

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

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

Applicants

**MOTION RECORD
(Returnable February 17, 2016)
(Re Approval of Sale Transaction and Assignment of Agreements et al)**

February 17, 2016

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**ONTARIO
SUPERIOR COURT OF JUSTICE
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PRIMUS TELECOMMUNICATIONS, INC., AND LINGO, INC.

Applicants

**NOTICE OF MOTION
(Returnable February 17, 2016)
(Re Approval of Sale Transaction and Assignment of Agreements)**

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 and PTI, the "**U.S. Primus Entities**", and collectively with Holdco and Primus Canada, the "**Primus Entities**" or the "**Applicants**") will make a motion to the Honourable Justice Penny presiding over the Commercial List on Wednesday, February 17, 2016 at 9:00 a.m. or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING:

The motion is to be heard orally.

THE MOTION IS FOR:

1. An Order, substantially in the form of the draft order located at Tab 3 of the Motion Record (the "**Approval and Vesting Order**"):
 - (a) Approving the Agreement of Purchase and Sale made and entered into as of January 19, 2016 (the "**Birch APA**") between the Primus Entities and Birch Communications Inc. (in such capacity, the "**Purchaser**") for the sale of the

Purchased Assets (as defined below) and the transactions contemplated thereby (the "**Sale Transaction**");

- (b) Approving the actions of the Primus Entities and their advisors, including Origin Merchant Partners ("**Origin**"), and FTI Consulting Canada Inc. ("**FTI**") in developing and implementing the SISP (as defined below) and entering into the Birch APA and any ancillary agreements;
 - (c) Approving the report of FTI in its capacity as proposed monitor and the first report of the Monitor (as defined below) and the activities described therein; and
 - (d) Vesting all of the Purchased Assets in the Purchaser free and clear of any Encumbrances other than Permitted Encumbrances (as such terms are defined in the Birch APA); and
2. An order (the "**Assignment Order**") substantially in the form of the draft order located at Tab 4 of the Motion Record assigning the rights and obligations of the Primus Entities under certain agreements to the Purchaser (as enumerated in Schedule "B" to the Birch APA); and
3. An order substantially in the form of the draft order located at Tab 5 of the Motion Record (the "**Stay and Distribution Order**"):
- (a) Extending the Stay Period (as defined in paragraph 18 of the Initial Order of the Honourable Justice Penny dated January 19, 2016 (the "**Initial Order**")) until September 19, 2016;
 - (b) Authorizing and directing the Monitor to disburse within five (5) business days of the Closing (as defined below) of the Birch APA the amount owing by the Primus Entities to Origin in respect of the engagement letter dated August 7, 2015;
 - (c) Authorizing and directing the Monitor to pay to Bank of Montreal as administrative agent (the "**Agent**") for Bank of Montreal, HSBC Bank Canada and ATB Corporate Financial Service (collectively, the "**Syndicate**") an amount not exceeding the maximum amount of the Syndicate's secured obligations and

subject to certain holdbacks (the “**Holdback**”) in an amount satisfactory to the Monitor or in an amount determined by the Court;

- (d) Authorizing and directing the Monitor to make further distributions to the Agent, if needed, from time to time, up to a maximum amount of the Syndicate’s secured obligations, but subject to the Holdback;
 - (e) Authorizing the Monitor to disburse from the Holdback, from time to time, the amounts owing by the Primus Entities in respect of fees and expenses of the Monitor, the Monitor’s legal counsel and other advisors and of the legal counsel and other advisors to the Primus Entities
 - (f) Authorizing the Monitor to disburse from the Holdback, from time to time, on instruction from the Primus Entities, any amounts owing by the Primus Entities in respect of obligations incurred by the Primus Entities since the commencement of the the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-3 proceedings; and
4. Such other and further relief as this Court deems just.

THE GROUNDS FOR THE MOTION ARE:

- 5. On January 19, 2016, the Primus Entities sought and received protection under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (“**CCAA**”);
- 6. The Primus Entities are insolvent and have been operating under forbearance arrangements with their secured lenders since February 2015;
- 7. The Primus Entities and the Syndicate entered into a support agreement (the “**Support Agreement**”), further to which the Syndicate agreed to forbear on exercising their rights and remedies as creditors and to support the SISF on a going concern basis. The Support Agreement was a product of a meticulous balancing of interests of the Primus Entities’ various stakeholders;

8. The SISP was developed to govern the process by which the Primus Entities would select a purchaser for or investor in their business and/or assets and was designed to broadly solicit potential strategic transactions to ensure that the Primus Entities would be able to select the transaction that would have the most benefit to their stakeholders;

9. The Primus Entities elected to pursue a pre-filing sales process out of concern that, *inter alia*, a prolonged period of CCAA protection necessary to implement a post-filing sales process would have a serious and detrimental impact on the Primus Entities' business and its customers;

10. The Primus Entities' SISP was designed to parallel and correspond to SISPs used and approved in CCAA proceedings. FTI Consulting Canada Inc., in its then capacity of proposed monitor, participated and provided input into the terms and timeline of the SISP;

11. Primus Canada had the right and unfettered discretion under the SISP to reject an offer or other proposal made in connection with the SISP and to amend the SISP milestones at any time by mutual agreement;

12. As a result, the SISP was structured such as to allow the Primus Entities to assess whether a sale transaction would provide the best return for stakeholders absent any obligation to accept any bid;

13. As contemplated in the SISP and following a competitive selection process, Origin was engaged by Primus Canada to act as financial advisor;

14. As a result of the Primus Entities' marketing efforts, the Primus Entities received several proposals for their assets;

15. After extensive negotiations with the various bidders in the process and after deliberations and consultations with their professional advisors and consultation with the Syndicate, the Primus Entities concluded, further to and on the basis of their commercial and business judgement, that the transaction contemplated by the Purchaser was the best offer available in the circumstances;

16. The Primus Entities also concluded that this transaction was preferable to any other available alternative course of action;

17. On January 19, 2016, the Primus Entities and the Purchaser executed and delivered a definitive version of the aforementioned Birch APA, conditional on Court approval by way of the Approval and Vesting Order sought herein;

18. The SISP was deliberately structured to allow the Primus Entities to canvass the widest possible market and assess whether a sale transaction would provide the best return for stakeholders, absent any obligation to accept any bid;

19. The Purchaser and the Primus Entities are not related persons as that term is defined in section 36 of the CCAA;

20. The Syndicate was consulted throughout the SISP and is supportive of the Sale Transaction;

21. The Purchase Price to be paid pursuant to the Birch APA represents the highest realizable price through the sales process. The Sale Transaction represents the best possible transaction in the circumstances for the benefit of the Primus Entities and their stakeholders;

22. The Primus Entities, Origin and FTI acted properly in the development and implementation of the SISP;

23. The Monitor is supportive of the manner in which the SISP was conducted and of the Sale Transaction, being of the view that the SISP was conducted fairly and properly;

24. In light of litigation commenced by an unsuccessful bidder in the SISP with respect to the actions taken by the Primus Entities, FTI and Origin during the course of the SISP, the parties require and request that those actions be approved by the Court.

The Assignment Order

25. The Birch APA identifies the contracts which the Purchaser will assume on or before the closing of the Sale Transaction, being the “**Assumed Contracts**”;

26. A portion of the Assumed Contracts are designated “**Essential Contracts**” by the Purchaser, and their assignment is a condition precedent to closing the Sale Transaction;

27. The Primus Entities have distributed consent agreements to all counterparties of the Essential Contracts and have started communicating directly with these counterparties in an attempt to procure executed consent agreements;

28. Is it is a condition of closing of the APA that all Essential Contracts be assigned by consent or by Court order;

Stay Extension

29. An extension of the Stay Period to September 19, 2016 is necessary to give the Primus Entities sufficient time to finalize their sales process and close the Sale Transaction and complete the transfer of all U.S. assets while providing stability to continue their daily operations and restructuring efforts;

30. The Primus Entities have acted and continue to act in good faith and with due diligence;

31. The provisions of the CCAA, including sections 11.3 and 36, and the inherent and equitable jurisdiction of this Court;

32. Rules 1.04, 1.05, 2.03, 3.02 and 37 of the Rules of Civil Procedure, R.R.O. 1990, Reg. 194, as amended;

33. Section 100 of the Ontario *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended; and

34. Such further grounds as counsel may advise and this Court may see fit.

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

1. The Affidavit of Michael Nowlan, sworn February 2, 2016, and the exhibits attached thereto;

2. The Affidavit of Jim Osler, sworn February 2, 2016, and the exhibits attached thereto;

3. The First Report of the Monitor, to be filed; and
4. Such further and other materials as counsel may advise and this Court may permit.

February 2, 2016

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

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

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

**NOTICE OF MOTION
(RETURNABLE FEBRUARY 17, 2016)**

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TAB 2

Court File No. CV 16-11257-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
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**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
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PTUS, INC., PRIMUS TELECOMMUNICATIONS, INC., AND LINGO, INC.**

Applicants

**AFFIDAVIT OF MICHAEL NOWLAN
(Sworn February 2, 2016)
(Re Approval of Sale Transaction and Assignment of Agreements)**

I, Michael Nowlan, of the Town of Newmarket, in the Province of Ontario,
MAKE OATH AND SAY:

1. I am the Chief Executive Officer and President of the Applicants 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 and PTI, the "**U.S. Primus Entities**", and collectively with Holdco and Primus Canada, the "**Primus Entities**" or the "**Applicants**"). As such, I have knowledge of the matters to which I hereinafter depose, except where otherwise stated. I have also reviewed the records of the Primus Entities and have spoken with certain of the directors, officers and/or employees of the Primus Entities, as necessary, and where I have relied upon such information do verily believe such information to be true.
2. This affidavit is sworn in support of the motion brought by the Primus Entities seeking:

- (a) An order (the “**Approval and Vesting Order**”) substantially in the form of the draft order located at Tab 3 of the Motion Record:
- (i) Approving the Agreement of Purchase and Sale made and entered into as of January 19, 2016 (the “**Birch APA**”) between the Primus Entities and Birch Communications, Inc. (in such capacity, the “**Purchaser**”) for the sale of the Purchased Assets (as defined below) and the transactions contemplated thereby (the “**Sale Transaction**”);
 - (ii) Approving the actions of the Primus Entities and their advisors, including Origin Merchant Partners (“**Origin**”) and FTI Consulting Canada Inc. (“**FTI**”) in developing and implementing the SISP (as defined below) and entering into the Birch APA and any ancillary agreements;
 - (iii) Approving the report of FTI in its capacity as proposed monitor and the first report of the Monitor (as defined below) and the activities described therein; and
 - (iv) Vesting all of the Purchased Assets in the Purchaser free and clear of any Encumbrances other than Permitted Encumbrances (as such terms are defined in the Birch APA);
- (b) An order (the “**Assignment Order**”) substantially in the form of the draft order located at Tab 4 of the Motion Record assigning the rights and obligations of the Primus Entities under certain agreements to the Purchaser (as enumerated in Schedule “B” to the Birch APA);
- (c) An order substantially in the form of the draft order located at Tab 5 of the Motion Record (the “**Stay and Distribution Order**”):

- (i) Extending the Stay Period (as defined in paragraph 18 of the Initial Order of the Honourable Justice Penny dated January 19, 2016 (the “**Initial Order**”)) until September 19, 2016;
- (ii) Authorizing and directing the Monitor to disburse within five (5) business days of the Closing (as defined below) of the Birch APA the amount owing by the Primus Entities to Origin in respect of the engagement letter dated August 7, 2015;
- (iii) Authorizing and directing the Monitor to pay to Bank of Montreal as administrative agent (the “**Agent**”) for Bank of Montreal, HSBC Bank Canada and ATB Corporate Financial Service (collectively, the “**Syndicate**”) an amount not exceeding the maximum amount of the Syndicate’s secured obligations and subject to certain holdbacks (the “**Holdback**”) in an amount satisfactory to the Monitor or in an amount determined by the Court;
- (iv) Authorizing and directing the Monitor to make further distributions to the Agent, if needed, from time to time, up to a maximum amount of the Syndicate’s secured obligations, but subject to the Holdback;
- (v) Authorizing the Monitor to disburse from the Holdback, from time to time, the amounts owing by the Primus Entities in respect of fees and expenses of the Monitor, the Monitor’s legal counsel and other advisors and of the legal counsel and other advisors to the Primus Entities;
- (vi) Authorizing the Monitor to disburse from the Holdback, from time to time, on instruction from the Primus Entities, any amounts owing by the Primus Entities in respect of obligations incurred by

the Primus Entities since the commencement of the the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-3 proceedings; and

(d) Such other relief as the Court may deem appropriate.

A. BACKGROUND

3. The Primus Entities carry on business in Canada and the United States re-selling telecommunications services. Primus Canada offers a wide selection of residential and business telecommunications services including: internet, voice over internet protocol ("**VoIP**"), hosted private branch exchange ("**PBX**"), local phone, long distance phone, pre-paid calling cards, and wholesale long distance capacity to smaller telecommunications service providers. The U.S. Primus Entities provide digital home phone and other telecommunication services to residential and commercial customers.

4. The Primus Entities have been experiencing severe liquidity issues due to, among other things, over-leverage, revenue declines and high capital costs. The Primus Entities are in default under their senior secured credit facilities (the "**Senior Secured Debt**") and have been operating under forbearance arrangements since February 2015.

5. The Primus Entities are insolvent and unable to meet their liabilities as they become due. Unable to successfully restructure their operations or secure replacement financing or investment outside of formal insolvency proceedings, on January 19, 2016, the Primus Entities sought and obtained protection under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") pursuant to the Initial Order.

6. FTI was appointed as monitor of the Primus Entities (the "**Monitor**") in the CCAA proceedings. A copy of the Initial Order is attached hereto as **Exhibit "A"** and a copy of the affidavit sworn by me in support of the Initial Order (the "**Initial**

Order Affidavit") without exhibits is attached hereto as **Exhibit "B"**. These documents, together with all other filings in the CCAA proceedings, are available on the Monitor's website at: <http://cfcanada.fticonsulting.com/primus>.

7. Further details regarding the background to this CCAA proceeding are set out in the Initial Order Affidavit and, unless relevant to the present motion, are not repeated herein.

B. SALES PROCESS¹

Development of the SISP

8. As described in greater detail in the Initial Order Affidavit, Primus Canada and the Syndicate are parties to a secured creditor agreement dated July 31, 2013 (as amended, the "**Credit Agreement**"). The Syndicate has a first-registered security interest over all of the Primus Entities' assets. Primus Canada's obligations under the Credit Agreement are separately and independently guaranteed by each of Holdco, PTUS, PTI and Lingo. The Monitor's counsel conducted a review of the security held by the Agent on behalf of the Syndicate. I understand the results of such review will be set out in the Monitor's first report.

9. The Primus Entities have been in default under the Credit Agreement since late 2014 (the "**Credit Agreement Defaults**") and have been operating under forbearance arrangements with the Syndicate since February 2015. The Primus Entities have also been in default in respect of their obligations to Manufacturers Life Insurance Company ("**Manulife**") and BMO Capital Partners ("**BMOCP**" and together with Manulife, the "**Subordinate Lenders**") since late 2014, which obligations are fully subordinated to the prior repayment in full of all obligations

¹ Capitalized terms used in this section but not defined shall have the meaning attributed to them in the Support Agreement or the SISP.

owing to the Syndicate and the security of the Syndicate under the Credit Agreement.

10. As a result of the Credit Agreement Defaults and the Primus Entities' ongoing financial difficulties and liquidity issues the Primus Entities developed financial models to forecast restructuring options for their business. Each of the models required considerable additional capital, exposed an inability to service the Senior Secured Debt and highlighted that there would be limited free cash flow from operations. All plans were uncertain given the current environment and could not be assured to generate sufficient cash flow from operations to meet obligations under the Credit Agreements.

11. As a result of these and other concerns, it was determined that the best course of action would be to restructure the Primus Entities by a sale of, or investment in, their businesses identified through a privately structured and supervised pre-filing sales and investor solicitation process. The development and execution of this process was one of the conditions of the Syndicate's continued forbearance.

12. The Primus Entities elected to pursue a pre-filing sales process out of concern that, *inter alia*, an extensive period of CCAA protection necessary to implement a post-filing sales process would have a serious and detrimental impact on the Primus Entities' business and their customers. As detailed in paragraphs 25, 32, 38 to 39, 47 and 130 of the Initial Order Affidavit, the Primus Entities' customer base is made up of mostly residential and small- to medium-sized businesses which the Primus Entities feared would seek to switch providers in an extended post-filing sale process.

13. The Primus Entities believe that the approval of the Birch APA is a matter of urgency to the business and the Primus stakeholders, including its employees, customers and suppliers.

14. Following extensive and careful arms-length negotiations commencing in July 2015, Primus Canada entered into a support agreement with the Syndicate dated August 31, 2015 (the “**Support Agreement**”) pursuant to which the Syndicate agreed to support a sales and investor solicitation process (the “**SISP**”) to allow the business to be sold on a going concern basis. A going concern sale was important to all stakeholders involved given that the assets have nominal value on a liquidation basis if operations cease.

15. The timeline contemplated under the Support Agreement was as follows:

	Deadline
Commence marketing to prospective financiers, investors and/or purchasers (together, with others expressing a similar interest, the potential “ Interested Parties ”)	September 1, 2015
Be in receipt of one or more non-binding letters of intent	October 1, 2015
Be in receipt of one or more Bids (which is defined as a comprehensive, final and binding proposal)	November 16, 2015 ²
Enter into a binding agreement(s) with the “ Successful Bidder(s) ” (a bidder whose Bid was, ultimately, accepted and with whom the Primus Entities seeks to consummate a transaction)	December 14, 2015
Close all agreements and transactions with the Successful Bidder(s)	December 31, 2015

16. The Support Agreement was the product of a meticulous balancing of interests of the 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

² Originally, the deadline to receive final Bids was November 2, 2015. This deadline was extended pursuant to the First Amending Agreement to permit potential Bidders additional time to conduct their due diligence and finalize their offers to reach an executable transaction. The subsequent deadlines were amended accordingly.

and the Primus Entities' other stakeholders if the SISP did not, ultimately, result in any restructuring transaction(s).

17. The essential terms of the Support Agreement are as follows. The Syndicate covenanted, among other things: (i) to forbear from exercising their rights and remedies as creditors notwithstanding the Credit Agreement Defaults; (ii) not to take any action to frustrate the consummation of any potential SISP transactions; and (iii) to support the court approval of any SISP transaction(s) as promptly as practically possible (if the transaction was acceptable to the Syndicate, acting reasonably). In return, Primus Canada would: (i) adhere to certain monitoring and reporting obligations; (ii) follow a predetermined business plan; and (iii) adhere to a specific timeline for implementing the SISP.

18. 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 with a view to securing the best available strategic alternative for the Primus Entities.

19. It was also understood that the milestones and procedures set out in the SISP could be amended at any time by mutual agreement between the Primus Entities and the Syndicate 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.

The SISP

20. The SISP was developed to govern the process by which the Primus Entities would select a purchaser for or investor in their business and/or assets, including by creating a SISP timeline, bidding procedures and selection criteria for each stage of the SISP. To that end, the SISP was designed to broadly solicit potential strategic

transactions to ensure that the Primus Entities would be able to select the transaction that would have the most benefit to their stakeholders.

21. The SISP was designed to parallel and correspond to sales processes used and approved in other CCAA proceedings. FTI, which was intended to be the monitor in the event of a CCAA proceeding, participated and provided input into the terms and timeline of the SISP.

22. A copy of the SISP, as amended by an amending agreement dated October 30, 2015 to the Support Agreement (the "**First Amending Agreement**"), is attached hereto as **Exhibit "C"**.

23. Pursuant to section 23 of the SISP, the Primus Entities reserved their right to amend or modify the SISP procedures.

24. The SISP established a set of criteria for a bidder to be a Qualified Bidder (as defined in the SISP) and a set of criteria which had to be met for a Qualified Bidder to have submitted a Qualified Bid (subject to the Applicants' ability to waive or modify requirements as set out below). This criteria, as set out in section 11 of the SISP, included:

- (a) a period of irrevocability;
- (b) a term sheet (for an investment proposal) or an asset purchase agreement (for a sale proposal) detailing the proposed transaction;
- (c) proof of financial resources sufficient to consummate the proposed transaction and perform future obligations;
- (d) no request for a break or termination-type fee;
- (e) payment of a refundable deposit; and

- (f) no due diligence or financing conditions.
25. Pursuant to section 13 of the SISP, the Primus Entities would evaluate the Bids (as defined in the SISP) on various grounds, including the purchase price or imputed value of the transaction, the treatment of creditors, ease of closing and any other delay or risk associated with a Bid.
26. Following evaluation of the Bids, the Primus Entities could:
- (a) accept one or more of the Bids (each Bid becoming a “**Successful Bid**” and each Qualified Bidder becoming a “**Successful Bidder**”) and take such steps as necessary to close the transaction;
 - (b) continue negotiation with select Qualified Bidders (each collectively a “**Selected Bidder**”) with a view toward negotiating more acceptable terms with one or more of the Qualified Bidders; or
 - (c) pursue an auction in accordance with the procedure set out in Appendix “B” to the SISP (an “**Auction**”).
27. The Primus Entities had the right and unfettered discretion under the SISP to reject an offer or other proposal made in connection with the SISP and to terminate the SISP at any time. As a result, the SISP was structured to allow the Primus Entities to assess whether a sale transaction would provide the best return for stakeholders without any obligation to accept any Bid.
28. The SISP also expressly contemplated that the Primus Entities would negotiate with more than one party at the same time in furtherance of securing the best transaction and maximizing value for their stakeholders.
29. Section 24 of the SISP provides that the SISP procedures do not, and will not be interpreted to, create any contractual or other legal relationship between Primus Canada or its advisors and any Qualified Bidder, other than, with respect to Primus

Canada, as specifically set forth in a definitive agreement executed by Primus Canada.

Implementation of the SISP

30. As contemplated in the SISP and following a competitive selection process, Origin was engaged by Primus Canada to act as financial advisor pursuant to an engagement letter dated August 7, 2015 (the “**Engagement Letter**”).

31. Origin and the Primus Entities, in consultation with FTI, developed a list of qualified, potentially interested parties comprised of strategic buyers and financial buyers, and including private equity firms and hedge funds, some of whom have existing investments in this industry.

32. By September 23, 2015, Origin had distributed 75 teaser documents and had made phone calls to 79 potential Bidders (comprised of 34 strategic parties and 45 financial sponsors). Of the 75 parties which were in receipt of teaser documents, 25 executed NDAs in order to receive confidential information memoranda prepared by the Primus Entities with assistance from their advisors.

33. In support of the initial marketing and solicitation process, the Primus Entities offered in-depth management presentations as to, among other things, their business and assets. In total, 27 potential parties participated in active discussions with respect to the SISP, which culminated in 10 in-depth management meetings.

34. The parties (including Comwave Networks Inc. (“**Comwave**”)³, which has issued a Statement of Claim following the granting of the stay of proceedings regarding the SISP, as set out below) were informed of the SISP and procedures by

³ Comwave is a competitor of the Primus Entities in Canada and similarly resells residential and commercial telecommunication services, which services includes, among other things, VoIP, home phone services, small business phone lines, high-speed internet, and H-PBX.

Origin by way of a Phase I process letter ("**Phase I Letter**") dated September 22, 2015, a form of which is attached as **Exhibit "D"**.

35. The Phase I Letter also notified all potentially interested parties that Origin and the Primus Entities would evaluate the various proposals received with the objectives of realizing the highest value, ensuring certainty of execution, ensuring appropriate treatment of stakeholders, and consummating a sale transaction on an expedited timeline. The Phase I Letter further advised that, using these criteria, a select group of qualifying parties would be invited to participate in Phase II of the SISP (which phase would include access to an online data room comprising more detailed financial and operating information regarding the Primus Entities).

36. As a result of the foregoing marketing efforts, between September 29 and October 7, 2015, six parties (including the Purchaser) submitted non-binding letters of intent ("**Phase I LOIs**"). Four Phase I LOIs contemplated acquiring only the Canadian business and assets of the Primus Entities, one Phase I LOI contemplated acquiring all of the business and assets of the Primus Entities, and one Phase I LOI contemplated acquiring only the business and assets of the U.S. Primus Entities. On October 20, 2015, an additional party submitted a Phase I LOI for substantially all of the business of Primus Canada.

37. The Primus Entities reviewed the Phase I LOIs with the assistance of their professional advisors and in consultation with FTI, using the criteria set out in the SISP, described above.

38. All Phase I Bidders were given preliminary feedback on their Phase I LOIs to encourage them to improve their Bids in terms of both value and certainty of closure. One Bidder indicated that it could not improve its proposal and additional diligence would not change this. Based on the Bidder's then proposed purchase price, it was not invited to participate in Phase II.

39. All other bidders that submitted Phase I LOIs were invited to participate in Phase II of the SISP.

40. On October 8, 2015, Origin distributed a Phase II process letter (the “**Phase II Letter**”) outlining the timeline and expectations for final proposals to the parties selected to participate in Phase II (including Comwave and the Purchaser). On October 22, 2015, Origin distributed a Phase II process letter to the party that submitted a Phase I LOI on October 20, 2015. A copy of the Phase II Letter is attached hereto as **Exhibit “E”**.

41. Similar to the Phase I Letter, the Phase II Letter reminded all parties that the Primus Entities and Origin reserved the right to, among other things, at any time and without notice or reasons: (i) amend or terminate the SISP; (ii) decline to permit any interested party to participate in the SISP; (iii) simultaneously negotiate with any or all parties to expeditiously enter into a transaction; (iv) terminate discussions with any or all interested parties; (v) reject any or all offers; (vi) accept an offer other than the highest offer; or (vii) pursue other value maximizing alternatives. All Phase II Bidders, by their participation in the process, accepted these terms.

42. The Phase II Letter emphasized that: (i) the Primus Entities would have complete discretion for all decisions regarding all aspects of Phase II; and (ii) Origin and the Primus Entities would evaluate offers as efficiently as possible, following which they would negotiate and execute definitive documents as quickly as reasonably possible.

43. The Phase II Letter also provided:

Neither the Company nor Origin shall have any obligation arising from the receipt of any Definitive Proposal, rejection of any interested or prospective buyer, or the process of assessing any Definitive Proposal. Any such obligation will arise only upon the Company’s execution of a definitive purchase agreement, shall be

limited to those specific obligations set forth in such definitive purchase agreement, and may remain subject to Court approval.

44. On October 27, 2015, Origin circulated a copy of the SISP and a Template Purchase Agreement (as defined in the SISP) to all bidders selected for Phase II participation.

45. Phase II of the SISP provided additional due diligence and data room access to the bidders aimed at completion of bidding documentation for a superior offer and the prospect of additional meetings with the management. Among other things, the Primus Entities provided financial forecasts and an electronic data room consisting of financial and legal documents, the confidential information memorandum and other relevant due diligence materials.

46. The Primus Entities and Origin held numerous discussions after the Phase I deadline and before the Phase II deadline with the bidders selected for Phase II participation to respond to their due diligence enquiries and encourage them to improve their bids and maximize value for the Primus Entities' stakeholders.

Evaluating Competing Bids and Determining the Successful Bidder

47. On November 16, 2015:

- Comwave submitted a proposal, including a mark-up to the Template Purchase Agreement and deposit, with respect to all or substantially all of the Primus Entities' businesses and operations;
- one party submitted a proposal, including a mark-up to the Template Purchase Agreement and deposit, with respect to all or substantially all of Primus Canada's businesses and operations;

- one party submitted a proposal, including a mark-up to the Template Purchase Agreement, with respect to the U.S. assets only (the “**U.S. Proposed Purchaser**”);
- the Purchaser submitted a detailed term sheet with respect to the Canadian assets only; and
- one party requested an extension of the deadline to submit its bid.

48. On November 18, 2015, an additional party submitted a proposal with a mark-up of the Template Purchase Agreement with respect of all or substantially all of Primus Canada’s Canadian business and operations.

49. The Primus Entities engaged in discussions and negotiations with this party over the next two weeks; however, this Bidder refused to provide any evidence of financing and refused to proceed with its due diligence absent exclusivity arrangements. In the absence of any evidence of financing to warrant granting this Bidder exclusivity at the cost of pursuing the other potentially viable offers, the Primus Entities were unable to grant this Bidder exclusivity and discussions with it ceased.

50. None of the proposals received at this stage of the sales process were executable or actionable in the forms submitted. In particular, Comwave’s mark-up of the Template Purchase Agreement was incomplete in a number of material respects and did not contain detailed schedules which formed an integral part of the asset purchase agreement and informed the value being offered by Comwave.

51. The Primus Entities reviewed the proposals received from interested parties in consultation with their professional advisors and FTI. As contemplated under the SISP and as previously conveyed to all Bidders by, among other things, the Phase II Letter, over the next several weeks the Primus Entities engaged in intensive discussions simultaneously with five of the interested parties (including

Comwave and the Purchaser) in order to clarify and/or improve certain terms of the proposals.

52. On or about November 18, 2015, Origin engaged in a discussion with Comwave to clarify and/or improve certain terms of its proposal. Comwave advised Origin that Comwave had not ascribed a material value to the U.S. Primus Entities which accounts for approximately 12% of the Primus Entities' gross revenue. In addition, Comwave did not appear to possess, nor could it promptly acquire, the relevant U.S. telecommunications licenses required to complete the U.S. part of the transaction expeditiously.

53. Accordingly, Origin asked Comwave to consider a proposal involving only the Canadian assets of the Primus Entities with no adjustment to its price as this could improve the attractiveness of Comwave's proposal if it were combined with another proposal or proposals for the U.S. assets.

54. On or about November 20, 2015, Comwave advised Origin that Comwave would be willing to limit Comwave's proposal to substantially all of the Canadian business and operations and not the U.S. assets with no adjustment to the purchase price. This allowed the opportunity for the Primus Entities to pursue an agreement with another party for the purchase of all of the Primus Entities' U.S. assets, and increase the value for the Primus Entities' stakeholders. As a result, the Primus Entities continued their discussions with the U.S. Proposed Purchaser.

55. On November 25, 2015, the U.S. Proposed Purchaser advised Origin that it would only be able to complete a transaction involving the assets of the U.S. Primus Entities owned by Lingo (the "**Lingo Assets**") because the U.S. Proposed Purchaser did not have the relevant U.S. telecommunications licenses required to complete expeditiously a purchase of the assets owned by the other U.S. Primus Entities (the "**U.S. Regulated Assets**"). The Lingo Assets accounted for approximately 50% of the U.S. Primus Entities' gross revenues and the U.S. Proposed Purchaser offered to

submit a revised proposal for the Lingo Assets only with a reduction to its proposed purchase price to reflect the removal of the U.S. Regulated Assets.

56. Proceeding with the U.S. Proposed Purchaser's proposal along with Comwave's proposal would strand the U.S. Regulated Assets, which require government approval to be transferred in almost all of the U.S. states and Puerto Rico. This would require the Primus Entities' either to continue to carry on business in order to sell these assets or simply wind up that part of the business. This created additional closing and implementation risks and costs.

57. Origin advised the U.S. Proposed Purchaser that excluding the U.S. Regulated Assets reduced the attractiveness of its proposal, and the U.S. Proposed Purchaser committed to attempting to find a third party to acquire the U.S. Regulated Assets.

58. As discussions continued with the various parties, the proposed combination of Comwave and the U.S. Proposed Purchaser emerged as potentially having the highest value, but involved far more closing complexity and risks.

59. During this time, however, as contemplated under the SISP and as previously conveyed to all Bidders by, among other things, both the Phase I Letter and the Phase II Letter, the Primus Entities continued their discussions with other Bidders that had submitted proposals during Phase II of the SISP, including the Purchaser.

60. During a meeting held on December 3, 2015 at the offices of Stikeman Elliott LLP, counsel to the Primus Entities, involving representatives and advisors of Comwave, the Primus Entities, Origin and FTI, counsel for the Primus Entities requested that Comwave agree to participate in an auction to be conducted by the Primus Entities as contemplated by the SISP due to the proposals submitted by other Bidders in the SISP. Yuval Barzakay, president of Comwave, advised that

Comwave would not participate in any auction held by the Primus Entities and would withdraw its proposal if the Primus Entities held any such auction. At that meeting and in the context of the discussions regarding the potential auction, it was confirmed to Comwave by counsel for the Primus Entities and FTI that the Primus Entities continued to be in discussions with other interested parties.

61. On December 4, 2015, the U.S. Proposed Purchaser advised the Primus Entities that it had identified a prospective purchaser for the U.S. Regulated Assets (the “**U.S. Regulated Assets Purchaser**”), which received data room access and, on December 4, 2015, engaged in discussions with the Primus Entities in order to finalize a proposal.⁴

62. At this time, as contemplated under the SISP, the Primus Entities continued active discussions and negotiations with four Bidders, being Comwave, the Purchaser, the U.S. Proposed Purchaser, and the U.S. Regulated Assets Purchaser.

63. Discussions and negotiations with Comwave continued to be the most advanced relative to all other bidders. However, significant work remained to finalize the schedules to the asset purchase agreement which formed an integral part of the agreement.

64. To that end, I and Bob Nice, Primus Canada’s chief financial officer, met with representatives of Comwave on December 7, 2015 to work with Comwave on its numerous outstanding contract and diligence questions. We provided responses to all of their questions on December 8, 2015.

65. On or about December 9, 2015, the Primus Entities and Comwave commenced discussions about granting exclusivity to Comwave. Over the next week, the Primus Entities and Comwave began to discuss and negotiate the terms

⁴ The U.S. Proposed Purchaser had previously introduced a potential third party purchaser on November 30, 2015, but that party withdrew prior to December 4, 2015 without discussions materially advancing.

of an exclusivity agreement. This exclusivity agreement, which was never entered into, was contemplated to provide that, once a final asset purchase agreement was settled between the parties and executed by Comwave and capable of being accepted by the Primus Entities, the Primus Entities would terminate any existing sale discussions with any other party and would not solicit or otherwise commence sale discussions with any other third party regarding the sale of all or any of the Purchased Assets, during the time which such executed asset purchase agreement remained open for acceptance by the Primus Entities. The Primus Entities advised Comwave that they would not grant exclusivity nor would they execute the exclusivity agreement unless and until they had received Comwave's executed asset purchase agreement, complete with the schedules which formed an integral part of such agreement.

66. Also on December 9, 2015, I, Mr. Nice, and Origin attended a meeting with representatives of Birch in Atlanta, Georgia to discuss terms of its proposal, in particular to encourage Birch to include the assets of the U.S. Primus Entities in the proposal. As a result of our discussions, Birch recognized that there was a meaningful overlap between the operations of all of the U.S. Primus Entities and Birch's existing operations in the U.S. At our meeting on December 9, 2015 and following same, I encouraged Birch to complete its diligence as quickly as possible to finalize its proposal.

67. On December 9, 2015, Comwave advised that it would withdraw its proposal unless the Primus Entities and Comwave entered into an asset purchase agreement or exclusivity arrangements by December 11, 2015. Attached hereto as **Exhibit "F"** is the email of Mr. Barzakay dated December 9, 2015. Comwave subsequently extended the deadline on several occasions.

68. In addition, the U.S. Regulated Assets Purchaser (which was complementary to the sale to Comwave) did not submit a non-binding letter of intent until

December 14, 2015. As this was a critical aspect of the deal being contemplated with Comwave, the Primus Entities expeditiously reviewed the proposal and commenced discussions with the U.S. Regulated Assets Purchaser.

69. Between December 15 and December 17, 2015, the U.S. Regulated Asset Purchaser completed additional due diligence focused primarily on customer concentration.

70. On December 16, 2015, the Purchaser submitted a revised comprehensive proposal and asset purchase agreement for substantially all of the Primus Entities' business and operations, including the U.S. assets.

71. The Primus Entities reviewed the proposal received from the Purchaser in consultation with their professional advisors and FTI. Over the next several days, the Primus Entities engaged in intensive discussions with the Purchaser in order to clarify and/or improve certain terms of the proposal.

72. As at December 17, 2015, the boards of the Primus Entities had not yet approved the proposed grant of exclusivity to Comwave in light of the existence of competing offers and certainly had not approved Comwave's proposed transaction.

73. On December 18, 2015, the U.S. Regulated Asset Purchaser advised Origin that it would need to revise its proposal with a reduction to its proposed purchase price.

74. Also on December 18, 2015, Mr. Barzakay advised me by email that Comwave's proposal would be withdrawn by 6 p.m. on December 19, 2015 unless the exclusivity agreement was entered into between Comwave and the Primus Entities. Attached hereto as **Exhibit "G"** is a copy of the email.

75. Following consultation with their professional advisors and FTI, the board of directors of Primus Canada determined that it was not in the best interests of the

Primus Entities to accept the Comwave proposal before the deadline set out by Comwave. Among other things, the board considered the following factors:

- (a) The Purchaser's proposal offered the higher purchase price (after accounting for the nature of the consideration and the various and necessary adjustments incorporated into the respective asset purchase agreements). Comwave's proposal, even with the separate transactions for the U.S. assets, was never a more competitive overall deal than the Purchaser's proposal.
- (b) Comwave's bid was for only the assets and business of Primus Canada and in order to sell the U.S. business would require two additional purchasers, two separate transactions and two approval processes. A transition services agreement would be required until a transaction with respect to the U.S. Primus Entities could be completed. While a proposal had been received for a transaction involving the Lingo Assets, that Bidder was much further behind in the process. While a non-binding letter of intent was received with respect to a transaction involving the U.S. Regulated Assets, that Bidder was even further behind in the process. Therefore Comwave's bid would have required three separate purchase agreements and closing processes. Also, we perceived closing risk with respect to the U.S. Regulated Assets. The Purchaser's proposal, on the other hand, presented a superior process and more efficient process for the disposition of the Property and Business of the U.S. Primus Entities to one Bidder (by acquiring them directly and without the need for a complicated transition services agreement and multiple agreements and closing processes). The Primus Entities were significantly concerned about the additional expense that would be incurred as a result of transacting with two other purchasers for the U.S. assets after consummating a transaction for Primus Canada (including but not limited to having to put

in place a transition services agreement). The Primus Entities also realized that two purchasers significantly increased the closing risk for the U.S. transactions.

- (c) The Purchaser's proposal would result in a more beneficial outcome for the Primus Entities' employees as the Purchaser's proposal contemplated the retention of a significant portion of the Primus Entities' current employees, in contrast to Comwave's bid, which contemplated the termination of over 220 employees.

76. The Primus Entities also informed the Syndicate of Comwave's ultimatum and that the Primus Entities would not be granting exclusivity to Comwave before the deadline set by Comwave which could result in Comwave withdrawing its proposal.

77. Accordingly, by email dated December 19, 2015, I advised Mr. Barzakay that the Primus Entities would not be accepting Comwave's offer before Comwave's deadline. A copy of the email is attached hereto as **Exhibit "H"**.

78. By email dated December 20, 2015, Ari Jakobson, counsel for Comwave, requested Primus to pay Comwave's fees in the amount of \$300,000 in exchange for Comwave leaving its proposal in place until December 31, 2015 while the parties continued to negotiate in good faith and pending board approval of the transaction, failing which Mr. Jakobson requested that the escrow agent return Comwave's deposit. A copy of the email as forwarded to me is attached as **Exhibit "I"**.

79. The Primus Entities determined in their business judgment that there would be no advantage to the sales process or to their stakeholders to agree to pay Comwave's fees and therefore rejected the proposal. Comwave's deposit was returned on December 23, 2015.

80. On December 21, 2015, the Primus Entities received confirmation from FTI that the Purchaser's deposit had been received pursuant to an Escrow Agreement dated December 18, 2015 with the Purchaser and FTI (in this capacity, the "**Escrow Agent**") (a copy of which is attached hereto as **Exhibit "J"**).

81. The Primus Entities continued their negotiations with the Purchaser. On December 22, 2015, after extensive deliberations and consultations with their professional advisors, FTI and the Syndicate, the Primus Entities concluded, further to and on the basis of their commercial and business judgment, that it was in the best interests of the Primus Entities in the circumstances to pursue the transaction proposed by the Purchaser. Accordingly, the parties entered into an exclusivity letter agreement with the Purchaser in contemplation of entering into a definitive asset purchase agreement on or before January 8, 2016 or at such later date as the parties may agree in writing. The exclusivity letter agreement and the amendments thereto extending the exclusivity period, attached collectively as **Exhibit "K"** hereto, were a condition precedent to the Purchaser pursuing the sale transaction contemplated in the Birch APA.

82. On January 18, 2016, the boards of directors of the Primus Entities selected the Purchaser as the Successful Bidder and approved the execution of the Birch APA. Accordingly, on January 19, 2016, the Primus Entities and the Purchaser executed and delivered a definitive version of the Birch APA, conditional on Court approval by way of the Approval and Vesting Order sought herein. Attached as **Exhibit "L"** hereto is a copy of the Birch APA. Some of the essential terms of the Birch APA and the associated sale transaction are summarized below.

83. At all times, the Primus Entities maintained and kept entirely confidential the terms of all of the proposals submitted in the SISF, including the proposals submitted by Comwave and the Purchaser, including, without limitation, the

proposed purchase prices, and did not disclose them to any party except for the professional advisors to the Primus Entities, FTI and the Syndicate.

C. THE SALE TRANSACTION⁵

The Purchased Assets

84. The Purchaser will acquire substantially all of the business, assets and operations of the operating companies of the Primus Entities (i.e., Primus Canada, PTI, and Lingo, collectively the “**Vendors**”), including principally all of their patents, patent applications, trademarks and domains (“**Purchased Assets**” and “**Purchased Intellectual Property**” as set out in Schedule “A” and “H” to the Birch APA, respectively) on an “as is, where as” basis free and clear of all Encumbrances as provided in the Approval and Vesting Order sought herein. The Purchased Assets include:

- (a) all movable property, leasehold improvements and equipment, furniture, fixtures, computer hardware network equipment, inventory and other fixed assets;
- (b) all inventory used in the carrying on of the Business;
- (c) the benefit of the Assumed Contracts;
- (d) all Accounts Receivable and Unbilled Revenue⁶;
- (e) all Purchased Intellectual Property;
- (f) all customer and billing services accounts and the relationship associated therewith⁷;

⁵ Capitalized terms used herein but not otherwise defined shall have the meaning attributed to them in the APA.

⁶ Including all cheques and other forms of customer payments received by any Vendor following Closing.

⁷ Including all contracts and other rights to provide services to such customers, customer guarantees, customer notes, security agreements, financing statements under applicable personal property security legislation, customer deposits or collateral, filings or property securing customer obligations.

- (g) all government licenses, approvals, permits or similar used in connection with the Business;
- (h) all goodwill associated with the Business or the Purchased Assets, including the right to carry on the Business;
- (i) all rights, claims, credits, causes of action or rights of set off against third parties relating to the Purchased Assets; and
- (j) any assignable or transferrable license, permit, or other authorisation issued by a government agency and necessary for the Purchaser to operate the Business after Closing.

The Excluded Assets

85. As set out in section 1.1 and Schedule "D" to the Birch APA, the Purchased Assets will not include: the Excluded Contracts (as the term is defined in the APA), all Benefit Plans and Employee Plans (as each term is defined in the APA), all cash and cash equivalents of the Vendors, any shares and other securities owned by the Vendors or any deposits paid or other security posted by Vendors or amounts set off or held back from the Vendors in respect of goods or services to be supplied after the CCAA Proceedings have commenced (the "**Excluded Assets**").

The Purchase Price

86. The aggregate purchase price ("**Purchase Price**") payable to the Vendors is calculated on the basis of the Purchase Price formula set out further to section 3.7 of the Birch APA, consisting of the following:

- (a) The Base Purchase Price of \$44 million (as adjusted in accordance with the formula set out therein);
- (b) Less the Cure Costs; and

- (c) Less all amounts payable that do not constitute Cure Costs in respect of "Essential Contracts" provided in the period prior to or until the Closing Time.

87. The Purchase Price will be allocated to the Vendors and the Purchased Assets in a manner to be mutually agreed upon by the parties prior to Closing (as specified in Schedule "F").

Termination Right

88. 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 may 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 favour of the Purchaser), subject to court approval.

Employees

89. The Vendors employ approximately 540 people as of the date of this affidavit. The Purchaser may, in its sole discretion, offer employment to any or all active and inactive employees of the Vendors (collectively, the "**Transferred Employees**") conditional on Closing the Sale Transaction and effective as of the time of Closing on or before the date the Vesting and Approval order is obtained.

90. If the Purchaser elects to offer employment to any Transferred Employees, then its financial obligations with respect to those employees will be governed by section 4.3 of the Birch APA (including liability for salary, wages, bonuses, commissions and other compensation, vacation pay and damages for wrongful dismissal). The Purchaser has advised that it intends to offer employment to all or substantially all of the employees of the Primus Entities. This is in contrast to the

220 employees who would have been terminated if Comwave had been the Successful Bidder.

Assumed and Excluded Obligations and Liabilities

91. The Purchaser will assume, perform, discharge and pay the following obligations and liabilities of the Vendors ("**Assumed Obligations**") set out in section 2.6 of the Birch APA, including but not limited to:

- (a) all debts, liabilities and obligations under the Assumed Contracts (to the extent assigned or transferred to the Purchaser on Closing and in respect of "**Assumed Contracts**" for services, only those debts, liabilities and obligations for services performed from and after the Closing Time) for the period from and after the Closing Time, in each case provided that such debts, obligations or liabilities are not arising from, due to or attributable to
 - (i) any default existing or breach (with or without the giving of notice, the lapse of time, or both) by any Vendor occurring prior to or as a consequence of Closing, or
 - (ii) any default, breach or violation of any Vendor of any term or condition of the Birch APA;
- (b) all debts, liabilities and obligations under customer deposits and Customer Prepayments;
- (c) all debts, liabilities and obligations for which the Purchaser is responsible pursuant to Section 4.3 (Transferred Employees);
- (d) all Cure Costs; and

- (e) all debts, liabilities and obligations arising from ownership and use of the Purchased Assets for the period from and after the Closing Time that are not Excluded Obligations.

92. The Purchaser will not assume, perform, discharge and pay the following obligations of the Vendors ("**Excluded Obligations**") set out in section 2.7:

- (a) all legal, accounting, broker other professional fees, costs and expenses incurred by the Vendors in connection with the CCAA Proceedings or the transactions contemplated by the Birch APA;
- (b) all debts, liabilities, obligations or Claims related to any Benefit Plans or Employee Plans (including in respect of the Transferred Employees);
- (c) all debts, liabilities, obligations or Claims related to Employees (other than Transferred Employees pursuant to Section 4.3 only) or former employees;
- (d) all debts, liabilities and obligations related to any Purchased Asset arising out of or related to the period prior to the Closing Time;
- (e) all debts, liabilities and obligations relating to any Excluded Asset;
- (f) all obligations and liabilities owing by any Vendor to any Affiliate thereof;
- (g) all liabilities and obligations of any Vendor arising out of any proceeding:
 - (i) pending against any Vendor or the Business as of the Closing Date;
or
 - (ii) commenced against any Vendor after the Closing Date to the extent such liability or obligation arises or results from the Vendors' ownership or operation of the Purchased Assets and the Business prior to the Closing Date;

- (h) all obligations and liabilities for prepayments and deposits for non-active customers in the U.S.;
- (i) all debts, liabilities and obligations for or related to any obligation for any taxes that are not expressly assumed by the Purchaser pursuant to Section 2.6 or Section 3.6;
- (j) all taxes imposed on or relating to the Purchased Assets that are attributable to any pre-Closing tax period whether or not any such period ends on or before the Closing Date (other than any Transfer Taxes); and
- (k) without duplication, all debts, liabilities and obligations of the Vendors arising under the Birch APA.

Contracts

93. The Birch APA identifies contracts which the Purchaser will assume on or before the Closing of the Sale Transaction ("**Assumed Contracts**"). The full list of Assumed Contracts is to be mutually agreed upon by the parties prior to the granting of the Approval and Vesting Order sought herein. The Birch APA also identifies approximately 300 "**Essential Contracts**", which are defined and discussed in greater detail in Section "F" of this Affidavit, below.

Closing Date

94. The Birch APA provides that the Sale Transaction will close (i) five Business Days after the date upon which the Approval and Vesting Order is granted and is final, not stayed or varied in a manner prejudicial to the Purchaser, or vacated or appealed, unless the Purchaser has provided written consent that Closing occur despite such appeal; or (ii) on such other earlier or later date as may be agreed by the Vendors and the Purchaser.

95. Due to regulatory restrictions in the United States, certain Regulated Customer Relationships cannot be transferred to the Purchaser until approval is granted by the Federal Communications Commission and the relevant State regulator applicable for each Regulated Customer Relationship. It is not anticipated all regulatory approvals will be received prior to Closing. Accordingly, the Birch APA contemplates a holdback of the Purchase Price of \$2.5 million which will initially be held in escrow by the Monitor and periodically released from escrow as the requisite regulatory approvals are obtained. A total 6 month post-Closing period is contemplated to facilitate this process; however, it is anticipated that most approvals will be received within three months of Closing.

96. The Primus Entities and the Purchaser will enter into a management agreement during this post-Closing period which will govern the operation of the U.S. Primus Entities' business by the Purchaser prior to the transfer of all Regulated Customer Relationships. Pursuant to that management agreement, Birch would have the power, authority and responsibility to manage the Regulated Customer Relationships, without transferring control of the Regulated Customer Relationships to Birch. PTI and Lingo would maintain in full force and effect all of their registrations and authorizations with the Federal Communications Commission and comparable State regulators. The management agreement would continue until the earlier of the date all Regulated Customer Relationships are transferred in accordance with the Birch APA and the date that is six months after its execution.

Conditions to Closing

97. The Birch APA contains certain conditions to Closing for the exclusive benefit of the Purchaser, which may be waived by the Purchaser in whole or in part without prejudice to the rights of termination in the event of the non-fulfilment of any other condition. The conditions to Closing require, among other things, that:

- (a) the Vendors will use commercially reasonable efforts to conduct business in the ordinary course and maintain, preserve and protect the Purchased Assets, except as required to comply with their obligations under the Birch APA and subject to any limitation imposed by this Court;⁸
- (b) all stays of proceedings contained in the Initial Order shall have remained in effect as at the Closing Time except where any such stay is terminated or lifted or amended in a manner not prejudicial to the Purchaser or that does not adversely affect the Purchaser's rights under the Birch APA (or the Purchased Assets and the Initial Order has not been amended or modified in any manner prejudicial to the Purchaser as at the Closing Time);
- (c) the Vendors shall, as of the Closing Time, have given those notices or obtain those consents, approvals or waivers required to assign the Essential Contracts to the Purchaser; or such Essential Contracts shall have been assigned to the Purchaser pursuant to an Assignment Order subject to the payment of Cure Costs by the Purchaser and the Vendors shall not be in breach should the Purchaser fail to pay such Cure Costs; and
- (d) the Purchaser shall have obtained all regulatory approvals necessary to allow it to operate the Business following Closing.

98. In addition, the Birch APA contains certain conditions to Closing for the mutual benefit of the Vendors and the Purchaser, which includes the approval of the Sale Transaction by this Court by way of the Approval and Vesting Order and that no other Government Authority (as defined in the Birch APA) has moved to restrain or otherwise prohibit the completion of the Sale Transaction. On January

⁸ This obligation is set out in detail in section 6.1 of the APA.

21, 2016, the Primus Entities obtained recognition of these proceedings pursuant to Chapter 15 of the U.S. Bankruptcy Code in the U.S. Bankruptcy Court for the State of Delaware. The Monitor is the foreign representative. Recognition of the Approval and Vesting Order by the U.S. Bankruptcy Court is also a condition precedent to Closing. A date has been scheduled for February 19, 2016 with the U.S. Bankruptcy Court for such purpose.

D. APPROVAL OF THE SALE TRANSACTION, THE SISF AND THE ACTIONS OF THE PRIMUS ENTITIES, FTI AND ORIGIN

General

99. As described above, the Primus Entities, with the assistance of their advisors and in consultation with FTI, undertook an extensive marketing process prior to the commencement of the CCAA proceedings for the sale of their assets which culminated in the Birch APA for which approval is now sought.

100. At all times, the Primus Entities acted in accordance with the SISF procedures, which were designed, with assistance from Origin and its professional advisors and with the input of FTI, to maximize the value that could be obtained for the business, operations and property of the Primus Entities in order to benefit their stakeholders as a whole and sell the business as a going concern.

101. Achieving a going concern sale was important to maximize recoveries for all stakeholders given that the assets would have nominal value on liquidation if operations were to cease. In addition a going concern sale would preserve jobs and future business opportunities for suppliers and minimize disruptions for customers.

102. The SISF was deliberately structured to allow the Primus Entities to canvass the widest possible market and assess whether a sale transaction would provide the best return for stakeholders, absent any obligation to accept any bid.

103. The Primus Entities exercised their discretion to consider various Phase II Bids, even though none of the Bids were capable of acceptance by the Phase II deadline. As among those Bidders, in the Primus Entities' judgment, the sale contemplated under the Birch APA represents the best possible transaction in the circumstances for the benefit of the Primus Entities and their stakeholders.

104. The Syndicate, the secured creditors with the largest economic interest in the Primus Entities, were consulted throughout the SISP; however, all decisions with respect to the SISP (including whether and which transaction to enter into) remained exclusively within the sole discretion of the Primus Entities.

105. Based on the purchase price under the Birch APA, it is currently anticipated that the Syndicate may suffer a shortfall in recovering on its debt. The Syndicate is supportive of the Sale Transaction for which approval is sought herein.

106. I am advised by Nigel Meakin of FTI that the Monitor, based on its oversight of the development and implementation of the SISP that culminated in the Sale Transaction, is of the view that the SISP was conducted fairly and reasonably. I am further advised that the Monitor is supportive of the Sale Transaction and will be submitting a report in respect of the same.

107. The Purchaser and the Primus Entities are not related persons as that term is defined in section 36 of the CCAA.

108. The Primus Entities intend to continue making the payments required under sections 6(5)(a) and 6(6)(a) of the CCAA in the ordinary course, to the extent applicable.

109. The Primus Entities believe that the approval of the Birch APA is a matter of great urgency. Any extension or delay in obtaining Court approval and Closing may have serious and detrimental consequences for the business and stakeholders of the Primus Entities', including, but not limited to, their employees, customers

and suppliers, many of whom have expressed concern about the current lack of certainty pending approval of the Birch APA. The Primus Entities have received calls from customers expressing concern about the uncertainty of the process, and I have personally spoken to a number of customers to provide reassurance and I have emphasized our efforts to move as expeditiously as possible. Without the expeditious approval of the Birch APA, the already strained financial resources of the Primus Entities will also continue to diminish without any obvious benefit its stakeholders and, ultimately, to the benefit of the Primus Entities' direct competitors (including Comwave) in the telecommunications industry.

Comwave's Statement of Claim

110. On January 15, 2016, counsel for Comwave advised Primus Canada's counsel that Comwave would be commencing an action against Primus Canada, Origin, FTI and FTI Consulting Canada ULC⁹.

111. On the same day as the Initial Order was granted, and after the stay of proceedings took effect, counsel for Comwave issued and served a statement of claim against these parties alleging various breaches and claiming various heads of damages in relation to its participation in the SISP. Comwave did not advance notice of the CCAA filing. A copy of the statement of claim is attached hereto as **Exhibit "M"**.

112. I disagree with various assertions and allegations made by Comwave in its statement of claim. In particular, following November 16, 2015, all of the Bidders in the SISP, including Comwave and the Purchaser, had the opportunity to improve their offers to put forward their final and best offers.

⁹ FTI Consulting Canada ULC is a party related to FTI that was not at any time retained by the Primus Entities and did not participate in the SISP.

113. As I stated above, the Primus Entities did not at any time disclose the terms of any of the proposals submitted in the SISP, including the proposals submitted by Comwave and the Purchaser. Without limitation, the Primus Entities did not disclose the proposed purchase prices to any party except for the professional advisors to the Primus Entities, FTI and the Syndicate.

114. The Primus Entities also did not at any time advise Comwave that it was the only Qualified Bidder or that the Primus Entities were negotiating exclusively with Comwave. To the contrary, Comwave was notified on several occasions that the Primus Entities were negotiating with other Bidders concurrently with Comwave.

115. In light of the litigation commenced by Comwave with respect to the actions taken by the Primus Entities, FTI and Origin during the course of the SISP, the parties request that those actions be approved by the Court.

Manulife's Objection

116. The SISP was conducted, at all times, with due and proper regard for the best interests of all of the stakeholders of the Primus Entities, including but not limited to Manulife as a second-lien secured creditor. At all times, the respective boards of directors of the Primus Entities acted with due regard toward their fiduciary duties. As set out in greater detail below, Manulife has had multiple opportunities to identify a viable alternative to the Sale Transaction now at issue.

117. Prior to the commencement of the SISP, the Primus Entities invited Manulife to submit a proposal to refinance the Primus Entities' approximately \$40 million indebtedness to the Syndicate (the "**Indebtedness**"). Manulife declined to submit any such refinancing proposal.

118. Following receipt of the Phase II Bids on or about November 16, 2015, it had become apparent that the proposed sales transaction values were less than the total

Indebtedness and that, as a result, it was likely that no funds would remain for second-lien secured creditors such as Manulife.

