15 is the "fair and efficient administration of cross-border insolvencies that protects the interests of all creditors, and other interested entities, including the debtor." 11 U.S.C. § 1501(a)(3). These cases have been commenced for the purpose of obtaining the assistance of the Court to ensure the effective and economical administration of the Canadian Proceeding by, among other things, restricting the Debtors' creditors from taking certain actions in the United States that would undermine the unified, collective, and equitable resolution of the Debtors' liabilities in the Canadian Proceeding before the Canadian Court. As such, the Petitions for Recognition are consistent with the purpose of chapter 15 and the cross-border coordination it promotes.

C. The Canadian Proceeding is a "Foreign Main Proceeding" Under Sections 1502(4) and 1517(b)(1) of the Bankruptcy Code

142. The Monitor respectfully submits that the Court should grant recognition of the Canadian Proceeding as a "foreign main proceeding" as defined in section 1502(4) of the Bankruptcy Code. The Bankruptcy Code provides that a foreign proceeding is a "foreign main proceeding" if it pending in the country where the debtor has the center of its main interests. 11 U.S.C. § 1517(b)(1). Many factors weigh into the center of main interests analysis, including "the location of the debtor's headquarters; the location of those who actually manage the debtor;

the location of the debtor's primary assets; the location of the majority of the debtor's creditors or of a majority of the creditors who would be affected by the case; and/or the jurisdiction whose law would apply to most disputes." *In re Bear Stearns*, 374 B.R. at 127, 128 (citing *In re SPhinX, Ltd.*, 351 B.R. 103, 117 (Bankr. S.D.N.Y. 2006), *aff'd*, 371 B.R. 10 (S.D.N.Y. July 5, 2007)).

143. Of the five Debtor companies, two are Ontario incorporated companies, Holdco and Primus Canada – including the ultimate parent. The two Ontario companies have a registered office in Ontario. Primus Canada is the operating company and substantially all of its employees, assets and revenue are generated in Canada. Its senior secured creditors and subordinate secured creditors are also Canadian entities.

144. Although the other three entities, Lingo, PTUS and Primus US – are Delaware corporations, the Debtors' business is intertwined and the Debtors share networks, platforms, infrastructure and personnel, including senior management.

145. More particularly, certain functions are completely integrated across all Debtors. The Debtors' executive management, located in Canada, is responsible for the strategic direction of the U.S. Debtors, and the Debtors' Human Resources Department, also located in Canada, is responsible for such functions on an entity-wide basis, including for the U.S. Debtors.

146. Further, employees of the U.S. Debtors also support Canadian operations. For example, certain American customer care employees provide support to Canadian customers and certain American engineers assist with Canadian network support.

147. The center of main interests for each of the Debtors' enterprises is at its headquarters in Toronto, Ontario, Canada. A significant majority of the Debtors' revenue, 88%, comes from its Canadian operations. The overwhelming majority of the Debtors' customers,

90%, are in Canada and all its business customers are in Canada. Most of the Debtors' operations, as a result, are in Canada, including its crucial network and co-locations. The Debtors' two primary "switch sites" are located in Toronto and Vancouver. The Debtors' U.S. locations consist of one office with four employees who support both U.S and Canadian operations in Iowa and an office in Florida that house four employees who provide customer support for the Debtors' Puerto Rico customers. There is no outstanding litigation in the United States known to the Monitor.

148. Thus, based on the facts present in these cases, the Monitor respectfully submits that Toronto, Canada should be found to be the center of each of the Debtor's main interests. *In re Tri-Continental Exch. Ltd.*, 349 B.R. 627, 634 (Bankr. E.D. Cal. 2006) (noting that a debtor's center of main interests is the "place where the debtor conducts the administration of his interest on a regular basis and is therefore ascertainable by third parties"); *In re Fairfield Sentry Ltd.*, 440 B.R. 60, 66 (Bankr. S.D.N.Y. 2010).