119. At that time, the Primus Entities again canvassed the possibility of securing alternative refinancers for the Indebtedness. Between December 8 and 17, 2015, the Primus Entities contacted three potential refinancers (two of which were introduced directly by Manulife) regarding a potential refinancing of the whole of the Indebtedness. Two of the potential refinancers quickly refused the opportunity and one did not respond. The Primus Entities also sent a management presentation and NDA, and had follow up discussions with two other potential refinancers. However, and notwithstanding the best efforts of the Primus Entities, none of these discussions culminated in an executable term sheet to refinance the Indebtedness.

120. On December 8, 2015, Manulife expressed an interest in supporting a refinancing of the Indebtedness in lieu of a sale transaction. No concrete refinancing alternative or firm financing commitment accompanied the refinancing proposal. Attached as **Exhibit "N"** is the letter dated December 8, 2015.

121. On December 11, 2015, in response to the foregoing refinancing proposal, counsel for the Agent (on behalf of the Syndicate) wrote to Manulife offering to sell the Indebtedness at a discount (for \$38 million). Attached as **Exhibit "O"** is the letter from Natasha MacParland dated December 11, 2015. I am advised by Natasha McParland that Manulife did not respond to the correspondence.

122. On December 15, 2015, I also wrote to Vipon Ghai of Manulife, a former director of Primus Canada, and advised that if Manulife was still interested in pursuing or supporting a refinancing transaction, it must provide and/or arrange committed financing letters as soon as possible. I emphasized that it was my understanding the Syndicate would be unwilling to consider any refinancing transaction without a firm financing commitment for the whole Indebtedness. I further advised that absent a firm financing commitment, the Primus Entities were

required to consider their strategic alternatives in light of their then current financial circumstances and the conditions for forbearance granted by the Syndicate, which included proceeding with a sale of the business. Attached as **Exhibit "P"** hereto is my reply letter dated December 15, 2015.

123. By letter dated December 17, 2015, counsel for Manulife advised that it would not support a sale transaction. Attached hereto as **Exhibit "Q"** is the letter dated December 17, 2015 from Greg Azeff of Fogler Rubinoff LLP.

124. On December 22, 2015, counsel for the Primus Entities responded to Mr. Azeff's letter and reiterated the position set out in my letter dated December 15, 2015. Attached hereto as **Exhibit "R"** is the letter dated December 17, 2015 from Maria Konyukhova of Stikeman Elliott LLP.

125. By letter dated January 25, 2016, after the Initial Order had been granted, Mr. Azeff advised that, among other things, Manulife did not support the Sale Transaction, that it had serious concerns regarding the integrity and conduct of the SISP and that its position was that the Primus Entities must conduct a fresh, Court-supervised sale and investment solicitation process within the CCAA. A copy of the letter is attached hereto as **Exhibit "S"**. Notably, the letter did not identify any viable alternative to the Sale Transaction for which approval is now sought herein.

126. A copy of the letter from the Primus Entities' counsel responding to Mr. Azeff's letter outlining the Primus Entities' reasons for proceeding with the Sale Transaction is attached hereto as **Exhibit "T"**. The letter provided, *inter alia*, that:

- (a) Manulife was aware that commencement of the pre-filing SISP in the fall of 2015 was an essential condition for the continued forbearance of the Syndicate from exercising its rights and remedies as a secured creditor;
- (b) Manulife has had multiple opportunities to identify a viable alternative to the Sale Transaction at issue herein, including the foregoing attempts to

arrangement for alternative financing for the Primus Entities prior to and during the SISP, none of which had resulted in an executable term sheet;

- (c) Manulife failed to identify or otherwise propose any viable alternatives to the Sale Transaction; and
- (d) A further post-filing sales process is unnecessary in the circumstances and would be contrary to the best interests of the stakeholders, for substantively the same reasons set out further below.

127. Both prior to and following commencement of the SISP, Manulife, as a second-lien secured creditor and stakeholder of the Primus Entities, was kept apprised of the progress of the SISP by way of regular update calls. Manulife was aware of the process, procedures and conduct of the SISP and knew in December 2015 that the Primus Entities were negotiating with parties towards completing a sale transaction.

128. A post-filing SISP is unnecessary in the circumstance and would be contrary to the best interest of the Primus Entities' stakeholders. As set out in detail herein, the Birch APA was the product of a thorough and robust canvassing of the market. The purchase price set out in the Birch APA, which was finalized in the last two weeks of December 2015 following extensive arms-length negotiations and thorough due diligence, is the best indication of the market value of the Primus Entities' business and operations and is reflective of current market conditions. In addition to the foregoing, the Syndicate has indicated that it would not support a further post-filing SISP without having the Indebtedness repaid in full. Birch is entitled to terminate the Birch APA if a post-filing process is ordered. Ultimately, a post-filing process will risk squandering the value generated by the Birch APA, which would be extremely detrimental to the Primus Entities' stakeholders, including its employees.

129. As discussed above, the SISP was conducted pre-filing specifically to avoid the detrimental impact that a CCAA filing without a binding APA would have on the business of the Primus Entities. I have serious concerns about the ramifications on the Primus Entities' business and the impact on its stakeholders, including employees, customers and suppliers, if the Birch APA is not approved. The business is presently being managed with the expectation that the Birch APA will be close by the end of February 26, 2016.

130. As at the date of this affidavit, Manulife has not provided any firm financing commitment to repay or refinance the Indebtedness nor has Manulife provided any evidence that reopening the sales process at this time would generate a better return for stakeholders.

E. ASSIGNMENT OF AGREEMENTS

131. As set out above, the Birch APA identifies the contracts which the Purchaser will assume on or before the Closing of the Sale Transaction, being the Assumed Contracts.

132. There are approximately 300 Assumed Contracts, all of which are designated "Essential Contracts" by the Purchaser, and their assignment is a condition precedent to Closing the Sale Transaction. Essential Contracts are listed in Schedule "B" to the Birch APA.

133. The Essential Contracts can be divided into four general categories: office leases, co-location rentals from BCE Inc., Telus Corporation and MTS Inc./Allstream Inc.¹⁰, consulting and customer service outsourcing contracts, and other essential services to the conducting of the Primus Entities' business such as 911 Emergency Calling Services agreements.

¹⁰ Critical elements of Primus Canada's services are supplied from these "co-locations" where Primus Canada maintains hardware in order to supply local phone, internet, and VoIP services for higher margins.

134. Where any of the Assumed Contracts require consent of the counterparty to be assigned (collectively, the "**Consent Required Contracts**"), the Birch APA provides that the Vendors shall use their commercially reasonable efforts to obtain such consent (and the Purchaser shall provide its reasonable cooperation to assist the Purchaser in obtaining such consent) prior to the granting of the Approval and Vesting Order sought herein.

135. To the extent that consent to assign any Essential Contract has not been granted prior to the return of the motion seeking the Approval and Vesting Order (being an "**Outstanding Essential Contract**"), the Vendors are required under the Birch APA to seek an order assigning all of the Outstanding Essential Contracts.

136. The Primus Entities have distributed consent agreements to all counterparties of the Consent Required Contracts and have started communicating directly with these counterparties in an attempt to procure executed consent agreements. The Primus Entities will deliver a supplemental affidavit with updated information regarding the status of the efforts to obtain consents to the assignment of the Essential Contracts in advance of the hearing to approve the Birch APA and certain ancillary relief currently scheduled for February 17, 2016.

137. As it is a condition of Closing that all Essential Contracts be assigned by consent or by Court order, in the event that any of the Outstanding Essential Contracts remain outstanding as of the date of the hearing of this motion, the Primus Entities are seeking the Assignment Order:

- (a) Assigning any Essential Contract for which consent, approval or waiver necessary for the assignment of such contract has not been obtained prior to the Closing Time (as defined in the Birch APA);
- (b) Preventing any counterparty to any such Essential Contract from exercising any right or remedy under such Essential Contract by reason of

any default arising from the CCAA Proceedings of the insolvency of the Primus Entities; and

- (c) Vesting in the Purchaser all right, title and interest of the relevant Primus Entity in such Essential Contract.

138. The Birch APA contemplates payment of Cure Costs in relation to the Essential Contracts (provided that a consent to assignment is executed or the Assignment Order is obtained).

139. In the event the Outstanding Essential Contracts have not been obtained by the return date of this motion, I understand that the Purchaser will file an affidavit describing the Purchaser's belief that the Purchaser is able to perform the obligations of Primus Entities under the Essential Contracts and describing the Purchaser's ability to do so.

F. CONCLUSION

140. The Primus Entities are insolvent and have been under operating forbearance agreements with their secured lenders since February 2015. Continued forbearance has been on the condition of their senior secured lenders that the Primus Entities engage in the sales process which led to the proposed Birch APA and Sale Transaction.

141. The Purchase Price to be paid pursuant to the Birch APA represents the highest realizable price through the sales process. The Sale Transaction for which Court approval is sought herein represents the best possible transaction in the circumstances for the benefit of the Primus Entities and their stakeholders. The Purchaser may terminate the Birch APA, in its sole and absolute discretion, if this Court orders a post-filing sales process.

142. The SISP was conducted fairly and properly.

143. The assignment of the outstanding Essential Contracts is necessary to close the Sale Transaction.

144. The Syndicate is supportive of the relief sought herein.

145. The Monitor is supportive of the relief sought herein.

146. Accordingly, the Primus Entities request the Orders described in greater detail in paragraph 2 above.

SWORN BEFORE ME at the City of
Toronto, Province of Ontario, on
February 2, 2016.



Commissioner for Taking Affidavits



MICHAEL NOWLAN

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**

Proceeding commenced at Toronto

**AFFIDAVIT OF MICHAEL NOWLAN
(SWORN FEBRUARY 2, 2016)**

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Lawyers for the Applicants

This is Exhibit "A"
to the affidavit of Michael Nowlan,
sworn before me on the 2 day
of February, 2016



Commissioner for Taking Affidavits

CV-16-11257-00C
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,

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 after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (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
- (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:

- (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

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.

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.

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 cooperate 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) liaise 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;

- (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;
- (h) 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;
- (i) 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;
- (j) 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.

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.

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>'.

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.



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

JAN 19 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.

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

INITIAL ORDER

STIKEMAN ELLIOTT LLP
Barristers & Solicitors
5300 Commerce Court West
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Vlad Calina LSUC#: 69072W
Tel: (416) 869-5202
Email: vcalina@stikeman.com
Fax: (416) 947-0866

This is Exhibit "B"
to the affidavit of Michael Nowlan,
sworn before me on the 2 day
of February, 2016

A handwritten signature in black ink, consisting of several loops and a final flourish, positioned above a horizontal line.

Commissioner for Taking Affidavits

Court File No. _____

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

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

Applicants

**AFFIDAVIT OF MICHAEL NOWLAN
(Sworn January 18, 2016)
(Re CCAA Initial Application)**

I, Michael Nowlan, of the Town of Newmarket, in the Province of Ontario,
MAKE OATH AND SAY:

1. I am the Chief Executive Officer of the Applicants 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 and PTI, the "**U.S. Primus Entities**", and collectively with Holdco and Primus Canada, the "**Primus Entities**" or the "**Applicants**"). As such, I have knowledge of the matters to which I hereinafter depose, except where otherwise stated. I have also reviewed the records of the Primus Entities and have spoken with certain of the directors, officers and/or employees of the Primus Entities, as necessary, and where I have relied upon such information do verily believe such information to be true.
2. All references to currency in this affidavit are references to Canadian dollars, unless otherwise indicated.

A. INTRODUCTION

3. This affidavit is sworn in support of an application by the Primus Entities for an order (the “**Initial Order**”) pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”).

4. The Primus Entities are also seeking this Court’s authorization to apply for recognition of these CCAA proceedings as a “foreign main proceeding” under Chapter 15 of Title 11 of the United States Code (the “**Bankruptcy Code**”) and authorizing FTI Consulting Canada Inc. (“**FTI**”), if appointed monitor (in such capacity, the “**Monitor**”) in these proceedings, to act as the Applicants’ Chapter 15 “foreign representative”.

5. The Primus Entities carry on business in Canada and the United States re-selling telecommunications services. Primus Canada offers a wide selection of residential and business telecommunications services including: internet, voice over internet protocol (“**VoIP**”)¹, hosted private branch exchange (“**H-PBX**”)², local phone, long distance phone, pre-paid calling cards and wholesale long distance capacity to smaller telecommunications service providers. The U.S. Primus Entities provide digital home phone and other telecommunication services to residential and commercial customers. The Primus Entities do not provide wireless phone services.

6. As described in greater detail below, the Primus Entities, with assistance from their professional advisors, have been and continue to be facing severe liquidity issues due to, among other things, over-leverage, revenue declines and high capital costs. As a result, the Primus Entities have been unable to meet various

¹ “VoIP” refers to the delivery of voice communications and multimedia sessions over Internet Protocol (IP) networks, such as the internet.

² “H-PBX” refers to phone systems that utilize cloud-based technology and allow the host (in this case, the Primus Entities) to centrally manage its customers’ systems, and without a related capital investment by the customer.

financial and other covenants with their secured lenders, do not have the liquidity needed to meet their ongoing payment obligations with their senior secured lenders, have entered into forbearance arrangements with them and began considering restructuring alternatives.

7. As part of their restructuring efforts, the Primus Entities, with assistance from their professional advisors, have conducted a thorough canvass of the market for prospective purchasers of their assets and business which resulted in several offers. One offer to purchase substantially all of the assets of the Primus Entities is considered by the boards of directors of the Primus Entities to be the best in the circumstances.

8. That offer and the resulting APA (as defined and described in greater detail below) is conditional upon a CCAA filing and Court approval. The Primus Entities intend to return to the Court to seek approval of the offer and resulting APA, and certain related relief, at a later date on notice to appropriate parties. Based on the purchase price under the APA, it is currently anticipated that the Primus Entities' first-ranking secured creditors will suffer a shortfall in recovering on their debt.

9. At this time, however, the Primus Entities are only seeking protection under the CCAA and certain ancillary relief as outlined in the draft Initial Order.

10. Without protection under the CCAA, a shut-down of operations or the commencement of self-remedy measures by creditors are inevitable, which would be extremely detrimental to the Primus Entities' employees, suppliers, customers, and other stakeholders. CCAA protection will allow the Primus Entities to implement the sale of their assets for the benefit of all their stakeholders.

11. The board of directors of each of the Primus Entities has authorized this Application.

B. THE PRIMUS ENTITIES

Corporate Structure

12. 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 5343 Dundas Street West, Suite 400, Toronto, Ontario.

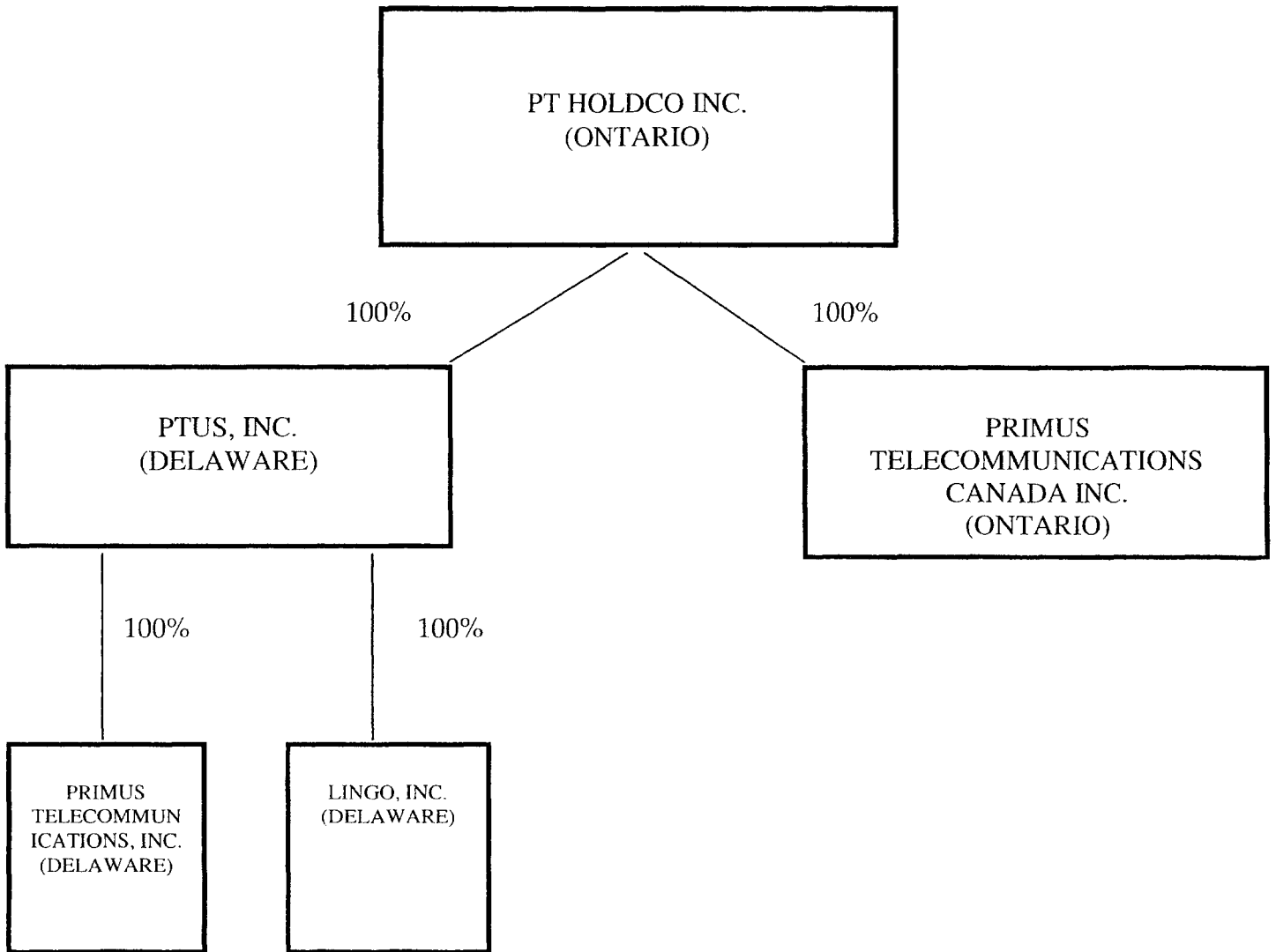
13. Primus Canada is a private company incorporated under the OBCA. Primus Canada is the Primus Entities' Canadian operating company. Primus Canada's registered head office is located at 5343 Dundas Street West, Suite 400, Toronto, Ontario.

14. 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.

15. 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.

16. 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.

17. The following chart shows the corporate structure of the Primus Entities, with the percentages reflecting equity interests.



The Business of the Primus Entities

18. 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

The Telecommunications Industry

19. 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. As discussed in greater detail below, where the CRTC determines there is inadequate or limited market competition, the CRTC regulates matters such as certain rates, the terms and conditions under which carriers provide services, the exchange of telecommunications traffic between carriers, and inter-carrier arrangements.

20. 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**").

21. 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.

22. 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”.³

23. “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 manages 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.

24. 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.

Services

25. 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

³ CRTC Telecommunications Monitoring Report:
<http://www.crtc.gc.ca/eng/publications/reports/policymonitoring/2015/cmr5.htm#a5d>

telecommunications service providers. Primus Canada provides its services exclusively through re-selling, as described below.

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

27. Primus Canada conducts its business through re-selling other TSPs' (primarily the Major Carriers) 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.

28. 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"). Primus Canada maintains hardware at such co-locations and these co-locations allows it to supply local phone, internet, and VoIP services for higher margins.

29. 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 CRTC which limit competitive access to the Major Carrier fiber network from the co-location sites to the end customer.

Suppliers

30. 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 at November 30, 2015. Bell is Primus Canada's single largest vendor.

31. 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. Customers 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.

Customers

32. 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.

33. Typical residential agreements are for terms of two years or less. Primus Canada's commercial customer contracts are generally for two to three year terms. If a residential customer prematurely terminates their agreement, he or she is required to pay out the balance of the contract's term. For commercial contracts, early termination penalties vary among contracts but generally consist of a cancellation fee of 50 to 70% of the amount payable for the remaining contract term.

Licensing

34. Primus Canada holds the following regulatory authorizations:
- (a) Reseller of Telecommunications Services Registration (CRTC);
 - (b) Basic International Telecommunications Services License (CRTC);
 - (c) Digital Subscriber Line Provider Registration (CRTC);
 - (d) Reseller of High Speed Internet Service Registration (CRTC);
 - (e) Competitive Local Exchange Carrier Registration (“CLEC”); Recognition of Fulfillment of CLEC Obligations and Permission to Operate as a Type 1 and Type 3 CLEC (CRTC).
35. The above authorizations are material to the business of Primus Canada. Without them, Primus Canada’s business could not operate.

Market Competition

Other Carriers

36. Primus Canada competes against the Major Carriers, whose collective market share is 84%. By comparison, the market share of Primus Canada is approximately 0.6% of wireline revenues.
37. The Major Carriers offer a broader range of services than those offered by Primus Canada, such as cellular and television. These services are offered on a bundled basis with products that compete with Primus Canada’s products, which Primus Canada cannot do.

38. Primus Canada competes against the Major Carriers for customers by offering services at lower price points and offering services tailored to medium-sized businesses.

39. Primus Canada also competes against other secondary carriers – *i.e.*, non-Major Carriers – including, for example, TekSavvy Solutions Inc., Comwave Networks Inc., Yak Communications (Canada) Corp. and Distributel Communications Limited. According to the CRTC, secondary carriers such as Primus make up 87% of the number of competitors in the wireline services marketplace while accounting for only 6% of the total telecommunications revenue in Canada in 2014.⁴

CRTC Review

40. The current regulatory environment does not require Major Carriers to make their residential “fiber to the home” (“FTTH”) network available to secondary carriers. This limits the ability of secondary carriers to offer residential high-speed internet services in areas where the fiber-optic network is the only mode of offering residential high-speed internet. A CRTC ruling on July 22, 2015 proposed to open access to FTTH services for secondary carriers over a period of time. Bell Canada has appealed this ruling to the Federal Cabinet and the outcome of that appeal is still pending.

41. The current regulatory environment restricts the means by which Primus Canada, and secondary carriers generally, can sell residential high-speed internet services purchased from the Major Carriers. The same July 22, 2015 ruling, among other things, mandates the Major Carriers to broaden the means by which

⁴ CRTC Telecommunications Monitoring Report:
<http://www.crtc.gc.ca/eng/publications/reports/policymonitoring/2015/cmr5.htm#a5d>

secondary carriers can Re-Sell residential high-speed internet services from co-locations, referred to as Disaggregated Broadband Service (“DBS”).

42. Once implemented, DBS could increase Primus Canada’s profitability by utilizing its co-location sites to more profitably deliver high-speed internet services to residential customers. The details of the implementation of DBS have yet to be determined, including details on network interconnections and costs to be charged under this new regulatory framework. Bell has sought to have the CRTC “review and vary” its July 22, 2015 decision and the outcome of this application are pending.

43. Primus Canada is unable to quantify the potential impact of the July 22, 2015 ruling due to the uncertainty surrounding the implementation details and the outcomes from the various Bell challenges. However, Primus Canada believes that it would enjoy a competitive advantage over other secondary carriers under the DBS regulatory structure because Primus Canada’s co-location infrastructure is significantly more developed than other secondary carriers. Even so, it is expected that the implementation of such a ruling by the CRTC would be 12 to 18 months.

U.S. Primus Entities

Services

44. The U.S. Primus Entities account for 12% of the Primus Entities’ gross revenue.

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

Suppliers

46. 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.

Customers

47. 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 in the United States.

Regulatory Environment

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

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

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

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

51. 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.

52. Employees of the U.S. Primus Entities 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.

Employees

53. As at 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:

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

54. In addition to the above, there are 6 employees in Canada and 20 in the United States who have made arrangements to work off-site.

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

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

Offices and Facilities

Canada

57. Primus Canada leases its head office in Toronto, Ontario.
58. Primus Canada has two primary “switch sites”⁵ located at 151 Front Street West, Toronto, Ontario, and 555 West Hastings Street, Vancouver, British Columbia.
59. Primus Canada leases sales and support offices in London, Ontario and Vancouver, British Columbia.
60. Primus Canada leases an office located in Markham, Ontario.
61. Primus Canada leases two customer support centres located in Ottawa, Ontario, and Edmundston, New Brunswick.

United States

62. 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.
63. 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.

⁵ Central facilities from which the Primus Entities’ deliver services.

Cash Management System

64. 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.

65. As particularized below, 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.

66. In Canada, the Primus Entities maintain 13 bank accounts with the Bank of Montreal (“**BMO**”), consisting of:

- (a) 8 bank accounts for Primus Canada;
- (b) 2 bank accounts for Holdco;
- (c) 1 bank account for PTUS;
- (d) 1 bank account for Lingo; and
- (e) 1 bank account for PTI.

67. 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**”).

68. In Canada,

- (a) disbursements required to operate the business are made out of two BMO Canadian dollar disbursement accounts; the US dollar operating account; or the primary operating concentration account, all accounts being in the name of Primus Canada;

- (b) the Primus Entities' Canadian payroll is funded through the primary operating concentration account;
- (c) Primus Canada uses Ceridian HCM, Inc. and the U.S. Primus Entities use ADP LLC to disburse payroll directly to employees and to make necessary statutory remittances; and
- (d) cash payments from customers are typically received by cheque, credit card processed by Chase, pre-authorized direct bank deposit processed by BMO or electronic transfer and are deposited directly into one of three primary bank accounts. Payments that are received in the form of cheques are either received at Primus Canada's offices and deposited into a local branch of BMO or sent to a lockbox operated by Symcor Inc. and transferred directly to Primus Canada's accounts at BMO.

69. In the United States,

- (a) disbursements required to operate the business are made from one BOA account in the name of Lingo or one BOA account in the name of PTI;
- (b) the U.S. Primus Entities' payroll is funded through one BOA account in the name of PTI;
- (c) the U.S. Primus Entities use ADP LLC to disburse payroll directly to employees and to make necessary statutory remittances; and
- (d) cash payments from customers are typically received by cheque, electronic transfer, or credit card processed by Chase and are deposited into one of three bank accounts: a Lingo deposit account with BOA, a PTI deposit account with Banco Popular, a PTI deposit account with US Bank, or one of three BOA accounts held by PTI.

70. Primus Canada's Canadian dollar deposit and disbursement accounts are ultimately aggregated into the operating concentration account at the end of each day pursuant to a zero-balancing arrangement in place with BMO.

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

Assets

72. 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 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	<u>1,649,540</u>	
Total Current Assets	\$18,156,301	
Capital assets		26,958,328
Goodwill and other intangibles		98,596,009
Restricted cash		295,000
Deferred charges		<u>1,142,342</u>
		<u>126,991,680</u>
Total Assets		\$145,147,981

73. 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.

74. 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.

Liabilities

75. As at November 30, 2015, the Primus Entities had liabilities on a consolidated basis totalling approximately \$101 million.

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

Current Liabilities

77. In addition to the principal debt obligations, as at November 30, 2015, the Primus Entities had approximately \$30.4 million 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	\$30,386,172

Credit Agreement

78. Primus Canada is indebted to BMO, HSBC Bank Canada (“**HSBC**”) and ATB Corporate Financial Services (“**ATB**”, and together with BMO and HSBC, the “**Syndicate**”), in the amount of \$40,070,000 pursuant to a Credit Agreement dated July 31, 2013, (as amended by an amending agreement (the “**Amending Agreement**”) dated September 23, 2014 (the “**Credit Agreement**”). The Credit Agreement matures on July 31, 2017.

Secured Debt

79. 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. 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.

80. 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. I am advised that counsel to the proposed Monitor is preparing an independent security review which will be included in a future report of the proposed Monitor.

81. 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 jurisdictions: 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); Primus US (Delaware); and Lingo (Delaware).

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

83. 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.

84. If terminated as at 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 July 31, 2017.

Subordinate Credit Agreement

85. 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.

86. 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.

87. 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 an Intercreditor Agreement (defined below).

88. 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, with (a) PPSA filing statements registered in the following jurisdictions: 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); Primus US (Delaware); and Lingo (Delaware).

89. In an event of default under the Subordinate Credit Agreement, any credit issued under the Subordinate Credit Agreement becomes due and payable upon written notice to Primus Canada.

Intercreditor Agreement

90. The relative priorities and rights between the Syndicate (as the senior lenders) and Manulife (as the subordinate lenders) is governed by the intercreditor agreement dated July 31, 2013 (the “**Intercreditor Agreement**”). A copy of the Intercreditor Agreement is attached as **Exhibit “A”** hereto.

91. As provided in Section 3 of the Intercreditor Agreement, the Subordinate Lenders are fully subordinated to the prior repayment in full of all obligations owing to the Syndicate and the security of the Syndicate under the Credit Agreement, to the full extent of the amounts owing thereon ranks ahead of the security of the Subordinate Lenders under the Subordinate Credit Agreement, to the full extent of the amounts owing thereon.

C. FINANCIAL DIFFICULTIES

92. 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.

93. 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 has 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

94. 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.

95. 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.

96. 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.

97. 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 25% YOY in the United States.

98. 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.

99. The attraction of new customers in 2014 and Q1 of 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.

100. It can take up to a 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.

101. 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

102. 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.

103. 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.

104. Over the past four years, the Primus Entities’ annual average Capex was \$7,898,993 per year.

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

106. In 2015, the Primus Entities’ debt service obligations and capital expenditures totalled approximately \$18,365,182 compared to \$9,871,722 in EBITDA.

EBITDA

107. 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.

108. 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 9 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

109. The Primus Entities reported a net loss of \$830,000 in FY 2014, and a forecast a net loss of \$13,078,000 for FY2015.

110. A copy of the Primus Entities' consolidated unaudited financial statements for the eleven months ending November 30, 2015 are attached here to as **Exhibit "B"**.

111. A copy of the Primus Entities' consolidated financial statements, prepared on a 13-month rolling basis and current to November 30, 2015 are attached as **Exhibit "C"** hereto.

112. The Primus Entities have not finalized their FY2015 audited financial statements.

Responses to Financial Difficulties

113. As a result of the deterioration of their financial results, limited cash flow, and lack of available equity support from its shareholders the Primus Entities concluded that changes to their current business model are required.

114. The Primus engaged FTI, as financial advisor in November 2014 and in April 2015 FTI began assisting the Primus Entities in considering restructuring alternatives.

115. Modified business plans reflecting slower growth due to lack of additional growth capital were developed by management in 2015; however, such business

plans could not be implemented without concessions from the Syndicate and Subordinate lenders.

116. In order to conserve their cash flow as of May 1, 2015, the Primus Entities have: (i) reduced staffing through process improvements and matching customer base declines; (ii) reduced capital spending to customer premise equipment and necessary projects; and (iii) capped salary increases and corporate bonus payments. Further, due to the capital and operating expenses associated with new customers, the Primus Entities have significantly reduced their efforts to attract new customers since March 2015. Typically, it can take up to a year for a new customer to become cash positive for the Primus Entities and thus an increasing customer base is adverse to the Primus Entities' short term cash flow.

117. The Primus Entities attract new residential customers primarily through (i) direct mail advertising initiatives, (ii) various digital web marketing initiatives, and (iii) their presence at Costco wholesale stores. Accordingly, the Primus Entities have eliminated their direct mailing expenditures, and have reduced their web marketing initiatives and Costco presence by time and staffing levels.

118. In light of the Primus Entities' financial difficulties, the Board of Directors of Holdco (the "Board") has held regular status calls with management and the Applicants' advisors.

D. DEFAULTS UNDER THE CREDIT AGREEMENTS

Credit Agreement

119. 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.

120. As of late 2014, the Primus Entities have been unable to maintain certain debt to EBITDA ratios specified under section 6.03 of the Credit Agreement (the “**Credit Agreement Defaults**”), and were therefore in default under the Credit Agreement.

121. 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.

122. 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. Primus Canada further agreed that as a consequence of the Credit Agreement Defaults the Syndicate was entitled to charge an additional 2% interest in accordance with section 9.02 of the Credit Agreement, upon written notice of same. A copy of the Syndicate Forbearance Agreement is attached as **Exhibit “D”**.

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

124. On the same day, 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 section 9.09 of 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.

125. As described in greater 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

126. Primus Canada has also defaulted under the Subordinate Credit Agreement. Specifically, Primus Canada has not serviced its Subordinate Debt since January 31, 2015, which constitutes a default under section 9.01(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 ratios specified under section 6.03 of the Subordinate Credit Agreement (together with the section 9.01 defaults, the “**Subordinate Credit Agreement Defaults**”).

127. 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”**.

128. 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.

E. SUPPORT AGREEMENT AND THE SISP

129. 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”** hereto.

The Support Agreement

130. 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 its 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).

131. 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).

132. 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 Agreement⁶;
- (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.

⁶ 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

133. 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 alternative for the Primus Entities.

134. 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 Bids (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

implementation of the SISP. The KERPs provide for future potential payments to the KERP participants in the maximum aggregate amount of \$500,000.

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

135. 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).

136. 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.

137. 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”** hereto.

138. The 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 to ensure their bids could be turned into executable transactions in compliance with the SISP.

139. The SISP timeline 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 agreements and transactions on or before February 29, 2016. A copy of the Second Amending Agreement is attached hereto as **Exhibit "H"**.

The SISP

140. 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.

141. 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.

142. 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.

143. A period of extensive and intensive arm's length negotiations followed the receipt of offers, each of which were 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.

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

145. 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.

146. 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 transaction was in the best interest of stakeholders.

The Sale Transaction

147. 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.

148. 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;

149. 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 the 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 favour of the Purchaser), subject to court approval.

150. Subject to obtaining the Initial Order being sought herein, the Primus Entities intend to return to this 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 PRIMUS ENTITIES ARE INSOLVENT

151. Defaults under the Credit Agreement or 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.

152. 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.

153. 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.

154. Further, the Primus Entities require CCAA protection to implement the sale of their assets for the benefit of their stakeholders.

H. FUNDING OF THESE PROCEEDINGS

155. As at November 30, 2015, the Primus Entities' consolidated cash balance as reported in their financial statements was approximately \$2,896,794.

156. The Primus Entities do not contemplate requiring debtor-in-possession financing. The Primus Entities intend to fund the costs of these CCAA proceedings

from cash on hand and the collection of receivables during the pendency of their CCAA proceedings.

157. The Primus Entities, with the assistance of the proposed Monitor, have prepared a five-week consolidated cash flow forecast for the period of January 19, 2016 to February 19, 2016 (the “**Cashflow Forecast**”) as prescribed. A copy of the Cashflow Forecast and a report containing the prescribed representations of the Primus Entities regarding the preparation of the Cashflow Forecast will be attached collectively in the reported of the proposed Monitor in connection with this application (the “**Pre-Filing Report**”).

158. The Cashflow Forecast estimates that for the period of the Cashflow Forecast, the Primus Entities will have total receipts of approximately \$16.6 million, total operating disbursements of approximately \$10.8 million, and restructuring professional fees of approximately \$1.2 million, resulting in net cash flow of approximately \$4.6 million.

I. PROPOSED INITIAL ORDER

Administration Charge

159. The Primus Entities seek a charge on the assets, property and undertakings of the Primus Entities (the “**Property**”) in the maximum amount of \$1,000,000 to secure the fees and disbursements incurred in connection with services rendered to the Primus Entities both before and after the commencement of the CCAA proceedings by U.S and Canadian counsel to the Primus Entities, the Monitor (if appointed) and the Monitor’s U.S. and Canadian counsel (the “**Administration Charge**”).

160. The Primus Entities worked with the proposed Monitor to estimate the proposed quantum of the Administration Charge and believe it to be reasonable and appropriate in view of the complexities of the Primus Entities’ CCAA

proceedings and the services to be provided by the beneficiaries of the Administration Charge.

161. The Initial Order provides that the Administration Charge shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, the “**Encumbrances**”) with notice of this application.

Directors’ and Officers’ Provisions

162. To ensure the ongoing stability of the Primus Entities’ business during the CCAA period and to achieve the successful closing of the APA, the Primus Entities require the continued participation of their directors and officers.

163. The Primus Entities are seeking typical provisions staying all proceedings against the directors and officers of the Primus Entities with respect to all claims that relate to any obligations of the Primus Entities whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers of the Primus Entities.

164. I am advised by Maria Konyukhova of Stikeman Elliott LLP, counsel to the Primus Entities, and do verily believe that in certain circumstances directors can be held liable for certain obligations of a company owing to employees and government entities. As of January 13, 2016, the Primus Entities are potentially liable for directors liabilities in the aggregate amount of approximately \$3,100,000 million.

165. The Primus Entities maintain directors’ and officers’ liability insurance (the “**D&O Insurance**”) for their directors and officers. The current D&O Insurance policies provide a total of \$15 million in coverage. Under the D&O Insurance, there are deductible for certain claims and the presence of a large number of exclusions

creates a degree of uncertainty. In addition, the contractual indemnities which have been given to the directors and officers cannot be satisfied by the Primus Entities as they do not have sufficient funds to satisfy those indemnities should their directors and officers be found responsible for the full amount of the potential directors' liabilities.

166. I do not believe that it would be possible to obtain additional adequate indemnification insurance for the directors and officers at a reasonable cost.

167. The directors and officers of the Primus Entities have indicated that, due to the significant personal exposure associated with the Primus Entities' aforementioned liabilities, they will not continue their services with the Primus Entities unless the Initial Order grants a charge on the Property in the amount of \$3,100,000 (the "D&O Charge"). The D&O Charge is proposed to rank immediately behind the Administration Charge. Following the approval of the APA (if granted) and implementation of the transaction, it is the intention of the Primus Entities and the beneficiaries of the D&O Charge to reduce the amount of the D&O Charge to reflect the decrease in the potential liabilities that may result in personal liability.

168. The D&O Charge will allow the Primus Entities to continue to benefit from the expertise and knowledge of their directors and officers. The Primus Entities believe the D&O Charge is reasonable in the circumstances.

169. The Initial Order provides that the D&O Charge shall rank in priority to all other Encumbrances, except the Administration Charge, with notice of this application.

Chapter 15

170. Should the Initial Order be granted, the Applicants intend to commence proceedings under Chapter 15 of Title 11 of the United States Code (the

“**Bankruptcy Code**”) in the United States Bankruptcy Court for the District of Delaware (the “**U.S. Court**”). FTI (as monitor, if appointed) will act as the Applicants’ Chapter 15 “foreign representative”.

Comeback Motion

171. The Primus Entities intend to return to Court during the week of February 15, 2016 to seek certain relief on notice to parties to be affected. Among other things, the Primus Entities intend to seek an Order:

- (a) Approving the APA between the Primus Entities and the Purchaser for the sale of the Purchased Assets (as defined in the APA) and the transactions contemplated thereby;
- (b) Vesting all of the Purchased Assets in the Purchaser free and clear of any Encumbrances other than Permitted Encumbrances (as defined in the APA); and
- (c) Assigning, if necessary, the rights and obligations of the Primus Entities under their Essential Contracts (as defined in the APA) to the Purchaser.

J. MONITOR


172. FTI has consented to act as the Court-appointed Monitor of the Primus Entities, subject to Court approval.

173. FTI is a trustee within the meaning of section 2 of the *Bankruptcy and Insolvency Act*, RSC, 1985, c B-3, as amended, and is not subject to any of the restrictions on who may be appointed as monitor set out in section 11.7(2) of the CCAA.

174. I have been informed by the proposed Monitor that it intends to file a Pre-Filing Report in which it will indicate that the proposed Monitor is supportive of

the relief being sought in favour of the Primus Entities and the existence and amounts of the Administration Charge and the D&O Charge.


SWORN BEFORE ME at the City of
Toronto, Province of Ontario, on
January 18, 2016.



Commissioner for Taking Affidavits



MICHAEL NOWLAN

Laura Elizabeth Dowsley, a Commissioner, ~~etc.~~
Province of Ontario, while a **Student-at-Law.**
Expires April 1, 2017. 

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**

Proceeding commenced at Toronto

**AFFIDAVIT OF MICHAEL NOWLAN
(SWORN JANUARY 18, 2016)**

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Fax: (416) 947-0866

Lawyers for the Applicants

This is Exhibit "C"
to the affidavit of Michael Nowlan,
sworn before me on the 2 day
of February, 2016

A handwritten signature in black ink, consisting of several overlapping loops and strokes, positioned above a horizontal line.

Commissioner for Taking Affidavits

transaction has been successfully consummated with the Successful Bidder by December 31, 2015, the SISP shall automatically terminate.

Deposits

18. All Deposits shall be held in a single account designated solely for such purpose. A Deposit paid by a Successful Bidder shall be dealt with in accordance with the definitive documents for the transactions contemplated by the Successful Bid. Deposits paid by Qualified Bidders not selected as either a Successful Bidder or an Alternate Bidder shall be returned to such Qualified Bidders within three (3) Business Days of the date upon which definitive documents in respect of a Successful Bid are executed by the Company. In the case of an Alternate Bid, the Deposit shall be retained until the Alternate Bid Expiration Date and returned to the Alternate Bidder within three (3) Business Days thereafter or, if an Alternate Bid becomes a Successful Bid, shall be dealt with in accordance with the definitive documents for the Alternate Bid.

"As Is, Where Is"

19. Any sale of the Business and/or Property or any investment in the Primus Group will be on an "as is, where is" basis and without surviving representations or warranties of any kind, nature, or description by the Primus Group or its advisors or any of their agents or estates, except to the extent otherwise provided under any definitive sale or investment agreement with a Successful Bidder executed by the Company. Neither the Company nor its advisors or any of their agents or estates makes any representation or warranty as to the information contained in the teaser, the management presentation or in the Data Room, except to the extent otherwise provided under any definitive sale or investment agreement with a Successful Bidder executed by the Company. Each Qualified Bidder is deemed to acknowledge and represent that it has had an opportunity to conduct any and all due diligence regarding the Business and Property prior to making its offer, that it has relied solely on its own independent review, investigation, and/or inspection of any documents and/or the Business and Property in making its Bid, and that it did not rely on any written or oral statements, representations, promises, warranties, conditions or guaranties whatsoever, whether express, implied, by operation of law or otherwise, regarding the Business and Property, or the completeness of any information provided in connection therewith or the Auction.

No Obligation to Conclude a Sale

20. The Company shall have no obligation to agree to conclude a sale or investment arising out of the SISP, and reserves the right and unfettered discretion to reject any offer or other proposal made in connection with the SISP. In addition, the Company may at any time terminate these SISP Procedures, and shall provide notice of any such termination to any Qualified Bidders.

Information

21. Notwithstanding anything else in these SISP Procedures, to the extent that any director, officer or employee of, or any consultant to, the Company or any of its subsidiaries, or any

- (n) It is received by the Bid Deadline.
12. The Company may waive any one or more minor or immaterial violations of the requirements specified for Qualified Bids and deem such non-compliant bids to be Qualified Bids.

Evaluation of Qualified Bids and Subsequent Actions

13. The Company shall evaluate Qualified Bids on various grounds including, but not limited to, the purchase price or imputed value, the treatment of creditors and related implied recovery for creditors (in each case, as applicable) and any delay or other risks (including closing risks) in connection with the Qualified Bids. Following that evaluation, the Company may:
- (a) Accept one (or more than one, if for distinct and compatible transactions) of the Qualified Bids (each a "**Successful Bid**" and the offeror(s) making such Successful Bid being a "**Successful Bidder**") and take such steps as may be necessary to finalize definitive transaction documents for the Successful Bid(s) with Successful Bidder(s);
 - (b) Continue negotiations with selected Qualified Bidders (collectively, the "**Selected Bidders**") with a view to finalizing acceptable terms with one (or more than one, if for distinct and compatible transactions) of the Qualified Bidders; or
 - (c) Pursue an auction in accordance with the procedures set out in the attached Appendix B (an "**Auction**") if more than one Qualified Bid for the same Property or aspects of the Business has been received or if the Company otherwise determines that an Auction is appropriate under the circumstances.
14. The Company shall be under no obligation to accept the highest or best offer or any offer or to pursue or hold an Auction or to select any Successful Bidder(s) and any Alternate Bidder(s).
15. If a Successful Bidder fails to consummate a transaction related to the Property or portion thereof for any reason, then the Alternate Bid will be deemed to be the Successful Bid for the Property or portion thereof and the Company will proceed with the transaction pursuant to the terms of the Alternate Bid. Alternate Bids shall remain open for acceptance until the completion of the transaction(s) with the Successful Bidder(s) (the "**Alternate Bid Expiration Date**").
16. All Qualified Bids (other than the Successful Bid(s) and the Alternate Bid(s)) shall be deemed rejected by the Company on and as of the date of the execution of definitive documents with respect to the transactions contemplated by the Successful Bid(s) by the Company.
17. If no Qualified Bids are received by the Bid Deadline or if no Qualified Bid(s) are accepted or if no Successful Bidder(s) have been selected or no Auction has been pursued by the Company by December 14, 2015, the SISP shall automatically terminate. If no

- (v) any such other form of financial disclosure or credit-quality support information or enhancement reasonably acceptable to the Company demonstrating that such Qualified Bidder has the ability to close the contemplated transaction;
- (f) It indicates whether regulatory approval is anticipated to be required;
- (g) It is not conditioned on (i) the outcome of unperformed due diligence and/or (ii) obtaining financing;
- (h) It fully discloses the identity of each person (including any person that controls such person) that will be directly or indirectly sponsoring or participating in the bid, including whether any prior or current member of the Company's board, management, any employee or consultant to the Company or any creditor (including any of the Lenders) or shareholder of the Company is involved in any way with the bid or assisted with the bid, and the complete terms of any such participation as well as evidence of corporate authority to sponsor or participate in the bid;
- (i) It includes an acknowledgement and representation that the Qualified Bidder: (i) has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Property to be acquired and liabilities to be assumed in making its bid; and (ii) did not rely upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express or implied (by operation of law or otherwise), regarding the Property to be acquired or liabilities to be assumed or the completeness of any information provided in connection therewith, except as expressly provided in a definitive agreement;
- (j) It includes evidence, in form and substance reasonably satisfactory to the Company, of authorization and approval from the Qualified Bidder's board of directors (or comparable governing body) with respect to the submission, execution, delivery and closing of the transaction contemplated by the bid, and identifies any anticipated shareholder, regulatory or other approvals outstanding, and the anticipated time frame and any anticipated impediments for obtaining such approvals;
- (k) It does not include any request for or entitlement to any break or termination fee, expense reimbursement or similar type of payment;
- (l) It is accompanied by a refundable deposit (the "**Deposit**") in the form of a wire transfer (to a bank account specified by the Company), or such other form acceptable to the Company, payable to the order of the Company, in trust, (i) if the total consideration is quantifiable, in an amount equal to 5% of the cash consideration of the Bid which Deposit shall be held and dealt with in accordance with these SISP Procedures;
- (m) It contains such other information as may reasonably be requested by the Company; and

- (b) An executed NDA.
- (c) A letter stating that the Bid is irrevocable until the later of (i) the selection of the Successful Bidder (as defined herein) and (ii) thirty (30) calendar days following the Bid Deadline, provided that if such bidder is selected as the Successful Bidder or the Alternate Bidder (as defined in Appendix B), its Bid shall remain irrevocable until the closing of the sale to the Successful Bidder or to the Alternate Bid Expiration Date (as defined below), as applicable;
- (d) It includes:
 - (i) in the case of a Bid to purchase the Business or any or all of the Property, a duly authorized and executed definitive purchase agreement substantially in the form of the Template Purchase Agreement containing the detailed terms and conditions of the proposed transaction, including identification of the Business or the Property proposed to be acquired, the purchase price for the Business or Property proposed to be acquired (the "**Purchase Price**"), the detailed structure and financing of the proposed transaction, together with a red line comparing the purchase agreement submitted to the Template Purchase Agreement; or
 - (ii) in the case of an offer to make an investment in the Primus Group, a duly authorized and executed term sheet describing the detailed terms and conditions of the proposed transaction, including details regarding the proposed equity and debt structure of the Primus Group following completion of the proposed transaction, the direct or indirect investment target and the aggregate amount of equity and debt investment (including the sources of such capital, the underlying assumptions regarding the *pro forma* capital structure, as well as anticipated tranches of debt, debt service fees, interest and amortization) to be made in the Primus Group, the treatment of the First Secured Debt (including what portion of the First Secured Debt will be paid on closing) and the debt, equity, or other securities, if any, proposed to be allocated to other creditors of the Primus Group;
- (e) It includes written evidence upon which the Company may reasonably conclude that the Qualified Bidder has the necessary financial ability to close the contemplated transaction and provide adequate assurance of future performance of all obligations to be assumed in such contemplated transaction. Such information should include, among other things, the following:
 - (iii) evidence of the Qualified Bidder's internal resources and proof of any debt or equity funding commitments that are needed to close the contemplated transaction;
 - (iv) contact names and numbers for verification of financing sources; and

6. The Company, with the assistance of the Sale Advisor, compiled a listing of prospective financiers, investors and/or purchasers (together with others expressing an interest in the Business and/or Property, the "**Interested Parties**"). The Sale Advisor used its best efforts to contact all Interested Parties to introduce the opportunity for investment in or the acquisition of the Business or Property and provided a "teaser" describing the opportunity to finance, acquire or invest in the Primus Group or to acquire some, all or substantially all of the Business or the Property to each Interested Party that expresses an interest in receiving such teaser.
7. Interested Parties were invited to a management presentation upon execution of an NDA.
8. At the discretion of the Company, any Interested Parties that have executed an NDA and provided a non-binding letter of intent will be provided with a form of definitive purchase agreement (the "**Template Purchase Agreement**") to be used in submitting a Bid for the acquisition for some or all of the Property and provided access to the Data Room.

Due Diligence From Qualified Bidders

9. Each Qualified Bidder shall comply with all reasonable requests for additional information by the Company regarding such Qualified Bidder and its contemplated transaction. Failure by a Qualified Bidder to comply with requests for additional information will be a basis for the Company to disqualify the Qualified Bidder.

Deadlines

Bid Deadline

10. A Qualified Bidder, if it wishes to submit a binding offer, must deliver an original executed copy of a comprehensive, final and binding proposal (a "**Bid**") to the Company at the address specified in Appendix A hereto (including by email) so as to be received by the Company by not later than 12:00 p.m. (Eastern Time) on November 16, 2015, or such other later date or time as may be set by the Company (the "**Bid Deadline**").

Participant Requirements

11. To participate in the process detailed by these SISP Procedures and to otherwise be considered for any purpose hereunder, an Interested Party must submit a Bid and each bidder submitting a Bid (a "**Qualified Bidder**") must be determined by the Company to have satisfactorily provided the Company with each of the following on or before the Bid Deadline (collectively, the "**Participant Requirements**"):
 - (a) Execution of the Bid by the Qualified Bidder's chief executive officer or other appropriate senior executive or evidence that such officer has approved the Bid; provided, however, that, if the Qualified Bidder is an entity specially formed for the purpose of effectuating the contemplated transaction, then the Qualified Bidder must furnish written evidence reasonably acceptable to the Company of the approval of the Bid by the equity holder(s) of such Qualified Bidder and any guarantor of the bid; and

SALE AND INVESTOR SOLICITATION PROCESS

1. The purpose of the SISP is to identify one or more financiers, purchasers of and/or investors in the Primus Group's Business and/or Property (each as defined herein) with a completion date of a transaction or transactions no later than December 31, 2015.
2. Set forth below are the procedures (the "SISP Procedures") to be followed with respect to the SISP and, if there is a Successful Bid or Successful Bids (as defined herein), to complete the transactions contemplated by such Successful Bid(s).

Defined Terms

3. Capitalized terms used but not otherwise defined in these SISP Procedures shall have the following meaning:

"Company" means Primus Telecommunications Canada Inc.

"Data Room" means an electronic data room compiled and maintained by the Company containing confidential information in respect of the Primus Group, the Business and the Property.

"First Secured Debt" means all of the indebtedness owing pursuant to the Credit Agreement.

"NDA" means a non-disclosure and standstill agreement in form and substance satisfactory to the Company.

"Portion Bid" means a Bid for less than all or substantially all of the Property that is otherwise a Qualified Bid.

"Portion Bidder" means a Qualified Bidder that submits a Portion Bid.

"Primus Group" means the Company together with its subsidiaries and affiliates.

"Sale Advisor" means an investment banker engaged by the Company to assist with the implementation of the SISP.

Solicitation Process

4. The SISP Procedures set forth herein describe the manner in which Interested Parties (as defined in paragraph 6 below) may gain access to or continue to have access to due diligence materials concerning the Primus Group, its business and operations (the **"Business"**) and its assets, undertakings and properties (collectively, the **"Property"**), the manner in which a bid becomes a Qualified Bid (as defined herein), the receipt and negotiation of Qualified Bids received, the ultimate selection of Successful Bid(s) and/or Alternate Bids(s) (as defined in Appendix B).
5. The Company shall have overall supervision of the SISP Procedures and shall lead the process with the support and assistance of its advisors.

entity controlled by such person, either individually or jointly with another Interested Party, submits a Bid, participates at the Auction as a bidder, or is directly or indirectly involved with or assisting any Interested Party that is contemplating submitting a Bid, submits a Bid, is deemed a Qualified Bidder, or participates at the Auction as a bidder, such person shall no longer from the first applicable point forward (i) be included in any discussions or deliberations in connection with these SISP Procedures, including any decision making of the Company in respect of any matter on which the Company's consent is required or (ii) receive any information under these SISP Procedures.

Communications

22. All Interested Parties and any bidders shall direct all communications or discussions with respect to these SISP Procedures, including but not limited to, any requests for information about the Company and the Property or Business or with respect to the terms or conditions of any proposed or actual bid, or the status of any such bids, directly to the Sale Advisor.

Modifications and Reservations

23. The Company reserves the right to amend or modify these SISP Procedures.
24. These SISP Procedures do not, and will not be interpreted to, create any contractual or other legal relationship between the Company or its advisors and any Qualified Bidder, other than, with respect to the Company, as specifically set forth in a definitive agreement executed by the Company.

This is Exhibit "D"
to the affidavit of Michael Nowlan,
sworn before me on the 2 day
of February, 2016



Commissioner for Taking Affidavits



220 Bay Street, Suite 1500
 PO Box 23
 Toronto, Ontario M5J 2W4
 416-800-0850
www.originmerch.com

STRICTLY PRIVATE AND CONFIDENTIAL

September [•], 2015

[Contact name & Company]

[•]
 [•]
 [•]
 [•]

Re: Project Thunder - Process for Non-Binding Proposals

Dear [•]:

On behalf of Primus Telecommunications Canada Inc. (“**Primus**” or the “**Company**”), we would like to thank you for your interest in pursuing a potential strategic transaction with the Company (the “**Transaction**”). Potential transactions that may be considered include, but are not limited to, asset sales, strategic investments or other financing scenarios, mergers, joint ventures or a full sale of the Company.

Origin Merchant Partners (“**Origin**”) has been retained by the Board of Directors of the Company to solicit preliminary, non-binding written proposals (the “**Proposals**”, or each a “**Proposal**”) in order to identify a limited number of parties to be invited to proceed to a detailed evaluation of a potential Transaction with the Company.

On behalf of Primus, we invite you to submit a Proposal regarding a potential Transaction with the Company. Your Proposal should be based on the information contained in the management presentation (the “**Management Presentation**”) provided to you, along with any accompanying discussions. To the extent you require additional information before you submit a Proposal, we would ask that you submit a list of questions to Origin in order to ensure an orderly and expedient response. Origin will seek to answer such questions as it sees appropriate to facilitate the submission of your Proposal.

Contents of Proposal

To be considered for inclusion in the next round of the process, your Proposal should reflect the basis upon which you would enter into the Transaction, based on the information available to you, and should describe in sufficient detail all material matters relating to the proposed Transaction. While your Proposal may be non-binding, at a minimum your Proposal should include clear statements with respect to the following information:

1. **Purchase Price.** Please express the cash purchase price (in Canadian dollars) that you are prepared to pay in connection with the Transaction, including an explanation of the methods and key assumptions used to determine your purchase price. If you are interested in only certain assets of Primus, please describe in detail which assets pertain to your Proposal;

2. **Financing.** Please provide a discussion of how you propose to finance the transaction and, if other than internal funds, the expected sources of such financing, the expected timing for commitment of funds and the steps required to secure such commitment;
3. **Additional Diligence.** Please describe the nature of additional diligence you foresee being required before being comfortable entering into a binding agreement with Primus;
4. **Other Approvals and Timing.** Please outline any regulatory, shareholder, lender or other third party approvals that would be required or potentially required and the estimated timetable required to conclude a Transaction;
5. **Contact Information.** Please include the names and telephone numbers of those persons whom we should contact with respect to your Proposal;
6. **Other.** Please discuss any other matters you believe may be helpful in our evaluation of your interest in and ability to finance and complete the Transaction on a timely basis.

Timing and Delivery Details

The Company requests that your written Proposal should be received by Origin by **12:00 p.m. EDT** on September 30th, 2015. Proposals should be directed to:

Origin Merchant Partners
220 Bay Street, Suite 1500
Toronto, Ontario M5J 2W4

Andrew Muirhead, Principal
andrew.muirhead@originmerchant.com
416-800-0697

Jim Osler, Principal
jim.osler@originmerchant.com
416-800-0784

Matthew Rome, Vice President
matthew.rome@originmerchant.com
416-800-1712

Shaun Quennell, Associate
shaun.quennell@originmerchant.com
416-800-1768



Process Outline – Phase Two

Origin and the Company will evaluate the various proposals received with the objectives of realizing the highest value with certainty of execution, ensuring appropriate treatment of all stakeholders, and consummating the Transaction on an expeditious timeline. Using these criteria, a select group of qualifying parties will be invited to participate in a second phase of the process which will include access to an online data room comprising more detailed financial and operating information regarding the Company.

Qualifying parties will be provided with detailed procedures for the submission of a definitive and binding proposal (the “**Definitive Proposal**”) at a later date. We currently anticipate that the qualifying parties participating in the second stage of the process will be asked to submit Definitive Proposals on or about **October 31st, 2015**.

Process – Disclaimer

Neither the Company nor Origin shall have any obligation arising from the receipt of any Proposal, rejection of any interested or prospective buyer, or the process of assessing any Proposal. Any such obligation will arise only upon execution of a definitive purchase agreement and shall be limited to those specific obligations set forth in such definitive purchase agreement.

Primus and Origin expressly reserve the right at any time, with or without providing notice or reasons, to: (i) amend or terminate the process; (ii) decline to permit any interested party to participate in the process; (iii) negotiate with one or more interested parties with respect to a transaction; (iv) terminate discussions with any or all interested parties; (v) reject any or all offers; (vi) accept an offer other than the highest offer; (vii) pursue other value maximizing alternatives; or (viii) limit access at any time to any additional information; all without any liability to the Company or Origin. The Company shall have complete discretion for all decisions regarding the process.

In addition, Primus and Origin reserve the right to amend any information which has been made available to interested parties either by way of addition, deletion or amendment. Each interested party will be solely responsible for all costs incurred by it in connection with the process, and no finder’s fees, commissions, expenses or other compensation will be paid by Primus or Origin to agents, consultants, advisors or other intermediaries of any interested parties.

The Company and its representatives disclaim any and all liability for any information supplied to participants, either written or oral, and no representation or warranty is made with respect to the accuracy or completeness of such information. By submitting a Proposal and/or a Definitive Proposal, participants acknowledge that they are relying solely upon their own independent investigation and evaluation of the Company.

The existence and content of this letter and the Management Presentation are subject to the confidentiality agreement which you have previously executed. You are not permitted to disclose the contents of the Management Presentation to any third-party except as expressly permitted under the terms of the confidentiality agreement.



All communication regarding the Transaction must be addressed to Origin. Under no circumstances should you contact the management, employees, customers or any other parties involved with the Company directly. The Company also requests that all inquiries be directed to Origin who will coordinate all communication with interested parties. The Company and Origin further reserve the right to exclude any interested party from the process if this communication guideline is breached.

On behalf of Primus, we appreciate your interest in this opportunity and we look forward to working with you.

Sincerely,

ORIGIN MERCHANT PARTNERS

A handwritten signature in black ink, appearing to read "Andrew Muirhead". The signature is fluid and cursive, with a large initial "A" and "M".

Andrew Muirhead
Principal

A handwritten signature in black ink, appearing to read "Jim Osler". The signature is fluid and cursive, with a large initial "J" and "O".

Jim Osler
Principal

This is Exhibit "E"
to the affidavit of Michael Nowlan,
sworn before me on the 2 day
of February, 2016



Commissioner for Taking Affidavits



220 Bay Street, Suite 1500
PO Box 29
Toronto, Ontario M5J 2W4
416-800-0850
www.originmerchant.com

STRICTLY PRIVATE AND CONFIDENTIAL

October [•], 2015

[Contact name & Company]

[•]

[•]

[•]

[•]

Re: Project Thunder - Process for Binding Proposals

Dear [•]:

On behalf of Primus Telecommunications Canada Inc. and its affiliates (collectively “**Primus**” or the “**Company**”), we would like to thank you for your continued interest in pursuing a potential strategic transaction with the Company (the “**Transaction**”) and formally invite you to participate in the next phase of the process. Potential transactions that may be considered include, but are not limited to, asset sales, strategic investments or other financing scenarios, mergers, joint ventures or a full sale of the Company. The objective of this phase is to allow you to complete your diligence through access to certain of the confidential documents via an electronic data room (the “**Data Room**”) and additional meetings with management as needed.

Origin Merchant Partners (“**Origin**”) has been retained by the Board of Directors of the Company to solicit definitive, binding written proposals (the “**Definitive Proposals**”, or each a “**Definitive Proposal**”) in connection with a Transaction. Following the selection of a final buyer, the Company intends to move expeditiously to complete a Transaction.

On behalf of Primus, we invite you to submit a Definitive Proposal regarding a potential Transaction with the Company. Your Definitive Proposal should be based on the information contained in the Data Room to which you and selected other parties have been provided access, along with any accompanying discussions. To the extent you require additional information before you submit a Definitive Proposal, we would ask that you submit a list of questions to Origin in order to ensure an orderly and expedient response. Origin will seek to answer such questions as it sees appropriate to facilitate the submission of your Definitive Proposal.

Additional information regarding this process is contained in the Sale and Investor Solicitation Process, (the “**SISP Procedures**”) developed by the Company and its advisors (a copy of which will be provided shortly), and includes the items outlined below. To the extent of any inconsistencies between this process letter and the SISP Procedures, the terms of the SISP Procedures shall govern. Any capitalized terms used but not defined herein shall have the meaning ascribed to them in the SISP Procedures.

Data Room

A collection of confidential documents regarding the Company has been posted in a Data Room. To obtain access to the Data Room, please forward a complete listing of your team members requiring access. For each individual please forward a name, email address and company name (if advisors) to Matthew Rome (matthew.rome@originmerchant.com). We plan to make the Data Room available immediately. We remind you that the information is subject to the confidentiality agreement you have signed with the Company.

Definitive Agreements

The Company will circulate a form of asset purchase agreement containing the proposed terms of the Transaction along with any supporting documentation (collectively the “**Definitive Agreements**”) in advance of the deadline listed below. The Definitive Agreements contemplate an asset sale on an “As is, Where is” basis, with the Transaction being approved by the Court. While no decision has yet been made regarding a Court process, it is possible that a proceeding under the *Companies’ Creditors Arrangement Act* (Canada) or another appropriate Court proceeding may be required in order to complete a Transaction.

Follow-Up Diligence Requests

We recognize that there may be the need for follow-up information requests from the Data Room materials and management meeting that you would like to cover as part of the Due Diligence process. Please submit any information or conference call requests, including a detailed agenda of questions and topics to be covered, via email to Matthew Rome (matthew.rome@originmerchant.com).

Contents of Definitive Proposal

The requirements to be considered a “Qualified Bid” are set out in the SISP Procedures and include, among other things, the following: :

1. **Open for Acceptance.** Your Definitive Proposal should include a statement indicating that it is irrevocable and open to acceptance by the Company until the later of (i) the selection of the Successful Bidder (as defined in the SISP Procedures) and (ii) 30 days following the Definitive Bid Deadline, provided that if your Definitive Proposal is selected as the Successful Bid or the Alternate Bid (as defined in the SISP Procedures), your Definitive Proposal shall remain irrevocable until the closing of the sale to the Successful Bidder or to the Alternate Bid Expiration Date (as defined in the SISP Procedures), as applicable.
2. **Identity of the Purchaser.** Please specify the identity of the acquiring entity or entities (i.e. if you propose purchasing the assets indirectly, through a subsidiary, a limited partnership or other entity), including (i) the identity of any entity that controls such acquiring entity; and (ii) whether any prior or current member of the Company's board, management, any employee or consultant to the Company or any creditor (including any of the lenders) or shareholder of the Company is involved in any way with the bid or assisted with the bid, and the complete terms of any such participation and (iii) evidence of corporate authority to sponsor or participate in the Definitive Proposal;



3. **Purchase Price.** Please express the cash purchase price (in Canadian dollars) that you are prepared to pay in connection with the Transaction and describe any liabilities that you are willing to assume;
4. **Definitive Agreements.** Your Definitive Proposal should include duly authorized and executed Definitive Agreements substantially containing the detailed terms and conditions of the proposed transaction, including identification of the business or the property proposed to be acquired, the Purchase Price, and the detailed structure and financing of the proposed transaction, together with a mark-up comparing the Definitive Agreements submitted to the template provided. Parties are asked to provide a mark-up of the Definitive Agreements to Origin by **12:00 p.m. EST on November 2nd, 2015** for review with the Company's legal counsel;
5. **Financing.** Your Definitive Proposal must not be conditioned on obtaining financing. Please include written evidence upon which the Company may reasonably conclude that you have the necessary financing to close the contemplated transaction and provide adequate assurance of future performance of all obligations to be assumed in such contemplated transaction. Such information should include, among other things, the following:
 - a. evidence of your internal resources and proof of any debt or equity funding commitments that are needed to close the contemplated transaction;
 - b. contact names and numbers for verification of financing sources; and
 - c. any such other form of financial disclosure or credit-quality support information or enhancement demonstrating that you have the ability to close the contemplated transaction;
6. **Completion of Diligence.** Your Definitive Proposal must not be conditioned on outcome of unperformed due diligence. Please include a statement to indicate that your diligence has been completed with the possible exception of key customer contacts or similar restricted information held back by the Company in advance of the Definitive Proposal. Except as noted above, your Definitive Proposal should not contain any condition that makes your obligation to close contingent upon the satisfactory completion of due diligence investigations. Your Definitive Proposal should indicate you and, as applicable, your sources of financing: (i) have completed all other due diligence investigations with respect to the Company; (ii) have relied solely upon your own independent review, investigation and/or inspection of any documents and/or the business to be acquired and liabilities to be assumed in making the Definitive Proposal; and (iii) did not rely upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express or implied (by operation of law or otherwise), regarding the business to be acquired or liabilities to be assumed or the completeness of any information provided in connection therewith, except as expressly provided in a definitive agreement;
7. **Approvals and Due Authorization.** Please confirm that necessary corporate approvals (Board of Directors, Investment Committee or other relevant body) have been obtained for this Definitive Proposal. The receipt of internal approvals should not be a condition to closing;
8. **Conditions of Closing.** A detailed description (including anticipated timing) of any regulatory or other approvals or third party consents that you feel may be required in connection with your purchase of the assets;

9. **Deposit.** A “Qualified Bid” must be accompanied by a deposit (the “**Deposit**”) in the form of a wire transfer (to a bank account specified by the Company), or such other form acceptable to the Company, payable to the order of Stikeman Elliott LLP, in trust, equal to 5% of the Purchase Price to be held and dealt with in accordance with the SISP Procedures. The Deposit will be subject to the terms of an escrow agreement to be provided;
10. **Timing.** The Company expects to complete the Transaction within 30 days of entering into the Definitive Agreements. Please describe any timing constraints you may have;
11. **Management and Employees.** Your Definitive Proposal should also include your future plans for the business, including in as much detail as possible your assumptions and intentions with respect to management and employees;
12. **Contact Information.** Please include the names and telephone numbers of those persons whom we should contact with respect to your Definitive Proposal;
13. **Other.** Please discuss any other matters you believe may be helpful in our evaluation of your interest in and ability to finance and complete the Transaction on a timely basis.

Timing and Delivery Details

Definitive Proposals must be received by Origin by **12:00 p.m. EST on November 16th, 2015** (the “**Definitive Proposal Deadline**”). Definitive Proposals should be directed to:

Origin Merchant Partners
220 Bay Street, Suite 1500
Toronto, Ontario M5J 2W4

Andrew Muirhead, Principal
andrew.muirhead@originmerchant.com
416-800-0697

Jim Osler, Principal
jim.osler@originmerchant.com
416-800-0784

Matthew Rome, Vice President
matthew.rome@originmerchant.com
416-800-1712

Shaun Quennell, Associate
shaun.quennell@originmerchant.com
416-800-1768

Origin and the Company intend to evaluate all Definitive Proposals as quickly as possible following their submission, and to negotiate and execute definitive documents as quickly as possible after such evaluations are completed. In connection with this process, you and your advisors should be prepared to meet on short notice, and your Definitive Proposal should, at a minimum, remain in effect for 30 days from the deadline for making submissions as set forth above. Since the Transaction is expected to be required to be implemented by way of a court proceeding, we expect you to fully cooperate to effect the Transaction in and orderly and expedient manner.

Process – Disclaimer



Neither the Company nor Origin shall have any obligation arising from the receipt of any Definitive Proposal, rejection of any interested or prospective buyer, or the process of assessing any Definitive Proposal. Any such obligation will arise only upon the Company's execution of a definitive purchase agreement, shall be limited to those specific obligations set forth in such definitive purchase agreement, and may remain subject to Court approval

Subject to the provisions of the SISP Procedures, Primus and Origin expressly reserve the right at any time, with or without providing notice or reasons, to: (i) amend or terminate the process; (ii) decline to permit any interested party to participate in the process; (iii) negotiate with one or more interested parties with respect to a transaction; (iv) terminate discussions with any or all interested parties; (v) reject any or all offers; (vi) accept an offer other than the highest offer; (vii) pursue other value maximizing alternatives; or (viii) limit access at any time to any additional information; all without any liability to the Company or Origin. The Company shall have complete discretion for all decisions regarding the process.

In addition, Primus and Origin reserve the right to amend any information which has been made available to interested parties either by way of addition, deletion or amendment. Each interested party will be solely responsible for all costs incurred by it in connection with the process, and no finder's fees, commissions, expenses or other compensation will be paid by Primus or Origin to agents, consultants, advisors or other intermediaries of any interested parties.

The Company and its representatives disclaim any and all liability for any information supplied to participants, either written or oral, and no representation or warranty is made with respect to the accuracy or completeness of such information. By submitting a Definitive Proposal, participants acknowledge that they are relying solely upon their own independent investigation and evaluation of the Company.

The existence and content of this letter, the Management Presentation, and the Data Room are subject to the confidentiality agreement which you have previously executed. You are not permitted to disclose the contents of the Management Presentation or the Data Room to any third-party except as expressly permitted under the terms of that confidentiality agreement.

All communication regarding the Transaction must be addressed to Origin. Under no circumstances should you contact the management, employees, customers or any other parties involved with the Company directly. The Company also requests that all inquiries be directed to Origin who will coordinate all communication with interested parties. The Company and Origin further reserve the right to exclude any interested party from the process if this communication guideline is breached.

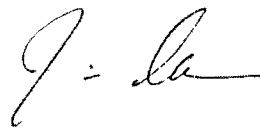
On behalf of Primus, we appreciate your interest in this opportunity and we look forward to continuing to work with you.

Sincerely,

ORIGIN MERCHANT PARTNERS

A handwritten signature in black ink, appearing to read "Andrew Muirhead".

Andrew Muirhead
Principal

A handwritten signature in black ink, appearing to read "Jim Osler".

Jim Osler
Principal

This is Exhibit "F"
to the affidavit of Michael Nowlan,
sworn before me on the 2 day
of February, 2016



Commissioner for Taking Affidavits

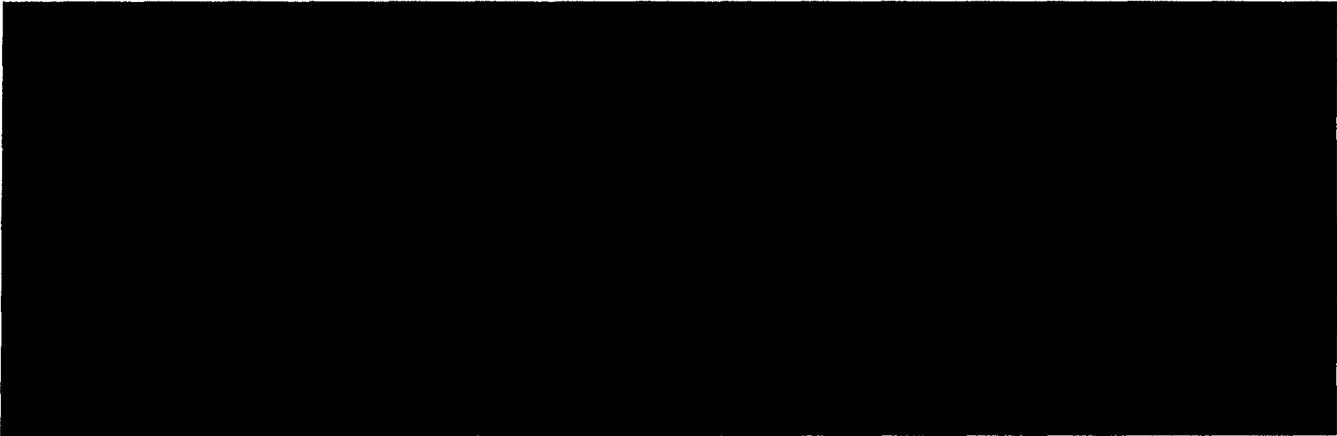
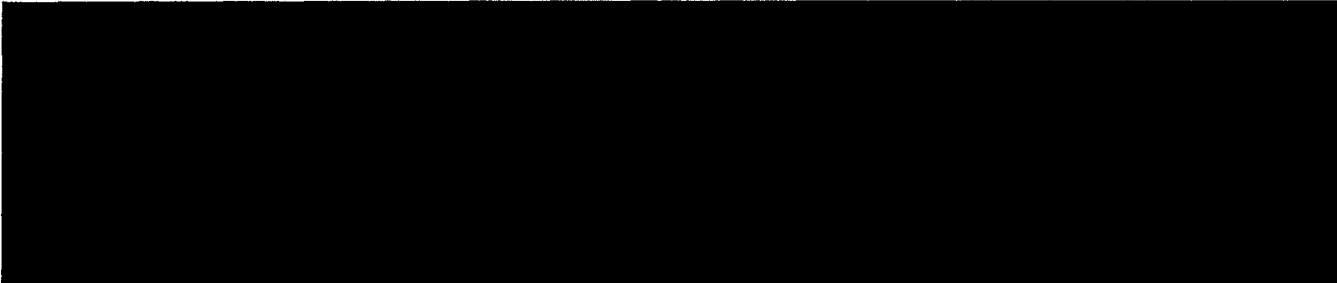
Teresa Koren

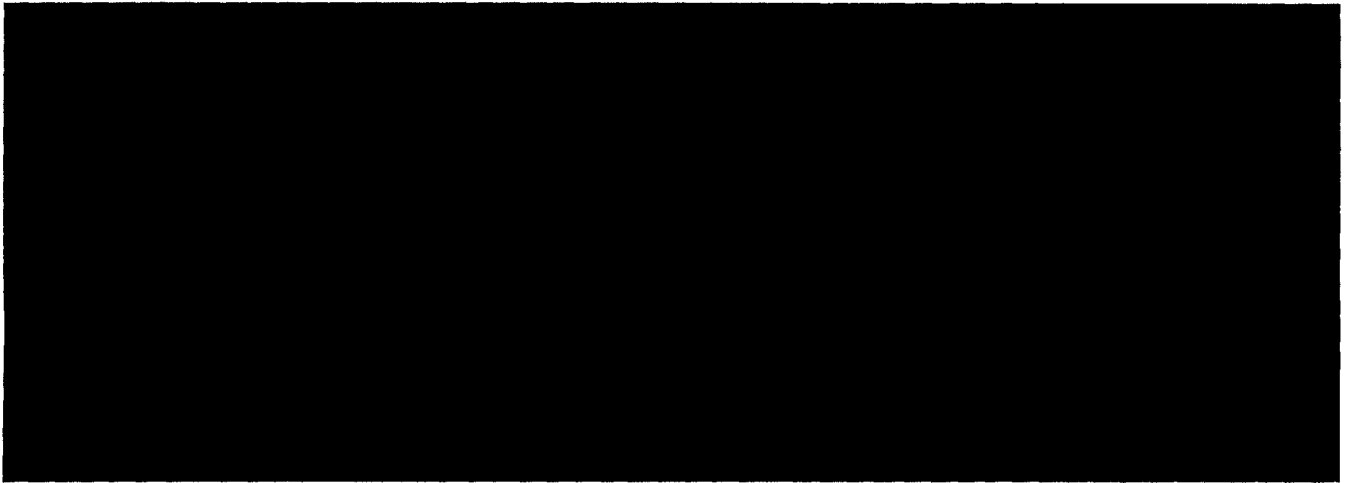
From: Yuval Barzakay <ybarzakay@comwave.net>
Sent: Wednesday, December 09, 2015 9:08 PM
To: Apps, Alfred; Samantha Horn; Matthew Cameron; Artur Agivaev; Ari Yakobson
Cc: Lalka, Alexander
Subject: Re: Project Thunder

I want to add to everybody that unless I hear that Primus' board has approved Comwave as the exclusive purchaser by EOD this Friday, our offer is off the table and request an immediate refund of our deposit. Happy to continue working on APA on the few minor details but I won't support further work unless we are selected. Deal fatigue is sinking in.

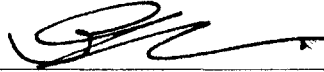
Thanks everybody,
Yuval Barzakay.

Sent from my BlackBerry 10 smartphone on the Rogers network.





This is Exhibit "G"
to the affidavit of Michael Nowlan,
sworn before me on the 2 day
of February, 2016



Commissioner for Taking Affidavits

Vlad Calina

From: Yuval Barzakay <ybarzakay@comwave.net>
Date: December 18, 2015 at 8:30:51 PM EST
To: Michael Nowlan <mnowlan@primustel.ca>
Cc: Ari Yakobson <AYakobson@wildlaw.ca>
Subject: Comwave's deadline.

Michael it is 830 on friday night and I still have not received a response. Please understand that I have bent over backwards to work on this transaction and engaged my entire team to focus on this matter. As you know, I travel to Australia on Sunday and I do not wish to have this potential transaction in limbo hanging over my head.

Please confirm by tomorrow at 6pm where the board and the bank stand with respect to executing the APA and the exclusivity agreements. If a decision cannot be made, Comwave is out of this transaction and I am requesting an immediate refund of my deposit. If there are minor issues which need to be addressed on Monday, Ari and his team can coordinate working on that while I am away on the basis that we have a deal. Please note, Comwave will only allow this to go into Monday if there are minor matters to discuss in the apa and if an exclusivity agreement is executed with us tomorrow.

Regards,

Yuval Barzakay.

Sent from my BlackBerry 10 smartphone on the Rogers network.

This is Exhibit "H"
to the affidavit of Michael Nowlan,
sworn before me on the 2 day
of February, 2016



Commissioner for Taking Affidavits

Vlad Calina

From: Michael Nowlan <MNowlan@primustel.ca>
Sent: Saturday, December 19, 2015 5:17 PM
To: Yuval Barzakay (ybarzakay@gmail.com)
Cc: Jim Osler
Subject: Comwave's Deadline

Yuval


On behalf of the board of Primus, I would like to thank you for your interest in the company, the effort your team has made to bring your transaction proposal forward and your efforts to date as we collectively have tried to reach transaction terms that would best meet the mandate of our board and the goals and objectives of our company and stakeholders.

Unfortunately, we will not be in a position to enter into a transaction with Comwave on the terms that you have proposed before your deadline of 6:00 PM tonight.

Given your stated position if we do not enter in to the exclusivity agreement with you by 6:00PM tonight, your deposit will be returned to you on Monday unless we hear otherwise from you.

Regards,

Michael Nowlan

 **Michael Nowlan**
 CEO
 T. 416.207.7121
 E. mnowlan@primustel.ca
[primus.ca](http://www.primus.ca)

<http://www.primustel.ca/fr/legal/cs.htm>





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<image003.gif>

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<image002.gif>

<image001.gif>

Confidentiality Notice:

This email and any attachments may be confidential and protected by legal privilege. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the e-mail or any attachment is prohibited. If you have received this email in error, please notify us immediately by replying to the sender and then delete this copy and the reply from your system. Thank you for your cooperation.

This is Exhibit "I"
to the affidavit of Michael Nowlan,
sworn before me on the 2 day
of February, 2016



Commissioner for Taking Affidavits

Teresa Koren

Subject: FW: Comwave's Deadline
Attachments: image001.gif; image002.gif; image003.gif; image003.gif; image002.gif; image001.gif

From: Jim Osler [<mailto:Jim.Osler@originmerchant.com>]
Sent: Sunday, December 20, 2015 8:30 PM
To: Michael J. Nowlan; Samantha Horn; Nigel Meakin; Andrew Wilczynski; Pete Aquino; Andrew Muirhead; Matthew Rome
Subject: Fwd: Comwave's Deadline

See below from Comwave.

Jim Osler | Origin Merchant Partners | t:416-800-0784 | c:416-903-4195 | 15th Floor, 220 Bay St., Toronto, Ontario

Begin forwarded message:

From: Ari Yakobson <AYakobson@wildlaw.ca>
Date: December 20, 2015 at 7:09:41 PM EST
To: Jim Osler <jim.osler@originmerchant.com>
Subject: Fwd: Comwave's Deadline

Jim please see below from michael.

What I propose and Yuval will agree to is the following:

Comwave leaves its bid in place as is as well as the deposit in an effort to finalize the transaction by the end of the month. As you know, we remain committed and continue to believe that Comwave is the best possible purchaser for this asset.

In exchange for leaving the bid out there and allowing the vendors stakeholders to continue to negotiate with us in good faith we would want a 300,000 dollar fee approved by the board and paid to Comwave in the instance where comwave's bid is not approved by the Board and the bank. This amount represents a portion of what Comwave has spent on expenses on this transaction.

I ask that you socialize this concept and get back to me by end of day tomorrow.

If the proposal per the above does not work, kindly refund Comwave's deposit by end of day tomorrow.

If as I hope, this proposal works please confirm that if Comwave is not the successful purchaser, per its executed asset purchase agreement Comwave will get the fee per above by Jan 4th as well as a refund of its deposit by the same date.

Jim I am around and working while on holiday. Please let me know.

Ari Yakobson

WILDEBOER DELLELCE LLP

ayakobson@wildlaw.ca | www.wildlaw.ca

T 416 847 6913 | F 416 361 1790 | C 416 520 8505

Suite 800 | Wildeboer Dellelce Place

365 Bay Street, Toronto, ON M5H 2V1

Follow us on [Twitter](#) and [LinkedIn](#)

Begin forwarded message:

From: Yuval Barzakay <ybarzakay@gmail.com>
Date: December 19, 2015 at 8:04:50 PM EST
To: Ari Yakobson <AYakobson@wildlaw.ca>
Subject: Fw: Comwave's Deadline

See below.

Sent from my BlackBerry 10 smartphone

From: Michael Nowlan <MNowlan@primustel.ca>
Sent: Saturday, December 19, 2015 5:17 PM
To: Yuval Barzakay (ybarzakay@gmail.com)
Cc: Jim Osler
Subject: Comwave's Deadline

Yuval

On behalf of the board of Primus, I would like to thank you for your interest in the company, the effort your team has made to bring your transaction proposal forward and your efforts to date as we collectively have tried to reach transaction terms that would best meet the mandate of our board and the goals and objectives of our company and stakeholders.

Unfortunately, we will not be in a position to enter into a transaction with Comwave on the terms that you have proposed before your deadline of 6:00 PM tonight.

Given your stated position if we do not enter in to the exclusivity agreement with you by 6:00PM tonight, your deposit will be returned to you on Monday unless we hear otherwise from you.

Regards,

Michael Nowlan

Michael Nowlan
CEO
T 416 207 7121
E mnowlan@primustel.ca
primus.ca

This is Exhibit "J"
to the affidavit of Michael Nowlan,
sworn before me on the 2 day
of February, 2016



Commissioner for Taking Affidavits

EXECUTION COPY

ESCROW AGREEMENT

Escrow Agreement dated December 18, 2016 between PRIMUS TELECOMMUNICATIONS CANADA INC., PRIMUS TELECOMMUNICATIONS, INC., and LINGO, INC. (each, a "Vendor" and collectively, the "Vendors"), BIRCH COMMUNICATIONS, INC. (the "Purchaser") and FTI CONSULTING CANADA INC., solely in its capacity as escrow agent for the Vendor and the Purchaser (the "Escrow Agent").

RECITALS:

- (a) The Purchaser has deposited or will deposit with the Escrow Agent, a deposit in the amount of CAD \$2,000,000 (the "Escrow Amount") with the Escrow Agent in contemplation of entering into a purchase agreement (the "Purchase Agreement") between the Purchaser, as purchaser and each Vendor, as vendor; and
- (b) The Escrow Agent is willing to act as escrow agent for the sole purpose of accepting, holding and disbursing the Escrow Amount in accordance with this Escrow Agreement.

In consideration of the above and for other good and valuable consideration, the parties agree as follows:

Section 1 Defined Terms

The parties to this Escrow Agreement are collectively called the "parties" and individually a "party". The term "Business Day" shall mean a day on which banks are open for business in Toronto, Ontario but does not include a Saturday, Sunday or statutory holiday in the Province of Ontario. The term "including" means "including without limitation" and the term "includes" means "includes without limitation."

Section 2 Appointment of Escrow Agent

The Vendors and the Purchaser hereby appoint the Escrow Agent to act as escrow agent in accordance with this Escrow Agreement and the Escrow Agent accepts such appointment.

Section 3 Delivery of Escrow Amount and Receipt

The Escrow Agent acknowledges receipt from the Purchaser of the Escrow Amount. The Escrow Agent shall hold and deal with the Escrow Amount in accordance with this Escrow Agreement.

Section 4 Holding of Escrow Amount

- (1) Until the Escrow Amount is disbursed in accordance with Section 5 or Section 9, the Escrow Agent shall hold the Escrow Amount in a bank account at Bank of Nova Scotia.

- (2) Interest earned and paid on such amounts (if any) will be added to and form part of the Escrow Amount. Interest earned net of any bank charges or fees incurred on or related to the Escrow Amount will be for the benefit of the party to whom such Escrow Amount is released and the Escrow Agent may provide such information (including the identity of the party receiving the Escrow Amount) as may be required for tax reporting and other purposes.

Section 5 Release of Escrow Amount

- (1) Upon receipt by the Escrow Agent of a distribution direction the form of which is attached as Schedule "A" hereto ("**Distribution Direction**"), duly executed by each of the Vendors and the Purchaser the Escrow Agent shall be irrevocably authorized and directed to remit the Escrow Amount in the manner set forth therein and such disbursement shall be initiated by the Escrow Agent on or before the third Business Day after the receipt by the Escrow Agent of such Distribution Direction.
- (2) Upon receipt by the Escrow Agent of a Distribution Direction which is not signed by each Vendor and the Purchaser, the Escrow Agent shall forthwith provide written notice of having received such Distribution Direction to each party which did not execute such Distribution Direction (the "**Notice of Distribution**") and if, within five Business Days of having provided such notice, the Escrow Agent does not receive a written notice of objection from each recipient of such Notice of Distribution (an "**Objection**"), the Escrow Agent shall remit the Escrow Amount in the manner set forth in such Distribution Direction.
- (3) Notwithstanding the above and subject to Section 5, if (i) the Escrow Amount has not been released or (ii) the Escrow Agent has not received a Distribution Direction executed by each Vendor and the Purchaser by the day that is 10 days after the Outside Date (as defined in the Purchase Agreement), then the Escrow Agent shall release the Escrow Amount to the Purchaser on or before five Business Days after such date.
- (4) The Escrow Agent is not required to and may not make any determination, decision or investigation with respect to the validity of any claim or denial thereof or Objection made by any Vendor or the Purchaser and may rely solely on the terms of this Escrow Agreement and any Distribution Direction delivered to the Escrow Agent in accordance with the terms and conditions contained herein.
- (5) In the following circumstances, the Escrow Agent may (i) refrain from taking any action under this Escrow Agreement until it is authorized or directed otherwise in writing by each Vendor and the Purchaser, or by an order of a court of competent jurisdiction from which no further appeal may be taken or (ii) deposit the Escrow Amount with a court of competent jurisdiction in the Province of Ontario, if:

- (a) the Escrow Agent is uncertain as to its duties or rights under this Escrow Agreement;
- (b) the Escrow Agent receives instructions, claims or demands from any party to this Escrow Agreement or from a third person with respect to any matter under this Escrow Agreement which, in its opinion, are in conflict with this Escrow Agreement;
- (c) any of the parties to this Escrow Agreement, including the Escrow Agent, disagree about the interpretation of this Escrow Agreement or about the rights and obligations of the Escrow Agent or the propriety of an action contemplated by the Escrow Agent under this Escrow Agreement;
- (d) an Objection is received pursuant to Section 5(2); or
- (e) any party hereto commences a motion or other proceeding before a court of competent jurisdiction for determination of any party's rights, remedies or entitlements with respect to the Escrow Amount.

Section 6 Duties and Liabilities of the Escrow Agent.

- (1) The Escrow Agent has no duties, obligations or responsibilities whatsoever, including any inferred or implied duties or obligations, other than those duties, obligations or responsibilities expressly set forth in this Escrow Agreement, which the parties acknowledge and agree are purely administrative in nature. For greater certainty, the Escrow Agent is not bound by any agreement, arrangement or understanding relating to or arising out of the matters provided for in this Escrow Agreement, except as expressly set forth in this Escrow Agreement and shall be obligated to perform only such duties as are specifically set forth herein.
- (2) The Escrow Agent shall not be liable for any expense, loss or damage for any action taken or omitted to be taken by the Escrow Agent, any mistake of fact or law, any error of judgment, or in the event of any loss or mis-delivery of or to the Escrow Amount howsoever caused, except for acts of its own bad faith or fraud in each case as determined by a final non-appealable order of a court of competent jurisdiction in the province of Ontario. The Escrow Agent shall have no liability for any expense, loss or damage whatsoever arising from any cause beyond the Escrow Agent's control, including the following: (i) any delay, error, omission or default of any mail, courier or electronic transmission; (ii) the acts of any government, governmental agency or regulatory body (including any act or provision of any present or future law or regulation or governmental authority), (iii) any act of God or war; (iv) the unavailability of telecopier or other wire or electronic communication facility; or (v) any act, omission or disruption of banking services or payment settlement system which affects the ability of the Escrow Agent's bank to process a wire transfer payment, electronic funds transfer payment or any

other transfer of some or all of the Escrow Amount pursuant to a Distribution Direction. Notwithstanding anything in this Escrow Agreement to the contrary: (i) in no event shall the Escrow Agent be liable for special, indirect or consequential losses or damages of any kind whatsoever (including lost profits) and (ii) the maximum liability of the Escrow Agent with respect to this Escrow Agreement and its obligations hereunder shall not, under any circumstances, exceed the total Escrow Amount actually received by the Agent, together with interest, if any, accrued thereon in accordance with the terms of this Escrow Agreement.

- (3) The Escrow Agent may rely on, and is protected in acting upon, any Distribution Direction received by the Escrow Agent in accordance with Section 5 (including Section 5(2)) or Section 9, and may accept a Distribution Direction as sufficient evidence of the facts stated in them. The Escrow Agent is in no way bound to enquire as to the veracity, accuracy or adequacy thereof or call for further evidence (whether as to due execution, validity or effectiveness, or the jurisdiction of any court, or as to the truth of any fact), and is not responsible for any loss that may be occasioned by its failing to do so.
- (4) If the Escrow Agent becomes involved in any arbitration or litigation relating to this Escrow Agreement, the Escrow Agent may comply with any decision reached through such arbitration or litigation.
- (5) Upon the Escrow Agent disbursing the Escrow Amount to the Purchaser or the Vendors or depositing the Escrow Amount with a court in accordance with this Escrow Agreement, the Escrow Agent will be released from its duties and obligations under this Escrow Agreement. Section 7 and Section 8 and the provisions of this Escrow Agreement relating to the protection of the Escrow Agent survive such release of the Escrow Agent.

Section 7 Escrow Agent's Fees, Costs and Expenses

The Vendors shall pay the Escrow Agent's reasonable fees, expenses and disbursements in connection with the performance of its obligations under this Escrow Agreement.

Section 8 Indemnification of Escrow Agent

The Vendors, jointly and severally, on the one hand, and the Purchaser, on the other hand, shall jointly and severally indemnify and save harmless the Escrow Agent and each of its shareholders, partners, directors, officers, employees, agents, advisors, representatives and affiliates (collectively, the "Indemnitees"), of and from, and shall pay for, all actions, proceedings, losses, liabilities, costs, claims, damages, fees, expenses (including legal fees and expenses on a full indemnity basis without reduction for tariff rates or similar reductions) and demands that may be imposed on, incurred by, made, asserted or brought against any of the Indemnitees or which any of them may suffer or incur as a result of, in respect of, or arising out of

or in connection with this Escrow Agreement, the performance or non-performance by the Escrow Agent under this Escrow Agreement or any transactions contemplated by this Escrow Agreement, except such as shall result solely and directly from the Escrow Agent's own bad faith or fraud.

Section 9 Resignation, Removal of Escrow Agent

- (1) The Escrow Agent may resign and be discharged from all further duties, obligations and liabilities under this Escrow Agreement at any time on 30 days' written notice to the Vendors and the Purchaser or such shorter notice as the Vendors and the Purchaser may accept as sufficient. The Vendors and the Purchaser may collectively remove the Escrow Agent from its office at any time on 30 days' written notice from all of them to the Escrow Agent.
- (2) If the Escrow Agent resigns or is removed, the Vendors and the Purchaser have 10 Business Days to collectively appoint a successor and the Escrow Agent shall deliver the Escrow Amount and all interest accrued thereon (if any) as each Vendor and the Purchaser direct by providing the Escrow Agent with a Distribution Direction.
- (3) If a successor is not appointed in accordance with Section 9(2), then the Escrow Agent shall cease its function at the expiration of the notice period and deposit the Escrow Amount with a court of competent jurisdiction in the Province of Ontario or as otherwise directed by each Vendor and Purchaser pursuant to a Distribution Direction.
- (4) This Escrow Agreement terminates and ceases to be of any further force and effect with respect to the Escrow Agent on the date on which the Escrow Agent delivers the Escrow Amount to a successor or disburses it in accordance with this Section 9, except that Section 7 and Section 8 and all other provisions of this Escrow Agreement relating to the protection of the Escrow Agent survive the resignation or removal of the Escrow Agent.
- (5) Upon the appointment of any successor escrow agent, the successor escrow agent will be vested with the same powers, rights, duties and responsibilities as if the successor escrow agent had been originally named as Escrow Agent under this Escrow Agreement and will be subject to removal under this Section 9. Each Vendor, the Purchaser and the successor escrow agent shall execute and deliver all documents and take all such actions as may, in the reasonable opinion of the Escrow Agent, be necessary or desirable for the purpose of effectively transferring the Escrow Amount to the successor escrow agent and otherwise assuring the successor escrow agent a full estate in the premises.

Section 10 Termination of Escrow Agreement

This Escrow Agreement terminates and ceases to be of any further force and effect on the date on which the Escrow Agent disburses the Escrow Amount in

accordance with Section 5, deposits it in accordance with Section 5 or 9, or ceases to be an Escrow Agent in accordance with Section 9, except that Section 7 and Section 8 and all other provisions of this Escrow Agreement relating to the protection of the Escrow Agent survive the termination of this Escrow Agreement.

Section 11 Notices

(1) Any notice, direction or other communication given regarding the matters contemplated by this Escrow Agreement, including, any Distribution Direction and Notice of Distribution (each, a "Notice") must be in writing, sent by personal delivery, courier or email and addressed to the addresses set forth below:

(i) in the case of the Purchaser, as follows:

Birch Communications, Inc.
3060 Peachtree Road, NW
Suite 1065
Atlanta, Georgia 30305

Attention: Vincent M. Oddo
Email: vincent.oddo@Birch.com

with a copy to:

Jones Day
1420 Peachtree Street, NE
Suite 800
Atlanta, Georgia 30309

Attention: William B. Rowland
Email: wbrowland@jonesday.com

(ii) in the case of any Vendor, as follows:

Primus Telecommunications Canada, Inc.
5343 Dundas Street West
Suite 400
Toronto ON M9B 6K5

Attention: Chief Executive Officer
Email:

with a copy to:

Stikeman Elliott LLP
5300 Commerce Court West
199 Bay Street
Toronto, Ontario M5L 1B9

Attention: Samantha Horn
Email: shorn@stikeman.com

(iii) in the case of the Escrow Agent, as follows:

FTI Consulting Canada Inc.
 TD South Tower
 79 Wellington Street West
 Toronto Dominion Centre, Suite 2010
 Toronto, ON M5K 1G8

Attention: Nigel Meakin
Email: nigel.meakin@fticonsulting.com

with a copy to:

Blake, Cassels & Graydon LLP
 Suite 4000, Commerce Court West
 199 Bay Street
 Toronto, Ontario M5L 1B9

Attention: Linc Rogers
Email: linc.rogers@blakes.com

- (2) Any Notice, if given by personal delivery or by courier, will be deemed to have been given on the day of actual delivery thereof and, if transmitted by email before 5:00 p.m. (Toronto time) on a Business Day, will be deemed to have been given on such Business Day, and if transmitted by email after 5:00 p.m. (Toronto time) on a Business Day, will be deemed to have been given on the Business Day after the date of the transmission.
- (3) Sending a copy of a Notice to a party's legal counsel as contemplated above is for information purposes only and does not constitute delivery of the notice or other communication to that party. The failure to send a copy of a notice or other communication to legal counsel does not invalidate delivery of that notice or other communication to a party.

Section 12 Amendments

This Escrow Agreement may only be amended, supplemented or otherwise modified by written agreement signed by all of the parties.

Section 13 Entire Escrow Agreement

This Escrow Agreement constitutes the entire agreement between the parties with respect to the transactions contemplated in this Escrow Agreement and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties with respect to such transactions. There are no representations, warranties, covenants, conditions or other agreements, express or

implied, collateral, statutory or otherwise, between the parties in connection with the subject matter of this Escrow Agreement, except as specifically set forth in this Escrow Agreement. The parties have not relied and are not relying on any other information, discussion or understanding in entering into and completing the transactions contemplated by this Escrow Agreement. Notwithstanding the foregoing, as between the Purchaser and the Vendors only (and not the Escrow Agent), in the event that there is any conflict or inconsistency between the provisions contained in this Escrow Agreement and the provisions contained in the Purchase Agreement such that the conflicting or inconsistent provisions cannot reasonably co-exist, then the provisions of the Purchase Agreement shall govern and shall override the provisions contained in this Escrow Agreement.

Section 14 Enurement and Assignment

This Escrow Agreement becomes effective when executed by all of the parties. After that time, it will be binding upon and enure to the benefit of the parties and their respective successors, legal representatives and permitted assigns. Neither this Escrow Agreement nor any of the rights or obligations under this Escrow Agreement, including any right to payment, may be assigned or transferred, in whole or in part, by any party without the prior written consent of the other parties.

Section 15 Severability

If any provision of this Escrow Agreement is determined to be illegal, invalid or unenforceable by an arbitrator or any court of competent jurisdiction from which no appeal exists or is taken, that provision will be severed from this Escrow Agreement and the remaining provisions will remain in full force and effect.

Section 16 Waiver

No waiver of any of the provisions of this Escrow Agreement will constitute a waiver of any other provision (whether or not similar). No waiver will be binding unless executed in writing by the party to be bound by the waiver. A party's failure or delay in exercising any right under this Escrow Agreement will not operate as a waiver of that right. A single or partial exercise of any right will not preclude a party from any other or further exercise of that right or the exercise of any other right it may have.

Section 17 Further Assurances

On or after the date of this Escrow Agreement, the Vendor and the Purchaser shall execute and deliver such documents and take all such action as the other or the Escrow Agent may request from time to time in order to carry out the intent and purpose of this Escrow Agreement and to establish and protect the rights, interests and remedies intended to be created in favour of the Escrow Agent.

Section 18 Time

Time is of the essence in this Escrow Agreement.

Section 19 Governing Law

This Escrow Agreement is governed by, and will be interpreted and construed in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable therein. Each party irrevocably attorns and submits to the non-exclusive jurisdiction of the Ontario courts situated in the City of Toronto, and waives objection to the venue of any proceeding in such court or that such court provides an inconvenient forum.

Section 20 Counterparts

This Escrow Agreement may be executed in any number of counterparts, each of which is deemed to be an original, and such counterparts together constitute one and the same instrument. Transmission of an executed signature page by facsimile, email or other electronic means is as effective as a manually executed counterpart of this Escrow Agreement.

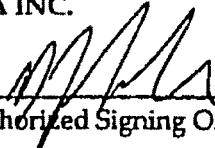
Section 21 English Language

The parties to this Escrow Agreement have agreed that this Escrow Agreement as well as any document or instrument relating to it be drawn up in English only but without prejudice to any such document or instrument which may from time to time be drawn up in French only or in both French and English. *Les parties aux présentes ont convenu que la présente Convention ainsi que tous autres actes ou documents s'y rattachant soient rédigés en anglais seulement mais sans préjudice à tous tels actes ou documents qui pourraient à l'occasion être rédigés en français seulement ou à la fois en anglais et en français.*


[Signature Page Follows]

The parties have executed this Escrow Agreement.

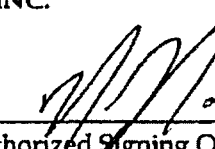
**PRIMUS TELECOMMUNICATIONS
CANADA INC.**

By:  _____
Authorized Signing Officer

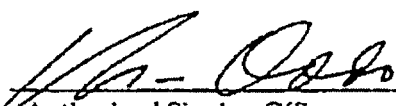
**PRIMUS TELECOMMUNICATIONS,
INC.**

By:  _____
Authorized Signing Officer

LINGO, INC.

By:  _____
Authorized Signing Officer

BIRCH COMMUNICATIONS, INC.

By:  _____
Authorized Signing Officer

**FTI CONSULTING CANADA INC.,
solely in its capacity as Escrow Agent**

By: _____
Authorized Signatory, without
individual or personal liability

The parties have executed this Escrow Agreement.

**PRIMUS TELECOMMUNICATIONS
CANADA INC.**

By: _____
Authorized Signing Officer

**PRIMUS TELECOMMUNICATIONS,
INC.**

By: _____
Authorized Signing Officer


LINGO, INC.

By: _____
Authorized Signing Officer

BIRCH COMMUNICATIONS, INC.

By: _____
Authorized Signing Officer

**FTI CONSULTING CANADA INC.,
solely in its capacity as Escrow Agent**

By:  _____
Authorized Signatory, without
individual or personal liability

**EXHIBIT A
ESCROW RELEASE INSTRUCTIONS**

TO: FTI CONSULTING CANADA INC., solely in its capacity as escrow agent
(the "Escrow Agent")

RE: Escrow Agreement dated _____, 201__ (the "Escrow
Agreement") among Primus Telecommunications Canada Inc., Birch
Communications, Inc., and the Escrow Agent

Capitalized terms in this Distribution Direction have the meaning ascribed to such
terms in the Escrow Agreement

This Distribution Direction is being delivered pursuant to Section 5(1) of the Escrow
Agreement. The Escrow Agent is hereby irrevocably authorized and directed to
deliver the Escrow Amount to:

[Note: Insert name/address of Vendor or Purchaser, as appropriate.]

By wire transfer to the following:

[Account holder]
c/o [Name of financial institution]
[Address]
Transit #: ●, Swift Code: ●
Bank Code: ●
Account #: ●

and to inform the financial institution that the above named person is the beneficiary
of the Escrow Amount and this is your good and sufficient authority for doing so.

The reason(s) for the delivery of this Distribution Direction are as follows:

DATED this _____ day of _____, 201_____.

**PRIMUS TELECOMMUNICATIONS
CANADA INC.**

By: _____
Authorized Signing Officer

**PRIMUS TELECOMMUNICATIONS,
INC.**

By: _____
Authorized Signing Officer

LINGO, INC.

By: _____
Authorized Signing Officer

BIRCH COMMUNICATIONS, INC.

By: _____
Authorized Signing Officer

This is Exhibit "K"
to the affidavit of Michael Nowlan,
sworn before me on the 2 day
of February, 2016



Commissioner for Taking Affidavits

Birch Communications, Inc.
3060 Peachtree Road, N.W.
Suite 1065
Atlanta, GA 30339

December 22, 2015

Private and Confidential

Primus Telecommunications Canada Inc.
5343 Dundas Street West, Suite 400
Toronto ON M9B 6K5

Attention: Michael Nowlan, Chief Executive Officer

Dear Sirs:

Birch Communications, Inc. (the "**Purchaser**") hereby submits this offer (the "**Offer**") for the acquisition (the "**Proposed Transaction**") by the Purchaser of certain assets of Primus Telecommunications Canada Inc., Primus Telecommunications, Inc. and Lingo, Inc. (the "**Vendors**" and, together with the Purchaser, the "**Parties**") on and subject to the terms and conditions set out in the draft asset purchase agreement enclosed with this letter as Schedule A (the "**Purchase Agreement**"). Terms not otherwise defined in this letter have them meanings ascribed to them in the Purchase Agreement. The Offer supersedes all prior offers made by Purchaser in respect of the Proposed Transaction.

The Purchaser's willingness to pursue the Proposed Transaction is conditioned upon the Parties entering into this letter agreement.

The Parties agree that at any time between the time of acceptance of this letter until 5:00 pm (Toronto time) on January 8, 2016 or such later date as the Parties may agree in writing (the "**Option Period**"), the Vendors may elect to accept the Offer or engage in exclusive discussions with the Purchaser towards a mutually-acceptable form of Purchase Agreement. Promptly following such acceptance, and subject to the Required Completions (defined below), the Parties agree to execute and deliver a final version of the Purchase Agreement (the "**Final Purchase Agreement**") and upon such execution and delivery, the Final Purchase Agreement shall form a binding and enforceable agreement of the parties thereto, subject to approval of the Court. The Vendors also agree that following their execution and delivery of the Final Purchase Agreement, they will move expeditiously to apply to the Court for protection under the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**") and pursue approval of the Court of the Final Purchase Agreement and the Proposed Transaction, pursuant to motion material in form and substance acceptable to the Purchaser. The Offer will expire at the end of the Option Period. The Offer may not be revoked by the Purchaser until the Option Period has expired.

In consideration of the substantial time and resources that the Purchaser has devoted and will continue to devote to pursuing the Proposed Transaction, the Vendors agree that until the end of the Option Period, the Vendors will, and will cause their and their

subsidiaries' and their respective representatives to terminate any existing discussions with any third party, and will not 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 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 Vendors.

The Purchaser acknowledges that it remains bound by the terms of a non-disclosure agreement dated September 15, 2015 between the Purchaser and Primus Telecommunications Canada, Inc., as amended (such non-disclosure agreement, the "**Non-Disclosure Agreement**").

As used herein, Required Completions means completion and amendment of all Schedules to the Purchase Agreement, as reasonably agreed to by the Parties. The Parties all agree to use their reasonable best efforts to complete the Required Completions by close of business on January 5, 2016.

Promptly succeeding the execution and delivery of this letter agreement, Purchaser will deposit CDN\$2 million with an escrow agent pursuant to an Escrow Agreement between the Parties and the escrow agent dated December 18, 2015, and if the Parties do not enter into the Final Purchase Agreement by January 9, 2016, the Parties agree to promptly direct the escrow agent to return the deposit to Purchaser.


The Parties agree that the execution and delivery of this letter agreement and its terms and provisions, as well as the existence of the Purchase Agreement and its terms and provisions, are subject to the Non-Disclosure Agreement and as such neither this letter, the Purchase Agreement nor any of their respective terms and provisions may be used or disclosed in any manner except as permitted by the Non-Disclosure Agreement and except for disclosure to senior secured lenders and in conjunction with any court filings unless any other disclosure is consented to in writing by the Parties. In the event that the CCAA court orders that a post-filing sale process be conducted by the Vendors, and in the event that the Purchaser in its sole discretion is willing to do so, the Vendors agree that the Final Purchase Agreement shall serve as the stalking horse offer for any such sales process, pursuant to sales procedures in form and substance acceptable to the Purchaser, including with respect to customary stalking horse protections for the Purchaser (which shall include, without limitation, a 3% break-up fee to be paid from the proceeds of any overbid).

- 3 -

If you are in agreement with the foregoing, please confirm that agreement by signing one copy of this letter and returning it to the undersigned.

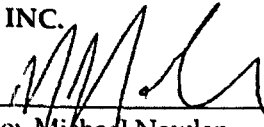
Yours very truly,

BIRCH COMMUNICATIONS, INC.

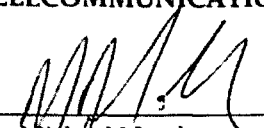
Per: 
Name: Vincent M. Oddo
Title: Chief Executive Officer

ACCEPTED AND AGREED as of the date first written above.


PRIMUS TELECOMMUNICATIONS
CANADA INC.

By: 
Name: Michael Nowlan
Title: Chief Executive Officer

PRIMUS TELECOMMUNICATIONS,
INC.

By: 
Name: Michael Nowlan
Title: Chief Executive Officer

LINGO, INC.

By: 
Name: Michael Nowlan
Title: Chief Executive Officer

Schedule A – Asset Purchase Agreement

See attached.

AMENDING AGREEMENT

Amending agreement dated January 5, 2016 between Birch Communications, Inc. (“**Birch**”) and Primus Telecommunications Canada Inc., Primus Telecommunications, Inc. and Lingo, Inc. (collectively, the “**Vendors**”).

RECITALS:

- (1) Birch and the Vendors have entered into an exclusivity agreement dated December 22, 2015 (the “**Exclusivity Agreement**”), with respect to the proposed acquisition of certain assets of the Vendors by Birch; and
- (2) Birch and the Vendors wish to amend the Exclusivity Agreement as provided in this amending agreement.

NOW THEREFORE, in consideration of the above and for other good and valuable consideration, the parties agree as follows:

Section 1 Defined Terms.

Capitalized terms used in this amending agreement that are not defined in it have the meanings given to them in the Exclusivity Agreement.

Section 2 Amendments to the Exclusivity Agreement.

The date by which Parties all agree to use their reasonable best efforts to complete the Required Completions by shall be extended to close of business on January 6, 2016.


Section 3 Reference to and Effect on the Exclusivity Agreement.

On and after the date of this amending agreement, any reference to “this letter” or “this letter agreement” in the Exclusivity Agreement and any reference to the Exclusivity Agreement in any other agreements will mean the Exclusivity Agreement as amended by this amending agreement. Except as specifically amended by this amending agreement, the provisions of the Exclusivity Agreement remain in full force and effect.

[Remainder of page intentionally left blank. Signature page follows]

AGREED this 5th day of January, 2016.

BIRCH COMMUNICATIONS, INC.

By: 
Name: Vincent M. Otto
Title: President + CEO

**PRIMUS TELECOMMUNICATIONS
CANADA INC.**

By: _____
Name:
Title:

**PRIMUS TELECOMMUNICATIONS,
INC.**

By: _____
Name:
Title:

LINGO, INC.


By: _____
Name:
Title:

AGREED this 5th day of January, 2016.

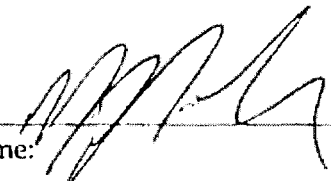
BIRCH COMMUNICATIONS, INC.

By: _____
Name:
Title:


**PRIMUS TELECOMMUNICATIONS
CANADA INC.**

By:  _____
Name:
Title:

**PRIMUS TELECOMMUNICATIONS,
INC.**

By:  _____
Name:
Title:

LINGO, INC.

By:  _____
Name:
Title:

SECOND AMENDING AGREEMENT

Second amending agreement dated January 8, 2016 between Birch Communications, Inc. ("**Birch**") and Primus Telecommunications Canada Inc., Primus Telecommunications, Inc. and Lingo, Inc. (collectively, the "**Vendors**").

RECITALS:

- (1) Birch and the Vendors have entered into an exclusivity agreement dated December 22, 2015 (the "**Exclusivity Agreement**"), with respect to the proposed acquisition of certain assets of the Vendors by Birch;
- (2) Birch and the Vendors have previously amended the Exclusivity Agreement pursuant to an amending agreement dated January 5, 2016 (the "**First Amending Agreement**"); and
- (3) Birch and the Vendors wish to further amend the Exclusivity Agreement as provided in this second amending agreement.

NOW THEREFORE, in consideration of the above and for other good and valuable consideration, the parties agree as follows:

Section 1 Defined Terms.

Capitalized terms used in this second amending agreement that are not defined in it have the meanings given to them in the Exclusivity Agreement.

Section 2 Amendments to the Exclusivity Agreement.

- (1) The third paragraph in the body of the Exclusivity Agreement is hereby amended by deleting such paragraph in its entirety and replacing it with the following

"The Parties agree that at any time between the time of acceptance of this letter until 5:00 pm (Toronto time) on January 11, 2016, or such later date as the Parties may agree in writing, the Purchaser shall execute and deliver to the Vendors a final version of the Purchase Agreement in a form mutually-acceptable to the Parties (the "**Final Purchase Agreement**"). Upon receipt of the executed Final Purchase Agreement from the Purchaser, the Vendors may elect to accept the Offer by countersigning and delivering the fully executed Final Purchase Agreement to the Purchaser at any time prior to 5:00 pm (Toronto time) on January 13, 2016 (the "**Option Period**"). Promptly following such acceptance, and subject to the Required Completions (defined below), the Final Purchase Agreement shall form a binding and enforceable agreement of the parties thereto, subject to approval of the Court. The Vendors also agree that following their execution and delivery of the Final Purchase Agreement, they will move expeditiously to apply to the Court for protection under the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**") and pursue approval of the Court of the Final Purchase Agreement and the Proposed Transaction, pursuant to motion material in form and substance acceptable to the Purchaser. The Offer will expire at the end of the Option Period. The Offer may not be revoked by the Purchaser until the Option Period has expired."

- (2) The date by which the Parties agree to use their reasonable best efforts to complete the Required Completions shall be extended to the close of business on January 10, 2016.

Section 3 Purchase Agreement

Schedule A to the Exclusivity Agreement is hereby deleted in its entirety and replaced with Schedule A attached to this second amending agreement.

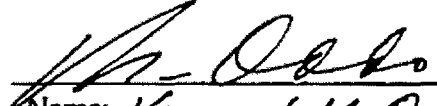
Section 4 Reference to and Effect on the Exclusivity Agreement.