149. An order recognizing a foreign proceeding shall be entered if all of the requirements for recognition have been met. *See* 11 U.S.C. § 1517. As set forth above, the Canadian Proceeding is a "foreign main proceeding" within the meaning of section 1502(4) of the Bankruptcy Code, the Monitor qualifies as a "foreign representative" under the Bankruptcy Code, and the Petitions for Recognition meet the requirements of Bankruptcy Code section 1515. Accordingly, based on the submissions contained herein and the Meakin Declarations pursuant to section 1517(a) of the Bankruptcy Code, the Monitor is entitled to entry of an order granting recognition to the Canadian Proceeding. *See* 11 U.S.C. § 1517 (an order recognizing a foreign proceeding "shall be entered" if all of the requirements for recognition have been met).

D. Recognizing the Canadian Proceeding as a Foreign Main Proceeding is Consistent with the Purpose of Chapter 15 and Public Policy

150. Section 1506 of the Bankruptcy Code provides that nothing in chapter 15 shall prevent the court from refusing to take an action otherwise required therein if such actions would be manifestly contrary to the public policy of the United States. 11 U.S.C. § 1506. The Monitor submits that the relief requested is not manifestly contrary to, and is consistent with, public policy of the United States.

151. It is well established that one of the fundamental goals of the Bankruptcy Code is the centralization of disputes involving the debtor. *See, e.g., In re Ionosphere Clubs, Inc.*, 922 F.2d 984, 989 (2d Cir. 1990) ("The Bankruptcy Code provides for centralized jurisdiction and administration of the debtor, its estate and its reorganization in the Bankruptcy Court....") (internal quotations and citations omitted). Indeed, as one court has noted, "the firm policy of American courts is the staying of actions against a corporation which is the subject of a bankruptcy proceeding in another jurisdiction." *Cornfeld v. Investors Overseas Servs., Ltd.*, 471 F. Supp 1255, 1259 (S.D.N.Y. 1979) (recognizing that Canadian liquidation Proceedings would not violate laws or public policy of New York or the United States).

152. The Canadian Proceeding is similar to cases under chapter 11 of the Bankruptcy Code because it provides for a centralized process to assert and resolve claims against an estate and to provide distributions to creditors in order of priority. Recognizing the Canadian Proceeding and enjoining certain actions or proceedings with respect to the Debtors and their assets will assist the orderly administration of the Debtors' assets. Such orderly administration is consistent with the public policy of the United States, as embodied in the Bankruptcy Code. Absent the relief requested, there is a possibility of potential actions being brought against the Debtors seeking to recover the assets. This could result in unnecessary enforcement costs or the piecemeal disposition of assets to the detriment of the Canadian Proceeding and the Debtors'

creditors. Avoiding such potential outcomes through the recognition of the Canadian Proceeding and enforcement of the stay granted under the Initial Order in the United States is consistent with the United States public policy and promotes the public policies embodied in the Bankruptcy Code.

153. Further, recognition of the Canadian Proceeding is consistent with the purpose of chapter 15 and the United Nations Commission on International Trade Law ("UNCITRAL") Model Law on Cross Border Insolvency. Section 1501(a) of the Bankruptcy Code provides, in pertinent part, that:

> The purpose of this chapter is to incorporate the Model Law on Cross-Border Insolvency so as to provide effective mechanisms for dealing with cases of cross-border insolvency with the objectives of –
>
> (1) cooperation between -
>
> * * *
>
> (B) the courts and other competent authorities of foreign countries involved in cross-border insolvency cases;
>
> * * *
>
> (3) fair and efficient administration of cross-border insolvencies that protects the interests of all creditors, and other interested entities, including the debtor; [and]
>
> (4) protection and maximization of the value of the debtor's assets.

11 U.S.C. § 1501.

154. The relief requested by the Monitor is consistent with the objectives of chapter 15. Recognition of the Canadian Proceeding would foster cooperation between courts in Canada and the United States in the Debtors' restructuring proceedings. By granting recognition to the Canadian Proceeding and enforcing the CCAA stay in the United States, the Court can effectively assist the Canadian Court in the orderly administration of the Debtors' assets. The

Debtors' creditors would be enjoined from commencing or continuing actions against the Debtors and the assets of the Debtors, thereby assisting in the uniform resolution of claims against the Debtors.