On and after the date of this second amending agreement, any reference to “this letter” or “this letter agreement” in the Exclusivity Agreement and any reference to the Exclusivity Agreement in any other agreements will mean the Exclusivity Agreement as amended by both the First Amending Agreement and this second amending agreement. Except as specifically amended by the First Amending Agreement and this second amending agreement, the provisions of the Exclusivity Agreement remain in full force and effect.

[Remainder of page intentionally left blank. Signature page follows]

AGREED this 8th day of January, 2016.

BIRCH COMMUNICATIONS, INC.

By: 
Name: *Vincent M. Oddo*
Title: *President & CEO*

**PRIMUS TELECOMMUNICATIONS
CANADA INC.**

By: _____
Name:
Title:

**PRIMUS TELECOMMUNICATIONS,
INC.**

By: _____
Name:
Title:

LINGO, INC.

By: _____
Name:
Title:

AGREED this 8th day of January, 2016.

BIRCH COMMUNICATIONS, INC.

By _____

Name

Title

PRIMEF TELECOMMUNICATIONS
CANADA INC.



**SCHEDULE A
FORM OF PURCHASE AGREEMENT**

Attached.

THIRD AMENDING AGREEMENT

Third amending agreement dated January 13, 2016 between Birch Communications, Inc. ("Birch") and Primus Telecommunications Canada Inc., Primus Telecommunications, Inc. and Lingo, Inc. (collectively, the "Vendors").

RECITALS:

- (1) Birch and the Vendors have entered into an exclusivity agreement dated December 22, 2015 (the "Exclusivity Agreement"), with respect to the proposed acquisition of certain assets of the Vendors by Birch;
- (2) Birch and the Vendors have previously amended the Exclusivity Agreement pursuant to an amending agreement dated January 5, 2016 (the "First Amending Agreement") and pursuant to a second amending agreement dated January 8, 2016 (the "Second Amending Agreement"); and
- (3) Birch and the Vendors wish to further amend the Exclusivity Agreement as provided in this third amending agreement.

NOW THEREFORE, in consideration of the above and for other good and valuable consideration, the parties agree as follows:

Section 1 Defined Terms.

Capitalized terms used in this second amending agreement that are not defined in it have the meanings given to them in the Exclusivity Agreement.

Section 2 Amendments to the Exclusivity Agreement.

- (1) The third paragraph in the body of the Exclusivity Agreement is hereby amended by deleting such paragraph in its entirety and replacing it with the following

"The Parties agree that at any time between the time of acceptance of this letter until 5:00 pm (Toronto time) on January 19, 2016, or such later date as the Parties may agree in writing (the "Option Period"), the Vendor may elect to accept the Offer or engage in exclusive discussion with the Purchaser towards a mutually-acceptable form of Purchase Agreement. Promptly following such acceptance, the Parties agree to execute and deliver a final version of the Purchase Agreement (the "Final Purchase Agreement") and upon such execution and delivery, the Final Purchase Agreement shall form a binding and enforceable agreement of the parties thereto, subject to approval of the Court. The Vendors also agree that following their execution and delivery of the Final Purchase Agreement, they will move expeditiously to apply to the Court for protection under the *Companies' Creditors Arrangement Act* (Canada) (the "CCAA") and pursue approval of the Court of the Final Purchase Agreement and the Proposed Transaction, pursuant to motion material in form and substance acceptable to the Purchaser. The Offer will expire at the end of the Option Period. The Offer may not be revoked by the Purchaser until the Option Period has expired."

Section 3 Purchase Agreement

Schedule A to the Exclusivity Agreement is hereby deleted in its entirety and replaced with Schedule A attached to this third amending agreement.

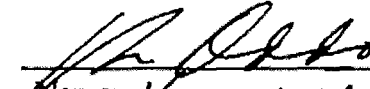
Section 4 Reference to and Effect on the Exclusivity Agreement.

On and after the date of this third amending agreement, any reference to "this letter" or "this letter agreement" in the Exclusivity Agreement and any reference to the Exclusivity Agreement in any other agreements will mean the Exclusivity Agreement as amended by each of the First Amending Agreement, the Second Amending Agreement and this third amending agreement. Except as specifically amended by the First Amending Agreement, the Second Amending Agreement and this third amending agreement, the provisions of the Exclusivity Agreement remain in full force and effect.

[Remainder of page intentionally left blank. Signature page follows]

AGREED this 13th day of January, 2016.

BIRCH COMMUNICATIONS, INC.

By: 
Name: *Vincent M. Oddo*
Title: *President & CEO*

**PRIMUS TELECOMMUNICATIONS
CANADA INC.**

By: _____
Name:
Title:

**PRIMUS TELECOMMUNICATIONS,
INC.**

By: _____
Name:
Title:

LINGO, INC.

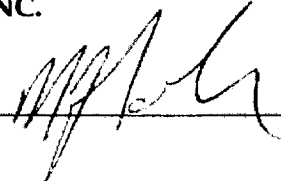
By: _____
Name:
Title:

AGREED this 13th day of January, 2016.

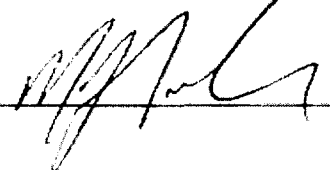
BIRCH COMMUNICATIONS, INC.

By: _____
Name:
Title:

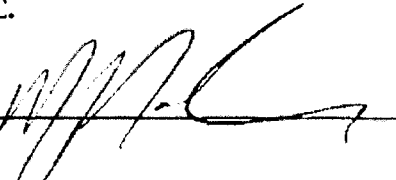
**PRIMUS TELECOMMUNICATIONS
CANADA INC.**

By: _____
Name: 
Title:

**PRIMUS TELECOMMUNICATIONS,
INC.**

By: _____
Name: 
Title:

LINGO, INC.

By: _____
Name: 
Title:

**SCHEDULE A
FORM OF PURCHASE AGREEMENT**

Attached.

This is Exhibit "L"
to the affidavit of Michael Nowlan,
sworn before me on the 2 day
of February, 2016



Commissioner for Taking Affidavits

**PRIMUS TELECOMMUNICATIONS CANADA INC.,
PRIMUS TELECOMMUNICATIONS, INC. and LINGO, INC.**

as Vendors

and

BIRCH COMMUNICATIONS, INC.

as Purchaser

ASSET PURCHASE AGREEMENT

January 19, 2016

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ASSET PURCHASE AGREEMENT

This asset purchase agreement is made as of January 19, 2016, between Primus Telecommunications Canada Inc., a corporation incorporated under the laws of Ontario, Primus Telecommunications, Inc., a corporation incorporated under the laws of Delaware, and Lingo, Inc., a corporation incorporated under the laws of Delaware (collectively, the “**Vendors**”) and Birch Communications, Inc., a corporation incorporated under the laws of Georgia (the “**Purchaser**”).

RECITALS:

The Vendors desire to sell certain of its and its subsidiaries’ assets and the Purchaser has agreed to purchase such assets subject to the terms and conditions set forth in this Agreement and in accordance the applicable provisions of the CCAA.

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

ARTICLE 1 INTERPRETATION

Section 1.1 Definitions

In this Agreement and the recitals above, the following terms have the following meanings:

“**Accounting Referee**” means a national accounting firm independent of the Vendors and the Purchaser, acceptable to both the Vendors and the Purchaser, acting reasonably, represented by members of such firm’s Toronto office.

“**Accounts Receivable**” means, on any date, all non-credit balance customer accounts receivable generated in the operation of the Business, together with any unpaid interest or fees accrued thereon which are outstanding on such date and the full benefit of all security or collateral of any Vendor for, or in respect of, such amounts, including recoverable advances and deposits, but for greater clarity, excluding any amounts owing to any Vendor at the Closing Time from any of its shareholders or Affiliates (other than a Vendor), or from any other Person with whom it does not deal at arm’s length.

“**Affiliate**” has the meaning given to the term “affiliate” in the *Business Corporations Act* (Ontario).

“**Agreement**” means this asset purchase agreement, as amended from time to time.

“**Applicable Law**” means, in respect of any Person, property, transaction or event, any domestic or foreign statute, law (including the common law), ordinance, rule, regulation, treaty, restriction, regulatory policy, standard, code or guideline, by-law or

order, in each case, having the force of law that applies in whole or in part to such Person, property, transaction or event.

“Approval and Vesting Order” means an order by the Court substantially in the form attached as Schedule I approving this Agreement and authorizing the Vendors to complete the Transaction and vesting in the Purchaser all the right, title and interest of the Vendors in and to the Purchased Assets free and clear of all Encumbrances and Claims other than Permitted Encumbrances.

“Assignment Order” means an order or orders of the Court pursuant to Section 11.3 and other applicable provisions of the CCAA, in form and substance satisfactory to the Purchaser, acting reasonably, authorizing and approving (i) the assignment of any Essential Contract for which a consent, approval or waiver necessary for the assignment of such Essential Contract has not been obtained prior to the Closing Time, (ii) the prevention of any counterparty to any such Essential Contract from exercising any right or remedy under such Essential Contract by reason of any defaults arising from the CCAA Proceedings or the insolvency of any Vendor and (iii) the vesting in the Purchaser of all right, title and interest of the relevant Vendor in such Essential Contract.

“Assumed Contracts” means the contracts and other written agreements listed on Schedule B and on Schedule C, but excluding the Excluded Contracts.

“Assumed Obligations” has the meaning set out in Section 2.6.

“Base Purchase Price” means \$44 million.

“Benchmark Accounts Receivable” means \$6,658,890.

“Benchmark Monthly Revenue” means \$12,976,672.

“Benefit Plans” means all oral or written plans, arrangements, agreements, programs, policies, practices or undertakings with respect to some or all of the Employees, former employees of any Vendor or the Business or their respective dependents or beneficiaries and which provide for or relate to (i) bonus, profit sharing or deferred profit sharing, performance compensation, deferred or incentive compensation, supplemental retirement arrangements, share compensation, share purchase or share option, share appreciation rights, phantom stock, vacation or vacation pay, sick pay, employee loans, or any other compensation in addition to salary; (ii) insured or self-insured benefits for or relating to income continuation or other benefits during absence from work (including short term disability, long term disability and workers compensation), hospitalization, health, welfare, legal costs or expenses, medical or dental treatments or expenses, life insurance, accident, death or survivor’s benefits, supplementary employment insurance, day care, tuition or professional commitments or expenses and prerequisites or similar employment benefits or (iii) welfare, termination, retirement, savings, pensions, supplemental retirement or any other similar benefits or rights, in each case sponsored, maintained or contributed to or required to be contributed to by

any Vendor or by which any Vendor is bound or with respect to which any Vendor participates or has any actual or potential liability or obligation.

"Books and Records" means all files, documents, instruments, papers, books and records (whether stored or maintained in hard copy, digital or electronic format or otherwise), including tax and accounting books and records, used or intended for use by any Vendor in connection with the ownership of the Purchased Assets or operation of the Business, including the Assumed Contracts, active and non-active customer lists, active and non-active customer information, account records, invoices, notes and trouble tickets for a minimum of six months prior to the date hereof, service request documents, sales records, computer files, data processing records, employment and personnel records, sales literature, advertising and marketing data and records, credit records, records relating to suppliers and other data, in each case, relating to the Business, and, for greater certainty, excluding the minute books and corporate records of any Vendor.

"BSS" means billing support systems.

"Business" means the business of the Vendors, being the provision of telecom services to customers in Canada, the United States and Puerto Rico.

"Business Day" means a day on which banks are open for business in Toronto, Ontario but does not include a Saturday, Sunday or statutory holiday in the Province of Ontario.

"CABS" means carrier access billing services.

"CCAA" means *Companies' Creditors Arrangement Act* (Canada).

"CCAA Proceedings" means the proceedings under the CCAA to which the Vendors will be subject pursuant to the Initial Order.

"chapter 15" means chapter 15, title 11 of the United States Bankruptcy Code.

"chapter 15 Proceedings" means the proceedings under chapter 15 made pursuant to the Initial Order.

"Claims" means any claim of any nature or kind (including any cross-claim or counterclaim), demand, investigation, chose in or cause of action, suit, default, assessment, litigation, third party action, arbitral proceeding or proceeding by or before any Person.

"Closing" means the successful completion of the Transaction.

"Closing Cash Payment" has the meaning set out in Section 3.2(b).

"Closing Cash Purchase Price" has the meaning set out in Section 3.1.

"Closing Date" means the date on which Closing occurs that is expected to be five Business Days after the date upon which the Approval and Vesting Order is obtained and is final, not stayed or varied in a manner prejudicial to the Purchaser, or vacated or appealed, unless the Purchaser has provided written consent that Closing occur despite such appeal, or such other earlier or later date as may be agreed by the Parties.

"Closing Statement" has the meaning set out in Section 3.7(a).

"Closing Time" means 2:00 p.m. (Toronto time) on the Closing Date.

"COBRA" means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended, Section 4980B of the Code, Title I Part 6 of ERISA.

"Code" means the United States Internal Revenue Code of 1986, as amended.

"Competition Act" means the *Competition Act* (Canada), R.S.C., 1985, c. C-34.

"Consent Required Contract" has the meaning set out in Section 2.3.

"Court" means Ontario Superior Court of Justice (Commercial List).

"Cure Costs" means in respect of any Assumed Contract, all amounts required to be paid to cure any monetary defaults thereunder, if any, required to effect an assignment thereof from a Vendor to the Purchaser; provided that, in respect of the Business pertaining to U.S. and Puerto Rico customers only and where it is possible to transfer or redesignate Vendor's customers or network services to contracts of the Purchaser, Cure Costs will include any redesignation or other fees, costs or expenses required to accomplish such redesignation or transfer ("**Redesignation Costs**") provided that such Redesignation Costs do not exceed US \$250,000 in the aggregate.

"Customer Prepayments" means the sum of all payments received by any Vendor in respect of services to be provided by Purchaser after the Closing Time.

"Deposit" has the meaning set forth in Section 3.3.

"Employee" means an individual who is employed by any Vendor, whether on a full-time or a part-time basis, whether active or inactive as of the Closing Date, and includes an employee on short term or long term disability leave.

"Employee Plans" means all "employee benefit plans" within the meaning of Section 3(3) of ERISA, all formal written plans and all other compensation and benefit plans, contracts, policies, programs and arrangements of the Vendor in connection with the Business in effect as of the date hereof, including all pension, profit sharing, savings and thrift, bonus, stock bonus, stock option or other cash or equity-based incentive or deferred compensation, severance pay and medical and life insurance plans in which any of the Employees or their dependents participate.

“Encumbrances” means any security interest, lien, claim, charge, hypothec, reservation of ownership, pledge, encumbrance, mortgage, adverse claim or right of a third party of any nature or kind whatsoever and any agreement, option or privilege (whether by law, contract or otherwise) capable of becoming any of the foregoing, (including any conditional sale or title retention agreement, or any capital or financing lease).

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended.

“ERISA Affiliate Liability” means any obligation, liability, or expense of any Vendors which arises under or relates to any employee benefit plan or arrangement of Vendors or its affiliates that is subject to Title IV of ERISA, Section 302 of ERISA, Section 412 of the Code, COBRA or any other statute or regulation that imposes liability on a so-called “controlled group” basis with or without reference to any provision of Section 414 of the Code or Section 4001 of ERISA, including by reason of any Vendors’ affiliation with any of any trade or business, whether or not incorporated, that together with the Vendors would be deemed a “single employer” within the meaning of Section 4001(b) of ERISA (an **“ERISA Affiliate”**) or the Purchaser or any of its limited partners being deemed a successor to any ERISA Affiliate of any Vendor.

“Escrow Agent” means FTI Consulting Canada Inc., solely in its capacity as escrow agent for the Vendors and the Purchaser pursuant to an escrow agreement dated the date hereof between the Vendors, the Purchaser and FTI Consulting Canada Inc.

“Essential Contracts” means the contracts and other written agreements listed on Schedule B, each of which is a Consent Required Contract, material and required for the operation of the Business by the Purchaser.

“Excise Tax Act” means the *Excise Tax Act* (Canada).

“Excluded Assets” means all cash and cash equivalents of any Vendor, the Excluded Contracts, all Benefit Plans and Employee Plans and all of any Vendor’s right, title and interest, in and to those assets and rights set forth in Schedule D.

“Excluded Contracts” means those contracts and other written agreements to which any Vendor is a party that (i) is not listed on Schedule B or C, (ii) is deemed to be an Excluded Contract pursuant to Section 2.3(1)(a) or (iii) becomes an Excluded Contract pursuant to Section 2.8, and, for greater certainty, **“Excluded Contracts”** includes the contracts and other written agreements listed on Schedule E.

“FCC” means the Federal Communications Commission of the United States.

“Governmental Authority” means any domestic or foreign government, whether federal, provincial, state, territorial or municipal; and any governmental agency, ministry, department, court (including the Court), tribunal, commission, stock exchange, bureau, board or other instrumentality exercising or purporting to exercise legislative, judicial, regulatory or administrative functions of, or pertaining to, government or securities market regulation.

"Income Tax Act" means the *Income Tax Act* (Canada).

"Indemnified Party" means a Person with indemnification rights or benefits under this Agreement.

"Initial Order" means the order of the Court with respect to the CCAA Proceedings, granting the Vendors protection pursuant to the CCAA, which is expected to be obtained on or about January 19, 2016.

"Intellectual Property" means:

- (a) patents, patent applications and other patent rights, including provisional and continuation patents;
- (b) registered and unregistered trade-marks, service marks, logos, slogans, corporate names, trade names, business names and other indicia of origin, and all applications and registrations therefor;
- (c) internet domain names, applications and reservations for internet domain names, uniform resource locators and the corresponding internet sites;
- (d) customer service telephone numbers (toll free and local numbers) and blocks of telephone numbers assigned to any Vendor; and
- (e) all other intellectual property used to support the Business.

"Investment Canada Act" means the *Investment Canada Act*.

"Management Agreement" has the meaning set out in Section 2.4(2).

"Monitor" means FTI Consulting Canada Inc. in its capacity as monitor of the Vendors in the CCAA Proceedings.

"Monitor's Certificate" means the certificate of the Monitor certifying that the Monitor has received written confirmation in form and substance satisfactory to the Monitor from the Parties that all conditions of Closing have been satisfied or waived by the applicable Parties and that the Monitor has received the Closing Cash Payment.

"Net Revenue" means the net revenue of the Business shown on the consolidated monthly financial statements prepared in a manner consistent with the Vendor's past accounting policies and practices, which for greater certainty excludes any Pass-Through Charges.

"Offered Employees" has the meaning set out in Section 4.1(1).

"Ordinary Course of Business" means the ordinary conduct of the Vendors with respect to the Purchased Assets or the Business in a manner that is consistent with the

- 7 -

conduct of the Business in the six month period preceding the date hereof and consistent with the orders of the Court in the CCAA Proceedings and the chapter 15 Proceedings.

"OSS" means operation support systems.

"Outside Date" means June 30, 2016.

"Party" means the Purchaser or any Vendor.

"Pass-Through Charges" means all charges collected for the purposes of being remitted to a Governmental Authority.

"Permitted Encumbrances" means those Encumbrances set forth in Schedule G.

"Person" means any individual, partnership, limited partnership, limited liability company, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, Governmental Authority or other entity however designated or constituted.

"Post-Closing Statement" has the meaning set out in Section 3.7(c).

"Public Statement" has the meaning set out in Section 9.5.

"Purchase Price" has the meaning set out in Section 3.1.

"Purchased Assets" means all of each Vendor's right, title and interest, in and to the assets used in or required for the Business, including those assets set forth in Schedule A, but excluding the Excluded Assets.

"Purchased Intellectual Property" means all Intellectual Property of any Vendor used in or required for the Business, including the items listed in Schedule H.

"Purchaser" has the meaning set out in the recitals hereto.

"Regulated Customer Relationships" has the meaning set out in Section 2.4(1).

"Regulated Customer Relationships Escrow" means to be paid to the Monitor in escrow and deducted from the Closing Cash Payment pursuant to Section 3.2(1)(b)(ii) or Section 3.2(1)(b)(iii), as the case may be.

"Representative" means, in respect of a Party, each director, officer, employee, agent, Affiliate, manager, lender, solicitor, accountant, professional advisor, consultant, contractor and other representative of such Party or such Party's Affiliates.

"Required Approvals" means any material permit, license, consent, waiver, approval, registration or authorization of any Governmental Authority required for Purchaser to

continue to operate the Business following the Closing in substantially the same manner as the Business is operated by Vendors on the date of this Agreement.

"Sales Tax" means all taxes, interest, penalties and fines imposed under Sales Tax Legislation.

"Sales Tax Legislation" means Part IX of the *Excise Tax Act* and *An Act Respecting the Quebec Sales Tax* (Québec) and the regulations made under such legislation.

"State PUC" means any state public utility commission or other regulatory body of the District of Columbia or any United States state or possession with jurisdiction over the provision of intrastate telecommunications services.

"Target Accounts Receivable" means the sum of the current and 30 day Canadian Accounts Receivable balances of the Vendors and the current and 30 day U.S. Accounts Receivable balances of the Vendors converted to Canadian dollars taken from the accounts receivable sub-ledgers underlying the consolidated monthly financial statements as at the monthly accounting period end preceding the Closing Date all in a manner consistent with past accounting policies and practices of the Vendors.

"Total Actual Revenue" means Net Revenue for the three full monthly accounting periods immediately preceding the Closing Date, divided by three.

"Transaction" means the transaction of purchase and sale contemplated by this Agreement.

"Transfer Taxes" means all present and future transfer taxes, sales taxes, use taxes, production taxes, value-added taxes, goods and services taxes, land transfer taxes, registration and recording fees, and any other similar or like taxes and charges imposed by a Governmental Authority in connection with the sale, transfer or registration of the transfer of the Purchased Assets, including Sales Tax but excluding any taxes imposed or payable under the Income Tax Act and any other applicable income tax legislation.

"Transferred Employees" has the meaning set out in Section 4.3.

"Unbilled Revenue" means revenue associated with goods and services provided by any Vendor to its customers that has not been invoiced or billed to such customers.

"U.S. Court" means the United States Bankruptcy Court for the District of Delaware.

"U.S. Recognition Order" means one or more orders made by a court of competent jurisdiction in the United States, including, but not limited to the United States Bankruptcy Court for the District of Delaware, under chapter 15 recognizing and giving effect to the Initial Order, Approval and Vesting Order, and the Assignment Order.

"Vendors" has the meaning set out in the recitals hereto.

Section 1.2 Interpretation Not Affected by Headings, etc.

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

Section 1.3 General Construction

The terms "this Agreement", "hereof", "herein" and "hereunder" and similar expressions refer to this Agreement and not to any particular section hereof. The expression "Section" or reference to another subdivision followed by a number mean and refer to the specified Section or other subdivision of this Agreement. The language used in this Agreement is the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party.

Section 1.4 Extended Meanings

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

Section 1.5 Currency

All references in this Agreement to dollars, monetary amounts or to \$ are expressed in Canadian currency unless otherwise specifically indicated.

Section 1.6 Statutes

Except as otherwise provided in this Agreement, any reference in this Agreement to a statute refers to such statute and all rules, regulations and interpretations made under it, as it or they may have been or may from time to time be modified, amended or re-enacted.

Section 1.7 Schedules

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

Schedule A	–	Purchased Assets
Schedule B	-	Essential Contracts
Schedule C	–	Other Assumed Contracts
Schedule D	–	Excluded Assets
Schedule E	–	Excluded Contracts
Schedule F	–	Purchase Price Allocation
Schedule G	–	Permitted Encumbrances
Schedule H	–	Purchased Intellectual Property
Schedule I	–	Form of Approval and Vesting Order
Schedule J	–	Form of Management Services Agreement
Schedule K	–	Regulated Customer Relationship Values by State

ARTICLE 2 PURCHASE AND SALE

Section 2.1 Purchase and Sale of Assets

Subject to the terms and conditions hereof at the Closing Time, each Vendor hereby agrees to sell, assign and transfer to the Purchaser and the Purchaser agrees to purchase from such Vendor the Purchased Assets free and clear of all Encumbrances (other than Permitted Encumbrances) pursuant to the Approval and Vesting Order.

Section 2.2 Excluded Assets

The Purchased Assets shall include only those assets expressly contemplated in the definition of Purchased Assets and the Purchaser shall in no way be construed to acquire any interest in the Excluded Assets.

Section 2.3 Assignment of Contracts

- (1) In the event that there are any Assumed Contracts which are not assignable in whole or in part without the consent, approval or waiver of another party or parties to them (each a "**Consent Required Contract**"):
 - (a) If any such consents, approvals or waivers or Assignment Orders therefor have not yet been obtained as of the Closing Date, then nothing in this Agreement will be construed as an assignment of any such Consent Required Contract and the Purchaser shall have no liability or obligation whatsoever in respect of any such Consent Required Contract and all such Consent Required Contracts shall be deemed to be Excluded Contracts;
 - (b) Following the issuance of the Initial Order and until the Approval and Vesting Order is granted, the Vendor shall use its commercially reasonable efforts to obtain any such consent, approval or waiver and the Purchaser shall provide its reasonable cooperation to assist the Vendor in obtaining any such consent, approval or waiver;
 - (c) If any consent, approval or waiver is not obtained for any Essential Contract prior to the service of the motion for the Approval and Vesting Order, the Vendor shall bring a motion to the Court for issuance of an Assignment Order with respect to each such Essential Contract together with the motion for the Approval and Vesting Order; and
 - (d) Once the consent, approval or waiver to the assignment of a Consent Required Contract is obtained or, with respect to any such Consent Required Contract that is an Essential Contract only, the assignment of such Consent Required Contract has been ordered by the Court, such Consent Required Contract shall be deemed to be assigned to the Purchaser on Closing.

- (2) With respect to each Consent Required Contract, subject to closing and to either (i) the consent, approval or waiver of the other parties thereto required for the assignment thereof, or (ii) in the absence of such consent, the obtaining of an Assignment Order, as part of the Purchase Price the Purchaser shall pay the applicable Cure Costs related to such Consent Required Contract on Closing.
- (3) All negotiations with respect to the settlement and payment of Cure Costs may only be conducted from and after the filing of the Initial Order and shall be conducted in the presence of a representative of each of the Vendor, the Purchaser and the Monitor, unless the right to have a representative present is waived by the Vendor, the Purchaser or the Monitor, respectively.

Section 2.4 Regulated Customer Relationships

- (1) Notwithstanding anything in this Agreement to the contrary, the transfer of the customer accounts and relationships described in the Management Agreement for which a Required Approval of the FCC or a State PUC (the “**Regulated Customer Relationships**”) is required and has not been obtained at or before the Closing shall not occur at Closing but shall instead occur automatically without any further action of the Vendors, the Purchaser or the Monitor upon the later of (A) the date the Required Approval from the FCC has been obtained and (B) the date the Required Approval from the relevant State PUC has been obtained.
- (2) The Purchaser and certain of the Vendors shall enter into a management agreement (the “**Management Agreement**”) in the form attached hereto as Schedule J.

Section 2.5 “As is, Where is”

The Purchaser acknowledges that the Vendors are selling the Purchased Assets on an “as is, where is” basis as they shall exist at the Closing Time subject to the benefit of the representations and warranties in this Agreement. No representation, warranty or condition is expressed or can be implied as to fitness for purpose, merchantability, condition, quantity or quality or in respect of any other matter or thing whatsoever concerning the Purchased Assets or the right of any Vendor to sell or assign same save and except as expressly represented or warranted herein. Without limiting the generality of the foregoing, any and all conditions, warranties or representations expressed or implied pursuant to the *Sale of Goods Act* (Ontario), the *Civil Code of Québec* or similar legislation do not apply hereto and have been waived by the Purchaser. The description of the Purchased Assets contained in the Schedules is for purpose of identification only. Except as otherwise provided in Section 5.2, no representation, warranty or condition has or will be given by any Vendor concerning completeness or accuracy of such descriptions.

Section 2.6 Assumed Obligations

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

- (a) all debts, liabilities and obligations under the Assumed Contracts (to the extent assigned or transferred to the Purchaser on Closing and in respect of Assumed Contracts for services, only those debts, liabilities and obligations for services performed from and after the Closing Time) for the period from and after the Closing Time, in each case provided that such debts, obligations or liabilities are not arising from, due to or attributable to (i) any default existing or breach (with or without the giving of notice, the lapse of time, or both) by any Vendor occurring prior to or as a consequence of Closing, or (ii) any default, breach or violation of any Vendor of any term or condition of this Agreement;
- (b) all debts, liabilities and obligations under customer deposits and Customer Prepayments;
- (c) all debts, liabilities and obligations for realty taxes in respect of the Purchased Assets attributable to the period from and after the Closing Time;
- (d) all debts, liabilities and obligations for which the Purchaser is responsible pursuant to Section 4.3;
- (e) all Cure Costs; and
- (f) all debts, liabilities and obligations arising from ownership and use of the Purchased Assets for the period from and after the Closing Time that are not Excluded Obligations.

Section 2.7 Excluded Obligations

Other than the Assumed Obligations, the Purchaser shall not assume, pay, satisfy, discharge, perform or fulfill and shall not be liable, directly or indirectly, or otherwise responsible for any debts, liabilities or other obligations or Claims of the Vendors, including, without limiting the generality of the foregoing:

- (a) all legal, accounting, broker other professional fees, costs and expenses incurred by the Vendors in connection with the CCAA Proceedings or the transactions contemplated by this Agreement;
- (b) all debts, liabilities, obligations or Claims related to any Benefit Plans or Employee Plans (including in respect of the Transferred Employees);
- (c) all debts, liabilities, obligations or Claims related to Employees (other than Transferred Employees pursuant to Section 4.3 only) or former employees;
- (d) all debts, liabilities and obligations related to any Purchased Asset arising out of or related to the period prior to the Closing Time;
- (e) all debts, liabilities and obligations relating to any Excluded Asset;

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- (f) all obligations and liabilities owing by any Vendor to any Affiliate thereof;
- (g) all liabilities and obligations of any Vendor arising out of any proceeding (i) pending against any Vendor or the Business as of the Closing Date; or (ii) commenced against any Vendor after the Closing Date to the extent such liability or obligation arises or results from the Vendors' ownership or operation of the Purchased Assets and the Business prior to the Closing Date;
- (h) all obligations and liabilities for prepayments and deposits for non-active customers in the U.S.;
- (i) all debts, liabilities and obligations for or related to any obligation for any taxes that are not expressly assumed by the Purchaser pursuant to Section 2.6 or Section 3.6;
- (j) all taxes imposed on or relating to the Purchased Assets that are attributable to any pre-Closing tax period whether or not any such period ends on or before the Closing Date (other than any Transfer Taxes); and
- (k) without duplication, all debts, liabilities and obligations of the Vendors arising under this Agreement.

Section 2.8 Additions to Excluded Contracts

Notwithstanding Section 2.7, the Purchaser shall have the right, at any time prior to the granting of the Approval and Vesting Order to add to the list of contracts and other written agreements listed in Schedule E by notice in writing to the Vendor and the Monitor so that any contract or other written agreement so added shall be an Excluded Contract and shall not be assigned to the Purchaser at Closing, without any adjustment to the Purchase Price.

ARTICLE 3 PURCHASE PRICE

Section 3.1 Purchase Price

The aggregate purchase price (the "**Purchase Price**") amount payable by the Purchaser to the Vendors for the Purchased Assets is the sum of: (i) (A) the Base Purchase Price, as adjusted pursuant to Section 3.7 below, *less* (B) all Cure Costs, *less* (C) all amounts payable that do not constitute Cure Costs in respect of Essential Contracts for services provided in the period prior to or up until the Closing Time (but for greater certainty, not for termination or assignment costs or legal or transfer fees), provided, however, the reductions to the Purchase Price pursuant to clauses (B) and (C) will be made only to the extent such reductions exceed \$3 million in the aggregate, and then only to the extent of 50% of such excess (the "**Closing Cash Purchase Price**") plus (ii) the assumption by the Purchaser of the Assumed Obligations.

Section 3.2 Satisfaction of Purchase Price

- (1) Provided that all conditions precedent to Closing have been satisfied or waived in accordance with Article 7, the Purchase Price shall be paid and satisfied on Closing as follows:
 - (a) as to the amount of the Deposit, by the crediting and set off of the Deposit against an amount of the Closing Cash Purchase Price equal to the amount of the Deposit;
 - (b) as to the balance of the Closing Cash Purchase Price (the **"Closing Cash Payment"**):
 - (i) if the Required Approvals from the FCC and each State PUC have been obtained by the Purchaser by the Closing Time, the Purchaser shall pay the Closing Cash Payment to the Monitor by wire transfer of immediately available funds to an account designated by the Monitor and held by the Monitor in such account pending further order of the Court; or
 - (ii) if the Required Approval from the FCC has not been obtained by the Closing Time, the Purchaser shall pay the Closing Cash Payment less \$2.5 million, such amount being the amount of the Closing Cash Purchase Price attributable to the Regulated Customer Relationships; or
 - (iii) if the Required Approval from the FCC has been obtained by the Closing Time, the Purchaser shall pay the Closing Cash Payment less an amount equal to the amount attributable to the Regulated Customer Relationships for which the State PUC Required Approvals have not been obtained by the Closing Time, based on Schedule K, such amount being the amount of the Closing Cash Purchase Price attributable to the Regulated Customer Relationships not transferred at the Closing Time; and
 - (c) as to the dollar value of the Assumed Obligations, by the assumption by the Purchaser of the Assumed Obligations.
- (2) If any amount of the Regulated Customer Relationships Escrow is deducted from the Closing Cash Payment pursuant to Section 3.2(1)(b)(ii) or Section 3.2(1)(b)(iii), the Purchaser shall deposit such amount with the Monitor at the Closing Time to be held by the Monitor in escrow. Within ten Business Days following the last day of the first full calendar month after Closing, and continuing within ten Business Days following the last day each calendar month thereafter until all Regulated Customer Relationships are transferred to the Purchaser pursuant to Section 2.4(1), the Purchaser shall provide the Monitor with a written statement confirming the Required Approvals obtained during the previous month and as soon as practical following receipt of such written statement the Monitor shall transfer from the Regulated Customer Relationships Escrow the amount attributable to the Regulated Customer Relationships transferred during the previous month based upon Schedule K to the Monitor, to be held in an account

designated by the Monitor and held by the Monitor in such account or paid in accordance with the order of the Court, in satisfaction of the Purchase Price attributable to the Regulated Customer Relationships so transferred.

Section 3.3 Deposit

The Vendors acknowledge receipt of a deposit (the “**Deposit**”) of \$2 million, paid to the Escrow Agent on behalf of the Vendors and held by the Escrow Agent subject to the terms of the Escrow Agreement. If the Closing takes place, the Deposit shall be credited and set off against the Closing Cash Purchase Price. The Deposit shall be forfeited in favour of the Vendors in the event this Agreement is terminated by the Vendors pursuant to Section 8.6(2)(d). In the event that this Agreement is terminated pursuant to Section 8.6 for any reason other than by the Vendors pursuant to Section 8.6(2)(d), the Purchaser shall be entitled to a full refund of the Deposit and the Vendors and Purchaser shall provide the Escrow Agent with a written direction instructing the Escrow Agent to release the Deposit to the Purchaser in accordance with the terms of the Escrow Agreement.

Section 3.4 Allocation of Purchase Price

The Purchase Price shall be allocated among the Purchased Assets and the Vendors as specified in Schedule F. Each of the Vendors and the Purchaser shall report the sale and purchase of the Purchased Assets for all tax purposes in a manner consistent with such allocation, and will complete all tax returns, designations and elections in a manner consistent with such allocation and otherwise follow such allocation for all tax purposes on and subsequent to the Closing Date and may not take any position inconsistent with such allocation.

Section 3.5 Section 22 Tax Election

The Purchaser and Primus Telecommunications Canada, Inc. shall make and file, in a timely manner, a joint election to have the rules in section 22 of the Income Tax Act, and any equivalent or corresponding provision under applicable provincial or territorial tax legislation, apply in respect of the Accounts Receivable that are the subject of that election and shall designate therein that portion of the consideration allocated to the Accounts Receivable that are the subject of such election in accordance with Section 3.4 of this Agreement as consideration paid by the Purchaser to Primus Telecommunications Canada, Inc.

Section 3.6 Transfer Taxes

The Parties agree that:

- (a) the Purchase Price is exclusive of all Transfer Taxes and the Purchaser shall be liable for and shall pay any and all applicable Transfer Taxes pertaining to the Purchaser’s acquisition of the Purchased Assets;
- (b) the Purchaser shall indemnify the Vendors for any applicable Transfer Taxes (including any interest or penalties imposed by a Governmental Authority) for

which the Vendors may become liable as a result of any failure by the Purchaser to pay or remit such Transfer Taxes; and

- (c) Primus Telecommunications Canada, Inc. and the Purchaser shall jointly elect that no Sales Tax be payable pursuant to the Sales Tax Legislation with respect to the purchase and sale of the Purchased Assets under this Agreement and the Purchaser will file an election pursuant to section 167 of the Excise Tax Act and section 75 of *An Act Respecting the Quebec Sales Tax (Québec)*, prepared by the Purchaser and made jointly by the Purchaser and Primus Telecommunications Canada, Inc., in compliance with the requirements of the Sales Tax Legislation. Prior to the Closing, the Purchaser (or its Affiliate) shall become a registrant for purposes of the Sales Tax Legislation.

Section 3.7 Closing Statement

- (a) Not later than ten Business Days prior to the Closing Date, the Vendors shall deliver to Purchaser a written statement (the "**Closing Statement**") setting forth Vendors' good faith estimate of (i) Total Actual Revenue, and (ii) Target Accounts Receivable, together with supporting documentation and calculations. Should the Purchaser object to any of the amounts or calculations in the Closing Statement, Purchaser and the Vendors shall cooperate in a diligent and good faith manner to resolve such objections prior to the Closing, and the Closing Statement shall be adjusted prior to the Closing to reflect any changes agreed to by the Purchaser and the Vendors prior to the Closing. In the event Purchaser and the Vendors cannot agree, the Vendors' estimate of any items in dispute shall be used for the purposes of Closing.
- (b) The Base Purchase Price shall be:
 - (i) subject to the proviso in Section 3.7(b)(ii), decreased by an amount equal to (A) (I) the amount by which Benchmark Monthly Revenue exceeds Total Actual Revenue, *divided* by (II) Benchmark Monthly Revenue, *multiplied* by (B) the Base Purchase Price;
 - (ii) decreased by the amount by which the Benchmark Accounts Receivable exceeds Target Accounts Receivable, provided that the Base Purchase Price shall be decreased in respect of Section 3.7(b)(i) and this Section 3.7(b)(ii) only to the extent the amount in Section 3.7(b)(i) and this Section 3.7(b)(ii) in the aggregate exceed \$1.5 million; and
 - (iii) increased by the amount by which the Target Accounts Receivable exceed the Benchmark Accounts Receivable.
- (c) No later than 30 days following the Closing Date, Purchaser shall deliver to the Vendors a written statement (the "**Post-Closing Statement**") setting forth Purchaser's good faith determination of (i) Total Actual Revenue, and (ii) Target Accounts Receivable. Within 15 days of the Vendors' receipt of the Post-Closing

Statement, the Vendors must notify Purchaser in writing if it objects to any of the amounts or calculations in the Post-Closing Statement and identify the objectionable amounts or calculations in its written notice to the Purchaser. The Purchaser and the Vendors shall cooperate in a diligent good faith manner to resolve such objections as soon as possible after the Purchaser's receipt of the Vendors' objections, but not later than 30 days after the Vendors' receipt of the Post-Closing Statement, and the Post-Closing Statement shall be adjusted to reflect any changes agreed to by the Purchaser and the Vendors. In the event of an unresolved dispute regarding the Post-Closing Statement, the Parties shall utilize the dispute resolution procedure set forth in Section 3.8 as the exclusive mechanism to resolve such dispute.

- (d) Following delivery and agreement, or a determination by the Accounting Referee in accordance with Section 3.8 below with respect to the Post-Closing Statement:
- (i) in the event that the aggregate adjustments to the Base Purchase Price pursuant to the Post-Closing Statement result in a Purchase Price that is greater than the Purchase Price paid at Closing, Purchaser shall pay such difference to the Monitor by wire transfer of immediately available funds within ten days following finalization of the Post-Closing Statement; or
- (ii) in the event that the aggregate adjustments to the Base Purchase Price pursuant to the Post-Closing Statement result in a Purchase Price that is less than the Purchase Price paid at Closing, the Monitor shall pay such difference to Purchaser by wire transfer of immediately available funds within ten days following finalization of the Post-Closing Statement.

Section 3.8 Dispute Resolution Procedure

In the event the Parties are unable to agree upon the Post-Closing Statement, such dispute shall be submitted to, and all issues having a bearing on such dispute shall, subject to any order of the Court, be resolved by the Accounting Referee, in consultation with the Monitor. In resolving any such dispute, the Accounting Referee shall consider only those items or amounts in disagreement. Unless otherwise ordered by the Court, the Accounting Referee's determination of any of the matters set forth above shall be final and binding on the parties to this Agreement. The Accounting Referee shall use commercially reasonable efforts to complete its work within thirty (30) days following its engagement. All fees and expenses of the Accounting Referee shall be borne equally by Purchaser, on the one hand, and the Vendors on the other hand.

ARTICLE 4 EMPLOYEE MATTERS

Section 4.1 Offer to Employees.

- (1) The Purchaser may in its sole and absolute discretion offer employment, conditional on Closing and effective as of the Closing Time, to any or all active and inactive Employees

in accordance with this Section 4.1 (collectively, the “**Offered Employees**”) on or before the date the Approval and Vesting Order is obtained and each such offer will be on terms and conditions required by Applicable Law.

- (2) The Vendors shall not attempt in any way to discourage any of the Offered Employees from accepting the offer of employment made by the Purchaser.

Section 4.2 Employee Plans.

To the knowledge of the Vendors: (i) no event has occurred and there exists no condition or set of circumstances in connection with which the Vendors, the Business or the Purchaser could be subject to any material liability under the terms of any Employee Plan, ERISA or the Code; (ii) each of the Employee Plans (and each related trust or insurance contract) has been operated and administered in all material respects in accordance with Applicable Law and administrative or governmental rules and regulations, including ERISA and the Code.

Section 4.3 Employee Liability.

Without limiting the Purchaser’s obligations in respect of those Offered Employees who accept the Purchaser’s offer of employment (the “**Transferred Employees**”), the Purchaser shall be responsible for:

- (a) All liabilities (whether accrued or not) for salary, wages, bonuses, commissions, and other compensation relating to employment of all Transferred Employees, for the period after the Closing Time;
- (b) All liabilities (whether accrued or not) for vacation pay of all Transferred Employees, whether relating to any period before or after the Closing Time;
- (c) All severance payments, damages for wrongful dismissal and all related costs in respect of the termination by the Purchaser of the employment of any Transferred Employee after the Closing Time;
- (d) All liabilities for Claims for injury, disability, death or workers’ compensation arising from or related to employment of the Transferred Employees arising after the Closing Time; and
- (e) All employment-related Claims, penalties and assessments in respect of the Business (but, for greater clarity, excluding with respect to such amounts related to any Employees or former Employees who are not Transferred Employees) arising out of matters which occur after the Closing Time.

ARTICLE 5
REPRESENTATIONS AND WARRANTIES

Section 5.1 Purchaser's Representations

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

- (a) The Purchaser is a corporation duly incorporated, organized and subsisting under the laws of its jurisdiction of incorporation and has the requisite power and authority to enter into this Agreement and to complete the transactions contemplated hereunder.
- (b) All necessary corporate action has been taken by the Purchaser to authorize the execution and delivery by it of, and the performance of its obligations under, this Agreement.
- (c) The Purchaser has or will have made adequate arrangements to have sufficient funds available to satisfy its obligations to pay the Purchase Price as set forth in Section 3.2.
- (d) The Purchaser is either not a non-Canadian or is controlled by a WTO investor, each within the meaning of the Investment Canada Act.
- (e) The Purchaser, together with its affiliates (as the term "affiliate" is defined under the Competition Act), neither have assets in Canada with an aggregate value in excess of \$225 million nor aggregate gross revenues from sales in, from or into Canada in excess of \$225 million, all as determined in accordance with and for the purposes of subsection 109(1) of the Competition Act.

Section 5.2 Vendors' Representations

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

- (a) Each Vendor is a corporation duly incorporated, organized and subsisting under the laws of its jurisdiction of incorporation.
- (b) Each Vendor has provided the Purchaser with true and complete copies of all Benefit Plans relating to employees of the Business. Such Vendor does not and has never sponsored or participated in a "registered pension plan" as such term is defined in the Income Tax Act.

- (c) Subject to obtaining the Approval and Vesting Order and, if applicable, the Assignment Orders, each Vendor has the requisite power and authority to enter into this Agreement and to complete the transactions contemplated hereunder.
- (d) The Vendors, together with their affiliates (as the term "affiliate" is defined under the Competition Act), neither have assets in Canada with an aggregate value in excess of \$175 million nor aggregate gross revenues from sales in, from or into Canada in excess of \$175 million, all as determined in accordance with and for the purposes of subsection 109(1) of the Competition Act.
- (e) In respect of the Purchased Assets and related business in Canada, no Required Approvals are required to complete the transactions contemplated herein, including pursuant to the Competition Act and the Investment Canada Act, other than obtaining the Orders referenced in Section 5.2(c) above.
- (f) Each Vendor has good and marketable title to the Purchased Assets that it owns.

Section 5.3 Limitations

With the exception of the Vendors' representations and warranties in Section 5.2 and the Purchaser's representations and warranties in Section 5.1, neither the Vendors nor the Purchaser, or their respective Representatives, nor any of their respective officers, directors or Employees make, have made or shall be deemed to have made any other representation or warranty, express or implied, at law or in equity, in respect of the Vendors, the Purchaser, or the Purchased Assets or the sale and purchase of the Purchased Assets pursuant to this Agreement.

ARTICLE 6 COVENANTS

Section 6.1 Conduct of Business in the Ordinary Course

- (1) Each Vendor shall use commercially reasonable efforts to conduct the Business in the Ordinary Course of Business, except to the extent required to allow any Vendor to comply with its obligations under this Agreement, subject in all cases to any limitation imposed by being subject to CCAA Proceedings, the chapter 15 Proceedings and any order of the Court or the U.S. Court.
- (2) Without limiting the generality of Section 6.1(1) and subject to any order of the Court or the U.S. Court, each Vendor shall use its commercially reasonable efforts to:
 - (a) remain in possession of the Purchased Assets until Closing, use the Purchased Assets only in the Ordinary Course of Business and maintain, preserve and protect the Purchased Assets in the condition in which they exist on the date hereof, other than ordinary wear and tear and other than replacements, dispositions, modifications or maintenance in the Ordinary Course of Business;

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- (b) not dispose of any of the Purchased Assets;
 - (c) not acquire or agree to acquire any material additional assets for the operation of the Business;
 - (d) not amend in any material respect or in a manner outside the ordinary course of business any Assumed Contract or waive any material rights thereunder, or disclaim any Essential Contract without the consent of the Purchaser, not to be unreasonably withheld or delayed; and
 - (e) not enter into any material contract or other material written agreement in respect of any of the Purchased Assets other than in the Ordinary Course of Business; except, in each case, with the prior written consent of the Purchaser, such consent not to be unreasonably withheld, or an order of the Court, and provided that such consent of the Purchaser shall be deemed to have been given with respect to any request for such a consent to which the Purchaser fails to respond within two Business Days after such request is made.
- (3) No Vendor will, except as required by Applicable Law, change recurring rates, non-recurring rates, promotions, sales incentives, commission plans, accounting policies, credit policies or collection procedures, in each case without the prior written consent of Purchaser or an order of the Court.

Section 6.2 Actions to Satisfy Closing Conditions

- (1) Each Vendor agrees to take all such actions as are within its power to control and shall use its commercially reasonable efforts to cause other actions to be taken which are not within its power to control, so as to ensure compliance with all of the conditions set forth in Section 7.1 and Section 7.3.
- (2) The Purchaser agrees to take all such actions as are within its power to control and shall use its commercially reasonable efforts to cause other actions to be taken which are not within its power to control, so as to ensure compliance with all of the conditions set forth in Section 7.2 and Section 7.3.

Section 6.3 Access Rights

Upon reasonable prior notice by the Purchaser to the Vendors and at any time prior to the Closing Date, the Purchaser may have reasonable access to the Purchased Assets and Employees during normal business hours and in each case prior to Closing for the purpose of enabling the Purchaser to conduct such inspections of the Purchased Assets as it deems appropriate, acting reasonably. Such inspection shall only be conducted in the presence of a representative of the Vendors, if so required at the discretion of the Vendors. The Purchaser agrees to indemnify and save the Vendors and its Representatives harmless from and against all Claims incurred or arising from or in any way directly related to physical harm to property or people caused by the Purchaser's inspection of the Purchased Assets or the attendance of the Purchaser, its employees or agents at properties comprising part of the Purchased Assets or at

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which any of the Purchased Assets are situate. For greater certainty, other than a breach or violation of this Agreement by any Vendor, the Vendors shall not be responsible to indemnify and save the Purchaser harmless from or against the findings of the Purchaser's inspection.

Section 6.4 Regulatory Approvals

- (1) From the date hereof until the earlier of (i) the date all Required Approvals have been obtained and (ii) the date that is six months after the date hereof, each Vendor shall cooperate with the Purchaser and use commercially reasonable efforts to render all necessary and reasonable assistance required by the Purchaser in connection with any application, notification or filing of the Purchaser in connection with the Transaction or for the purposes of obtaining any Required Approval, or any registration or certification of the Canadian Radio-television and Telecommunications Commission required to allow the Purchaser to continue to provide services to the acquired customers on substantially the same terms as they were provided by the Vendors prior to Closing. In addition, without limiting the foregoing, prior to the Closing the Vendors shall use commercially reasonable efforts to obtain a comfort letter or other communication from the Canadian Radio-television and Telecommunications Commission as to whether the Purchaser may use, on an interim basis, Primus Telecommunications Canada Inc.'s status as a "Competitive Local Exchange Carrier", until the Purchaser obtains such status after Closing.
- (2) The Purchaser shall cooperate with the Vendors and use commercially reasonable efforts to render all necessary and reasonable assistance required by the Vendors in connection with any application, notification or filing of the Purchaser in connection with the Transaction or for the purposes of obtaining any Required Approval, including any necessary authorizations to make any necessary filings with the FCC or any State PUC, or any registration or certification of the Canadian Radio-television and Telecommunications Commission required to allow the Purchaser to continue to provide services to the acquired customers on substantially the same terms as they were provided by the Vendors prior to the Closing. The Purchaser's obligations under this Section 6.4(1) shall survive the Closing.
- (3) The Purchaser shall use its commercially reasonable efforts to obtain, as quickly as possible after the date of this Agreement all Required Approvals from the FCC and each State PUC. Without limiting the generality of the foregoing, the Purchaser shall file its applications for the Required Approvals from the FCC and from the State PUCs for California, Florida, New York and Texas within 14 days after the date of the Initial Order and shall file its applications for the Required Approvals from rest of the State PUCs within 30 days after the date of the Initial Order.
- (4) The Purchaser shall use its commercially reasonable efforts to obtain, as quickly as possible following the date of this Agreement, "Competitive Local Exchange Carrier" status from the Canadian Radio-television and Telecommunications Commission. The Purchaser's obligations under this Section 6.4(2) shall survive the Closing. Without

limiting the generality of the foregoing, the Purchaser shall file its application for such status within 14 days after the date of the Initial Order.

Section 6.5 CCAA

- (1) As promptly as practicable after execution of this Agreement, the Vendors shall: (i) file motions for the issuances of the Initial CCAA Order, the Approval and Vesting Order and the Assignment Orders, respectively; and (ii) serve such parties as the Court requires for the motion seeking the issuance of the Approval and Vesting Order and the Assignment Orders, and will consult with the Purchaser regarding the parties to be so served.
- (2) The Vendors shall ensure that all motion materials and form of Approval and Vesting Order and for of Assignment Orders are provided sufficiently in advance to the Purchaser for review and comment.
- (3) In the event that the Court orders that a post-filing sale process be conducted by the Vendors, subject to the Purchaser's termination right pursuant to Section 8.6, in the event that the Purchaser in its sole discretion is willing to do so, the Vender agree that this Agreement shall serve as the stalking horse offer for any such sale process, pursuant to sales procedures in form and substance acceptable to the Purchaser acting reasonably, including with respect to customary stalking horse protections for the Purchaser (including, without limitation, a 3% break-up fee to be paid to the Purchaser solely from the proceeds of any overbid).

Section 6.6 Confidentiality

In addition to the obligations under the non-disclosure agreement between the Vendors and the Purchaser dated September 15, 2015, as amended, the Parties shall keep confidential and shall not disclose to any other Person the existence or terms of this Agreement except with the prior written consent of the other Party, not to be unreasonably withheld, provided that the Vendors may disclose this Agreement to the Court, and to its secured lenders, and as otherwise may be required under the CCAA, in connection with filing and obtaining the Approval and Vesting Order or the Assignment Order, as may be required by the U.S. Court in connection with the chapter 15 Proceedings, as required by the FCC or any State PUC in connection with any Required Approval or as otherwise may be required by the Court or the U.S. Court. Until the Initial Order has been granted, the Purchaser shall not, directly or indirectly, solicit, correspond with or otherwise communicate with any party to any Assumed Contract (other than the Vendors) without the prior written consent of the Vendors in respect of any issues relating to the Vendors, the Purchased Assets or any of the transactions contemplated by this Agreement. After the Initial Order has been granted, the Purchaser may communicate with any party to any Assumed Contract (other than the Vendor) in accordance with Section 2.3(3).

Section 6.7 Customer Notices

Each Vendor will work together with Purchaser to send a joint letter to all customers affected by the Transaction at or before Closing, the costs and expenses of which shall be shared equally by the Vendors, on the one hand, and Purchaser, on the other hand.

Section 6.8 Data Migration

Each Vendor shall use commercially reasonable efforts to cooperate with Purchaser to migrate all data related to the Purchased Assets into the Purchaser's BSS and OSS systems, to Purchaser's satisfaction, such that such data is migrated upon the Closing.

Section 6.9 Redesignation

Each Vendor will use commercially reasonable efforts to work together with Purchaser to redesignate or transfer to the extent applicable and only with respect to the Business pertaining to U.S. and Puerto Rico customers, such Vendor's customers and network services to contracts of Purchaser such that such customers and network services, to the extent applicable, are redesignated upon the Closing.

**ARTICLE 7
CONDITIONS PRECEDENT**

Section 7.1 Conditions Precedent in favour of the Purchaser

- (1) The obligation of the Purchaser to complete the Transaction is subject to the following conditions being fulfilled or performed:
 - (a) all representations and warranties of the Vendors contained in this Agreement shall be true in all material respects as of the Closing Time with the same effect as though made on and as of that date;
 - (b) the Vendors shall have performed, in all material respects, each of its obligations under this Agreement to the extent required to be performed at or before the Closing Time, including the delivery of each of the items required pursuant to Section 8.3;
 - (c) the Purchaser shall have received at or before the Closing Time duly executed copies of the documents listed in Section 8.3;
 - (d) the Vendors shall, as of the Closing Time, have given those notices or obtain those consents, approvals or waivers required for the assignment of the Essential Contracts or such Essential Contracts shall have been assigned pursuant to the Approval and Vesting Order or an Assignment Order subject to the payment of Cure Costs by the Purchaser and the Vendors shall not be in breach should the Purchaser fail to pay such Cure Costs;

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- (e) all stays of proceedings contained in the Initial Order shall have remained in effect as at the Closing Time except where any such stay is terminated or lifted or amended in a manner which is not prejudicial to the Purchaser or which does not adversely affect the Purchaser's rights under this Agreement or the Purchased Assets and the Initial Order has not been amended or modified in any manner prejudicial to the Purchaser as at the Closing Time;
 - (f) the Purchaser shall have received, at or before the Closing Time duly executed copies of the documents listed in Section 8.3;
 - (g) the Purchaser shall have obtained "**Competitive Local Exchange Carrier**" status with the Canadian Radio-television and Telecommunications Commission in those exchanges where Primus Telecommunications Canada Inc. has such status, or the Canadian Radio-television and Telecommunications Commission shall have provided to the Purchaser a comfort letter or other written communication prior to Closing confirming the Purchaser may, without any material condition or restriction, use, on an interim basis, Primus Telecommunications Canada Inc.'s status in those exchanges as a "Competitive Local Exchange Carrier" in the Purchaser's operation of the Business until the Purchaser obtains such status after Closing (in which case the Parties hereto shall amend the form of the Management Agreement such that it provides for such a license to the Purchaser in form and substance acceptable to the Parties, acting reasonably); and
 - (h) the Purchaser shall have obtained all Required Approvals required by a Governmental Authority in Canada or any province or territory thereof, other than as contemplated by Section 7.1(1)(g), which the Purchaser has advised the Vendors of in writing (which notice shall be provided by the Purchaser as soon as possible after the date of this Agreement); provided that this condition (h) shall be deemed to have been waived at the close of business on January 29, 2016 other than for Required Approvals for which notice has been received as above by the Purchaser by the close of business on January 29, 2016.
- (2) The foregoing conditions are for the exclusive benefit of the Purchaser. Any condition in Section 7.1(1) may be waived by the Purchaser in whole or in part, without prejudice to any of its rights of termination in the event of non-fulfillment of any other condition in whole or in part. Any such waiver shall be binding on the Purchaser only if made in writing. The Purchaser may elect on written notice to the Vendors to terminate this Agreement at any time after 5:00 p.m. eastern time on the Outside Date if any condition in Section 7.1(1) has not been satisfied as at such time (other than a condition which, by its nature, can only be satisfied at the Closing) and satisfaction of such condition has not been waived by the Purchaser.