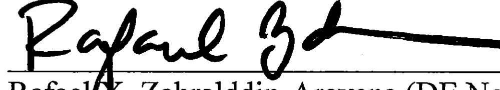
155. Additionally, recognition of the Canadian Proceeding would promote the fair and efficient administration of a cross-border reorganization procedure that protects the interests of all creditors and interested entities. If creditors' actions with respect to the Debtors' United States assets are not effectively stayed, the uniform and orderly voluntary administration of the Debtors in the Canadian Proceeding will be jeopardized.

CONCLUSION

WHEREFORE, the Monitor respectfully requests that this Court enter the proposed Order, substantially in the form attached hereto as **Exhibit C**, granting the relief requested herein and such other and further relief as may be just and proper.

Dated: January 19, 2016
Wilmington, Delaware

ELLIOTT GREENLEAF, P.C.



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Attorneys for the Monitor

VERIFICATION OF CHAPTER 15 PETITION

Pursuant to 28 U.S.C. § 1746, Nigel Meakin declares as follows:

I am a Senior Managing Director of FTI Consulting Canada Inc. ("FTI" or the "Monitor") , the court-appointed monitor and duly authorized foreign representative for debtors-in-possession Primus Telecommunications Canada Inc., Primus Telecommunications, Inc., Lingo, Inc., PT Holdco, Inc., and PTUS, Inc. (collectively, the "Debtors"). I have full authority to verify the foregoing chapter 15 petition for recognition of a foreign main proceeding, including each of the attachments and appendices thereto, and I am informed and believe that the allegations contained therein are true and accurate to the best of my knowledge, information, and belief. A true and accurate copy of the Initial Order issued on January 19, 2016, by Ontario Superior Court of Justice (Commercial List) pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended, whereby FTI is appointed Monitor and authorized to act as the foreign representative with respect to the application for recognition of the Canadian insolvency proceedings pursuant to chapter 15 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532, is attached hereto as **Exhibit A**.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 19th day of January, 2016.

Nigel D. Meakin
Senior Managing Director, FTI Consulting Canada Inc., in its capacity as authorized Foreign Representative of the Debtors

EXHIBIT A

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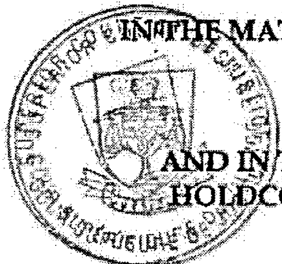
DATED AT TORONTO THIS 19th DAY OF January 2016
FAIT À TORONTO LE JOUR DE

C. Irwin
REGISTRAR Registrar GREFFIER

CV-16-11257-00CL
Court File No.

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.	)	TUESDAY, THE 19th
	)	
JUSTICE PENNY	)	DAY OF JANUARY, 2016



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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PT HOLDCO, INC., PRIMUS TELECOMMUNICATIONS CANADA, INC., PTUS, INC., PRIMUS TELECOMMUNICATIONS, INC., AND LINGO, INC

INITIAL ORDER

THIS APPLICATION, made by PT Holdco, Inc. (**"Holdco"**), Primus Telecommunications Canada Inc. (**"Primus Canada"**), PTUS, Inc. (**"PTUS"**), Primus Telecommunications, Inc. (**"PTI"**) and Lingo, Inc. (**"Lingo"**, and together with PTUS, PTI, Holdco and Primus Canada, the **"Applicants"**), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the **"CCAA"**) was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Michael Nowlan sworn January 18, 2016 and the Exhibits thereto (the **"Nowlan Affidavit"**), the Pre-Filing Report of FTI Consulting Canada Inc., as proposed monitor, (the **"Pre-Filing Report"**) and on being advised that the secured creditors who are likely to be affected by the charges created herein were given notice, and on hearing the submissions of counsel for the Applicants and the proposed Monitor, no one appearing for any other party although duly served as appears from the affidavit of service filed, and on reading the consent of FTI Consulting Canada Inc. to act as the Monitor,

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DATED AT TORONTO THIS 19th DAY OF January 20 16
FAIT À TORONTO LE JOUR DE

REGISTRAR

SERVICE

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

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that the Applicants are companies to which the CCAA applies.