Section 7.2 Conditions Precedent in favour of the Vendors

- (1) The obligation of the Vendors to complete the Transaction is subject to the following conditions being fulfilled or performed:

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- (a) all representations and warranties of the Purchaser contained in this Agreement shall be true in all material respects as of the Closing Time with the same effect as though made on and as of that date;
 - (b) the Purchaser shall have performed in all material respects each of its obligations under this Agreement to the extent required to be performed at or before the Closing Time, including the delivery of each of the items required pursuant to Section 8.2; and
 - (c) the Vendors shall have received at or before the Closing Time duly executed copies of the documents listed in Section 8.2.
- (2) The foregoing conditions are for the exclusive benefit of the Vendors. Any condition in Section 7.2(1) may be waived by the Vendors, in whole or in part, without prejudice to any of their rights of termination in the event of non-fulfillment of any other condition in whole or in part. Any such waiver shall be binding on the Vendors only if made in writing. The Vendors may elect on written notice to the Purchaser to terminate this Agreement at any time after 5:00 p.m. eastern time on the Outside Date if any condition in Section 7.2(1) has not been satisfied as at such time (other than a condition which, by its nature, can only be satisfied at the Closing) and satisfaction of such condition has not been waived by the Vendors and the Monitor.

Section 7.3 Conditions Precedent in favour of both the Purchaser and the Vendor

- (1) The obligations of the Vendors and the Purchaser to complete the Transaction are subject to the following conditions being fulfilled or performed:
- (a) the Approval and Vesting Order shall have been obtained and is final and shall not have been stayed or varied in a manner prejudicial to the Purchaser, or vacated or appealed, unless the Purchaser has provided written consent that Closing occur despite such appeal;
 - (b) the U.S. Recognition Order shall have been obtained and is final and shall not have been stayed or varied in a manner prejudicial to the Purchaser, or vacated or appealed, unless the Purchaser has provided written consent that Closing occur despite such appeal;
 - (c) no order shall have been issued by a Governmental Authority which restrains or prohibits the completion of the Transaction;
 - (d) no motion, action or proceedings shall be pending by or before a Governmental Authority to restrain or prohibit the completion of the Transaction contemplated by this Agreement.
- (2) The Parties hereto acknowledge that the foregoing conditions are for the mutual benefit of the Vendors and the Purchaser. Either Party may elect on written notice to the other of them and the Monitor to terminate this Agreement at any time after 5:00 p.m. eastern

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time on the Outside Date if any condition in Section 7.3(1) is not satisfied as at such time (other than a condition which, by its nature, can only be satisfied at Closing) and satisfaction of such condition has not been waived by both Parties.

ARTICLE 8 CLOSING

Section 8.1 Closing

Subject to the conditions set out in this Agreement, the completion of the Transaction shall take place at the Closing Time at the offices of Stikeman Elliott LLP, 5300 Commerce Court West, 199 Bay Street, Toronto, Ontario, M5L 1B9, or as otherwise determined by mutual agreement of the Parties in writing and the Parties shall exercise commercially reasonable efforts to cause Closing to occur at the Closing Time and, in any event, prior to the Outside Date.

Section 8.2 Purchaser's Deliveries on Closing

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

- (a) the Closing Cash Payment in accordance with Section 3.2(b);
- (b) payment of Transfer Taxes required by Applicable Law to be collected by any Vendors;
- (c) the election(s) referred to in Section 3.5 and Section 3.6(c) executed by the Purchaser;
- (d) evidence of payment of all Cure Costs;
- (e) a written direction to the Escrow Agent instructing the Escrow Agent to release Deposit to the Vendors in accordance with the Escrow Agreement;
- (f) an assumption agreement evidencing the assumption by the Purchaser of the Assumed Obligations (other than in respect of Assumed Contracts);
- (g) an assignment and assumption agreement evidencing the assignment to the Purchaser, and assumption by the Purchaser, of Assumed Obligations with respect to (i) all Assumed Contracts which are not Consent Required Contracts and (ii) all Consent Required Contracts for which any required consent, approval or waiver to the assignment, or Assignment Orders, thereof has been obtained;
- (h) an assignment agreement evidencing the assumption by the Purchaser of all Purchased Intellectual Property;
- (i) the Management Agreement;

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- (j) a certificate dated as of the Closing Date confirming that all of the representations and warranties of the Purchaser contained in this Agreement are true in all material respects as of the Closing Time, with the same effect as though made at and as of the Closing Time, and that the Purchaser has performed in all respects the covenants to be performed by it prior to the Closing Time; and
- (k) such further and other documentation as is referred to in this Agreement or as the Vendors may reasonably require to give effect to this Agreement.

Section 8.3 Vendors' Deliveries on Closing

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

- (a) the Purchased Assets, which shall be delivered *in situ* wherever located as of the Closing;
- (b) a copy of the Approval and Vesting Order that has been issued and entered, is final and shall not have been stayed or varied in a manner prejudicial to the Purchaser, or vacated or appealed, unless the Purchaser has provided written consent that Closing occur despite such appeal;
- (c) a copy of the U.S. Recognition Order has been issued and entered, is final and shall not have been stayed or varied in a manner prejudicial to the Purchaser, or vacated or appealed, unless the Purchaser has provided written consent that Closing occur despite such appeal;
- (d) a written direction to the Escrow Agent instructing the Escrow Agent to release Deposit to the Vendors in accordance with the Escrow Agreement;
- (e) an assignment and assumption agreement evidencing the assignment to the Purchaser, and assumption by the Purchaser, of (i) all Assumed Contracts which are not Consent Required Contracts and (ii) all Consent Required Contracts for which any required consent, approval or waiver to the assignment, or Assignment Orders, thereof has been obtained;
- (f) an assignment agreement evidencing the assumption by the Purchaser of all Purchased Intellectual Property;
- (g) a true and complete copy of all Assignment Orders, if any, entered by the Court and, if applicable, the U.S. Court;
- (h) a certificate dated as of the Closing Date confirming that all of the representations and warranties of each Vendor contained in this Agreement are true in all material respects as of the Closing Time, with the same effect as

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though made at and as of the Closing Time, and that each Vendor has performed in all material respects the covenants to be performed by them prior to the Closing Time;

- (i) the election(s) referred to in Section 3.5 and Section 3.6(c) executed by the applicable Vendor;
- (j) the executed Monitor's Certificate;
- (k) the Management Agreement;
- (l) such other necessary deeds, conveyances, assurances, transfers and assignments and any other instruments necessary to transfer the Purchased Assets to the Purchaser; and
- (m) such further and other documentation as is referred to in this Agreement or as the Purchaser may reasonably require to give effect to this Agreement.

Section 8.4 Possession of Assets

- (1) On Closing, the Purchaser shall take possession of the Purchased Assets where situate at Closing. The Purchaser acknowledges that the Vendors have no obligation to deliver physical possession of the Purchased Assets to the Purchaser. In no event shall the Purchased Assets be sold, assigned, transferred or set over to the Purchaser until the conditions set out in the Approval and Vesting Order have been satisfied and the Purchaser has satisfied all delivery requirements outlined in Section 8.2. The Purchaser shall promptly notify the Vendors of any Excluded Assets which may come into the possession or control of the Purchaser, whether before or after Closing, and thereupon shall promptly release such Excluded Assets to the Vendors, or to such other Person as the Vendors may direct in writing and, for greater certainty, title shall not be deemed to vest to the Purchaser in respect of any Excluded Assets.
- (2) The Purchased Assets shall be and remain until Closing at the risk of the Vendors. In the event of material damage by fire or other hazard to the Purchased Assets or any material part thereof occurring before the Closing Date, the Vendors shall immediately advise the Purchaser thereof by notice in writing. Notwithstanding the occurrence of any of the foregoing, the Purchaser shall complete the Transaction contemplated herein in accordance with the terms hereof without reduction of the Purchase Price and the proceeds of any insurance available or actually paid or payable to the Vendors, to a maximum of that portion of the Purchase Price allocated in Schedule F for the Purchased Assets which are so damaged, shall be paid or assigned, as the case may be, to the Purchaser.

Section 8.5 Dispute Resolution

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

Section 8.6 Termination

- (1) This Agreement shall automatically terminate at any time prior to the Closing Time by mutual written agreement of the Vendors and the Purchaser and on consent of the Monitor.
- (2) This Agreement may be terminated at any time prior to the Closing Time upon the occurrence of any of the following:
 - (a) a condition precedent in favour of a Party has not been satisfied or waived by such Party pursuant to and in accordance with Article 7 and such Party otherwise entitled to terminate this Agreement as a result thereof has delivered written notice of termination pursuant to Article 7 (provided that the terminating Party has not failed to satisfy a closing condition under or otherwise breached this Agreement);
 - (b) by the Purchaser if the Court orders a post-filing sale process and the Purchaser, in its sole and absolute discretion, elects not to have this Agreement serve as the stalking horse offer for such sale process;
 - (c) Closing shall not have occurred on or prior to the Outside Date in accordance with Section 7.3 and any of the Parties shall have delivered written notice of termination to the other Parties terminating this Agreement as a result thereof (provided that the terminating Party has not failed to satisfy a closing condition under this Agreement);
 - (d) by the Vendors upon notice to the Purchaser if a material breach by the Purchaser of its obligations under this Agreement has occurred (including without limitation any action or inaction by Purchaser contrary to its obligations hereunder as reasonably necessary to cause the fulfillment of the conditions to closing in favour of Vendors) and Purchaser has failed to cure such breach within 20 days after receipt of written notice thereof; or
 - (e) by the Purchaser upon notice to the Vendors if a material breach by a Vendor of its obligations under this Agreement has occurred (including without limitation any action or inaction by a Vendor contrary to its obligations hereunder as reasonably necessary to cause the fulfillment of the conditions to closing in favour of Purchaser) and any of the Vendors has failed to cure such breach within 20 days after receipt of written notice thereof.

Section 8.7 Effects of Termination and Closing

- (1) If this Agreement is terminated pursuant to Section 8.6, all further obligations of the Parties under or pursuant to this Agreement shall terminate without further liability of any Party to the other except for the provisions of: (i) Section 3.3 (Deposit); and (ii) this Section 8.7 (Effects of Termination and Closing), each of which will survive termination.
- (2) If this Agreement is terminated by the Vendors pursuant Section 8.6(2)(d), then the Deposit shall be forfeited to the Vendors in accordance with Section 3.3 (Deposit), as liquidated damages, and not as penalty, and the Vendors shall have no other rights and remedies against the Purchaser available at law or in equity.
- (3) Under no circumstance shall any of the Parties, their Representatives or their respective directors, officers, employees or agents be liable for any special, punitive, exemplary, consequential or indirect damages (including loss of profits) that may be alleged to result, in connection with, arising out of, or relating to this Agreement or the transactions contemplated herein.

**ARTICLE 9
GENERAL****Section 9.1 Access to Books and Records**

- (1) For a period of three years from the Closing Date or for such longer period as may be reasonably required for the Vendors to comply with Applicable Law, the Purchaser will retain all original Books and Records that are transferred to the Purchaser under this Agreement. So long as any such Books and Records are retained by the Purchaser pursuant to this Agreement and subject to Section 9.1(2), the Vendors (and any representative, agent, former director or officer or trustee in bankruptcy of the estate of the Vendors, including the Monitor) has the right to inspect and to make copies (at its own expense) of them at any time upon reasonable request during normal business hours and upon reasonable notice for any proper purpose and without undue interference to the business operations of the Purchaser.
- (2) If the Vendors or its Affiliates are engaged in any business that competes, directly or indirectly, with the business carried on by Purchaser, then the Purchaser shall only be required to provide the right to inspect as contemplated in Section 9.1(1) to the Vendors if the sole purpose is of evaluating or preparing any of its tax returns, the sale of the remaining assets of the Vendors, in respect of any third party claim against such Person or in connection with any bankruptcy and insolvency proceeding. For greater certainty, the right of the Monitor, any former director or officer or any trustee in bankruptcy of the estate of the Vendors to inspect Books and Records and make copies thereof shall not be restricted under this Section 9.1(2).

Section 9.2 Notice

(1) Any notice or other communication under this Agreement shall be in writing and may be delivered personally, by courier or by email, addressed:

(a) in the case of the Purchaser, as follows:

Birch Communications, Inc.
3060 Peachtree Road, NW
Suite 1065
Atlanta, Georgia 30305
Attn: Vincent M. Oddo
Email: vincent.oddo@Birch.com

with a copy to:

Jones Day
1420 Peachtree Street, NE
Suite 800
Atlanta, Georgia 30309
Attn: William B. Rowland
Email: wbrowland@jonesday.com

(b) in the case of any Vendor, as follows:

c/o FTI Consulting Canada Inc.
TD South Tower.
79 Wellington Street West
Toronto Dominion Centre, Suite 2010
Toronto, ON M5K 1G8

Attention: Nigel Meakin

Email: nigel.meakin@fticonsulting.com

with a copy to:

Stikeman Elliott LLP
5300 Commerce Court West
199 Bay Street
Toronto, Ontario M5L 1B9

Attention: Samantha Horn

Email: sghorn@stikeman.com

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- (c) in each case, with a further copy to the Monitor, as follows:

FTI Consulting Canada Inc.
 TD South Tower
 79 Wellington Street West
 Toronto Dominion Centre, Suite 2010
 Toronto, ON M5K 1G8

Attention: Nigel Meakin
 Email: nigel.meakin@fticonsulting.com

with a copy to:

Blake, Cassels & Graydon LLP
 Suite 4000, Commerce Court West
 199 Bay Street
 Toronto, Ontario M5L 1B9

Attention: Linc Rogers
 Email: linc.rogers@blakes.com

- (2) Any such notice or other communication, if given by personal delivery or by courier, will be deemed to have been given on the day of actual delivery thereof and, if transmitted by email before 5:00 p.m. (Toronto time) on a Business Day, will be deemed to have been given on such Business Day, and if transmitted by email after 5:00 p.m. (Toronto time) on a Business Day, will be deemed to have been given on the Business Day after the date of the transmission.
- (3) Sending a copy of a notice or other communication to a Party's legal counsel as contemplated above is for information purposes only and does not constitute delivery of the notice or other communication to that Party. The failure to send a copy of a notice or other communication to legal counsel does not invalidate delivery of that notice or other communication to a Party.

Section 9.3 Time

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

Section 9.4 Survival

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

Section 9.5 Announcements

No press release, public statement or announcement or other public disclosure (a “**Public Statement**”) with respect to this Agreement or the transactions contemplated in this Agreement may be made prior to the Initial Order having been granted except with the prior written consent and joint approval of the Vendors and the Purchaser with a copy of such Public Statement being provided to the Monitor in advance.

Section 9.6 Personal Information

Purchaser hereby acknowledges that it is aware, and that it will advise its Representatives, that privacy legislation, including the *Personal Information Protection and Electronic Documents Act* (Canada), applies to certain information that may be disclosed to the Purchaser and its Representatives pursuant to this Agreement and/or the Transaction. The Purchaser agrees to comply, and cause its Representatives to comply, with such privacy legislation in connection with any such information disclosed to it or any of them. To the extent that any personally identifiable information of any customers is transferred from a Vendor to the Purchaser prior to the filing of the Initial Order, the Purchaser agrees to abide by the Vendors’ privacy policy with respect to such personally identifiable information.

Section 9.7 Benefit of Agreement

This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns. Except as otherwise provided in Section 3.6(b), Section 6.3 and Section 9.11, each Party intends that this Agreement shall not benefit or create any right or cause of action in or on behalf of any Person other than the Parties and their successors and permitted assigns, and, except for the Indemnified Parties, no Person other than the Parties and their successors and their permitted assigns shall be entitled to rely on the provisions hereof in any action, suit, proceeding, hearing or other forum. Despite the foregoing, the Vendors acknowledge to each of the Purchaser’s Indemnified Parties their direct rights against it under Section 9.11 of this Agreement and the Purchaser acknowledges to each of the Vendors’ Indemnified Parties their direct rights against it under Section 3.6(b), Section 6.3 and Section 9.11 of this Agreement. To the extent required by law to give full effect to these direct rights, the Vendors and the Purchaser each agree and acknowledge that it is acting as agent and/or as trustee of its Indemnified Parties. The Parties reserve their right to vary or rescind the rights, granted by or under this Agreement to any Person who is not a Party, at any time and in any way whatsoever, without notice to or consent of that Person, including any Indemnified Party.

Section 9.8 Entire Agreement

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

Section 9.9 Paramountcy

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

Section 9.10 Governing Law

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

Section 9.11 Commission

The Purchaser agrees to indemnify each Vendor and its Representatives against any claim for compensation or commission by any third party or agent retained by the Purchaser in connection with, or in contemplation of, the Transaction and the Vendors shall indemnify the Purchaser and its Representatives for any third party or agent or broker fees or other commissions payable by the Vendors on the Purchase Price or otherwise in connection with the Transaction.

Section 9.12 Assignment by Purchaser

This Agreement may not be assigned by the Purchaser without the prior written consent of the Vendors, which consent may be withheld in the Vendors' sole and absolute discretion; provided, however that the Purchaser shall be permitted to assign the benefit of all or a portion of this Agreement prior to the issuance of the Approval and Vesting Order to an Affiliate thereof in circumstances where (i) prior notice of such assignment is provided to the Vendors, (ii) such assignee agrees to be bound by the terms of this Agreement to the extent of the assignment, and (iii) such assignment shall not release the Purchaser from any obligation or liability hereunder in favour of the Vendors and the Purchaser shall acknowledge and confirm their continuing obligations and liabilities in favour of the Vendors in form and substance satisfactory to the Vendors; for greater certainty, the Purchaser shall be permitted to assign the right to buy all or a portion of the Purchased Assets to one or more Affiliates and such assignment shall be permitted so long as the requirements of this Section 9.12 are complied with. The Parties acknowledge and agree that a Canadian Affiliate of Purchaser will acquire all of the Purchased Assets located in Canada or used in carrying out the Business in Canada. This Agreement may not be assigned by the Vendors without the consent of the Purchaser.

Section 9.13 Further Assurances

Each of the Parties shall, at the request and expense of the requesting Party, take or cause to be taken such action and execute and deliver or cause to be executed and delivered to the other such conveyances, transfers, documents and further assurances as may be reasonably necessary or desirable to give effect to this Agreement.

Section 9.14 Counterparts

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

Section 9.15 Severability

Notwithstanding any provision herein, if a condition to complete the Transaction, or a covenant or an agreement herein, other than those contained in Section 3.1, Section 3.6 or Article 8, is prohibited or unenforceable pursuant to Applicable Law, then such condition, covenant or agreement shall be ineffective to the extent of such prohibition or unenforceability without invalidating the other provisions hereof.

Section 9.16 Monitor's Certificate

The Parties acknowledge and agree that the Monitor shall be entitled to deliver to the Purchaser, and file with the Court, the executed Monitor's Certificate without independent investigation, upon receiving written confirmation from both Parties (or the applicable Party's counsel) that all conditions of Closing in favour of such Party have been satisfied or waived, and the Monitor shall have no liability to the Parties in connection therewith. The Parties further acknowledge and agree that (i) upon written confirmation from both Parties that all conditions of Closing in favour of such Party have been satisfied or waived (other than the payments contemplated in Section 3.2 and the delivery of the executed Monitor's Certificate), the Monitor may deliver the executed Monitor's Certificate to the Purchaser's counsel in escrow, with the sole condition of its release from escrow being the Monitor's written confirmation of receipt of the payments contemplated in Section 3.2 to be delivered to it, and (ii) upon the Monitor's written confirmation that all such funds have been received, the Monitor's Certificate will be released from escrow to the Purchaser, and the Closing shall be deemed to have occurred.

Section 9.17 Monitor's Capacity


The Vendors and the Purchaser acknowledge and agree that the Monitor, acting in its capacity as Monitor of the Vendors, will have no liability, in its personal capacity or otherwise, in connection with this Agreement whatsoever as Monitor.

[THE REMAINDER OF THIS PAGE HAS BEEN LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the Parties have executed this Agreement.

PURCHASER:

BIRCH COMMUNICATIONS, INC.

By: 
Name: *Vincent M. Oddo*
Title: *President & CEO*

VENDORS:

**PRIMUS TELECOMMUNICATIONS
CANADA INC.**

By: _____
Name:
Title:

PRIMUS TELECOMMUNICATIONS, INC.

By: _____
Name:
Title:

LINGO, INC.

By: _____
Name:
Title:

IN WITNESS WHEREOF, the Parties have executed this Agreement.

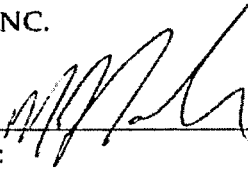
PURCHASER:

BIRCH COMMUNICATIONS, INC.


By: _____
Name:
Title:

VENDORS:

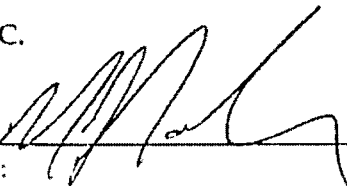
PRIMUS TELECOMMUNICATIONS
CANADA INC.

By:  _____
Name:
Title:

PRIMUS TELECOMMUNICATIONS, INC.

By:  _____
Name:
Title:

LINGO, INC.

By:  _____
Name:
Title:

Schedule A – Purchased Assets

- (1) all movable property, leasehold improvements and equipment, furniture, fixtures, computer hardware network equipment, inventory and other fixed assets (excluding those that are subject to capital leases that are not Assumed Contracts);
- (2) all Books and Records;
- (3) all inventory used in the carrying on of the Business, including all wireless phones and devices, modems, IAD's, VoIP phones and similar equipment located at customer premises or Vendor's facilities, and all other finished goods and goods in transit to be sold or leased to customers in the operation of the Business;
- (4) all vehicles owned or used in the operation of the Business;
- (5) all BSS and OSS systems and data related thereto;
- (6) the benefit of the Assumed Contracts;
- (7) all Accounts Receivable and Unbilled Revenue (including all checks and other forms of customer payments received by any Vendor following Closing);
- (8) all prepaid expenses to the extent necessary for the operation of the Business from and after the Closing;
- (9) all supplies owned and used in connection with the Business;
- (10) all Purchased Intellectual Property;
- (11) all customer and CABS accounts and the relationship associated therewith, including all contracts and other rights to provide telecom services to such customers, customer guarantees, customer notes, security agreements, financing statements under applicable personal property security legislation, customer deposits or collateral, filings or property securing customer obligations;
- (12) all government licenses, approvals, permits or similar used in connection with the Business, to the extent transferable;
- (13) all goodwill associated with the Business or the Purchased Assets, including the right to carry on the Business;
- (14) all rights, claims, credits, causes of action or rights of set off against third parties relating to the Purchased Assets, including rights under vendors' and manufacturers' warranties, indemnities and guarantees;
- (15) for greater clarity, all assets of Primus Telecommunications, Inc. and Lingo, Inc.; and
- (16) Any assignable or transferrable license, permit, or other authorization issued by the FCC or a State PUC and necessary for the Purchaser to operate the Business after Closing.

Schedule B – Essential Contracts

In addition to the contracts listed below, “Essential Contracts” includes any master agreement into which any contract listed below is incorporated by reference, and any other (i) interconnection agreements with local exchange carriers and interexchange carriers in Canada, and (ii) 911 service agreements and message relay service agreements with incumbent local exchange carriers in Canada to which Vendors are a party.

Ref.	Location/ Vender	Description
Office Leases		
5.3.1.3.3	Vancouver	Vancouver 555 W Hastings - Renewal Offer August 2012 - May 1, 2012 to Dec 31, 2017
5.3.1.4.1	151 Front	151 Front Street - Lease Amending Agreement - Sept 14, 2014 to Aug 31, 2019
5.3.1.8	New York	Primus Canada 60Hudson
5.3.1.1.2	Edmunston	Edmundston Lease Renewal Letter and Fully Executed Lease (Apr 1/14to Mar 31/17)
Carrier Contracts		
Allstream		
5.3.2.1.1	Allstream	Allstream Capacity IRU 2000
5.3.2.1.2	Allstream	Allstream Capacity IRU Addendum 2013
5.3.2.1.3	Allstream	Allstream LOI Memo 2012
5.3.2.1.8	Allstream	Allstream 2 5G SWON ring
5.3.2.10.11	Allstream	Allstream Primus Executed Outbound SIP Contracts
5.3.2.10.12	Allstream	Inbound SIP - 201504
5.3.7.1.2	Allstream	MWA Addendum_Hash_1 Oct2004
5.3.7.1.3	Allstream	MWA Addendum_Hash_2 July2006
5.3.7.1.4	Allstream	MWA Addendum_Hash_3 Oct2007
5.3.7.1.5	Allstream	MWA Addendum_Hash_4 Oct2009
5.3.7.1.6	Allstream	Original MWA 2001
5.3.7.1.7	Allstream	Sch5 International LD 200701
5.3.7.3	Allstream	TPO Quote - Primus - 205 5 Ave SW new 503K cage (v2 120601).xls
	Allstream	Master Agreement for CLEC-IXC Interconnection
	Allstream	GCC - Interconnection Agreement for the Provision of 911 Service to a CLEC_MTS Allstream_070705
	Allstream	GCC - Master Agreement for Local Network
	Allstream	Interconnection_Allstream_120403
Bell		
5.3.2.2.4	Bell Canada	2105 Ignite_Primus - Bell
5.3.2.2.5	Bell Canada	Bell 2.5G Toronto - Windsor 20111202_executed

5.3.2.2.6	Bell Canada	Bell 10Gs Toronto-NYC
5.3.2.2.7	Bell Canada	Bell DS1 Toronto-Oakville for 911 20130228
5.3.2.2.8	Bell Canada	Bell DS3 Barrie 1-292430451-223 20111014 executed
5.3.2.2.9	Bell Canada	Bell EIP augments 20140905
5.3.2.2.10	Bell Canada	Bell FTTN resale - 2015 Ignite_Primus - Bell Signed
5.3.2.2.11	Bell Canada	Bell GigE ENNI Ottawa 20131106
5.3.2.2.12	Bell Canada	Bell GigE ENNI Toronto 20131106
5.3.2.2.13	Bell Canada	Bell GigE wave Dundas-Front 1-292430451-561
5.3.2.2.14	Bell Canada	Bell OC3 Pharmacy IntraExchange 20111024
5.3.2.2.17	Bell Canada	Bell Wholesale Digital Network Service FEB2013_executed Bell Wholesale Ethernet Connect Svc Schedule 10G AGAS TOR 1-4 201412
5.3.2.2.18	Bell Canada	
5.3.2.2.19	Bell Canada	Bell Wholesale GAS (IGNITE)
5.3.2.2.20	Bell Canada	GCC - Central Office License Agreement _Bell Canada_040805
5.3.2.2.21	Bell Canada	Primus - Net Gain Incentive Offer Letter - Feb 1st to Apr 30th
5.3.2.2.22	Bell Canada	Bell Altantic BWS Schedule Dec 18 2012
5.3.2.2.23	Bell Canada	Bell EIP augments - Phase 2
5.3.2.2.24	Bell Canada	Bell EIP augments - Phase 3
5.3.2.2.25	Bell Canada	Bell EIP augments 20140915
5.3.2.2.26	Bell Canada	Bell IP Relay and MRS svc MCAT124463-49_1_81028
5.3.2.10.1	Bell Canada	Primus - Net Gain Incentive Offer Letter - Feb 1st to Apr 30th
5.3.2.10.7	Bell Canada	1-334088971-13 BWS Maritimes 201504 exec
5.3.2.10.10	Bell Canada	2105 Ignite_Primus - Bell Signed
5.3.7.7	Bell Canada	2012-0259DC - Primus EIP Amendment 1 - Dec 19, 2012(executed) 2012-0259DC - Primus Settlement BWS (Maritimes) - 1-334088971- 11(executed)
5.3.7.8	Bell Canada	
5.3.7.9	Bell Canada	EIP 201109 executed
5.3.9.1	Bell Canada	Centrex Amendment_Hash_1
5.3.9.2	Bell Canada	PRIMUS-CENTREX LOC R2_signed
	Bell Canada	Master Agreement for CLEC-IXC Interconnection
	Bell Canada	GCC - Interconnection Agreement for the Provision of 911 Service to a CLEC_Bell Canada_062202
	Bell Canada	CRTC_Primus Telecommunications Canada Inc_Bell Canada MRS Agreement_cvr/tr_27Sep13
	Bell Canada	Primus and Bell_MRS and IP Relay Contract_7Apr11_CONFIDENTIAL
	Bell Canada	GCC - Master Agreement for Local Network Interconnection + Sched C REVISED_Bell Canada_110804
	Bell Canada	GCC - Master Agreement for Local Network Interconnection + Sched C_Bell Canada_010103
	Bell Canada	GCC - Master Agreement for Local Network Interconnection + Sched C_Bell Canada_010103 - SIGNED
	Bell Canada	Local PAM 1-292430451-192 Primus Allstream migration-resi
	Bell Canada	Local PAM 1-292430451-193 Primus Allstream migration commercial
	Bell Canada	Local WLSF MCAT 124463-35 PES Resi

Bell Canada	Local RCM 1-292430451-100
Bell Canada	Local RCM 1-292430451-101
Bell Canada	Local RCM 1-292430451-174
Bell Canada	Local Business 1-292430451-371

Other Network Agreements

5.3.2.4.1	Other Network Agreements	382 Dialer Services Addendum
5.3.2.4.2	Other Network Agreements	382 Terminations Agreement
5.3.2.4.3	Other Network Agreements	Cogeco 2.5G Toronto to Windsor 20120319
5.3.2.4.4	Other Network Agreements	Cogent IP Transit Toronto _And_ Vancouver 201402
5.3.2.4.5	Other Network Agreements	Cogent IP Transit Toronto
5.3.2.4.6	Other Network Agreements	Cogent Vancouver x-connect
5.3.2.4.7	Other Network Agreements	Data Access Solutions Reciprocal Service Agreement 20120604 exec
5.3.2.4.8	Other Network Agreements	Equinix 10G PAIX 20130913
5.3.2.4.9	Other Network Agreements	Equinix 60Hudson space_And_power
5.3.2.4.10	Other Network Agreements	Fibernetics MSA
5.3.2.4.11	Other Network Agreements	IDT Service Agreement
5.3.2.4.12	Other Network Agreements	Iristel Inbound (DIDs) agreement 201304
5.3.2.4.13	Other Network Agreements	Iristel N11 service 201501
5.3.2.4.14	Other Network Agreements	Iristel Telecommunicaton Svcs Agreement (Toll) 20150127
5.3.2.4.15	Other Network Agreements	Navigata Colocation Service Schedule_Power
5.3.2.4.16	Other Network Agreements	Navigata Master Telecom Svcs Agmt 201010
5.3.2.4.17	Other Network Agreements	Phonetime Agreement
5.3.2.4.19	Other Network Agreements	Smartbox LD Agreement 20120430
5.3.2.4.20	Other Network Agreements	Telehouse NYIX 10G 201303 exec
5.3.2.4.21	Other Network Agreements	Teliasonera Signed Agreement
5.3.2.4.22	Other Network	US Matrix Agreement

	Agreements	
	Other Network	
5.3.2.4.23	Agreements	Uniserve WSA 20131011
	Other Network	
5.3.2.4.24	Agreements	Verizon - Advanced Toll Free (ATF) Standard Rates (04.2014)_539947
	Other Network	
5.3.2.4.25	Agreements	Verizon - WTSA
	Other Network	
5.3.2.4.26	Agreements	Verizon - WTSA addendum 20140516
	Other Network	
5.3.2.4.27	Agreements	Verizon - WTSA attachment for ATF 20140516 executed
	Other Network	
5.3.2.4.28	Agreements	Videotron Local Resell Agmt 20111024
	Other Network	
5.3.2.4.29	Agreements	Videotron PRI St.Nicolas 20111028
	Other Network	
5.3.2.4.30	Agreements	Videotron PRI Victoriaville 20111024
	Other Network	Agreement for Membership with the Canadian Local Number
	Agreements	Portability Consortium
	Other Network	GCC - Interconnection Agreement for the Provision of 911 Service to a
	Agreements	CLEC_SaskTel_112006

Rogers

5.3.2.5.1	Rogers	Rogers 10Gig TOM
5.3.2.5.2	Rogers	Rogers 10Mbps 8000 Jane - 151 Front
5.3.2.5.3	Rogers	Rogers DS3 Van-NewWest, Ham-St.Cath
5.3.2.5.4	Rogers	Rogers GigE NNI Toronto 20110915
5.3.2.5.5	Rogers	Rogers TPIA And CSG Agreement Executed
5.3.2.5.6	Rogers	Rogers TPIA 2nd GigE backhaul 201501
5.3.2.5.7	Rogers	Rogers TPIA 10Gig CNI
5.3.2.5.8	Rogers	Rogers TPIA Agreement Signed
5.3.2.5.9	Rogers	Rogers TPIA Application 201412 (2nd GigE)
5.3.2.5.10	Rogers	Rogers TPIA POI subsequent report 201412
5.3.2.5.11	Rogers	Cityfone Wireless - Primus Affinity April 2012
5.3.2.10.2	Rogers	Rogers IPVPN 1G EVPL Dundas-Front
5.3.2.10.3	Rogers	Rogers TPIA 10G wave to York Mills POI router 20150302
5.3.7.2	Rogers	Rogers TPIA _And_ CSG Agreement_executed
5.3.10.1	Rogers TSA	Transition Services Agreement -Rogers and Primus re Black Iron
5.3.10.3	Rogers TSA	Primus-Rogers TSA - Proposed Addendum draft 092915
		GCC - Master Agreement for Local Network
	Rogers	Interconnection_Rogers_021405

Shaw

5.3.2.6.1	Shaw	Shaw 10G wave Toronto to Chicago 201412
5.3.2.6.2	Shaw	Shaw IP Transit 201402 exec

5.3.2.6.3	Shaw	Shaw Private Line (2.5G Sea-Van-Edm-Tor) 20120516. executed
5.3.2.6.4	Shaw	Shaw TPIA EVPL 201402
5.3.2.6.5	Shaw	Shaw Vancouver ENNI 201407
5.3.2.6.6	Shaw	Shaw Wholesale Cable Gateway Service
5.3.2.10.8	Shaw	10G wave Toronto to Chicago 201412 exec
5.3.7.10	Shaw	IP Peering upgrade to 10G 201303 exec
5.3.7.11	Shaw	Primus Telecommunications Canada Inc dated Nov 16 2001 MSA

Telus

5.3.2.7.1	Telus	TELUS 10G CES NNI 20141008
5.3.2.7.2	Telus	TELUS 10G CES NNI SLA 20140825
5.3.2.7.4	Telus	TELUS Ethernet Access Svc Agmt 20141008 (2nd 1G AGAS)
5.3.2.7.5	Telus	TELUS LBL Amendment 2014_executed
5.3.2.7.6	Telus	TELUS Local Centrex Amendment 2014_executed
5.3.2.7.7	Telus	TELUS NNI_2006
5.3.2.7.8	Telus	TELUS PRI Agreement 200304
5.3.2.10.5	Telus	WSA Amendment 8 (CES Phase3) executed- 20150806
5.3.2.10.6	Telus	WSA Amendment 9 - 20150619 executed
5.3.7.5	Telus	Vancouver NNI EAS 20141008 (2nd 1G AGAS).
	Telus	Master Agreement for CLEC-IXC Interconnection
	Telus	GCC - Interconnection Agreement for the Provision of 911 Service to a CLEC_TELUS_04
	Telus	GCC - Interconnection Agreement for the Provision of 911 Service to a CLEC_TELUS_CVR_033104
	Telus	CRTC_Primus Telecommunications Canada Inc._TELUS MRS Agreement_cvrltr_27Sep13_CONFIDENTIAL
	Telus	Primus and TELUS_Definitive Agreement for Operator Services_1Nov05
	Telus	GCC - Master Agreement for Local Network Interconnection + Sched C_Original_Sched C App 4_TELUS_083004
	Telus	GCC - Master Agreement for Local Network Interconnection + Sched C_Original_Sched C App 5_TELUS_083004
	Telus	GCC - Master Agreement for Local Network Interconnection + Sched C_Original_Sched C Revised App 2_TELUS_121906
	Telus	GCC - Master Agreement for Local Network Interconnection + Sched C_Original_TELUS_070104
	Telus	GCC - Master Agreement for Local Network Interconnection + Sched C_REVISIED LIR_Sched Cs_TELUS_070108
	Telus	GCC - Master Agreement for Local Network Interconnection + Sched C_REVISIED LIR_TELUS_070108
	Telus	GCC - Master Agreement for Local Network Interconnection + Sched C_REVISIED TRANSIT_TELUS_070108
	Telus	Primus SMALI Sched C.TELUS.201412051437.FINAL
	Telus	Special MALI Schedule C_Telus_12.5.2014
	Telus	Special MALI_Telus_12.5.2014

Contract Update From February to August 2015

5.3.2.10.4	Iristel	Telecommunicaton Services Agreement (Toll) 20150127
5.3.2.10.9	Level 3	10M IPVPN Toronto to Carmel 20150326
5.3.2.10.13	Equinox	Lingo Chicago-IX 10G upgade
5.3.10.2	BID MSA	Blackiron Master Service Agreement_signed
5.3.10.4	PTCI MSA	PTCI Master Service Agreement_Final
	Northern	911 Agreement - February 2013
	Comtrust	LDDA - May 2005
	Excel Micro	Spam Filter June 2013
	Bell Canada	Unlimitel PRI # 261124987-3
	Neustar	MSA - October 22, 2009
	Premier Global	Conferencing - Amended September 2014
	Telus	DS1's to Rimouski & Ste Marie de Beauce November 2015

Network and Systems Agreements

5.3.3.1	SmartRG	Primus On-Prem SW Support Renewal for 2016 for 100K Subscribers License Block Oct132015
5.3.3.2	SmartRG	SmartRG - Support Services for Onsite Deployment Agreement - Primus - 20151013
5.3.4.2		Signed Oracle Agreement - Feb 27 2015
5.6.1	Allot	Allot Communications Invoice for PTCI011504
5.6.9	Genband	2015-16 GENBANDCare Renewal Proposal OP-0064770-GBC-01 Primus Jun9_15
	Long View	Various hardware support agreements with Long View
	Telcordia	Telcordia TPM License fees
	Vertex	Vertex - tax modules update
	Cisco	Cisco Smartnet
	Smart RG	Smart RG support Agreement
	Ericson	Ericson Support Agreement
	Enghouse	Enghouse Networks -LCR
5.3.7.4	Cogent	Transit Toronto and Vancouver 201402
5.3.7.6	Cogent	2 x 10G Transit Toronto
		GCC - Agreement for the Provision of E911_Calgary AB_020805
		GCC - Agreement for the Provision of E911_Edmonton AB_060607
		GCC - Agreement for the Provision of E911_Edmonton AB_060607 - 2
		GCC - Agreement for the Provision of E911_Edmonton AB_REVISION_081307
		GCC - Agreement for the Provision of E911_Toronto_120202
		CLNPC Shareholders Representative - Aug 2015
		GCC - CLNPC - CLNPC-USA Amended and Restated May 27 2011
		GCC - CLNPC - CLNPC-USA Amended and Restated May 27 2011_Instructions
		GCC - CNA+SAIC_Service User Agreement_091405

GCC - Membership Agreement_CLNP_080502
 GCC - Service User Agreement_CNA + SAIC_091405
 GCC - Shareholder Agreement_CLNP Amended and Restated_012006
 Primus Tel_ASA Statement_July 2015
 2015-11-18 - TekSavvy-Primus MALI - final
 2015-11-18 - TekSavvy-Primus MALI - signature pages - executed
 Beanfield MALI
 Beanfield MALI BPAGMALI291
 Beanfield MALI BPAGMALI291 - Signed GCC
 Beanfield MALI Pages signed
 Beanfield Sched C 20130221
 CDS and Globility MALI Pages_ Cover Signature and Notices
 CDS-Globility - Schedule C - CONFIDENTIAL
 Fibernetics Primus MALI
 Fibernetics Primus Sched C
 Final Fido signed agreement
 Final Fido signed Schedule C.FINAL
 GCC - Cogeco Data - MALI - Signed
 GCC - Master Agreement for Local Network
 Interconnection_Distributel_061607
 GCC - Master Agreement for Local Network
 Interconnection_Eastlink_31Oct12
 GCC - Master Agreement for Local Network
 Interconnection_Execulink_071507
 GCC - Master Agreement for Local Network
 Interconnection_FlexITY_090308
 GCC - Master Agreement for Local Network
 Interconnection_MSNI_051710
 GCC - Master Service Agreement + Data Colocation Schedule -
 Navigate-Next Layer - 032907
 GCC - Master Service Agreement + Data Colocation Schedule - Renewal
 - Navigate-Next Layer - 070112
 GCC - Navigata_Master Telecommunication Services
 Agreement_Executed_032907
 Kimcot-Primus Schedule C
 LES NET-PRIMUS-MALI-FINAL
 LES NET-PRIMUS-MALI-Schedule C-FINAL
 LES NET-PRIMUS-MALI-Schedule C-Signing
 LES NET-PRIMUS-MALI-Signing
 Primus - Seaside - schedule c
 Standard MALI_Innsys MALI BPAGMALI30_12.17.2014
 Standard MALI_Innsys Sched C_12.22.2014
 Final signed schedule C for Nor-Del Cablevision Limited
 Final signed schedule C from Câble-Axion Digitel inc

Final signed schedule C with Câble-Axion Digitel inc
 Final signed Schedule-C for O.N.Tel Inc
 Final signed Schedule-C for Wightman Communications Ltd
 Final signed SMALI for Nor-Del Cablevision Limited
 Final signed SMALI for O.N.Tel Inc
 Final signed SMALI for Wightman Communications Ltd
 Final signed SMALI with Câble-Axion Digitel inc
 Primus SMALI .TELUS.201412051437.FINAL
 Primus SMALI Sched C.ACCESSCOMMUN ICATIONS.FINAL
 Primus SMALI Sched C.BRUCETELECOM.FINAL
 Primus SMALI Sched C.CABLE-AXION.FINAL1doc
 Primus SMALI Sched C.CABLE-AXION.FINAL2doc
 Primus SMALI Sched C.DERYTELECOM.FINAL
 Primus SMALI Sched C.GOSFIELD.FINAL.doc
 Primus SMALI Sched C.GREATERSUDBURY.FINAL
 Primus SMALI Sched C.HURON.FINAL.doc
 Primus SMALI Sched C.NOR-DEL.FINAL
 Primus SMALI Sched C.ONTERA.FINAL
 Primus SMALI Sched C.ROXBOROUGH.FINAL
 Primus SMALI Sched C.SHANNONVISION.FINAL.doc
 Primus SMALI Sched C.SOGETEL.FINAL
 Primus SMALI Sched C.TUCKERSMITH.FINAL.doc
 Primus SMALI Sched C.WIGHTMAN.FINAL
 SMALI - Xplornet - Schedule C- Primus
 Special MALI - Primus

US Co-Location Agreements

		Space _And_ power 900 N.Alameda, LA 1st cabinet LN04 renewal 20150326.pdf
6.2.1	Coresite	
6.2.2	Coresite	Space _And_ power 900 N.Alameda, LA 2nd cabinet 20130802.pdf
6.2.3	Coresite	Space _And_ power 900 N.Alameda, LA 2nd cabinet 20130802exec.pdf
6.2.4	Coresite	Space _And_ power 900 N.Alameda, LA 20130412.pdf
6.2.5	Equinix	Lingo 60Hudson colo lease
6.2.6	Equinix	Lingo Chicago colo lease
6.2.7	Equinix	Lingo master service agreement
6.2.8	Coresite	Nat'l MSA 20130416 (Alameda)
6.2.9	ICS-PTCI ICS and Newport Office	Carrier Services Agreement ICS-PTCI -
6.2.10	Center 1LP	Colocation Agreement - ICS New Jersey

Network and IT Support Agreements

5.6.2	Allot	Allot Maintenance Agreement
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5.6.5	Meta	Metaswitch Support Service Level Agreement
5.6.7	Broadsoft	US BroadSoft License Agreements
5.6.10	ACME	Acme Oracle APKT-RN-24315-2
5.6.11	Allot	Allot Communications Hardware Warranty Certificate SGT1412000076
	Acme	Acme - Canada
	Acme	Acme – US
	Broadsoft	Broadsoft – Canada (C10746)
	Allot	Allot - Tera
	Allot	Allot - SigmaE, SPS/SPX, NX-STC, & SMP
	CDW	VMware vSphere 5 Standard for 1 processor x 4
	CDW	VMware vSphere 5 Standard for 1 processor x 8
	CTI Tech	CTI - Call Recording
	Dell	ADMINDB2
	Enghouse	
	Networks	Pulse Voice (LCR)
	Equinox	Protector 10.x Mtce Fee Monito up to 3.5 Million CDRs Per Day
	Ericsson	Primus Canada - Pricelist of Ericsson SSRs SWUS
	Five9	Agent Licenses
	FusionCharts	Add-On for PBS Charting in Admin3
	Interactive	
	Intelligence	Hosted ACD
	Longview	VMware vSphere 6 Standard for 1 processor x 16
	Longview	VMware vSphere 6 Standard for 1 processor x 14
	Longview	VMware vCenter Server6 Standard for vSphere 5 (Per Instance) x 1
	Longview	VMware vSphere 6 Standard for 1 processor x 2
	Metaswitch	Meta support
	Onx	Cisco Support, NEW-Q16034490
	Onx	Cisco Smartnet
	Onx	Vmware, 50 x Vsphere (3year enterprise license and support)
	Oracle (Pillar	
	Data Systems)	AXIOM 600
	Red Hat	Red Hat - A/C #1051751
	Sonus	Sonus (Performance Technologies, SS7 signaling)
	TeraSpan	TeraSpan Networks (Vancouver Fibre Ring)
	Zhone	Zhone (MALC, MXK, 1U, ETHX, ZNID, & ZMS)
	F5 Networks	F5 Service Agreement
 Other		
5.3.8	Rimhub	Rimhub
5.3.8.1	Rimhub	Rimhub Proposal_29Sep2012_PTGi_FINALrates.pdf
5.3.8.2	Rimhub	MSA RibHub PTCI Part 1.pdf
	Infosys	Letter of Engagement dated August 1, 2015

Marketing Agreements

2.9.3		MDM Rate Schedule.xlsx
5.3.2.3.1	Costco	Costco Contract Apr 2015-16 renewal
5.3.2.3.2	Costco	KnewSalesGroupAgencyAgreementJan1515
5.3.2.8.1	Aeroplan	Primus - Aeroplan 2013-17 Renewal Amendment FINAL
5.3.2.9.1	LoyaltyOne	Primus_Air Miles Agreement - Primus Comments - July 13

Consulting Agreements

5.7.1	Consultant	Mohammed Ikram_PSA
5.7.2	Consultant	MondaytoSunday Services India Private Inc_Raja Domalla_PSA
5.7.3	Consultant	Padmaja Challa_PSA
5.7.4	Consultant	Bhadkar Pandian PSA 2011
5.7.5	Consultant	Bhaskar Pandian Task Order
5.7.6	Consultant	Jain Abhishek_PSA
	Consultant	Nice Consulting
	Consultant	David Pigott
	Consultant	Benlin Xu
	Consultant	Laker You
	Consultant	Ted Taylor
	Consultant	Matthew Gamble
	Consultant	Ted Taylor
	Consultant	Dommala Rajavardhan

Equipment Contracts

Onx	NetApp 2240s (Van)
Onx	DS22246 for Call Rec
Onx	NetApp 3140s (Old Tor)
Onx	NetApp 3210 (snapvault0-01)
Onx	NetApp 8020s (New Tor)
Onx	NetApp SW Support (FCP, iSCSI 8020A)
F5 Networks, Inc.	Service Agreement Acknowledgment (ID: 363746)

Schedule C – Other Assumed Contracts

To be mutually agreed on.

Schedule D – Excluded Assets

- (1) Any and all shares and other securities owned by any Vendor, including all shares of Primus Telecommunications, Inc. and Lingo, Inc. held by Primus Telecommunications Canada, Inc.
- (2) Any deposits paid or other security posted by Vendors or amounts set off or held back from the Vendors in respect of goods or services to be supplied after the CCAA Proceedings have commenced.

Schedule E – Excluded Contracts

Ref.	Location/ Vender	Description
Office Leases		
5.3.1.2.2	Ottawa	31 Auriga Lease Dec 1, 2010 to Nov 30., 2020.pdf
5.3.1.5.3	Toronto	Amendment to Lease - July 25, 2013
5.3.1.5.4	Toronto	Primus Manulife Lease - 5343 Dundas
	Edmonton	Edmonton office lease
	Markham, Ontario	60 Renfrew Drive
	London, Ontario	1069 Wellington Road South
	Cedar Rapids, Iowa	Office lease for Suite 1, 805 Wright Brothers Blvd. SW Cedar Rapids, Iowa, 52404
	Coralville, Iowa	Office lease for 625 First Avenue, Coralville, Iowa
	Tampa, Florida	Office lease for Suite 220E, 3903 Northdale Boulevard, Tampa, Florida, 33624
Carrier Contracts		
5.3.2.2.1	Bell Canada	1-796366479(Primus-Loop Letter-Globility Gov_Hash_2011-0247DC)
5.3.2.2.2	Bell Canada	2012-0259DC - Primus Loops Amendment 1 - Dec 19, 2012(executed)
5.3.2.2.3	Bell Canada	2015 Bell Resolution of data spend agreement
5.3.2.2.16	Bell Canada	Bell ULLs - 1-796366479(Primus-Loop Letter-Globility Gov_Hash_2011- 0247DC)
5.3.2.2.27	Bell Canada	Bell Local resale - Primus Amendment No 1 MCAT124463-35
5.3.2.2.28	Bell Canada	Amendment
		Primus Amendment No 1 MCAT124463-35 Amendment
Other Network Agreements		
	Other Network Agreements	Bell ULL Agreement 1-796366479
Telus		
5.3.2.7.3	Telus	TELUS Direct Connect LD Agmt (2014-10-23)
5.3.2.7.9	Telus	telus amendment #9 to wholesale services agreement -foreborne and tarriffed
5.3.2.7.10	Telus	Telus Wireline - Primus WSA (TELUS Redline) June 30 11
Network and Systems Agreements		
5.3.4.1	Microsoft	Microsoft Agreement
5.6.3	CA Interactive	CA Perpetual License Agreement
5.6.4	Intelligence	I3 Contract
5.6.6	OnX	OnX Support Agreement for various network components and VM

5.6.8	Zhone Salesforce.com	Ware Zhone Service Guide Contract in place with Salesforce.com
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Other Contracts

Primus	All Executive employment contracts
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Schedule F – Purchase Price Allocation

To be mutually agreed upon prior to Closing.

Schedule G – Permitted Encumbrances

All Encumbrances relating to the registrations listed below and any registrations made in other jurisdictions in connection with the same Encumbrances to the extent any such Encumbrances relate to equipment that is leased pursuant to an Assumed Contract:

CANADA

A. Ontario

File No. Registration No. Registration Period Expiry Date	Debtor Name	Secured Party (Creditor)	Collateral Classification	Other Changes
709482663 20150831140314627082 5 years August 31, 2020	Primus Telecommunications Canada Inc. Primus Canada Ltd. Primus Telecommunications Canada Inc	Xerox Canada Ltd	Equipment Other	
697522572 20140627141214621457 5 years June 27, 2019	Primus Telecommunications Canada Inc. Primus Canada Ltd.	Xerox Canada Ltd	Equipment Other	
683592579 20121214 1703 1462 2176 4 years December 14, 2016	Primus Telecommunications Canada Inc.	Gould Leasing Ltd.	Equipment	
681490494 20120917140214628536 4 years September 17, 2016	Primus Telecommunications Canada Inc. Primus Telecommunications	Xerox Canada Ltd	Equipment Other	
674093097 20111102170214626299 4 years November 2, 2015	Primus Telecommunications Canada Inc.	Xerox Canada Ltd	Equipment Other	
711845838 20151117 1350 1902 8220 5 years November 17, 2020	Primus Telecommunications Canada Inc.	Cicso Systems Capital Canada Co.	Equipment Accounts Other	All present and future goods (including, without limitation, routers, router components, switches, servers, other computer networking and telecommunications equipment and other information technology and computer equipment (including, without limitation,

			security, voice, video, collaboration, conferencing, wireless and ancillary equipment) and other goods (whether similar or dissimilar to the foregoing)) leased from time to time by the Secured Party to the Debtor, together with, in each case, all present and future software and software license rights relating to any of the foregoing, and all present and future substitutions, replacements, upgrades, repairs, parts and attachments, improvements and accessions thereto (collectively, the "Equipment"), as well as, (1) all present and future insurance, warranty, rental and other claims and right to payment and chattel paper arising out of all or any of the Equipment, (2) all present and future books and records relating to all or any of the foregoing and (3) all proceed of or relating to any of the foregoing.
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B. British Columbia

Base Registration No. Control No. Registration Period Registration Date Expiry Date	Debtor Name	Secured Party (Creditor)	General Collateral Description
8123161 D3295665 5 years August 31, 2015 August 31, 2020	Primus Telecommunic-ations Canada Inc. Primus Telecommunications Canada Inc.	Xerox Canada Ltd	Equipment, other all present and future office equipment and software supplied or financed from time to time by the secured party (whether by lease, conditional sale or otherwise), whether or not manufactured by the secured party or any affiliate thereof.
958440I D3445051 5 years November 17, 2015 November 17, 2020	Primus Telecommunications Canada Inc.	Cisco Systems Capital Canada Co.	All present and future goods (including, without limitation, routers, router components, switches, services, other computer networking and telecommunications equipment (including, without limitation, security, voice, video, collaboration, wireless and ancillary equipment) and other goods (whether similar or dissimilar ot the foregoing)) leased from time to time by the Secured Party to the Debtor,

			together with, in each case, all present and future software and software license rights relating to any of the foregoing, and all present and future substitutions, replacements, upgrades, repairs, parts and attachments, improvements and accessions thereto (collectively, the "Equipment"), as well as, (1) all present and future insurance, warranty, rental and other claims and rights to payment and chattel paper arising out of all or any of the equipment, (2) all present and future books and records relating to all or any of the foregoing and (3) all proceeds of or relating to any of the foregoing.
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C. Alberta

Registration No. Expiry Date	Debtor	Secured Party	General Collateral Description
12091718764 2012-Sep-17	Primus Telecommunications Primus Telecommunications Canada Inc.	Xerox Canada Ltd.	Equipment, other all present and future office equipment and software supplied or financed from time to time by the secured party (whether by lease, conditional sale or otherwise), whether or not manufactured by the secured party or any affiliate thereof.
15111720605 2015-Nov-17	Primus Telecommunications Canada Inc.	Cisco Systems Capital Canada Co.	All present and future goods (including, without limitation, routers, router components, switches, servers, other computer networking and telecommunications equipment and other information technology and computer equipment (including, without limitation, security, voice, video, collaboration, conferencing, wireless and ancillary equipment) and other goods (whether similar or dissimilar to the foregoing)) leased from time to time by the secured party to the debtor, together with, in each case, all present and future software and software license rights relating to any of the

			foregoing, and all present and future substitutions, replacements, upgrades, repairs, parts and attachments, improvements and accessions thereto (collectively, the "equipment"), as well as, (1) all present and future insurance, warranty, rental and other claims and rights to payment and chattel paper arising out of all or any of the equipment, (2) all present and future books and records relating to all or any of the foregoing and (3) all proceeds of or relating to any of the foregoing.
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D. New Brunswick

Registration No. Expiry Date	Debtor	Secured Party	General Collateral Description
24586547 2014-06-27	Primus Canada Ltd. Primus Telecommunications Canada Inc.	Xerox Canada Ltd.	Equipment, other all present and future office equipment and software supplied or financed from time to time by the secured party (whether by lease, conditional sale or otherwise), whether or not manufactured by the secured party or any affiliate thereof.
26345074 2015-08-31	Primus Canada Ltd. Primus Telecommunic-ations Canada Inc. Primus Telecommunications Canada Inc.	Xerox Canada Ltd.	Equipment, other all present and future office equipment and software supplied or financed from time to time by the secured party (whether by lease, conditional sale or otherwise), whether or not manufactured by the secured party or any affiliate thereof.
26706424 2015-11-17	Primus Telecommunications Canada Inc.	Cisco Systems Capital Canada Co.	All present and future goods (including, without limitation, routers, router components, switches, servers, other computer networking and telecommunications equipment and other information technology and computer equipment (including, without limitation, security, voice, video,

			collaboration, conferencing, wireless and ancillary equipment) and other goods (whether similar or dissimilar to the foregoing)) leased from time to time by the secured party to the debtor, together with, in each case, all present and future software and software license rights relating to any of the foregoing, and all present and future substitutions, replacements, upgrades, repairs, parts and attachments, improvements and accessions thereto (collectively, the "equipment"), as well as, (1) all present and future insurance, warranty, rental and other claims and rights to payment and chattel paper arising out of all or any of the equipment, (2) all present and future books and records relating to all or any of the foregoing and (3) all proceeds of or relating to any of the foregoing.
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Schedule H – Purchased Intellectual Property

Patents and Patent Applications

Country	Patent Title	Patent No.	Issue Date	Filing Date	Assignee
Canada	Call Screening System and Method	2,597,377	Nov. 16, 2010	August 15, 2007	Primus Telecommunications Canada, Inc.