PLAN OF ARRANGEMENT

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

POSSESSION OF PROPERTY AND OPERATIONS

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

5. **THIS COURT ORDERS** that the Applicants shall be entitled to continue to utilize the central cash management system currently in place as described in the Nowlan Affidavit or replace it with another substantially similar central cash management system (the "Cash Management System") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management

System, or as to the use or application by the Applicants of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Applicants, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

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

(a) all outstanding and future wages, salaries, employee benefits (including, without limitation, any amounts relating to the provision of employee medical, dental and similar benefit plans or arrangements), vacation pay and expenses, and similar amounts owed to independent contractors, payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;

(b) all outstanding and future insurance premiums (including property and casualty, group insurance policy, director and officers liability insurance, or other necessary insurance policy);

(c) all outstanding or future amounts owing in respect of customer rebates, refunds, discounts or other amounts on account of similar customer programs or obligations other than any refunds arising as a result of termination or cancellation of customer agreement or services; and

(d) the reasonable fees and disbursements of any Assistants retained or employed by the Applicants in respect of these proceedings, at their standard rates and charges.

7. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein, the Applicants shall be entitled but not required to pay all reasonable expenses incurred by the Applicants in carrying on the Business in the ordinary course [illegible] and in [illegible] out the provisions of this Order, which expenses shall include, w[illegible]

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FAIT À TORONTO LE JOUR DE

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(a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and

(b) payment for goods or services actually supplied to the Applicants following the date of this Order.

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

(a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;

(b) all goods and services or other applicable sales taxes (collectively, "**Sales Taxes**") required to be remitted by the Applicants in connection with the sale of goods and services by the Applicants, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order; and

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(c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Applicants.

9. **THIS COURT ORDERS** that until a real property lease is disclaimed in accordance with the CCAA, the Applicants shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise

may be negotiated between the Applicants and the landlord from time to time ("Rent"), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

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

RESTRUCTURING

11. **THIS COURT ORDERS** that the Applicants shall, subject to such requirements as are imposed by the CCAA, have the right to:

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(a) permanently or temporarily cease, downsize or shut down any of their business or operations, and to dispose of redundant or non-material assets not exceeding $100,000 in any one transaction or $1,000,000 in the aggregate.

(b) terminate the employment of such of their employees or temporarily lay off such of their employees as they deem appropriate; and

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

all of the foregoing to permit the Applicants to proceed with an orderly restructuring of the Business (the "**Restructuring**").

12. **THIS COURT ORDERS** that the Applicants shall provide each of the relevant landlords with notice of the Applicants' intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the

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landlord disputes the Applicants' entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Applicants, or by further Order of this Court upon application by the Applicants on at least two (2) days notice to such landlord and any such secured creditors. If the Applicants disclaims the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to the Applicants' claim to the fixtures in dispute.

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

NO PROCEEDINGS AGAINST THE APPLICANTS OR THE PROPERTY

14. **THIS COURT ORDERS** that until and including February 18, 2016, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, except with the written consent of the Applicants and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Applicants or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

15. **THIS COURT ORDERS** that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the

foregoing, collectively being "Persons" and each being a "Person") against or in respect of the Applicants or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of the Applicants and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower the Applicants to carry on any business which the Applicants are not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

16. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Applicants, except with the written consent of the Applicants and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

17. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Applicants or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, credit card services provided by Chase Paymentech Solutions, Inc. or other credit card processors, utility or other services to the Business or the Applicants, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Applicants, and that the Applicants shall be entitled to the continued use of their current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Applicants without having to provide any security deposit or any other security in accordance with normal payment practices of the Applicants or such other practices as may be agreed upon by the supplier or service provider and each of the Applicants and the Monitor, or as may be ordered by this Court.