Country	Patent Title	Patent No.	Issue Date	Assignee	PCT Filing Date
U.S.	Call Screening System and Method	8,577,002	Nov. 5, 2013	Primus Telecommunications Canada, Inc.	August 13, 2008

Trademarks (Canada)

No.	Trademark	Status	Owner Name
1.	BEX - BUSINESS ETHERNET XTENDED	Registered App 1518690 App 10-MAR-2011 Reg TMA873831 Reg 19-MAR-2014 19-MAR-2029	Primus Telecommunications Canada Inc.
2.	BPS	Registered App 1196778 App 19-NOV-2003 Reg TMA632560 Reg 10-FEB-2005 10-FEB-2020	Primus Telecommunications Canada Inc.
3.	BROADBAND PHONE SERVICE (BPS)	Registered App 1196294 App 14-NOV-2003 Reg TMA678143 Reg 05-DEC-2006 05-DEC-2021	Primus Telecommunications Canada Inc.
4.	BROADBAND VOICE SERVICE (BVS)	Registered App 1196296 App 14-NOV-2003 Reg TMA678144 Reg 05-DEC-2006 05-DEC-2021	Primus Telecommunications Canada Inc.
5.	BVS	Registered App 1196779 App 19-NOV-2003 Reg TMA632466 Reg 09-FEB-2005 09-FEB-2020	Primus Telecommunications Canada Inc.


No.	Trademark	Status	Owner Name
6.	CALL NORTH AMERICA	Registered App 715163 App 15-OCT-1992 Reg TMA430193 Reg 08-JUL-1994 08-JUL-2024	Primus Telecommunications Canada Inc.
7.	CALL25	Registered App 1233360 App 08-OCT-2004 Reg TMA644503 Reg 15-JUL-2005 15-JUL-2020	Primus Telecommunications Canada Inc.
8.	CLOSE CONNECTIONS	Registered App 725939 App 02-APR-1993 Reg TMA430020 Reg 01-JUL-1994 01-JUL-2024	Primus Telecommunications Canada Inc.
9.	COMPARE AND REWARD	Registered App 1157584 App 05-NOV-2002 Reg TMA603341 Reg 26-FEB-2004 26-FEB-2019	Primus Telecommunications Canada Inc.
10.	DATASAFE ADVANCED	Registered App 1217670 App 21-MAY-2004 Reg TMA771834 Reg 13-JUL-2010 13-JUL-2025	Primus Telecommunications Canada Inc.
11.	DATASAFE EXTRA SECURE	Registered App 1217678 App 21-MAY-2004 Reg TMA772550 Reg 21-JUL-2010 21-JUL-2025	Primus Telecommunications Canada Inc.
12.	DATASAFE SOLUTIONS	Registered App 1217679 App 21-MAY-2004 Reg TMA771636 Reg 12-JUL-2010 12-JUL-2025	Primus Telecommunications Canada Inc.
13.	DIME TIME	Registered App 866177 App 15-JAN-1998 Reg TMA510125 Reg 26-MAR-1999 26-MAR-2029	Primus Telecommunications Canada Inc.


No.	Trademark	Status	Owner Name
14.	EASYREACH COMMUNICATIONS	Registered App 843831 App 30-APR-1997 Reg TMA498070 Reg 30-JUL-1998 30-JUL-2028	Primus Telecommunications Canada Inc.
15.	ENTERPRISE DATASAFE	Registered App 1217677 App 21-MAY-2004 Reg TMA771757 Reg 13-JUL-2010 13-JUL-2025	Primus Telecommunications Canada Inc.
16.	ENTRE NOUS	Registered App 726790 App 15-APR-1993 Reg TMA436267 Reg 25-NOV-1994 25-NOV-2024	Primus Telecommunications Canada Inc.
17.	GLOBALSERVE	Registered App 798806 App 04-DEC-1995 Reg TMA468136 Reg 02-JAN-1997 02-JAN-2027	Primus Telecommunications Canada Inc.
18.	GO FOR MORE	Registered App 1245624 App 01-FEB-2005 Reg TMA658186 Reg 07-FEB-2006 07-FEB-2021	Primus Telecommunications Canada Inc.
19.	GUARDIEN TÉLÉMARKETING	Registered App 1361467 App 28-AUG-2007 Reg TMA749509 Reg 06-OCT-2009 06-OCT-2024	Primus Telecommunications Canada Inc.
20.	INTERNATIONAL SANS COMPROMIS	Registered App 1332066 App 19-JAN-2007 Reg TMA707426 Reg 14-FEB-2008 14-FEB-2023	Primus Telecommunications Canada Inc.
21.	IT'S YOUR CALL	Registered App 720540 App 13-JAN-1993 Reg TMA454966 Reg 08-MAR-1996 08-MAR-2026	Primus Telecommunications Canada Inc.


No.	Trademark	Status	Owner Name
22.	LINGO	Registered App 1225928 App 04-AUG-2004 Reg TMA836481 Reg 15-NOV-2012 15-NOV-2027	Primus Telecommunications Canada, Inc.
23.	LINGO & DESIGN 	Registered App 1228404 App 26-AUG-2004 Reg TMA777828 Reg 22-SEP-2010 22-SEP-2025	Primus Telecommunications Canada, Inc.
24.	LONDON TELECOM	Registered App 719836 App 04-JAN-1993 Reg TMA423877 Reg 25-FEB-1994 25-FEB-2024	Primus Telecommunications Canada Inc.
25.	LONDON TELECOM NETWORK	Registered App 719835 App 04-JAN-1993 Reg TMA423876 Reg 25-FEB-1994 25-FEB-2024	Primus Telecommunications Canada Inc.
26.	LONDON TELECOM NETWORK & DESIGN 	Registered App 789507 App 08-AUG-1995 Reg TMA465850 Reg 06-NOV-1996 06-NOV-2026	Primus Telecommunications Canada Inc.
27.	LONDON TELECOM NETWORK CANADA'S FLAT RATE LONG DISTANCE COMPANY & DESIGN 	Registered App 860690 App 05-NOV-1997 Reg TMA535474 Reg 23-OCT-2000 23-OCT-2030	Primus Telecommunications Canada Inc.
28.	MAGMA	Registered App 1329047 App 20-DEC-2006 Reg TMA733207 Reg 27-JAN-2009 27-JAN-2024	Primus Telecommunications Canada Inc.
29.	MAGMA & DESIGN 	Registered App 1329037 App 20-DEC-2006 Reg TMA733208 Reg 27-JAN-2009 27-JAN-2024	Primus Telecommunications Canada Inc.


No.	Trademark	Status	Owner Name
30.	MON PAYS	Registered App 839724 App 27-MAR-1997 Reg TMA492607 Reg 08-APR-1998 08-APR-2028	Primus Telecommunications Canada Inc.
31.	MORE \$15	Registered App 1308968 App 13-JUL-2006 Reg TMA693053 Reg 31-JUL-2007 31-JUL-2022	Primus Telecommunications Canada Inc.
32.	MORE \$20	Registered App 1308964 App 13-JUL-2006 Reg TMA693052 Reg 31-JUL-2007 31-JUL-2022	Primus Telecommunications Canada Inc.
33.	MORE \$25	Registered App 1308963 App 13-JUL-2006 Reg TMA693051 Reg 31-JUL-2007 31-JUL-2022	Primus Telecommunications Canada Inc.
34.	MORE \$35	Registered App 1308961 App 13-JUL-2006 Reg TMA693050 Reg 31-JUL-2007 31-JUL-2022	Primus Telecommunications Canada Inc.
35.	MORE ANYTIME	Registered App 1280917 App 25-NOV-2005 Reg TMA667323 Reg 11-JUL-2006 11-JUL-2021	Primus Telecommunications Canada Inc.
36.	MORE EVENINGS AND WEEKENDS	Registered App 1308959 App 13-JUL-2006 Reg TMA693480 Reg 03-AUG-2007 03-AUG-2022	Primus Telecommunications Canada Inc.
37.	MY COUNTRY	Registered App 839725 App 19-MAR-1997 Reg TMA501131 Reg 24-SEP-1998 24-SEP-2028	Primus Telecommunications Canada Inc.

No.	Trademark	Status	Owner Name
38.	MY TALKBROADBAND	Registered App 1247992 App 21-FEB-2005 Reg TMA654488 Reg 06-DEC-2005 06-DEC-2020	Primus Telecommunications Canada Inc.
39.	NOUS SOMMES TOUJOURS À L'ÉCOUTE	Registered App 807721 App 20-MAR-1996 Reg TMA490172 Reg 18-FEB-1998 18-FEB-2028	Primus Telecommunications Canada Inc.
40.	OBTENEZ-EN PLUS	Registered App 1332063 App 19-JAN-2007 Reg TMA706434 Reg 04-FEB-2008 04-FEB-2023	Primus Telecommunications Canada Inc.
41.	ONE & ALL	Registered App 766046 App 13-OCT-1994 Reg TMA447160 Reg 01-SEP-1995 01-SEP-2025	PRIMUS TELECOMMUNICATIONS CANADA, INC.
42.	PARLEZ HAUTE VITESSE	Registered App 1209715 App 15-MAR-2004 Reg TMA655193 Reg 15-DEC-2005 15-DEC-2020	Primus Telecommunications Canada Inc.
43.	PLUS! 15\$	Registered App 1308957 App 13-JUL-2006 Reg TMA692862 Reg 27-JUL-2007 27-JUL-2022	Primus Telecommunications Canada Inc.
44.	PLUS! 20\$	Registered App 1308958 App 13-JUL-2006 Reg TMA693049 Reg 31-JUL-2007 31-JUL-2022	Primus Telecommunications Canada Inc.
45.	PLUS! 25\$	Registered App 1308956 App 13-JUL-2006 Reg TMA693048 Reg 31-JUL-2007 31-JUL-2022	Primus Telecommunications Canada Inc.

No.	Trademark	Status	Owner Name
46.	PLUS! 35\$	Registered App 1308954 App 13-JUL-2006 Reg TMA693047 Reg 31-JUL-2007 31-JUL-2022	Primus Telecommunications Canada Inc.
47.	PLUS! EN TOUT TEMPS	Registered App 1280918 App 25-NOV-2005 Reg TMA674864 Reg 13-OCT-2006 13-OCT-2021	Primus Telecommunications Canada Inc.
48.	PLUS! SOIR ET LE WEEKEND	Registered App 1308952 App 13-JUL-2006 Reg TMA694494 Reg 22-AUG-2007 22-AUG-2022	Primus Telecommunications Canada Inc.
49.	PRIMUS	Registered App 1102123 App 07-MAY-2001 Reg TMA734586 Reg 17-FEB-2009 17-FEB-2024	Primus Telecommunications Canada, Inc.
50.	PRIMUS & DESIGN 	Registered App 1102122 App 07-MAY-2001 Reg TMA734585 Reg 17-FEB-2009 17-FEB-2024	Primus Telecommunications Canada, Inc.
51.	PRIMUS ANYTIME CONFERENCING SERVICES	Registered App 1179941 App 11-JUN-2003 Reg TMA717051 Reg 20-JUN-2008 20-JUN-2023	Primus Telecommunications Canada, Inc.
52.	PRIMUS ANYTIME PLUS CONFERENCING SERVICES	Registered App 1179938 App 11-JUN-2003 Reg TMA717052 Reg 20-JUN-2008 20-JUN-2023	Primus Telecommunications Canada, Inc.
53.	PRIMUS CONFERENCING SERVICES	Registered App 1179935 App 11-JUN-2003 Reg TMA717053 Reg 20-JUN-2008 20-JUN-2023	Primus Telecommunications Canada, Inc.

No.	Trademark	Status	Owner Name
54.	PRIMUS E-CARE	Registered App 1196295 App 14-NOV-2003 Reg TMA717117 Reg 20-JUN-2008 20-JUN-2023	Primus Telecommunications Canada, Inc.
55.	PRIMUS Logo 	Searched (Pending) App 1715368 App 13-FEB-2015	PRIMUS TELECOMMUNICATIONS CANADA INC.
56.	PRIMUS METRO	Allowed (Pending) App 1510289 App 06-JAN-2011	Primus Telecommunications Canada, Inc.
57.	PRIMUS METRO FIBRE	Allowed (Pending) App 1510288 App 06-JAN-2011	Primus Telecommunications Canada, Inc.
58.	PRIMUS MORE SHARING	Registered App 1251950 App 24-MAR-2005 Reg TMA659883 Reg 01-MAR-2006 01-MAR-2021	Primus Telecommunications Canada, Inc.
59.	PRIMUS ONETIME CONFERENCING SERVICES	Registered App 1179942 App 11-JUN-2003 Reg TMA717050 Reg 20-JUN-2008 20-JUN-2023	Primus Telecommunications Canada, Inc.
60.	PRIMUS PARTAGE-PLUS	Registered App 1251951 App 24-MAR-2005 Reg TMA659890 Reg 01-MAR-2006 01-MAR-2021	Primus Telecommunications Canada, Inc.
61.	PRIMUS WEBWORKS	Registered App 1337368 App 28-FEB-2007 Reg TMA714060 Reg 09-MAY-2008 09-MAY-2023	Primus Telecommunications Canada, Inc.
62.	PRIMUS WIRELESS - LONG DISTANCE FOR LESS	Registered App 1308949 App 13-JUL-2006 Reg TMA796694 Reg 05-MAY-2011 05-MAY-2026	Primus Telecommunications Canada, Inc.

No.	Trademark	Status	Owner Name
63.	PRIMUSCLOUD	Registered App 1553512 App 23-NOV-2011 Reg TMA889158 Reg 31-OCT-2014 31-OCT-2029	Primus Telecommunications Canada, Inc.
64.	PTGI	Registered App 1534571 App 06-JUL-2011 Reg TMA878044 Reg 15-MAY-2014 15-MAY-2029	Primus Telecommunications Canada Inc.
65.	PTGI & Design 	Registered App 1534570 App 06-JUL-2011 Reg TMA878039 Reg 15-MAY-2014 15-MAY-2029	Primus Telecommunications Canada Inc.
66.	RAPIDRETRIEVE	Registered App 1461311 App 02-DEC-2009 Reg TMA779692 Reg 13-OCT-2010 13-OCT-2025	Primus Telecommunications Canada Inc.
67.	SERVICE ELECTRONIQUE PRIMUS	Registered App 1209720 App 15-MAR-2004 Reg TMA703132 Reg 14-DEC-2007 14-DEC-2022	Primus Telecommunications Canada, Inc.
68.	SERVICE ELECTRONIQUE WIN-TEL	Registered App 1209724 App 15-MAR-2004 Reg TMA642557 Reg 20-JUN-2005 20-JUN-2020	Primus Telecommunications Canada Inc.
69.	TALKBROADBAND	Registered App 1203001 App 08-JAN-2004 Reg TMA635039 Reg 11-MAR-2005 11-MAR-2020	Primus Telecommunications Canada Inc.
70.	TELE-FRIEND	Registered App 734181 App 03-AUG-1993 Reg TMA436619 Reg 02-DEC-1994 02-DEC-2024	Primus Telecommunications Canada Inc.

No.	Trademark	Status	Owner Name
71.	TELEMARKETING GUARD	Registered App 1361460 App 28-AUG-2007 Reg TMA749510 Reg 06-OCT-2009 06-OCT-2024	Primus Telecommunications Canada Inc.
72.	THE LONDON TELECOM GROUP & DESIGN  The London Telecom Group	Registered App 860691 App 05-NOV-1997 Reg TMA504990 Reg 03-DEC-1998 03-DEC-2028	Primus Telecommunications Canada Inc.
73.	TOUJOURS À L'ÉCOUTE	Registered App 807720 App 20-MAR-1996 Reg TMA490173 Reg 18-FEB-1998 18-FEB-2028	Primus Telecommunications Canada Inc.
74.	TRULY INTERNATIONAL	Registered App 1332067 App 19-JAN-2007 Reg TMA714001 Reg 09-MAY-2008 09-MAY-2023	Primus Telecommunications Canada Inc.
75.	TRULY UNLIMITED CANADA	Registered App 1251125 App 18-MAR-2005 Reg TMA659832 Reg 28-FEB-2006 28-FEB-2021	Primus Telecommunications Canada Inc.
76.	TRULY UNLIMITED NORTH AMERICA	Registered App 1251124 App 18-MAR-2005 Reg TMA659969 Reg 01-MAR-2006 01-MAR-2021	Primus Telecommunications Canada Inc.
77.	WEBWORKS	Registered App 1337367 App 28-FEB-2007 Reg TMA806594 Reg 13-SEP-2011 13-SEP-2026	Primus Telecommunications Canada, Inc.
78.	WIN-TEL	Registered App 1209722 App 15-MAR-2004 Reg TMA630061 Reg 12-JAN-2005 12-JAN-2020	Primus Telecommunications Canada Inc.

No.	Trademark	Status	Owner Name
79.	WIN-TEL E-CARE	Registered App 1209723 App 15-MAR-2004 Reg TMA691794 Reg 11-JUL-2007 11-JUL-2022	Primus Telecommunications Canada Inc.
80.	YOU TALK WE LISTEN	Registered App 801885 App 16-JAN-1996 Reg TMA490124 Reg 18-FEB-1998 18-FEB-2028	Primus Telecommunications Canada Inc.

Trademarks (United States)

No.	Trademark	Status	Owner Name
1.	GLOBETALK GLOBETALK	Registered App 78962106 App 28-AUG-2006 Reg 3342159 Reg 20-NOV-2007	PRIMUS TELECOMMUNICATIONS CANADA INC. (Canada)
2.	LINGO 	Registered App 78977825 App 21-APR-2004 Reg 3218986 Reg 13-MAR-2007	PRIMUS TELECOMMUNICATIONS CANADA INC. (Canada)
3.	LINGO LINGO	Registered App 78977679 App 20-APR-2004 Reg 3218984 Reg 13-MAR-2007	PRIMUS TELECOMMUNICATIONS CANADA INC. (Canada)
4.	LINGO GO TALK 	Registered App 85117662 App 27-AUG-2010 Reg 4058477 Reg 22-NOV-2011	PRIMUS TELECOMMUNICATIONS CANADA INC. (Canada)
5.	LINGO UNWIRED LINGO UNWIRED	Registered App 77263081 App 23-AUG-2007 Reg 3525312 Reg 28-OCT-2008	PRIMUS TELECOMMUNICATIONS CANADA INC. (Canada)
6.	LINGO WORLD MAX Lingo World Max	Registered App 77849715 App 15-OCT-2009 Reg 3802557 Reg 15-JUN-2010	PRIMUS TELECOMMUNICATIONS CANADA INC. (Canada)

No.	Trademark	Status	Owner Name
7.	PRIMUS 	Pending Section 44(D) Intent to Use App 86542551 App 23-FEB-2015	PRIMUS TELECOMMUNICATIONS CANADA INC. (Canada)
8.	PRIMUS 	Renewed (Registered) App 76160682 App 07-NOV-2000 Reg 2679710 Reg 28-JAN-2003	PRIMUS TELECOMMUNICATIONS CANADA INC. (Canada)
9.	PRIMUS 	Renewed (Registered) App 76160684 App 07-NOV-2000 Reg 2694591 Reg 11-MAR-2003	PRIMUS TELECOMMUNICATIONS CANADA INC. (Canada)
10.	PRIMUS	Renewed (Registered) App 75171651 App 25-SEP-1996 Reg 2194625 Reg 13-OCT-1998	PRIMUS TELECOMMUNICATIONS CANADA INC. (Canada)
11.	PTGi 	Registered App 85173203 App 10-NOV-2010 Reg 4226291 Reg 16-OCT-2012	PRIMUS TELECOMMUNICATIONS CANADA INC. (Canada)
12.	PTGi PTGi	Registered App 85172714 App 09-NOV-2010 Reg 4195302 Reg 21-AUG-2012	PRIMUS TELECOMMUNICATIONS CANADA INC. (Canada)
13.	PTGi ICS PTGi ICS	Published (Pending) Intent to Use App 85849981 App 14-FEB-2013	PRIMUS TELECOMMUNICATIONS CANADA INC. (Canada)
14.	PTGi INTERNATIONAL CARRIER SERVICES PTGi International Carrier Services	Published (Pending) Intent to Use App 85849967 App 14-FEB-2013	PRIMUS TELECOMMUNICATIONS CANADA INC. (Canada)
15.	TALK 365 TALK 365	Registered App 77232455 App 18-JUL-2007 Reg 3401267 Reg 25-MAR-2008	PRIMUS TELECOMMUNICATIONS CANADA INC. (Canada)

No.	Trademark	Status	Owner Name
16.	TELEGROUP	Renewed (Registered) App 74692511 App 23-JUN-1995 Reg 2048650 Reg 01-APR-1997	PRIMUS TELECOMMUNICATIONS CANADA INC. (Canada)

**PRIMUS TELECOMMUNICATIONS CANADA INC.
INTERNATIONAL MARKS**

Country	Mark / Class	App. / Reg. No.	Status
AUSTRALIA	ARBINET-THEXCHANGE Class 36	843662	Registered July 24, 2000. Renewal due July 24, 2020.
AUSTRALIA	GLOBE-NET PRO Class 35 & 38	738221	Registered 7/2/1997. Renewal due July 2, 2017.
AUSTRALIA	GLOBE TALK PRO Class 35 & 38	738234	Registered 7/2/1997. Renewal due July 2, 2017.
AUSTRALIA	GROUPTALK Class 35 & 38	739738	Registered July 23, 1997. Renewal due July 23, 2017.
AUSTRALIA	INFINITY Class 35 & 38	845800	Registered Aug. 10, 2000. Renewal filed 4/22/2010. Next renewal due Aug. 10, 2020
AUSTRALIA	JET STREAM Class 38	815282	Registered Nov. 26, 1999. Renewal due Nov. 26, 2019.
AUSTRALIA	LINGOHEADS Class 42	1221930	Registered 1/30/2008. Renewal due Jan. 30, 2018.
AUSTRALIA	MPRIMUS Class 9, 16, 35, 38, 42	837877	Registered Jun. 5, 2000. Renewal filed 4/22/2010. Next renewal due June 5, 2020.
AUSTRALIA	PRIMETALK Class 9, 16, 35, 38	764067	Registered 6/5/1998. Renewal due June 5, 2018.
AUSTRALIA	PRIMUS Class 35, 38, 42	869202	Registered 3/14/2001. Renewed 3/3/2011. Renewal due March 14, 2021.
AUSTRALIA	PRIMUS Class 9, 16, 35, 38	725781	Registered Jan. 15, 1997. Renewal due Jan. 15, 2017.
AUSTRALIA	PRIMUS & Design Class 38, 42	870382	Registered 3/23/2001. Renewed 3/3/2011. Renewal due March 23, 2021.
AUSTRALIA	PRIMUS FORUM Class 35, 38	739736	Registered 7/23/1997. Renewal due July 23, 2017.
AUSTRALIA	PRIMUS TELECOM Class 35, 38	738232	Registered 7/2/1997. Renewal due July 2, 2017.
AUSTRALIA	PRIMUS TELECOMMUNICATIONS, INC. & Design Class 9, 16, 35, 38	725780	Registered Jan. 15, 1997. Renewal due Jan. 15, 2017.
AUSTRALIA	PUT A SMILE ON YOUR DIAL Class 9, 16, 35, 38, 42	838216	Registered June 7, 2000. Renewal filed 4/22/2010. Next renewal due June 7, 2020
AUSTRALIA	SPEEDWAY Class 38	850506	Registered Sep. 15, 2000. Renewal filed 4/22/2010. Next renewal due Sept. 15, 2020.
AUSTRALIA	TELEGROUP GLOBAL ACCESS Class 38	744934	Registered 9/26/1997. Renewal due Sept. 26, 2017.
AUSTRALIA	TELEGROUP INTELLIGENT GLOBAL NETWORK Class 38	744935	Registered 9/26/1997. Renewal due Sept. 26, 2017.
AUSTRALIA	THE MORE MOBILE	837878	Registered June 5, 2000. Renewal filed

Country	Mark / Class	App. / Reg. No.	Status
	MOBILE SERVICE Class 9, 16, 35, 38, 42		4/22/2010. Next renewal due June 5, 2020.
AUSTRALIA	THE SPEED YOU NEED Class 9, 16, 35, 38	836003	Registered May 23, 2000. Renewal filed 4/22/2010. Next renewal due May 23, 2020.
AUSTRIA	PRIMUS Class 38	202119	Registered Feb. 14, 2002. Renewal due Feb. 28, 2022. Renew & change name to Primus Telecommunications IHC, Inc. – per A. Mancuso’s email of 1/20/2012. Renewal filed 1/2012 – renewed thru 2/28/2022; name change filed 2/2012; granted 3/8/2012 per Austrian counsel. Assignment to Primus Telecommunications Canada Inc. recorded in Austria IP Office 11/7/2013.
BENELUX	PRIMUS Class 38	200260	Registered June 19, 1998. Renewal due June 19, 2018. Assignment to Primus Telecommunications Canada Inc. recorded at Benelux IP Registry 9/26/2013.
BENELUX	TELEGROUP SPECTRA Class 38	0627998	Registered April 8, 1998. Renewal due April 8, 2018. Assignment to Primus Telecommunications Canada Inc. recorded at Benelux IP Registry 10/8/2013.
BRAZIL	PRIMUS Class 42	823886417	Registered Dec. 9, 2008. Renewal due 12/9/2018.
BRAZIL	PRIMUS & Design Class 38	823886654	Registered Dec. 9, 2008. Renewal due 12/9/2018.
BRAZIL	PRIMUS & Design Class 38	821737830	Filed Oct. 21, 1999. Registered 11/22/2011, renewal due 11/22/2021.
BRAZIL	PRIMUS & Design Class 42	823886670	Registered Dec. 9, 2008. Renewal due 12/9/2018.
DENMARK	PRIMUS Class 38	VR200200464	Registered Feb. 7, 2002. Renewed Feb. 2012. Registration expires Feb. 7, 2022. Assignment to Primus Telecommunications Canada Inc. recorded at Denmark IP Office 8/22/2013.
EUROPEAN COMMUNITY	GLOBE-TALK Class 38	000570168	Registered Dec. 7, 1998. Renewal due Sep. 22, 2017. Assignment filed 7/30/2013 to Primus Telecommunications Canada Inc. – recorded by OHIM on 7/30/2013 at File No. T 007665253.
EUROPEAN COMMUNITY	PRIMUS Classes 16 & 36	3920899	Registration expires June 30, 2014. Per Jill Schatz’ email of 6/20/2014, renew this mark. Renewal application filed 6/20/2014, granted 6/22/2014, next renewal due 6/30/2024. Assignment to Primus Telecommunications Canada Inc. filed & recorded at OHIM 9/11/2013.
EUROPEAN	PTGi International Carrier	011578887	Application filed Feb. 15, 2013 based on U.S.

Country	Mark / Class	App. / Reg. No.	Status
COMMUNITY	Services Class 36, 38 & 42		app. (85/849967) filed 2/14/2013. Published in Official Bulletin 4/4/2013. Registered 7/12/2013, renewal due 2/15/2023. Assignment to Primus Telecommunications Canada Inc. filed & recorded at OHIM 9/11/2013.
EUROPEAN COMMUNITY	PTGi ICS Class 36, 38 & 42	011579158	Registered 8/2/2014. Renewal due 2/15/2023 . Application filed Feb. 15, 2013 based on U.S. app. (85/849981) filed 2/14/2013. Published in Official Bulletin 4/4/2013. Opposition filed by Iglesias Castor – not pursued. Assignment to Primus Telecommunications Canada Inc. filed & recorded at OHIM 9/11/2013.
EUROPEAN COMMUNITY	TELEGROUP Class 9, 38, 42	000762963	Registered Aug. 17, 1999. Expires March 3, 2018. Assignment to Primus Telecommunications Canada Inc. filed & recorded at OHIM 9/11/2013.
FRANCE	PRIMUS Class 38	013138114	Registered June 19, 1998. Renewal due June 19, 2018.
ITALY	PRIMUS Class 38	1330084	Filed Jan. 24, 2008. Registered Aug. 19, 2010. Renewal due June 19, 2018.
MALAYSIA	PRIMUS Class 38	01003963	Registered 3/29/2001. Renewal due 3/29/2011 – late renewal filed 1/17/2012; granted thru 3/29/2021. Assignment to Primus Telecommunications Canada Inc. filed 9/12/2013. Recorded at Malaysian TM Office 5/14/2015. Name change (to Primus Telecommunications IHC, Inc.) & address change filed 1/17/2012 – recorded at Malaysian TM Office 11/22/2012.
NEW ZEALAND	PRIMUS Class 42	633961	Registered Sep. 20, 2001. Renewal due March 14, 2018.
NEW ZEALAND	PRIMUS & Design Class 42	633963	Registered Sep. 20, 2001. Renewal due Nov. 7, 2017.
NEW ZEALAND	PRIMUS MORE THAN JUST TALK Class 42	633965	Registered Sep. 20, 2001. Renewal due Nov. 7, 2017.
SINGAPORE	PRIMUS Class 38	T01/03647Z	Registered March 15, 2001. Renewal due March 15, 2021. Assignment recorded in Singapore Trademark Registry effective 7/30/2013 to Primus Telecommunications Canada Inc.
SINGAPORE	PRIMUS Class 42	T01/03648H	Registered March 15, 2001. Renewal due March 15, 2021. Assignment recorded in Singapore

Country	Mark / Class	App. / Reg. No.	Status
			Trademark Registry effective 7/30/2013 to Primus Telecommunications Canada Inc.
SINGAPORE	PRIMUS & Design Class 38	T01/3653D	Registered Nov. 7, 2000. Renewal due Nov. 7, 2020. Assignment recorded in Singapore Trademark Registry effective 7/30/2013 to Primus Telecommunications Canada Inc.
SINGAPORE	PRIMUS & Design Class 42	T01/03654B	Registered Nov. 7, 2000. Renewal due Nov. 7, 2020. Assignment recorded in Singapore Trademark Registry effective 7/30/2013 to Primus Telecommunications Canada Inc.
SPAIN	PRIMUS Class 38	2431177	Registered Oct. 17, 2001. Renewal app. filed 10/4/2011, accepted 11/11/2011 – granted thru 10/17/2021 ; name change/correction of spelling & address change also filed 10/4/2011 – recorded 11/11/2011. Assignment to Primus Telecommunications Canada Inc. recorded in Spain IP Office 11/29/2013.
SWITZERLAND	GLOBE-TALK Class 38	459298	Registered March 4, 1999. Renewal due Sep. 9, 2018. Assignment recorded at Swiss Trademark Registry 7/30/2013 to Primus Telecommunications Canada Inc.
SWITZERLAND	PRIMUS Class 38	466980	Registered Sep. 23, 1999. Renewal filed 1/27/2010 by A.W. Metz & Co., granted 1/28/2010. Second renewal due 9/23/2019. Assignment recorded at Swiss Trademark Registry 7/30/2013 to Primus Telecommunications Canada Inc.
SWITZERLAND	PRIMUS Class 38 & 42	491948	Registered March 22, 2001. Renewal filed January 2011. Renewal due March 22, 2021. Assignment recorded at Swiss Trademark Registry 7/30/2013 to Primus Telecommunications Canada Inc.
SWITZERLAND	PRIMUS & Design Class 38 & 42	491972	Registered March 22, 2001. Renewal filed January 2011. Renewal due March 22, 2021. Assignment recorded at Swiss Trademark Registry 7/30/2013 to Primus Telecommunications Canada Inc.

Domain Names

104real.com	310cool.com	accglobal.net	acctel.net
arvotek.net	broadbandvoice.ca	broadbandvoiceservice.ca	buylingo.biz
buylingo.ca	buylingo.net	buylingo.us	calllingo.com
calllingo.us	callprimus.ca	capitalnet.com	centtel.com
checkyourvoip.ca	clicklingo.biz	clicklingo.ca	clicklingo.net
clicklingo.us	connectiontester.com	coolminute.com	coolminute.us
coolminutes.com	daphone.ca	digitalselect.net	discusslingo.us
dolingoc.ca	dsdial.net	dsl.ca	echo-on.net
emailme.ca	eol.ca	ess-web.com	esswebservices.com
extendedlan.com	filesite.com	freebetel.com	ftn.net
getlingo.biz	getlingo.ca	getlingo.us	getlingobiz.com
getprimus.com	getprimus.us	getprimusathome.com	globalserve.com
globalserve.net	globe-talk.com	globetalk.us	globetalkresource.com
globetalkresources.com	globility.ca	globility.com	globility.net
go4mor.ca	go4more.com	goformore.ca	goformore.mobi
gtandroidapp.com	gtbbapp.com	hbcinternet.ca	hmnet.ca
hmnet.net	hmnettech.com	hpbxottawa.com	ican.ca
ican.net	ilingocloud.com	infinity.net	interlynx.ca
interlynx.net	intranet.ca	io.org	ionsys.ca
ipprimus.ca	ipprimus.com	iprimus.ca	iprimus.com
iprimus.net	iprimuscloud.com	knowitall.ca	koolminute.com
koolminute.us	koolminutes.com	kreative.net	learning-centre.com
lingo.com	lingoaffiliate.com	lingoaffiliate.us	lingoandroidapp.com
lingobbapp.com	lingobiz.com	lingoblogs.com	lingobroadbandphone.com
lingobroadbandphone.us	lingobusiness.us	lingocallchina.com	lingocallingplans.us
lingocallkorea.com	lingocommunity.us	lingodiscussions.us	lingoforbusiness.us
lingoforums.us	lingoheads.com	lingoinc.net	lingoinc.us
lingoinstallation.com	lingoinstallation.net	lingointernetphone.us	lingointfl.com
lingokorea.com	lingomobileandroidapp.com	lingomobilebbapp.com	lingonews.com
lingopromos.com	lingoreferrals.us	lingoretail.com	lingoretail.us
lingorocks.com	lingorocks.net	lingosmallbusiness.us	lingosmarttalk.com
lingosupport.com	lingosupport.us	lingotroubleshooting.com	lingotroubleshooting.net
lingounlimited.us	lingoworldmax.com	lingoworldmax.net	lingoworldwide.us
londontelecom.ca	londontelecom.com	ltgroup.com	ltn.ca
m6user.com	m6usergroup.com	magma.ca	magma.net
magma.com	mipps.ca	mipps.com	mipps.net
miprimus.biz	miprimus.ca	miprimus.com	miprimus.net
miprimus.org	miprimus.us	monprimus.ca	monprimus.mobi
myglobetalk.com	myprimus.biz	myprimus.ca	myprimus.mobi
myprimus.net	myprimus.us	myprimusdomain.us	myprimusmail.ca
myprimuswireless.biz	myprimuswireless.com	myprimuswireless.net	myprimuswireless.us
netcore.ca	onramp.ca	onrampcanada.com	onrampcanada.net
onrampcanada.org	orderlingo.biz	orderlingo.ca	orderlingo.com
orderlingo.net	orderlingo.us	passport.ca	pbwhighvoltage.com
pbwutilities.com	phonecardmiles.ca	planetee.ca	planetee.com
planetess.com	planetess.org	planettalk.us	primus.ca
primus2.ca	primusaffaires.ca	primusaffaires.com	primusathome.com
primusathome.us	primusbiz.ca	primusbiz.com	primusbiz.us
primusbundle.ca	primusbundlelite.ca	primusbundles.ca	primusbusiness.biz
primusbusiness.ca	primusbusiness.com	primusbusiness.net	primusbusiness.org
primuscanada.ca	primus-canada.com	primuscanada.info	primuscanada.mobi
primuscanada.net	primus-canada.net	primuscanada.org	primus-canada.org
primuscarrier.com	primuscloud.ca	primuscloud.net	primuscloud.org
primusco.com	primusco.com	primusconnect.com	primusconnect.net
primusconnect.us	primusconsumer.com	primusdsl.net	primusdsl.us
primusfiber.ca	primusfiber.com	primusfibre.ca	primushelp.com
primushelp.us	primushome.ca	primushome.net	primushomephone.ca
primushomephone.com	primushost.ca	primushost.com	primushost.net

primushost.us	primushostedpbx.ca	primushpbx.ca	primushpbx.com
primusicm.com	primusicm.us	primusinfo.ca	primusip.ca
primusip.com	primusld.com	primusld.us	primuslearn.com
primuslink.com	primuslocal.ca		
primusmail.ca	primusmeetingcenter.com	primusmeetingcenter.us	primusmetro.ca
primusmetro.com	primusmetrofiber.ca	primusmetrofiber.com	primusmetrofibre.ca
primusmobile.biz	primusmobile.ca	primusmobile.com	primusmobile.mobi
primusmobile.net	primusmobile.us	primusmobileblows.ca	primusmobilesucks.ca
primusnet.ca	primusoffer.ca	primusonline.ca	primuspbs.com
primusprofessionalservices.com	primusreg.us	primusresidential.com	primusresidential.us
primusresidentialservices.com	primusresidentialservices.us	primussans-fil.ca	primussoftphone.com
primusstars.ca	primusstars.com	primussupport.com	primustel.biz
primustel.ca	primustel.com	primustel.mobi	primustel.tv
primustel.us	primustelecom.ca	primustel-services.com	primustv.ca
primustv.com	primustv.net	primusvideo.ca	primusvideo.com
primusvideo.net	primusvoip.ca	primusvoip.com	primusvoip.net
primusvoip.org	primusvoip.us	primuswatch.ca	primuswebmail.ca
primuswholesale.ca	primus-wholesale.com	primuswholesale.net	primuswholesaleoutsourcing.com
primuswireless.ca	primuswireless.com	primuswireless.mobi	primus-wireless.us
primuswirelessblows.ca	primuswirelessucks.ca	primusworkz.com	primusxtension.com
primusxtension.us	ptgi.ca	ptgi.com	ptgicloud.com
ptgimetro.com	ptgimetrofiber.com	ptgithexchange.com	ptgithexchange.net
ptgithexchange.org	savewithlingo.com	sentinelledutelemarketing.ca	sentinelledutelemarketing.com
sentinelledutelemarketing.net	sipservice.ca	smarttalkmobile.com	socialpbx.com
socialpbx.net	socialpbx.org	talkaboutlingo.us	talkbb.ca
talkbroadband.ca	talkbroadband.mobi	telegroup.com	telemarketeguard.ca
telemarketeguard.com	telemarketeguard.net	telemarketguard.ca	telemarketguard.com
telemarketguard.net	telemarketguard.ca	telemarketguard.com	telemarketguard.net
ten4real.com	ten4realresource.com	ten4realresources.com	tenforreal.com
tenfourreal.com	terraport.net	testlingo.biz	testlingo.ca
testlingo.com	testlingo.net	testlingo.us	testprimus.us
torontocopper.net	transparentlan.net	trylingo.biz	trylingo.ca
trylingo.com	trylingo.net	ulix.net	unlimitel.ca
unlimitelfans.ca	unlimitelfans.com	unlimitelfax.com	uselingo.biz
uselingo.ca	uselingo.com	uselingo.net	uselingo.us
velocet.ca	velocet.com	velocet.net	velocet.org
voiceservices.ca	voipprimus.ca	voipprimus.com	voip-provider.ca
voyageurs.net	wincom.ca	wincom.net	wincom.on.ca
wintel.ca	win-tel.ca	win-tel.mobi	wintelcomm.ca
win-telcomm.ca	wintelcommunications.com	wiznet.ca	wtel.ca

Toll-Free Telephone Numbers

Toll Free #	Termination #	Term Type:	Term Location
8002244252	5067376405	DID	Vancouver
8002264884	8002264884	DNIS	Dundas
8002467269	8711	DNIS	EDM
8002501288	4162077600	DID	Toronto
8002625417	8002625417	DNIS	Toronto
8002633054	6046302621	DID	Vancouver
8002635543	3994	DNIS	EDM
8002652746	3252	DNIS	Toronto
8002653600	3921	DNIS	EDM
8003039616	4162077627	DID	Toronto
8003214028	4162363636	DID	Toronto
8003332107	7038572274	DID	Toronto
8003404918	2002	DNIS	EDM
8003404919	5067375965	DID	EDM
8003404920	3996	DNIS	EDM
8003406790	8712	DNIS	EDM
8003406791	3905	DNIS	EDM
8003406792	3906	DNIS	EDM
8003406793	3909	DNIS	ED/Van
8003406794	3908	DNIS	EDM
8003633528	3752	DNIS	Dundas
8003651601	2519	DNIS	Toronto
8003700015	2514	DNIS	Toronto
8003857222	3922	DNIS	EDM
8003870005	3923	DNIS	EDM
8004222351	3924	DNIS	EDM
8004333325	3702	DNIS	EDM
8004442817	8004442817	DNIS	Dundas
8004492255	3950	DNIS	EDM
8004504809	4163598830	DID	Toronto
8004590567	3029	DNIS	Toronto
8004708786	2518	DNIS	Toronto
8004871184	3925	DNIS	EDM
8004903536	3598	DNIS	EDM
8004944884	8004944884	DNIS	Dundas
8004949222	8710	DNIS	EDM
8005065552	2801	DNIS	Toronto
8005143733	3253	DNIS	Toronto
8005378968	3395	DNIS	EDM

8005469756	4163691604	DID	Toronto
8005654708	3997	DNIS	EDM
8005673692	3998	DNIS	EDM
8005752266	3231	DNIS	EDM
8005752277	3277/3003	DNIS	EDM
8005753000	3031	DNIS	EDM
8005755511	3193	DNIS	EDM
8005755533	3200	DNIS	EDM
8005938555	6048910840	DID	VAN
8006076572	6132884405	DID	Dundas
8006130413	3068	DNIS	Dundas
8006336211	3000	DNIS	Edmundston
8006355538	4162077151	DID	Dundas
8006615110	2003	DID	Dundas
8006655691	3969	DNIS	EDM
8006702266	4162363636	DID	Dundas
8006702266	3232	DNIS	EDM
8006702277	3278	DNIS	EDM
8006706000	4162077600	DNIS	EDM
8006889733	3995	DNIS	VAN / ED
8007334072	3095	DNIS	EDM
8007618226	4162077178	DID	Toronto
8007657875	8007657875	DNIS	Dundas
8007894226	2515	DNIS	Toronto
8007902277	3279	DNIS	EDM
8007903273	3307	DNIS	EDM
8007906000	3083	DNIS	EDM
8007907000	3172	DNIS	EDM
8007909999	13	DID	Toronto
8008062275	1001		Toronto
8008062665	1002		Toronto
8008063000	3085	DNIS	EDM
8008063273	3995	DNIS	ED
8008065000	4162077600	VOIP	EDM
8008067000	3730	DNIS	Dundas
8008119877	4162363600	DID	Toronto
8008304000	4162077600		Toronto
8008305511	3197/7197	DNIS	EDM
8008305522	3167	DNIS	EDM
8008305533	4162077600	DNIS	EDM
8008306688	3130	DNIS	EDM

8008306888	4162077600	DNIS	EDM
8008334004	3540	DNIS	EDM
8008906965	3028	DNIS	Toronto
8009007567	4168551563	DID	Toronto
8009080086	2622	DNIS	Toronto
8009571177	3272	DNIS/DID	ED/Van
8009572265	3254	DNIS	Toronto
8009572277	6136562979	DID	Dundas
8009572665	6136881904	DID	Magma
8009573000	3070	DNIS	EDM
8009577000	3074	DNIS	EDM
8009582266	Magma_Inside Sales Transfer	DNIS	Toronto
8009582275	7175	DNIS	EDM
8009583000	4162386433	DNIS	EDM
8009585000	4162386109	DID	Dundas
8009585566	3219	DNIS	EDM
8009586000	4162077600	DNIS	EDM
8009587000	4162077600	DNIS	EDM
8009611177	3444	DNIS	Dundas
8009611234	2103	DNIS	DUNDAS
8009612277	8009612277	DNIS	EDM
8009663541	2604	DNIS	Toronto
8009702265	3247/3003	DNIS	EDM
8009702277	3285	DNIS	EDM
8009706000	3002	DNIS	Dundas
8009787595	3907	DNIS	EDM
8009864668	4162077165	DID	Toronto
8009913273	3255	DNIS	Toronto
8009914000	3297/7111	DNIS	EDM
8009915000	3732	DNIS	Toronto
8447506777	i3	DNIS	i3
8556440544	8556440544		
8662195701	3053	DNIS	EDM
8662195702	3054	DNIS	EDM
8662195703	3055	DNIS	EDM
8662195704	3372	DNIS	EDM
8662195705	3345	DNIS	EDM
8662195706	3728	DNIS	Toronto
8662195707	3729	DNIS	Toronto
8662195707	2106	DNIS	Dundas
8662195708	3343	DNIS	EDM

8662220730	3040/7040	DNIS	EDM
8662220760	6136561643	DID	Dundas
8662240157	3347	DNIS	EDM
8662240405	3192	DNIS	EDM
8662240406	3186	DNIS	EDM
8662240407	3201	DNIS	EDM
8662240408	3202	DNIS	EDM
8662240409	3203	DNIS	EDM
8662240410	3204	DNIS	EDM
8662240411	3205	DNIS	EDM
8662240412	3206	DNIS	EDM
8662240413	3207	DNIS	EDM
8662240414	3208	DNIS	EDM
8662240415	3209	DNIS	EDM
8662240417	3210	DNIS	EDM
8662240657	3348	DNIS	EDM
8662243793	3349	DNIS	EDM
8662244645	3350	DNIS	EDM
8662244865	3351	DNIS	EDM
8662246047	3352	DNIS	EDM
8662248245	3353	DNIS	EDM
8662248521	3354	DNIS	EDM
8662248979	3355	DNIS	EDM
8662249043	3356	DNIS	EDM
8662275317	3440	DNIS	Toronto
8662288924	3250	DNIS	Toronto
8662288926	6132884417		Dundas
8662288926	2403	DNIS	Dundas
8662288927	13	DID	Vancouver
8662288928	4165071647	DID	Dundas
8662290384	4168556996	DID	Toronto
8662343966	2701	DNIS	Toronto
8662343967	2102	DNIS	Toronto
8662343968	6132884436	DID	Toronto
8662410621	3618	DNIS	EDM
8662410692	3434	DNIS	EDM
8662410704	3619	DNIS	EDM
8662410843	3435	DNIS	EDM
8662410954	3620	DNIS	EDM
8662411248	3436	DNIS	EDM
8662411374	3621	DNIS	EDM

8662412119	4162077618	DID	Dundas
8662412318	3622	DNIS	EDM
8662412353	6046460912	DID	VAN
8662501289	4166483236	DID	Dundas
8662518571	3009	DNIS	EDM
8662518572	3010	DNIS	EDM
8662518573	8662518573	DNIS	EDM
8662518574	3012	DNIS	EDM
8662518575	3013	DNIS	EDM
8662518576	3050	DNIS	EDM
8662518577	3051	DNIS	EDM
8662518578	3052	DNIS	EDM
8662529887	6136563411	DID	London
8662529888	4168553205	DID	London
8662529889	5194341962	DID	London
8662529890	3357	DNIS	EDM
8662529891	3358	DNIS	EDM
8662529892	3359	DNIS	EDM
8662529893	3360	DNIS	EDM
8662529894	3361	DNIS	EDM
8662529895	13	DID	Dundas
8662529896	3753	DNIS	Dundas
8662614211	5192664211	DID	LONDON
8662617496	5192664224	DID	LONDON
8662643965	4162077767	DID	Toronto
8662738145	2618	DNIS	Toronto
8662738873	3170	DNIS	Toronto
8662800030	6136881905	DID	Magma
8662801880	3733	DNIS	Toronto
8662857353	8662857353	DNIS	Dundas
8662872503	8662872503	DNIS	Dundas
8662928807	3004	DNIS	EDM
8662974203	4162387239	DID	LONDON
8663082220	4166446194	DNIS	Toronto
8663120651	8663120651	DNIS	Dundas
8663177348	3005	DNIS	EDM
8663177349	3006	DNIS	EDM
8663177350	3008	DNIS	EDM
8663238851	2436	DNIS	Toronto
8663238852	3541	DNIS	EDM
8663238853	3542	DNIS	EDM

8663238854	3543	DNIS	EDM
8663238855	3544	DNIS	EDM
8663238856	3545	DNIS	EDM
8663238857	3546	DNIS	EDM
8663238858	3547	DNIS	EDM
8663238859	3168	DNIS	VAN
8663376255	3599	DNIS	EDM
8663476592	3322	DNIS	EDM
8663476593	3323	DNIS	EDM
8663476595	3324	DNIS	EDM
8663476596	3362	DNIS	EDM
8663476597	3363	DNIS	EDM
8663476598	3325	DNIS	EDM
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8663476601	3365	DNIS	EDM
8663476602	3366	DNIS	EDM
8663476603	3326	DNIS	EDM
8663488591	4162077123	DID	Toronto
8663530363			Dundas
8663583032	6136271129	DID	Dundas
8663593034	4162073049	DID	Dundas
8663593036	6046302586	DID	Dundas
8663593037	4162073047	DID	Dundas
8663593046	4162077073	DID	Dundas
8663675434	3966	DNIS	EDM
8663675435	3967	DNIS	EDM
8663675438	3968	DNIS	EDM
8663675440	3969	DNIS	EDM
8663675441	3970	DNIS	EDM
8663682220	3221	DNIS	Toronto
8663757746	8663757746	DID	Dundas
8663773042	4162078748	DID	Dundas
8663893047	4162073367	DID	Dundas
8663954225	3231	DNIS	Toronto
8663954226	3232	DNIS	Toronto
8663954227	3233	DNIS	Toronto
8663954229	3234	DNIS	Toronto
8663954230	3235	DNIS	Toronto
8663954231	3236	DNIS	Toronto
8663954232	3237	DNIS	Toronto
8663954233	3238	DNIS	Toronto

8663954271	3239	DNIS	Toronto
8663954309	3240	DNIS	Toronto
8663954310	3419	DNIS	Dundas
8663954311	3391	DNIS	Dundas
8663954312	2261	DNIS	Dundas
8663954313	AREA SPLITS	4162074643 4162074644	Dundas, Montreal, Vancouver & London
8663954314	AREA SPLITS	4162074643 4162074644	Dundas, Montreal, Vancouver & London
8663954315	SPARE		
8663954316	SPARE		
8663954317	SPARE		
8663967763	3025	DNIS	EDM
8664008433	2104	DNIS	Toronto
8664367409	3031	DNIS	Toronto
8664691689	8664691689	DNIS	Dundas
8664691691	8664691691	DNIS	Dundas
8664755355	3014	DNIS	EDM
8664755356	3015/7015	DNIS	EDM
8664755357	3016/7016	DNIS	EDM
8664804000	4162077600		
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8665074202	5192664202	DID	LONDON
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8665114864	3521	DNIS	EDM
8665114865	3522	DNIS	EDM
8665114866	3523	DNIS	EDM
8665114867	3524	DNIS	EDM
8665114868	3525	DNIS	EDM
8665114869	3526	DNIS	EDM
8665114870	3527	DNIS	EDM
8665114871	3528/7528	DNIS	EDM
8665114872	3529/7529	DNIS	EDM
8665118472	3530/7530	DNIS	EDM
8665118473	3531/7531	DNIS	EDM
8665118474	3532/7532	DNIS	EDM
8665118475	3533/7533	DNIS	EDM
8665118476	3534/7534	DNIS	EDM
8665118477	3535/7535	DNIS	EDM
8665118478	3536/7536	DNIS	EDM
8665118479	3537/7537	DNIS	EDM
8665118480	3538/7538	DNIS	EDM

8665118481	3539/7539	DNIS	EDM
8665250001	7035478478	DID	Toronto
8665250002	2409	DNIS	Toronto
8665250003	2410	DNIS	Toronto
8665250004	2411	DNIS	Toronto
8665250005	2412	DNIS	Toronto
8665394233	4168556983	DID	LONDON
8665412522	8665412522	DNIS	Dundas
8665464698	8665464698	DNIS	Dundas
8665645329	4162077100	DID	Dundas
8665645331	416207065	DID	Vancouver
8665645331	4162077600		Dundas
8665645333	4162386685	DID	Toronto
8665774687	4168551562	DID	Toronto
8665776690	3030	DNIS	Toronto
8665840001	2413	DNIS	Toronto
8665840002	4162077155	DID	London
8665840003	2415	DNIS	Toronto
8665840004	2416	DNIS	Toronto
8665840005	5194349850	DID	LONDON
8665840008	2435	DNIS	Toronto
8665993043	4162387286	DID	Dundas
8666111077	6477261042	DID	Toronto
8666111078	3367	DNIS	EDM
8666111079	6046302556	DID	VancouverVoip
8666111080	2101	DNIS	Toronto
8666257032	4162077032	DID	Dundas
8666337206	3623	DNIS	EDM
8666337209	3399	DNIS	EDM
8666337225	3624	DNIS	EDM
8666337268	3430	DNIS	EDM
8666337319	3625	DNIS	EDM
8666337324	3431	DNIS	EDM
8666337327	3626	DNIS	EDM
8666337334	3627	DNIS	EDM
8666337377	3433	DNIS	EDM
8666364567	3734	DNIS	Dundas
8666452584	6477251251	DID	Toronto
8666774687	4162077600	DID	Dundas
8667043038	6046302563	DID	Dundas
8667107187	4162077082	DID	London

8667107188	7038574391	DID	Toronto
8667197914	3211	DNIS	EDM
8667197915	8667197915	DNIS	EDM
8667197916	3213	DNIS	EDM
8667197917	3214	DNIS	EDM
8667197918	3215	DNIS	EDM
8667197919	3289	DNIS	EDM
8667197920	3290/7290	DNIS	ED
8667197922	3291	DNIS	EDM
8667204000	4162077600		
8667227223	4166446159	DID	Dundas
8667377165	4162077165	DID	Dundas
8667533041	4162073048	DID	Dundas
8667743775	8667743775	DNIS	Dundas
8667744138	8667744138	DNIS	Dundas
8667744138	8667744138	DNIS	Dundas
8667744453	3032	DNIS	Toronto
8667746074	8667746074	DNIS	Dundas
8667746871	3220	DNIS	EDM
8667746872	4168551560	DID	Toronto
8667746873	2420	DNIS	Toronto
8667746874	3418	DNIS	EDM
8667746875			Dundas
8667746876	6477261020	DID	Toronto
8667746876	4162074603	DNIS	Toronto
8667746877	5149045000	DID	Montreal
8667746878	3756	DNIS	Dundas
8667746879	4162077624	DID	London
8667748874	6477261099	DID	Toronto
8667774687	DO NOT USE	DNIS	Toronto
8668018236	6139076579	DID	Dundas
8668018237	6139076580	DID	Dundas
8668018238	6139076581	DID	Dundas
8668018239	6139076585	DID	Dundas
8668204000	4162077600		
8668304000	4162077600		
8668465637	4162077759	DID	Toronto
8668549560	3156	DNIS	EDM
8668549561	3157	DNIS	EDM
8668549562	3158	DNIS	EDM
8668549563	3159	DNIS	EDM

8668549564	3160	DNIS	EDM
8668664687	3020	DNIS	Edmundston
8668688808	7038574506	DID	Toronto
8668688818	8668688818	DNIS	Toronto
8668688828	3080	DNIS	Toronto
8668688838	3079	DNIS	Toronto
8668688868	3084	DNIS	Toronto
8668688878	3081	DNIS	Toronto
8668688898	3082	DNIS	Toronto
8668714395	13	DID	Vancouver
8668714396	2439	DNIS	Toronto
8668714397	13	DID	London
8668714398	2441	DNIS	Toronto
8668714399	2442	DNIS	Toronto
8668714400	5194349850	DID	LONDON
8668714401	6132884507	DID	VancouverVoip
8668714401	2444	DNIS	Dundas
8668714402	2445	DNIS	Toronto
8668714403	5194349850	DID	London
8668714404	2447	DNIS	Toronto
8668773287	2434	DNIS	Toronto
8668888818	2029	DNIS	Toronto
8668888828	7456	DNIS	VAN
8668888858	3086	DNIS	Toronto
8668900385	3445	DNIS	Dundas
8668998199	routed to c3	DID	Toronto
8669214204	5192664204	DID	LONDON
8669214209	5192664209	DID	LONDON
8669254231	6136561239	DID	LONDON
8669373531	3249	DNIS	Toronto
8669403000	8669403000	DID	Dundas
8669504000	4162077600		
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8669804000	4162077600		
8772026891	3460	DNIS	EDM
8772026892	3461	DNIS	EDM
8772026893	3462	DNIS	EDM
8772026894	3463	DNIS	EDM
8772026895	3464	DNIS	EDM
8772026896	3465	DNIS	EDM
8772026897	3466	DNIS	EDM

8772026898	3467	DNIS	EDM
8772026899	3468	DNIS	EDM
8772026900	3469	DNIS	EDM
8772073368	4168553279		Dundas
8772077167	41620773356	DID	Toronto
8772114681	7458	DNIS	VAN
8772114682	3375 / 7375	DNIS	EDM
8772114683	3376 / 7376	DNIS	EDM
8772114684	3377 / 7377	DNIS	EDM
8772114685	3378 / 7378	DNIS	EDM
8772114686	3379	DNIS	EDM
8772114687	3380 / 7380	DNIS	EDM
8772114691	6132288313	DID	OTTAWA
8772114692	7460	DNIS	VAN
8772114693	6046890800	DID	Vancouver
8772114694	6477261098	DID	Dundas
8772114695	6477261048	DID	Dundas
8772114696	5196641163	DID	London
8772114697	6046302602	DID	Vancouver
8772114698	3222	DNIS	Guelph
8772166608	4168551737	DID	Toronto
8772166609	3760	DNIS	Toronto
8772166610	6477251250	DID	Toronto
8772166614	4168551540	DID	Toronto
8772166615	2511	DNIS	Toronto
8772166617	2509	DNIS	Toronto
8772166618	4168551556	DID	Toronto
8772166619	3705	DNIS	Dundas
8772166623	13	DID	Oakville
8772166624	3757	DNIS	Dundas
8772166688	3707	DNIS	Dundas
8772183051	6477261072	DID	Toronto
8772183078	2449	DNIS	Toronto
8772183083	4162077056	DID	Vancouver
8772183234	6477251253	DID	Toronto
8772183290	5194349850	DID	London
8772183397	2474	DNIS	Toronto
8772183409	2454	DNIS	Toronto
8772183428	4162074623	DNIS	Toronto
8772183445	6477251253	DID	Toronto
8772235625	2618	DNIS	Toronto

8772361551	3256	DNIS	Toronto
8772361552	3263	DNIS	Toronto
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8772361554	3266	DNIS	Toronto
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8772361556	3269	DNIS	Toronto
8772361557	3270	DNIS	Toronto
8772361558	3447	DNIS	Toronto
8772361559	3448	DNIS	Toronto
8772361560	3449	DNIS	Toronto
8772364567	Inside Sales	DNIS	Toronto
8772364568	4168551749	DID	Toronto
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8772364571	6136561643	DID	Toronto
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8772364575	6048910818	DID	Vancouver
8772364576	2443	DNIS	Toronto
8772365079	3169	DNIS	Toronto
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8772385715	3413	DNIS	Toronto
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8772385718	3401	DNIS	Toronto
8772385719	3402	DNIS	Toronto
8772385720	3403	DNIS	Toronto
8772385721	3404	DNIS	Toronto
8772501289	4162077600	DID	Toronto

8772556589	3450	DNIS	EDM
8772556590	3451	DNIS	EDM
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8772556596	3457	DNIS	EDM
8772556597	3458	DNIS	EDM
8772556598	3459	DNIS	EDM
8772572544	5194349850	DID	Toronto
8772584260	3548	DNIS	EDM
8772633054	2489	DNIS	Toronto
8772648521	2717	DNIS	Toronto
8772661313	6477261082	DID	Toronto
8772664205	5192664205	DID	LONDON
8772664206	5192664206	DID	LONDON
8772664207	5192664207	DID	LONDON
8772664208	5199634529	DID	LONDON
8772664210	5192664203	DID	LONDON
8772664213	13	DID	LONDON
8772664214	5192664241	DID	LONDON
8772664215	5192664215	DID	LONDON
8772664217	4162077766	DID	LONDON
8772677581	7803286867	DID	Vancouver
8772678490	3381 / 7381	DNIS	EDM
8772678510	3382	DNIS	EDM
8772678512	3383	DNIS	EDM
8772678515	3384 / 7384	DNIS	EDM
8772678519	13	DID	London
8772678520	3758	DNIS	Dundas
8772678522	4168551525	DID	Toronto
8772678523	2478	DNIS	Toronto
8772770752	8772770752	DNIS	Toronto
8772770753	2631	DNIS	Toronto
8772772432	3953	DNIS	EDM
8772792481	3549	DNIS	EDM
8772801738	3601	DNIS	EDM
8772801803	3628	DNIS	EDM
8772801804	13	DID	Vancouver
8772801805	3629	DNIS	EDM

8772801806	2473	DNIS	Toronto
8772801807	3630	DNIS	EDM
8772801808	2430	DNIS	Toronto
8772801810	3631	DNIS	EDM
8772801813	2437	DNIS	Toronto
8772801814	3632	DNIS	EDM
8772801817	2438	DNIS	Toronto
8772803383	4162074655	DNIS	EDM
8772813056	6046840638	DID	Vancouver
8772832273	2004	DNIS	Dundas
8773029585	2725	DNIS	Toronto
8773043433	4162077600		
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8773103528	3708	DNIS	Dundas
8773104586	3709	DNIS	Dundas
8773117747	6048910840	DID	Vancouver
8773466380	3768	DNIS	Dundas
8773532019	4162386240	DNIS	Toronto
8773615663	2504	DNIS	Toronto
8773655068	8773655068	DID	Dundas
8773673424	3710	DNIS	Dundas
8773961122	8715	DNIS	VAN
8773963939	4162077108	DID	Dundas
8774074595	8774074595	DNIS	Dundas
8774280898	2505	DNIS	Toronto
8774332215	8716	DNIS	VAN
8774334042	3017	DNIS	Dundas
8774336263	4162074622	DID	Toronto
8774345623		DID	Dundas
8774372283	6046815346	DID	Vancouver
8774372777	3223	DNIS	Toronto
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8774461313	7438	DNIS	VAN
8774481313	7439	DNIS	VAN
8774491313	7418	DNIS	VAN
8774562370	2470	DNIS	Toronto
8774562371	4162077018	DID	Windsor
8774562372	6048910816	DID	Vancouver
8774562377	3078	DNIS	Toronto
8774562454	3169	DNIS	Dundas
8774646638			Dundas

8774721233	3711	DNIS	Dundas
8774818008	3636	DNIS	Toronto
8774953770	5194349850	DID	London
8774955822	4162367392	DID	Toronto
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8774958835	3552	DNIS	EDM
8774958836	3553	DNIS	EDM
8774958837	3554	DNIS	EDM
8774958838	3555	DNIS	EDM
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8775663668	3713	DNIS	Dundas
8775663669	4162077138	DNIS	Dundas
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8775672959	3559	DNIS	EDM
8775672960	3560	DNIS	EDM
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8775863558	2458	DNIS	Toronto
8775863559	2459	DNIS	Toronto
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8775863656	3755	DNIS	Dundas
8775863657	2463	DNIS	Toronto
8775863661	2624	DNIS	Toronto
8775863665	5196641163	DID	Guelph
8775863706	2466	DNIS	Toronto
8775863707	2719	DNIS	Toronto
8775954565	2506	DNIS	Toronto
8776054646	8776054646	DNIS	Dundas
8776216299	6046302564	DID	Vancouver
8776216300	6048910823		Van
8776216301	3036		EDM
8776216302	2715		Dundas
8776216303	2716		Dundas
8776216304	2718		Dundas

8776216305	6477261071	DID	Ottawa
8776216306	6477261060	DID	Dundas
8776216307	2627	DID	Dundas
8776216308	5149048440	DID	Dundas
8776216550	2628	DID	Dundas
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8776216552	2382		Dundas
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8776216554	3037		Dundas
8776216555	2803		Dundas
8776216556	4169674414	DID	Magma
8776216557	4162381313	DID	Vancouver
8776216558	2711		Dundas
8776216559	3049		Dundas
8776218528	2719	DNIS	Toronto
8776226245	8776226245	DID	Toronto
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8776466308	3771	DNIS	Dundas
8776466311	3772	DNIS	Dundas
8776466340	3770	DNIS	Dundas
8776544530	3251	DNIS	Toronto
8776544555	HBCTracy	DID	Dundas
8776544556	8776544556		Dundas
8776544557	3224	DNIS	Dundas
8776544558	3225	DNIS	Dundas
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8776544560	3227	DNIS	Dundas
8776544561	3228	DNIS	Dundas
8776544562	HBCTracy	DID	Dundas
8776544563	3229	DNIS	Dundas
8776546706	Allocated		Dundas
8776546707	2710		Dundas
8776546708	2712		Dundas
8776546709	4168551542	DID	Dundas
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8777551934	6046302533	DID	Vancouver
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8777746871	7455	DNIS	EDM
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8777746876	3438	DNIS	EDM
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8777746913	3679		Dundas
8777746914	3680		Dundas
8777746915	3681		Dundas
8777746917	3682		Dundas
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8777746920	3685		Dundas
8777746921	3686		Dundas
8777746923	3046		Dundas
8777746988	3475	DNIS	Toronto
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8777746993	3480	DNIS	Toronto
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8777747010	3668		Dundas
8777747011	3669		Dundas
8777747012	3670		Dundas
8777747013	3671		Dundas
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8777747017	3675		Dundas
8777747018	3676		Dundas
8777747019	3677		Dundas
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8777775417	3162	DNIS	EDM
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8777775447	3164	DNIS	Toronto
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8778015531	7038573716	DNIS	Toronto
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8778015535	2630	DNIS	Toronto

8778015536	7038573717	DNIS	Toronto
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8778123485	3639	DNIS	Dundas
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8778123489	3643	DNIS	Dundas
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8778123706	4162386271		Oakville
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8778123711	3663		Dundas
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8778216822	6132884409	DID	Ottawa
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8778466341	3776	DNIS	Dundas
8778466357	3777	DNIS	Dundas
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8778466360	3779	DNIS	Dundas
8778466381	8778466381	DNIS	Dundas
8778510014	3717	DNIS	Dundas
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8779468351	7440	DNIS	VAN
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8882903043	4162073043	DID	Toronto
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8882988498	4162074608	DID	Toronto
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8882988649	7433	DNIS	VAN
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8883652507	8883652507	DNIS	Dundas
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8883746638	3766	DNIS	Dundas
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8883866823	4162077151	DNIS	Toronto
8883866857	4162386249	DID	Toronto
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8883889320	4162077773	DID	Dundas
8883961122	7437	DNIS	VAN
8883964949	3077	DNIS	Toronto
8883967729	3609	DNIS	EDM
8883967734	3610	DNIS	EDM
8883967735	4162077044	DID	Toronto
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8883969797	4162363600	DID	Toronto
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8885028380	4168551505	DID	Toronto
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8886166242	6477251070	DID	Toronto
8886166243	2609	DNIS	Toronto
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8886166247	6477261046	DID	Toronto
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8886556351	3344	DNIS	EDM

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8886990052	2432	DNIS	Toronto
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8886999980	13	DID	Dundas
8887009301	3588	DNIS	EDM
8887009493	4162077123	DID	Toronto
8887013088	3342	DNIS	EDM
8887322615	4169554350	DID	Toronto
8887322857	3725	DNIS	Dundas
8887323876	3751	DNIS	Dundas
8887325312	5067376457	DID	Toronto
8887325942	3075	DNIS	Toronto
8887330241	T9K testing	DNIS	Toronto
8887330258	2724	DNIS	Toronto
8887330346	3368	DNIS	EDM
8887335045	3726	DNIS	Dundas
8887335315	3369	DNIS	EDM
8887386327	5196641163	DID	gUELPH
8887558588	3423	DNIS	EDM
8887558588	3035	DNIS	Vancouver
8887728877	3387	DNIS	EDM
8887771370	3063	DNIS	EDM
8887771371	3064	DNIS	EDM
8887771406	3065	DNIS	EDM
8887771407	3021	DNIS	Dundas
8887910154	3589	DNIS	EDM

8887910156	3612	DNIS	EDM
8887910176	3613	DNIS	EDM
8887910219	3590	DNIS	EDM
8887910221	3591	DNIS	EDM
8887910226	3592	DNIS	EDM
8887919635	3614	DNIS	EDM
8887919642	3615	DNIS	EDM
8887919922	3593	DNIS	EDM
8888009004	3594	DNIS	EDM
8888085790	3701		Dundas
8888099893	4168553250	DID	Toronto
8888125662	6136563562	DID	Vancouver
8888167070	4162077079	DID	Dundas
8888238588	2605	DNIS	Toronto
8888238989	5149405000	DID	Montreal
8888266486	7435	DNIS	VAN
8888296162	2030	DNIS	Toronto
8888296197	5199634559	DID	Toronto
8888296413	3370/3370	DNIS	EDM/VAN
8888386327	3939	DNIS	EDM
8888413418	5149048434	DID	Dundas
8888414291	3762	DNIS	Dundas
8888415256	2419	DID	Toronto
8888416397	8888416397	DID	Dundas
8888417137	6477261073	DID	Toronto
8888417256	4168551742	DID	Toronto
8888417477	2484	DNIS	Toronto
8888417634	4168551821	DID	Dundas
8888417860	2426	DNIS	Toronto
8888419248	13	DNIS	Dundas
8888485316	3616	DNIS	EDM
8888583022	3617	DNIS	EDM
8888584668	2602	DNIS	Toronto
8888651234	6132288313	DID	Toronto
8888762188	3388	DNIS	EDM
8888770217	4162077629	DID	Toronto
8888770222	4162363600	DID	Toronto
8888770223	6046840638	DID	Vancouver
8888809801	3056	DNIS	EDM
8888809803	3057	DNIS	EDM
8888809804	3058	DNIS	EDM

8888809805	3059	DNIS	EDM
8888809807	3060	DNIS	EDM
8888809809	3061	DNIS	EDM
8888809811	3062	DNIS	EDM
8888809893	3442	DNIS	Dundas
8888809894	4169554350	DID	Dundas
8888809895	4162381305	DID	Dundas
8888809896	6046302556	DID	Vancouver
8888814353	3389	DNIS	EDM
8888823297	8714	DNIS	EDM
8888828869	6477261044	DID	Toronto
8888844844	3941	DNIS	EDM
8888889569	6046302625	DID	Dundas
8888947502	4162077196	DID	Toronto
8888950336	3759	DNIS	Toronto
8888950339	3764	DNIS	Dundas
8889030063	3595	DNIS	EDM
8889248899	3596	DNIS	EDM
8889259855	6048910840	DID	Toronto
8889259855	6048910840	DID	VAN
8889468351	7452	DNIS	VAN
8889587901	3194	DNIS	Toronto
8889587902	3195	DNIS	Toronto
8889587903	3196	DNIS	Toronto
8889587904	4162073377		Toronto
8889587905	6477261045	DID	Toronto
8889587906	6477261019	DID	Toronto
8889587908	4168551520	DID	Toronto
8889587909	SPARE DID		Toronto
8889587911	6477261008	DID	Toronto
8889587912	8889587912		Toronto
8889587913	Rob Payne		Toronto
8889587914	3648	DNIS	Toronto
8889587915	3649	DNIS	Toronto
8889587916	TBB	3652	Toronto
8889587917	TBB	3653	Toronto
8889587918	TBB	3654	Toronto
8889587919	TBB	3655	Toronto
8889587920	TBB	3656	Toronto
8889587921	TBB	3657	Toronto
8889587922	TBB	3658	Toronto

8889587923	TBB	3659	Toronto
8889587925	2056	DNIS	Toronto
8889587926	2513	DNIS	Toronto
8889589480	3730	DNIS	Van
8889589481	3731	DNIS	Van
8889589482	3732	DNIS	Van
8889589483	3733	DNIS	Van
8889589484	3734	DNIS	Van
8889589485	3735	DNIS	Van
8889589486	3736	DNIS	Van
8889589487	3737	DNIS	Van
8889589488	3738	DNIS	Van
8889589489	3739	DNIS	Van
8889597934	3420	DNIS	Dundas
8889597935	3421	DNIS	Dundas
8889597936	3422	DNIS	Dundas
8889597937	3423	DNIS	Dundas
8889597938	3424	DNIS	Dundas
8889597939	3425	DNIS	Dundas
8889597940	3426	DNIS	Dundas
8889597941	3427	DNIS	Dundas
8889597942	3428	DNIS	Dundas
8889597943	3429	DNIS	Dundas
8889675368	3090	DNIS	EDM
866 633 7329	3432	DNIS	EDM
8662738874	Souvenir Magazine	DNIS	Dundas
8667504000	4162077600		
8669704000	4162077600		
8774143364	4162078767	DID	Dundas
8882605264	3735	DNIS	Dundas
8883098969	3736	DNIS	Dundas
8885401831	3048	DNIS	Dundas

Schedule I – Form of Approval and Vesting Order

Court File No.

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE)
JUSTICE)
)
WEEKDAY, THE #
DAY OF MONTH, 2016

B E T W E E N:

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
PRIMUS TELECOMMUNICATIONS CANADA INC., PRIMUS
TELECOMMUNICATIONS, INC AND LINGO, INC.

Applicants

APPROVAL AND VESTING ORDER

THIS MOTION, made by Primus Telecommunications Canada Inc., Primus Telecommunications, Inc. and Lingo, Inc. (the "Vendors") for an order approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (as may be amended, restated or modified from time to time in accordance with paragraph 2 hereof, the "Sale Agreement") between the Vendors and [NAME OF PURCHASER] (the "Purchaser") dated [DATE] and appended to the affidavit of [•] sworn [•], and vesting in the Purchaser the Vendors' right, title and interest in and to the assets described and defined in the Sale Agreement as the "Purchased Assets" (the "Purchased Assets"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of [•] sworn [•] and the [First] Report of FTI Consulting Canada Inc. in its capacity as Monitor (the "Monitor") of the Vendors and on hearing the submissions of counsel for the Monitor, the Vendors, the Purchaser and those other parties

present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of [NAME] sworn [DATE] filed:

1. THIS COURT ORDERS that, unless otherwise indicated or defined herein, capitalized terms used in this Order shall have the meaning given to them in the Sale Agreement.

2. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale Agreement by the Vendors is hereby authorized and approved, with such minor amendments as the Vendors and the Purchaser, with the approval of the Monitor, may agree upon. The Vendors and the Monitor are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

3. THIS COURT ORDERS that the Vendors are authorized and directed to perform their obligations under the Sale Agreement and any ancillary documents related thereto.

4. THIS COURT ORDERS AND DECLARES that, other than the transfer of the Regulated Customer Relationships which shall vest absolutely in the Purchaser free and clear of and from any and all Encumbrances (as defined below) when such Regulated Customer Relationships transfer to the Purchaser in accordance with the terms of the Sale Agreement, upon the delivery of a Monitor's certificate to the Purchaser substantially in the form attached as **Schedule A** hereto (the "**Monitor's Certificate**"), all of the Vendors' right, title and interest in and to the Purchased Assets shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, taxes, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims") including, without limiting the generality of the foregoing: **[(i) any encumbrances or charges created by the Order of the Honourable Justice [NAME] dated [DATE]; and (ii)]** all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system (all of which are

collectively referred to as the “Encumbrances” and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

5. THIS COURT ORDERS AND DIRECTS:

- (i) the Monitor, from and after the Closing Time, to hold the Regulated Customer Relationships Escrow, if applicable, in escrow, in a segregated bank account in the name of the Monitor (the “**Escrow Account**”);
- (ii) the Monitor to release the Regulated Escrow Funds, or any portion thereof, from the Escrow Account to an account to be designated by the Monitor (the “**Designated Account**”), at such times and in such amounts as are contemplated by the Sale Agreement and upon the release of such funds from the Escrow Account the Purchaser shall have no claim, interest or right in or to the portion of the Regulated Escrow Funds released by the Monitor from the Escrow Account to the Designated Account;
- (iii) the Monitor to as soon as reasonably practicable following the day which is 6 months from the Closing Date (the “**Escrow Outside Date**”), return to the Purchaser any amount of the Regulated Escrow Funds remaining in the Escrow Account on the Escrow Outside Date and upon the return of the Remaining Escrow Funds to the Purchaser the Vendors shall have no claim, interest or right in or to the Remaining Escrow Funds;

in each case, unless otherwise ordered by this Court, and in each case the Monitor shall incur no liability with respect to its administration of the Regulated Customer Relationships Escrow, the Escrow Account or the Designated Account.

6. THIS COURT ORDERS that Monitor is authorized to hold the Closing Cash Payment in the Designated Account and that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets, including the net proceeds from

the sale of the Regulated Customer Relationships when released from the Escrow Account shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Monitor's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

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

8. THIS COURT ORDERS that the Monitor may rely on written notice from the Vendors and the Purchaser regarding fulfillment of conditions to closing under the Sale Agreement and shall incur no liability with respect to the delivery of the Monitor's Certificate.

9. THIS COURT ORDERS that upon the registration in the Canadian Intellectual Property Office of a copy of this Order, the applicable Registrar is hereby directed to transfer all of the Vendors' right, title and interest in and to the Purchased Intellectual Property to the Purchaser, free and clear of and from any and all Claims.

10. THIS COURT ORDERS that, provided that the Sale Agreement has not been terminated, any plan of compromise or arrangement that may be filed by the Vendors shall not derogate or otherwise affect any right or obligation of the Vendors or the Purchaser under the Sale Agreement unless otherwise agreed by the Vendors and the Purchaser.

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

12. THIS COURT ORDERS that, notwithstanding:
- (a) the pendency of these proceedings;
 - (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Vendors and any bankruptcy order issued pursuant to any such applications; and
 - (c) any assignment in bankruptcy made in respect of the Vendors;

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

13. THIS COURT ORDERS that the Sale Agreement and any ancillary documents related thereto shall not be repudiated, disclaimed or otherwise compromised in these proceedings.

14. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

15. 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 Vendors and the Monitor and their agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Vendors and the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Vendors and the Monitor and their agents in carrying out the terms of this Order.

Schedule A – Form of Monitor’s Certificate

Court File No. _____

ONTARIO

SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

B E T W E E N:

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
PRIMUS TELECOMMUNICATIONS CANADA INC., PRIMUS
TELECOMMUNICATIONS, INC AND LINGO, INC.**

Applicants

MONITOR’S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable [NAME OF JUDGE] of the Ontario Superior Court of Justice (the “**Court**”) dated [DATE OF ORDER], Primus Telecommunications Canada Inc., Primus Telecommunications, Inc. and Lingo, Inc. (the “**Vendors**”) were granted protection under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36 and FTI Consulting Canada Inc. was appointed as the Monitor (the “**Monitor**”) of the Vendors.

B. Pursuant to an Order of the Court dated [DATE] (the “**Approval and Vesting Order**”), the Court approved the agreement of purchase and sale made as of [DATE OF AGREEMENT] (as may be amended, restated or modified from time to time, the “**Sale Agreement**”) between the Vendors and [NAME OF PURCHASER] (the “**Purchaser**”) and provided for the vesting in the Purchaser of the Vendors’ right, title and interest in and to the Purchased Assets (other than the Regulated Customer Relationships, which shall vest in the Purchaser in accordance with the terms of the Approval and Vesting Order), which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Monitor to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Closing Cash Payment; (ii) that the conditions to Closing as set out in Article 7 of the Sale Agreement have been satisfied or waived by the Vendors and

the Purchaser (as applicable); and (iii) the Transaction has been completed to the satisfaction of the Monitor.

C. Pursuant to the Approval and Vesting Order, the Monitor may rely on written notice from the Vendors and the Purchaser regarding fulfillment of conditions to closing under the Sale Agreement.

D. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE MONITOR CERTIFIES the following:

1. The Vendors and the Purchaser have each delivered written notice to the Monitor that all applicable conditions under the Sale Agreement have been satisfied and/or waived, as applicable;
2. The Monitor has received the Closing Cash Payment and the Regulated Customer Relationships Escrow, if applicable; and
3. The Transaction has been completed to the satisfaction of the Monitor.
4. This Certificate was delivered by the Monitor at _____ [TIME] on _____ [DATE].

**FTI Consulting Canada Inc., in its capacity as
Monitor of Primus Telecommunications Canada
Inc., Primus Telecommunications, Inc. and
Lingo, Inc., and not in its personal capacity**

Per: _____

Name:

Title:

Schedule J – Form of Management Services Agreement

MANAGEMENT SERVICES AGREEMENT

THIS MANAGEMENT SERVICES AGREEMENT (the “Agreement”) is made as of [•], 2016 by and among Birch Communications, Inc., a Georgia corporation (“Manager”), and Primus Telecommunications, Inc., a Delaware corporation and Lingo, Inc., a Delaware corporation (collectively “Sellers”). Each Seller and Manager are referred to individually in this Agreement as a “Party” and, collectively as the “Parties”.

WITNESSETH:

A. Sellers, Manager and Primus Telecommunications Canada Inc. have entered into an Asset Purchase Agreement dated as of [•], 2016 (the “Asset Purchase Agreement”), whereby Manager has agreed to purchase the Purchased Assets.

B. The Parties acknowledge and agree that certain Required Approvals must be obtained before certain of the Purchased Assets of Seller may be transferred to Manager and that Sellers have retained *de facto* and *de jure* control of each of such assets pending receipt of the applicable Required Approval(s) required to transfer such assets.

C. In order to assure uninterrupted operation of the Business in the United States and Puerto Rico pending issuance of the Required Approvals, Sellers and Manager desire to enter into this Agreement for the purpose of establishing the terms under which Manager will, in a manner consistent with Applicable Law, and at the direction and control (*de jure* and *de facto*) of Sellers, manage customer and CABS accounts in the United States and Puerto Rico (“Customer Accounts”) pending the necessary Required Approval(s) to transfer such Customer Accounts to Manager.

NOW, THEREFORE, in consideration of the above recitals and mutual promises and other good and adequate consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

1. Definitions; Conflicts. Any capitalized term not otherwise defined in this Agreement shall have the meaning assigned to such term in the Asset Purchase Agreement. In the event of any conflict between the terms of this Agreement and the Asset Purchase Agreement, the provision of the Asset Purchase Agreement shall control.
2. Appointment. On the terms set forth in this Agreement, Sellers hereby engage Manager as their sole and exclusive manager of the Customer Accounts, and Manager hereby accepts such sole and exclusive engagement.
3. Duties and Authority of Manager.

(a) Subject to the provisions of Section 4 of this Agreement, during the Term (as defined below) Manager shall have power, authority and responsibility to manage the Customer Accounts in the ordinary course of business.

(b) Nothing contained in this Agreement is intended to give Manager: (i) any right which would constitute a transfer of *de jure* or *de facto* "control" (as defined under Applicable Law) by Sellers of any of the Customer Accounts. The services provided by Manager under this Agreement are not intended to materially diminish or restrict Sellers' ability to comply with their obligations under Applicable Laws. This Agreement shall not be construed to materially diminish or interfere with Sellers' ability to comply with the rules, regulations or directives of any Governmental Authority.

(c) Manager shall be responsible for all costs and expenses to provide telecommunications services to the Customer Accounts via itself and its selected vendors, as well as provide all billing, provisioning, customer service, technical support, repair and other related services. Manager shall be responsible for monitoring all of the administrative and governmental notice, filing, reporting, tax, fee and permit requirements with respect to the Customer Accounts and, when such notices, reports or fees fall due, Manager shall submit to Sellers those notices, reports, invoices or other submissions for Sellers to remit to the appropriate agency (together with documentation supporting the calculations thereon, instructions for remission, and payment reimbursing Sellers for any fees or taxes Sellers must pay each such agency). Manager shall only be responsible for supplying documentation and payment reimbursement to Sellers that relate to the time periods after the Closing Date. Sellers shall promptly forward to Manager any correspondence or communication they receive from any Governmental Authority regarding the Customer Accounts.

(d) Manager shall cooperate with Sellers in providing customer-specific information it may have to the extent required for Sellers to respond to any complaints from any Governmental Authority.

(e) Manager may use Sellers' names and logos on invoices and as part of customer service and in any other capacity required in order to provide the management services for the Customer Accounts.

(f) Upon Sellers' request, Manager will prepare for Sellers draft zero revenue reports and returns, for Sellers' respective officers' signatures. Seller will assist Manager in identifying the necessary returns and reports. Manager shall not be responsible for the quality of such reports, or any deficiencies in Sellers' past reports or filings. In no event shall Manager be responsible for signing any report or filing in Sellers' names or otherwise on behalf of Sellers.

4. Duties and Authority of Seller.

(a) For a period from the Closing Date until the termination of this Agreement, Sellers shall maintain in full force and effect all of their current corporate registrations and filings and FCC and State PUC and other regulatory authorizations, licenses, registrations, tariffs and approvals ("Licenses"). Sellers shall (i) submit all

filings required to keep the Licenses in full force and effect and (ii) be responsible for the costs of maintaining such Licenses. For the avoidance of doubt, Sellers are required to submit any and all filings and any payments relating to such filings that relate to time periods prior to the Closing Date, including but not limited to FCC 499 filings and related payments.

(b) Sellers shall cooperate fully with Manager in obtaining all Required Approvals required to complete the transactions contemplated by the Asset Purchase Agreement, including without limitation by providing any necessary information and signatures and promptly resolving any prior failures by Sellers to comply with any License.

5. Term. The term of this Agreement (the "Term") shall commence on the Closing Date and shall automatically terminate upon the earlier of (i) the consummation of the transfer of all of the Customer Accounts to Manager pursuant to Section 8.1 of the Asset Purchase Agreement, or (ii) nine months after the date hereof.

6. Management Fee. In consideration for the services provided by Manager to Sellers hereunder, Manager shall collect and retain all accounts receivable, credits, receipts and compensation related to the Customer Accounts for the Term and thereafter, as fully as if Seller had transferred the Customer Accounts to Manager at the Closing pursuant to the Asset Purchase Agreement.

7. Regulatory Compliance. The Parties desire that this Agreement and the obligations hereunder be in full compliance with (i) the terms and conditions of the Sellers' State PUC licenses; (ii) all applicable rules, regulations and policies of the FCC and State PUCs; (iii) the Communications Act of 1934, as amended, (the "Act"); and (iv) any other Applicable Law. If the FCC or any State PUC determines that any provision of this Agreement violates any applicable rules, regulations, or policies, the Parties shall make reasonable efforts to immediately bring this Agreement into compliance, consistent with the terms of this Agreement. It is expressly understood by the Parties that nothing in this Agreement is intended to give, or shall be construed to give, Manager any right which would be deemed to constitute a transfer of control or an assignment (as "control" and "assignment" is defined in the Act, and/or any applicable FCC or state regulations, rules or case law) by the Sellers of any of the Customer Accounts, FCC licenses, or State PUC licenses of Sellers, during the Term hereof.

8. Assignment of Rights Under Agent Agreements. Sellers hereby assign to Manager, the right to enforce the non-solicitation of customer clauses under all agreements, whether or not terminated or expired, with agents or similar dealer and agent sales agreements between Sellers and third parties ("Agent Agreements").

9. Assignment of Agreement. This Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns, but neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any of the parties hereto without prior written consent of the other parties (which shall not be unreasonably withheld or delayed); provided, however, that

Manager may assign this Agreement and its rights, interests and obligations hereunder at any time to any Affiliate. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and permitted assigns, and no other person shall have any right, benefit or obligation under this Agreement as a third party beneficiary or otherwise.

10. Notices. All notices, requests, demands and other communications which are required or may be given under this Agreement shall be in writing and shall be given in accordance with Section 9.2 of the Asset Purchase Agreement or to such other place and with such other copies as any Party may designate as to itself by written notice to the other Parties.

11. Governing Law. THIS AGREEMENT SHALL BE CONSTRUED, INTERPRETED AND THE RIGHTS OF THE PARTIES DETERMINED IN ACCORDANCE WITH THE LAWS OF THE STATE OF GEORGIA (WITHOUT REFERENCE TO THE CHOICE OF LAW PROVISIONS OF GEORGIA LAW).

12. Entire Agreement; Amendments and Waivers. This Agreement together with the Asset Purchase Agreement, including all Exhibits and Schedules thereto, constitute the entire agreement among the parties pertaining to the subject matter hereof and thereof and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, of the Parties. This Agreement may not be amended except by an instrument in writing signed on behalf of each of the Parties hereto. No amendment, supplement, modification or waiver of this Agreement shall be binding unless executed in writing by the Party to be bound thereby. No waiver of any of the provisions of this Agreement shall be deemed or shall constitute a waiver of any other provision hereof (whether or not similar), nor shall such waiver constitute a continuing waiver unless otherwise expressly provided.

13. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument, binding upon the parties hereto. A facsimile signature page shall be deemed an original, unless an original is required by Applicable Laws.

14. Severability. In the event that any one or more of the provisions contained in this Agreement or in any other instrument referred to herein, shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, then to the maximum extent permitted by law, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement or any other such instrument.

15. Indemnification by Manager. Manager will indemnify and hold harmless the Sellers and all officers, directors, employees, stockholders, partners, members and agents of the Sellers (individually, a "Seller Indemnitee") from and against any and all damages arising out of Manager's gross negligence or willful misconduct in connection with the performance of the services under this Agreement.

[Signature page follows.]

Executed on the date first set forth above.

PRIMUS TELECOMMUNICATIONS, INC.

By: _____

Name: _____

Title: _____

LINGO, INC.

By: _____

Name: _____

Title: _____

BIRCH COMMUNICATIONS, INC.

By: _____

Name: _____

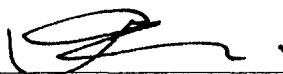
Title: _____

Schedule K – Regulated Customer Relationship Values by State

State	Value
CA	\$799,781.19
FL	\$183,078.06
NY	\$152,625.83
TX	\$113,420.86
MD	\$103,938.73
MN	\$91,721.37
AZ	\$77,498.18
IL	\$72,392.41
NJ	\$64,916.12
AR	\$55,069.29
VA	\$53,792.85
MI	\$52,881.11
MA	\$48,687.09
GA	\$45,769.51
WI	\$43,946.02
WA	\$43,398.98
OH	\$41,575.49
NC	\$41,028.45
MO	\$37,199.12
PA	\$33,552.15
CO	\$30,634.57
IA	\$29,175.78
AL	\$27,716.99
KS	\$26,075.86
NV	\$22,428.88
OR	\$20,058.35

ND	\$18,599.56
CT	\$16,229.03
ME	\$15,317.29
IN	\$13,676.15
UT	\$12,946.75
ID	\$12,946.75
NH	\$10,758.57
TN	\$10,211.52
VT	\$9,664.48
NE	\$8,570.39
SC	\$7,840.99
SD	\$7,476.29
LA	\$6,929.25
KY	\$6,017.51
OK	\$5,288.11
DC	\$4,376.37
NM	\$4,011.67
DE	\$3,646.97
MS	\$3,282.28
RI	\$2,917.58
MT	\$2,735.23
WV	\$2,188.18
HI	\$1,094.09
WY	\$547.05
AK	\$364.70
TOTAL	\$2,500,000.00

This is Exhibit "M"
to the affidavit of Michael Nowlan,
sworn before me on the 2 day
of February, 2016



Commissioner for Taking Affidavits

Court File No.:

CN-16-544689

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

COMWAVE NETWORKS INC.

Plaintiff

- and -

PRIMUS TELECOMMUNICATIONS CANADA INC., ORIGIN MERCHANT PARTNERS,
FTI CONSULTING CANADA, INC. and FTI CONSULTING CANADA ULC.

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the *Rules of Civil Procedure*, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the *Rules of Civil Procedure*. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

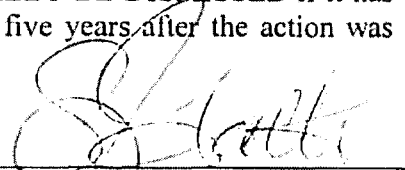
\$500.00

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$A for costs, within the time for serving and filing your statement of defence, you may move to have this proceeding dismissed by the

court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and \$400.00 for costs and have the costs assessed by the court.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date: January 19, 2016

Issued by 
Local registrar

Address of court office 361 University Avenue
Toronto, ON M5G 1T3

TO: **PRIMUS TELECOMMUNICATION CANADA INC.**
5343 Dundas Street West
Etobicoke, ON M9B 6K5

AND TO: **ORIGIN MERCHANT PARTNERS**
Suite 1500, 220 Bay Street
P.O. Box 23
Toronto, ON M5J 2W4

AND TO: **FTI CONSULTING**
TD South Tower
Suite 200, 79 Wellington Street
Toronto, ON M5K 1G8

SUPERIOR COURT OF JUSTICE
361 UNIVERSITY AVE.
TENTH FLOOR
TORONTO, ONTARIO
M5G 1E6
COURT CLERK'S OFFICE
100 KING ST. W. 10TH FLOOR
TORONTO, ONTARIO
M5X 1C5

CLAIM

1. The plaintiff claims:
 - (a) as against Primus Canada, restitution damages for breach of contract in an amount equal to the extra benefits it will receive from the sale of its business (as set out in paragraph 30 hereof) and an order that Primus Canada holds all such extra benefits as constructive trustee for Comwave;
 - (b) In the alternative to (a), damages for breach of contract in the amount of \$5 million
 - (c) as against all defendants damages of \$300,000 for misrepresentation;
 - (d) punitive damages;
 - (e) pre-judgment and post-judgment interest;
 - (f) costs; and
 - (g) such further and other relief as to This Honourable Court seems just.
2. The Plaintiff Comwave Networks Inc. ("Comwave") is an Ontario corporation. Comwave is Canada's largest privately-owned telecommunications company that specializes in Voice over IP (VoIP).
3. The Defendant Primus Telecommunications Canada Inc. ("Primus Canada") is a corporation incorporated under the laws of Ontario with its head office in Toronto, Ontario. It is part of the Primus Telecommunications Group. Founded in 1994, Primus Telecommunications Group Incorporated was formed as a global, facilities-based telecommunications service provider, and identified markets around the world to be connected by a company-owned and operated telecommunications network. In 1997, Primus Telecommunications Group Incorporated formed Primus Canada and entered into the Canadian long distance market. Primus Canada

offers a range of telecommunication services including, Local, Long Distance, Hosted PBX, Dedicated Voice Circuits, Conferencing and VoIP.

4. The defendant Origin Merchant Partners (“Origin”) is an independent Canadian investment banking firm based in Toronto, Ontario.

5. The Defendants FTI Consulting Canada Inc. and FTI Consulting Canada ULC., are British Columbia corporations (collectively “FTI Canada”). They have head offices in Toronto, Ontario, are subsidiaries of FTI Consulting, Inc. a public Maryland corporation and are engaged in the provision of a range financial consulting services including in relation to insolvency and restructuring.

Background.

6. In or about July, 2013, Primus Telecommunications Group sold its North American retail telecommunications operations including the business carried on through Primus Canada (the “Acquired Business”) to affiliates of York Capital Management (“York”), for approximately US\$129 million (the “First Primus Transaction”). York is an investment firm established in 1991 with approximately \$15 billion in assets under management and with offices in New York, London and Hong Kong.

7. Shortly thereafter, York approached Comwave and commenced discussions with respect to a possible transaction between Comwave and Primus Canada. Ultimately, it became apparent to York that the Acquired Business was in decline and that, as a consequence of declines in revenue and earnings, it would not be able to refinance its existing secured debt in the approximate aggregate amount of \$80M although the Acquired Business continued to cash flow positively and generate both cash flow and earnings.

8. In August of 2015, as a result of Primus Canada’s financial distress, Comwave was advised that Origin had been engaged to manage the marketing and sale of the Acquired Business.

9. It was generally expected that, since the value of the Acquired Business had almost certainly fallen to less than the total amount of the secured debt, any disposition would likely involve a sale through some sort of insolvency proceeding, in order that Primus Canada would be

able to deliver clear title to the Acquired Business. Eventually, FTI became involved in the sales process described below as it was contemplated as being the Court-appointed receiver or monitor that would eventually be involved in enabling a sale of the Acquired Business to occur.

10. Comwave continued to communicate its interest in the Acquired Business to both York and Primus, as well as its desire to be part of any sale process. The sale process was commenced in September, 2015 and proceeded as follows:

- (i) Comwave received an initial Primus Canada overview document or “teaser” on September 9, 2015;
- (ii) Comwave received a management presentation in respect of Primus Canada on September 18, 2015;
- (iii) Comwave received a Phase 1 sale process letter in respect of Primus Canada on September 22, 2015;
- (iv) Comwave received a Phase 2 sale process letter in respect of Primus Canada on October 8, 2015; and
- (v) A formal sale and investment solicitation process (the “SISP”) document was provided on or about October 10, 2015.

11. The SISP, set out the terms that prospective purchasers (and Primus Canada and Origin) would follow in the sales process. It provided that:

- (i) persons who had been pre-qualified to participate (“Qualified Bidders”), in order to be considered in the sale process had to submit bids meeting certain detailed criteria (a “Qualified Bids”) by Nov. 16, 2015;
- (ii) Primus Canada would then evaluate Qualified Bids and proceed to accept or negotiate with the one or more parties who had submitted Qualified Bids or to conduct an auction process; and

(iii) If no Qualified Bids were received by Nov. 16, 2015 or no Successful Bidder had been selected by Dec. 14, 2015 (or if certain other criteria were not met) the SISP would automatically terminate.

12. The SISP was designed by the Defendants to encourage interested parties to invest time and energy into and to incur expenses on the bid process with the assurance that only those who had submitted "Qualified Bids" would be considered as part of any sales process in the period Nov. 16, 2015 to Dec. 14, 2015.

13. Comwave was an active participant in the SISP and abided by the terms of the SISP Document.

14. On Friday, November 13, 2015, Origin requested permission from Comwave to extend the bid deadline. Comwave insisted on proceeding as per the original deadline because Comwave had worked diligently and expended significant expenses and resources to meet the deadline. Origin accepted this and agreed it would require the other bidders live up to this obligation.

15. Comwave submitted a bid in accordance with the SISP Document by the specified deadline of November 16, 2015 in the amount of \$33,500,000 as well as the required refundable deposit of 5%.

16. Comwave was advised by Origin on or around November 20, 2015 that its bid was a "Qualified Bid" as defined in the SISP Document.

17. Within several days of the specified bid deadline, the Defendants represented and advised Comwave that that it was the only Qualified Bidder who had in fact satisfied all of the requirements of a Qualified Bid as set out in the SISP and hence that its bid was the only "Qualified Bid".

18. Between November 16, 2015 and December 3, 2015, there were extensive negotiations between the parties directed toward clarifying and enhancing the Comwave bid for Primus Canada. Comwave, for its part, made it clear to Primus Canada, Origin and FTI throughout the process that it would not participate in any auction (a possibility that might otherwise have existed if the sale negotiations broke down) and that it would not allow its bid for the Acquired

Business to serve as a stalking horse bid for other bidders whether participating in the SISP or not.

19. A critical in-person meeting occurred on Thursday December 3, 2015 (the “December Meeting”) at the offices of counsel to Primus to discuss open issues in the definitive documentation. Primus Canada, Origin, FTI and Comwave, together with counsel to Primus Canada and Comwave were present. In this meeting, Comwave repeated its position about not participating in any auction or allowing its bid to serve as a stalking horse bid as a condition of continuing in the SISP and this position was accepted by the Defendants.

20. At the same meeting, the Defendants represented to Comwave that, subject to definitive documentation only (all points of which were discussed generally and later resolved), it was the Successful Bidder as defined in the SISP, the only party with whom the Defendants were negotiating and that the Defendants would not be negotiating further with any other parties (the “Exclusivity Undertaking”) and they further represented and agreed that there would be no auction notwithstanding the possibility of same as an alternative to finalizing an agreement with a Successful Bidder as contemplated under the SISP.

21. The Defendants made such representation and agreements at the December Meeting intending that Comwave would rely upon the same in proceeding to devote further time, effort and expense to the sales process.

22. Based upon and in reliance on the foregoing, Comwave proceeded, with the assistance of its professional advisors, to negotiate and finalize definitive documentation of the transaction in accordance with the agreements reached on open points at the December Meeting.

23. Detailed definitive agreements were settled and finalized, including the contents of their schedules, through a series of technical meetings and discussions following the December Meeting, as a result of which:

- (i) on December 15, 2015, after back and forth negotiations on the final purchase price for the Acquired Business, Comwave agreed to a final purchase price of \$36 million and was

advised that, based on this purchase price, everything had been settled and agreed to by the Defendants and that all negotiations were concluded;

- (ii) on December 17, 2015 the parties, through their respective legal advisors, also proceeded to conclude and settle the terms of (a) a final Asset Purchase Agreement (including schedules), (b) an Escrow Agreement, and (c) an Exclusivity Agreement. All Comwave signatures on all of the foregoing documents were held in escrow pending the receipt of signatures from Primus: and
- (iii) all signatures from Comwave in respect of the final Asset Purchase Agreement (including schedules), the Escrow Agreement, and the Exclusivity Agreement had been delivered to counsel to Comwave to be held in escrow pending receipt of the same from Primus Canada and from FTI in relation to the Escrow Agreement.

24. Constellation Telecom Inc., for which the corporate name was reserved, was to be incorporated as a new Ontario corporation contemporaneously with the execution of the final Asset Purchase Agreement, as the wholly-owned subsidiary entity of Comwave through which the acquisition of the Acquired Business by Comwave, with Comwave's guarantee, would be completed.

25. Comwave states that by express representation from the Defendants and the course of conduct as set out above, the SISP (as modified) continued past Dec. 14, 2015 (rather than the possibility of automatic termination on Dec, 14, 2015 as originally contemplated) to allow final and definitive agreements to be settled.

26. On December 18, 2015, Comwave was advised that, notwithstanding the finalization and settlement of all definitive agreements as set out above, the Defendants had decided to negotiate a sale to another party that had not participated in the SISP. However, the SISP was never formally terminated and was not terminated as at December 18, 2015 when the various representations to, and agreements with, Comwave were abandoned by Primus Canada and the other Defendants.

27. Comwave states that the SISP set out the original terms of the sales process and that it, in reliance on those terms, participated in the sales process. Those terms were modified by the discussions which occurred after Comwave submitted the only Qualified Bid. In deciding at the last minute to negotiate with a party that had not made a Qualified Bid under the SISP, the Defendant Primus Canada breached the Exclusivity Undertaking, the Exclusivity Agreement and the SISP as modified. It also breached its obligation to deal honestly with Comwave.

28. Alternatively, the representations of the Defendants to Comwave at the December 3, 2015 meeting set out above were made negligently or in bad faith.

29. But for the Defendants breach of the SISP, as modified, a final sales agreement would have been concluded for the sale of the Acquired Business for the price of \$36 million on the terms set out in the agreements that had been finalised, subject only to the approval of the Court in proceedings to be commenced by Primus Canada pursuant to the finalized Asset Purchase Agreement under the *Companies' Creditors Arrangement Act (Canada)*, in which FTI was to act as Court-appointed Monitor.

30. Primus Canada has used Comwave as a stalking horse and stands to profit from such actions. Comwave claims as restitution damages the extra benefits secured or to be secured by Primus Canada (including any increase in consideration for the Acquired Business) as a result of its breach of the SISP as modified, the Exclusivity Undertaking and the Exclusivity Agreement, as well as their various misrepresentations to Comwave. Comwave claims an order that Primus Canada hold all such extra benefits as constructive trustee for Comwave.

31. Alternatively, Comwave claims as against Primus Canada compensatory damages, being the difference between the purchase price it would have paid for the Acquired Business and the value of that business.

32. In the further alternative, Comwave claims as against all Defendants its expenses associated with the SISP process.

January 18, 2016

MILLER THOMSON LLP
Scotia Plaza
40 King Street West, Suite 5800
P.O. Box 1011
Toronto, ON Canada M5H 3S1

JOHN CHAPMAN LSUC#: 226491
Tel: 416.595.8547
Fax: 416.595.8695

Lawyers for the Plaintiff

COMWAVE NETWORKS INC.

Plaintiff

and

PRIMUS TELECOMMUNICATIONS
CANADA INC. ET AL
Defendants

Court File No.:

06-16-544689

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at Toronto

STATEMENT OF CLAIM

MILLER THOMSON LLP

Scotia Plaza

40 King Street West, Suite 5800

P.O. Box 1011

Toronto, ON Canada M5H 3S1

JOHN CHAPMAN LSUC#: 226491

Tel: 416.595.8547

Fax: 416.595.8695

Lawyers for the Plaintiff

This is Exhibit "N"
to the affidavit of Michael Nowlan,
sworn before me on the 2 day
of February, 2016



Commissioner for Taking Affidavits



Vipon Ghai

Sr. Managing Director, Manulife Capital

PTCAN, Inc.
 Management and Board of Directors
 c/o Michael Nowlan and Robert Nice
 5343 Dundas Street West, Suite 400
 Etobicoke, ON
 M9B 6K5

December 8, 2015

Re: Senior Loan Refinancing

Dear Sirs,

On behalf of The Manufacturers Life Insurance Company, we wish to convey our interest in supporting a refinancing of the senior bank debt of PTCAN Inc. ("Primus", or the "Company"). We are pleased with the efforts of the Primus management team to stabilize the business over the past six months. We are now of the belief that a successful refinance of the Company's approximately \$40MM of existing senior bank debt is achievable. Our confidence in this matter is based upon the following:

- Primus' consistent EBITDA generation of approximately \$1MM per month achieved since May of this year and the Company's six month EBITDA forecast indicating continuation of this trend.
- Trailing twelve month EBITDA poised to increase materially from \$10MM as at October 31, 2015 to \$13.1MM by the end of April 2016.
- Our understanding of the ability of the Company to generate, in the near term, substantial cash proceeds (estimated at \$8 - \$11MM) through the sale of redundant and non-EBITDA generating assets.
- Our preliminary review of Primus' revised business plan indicating the ability to achieve EBITDA of \$13MM in 2016 increasing to \$20MM within three years.

Based upon the above, we would consider working with and supporting management in efforts to execute a successful refinance transaction. Our efforts may include providing a portion of the refinance funds as well as refinancing or restructuring our subordinated loan.

200 Bloor Street East, Toronto, ON M4W 1E5
 Bus: 416 852-8468

We operate as John Hancock in the United States and Manulife in other parts of the world.



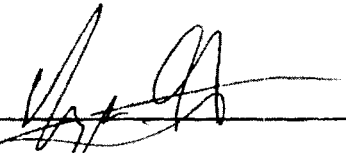
December 8, 2015
Page 2

A refinancing or restructuring of the Company's senior loans which provides management with sufficient 'runway' to execute its revised business plan is in the best interests of all of Primus' stakeholders. In our view, the timing and urgency of the senior lender's imposed distressed sale process does not adequately reflect the stabilization of the business in the intervening months as evidenced by the low, opportunistic purchase offers received. The bids received are far short of the original target of \$55-\$60MM and represent only ~2.7x management's 2016 EBITDA forecast and ~2.9x run-rate EBITDA. In light of these developments, the Board of Directors and management of the Company have an obligation to all stakeholders to fulsomely exhaust a refinance alternative.

We look forward to working with you to continue the turnaround of Primus for the benefit of all stakeholders.

Very truly yours,

THE MANUFACTURERS LIFE INSURANCE COMPANY,

By: 

Name: Vipon Ghai

Title: Sr. Managing Director

200 Bloor Street East, Toronto, ON M4W 1E5
Bus: 416 852-8468

We operate as John Hancock in the United States and Manulife in other parts of the world.



This is Exhibit "O"
to the affidavit of Michael Nowlan,
sworn before me on the 2 day
of February, 2016

A handwritten signature in black ink, appearing to be "J. S.", written above a horizontal line.

Commissioner for Taking Affidavits



155 Wellington Street West
 Toronto ON M5V 3J7
 dwpv.com

December 11, 2015

Natasha MacParland
 T 416.863.5567
 nmacparland@dwpv.com

File No. 250231

WITH PREJUDICE

The Manufacturers Life Insurance Company
 200 Bloor Street East
 Toronto, ON M4W 1E5

Attention: Vipon Ghai

Dear Sir:

As you are aware, we are counsel for the Bank of Montreal, as administrative agent for and on behalf of the lenders (the "**Syndicate**") under a credit agreement dated as of July 31, 2013, as amended on September 23, 2014 (as amended, the "**Credit Agreement**").

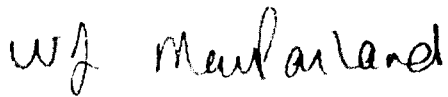
We were provided with a copy of your letter dated December 8, 2015 to the management and board of directors of PTCAN, Inc. ("**Primus**" or the "**Company**") wherein you conveyed your interest to support a refinancing of the approximately \$40 million indebtedness ("**Indebtedness**") of the Company owing pursuant to the Credit Agreement and related documents in lieu of the Company pursuing a sale of their assets.

Primus with the assistance of Origin Merchant Partners, and pursuant to the terms of a forbearance agreement with the Syndicate, pursued a Sales Process and explored a number of potential investment and purchase transactions with a view to maximizing value. There is currently a heavily negotiated proposed transaction (the "**Sale Transaction**") which we consider to be the best available deal and we intend to see that Sale Transaction effected through a court process as soon as possible. This Sale Transaction is the product of a robust asset marketing process and will generate more proceeds than expected. The potential purchaser requires confirmation that they are the successful bidder by the close of business today.

Your letter does not include any concrete refinancing alternative or reference any existing term sheets for such refinancing. In the circumstances, it cannot be reasonably anticipated that the Company will be able to refinance the Indebtedness, which poses considerable risk to the Syndicate. Furthermore, there are no viable financing alternatives available to the Company other than the Syndicate to permit it to meet its working capital obligations as they come due and to continue to operate in the ordinary course of business.

If you would like to pursue a refinancing strategy with respect to the Company, the Syndicate is prepared to sell the Indebtedness to you for \$38 million on a face value of over \$41 million. We ask that you respond to this offer by the close of business today. If you have other ideas, please communicate those to us forthwith. If we do not receive a response by this time, we will continue to pursue the Sale Transaction with or without the cooperation of Primus.

Yours truly,

Handwritten signature of Natasha MacParland in black ink.

Natasha MacParland

NJM/kcc

cc Greg Fedoryn
Amit Walia

This is Exhibit "P"
to the affidavit of Michael Nowlan,
sworn before me on the 2 day
of February, 2016



Commissioner for Taking Affidavits



December 15, 2015

The Manufacturer's Life Insurance Company
200 Bloor Street East,
Toronto, ON
M4W 1E5

Attention: Mr. Vipon Ghai

Dear Mr. Ghai:

We are in receipt of your letter dated December 8, 2015 addressed to PTCan, Inc. Management and Board of Directors.


We appreciate the confidence you are showing in the company and would be happy to work with Manulife. However, as you know, Primus has been in default under its senior bank debt since June 2015 and since then has been operating solely as a result of the Syndicate's forbearing from exercising their rights and remedies as first lien secured lenders under the credit agreement. As you also know, as a condition of continued forbearance, Primus was obligated to and did commence a process to market and sell its assets in August 2015. Prior to the commencement of the sales process, Manulife was given the opportunity and declined to submit a proposal to refinance the Syndicate's indebtedness. Since the commencement of the sales process, we have had regular update calls to keep you apprised of the progress of same. The Board of Directors is aware of and is exercising its fiduciary duties and has been working extremely hard in the interests of all stakeholders.

The Support Agreement with the Syndicate expires on December 31, 2015. In addition, under the Support Agreement Primus must meet certain milestones with respect to the sales process prior to that date, failing which it will be in default under the Support Agreement which will entitle the Syndicate to exercise their rights and remedies as first lien secured lenders under the credit agreement.

If you are interested in committing either yourself or with other parties to providing refinancing to the company in an amount sufficient to repay the amount owing to the Syndicate (which is currently estimated to be approximately \$40.7 million), we would strongly suggest that you provide and/or arrange committed financing letters and bring that proposal to the Board of Directors as soon as possible. We understand that the Syndicate will not entertain proposals falling short of that. Absent a firm financing commitment, the Board of Directors will have to consider viable alternative options that are available at the current time in the context of the current financial circumstances and the forbearance granted by the Syndicate, including, without limitation, proceeding with a sale of the business.

Primus Telecommunications Canada Inc.
5343 Dundas St. West • Suite 400 • Toronto, Ontario M9B 6K5 Canada
Tel: 416.236.3636 • 1.800.321.4028 • Fax: 416.236.7391 • www.primustel.ca

Yours truly
Primus Telecommunications Canada Inc.

A handwritten signature in black ink, appearing to read 'M. Nowlan', with a long, sweeping underline.

Michael J. Nowlan
Chief Executive Officer

This is Exhibit "Q"
to the affidavit of Michael Nowlan,
sworn before me on the 2 day
of February, 2016



Commissioner for Taking Affidavits



Fogler, Rubinoff LLP
Lawyers

77 King Street West
Suite 3000, PO Box 95
TD Centre North Tower
Toronto, ON M5K 1G8
t: 416.864.9700 | f: 416.941.8852
foglers.com

December 17, 2015

Reply To: Greg Azeff
Direct Dial: 416.365.3716
E-mail: gazeff@foglers.com

Primus Telecommunications Canada Inc.
5343 Dundas Street West, Suite 400
Toronto, Ontario
M9B 6K5

Attention: Michael Nowlan

Dear Mr. Nowlan:

Re: Sales process and refinancing of Primus Telecommunications Canada Inc. (the "Company")

We are counsel to The Manufacturer's Life Insurance Company ("Manulife") in respect of the above-noted matter. We refer to your letter to Vipon Ghai of Manulife dated December 15, 2015 as well as a letter from Natasha McParland of Davies Ward Phillips & Vineberg LLP ("Davies"), counsel to the Syndicate, dated December 11, 2015 (a copy of which is enclosed herein for your ease of reference).

At this time Manulife is not in a position to support the sale transaction referenced in the Davies letter. Due to the Company's recently improved performance and other factors, it is our view that the results of the sale process commenced in August 2015 do not reflect the Company's current market value. We would like to receive a copy of the term sheet relative to the proposed transaction referred to in the Davies letter. We also have concerns regarding, among other things, the limited scope of the marketing process.

While we acknowledge the expiry of the Support Agreement and the resulting pressures on the Company, we caution the Company against prematurely entering into any agreement that could unfairly prejudice Manulife and other stakeholders given the improved financial performance and early interest in a refinancing solution as multiple lenders are reviewing opportunities in that regard. In this regard, we ask that you please forward a copy of the proposed amendment or renewal of the Support Agreement with the Senior Lenders at your earliest convenience so that we can properly consider same.

Manulife remains interested in exploring the possibility of providing refinancing to the Company. Once we have had a chance to review the Support Agreement and the term sheet for the proposed transaction referenced in the Davies letter, we suggest meeting to discuss possible alternative solutions.

We look forward to hearing from you.