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NON-DEROGATION OF RIGHTS

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

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

19. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicants with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicants whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicants, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicants or this Court.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

20. **THIS COURT ORDERS** that the Applicants shall indemnify their directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicants after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

21. **THIS COURT ORDERS** that the directors and officers of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "D&O Charge") on the Property, which charge shall not exceed an aggregate amount of $3.1 million, as security for the indemnity provided in paragraph 20 of this Order. The D&O Charge shall have the priority set out in paragraphs 32 and 34 herein.

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

APPOINTMENT OF MONITOR

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

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

(a) monitor the Applicants' receipts and disbursements;

(b) liase with Assistants, to the extent required, with respect to all matters relating to the Property, the Business and such other matters as may be relevant to the proceedings herein;

(c) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;

(d) advise the Applicants in their preparation of the Applicants' cash flow statements;

(e) advise the Applicants in their development of the Plan and any amendments to the Plan;

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(f) assist the Applicants, to the extent required by the Applicants, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;

(g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the Applicants, to the extent that is necessary to adequately assess the Applicants' business and financial affairs or to perform its duties arising under this Order;

assist the Applicants, to the extent required by the Applicants, with their restructuring activities and/or any sale of the Property and the Business or any part thereof;

be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;

hold and administer funds in accordance with arrangements among any of the Applicants, any Person and the Monitor, or by Order of this Court; and

(k) perform such other duties as are required by this Order or by this Court from time to time.

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

26. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the Ontario *Environmental Protection Act*, the *Ontario*

Water Resources Act, or the Ontario *Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

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

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

29. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the Applicants shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to or subsequent to the date of this Order, by the Applicants as part of the costs of these proceedings. The Applicants are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for the Applicants on a weekly basis and, in addition, the Applicants are hereby authorized to pay to the Monitor, counsel to the Monitor, and counsel to the Applicants, retainers in the amounts of $1,000,000 to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

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DATED AT TORONTO THIS 19 DAY OF January 20 16
FAIT À TORONTO LE JOUR DE

REGISTRAR GREFFIER

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

31. **THIS COURT ORDERS** that the Monitor, Canadian and US counsel to the Monitor, and the Applicants' Canadian and US counsel shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of $1,000,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 32 and 34 herein.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

32. **THIS COURT ORDERS** that the priorities of the Administration Charge and the D&O Charge, as among them, shall be as follows:

First – Administration Charge (to the maximum amount of $1,000,000); and

Second – D&O Charge (to the maximum amount of $3,100,000.

33. **THIS COURT ORDERS** that the filing, registration or perfection of the Administration Charge and the D&O Charge (collectively, the "**Charges**") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

34. **THIS COURT ORDERS** that each of the Administration Charge and the D&O Charge (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person that has not been served with notice of this order.

35. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Applicants shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Applicants

also obtain the prior written consent of the Monitor, and the beneficiaries of the Administration Charge or the D&O Charge, as applicable, or further Order of this Court.

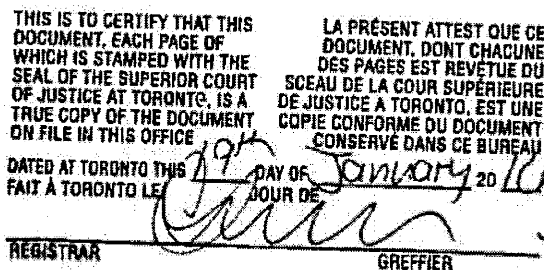
36. **THIS COURT ORDERS** that the Administration Charge and the D&O Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "Chargees") thereunder shall not otherwise be limited or impaired in any way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

(a) the creation of the Charges shall not create or be deemed to constitute a breach by the Applicants of any Agreement to which it is a party;

(b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the creation of the Charges; and

(c) the payments made by the Applicants pursuant to this Order, , and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

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



CHAPTER 15 PROCEEDINGS

38. **THIS COURT ORDERS** that the Monitor is hereby authorized and empowered, but not required, to act as the foreign representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside of Canada including, if deemed advisable by the Monitor, to apply for recognition of these proceedings in the United States pursuant to Chapter 15 of Title 11 of the United States Code, 11 U.S.C. §§ 101- 1532 and to take such other steps as may be authorized by the Court and any ancillary relief in respect thereto.

SERVICE AND NOTICE

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

40. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL 'http://cfcanada.fticonsulting.com/primus'.

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41. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Applicants and the Monitor be at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to the Applicants' creditors or other interested parties at their respective addresses as last shown on the records of the Applicants and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

GENERAL

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

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

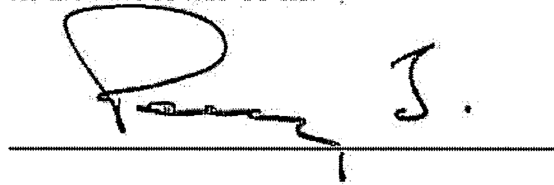
44. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Applicants, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

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

representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

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

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



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REGISTRAR GREFFIER

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

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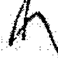

Court File No: CV-16-11257-00CL

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF PT HOLDCO, INC., PRIMUS TELECOMMUNICATIONS CANADA, INC., PTUS, INC., PRIMUS TELECOMMUNICATIONS, INC., AND LINGO, INC.

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

Proceeding commenced at Toronto

INITIAL ORDER

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EXHIBIT B

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	
	)	Chapter 15
PT HOLDCO, INC., *et al.*,[1]	)	
	)	Case No. 16-10131 ( )
Debtors in a Foreign Proceeding.	)	(Joint Administration Requested)
	)	

LIST FILED PURSUANT TO BANKRUPTCY RULE 1007(a)(4)

FTI Consulting Canada Inc. ("FTI" or the "Monitor"), the court-appointed monitor and duly authorized foreign representative for PT Holdco, Inc., PTUS, Inc. Primus Telecommunications, Inc., Lingo, Inc., and Primus Telecommunications Canada Inc. (collectively, the "Debtors") in Canadian insolvency proceedings pending in Ontario, Canada (the "Canadian Proceeding")[2], hereby files this list pursuant to Rule 1007(a)(4) of the Federal Rules of Bankruptcy Procedure and states as follows:

1. **Parties Authorized to Administer Foreign Proceedings of the Debtors:**

   FTI is the court-appointed monitor and duly authorized foreign representative for the Debtors in the Canadian Proceedings pending in Ontario, Canada. The Monitor believes that, other than the Canadian Proceedings and these chapter 15 cases, there are no foreign proceedings pending with respect to any member of the Debtors.

[1] The last four digits of the Employer Identification Number or Canadian Business Number, as appropriate, for each debtor follow in parentheses: PT Holdco, Inc. (3731), PTUS, Inc. (0542), Primus Telecommunications, Inc. (4563), Lingo, Inc. (7778), and Primus Telecommunications Canada, Inc. (5618).

[2] The Monitor was appointed as monitor of the Debtors pursuant to provisions of Canada's Companies' Creditors Arrangement Act (the "CCAA"), R.S.C. 1985, c. C-36, the statute under which the Debtors have been granted relief from creditors. An initial order was entered on January 19, 2016 in the Ontario Superior Court of Justice by the Honourable Mr. Justice Penny, Court File No. CV-16-11257-OOCL, In the Matter of a Plan of Compromise or Arrangement of PT Holdco, Inc., Primus Telecommunications Canada Inc., PTUS, Inc. Primus Telecommunications, Inc., and Lingo, Inc. ("Initial Order").

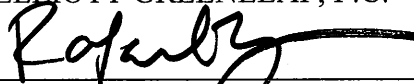
2. **Litigation Parties in the United States**:

The Debtors have investigated the status of litigation with the Debtors and confirmed that no litigation is currently pending in the United States.

3. **Entities Against Whom Provisional Relief is Sought Under 11 U.S.C. § 1519**:
As set forth in the Monitor's Emergency Motion for Temporary Restraining Order, and After Notice and Hearing, a Preliminary Injunction, Pursuant to Bankruptcy Code Sections 105(a), 362, 1507, 1519, and 1521 filed contemporaneously herewith, the administrators seek the general application of sections 362 and 365 of the Bankruptcy Code on a provisional basis.

Dated: January 19, 2016
Wilmington, Delaware

ELLIOTT GREENLEAF, P.C.



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Attorneys for the Monitor

EXHIBIT C

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

In re:	)	
	)	Chapter 15
PT HOLDCO, INC., *et al.*,[1]	)	
	)	Case No. 16-10131 ( )
	)	
Debtors in a Foreign Proceeding.	)	(Joint Administration Requested)
	)	
	)	**Re Docket No. __**

ORDER GRANTING RECOGNITION AND RELATED RELIEF

This matter was brought before the Court by FTI Consulting Canada Inc. ("FTI" or the "Monitor") is the court-appointed monitor and duly authorized foreign representative for PT Holdco, Inc., PTUS, Inc. Primus Telecommunications, Inc., Lingo, Inc., and Primus Telecommunications Canada Inc. (collectively, the "Debtors") in Canadian insolvency proceedings pending in Ontario, Canada (the "Canadian Proceeding").[2]

The Monitor filed Verified Petitions for Recognition of Canadian Insolvency Proceedings and Related Relief on January 19, 2016 (the "Chapter 15 Petitions"), commencing the above-captioned cases under chapter 15 of title 11 of the United States Code (as amended, the "Bankruptcy Code") and seeking the entry of an order recognizing the Canadian Proceeding as a "foreign main proceeding" under section 1517 of the Bankruptcy Code and granting such other relief as is appropriate in the circumstances.

---

[1] The last four digits of the Employer Identification Number or Canadian Business Number, as appropriate, for each debtor follow in parentheses: PT Holdco, Inc. (3731), PTUS, Inc. (0542), Primus Telecommunications, Inc. (4563), Lingo, Inc. (7778), and Primus Telecommunications Canada, Inc. (5618).

[2] The Monitor was appointed as monitor of the Debtors pursuant to provisions of Canada's Companies' Creditors Arrangement Act (the "CCAA"), R.S.C. 1985, c. C-36, the statute under which the Debtors have been granted relief from creditors. An initial order was entered on January 19, 2016 in the Ontario Superior Court of Justice by the Honourable Mr. Justice Penny, Court File No. CV-16-11257-OOCL, In the Matter of a Plan of Compromise or Arrangement of PT Holdco, Inc., Primus Telecommunications Canada Inc., PTUS, Inc. Primus Telecommunications, Inc., and Lingo, Inc. ("Initial Order").

The Court having considered and reviewed the Chapter 15 Petitions and the other pleadings and exhibits submitted by the Monitor in support thereof and due and timely notice of the filing of Chapter 15 Petitions having been given pursuant to Rule 2002(q) of the Federal Rules of Bankruptcy Procedure appropriate under the circumstances; and no objections having been filed to the Chapter 15 Petitions and/or the recognition and related relief granted hereby; and after due deliberation thereon; and due and sufficient cause appearing therefor, the Court finds and concludes as follows:[3]

A. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and section 1501 of the Bankruptcy Code;

B. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2)(P);

C. Venue is proper in this District pursuant to 28 U.S.C. § 1410;

D. The Monitor is a "person" within the meaning of section 101(41) of the Bankruptcy Code and is the duly appointed "foreign representative" of the Debtors within the meaning of section 101(24) of the Bankruptcy Code;

E. The cases were properly commenced pursuant to sections 1504 and 1509 of the Bankruptcy Code, and the Chapter 15 Petitions meet the requirements of sections 1504 and 1515 of the Bankruptcy Code;

F. The Canadian Proceeding is a foreign proceeding within the meaning of section 101(23) of the Bankruptcy Code;

---

[3] Findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as findings of fact when appropriate. See Rule 52 of the Federal Rules of Civil Procedure (the "Federal Rules"), made applicable by Rule 7052 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and Bankruptcy Rule 9014. To the extent any finding of fact shall be determined to be a conclusion of law, it shall be so deemed, and to the extent any conclusion of law shall be determined to be a finding of fact, it shall be so deemed.

G. The Canadian Proceeding is entitled to recognition by this Court pursuant to section 1517 of the Bankruptcy Code;

H. The Canadian Proceeding is pending in Ontario, Canada, where each of the Debtors has its center of main interests within the meaning of section 1502(4) of the Bankruptcy Code, and as such constitutes a "foreign main proceeding" pursuant to section 1502(4) of the Bankruptcy Code and is entitled to recognition as a foreign main proceeding pursuant to section 1517(b)(1) of the Bankruptcy Code;

I. The Debtors are entitled to additional relief pursuant to section 1521(a)(7) and 105(a) of the Bankruptcy Code including the application of section 365 of the Bankruptcy Code in these chapter 15 cases, and all relief afforded foreign main proceedings automatically upon recognition pursuant to section 1520 of the Bankruptcy Code, including, without limitation, sections 362 and 363 of the Bankruptcy Code, and absent such protections, there is a material risk that one or more of their executory contract counterparts may terminate agreements or discontinue performance on the incorrect assumption that they are not bound by any decision made in the Canadian Proceeding and any such termination or nonperformance could impute severe economic consequences on the Debtors; and

J. The relief granted herein is necessary and appropriate, in the interest of the public and international comity, and consistent with the public policy of the United States. NOW, THEREFORE, IT IS HEREBY ORDERED AS FOLLOWS:

1. The Canadian Proceeding shall be and hereby is recognized as a foreign main proceeding pursuant to section 1517(b)(1) of the Bankruptcy Code, and all automatic relief under section 1520 of the Bankruptcy Code shall apply in these cases, including without limitation, sections 362(a) and 363 of the Bankruptcy Code.

2. The Monitor shall be and hereby is recognized as the foreign representative of the Debtors.

3. The following additional relief is granted pursuant to section 1521 of the Bankruptcy Code:

a. The commencement or continuation of any action or proceeding concerning the assets, rights, obligations or liabilities of the Debtors including any action or proceeding against FTI in its capacity as Monitor, to the extent not stayed under section 1520(a) of the Bankruptcy Code, is hereby stayed;

b. Execution against the assets of the Debtors located in the United States, to the extent not stayed under section 1520(a) of the Bankruptcy Code, is hereby stayed;

c. Application of sections 363 and 365 of the Bankruptcy Code in these chapter 15 cases is hereby granted;

d. The right of any person or entity, to transfer or otherwise dispose of any assets of the Debtors located in the United States, to the extent not suspended under section 1520(a) of the Bankruptcy Code, is hereby suspended unless authorized in writing by Order of this Court.

4. The provisional relief provided by this Court's orders entered on __________, 2016 (D.I. __) is hereby extended pursuant to section 1521(a)(6) of the Bankruptcy Code.

5. This Court shall retain exclusive jurisdiction with respect to the enforcement, amendment or modification of this Order, any request for additional relief or any adversary proceeding brought in and through these cases, and any request by an entity for relief from the provisions of this Order, for cause shown, that is properly commenced and within the jurisdiction of this Court.

6. The Canadian Proceeding and the Initial Order, and the transactions consummated or to be consummated thereunder shall be granted comity and given full force and effect in the United States to the same extent that they are given in Canada, and each is binding on all creditors of the Debtors and their successors and assigns.

7. Notwithstanding Bankruptcy Rule 7062, made applicable to these cases by Bankruptcy Rule 1018, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry, and upon its entry, this Order shall become final and appealable.

Dated: January __, 2016

____

HONORABLE
UNITED STATES BANKRUPTCY JUDGE