Yours truly,

FOGLER, RUBINOFF LLP



Greg Azeff
GA/ce

Encl.

cc: Greg Fedoryn
Amit Walia
Natasha MacParland

This is Exhibit "R"
to the affidavit of Michael Nowlan,
sworn before me on the 2 day
of February, 2016



Commissioner for Taking Affidavits

STIKEMAN ELLIOTT

Stikeman Elliott LLP Barristers & Solicitors

5300 Commerce Court West, 199 Bay Street, Toronto, Canada M5L 1B9
Tel: (416) 869-5500 Fax: (416) 947-0866 www.stikeman.com

Maria Konyukhova
Direct: (416) 869-5230
E-mail: mkonyuhkova@stikeman.com

BY E-MAIL

December 22, 2015
File No.: 1380771001

Fogler, Rubinoff LLP
Lawyers
77 King Street West
Suite 3000, PO Box 95
TD Centre North Tower
Toronto, ON M5K 1G8
Attention: Greg Azeff

Dear Mr. Azeff:

Re: Primus Telecommunications Canada Inc. (Re: Sales Process and Refinancing)

We are counsel to Primus Telecommunications Canada Inc. ("Primus") and are in receipt of your letter dated December 17, 2015.

As set out in Mr. Nowlan's letter to Mr. Ghai of December 15, 2015, Primus appreciates the confidence you are showing in the company and would be happy to work with Manulife.

Primus is unable to deliver a copy of any term sheet relative to any proposed transaction pursuant to the confidentiality provisions contained in any such term sheets.

Primus consents to Manulife receiving a copy of the Support Agreement and any amendments thereto following the consent to the release of same by the Syndicate and an execution of an appropriate Non-Disclosure Agreement by Manulife.

We reiterate that if your client is interested in committing either itself or with other parties to providing refinancing to the company in an amount sufficient to repay the amount owing to the Syndicate (which is currently estimated to be approximately \$40.7 million), we would strongly suggest that you provide and/or arrange committed financing letters and bring that proposal to the Board of Directors as soon as possible. Absent a firm financing commitment, the Board of Directors will have to consider viable alternative options that are available at the

TORONTO

MONTRÉAL

OTTAWA

CALGARY

VANCOUVER

NEW YORK

LONDON

SYDNEY

current time in the context of the current financial circumstances and the forbearance granted by the Syndicate, including, without limitation, proceeding with a sale of the business.

Yours truly,



Maria Konyukhova

MK/kl

cc. Michael Nowlan *Primus Telecommunications Canada Inc.*
Samantha Horn *Stikeman Elliott LLP*

This is Exhibit "S"
to the affidavit of Michael Nowlan,
sworn before me on the 2 day
of February, 2016



Commissioner for Taking Affidavits



Fogler, Rubinoﬀ LLP
Lawyers

77 King Street West
Suite 3000, PO Box 95
TD Centre North Tower
Toronto, ON M5K 1G8
t. 416.864.9700 | f. 416.941.8852
foglers.com

January 25, 2016

Reply To: Greg Azeff
Direct Dial: 416.365.3716
E-mail: gazeﬀ@foglers.com
Our File No. 15/2576

VIA FACSIMILE 416-947-0866

Stikeman Elliott LLP
5300 Commerce Court West
199 Bay Street
Toronto, Ontario
M5J 1B9

Attention: Maria Konyukhova

Dear Ms. Konyukhova:

Re: Sales process and refinancing of Primus Telecommunications Canada Inc. and related entities (collectively, the "Primus Entities")

As you are aware, we are counsel to The Manufacturers Life Insurance Company ("**Manulife**") in respect of the above-noted matter. We refer to your letter to the undersigned dated December 22, 2015 as well as the Primus Entities' recent application for protection under the *Companies' Creditors Arrangement Act* (Canada) (the "**CCA**") and materials filed in support thereof, including in particular the Affidavit of Michael Nowlan sworn January 18, 2016 (the "**Nowlan Affidavit**").

We have previously advised you that Manulife does not support the sale transaction referenced in the Application Record. Manulife has serious concerns regarding the integrity and conduct of the pre-filing sale process (the "**Pre-Filing Sale Process**"), given the lack of Court oversight as well as the very troubling degree of control wielded by Bank of Montreal (the "**Agent**"), administrative agent for the Syndicate (as defined in the Nowlan Affidavit), over the conduct thereof.

In our view, the Pre-Filing Sale Process was conducted with a view to achieving a single objective: payment of the Primus Entities' indebtedness to the Syndicate (the "**Syndicate Indebtedness**"), without regard for the interests of other stakeholders.

We are also concerned that the Agent interfered with and substantially prejudiced the Pre-Filing Sale Process through its efforts to sell the Syndicate Indebtedness at a significant discount. It is our understanding that many of the parties approached by the Agent in this regard have been

**fogler
rubinoff**

Page 2 of 2

solicited by the Primus Entities' financial advisor, Origin Merchant Partners, which the Primus Entities had engaged to conduct the Pre-Filing Sale Process.

Market conditions for a sale or re-financing of the Primus Entities' assets and business have improved substantially over the past few months, as has the Primus Entities' performance. In addition, it is apparent to our client that the CCAA filing itself will likely generate significant new interest in the business' potential investment opportunities. Such investment interests were unknown throughout the Pre-Filing Sale Process due to its private nature, and in the interest of all of the Primus Entities' creditors, ought to be explored.

For all of the foregoing reasons, Manulife's position is that the Primus Entities must conduct a fresh, Court-supervised sale and investment solicitation process within the CCAA. Procedural fairness, sales process integrity and creditor interests should not be sacrificed on the altar of expediency.

We look forward to hearing from you.

Yours truly,

FOGLER, RUBINOFF LLP



Greg Azell
GA/ce

This is Exhibit "T"
to the affidavit of Michael Nowlan,
sworn before me on the 2 day
of February, 2016



Commissioner for Taking Affidavits

STIKEMAN ELLIOTT

Stikeman Elliott LLP Barristers & Solicitors

5300 Commerce Court West, 199 Bay Street, Toronto, Canada M5L 1B9
Tel: (416) 869-5500 Fax: (416) 947-0866 www.stikeman.com

Maria Konyukhova
Direct: (416) 869-5230
E-mail: mkonyukhova@stikeman.com

BY E-MAIL

January 27, 2016
File No. 138077.1001

Greg Azeff
Fogler, Rubinoff LLP
77 King Street West, Suite 3000
Toronto, M5K 1G8

Re: In the Matter of the CCAA Proceedings of PT Holdco, Inc., Primus Telecommunications Canada Inc., PTUS, Inc., Primus Telecommunications, Inc. and Lingo, Inc., Court File No. CV-16-11257-00CL and the Chapter 15 Cases of PT HOLDCO Inc., et al., Debtors in a Foreign proceeding, Case No. 16-10113 (LSS)

**and Re: The Manufacturer's Life Insurance Company ("Manulife")
Objection to the Pre-Filing Sales and Investor Solicitation Process**

We are counsel to PT Holdco, Inc., Primus Telecommunications Canada Inc., PTUS, Inc., Primus Telecommunications, Inc. and Lingo, Inc. (collectively, the "**Primus Entities**"). We are in receipt of your letter dated January 25, 2016, outlining the objections by Manulife to the pre-filing sales and investor solicitation process (the "**SISP**").

As you are aware, since late 2014 and prior to filing for protection under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 ("**CCAA**"), the Primus Entities have been operating under forbearance of their senior secured lenders (the "**Syndicate**"). An essential condition of the Syndicate's continued forbearance was for the Primus Entities to commence the pre-filing SISP in the fall of 2015.

Prior to commencement of the SISP, Manulife was offered the opportunity to submit a proposal to refinance the Primus Entities' indebtedness to the Syndicate. However, Manulife declined to submit any such refinancing proposal.

Since then, Manulife has had multiple opportunities to identify a viable alternative to the sale transaction now at issue. These opportunities have included an extended process in November/December to arrange for alternative financing for the Primus Entities, a process Manulife is aware of and participated in. As Manulife is aware, none of the foregoing discussions regarding alternative financing resulted in an executable term sheet.

TORONTO

MONTREAL

OTTAWA

CALGARY

VANCOUVER

NEW YORK

LONDON

SYDNEY

STIKEMAN ELLIOTT

In addition, and consistent with the foregoing, the Primus Entities considered Manulife's December 8, 2015 letter regarding a refinancing of the approximately \$40 million indebtedness of the Primus Entities owing to the Syndicate. The letter was not accompanied by any firm committed financing letters. As set out in our responding letter dated December 22, 2015, absent a firm financing commitment, the Primus Entities were required to consider their strategic alternatives in light of their then current financial circumstances and the conditions for forbearance granted by the Syndicate, which included proceeding with a sale of the business.

Your letter of January 25, 2016 also fails to identify any viable alternatives to the proposed sale transaction with Birch Communications Inc. ("**Birch**").

The SISP was conducted, at all times, with due and proper regard for the best interests of all of the stakeholders of the Primus Entities, including but not limited to Manulife as a second-lien secured creditor. At all times, the respective boards of directors of the Primus Entities acted with due regard toward their fiduciary duties.

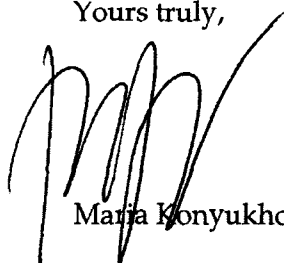
Following commencement of the SISP, Manulife, as a second-lien secured creditor and stakeholder of the Primus Entities, was kept apprised of the progress of the SISP by way of regular update calls. Manulife was aware of the process, procedures and conduct of the SISP and knew in December 2015 that the Primus Entities were negotiating with parties towards completing a sale transaction.

It is the position of the Primus Entities that a post-filing sales process is unnecessary in the circumstance and would be contrary to the best interest of their stakeholders. As will be described in greater detail in the materials to be filed in support of the motion to approve the proposed sale transaction with Birch, the Birch APA was a result of a thorough market canvass, with negotiations and finalization of the purchase price under the Birch APA having occurred in the last two weeks of December 2015, meaning that such price is therefore reflective of current market conditions. Recent improvement in the Primus Entities' short term financial results are the result of various cost cutting and productivity improvement measures undertaken by management and are not indicative of any long term improvement in the relevant market conditions. Manulife has not adduced any evidence of any such improvement in the market conditions that would suggest that the Birch APA does not reflect market value.

In addition, Birch, whose offer is the best offer received in the sales process, is entitled to withdraw entirely if there is a second, post-filing process. Any such withdrawal would be detrimental to the Primus Entities' efforts to maximize value for their stakeholders. We understand that the Syndicate will not support a further post-filing SISP without having the Primus Entities' indebtedness to the Syndicate repaid in full and may seek to take enforcement steps, which would be detrimental to the stakeholders of the Primus Entities.

STIKEMAN ELLIOTT

Yours truly,

A handwritten signature in black ink, appearing to be 'MK' with a long, sweeping flourish extending upwards and to the right.

Maria Konyukhova

MK/kl

cc. Michael Nowlan (MNowlan@primustel.ca)
Nigel Meakin (Nigel.Meakin@fticonsulting.com)
Linc Rogers (LINC.ROGERS@blakes.com)

TAB 3

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.)	WEEKDAY, THE 17 th
JUSTICE PENNY)	DAY OF FEBRUARY, 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

Applicants

APPROVAL AND VESTING ORDER

THIS MOTION, made by Primus Telecommunications Canada Inc., Primus Telecommunications, Inc. and Lingo, Inc. (the "**Vendors**") for an order approving the sale transaction (the "**Transaction**") contemplated by an agreement of purchase and sale (as may be amended, restated or modified from time to time in accordance with paragraph 2 hereof, the "**Sale Agreement**") between the Vendors and Birch Communications, Inc. (the "**Purchaser**") dated January 19, 2016 and appended to the affidavit of Michael Nowlan sworn February 2, 2016 (the "**Nowlan Affidavit**"), and vesting in the Purchaser the Vendors' right, title and interest in and to the assets described and defined in the Sale Agreement as the "**Purchased Assets**" (the "**Purchased Assets**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Nowlan Affidavit and the First Report of FTI Consulting Canada Inc. in its capacity as Monitor (the "**Monitor**") of the Vendors and on hearing the submissions of counsel for the Monitor, the Vendors, the Purchaser and those other parties present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Vlad Calina sworn February 2, 2016 filed:

1. THIS COURT ORDERS that, unless otherwise indicated or defined herein, capitalized terms used in this Order shall have the meaning given to them in the Sale Agreement.
2. THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved, and the execution of the Sale Agreement by the Vendors is hereby authorized and approved, with such minor amendments as the Vendors and the Purchaser, with the approval of the Monitor, may agree upon. The Vendors and the Monitor are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.
3. THIS COURT ORDERS that the Vendors are authorized and directed to perform their obligations under the Sale Agreement and any ancillary documents related thereto.
4. THIS COURT ORDERS AND DECLARES that, other than the transfer of the Regulated Customer Relationships which shall vest absolutely in the Purchaser free and clear of and from any and all Encumbrances (as defined below) when such Regulated Customer Relationships transfer to the Purchaser in accordance with the terms of the Sale Agreement, upon the delivery of a Monitor's certificate to the Purchaser substantially in the form attached as **Schedule A** hereto (the "**Monitor's Certificate**"), all of the Vendors' right, title and interest in and to the Purchased Assets shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed or constructive trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, taxes, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice Penny dated January 19, 2016; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system (all of which are collectively referred to as the "Encumbrances" and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

5. THIS COURT ORDERS AND DIRECTS the Monitor:

- (i) from and after the Closing Time, to hold the Regulated Customer Relationships Escrow, if applicable, in escrow, in a segregated bank account in the name of the Monitor (the “**Escrow Account**”);
- (ii) to release the Regulated Escrow Funds, or any portion thereof, from the Escrow Account to an account to be designated by the Monitor (the “**Designated Account**”), at such times and in such amounts as are contemplated by the Sale Agreement and upon the release of such funds from the Escrow Account the Purchaser shall have no claim, interest or right in or to the portion of the Regulated Escrow Funds released by the Monitor from the Escrow Account to the Designated Account;
- (iii) as soon as reasonably practicable following the day which is 6 months from the Closing Date or such later date as may be agreed upon by the Vendors and the Purchaser in writing (the “**Escrow Outside Date**”), to return to the Purchaser any amount of the Regulated Escrow Funds remaining in the Escrow Account on the Escrow Outside Date and upon the return of the Remaining Escrow Funds to the Purchaser the Vendors shall have no claim, interest or right in or to the Remaining Escrow Funds;

in each case, unless otherwise ordered by this Court, and in each case the Monitor shall incur no liability with respect to its administration of the Regulated Customer Relationships Escrow, the Escrow Account or the Designated Account.

6. THIS COURT ORDERS that Monitor is authorized and directed, subject to further Order of this Court, to hold the Closing Cash Payment in the Designated Account and that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets, including the net proceeds from the sale of the Regulated Customer Relationships when released from the Escrow Account shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Monitor’s Certificate all Claims

and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

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

8. THIS COURT ORDERS that the Monitor may rely on written notice from the Vendors and the Purchaser regarding fulfillment of conditions to closing under the Sale Agreement and shall incur no liability with respect to the delivery of the Monitor's Certificate.

9. THIS COURT ORDERS that upon the registration in the Canadian Intellectual Property Office of a copy of this Order, the applicable Registrar is hereby directed to transfer all of the Vendors' right, title and interest in and to the Purchased Intellectual Property to the Purchaser, free and clear of and from any and all Claims.

10. THIS COURT ORDERS that, provided that the Sale Agreement has not been terminated, any plan of compromise or arrangement that may be filed by the Vendors shall not derogate or otherwise affect any right or obligation of the Vendors or the Purchaser under the Sale Agreement unless otherwise agreed by the Vendors and the Purchaser.

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

12. THIS COURT ORDERS that, notwithstanding:

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

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

13. THIS COURT ORDERS that the Sale Agreement and any ancillary documents related thereto shall not be repudiated, disclaimed or otherwise compromised in these proceedings.

14. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

15. THIS COURT ORDERS AND DECLARES that the sales and investor solicitation process described in the Nowlan Affidavit (the “SISP”) is approved *nunc pro tunc*.

16. THIS COURT ORDERS AND DECLARES that the actions of the Primus Entities and their advisors, including Origin Merchant Partners and FTI Consulting Canada Inc. in developing and implementing SISP and entering into the Sale Agreement and any ancillary agreements are approved *nunc pro tunc*.

17. THIS COURT ORDERS that the Pre-filing Report of FTI Consulting Canada Inc. in its capacity as the proposed monitor of the Primus Entities dated January 18, 2016 and the First

Report of the Monitor dated ● and the activities of the proposed monitor and the Monitor described therein are hereby approved.

18. 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 Vendors and the Monitor and their agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Vendors and the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Vendors and the Monitor and their agents in carrying out the terms of this Order.

Schedule A - Form of Monitor's Certificate

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

ONTARIO

SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

B E T W E E N:

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 PRIMUS
TELECOMMUNICATIONS CANADA INC., PRIMUS TELECOMMUNICATIONS, INC
AND LINGO, INC.**

Applicants

MONITOR'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Penny of the Ontario Superior Court of Justice (the "**Court**") dated January 19, 2016, Primus Telecommunications Canada Inc., Primus Telecommunications, Inc. and Lingo, Inc. (the "**Vendors**") were granted protection under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 and FTI Consulting Canada Inc. was appointed as the Monitor (the "**Monitor**") of the Vendors.

B. Pursuant to an Order of the Court dated February 17, 2016 (the "**Approval and Vesting Order**"), the Court approved the agreement of purchase and sale made as of January 19, 2016 (as may be amended, restated or modified from time to time, the "**Sale Agreement**") between the Vendors and Birch Communications Inc. (the "**Purchaser**") and provided for the vesting in the Purchaser of the Vendors' right, title and interest in and to the Purchased Assets (other than the Regulated Customer Relationships, which shall vest in the Purchaser in accordance with the terms of the Approval and Vesting Order), which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Monitor to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Closing Cash Payment; (ii) that the conditions to Closing as set out in Article 7 of the Sale Agreement have been satisfied or waived by the Vendors and

the Purchaser (as applicable); and (iii) the Transaction has been completed to the satisfaction of the Monitor.

C. Pursuant to the Approval and Vesting Order, the Monitor may rely on written notice from the Vendors and the Purchaser regarding fulfillment of conditions to closing under the Sale Agreement.

D. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE MONITOR CERTIFIES the following:

1. The Vendors and the Purchaser have each delivered written notice to the Monitor that all applicable conditions under the Sale Agreement have been satisfied and/or waived, as applicable;
2. The Monitor has received the Closing Cash Payment and the Regulated Customer Relationships Escrow, if applicable; and
3. The Transaction has been completed to the satisfaction of the Monitor.
4. This Certificate was delivered by the Monitor at _____ [TIME] on _____ [DATE].

**FTI Consulting Canada Inc., in its capacity as
Monitor of Primus Telecommunications Canada
Inc., Primus Telecommunications, Inc. and
Lingo, Inc., and not in its personal capacity**

Per: _____
Name:
Title:

TAB A

†

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE ~~MR.~~) ~~WEEKDAY~~WEEKDAY, THE #17th
JUSTICE ~~PENNY~~) DAY OF MONTHFEBRUARY, 20YR2016
)

~~BETWEEN:~~

PLAINTIFF

Plaintiff

~~and~~

DEFENDANT

Defendant

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

Applicants

APPROVAL AND VESTING ORDER

THIS MOTION, made by [RECEIVER'S NAME] in its capacity as the Court appointed receiver (the "Receiver") of the undertaking, property and assets of [DEBTOR] (the "Debtor"Primus Telecommunications Canada Inc., Primus Telecommunications, Inc. and Lingo, Inc. (the "Vendors")) for an order approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (the "as may be amended, restated or modified from time to time in accordance with paragraph 2 hereof, the Sale Agreement") between the Receiver and [NAME OF PURCHASER] (the "Vendors and Birch Communications, Inc. (the Purchaser") dated [DATE]January 19, 2016 and appended to the Report of the Receiver dated [DATE] (the "Report"affidavit of Michael Nowlan sworn February 2, 2016 (the Nowlan Affidavit"), and vesting in the Purchaser the Debtor's Vendors' right, title and interest

in and to the assets described and defined in the Sale Agreement as the “Purchased Assets” (the “Purchased Assets”), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report Nowlan Affidavit and the First Report of FTI Consulting Canada Inc. in its capacity as Monitor (the “Monitor”) of the Vendors and on hearing the submissions of counsel for the Receiver, ~~{NAMES OF OTHER PARTIES APPEARING}~~ Monitor, the Vendors, the Purchaser and those other parties present, no one appearing for any other person on the service list, although properly served as appears from the affidavit of ~~{NAME}~~ Vlad Calina sworn ~~{DATE}~~ February 2, 2016 filed¹:

1. THIS COURT ORDERS that, unless otherwise indicated or defined herein, capitalized terms used in this Order shall have the meaning given to them in the Sale Agreement.

2. ~~+~~ THIS COURT ORDERS AND DECLARES that the Transaction is hereby approved,² and the execution of the Sale Agreement by the Receiver Vendors is hereby authorized and approved, with such minor amendments as the Receiver ~~may deem necessary. The Receiver is~~ Vendors and the Purchaser, with the approval of the Monitor, may agree upon. The Vendors and the Monitor are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

3. THIS COURT ORDERS that the Vendors are authorized and directed to perform their obligations under the Sale Agreement and any ancillary documents related thereto.

¹ This model order assumes that the time for service does not need to be abridged. The motion seeking a vesting order should be served on all persons having an economic interest in the Purchased Assets, unless circumstances warrant a different approach. Counsel should consider attaching the affidavit of service to this Order.

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

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

4. ~~2.~~ THIS COURT ORDERS AND DECLARES that upon the delivery of a Receiver, other than the transfer of the Regulated Customer Relationships which shall vest absolutely in the Purchaser free and clear of and from any and all Encumbrances (as defined below) when such Regulated Customer Relationships transfer to the Purchaser in accordance with the terms of the Sale Agreement, upon the delivery of a Monitor's certificate to the Purchaser substantially in the form attached as Schedule A hereto (the "Receiver""Monitor's Certificate"), all of the Debtor's Vendors' right, title and interest in and to the Purchased Assets described in the Sale Agreement ~~and listed on Schedule B hereto~~⁴ shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed or constructive trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, taxes, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "Claims"⁵) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of the Honourable Justice ~~[NAME]~~ Penny dated ~~[DATE]~~ January 19, 2016; and (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) ~~those Claims listed on Schedule C hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D)~~ "Encumbrances" and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

5. ~~4.~~ THIS COURT ORDERED THAT, upon application for and to the Land Registry Office for the ~~[Registry Division of [LOCATION]]~~ of a Transfer/Deed of Land in the form prescribed by the

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

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

~~Land Registration Reform Act~~ duly executed by the Receiver} {Land Titles Division of
 {LOCATION} of an Application for Vesting Order in the form prescribed by the ~~Land Titles Act~~
 and/or the ~~Land Registration Reform Act~~⁶; the Land Registrar is hereby directed to enter the
 Purchaser as the owner of the subject real property identified in Schedule B hereto (the "Real
 Property") in fee simple, and is hereby directed to delete and expunge from title to the Real
 Property all of the Claims listed in Schedule C hereto. THIS COURT ORDERS AND DIRECTS the
Monitor:

- (i) from and after the Closing Time, to hold the Regulated Customer Relationships Escrow, if applicable, in escrow, in a segregated bank account in the name of the Monitor (the "Escrow Account");
- (ii) to release the Regulated Escrow Funds, or any portion thereof, from the Escrow Account to an account to be designated by the Monitor (the "Designated Account"), at such times and in such amounts as are contemplated by the Sale Agreement and upon the release of such funds from the Escrow Account the Purchaser shall have no claim, interest or right in or to the portion of the Regulated Escrow Funds released by the Monitor from the Escrow Account to the Designated Account;
- (iii) as soon as reasonably practicable following the day which is 6 months from the Closing Date or such later date as may be agreed upon by the Vendors and the Purchaser in writing (the "Escrow Outside Date"), to return to the Purchaser any amount of the Regulated Escrow Funds remaining in the Escrow Account on the Escrow Outside Date and upon the return of the Remaining Escrow Funds to the Purchaser the Vendors shall have no claim, interest or right in or to the Remaining Escrow Funds;

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

in each case, unless otherwise ordered by this Court, and in each case the Monitor shall incur no liability with respect to its administration of the Regulated Customer Relationships Escrow, the Escrow Account or the Designated Account.

6. 4-THIS COURT ORDERS that Monitor is authorized and directed, subject to further Order of this Court, to hold the Closing Cash Payment in the Designated Account and that for the purposes of determining the nature and priority of Claims, the net proceeds⁷ from the sale of the Purchased Assets, including the net proceeds from the sale of the Regulated Customer Relationships when released from the Escrow Account shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver'Monitor's Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale⁸, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

7. 5-THIS COURT ORDERS AND DIRECTS the Receiver'Monitor to file with the Court a copy of the Receiver'Monitor's Certificate, forthwith after delivery thereof.

8. THIS COURT ORDERS that the Monitor may rely on written notice from the Vendors and the Purchaser regarding fulfillment of conditions to closing under the Sale Agreement and shall incur no liability with respect to the delivery of the Monitor's Certificate.

9. THIS COURT ORDERS that upon the registration in the Canadian Intellectual Property Office of a copy of this Order, the applicable Registrar is hereby directed to transfer all of the Vendors' right, title and interest in and to the Purchased Intellectual Property to the Purchaser, free and clear of and from any and all Claims.

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

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

10. THIS COURT ORDERS that, provided that the Sale Agreement has not been terminated, any plan of compromise or arrangement that may be filed by the Vendors shall not derogate or otherwise affect any right or obligation of the Vendors or the Purchaser under the Sale Agreement unless otherwise agreed by the Vendors and the Purchaser.

11. ~~6.~~ THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the ~~Receiver is~~ Vendors and the Monitor are authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the ~~Company's~~ Vendors' records pertaining to the ~~Debtor's~~ Vendors' past and current employees, ~~including personal information of those employees listed on Schedule "A" to the Sale Agreement.~~ The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the ~~Debtor~~ Vendors.

12. ~~7.~~ THIS COURT ORDERS that, notwithstanding:

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

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

13. THIS COURT ORDERS that the Sale Agreement and any ancillary documents related thereto shall not be repudiated, disclaimed or otherwise compromised in these proceedings.

14. 8--THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

15. THIS COURT ORDERS AND DECLARES that the sales and investor solicitation process described in the Nowlan Affidavit (the "SISP") is approved *nunc pro tunc*.

16. THIS COURT ORDERS AND DECLARES that the actions of the Primus Entities and their advisors, including Origin Merchant Partners and FTI Consulting Canada Inc. in developing and implementing SISP and entering into the Sale Agreement and any ancillary agreements are approved *nunc pro tunc*.

17. THIS COURT ORDERS that the Pre-filing Report of FTI Consulting Canada Inc. in its capacity as the proposed monitor of the Primus Entities dated January 18, 2016 and the First Report of the Monitor dated ● and the activities of the proposed monitor and the Monitor described therein are hereby approved.

18. 9--THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the ~~Receiver~~Vendors and ~~its~~the Monitor and their agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the ~~Receiver~~Vendors and the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the ~~Receiver~~Vendors and ~~its~~the Monitor and their agents in carrying out the terms of this Order.

Schedule A - Form of Receiver~~Monitor~~'s CertificateCourt File No. ~~_____~~ CV-16-11257-00CL

ONTARIO

SUPERIOR COURT OF JUSTICE

COMMERCIAL LIST

BETWEEN:

PLAINTIFF

Plaintiff

~~and~~

DEFENDANT

Defendant

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 PRIMUS
TELECOMMUNICATIONS CANADA INC., PRIMUS TELECOMMUNICATIONS, INC
AND LINGO, INC.

ApplicantsRECEIVER~~MONITOR~~'S CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable ~~{NAME OF JUDGE}~~ Penny of the Ontario Superior Court of Justice (the "Court") dated ~~{DATE OF ORDER}~~, ~~{NAME OF RECEIVER}~~ was appointed as the receiver (the "Receiver") of the undertaking, property and assets of ~~{DEBTOR}~~ (the "Debtor").") dated January 19, 2016, Primus Telecommunications Canada Inc., Primus Telecommunications, Inc. and Lingo, Inc. (the "Vendors") were granted protection under the Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36 and FTI Consulting Canada Inc. was appointed as the Monitor (the "Monitor") of the Vendors.

B. Pursuant to an Order of the Court dated ~~[DATE]~~ February 17, 2016 (the "**Approval and Vesting Order**"), the Court approved the agreement of purchase and sale made as of ~~[DATE OF AGREEMENT]~~ (the "January 19, 2016 (as may be amended, restated or modified from time to time, the "Sale Agreement")) between the Receiver ~~[Debtor]~~ and ~~[NAME OF PURCHASER]~~ (the "Vendors and Birch Communications Inc. (the "Purchaser")) and provided for the vesting in the Purchaser of the ~~Debtor's~~ Vendors' right, title and interest in and to the Purchased Assets (other than the Regulated Customer Relationships, which shall vest in the Purchaser in accordance with the terms of the Approval and Vesting Order), which vesting is to be effective with respect to the Purchased Assets upon the delivery by the ~~Receiver~~ Monitor to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the ~~Purchase Price for the Purchased Assets~~ Closing Cash Payment; (ii) that the conditions to Closing as set out in section ~~•~~ Article 7 of the Sale Agreement have been satisfied or waived by the ~~Receiver~~ Vendors and the Purchaser (as applicable); and (iii) the Transaction has been completed to the satisfaction of the ~~Receiver~~ Monitor.

C. Pursuant to the Approval and Vesting Order, the Monitor may rely on written notice from the Vendors and the Purchaser regarding fulfillment of conditions to closing under the Sale Agreement.

D. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE ~~RECEIVER~~ MONITOR CERTIFIES the following:

1. ~~The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;~~ The Vendors and the Purchaser have each delivered written notice to the Monitor that all applicable conditions to Closing as set out in section ~~•~~ of under the Sale Agreement have been satisfied and/or waived by the Receiver and the Purchaser, and, as applicable;

2. The Monitor has received the Closing Cash Payment and the Regulated Customer Relationships Escrow, if applicable; and

3. The Transaction has been completed to the satisfaction of the Receiver Monitor.
4. This Certificate was delivered by the Receiver Monitor at _____ [TIME] on _____ [DATE].

~~{NAME OF RECEIVER}~~ FTI Consulting Canada Inc., in its capacity as Receiver of the undertaking, property and assets of ~~{DEBTOR}~~ Monitor of Primus Telecommunications Canada Inc., Primus Telecommunications, Inc. and Lingo, Inc., and not in its personal capacity

Per: _____

Name:

Title:

~~Schedule B—Purchased Assets~~

~~Schedule C—Claims to be deleted and expunged from title to Real Property~~

++

~~Schedule D—Permitted Encumbrances, Easements and Restrictive Covenants
related to the Real Property~~

~~(unaffected by the Vesting Order)~~

TAB 4

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.) WEDNESDAY, THE 17TH
)
JUSTICE PENNY) DAY OF FEBRUARY, 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

Applicants

ASSIGNMENT ORDER

THIS MOTION, made by Primus Telecommunications Canada Inc., Primus Telecommunications, Inc. and Lingo, Inc. (collectively, the "**Vendors**") for an order assigning the rights and obligations of the Vendors under the Assigned Contracts (as defined below) as contemplated by an agreement of purchase and sale (the "**APA**") between, *inter alios*, the Vendors and Birch Communications, Inc. ("**Birch**", and Birch or its permitted assign pursuant to the APA, as applicable, being the "**Purchaser**") dated January 19, 2016, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Michael Nowlan sworn February 2, 2016 and the Exhibits attached thereto, the First Report of FTI Consulting Canada Inc., in its capacity as Monitor of the Vendors (the "**Monitor**"), dated ●, 2016, and on hearing the submissions of counsel for the Monitor, the Vendors, the Purchaser and those other parties present, no one appearing for any other person on the service list, although duly served as appears from the affidavit of service of Vlad Calina sworn February 2, 2016, filed:

1. **THIS COURT ORDERS** that any capitalized term used but not defined herein shall have the meaning ascribed to such term in the APA.

SERVICE

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

ASSIGNMENT OF AGREEMENTS

3. **THIS COURT ORDERS** that upon delivery of the Monitor's Certificate (the "**Monitor's Certificate**") referred to in the Order of Justice Penny dated February 17, 2016, (the "**Approval and Vesting Order**"), all of the rights and obligations of the Vendors under the agreements set out in Schedule "A" hereto (collectively, the "**Assigned Contracts**") shall be assigned to the Purchaser pursuant to section 2.3 of the APA and pursuant to section 11.3 of the Companies' Creditors Arrangement Act, R.S.C. 1985, c. C-36, as amended ("**CCAA**").

4. **THIS COURT ORDERS** that, with respect to the Assigned Contracts that are real property leases (collectively the "**Real Property Leases**"), upon delivery of the Monitor's Certificate, the Purchaser shall be entitled and subject to all of the rights and obligations as tenant pursuant to the terms of the Real Property Leases and registrations thereof and may enter into and upon and hold and enjoy each premises contemplated by the Real Property Leases and, if applicable, any renewals thereof, for its own use and benefit, all in accordance with the terms of the Real Property Leases, without any interruption from the Vendor, the landlords under the Real Property Leases or any person whomsoever claiming through or under any of the Vendor or the landlords under the Real Property Leases.

5. **THIS COURT ORDERS** that the assignment to the Purchaser of the rights and obligations of the Vendors under the Assigned Contracts to the Purchaser pursuant to the CCAA and this Order is valid and binding upon all of the counterparties to the Assigned Contracts notwithstanding any restriction or prohibition contained in any such Assigned Contracts relating to the assignment thereof, including any provision requiring the consent of any party to the assignment.

6. **THIS COURT ORDERS** that the Vendors' right, title and interest in the Assigned Contracts shall vest absolutely in the Purchaser free and clear of all Encumbrances other than the Permitted Encumbrances (as such terms are defined in the Approval and Vesting Order) in accordance with the provisions of the Approval and Vesting Order.

7. **THIS COURT ORDERS** that each counterparty to the Assigned Contracts is prohibited from exercising any right or remedy under the Assigned Contracts by reason of any defaults thereunder arising from the assignment of the Assigned Contracts, the insolvency of the Vendors, the commencement of these CCAA proceedings or the chapter 15 of Title 11 of the United States Code, 11 U.S.C. §§ 101- 1532 proceedings, or any failure of the Vendors to perform a non-monetary obligation under the Assigned Contracts.

8. **THIS COURT ORDERS** that, following the closing of the transaction contemplated under the APA, all monetary defaults, other than those arising by reason of the Vendors' insolvency, the commencement of these CCAA proceedings, or the Vendors' failure to perform a non-monetary obligation, shall be cured and paid in accordance with the APA.

9. **THIS COURT DIRECTS** the Vendors to send a copy of this Order to all of the counterparties to the Assigned Agreements.

10. **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 Vendors, 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 Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Monitor and its agents in carrying out the terms of this Order.

Schedule A - Assigned Contracts

[Contracts]

[Real Property Leases]

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

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

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**

Proceeding commenced at Toronto

ASSIGNMENT ORDER

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Lawyers for the Applicants

TAB 5

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.)	WEDNESDAY, THE 17 TH
)	
JUSTICE PENNY)	DAY OF FEBRUARY, 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**

Applicants

STAY EXTENSION AND DISTRIBUTION ORDER

THIS MOTION, 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 "**Primus Entities**") for an order: (i) approving an extension of the stay of proceedings referred to in the Initial Order of the Honourable Justice Penny dated January 19, 2016, to September 19, 2016; and (ii) authorizing and directing FTI Consulting Canada Inc., in its capacity as Monitor of the Primus Entities (the "**Monitor**"), to make the Origin Disbursement (as the term is defined below); (iii) authorizing and directing the Monitor to make the Syndicate Distribution and the Additional Syndicate Distributions, in each case subject to maintaining the amount of the Holdback (as each term is defined below); (iv) authorizing the Monitor to disburse from the Holdback, from time to time, amounts owing by the Primus Entities in respect of fees and expenses of the Monitor, the Monitor's legal counsel and other advisors and of the legal counsel and other advisors to the Primus Entities (collectively, the "**Professional Expenses**"); and (v) authorizing the Monitor to disburse from the Holdback, from time to time, on instruction from the Primus Entities, any amounts owing by the Primus Entities in respect of obligations incurred by the Primus Entities since the

commencement of these *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-3 proceedings (collectively, the "**Post-Filing Expenses**") was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Michael Nowlan sworn February 1, 2016 and the Exhibits attached thereto, the First Report of the Monitor, dated February 1, 2016, and on hearing the submissions of counsel for the Monitor, the Applicants, the Agent (as defined below) those other parties present, no one appearing for any other person on the service list, although duly served as appears from the affidavit of service of Vlad Calina sworn February 2, 2016, filed:

SERVICE

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

EXTENSION OF STAY OF PROCEEDINGS PERIOD

2. **THIS COURT ORDERS** that the Stay Period referred to in the Initial Order of the Honourable Justice Penny dated January 19, 2016, is extended until September 19, 2016.

APPROVAL OF INTERIM AND FUTURE DISTRIBUTIONS

3. **THIS COURT ORDERS** that the Monitor is hereby authorized and directed to disburse, the amounts owing to Origin Merchant Partners ("**Origin**") under the engagement letter dated August 7, 2015 (the "**Origin Disbursement**") within five (5) business days after the later of (i) the day of filing the Monitor's Certificate referred to in the Approval and Vesting Order of the Honourable Justice Penny dated February 17, 2016 (the "**Monitor's Certificate**") and (ii) receipt of an invoice issued by Origin for the Origin Disbursement.

4. **THIS COURT ORDERS** that the Monitor is hereby authorized and directed to disburse, within five business days from the day of filing, the Monitor's Certificate, to Bank of Montreal as administrative agent (the "**Agent**") for Bank of Montreal, HSBC Bank Canada and ATB Corporate Financial Service (collectively, the "**Syndicate**"), an amount not

exceeding the maximum amount of the Syndicate's secured obligations owing by the Primus Entities under the Credit Agreement dated July 31, 2013 (as amended by an amending agreement dated September 23, 2014) (the "**Syndicate Distribution**"), subject to the maintenance of a holdback, in an amount satisfactory to the Monitor or in an amount determined by the Court, for the payment of Professional Expenses and Post-Filing Expenses and to secure the Administration Charge and the D&O Charge (each as defined in the Initial Order dated January 19, 2016) (the "**Holdback**").

5. **THIS COURT ORDERS** that the Monitor is hereby authorized and directed to make further distributions to the Agent, if needed, from time to time, up to a maximum amount of the Syndicate's secured obligations ("**Additional Syndicate Distributions**"), but in each case subject to the Holdback.

6. **THIS COURT ORDERS** that the Monitor, on behalf of the Primus Entities, is hereby authorized and empowered, without further Order of the Court, to disburse from the Holdback, from time to time, amounts owing by the Primus Entities in respect of Professional Expenses.

7. **THIS COURT ORDERS** that the Monitor, on behalf of the Primus Entities is hereby authorized and empowered, without further Order of the Court, to disburse from the Holdback, from time to time, on instruction from the Primus Entities, any amounts owing by the Primus Entities in respect of Post-Filing Expenses.

8. **THIS COURT ORDERS** that notwithstanding:

- (a) the pendency of these proceedings;
- (b) any assignment in bankruptcy or any petition for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (the "**BIA**") and any order issued pursuant to any such petition;
- (c) any application for a receivership order; or
- (d) any provisions of any federal or provincial legislation;

the holdbacks, payments, distributions and disbursements contemplated in this Order, are made free and clear of any Encumbrances (as defined in the Approval and Vesting Order) to be binding on any trustee in bankruptcy or receiver that may be appointed, and shall not be void or voidable nor deemed to be a preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, as against the Primus Entities, Origin, the Syndicate or the Monitor, and shall not constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

9. **THIS COURT DECLARES** that no action lies against the Monitor, its affiliates, agents, employees, officers or directors, by reason of this Order or the performance of any act authorized by this Order, except by leave of the Court.

10. **THIS COURT DECLARES** that this Order shall have full force and effect in all provinces and territories in Canada.

11. **THIS COURT DECLARES** that the Monitor shall be authorized to apply as it may consider necessary or desirable, with or without notice, to any court or administrative body, whether in Canada, the United States of America or elsewhere, for orders which aid and complement this Order. All courts and jurisdictions are hereby respectfully requested to make such orders and to provide such assistance to the Monitor as may be deemed necessary or appropriate for that purpose.

12. **THIS COURT REQUESTS** the aid and recognition of any court or administrative body in any Province of Canada and any Canadian federal court or administrative body and any federal or state court or administrative body in the United States of America and any court or administrative body elsewhere, to act in aid of and to be complementary to this Court in carrying out the terms of this Order.

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

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

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**

Proceeding commenced at Toronto

**STAY EXTENSION AND
DISTRIBUTION ORDER**

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Lawyers for the Applicants

TAB 6

Court File No.: CV-16-11257

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

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

Applicants

**AFFIDAVIT OF JAMES EDMUND OSLER
(SWORN FEBRUARY 2, 2016)**

I, JAMES EDMUND OSLER, of the City of Toronto, in the Province of Ontario,
MAKE OATH AND SAY:

1. I am one of the founders and a principal of Origin Merchant Partners ("**Origin**"), the financial advisor to the Applicants (the "**Financial Advisor**"). As such I have knowledge of the matters to which I hereinafter depose, save for matters based on information and belief in which case I verily believe them to be true.
2. I, together with six other senior banking professionals founded Origin in 2011 and today it is one of the largest independent mergers and acquisition ("**M&A**") advisory firms in Canada. Prior to founding Origin I was the Head of M&A at Canaccord Genuity and Genuity Capital Markets and before that I was a managing director in the M&A group at CIBC.
3. Origin was selected by the Applicants as the Financial Advisor after what Origin understood to be a competitive selection process. Origin was retained pursuant to an engagement letter dated August 7, 2015.
4. I swear this affidavit in support of a motion by the Applicants seeking, among other things, the relief sought at paragraph 2 of the affidavit sworn by Michael Nowlan sworn February 2, 2016 (the "**Nowlan Affidavit**"). I have had an opportunity to review the Nowlan Affidavit and can confirm that, to the extent that the Nowlan Affidavit refers

to Origin's activities in implementation of the sales and investor solicitation process (the "SISP") (specifically, paragraphs 30 to 83 of the Nowlan Affidavit), the references to Origin's activities are accurate.

5. This affidavit will supplement the Nowlan Affidavit and provide additional information and context with respect to Origin's interactions with the Applicants, FTI Consulting Canada Inc. ("FTI"), Comwave Networks Inc. ("**Comwave**"), and Birch Communications, Inc. ("**Birch**"). Specifically, this affidavit focuses on events following completion of the Phase II process. Terms not otherwise defined in this affidavit shall have the meanings ascribed to them in the Nowlan Affidavit.

6. As described at paragraphs 47 and 48 of the Nowlan affidavit, at the conclusion of Phase II of the SISP there were five parties which submitted proposals for the purchase of some, or all, of the Primus Entities' assets: Comwave submitted a proposal to purchase substantially all of the Primus Entities' assets; three parties (one of which was Birch) submitted proposals to purchase the Primus Entities' Canadian assets (the "**Canadian Assets**") only; and one party (the "**US Proposed Purchaser**") submitted a proposal to purchase the Primus Entities' U.S. assets (the "**US Assets**") only.

7. Four of the five proposals received included markups to the Template Purchase Agreement (as defined in the SISP), however, none of the proposals were in a format which could be accepted by the Primus Entities. Put differently, even if the Primus Entities were prepared to accept one of the Proposals as delivered without any further discussion or negotiation, the mark-ups provided were all missing details or schedules that would be required for the agreement to be executable.

8. From the conclusion of the Phase II process (and in accordance with the SISP) Origin, together with the Primus Entities' counsel engaged all five parties in discussions regarding their proposals. Specifically during the week of November 16, 2015, Origin, together with the Primus Entities' counsel contacted each of the five parties to:

- (a) seek clarification of bid terms;
- (b) obtain a better understanding of any constraints or conditions precedent to the completion of the proposed transaction(s); and/or

- (c) obtain additional information so as to estimate the net proceeds from the proposals.


9. In the weeks that followed, each of Comwave, Birch, and the U.S. Proposed Purchaser made substantial progress in advancing their transaction proposals, while the remaining two parties did not materially advance their proposals towards an executable state.

Origin Negotiations With Comwave

10. As described above, Comwave's initial proposal and mark up of the Template Purchase Agreement (the "**Comwave APA**") was for both the Canadian Assets and the US Assets.

11. On November 18, 2015 Origin and counsel to the Primus Entities had a conference call with Ari Jakobson¹ regarding Comwave's offer. In particular, Origin and the Primus Entities were seeking clarification on a number of aspects of Comwave's proposal. Among the topics discussed on this call were:

- (a) Allocation of Cure Costs² as between Vendor and Purchaser in the Comwave APA;
- (b) Information required by Comwave's lender so that they could issue an unconditional comfort letter regarding financing for the proposed transaction;
- (c) Certain deductions sought by Comwave in the Comwave APA;
- (d) Comwave's valuation of the US Assets; and



¹ Mr. Jakobson is a lawyer at Wildeboer Dellelce LLP, however, in this transaction he held himself out to be an advisor and consultant to Comwave and entrusted with negotiations related to a possible purchase of the Primus Entities' assets. While Origin was aware that Mr. Jakobson was a lawyer and that he would have the knowledge and skill sets of a lawyer, it was Origin's understanding that Miller Thomson LLP was retained by Comwave to address legal matters related to Comwave's proposed purchase of the Primus Entities' assets.

² *Cure Costs* were defined in the Comwave Template Purchase Agreement as "the amount of any monetary defaults, if any, of the Vendor in relation to any Consent Required Contract, required to be paid to ensure that such Consent Required Contracts may be effectively assigned by the Vendor to the Purchaser whether pursuant to the Assignment Order or otherwise"

- (e) Potentially restructuring the transaction so as to allow additional value to be realized for the Primus Entities' tax losses.

12. During the conference call referenced in paragraph 11 above, Mr. Yakobson advised, among other things, that Comwave did not ascribe much value to the US Assets or the tax losses. Comwave's unwillingness to ascribe a material value to the US Assets was significant as the US Assets accounted for 12% of the Primus Entities' gross revenue. Further, there was some concern amongst the Primus Entities and Origin that Comwave would not be able to obtain the necessary regulatory approvals to acquire the US Assets expeditiously. As explained at paragraph 52 of the Nowlan Affidavit, this is because Comwave did not appear to possess, and could not promptly acquire, the relevant U.S. telecommunications licenses.

13. Through the course of the SISP process I had a number of telephone conversations with Mr. Yakobson, usually at his initiation, during which there was discussion of price and during which he made it clear that Comwave was constrained in how much value it could offer for the Primus business, in part due to challenges in obtaining financing. Having received a substantive proposal for the US Assets, and in an effort to make Comwave's proposal more competitive and likely of being acceptable to the Primus Entities' stakeholders, Origin suggested that Comwave consider amending their offer such that the contemplated purchase price only related to the Canadian Assets. This would have the combined benefit of increasing the aggregate value of the Primus Entities' assets while permitting the Primus Entities to sell the US Assets to a buyer who would face fewer regulatory impediments with respect to said assets (thus permitting a transaction to close in a timely fashion).

14. After a number of discussions with Mr. Yakobson, he indicated that Comwave was prepared to amend the Comwave APA to only include the Canadian Assets, while not materially reducing their proposed purchase price.

15. By early December, after a number of further discussions Comwave had increased its price and the combination of Comwave's offer for the Canadian Assets with the proposal from the US Proposed Purchaser was emerging as potentially having the highest value for the Primus Entities. Further, as described at paragraph 63 of the

Nowlan Affidavit, the negotiations regarding the Comwave APA were progressing farther than negotiations with the other parties.

16. While the negotiations with Comwave were the most advanced at this time, there were still a number of unresolved matters and, to my knowledge, neither the Primus Entities or Comwave were ever in a position to execute a definitive agreement. Further, Comwave was aware that the Primus Entities were intent on selling the US Assets at about the same time as the Canadian Assets. To that end, Origin and the Primus Entities were engaged in negotiations with the US Proposed Purchaser regarding purchase of the US Assets, however, those negotiations were not as far advanced as the negotiations with Comwave.

17. On December 3, 2015 there was a meeting between representatives of the Primus Entities, counsel to the Primus Entities, Origin, FTI, Comwave, and counsel to Comwave. My recollection of the meeting is as described at paragraph 60 of the Nowlan Affidavit, however, I underscore that at this meeting Origin did not represent to Comwave or anyone else that Comwave was the only Qualified Bidder.

18. Far from advising Comwave that they were the only Qualified Bidder, at the December 3, 2015 meeting (as described above and in the Nowlan Affidavit) Comwave was asked if it would participate in an auction process with other interested participants. Yuval Barzakay, President of Comwave, rejected that request and stated that Comwave would withdraw its offer if an auction process were held.

19. Throughout the week of December 7, 2015 it appeared that counsel for the Primus Entities and counsel for Comwave were continuing to negotiate terms in the Comwave APA. I was copied on some of these e-mails, however, most of my communications were telephone conversations with Mr. Yakobson regarding high level transaction terms and logistics on exchanging drafts of the Comwave APA. One of the discussion topics in these conversations was the purchase price. Over the course of these discussions Mr. Yakobson indicated to me that Comwave would be willing to increase its proposed purchase price if it would assist in reaching terms that would be acceptable to the Primus Entities and their stakeholders.

20. In my discussions with Mr. Yakobson, I was clear that it was important to the Primus Entities and the Primus Entities senior lenders (the "**Syndicate**") that if the Comwave APA proceeds, there be a deal in place with respect to the US Assets on appropriate terms and that had not yet occurred.

21. The sale of the US Assets to a separate purchaser presented a number of challenges. The largest challenge was that the US Proposed Purchaser met some, but not all of the US regulatory requirements necessary to complete a sale of the entirety of the US Assets. As a result, it was necessary to solicit a second purchaser for some of the US Assets, as described in greater detail at paragraphs 55 to 58 of the Nowlan Affidavit. The subdivision of the US Assets amongst two purchasers would have the net result of a moderate reduction in value for the US Assets and increased transaction complexity and costs.

22. While I did not provide Mr. Yakobson with specifics of the ongoing challenges in selling the US Assets, I made him aware that there were in fact challenges with that process and that we could not proceed unless there were comprehensive transactions for substantially all of the US Assets and the Canadian Assets that could be completed expeditiously and contemporaneously (or within short order of each other). Nonetheless, Mr. Yakobson pressed for some confirmation that Comwave's proposal would be accepted by the Primus Entities and its lenders. Mr. Yakobson further expressed concern that Mr. Barzakay might not allow Comwave's offer to remain open through the weekend of December 12/13, 2015, regardless of our challenges in selling the US Assets.

23. On December 11th, 2015 I was asked to participate in separate conference calls with the Board of Directors of the Primus Entities and the Syndicate so that I may provide an update on the SISP. In both calls I conveyed Mr. Yakobson's concern that Comwave may revoke its offer if it does not receive some assurance that the Comwave APA will be accepted by the Primus Entities by entering into an exclusivity agreement with Comwave.

24. In my call with the Syndicate, I asked for the Syndicate's views on the assurances sought by Comwave. The Syndicate advised that while it was not their

decision as to whether the Primus Entities provide Comwave with the assurances they desire, in their view, any assurances would be premature as they were concerned that the US Asset divestitures were not close to completion. The Syndicate asked that Origin provide a detailed plan for the divestiture of the US Assets by December 15, 2015. I conveyed the Syndicate's concerns to Mr. Yakobson. Attached as **Exhibit "A"** is an exchange of e-mails between me and Mr. Yakobson relating to the pending deadline and the Syndicate's direction to extend the timeline to December 15, 2015.

25. By the week of December 14, 2015 I was not intimately involved in ongoing negotiations of the Comwave APA, however, my understanding was that many terms had been resolved but matters such as finalizing the schedules to the Comwave APA, the escrow arrangements, and a potential discrepancy on purchase price remained outstanding. In fact, I was still exchanging e-mails with Mr. Yakobson regarding the purchase price in the Comwave APA on the morning of December 18, 2015. Attached as **Exhibit "B"** is a copy of the e-mail chain between Mr. Yakobson and me on December 18, 2015.

26. At 8:34pm on December 18, 2015 Mr. Yakobson forwarded to me an e-mail that Mr. Barzakay had sent to Mr. Nowlan four minutes earlier. The e-mail from Mr. Barzakay (a copy of which can be found at Exhibit "G" of the Nowlan Affidavit) stated, among other things, that Mr. Nowlan was to "confirm by December 19, 2015 at 6pm where the board and the bank stand with respect to executing the APA and the exclusivity agreements". Mr. Barzakay continued by issuing an ultimatum that "[I]f a decision cannot be made, Comwave is out of this transaction and I am requesting an immediate refund of my deposit" (the "**Comwave Deadline**").

27. Following receipt of Mr. Barzakay's e-mail, I was involved in a number of discussions principally with Mr. Nowlan, who I understood was soliciting input and direction from the Primus Board and the Syndicate regarding a formal response to the Comwave deadline. I was ultimately advised that the Primus Entities were not prepared to grant Comwave exclusivity and would not execute the Comwave APA or the exclusivity agreements before the Comwave Deadline. By e-mail sent at 5:19pm on December 19, 2015 Mr. Nowlan advised Mr. Barzakay of the Primus Entities' decision.

A copy of Mr. Nowlan's e-mail to Mr. Barzakay can be found at Exhibit "H" to the Nowlan Affidavit.

28. I also had a number of calls from Mr. Yakobson over that weekend on December 19/20, 2015 where I relayed my concerns that we would not be able to meet the deadline and discussed whether there might be alternatives to the deadline. In particular, Mr. Yakobson had said that immediate resolution was required since both he and Mr. Barzaky would be away the following weeks on vacation and difficult to reach. I indicated that we were unlikely to bring resolution to either the US Asset divestiture plans or the alternate transaction proposals before January 2016. I suggested that Comwave consider terms under which they would be willing to leave the Comwave APA open for acceptance while they were away.

29. On December 20, 2015 Mr. Yakobson e-mailed me stating that Comwave would be prepared to "leave its bid in place" until December 31, 2015 "allowing the vendors stakeholders to continue to negotiate with us in good faith" if Comwave were provided with a \$300,000 break fee in the event that the Primus Entities did not proceed with the Comwave APA. Mr. Yakobson's e-mail required a response by end of day on December 21, 2015. Attached as **Exhibit "C"** is a copy of the e-mail from Mr. Yakobson to me on December 20, 2015.

30. I understand from the Nowlan Affidavit that the Primus Entities did not consider it advisable to commit to payment of the \$300,000 break fee and as a result returned Comwave's deposit to them thus ending Comwave's participation in the SISP.

Origin Negotiations with Birch

31. As described above, Birch's proposal as part of Phase II of the SISP only related to the Canadian assets. This was surprising to Origin, and the Primus Entities as there was a belief that the US Assets would provide certain synergies for Birch and we understood that Birch likely had the regulatory licenses necessary to seamlessly transfer the US Assets with minimal regulatory risk.

32. On November 19, 2015 Origin and counsel to the Primus Entities had a conference call with representatives of Birch regarding Birch's proposed purchase. In

particular, Origin and the Primus Entities were seeking clarification on a number of aspects of Birch's proposal. Among the topics discussed on this call were:

- (a) confirmation that Birch's bid was only for the Canadian Assets;
- (b) the scope of anticipated deductions from Birch's proposed purchase price for deferred revenues;
- (c) Birch's requirement for a lengthy closing process;
- (d) areas of remaining due diligence; and
- (e) Birch's request for exclusivity.

While we obtained acceptable clarification on most of these points and Birch understood that it would not be granted any form of exclusivity at that stage, Birch was slow to engage after this call. We understand that this was due to competing processes by Birch and the loss of key personnel due to the pending US Thanksgiving holiday.

33. On December 1, 2015, Birch re-engaged and appeared to be making earnest efforts to complete their remaining due diligence on a timely basis. At this time Birch also advised that they were considering reducing the deductions previously contemplated in their proposal and further advised that they were considering a bid for the US Assets (in addition to the Canadian Assets).

34. On December 9, 2015 a meeting was held in Atlanta, Georgia between certain senior management of both the Primus Entities and Birch, together with Matthew Rome of Origin. While I was not in attendance at the meeting, I was advised that this was a key meeting as Birch established that it was highly motivated in pursuing a transaction with the Primus Entities, recognized the strategic merits and synergies in purchasing both the Canadian Assets and the US Assets, and appreciated the need to bring forward its revised proposal in the next few days.

35. On December 16, 2015 Birch submitted a marked up Template Purchase Agreement (the "**Birch APA**"). While not executable in its current form, the Birch APA was a compelling offer as it was at a significantly higher purchase price than the

Comwave APA, with fewer deductions and contemplated the purchase of both the Canadian Assets and the US Assets with much less transaction complexity, transition costs, and regulatory hurdles.

36. In the 24 hours following receipt of the Birch APA I, together with my colleagues Matthew Rome and Andrew Muirhead, had a number of discussions with representatives of Birch seeking clarification and improvement on key aspects of their proposal. On December 18th, 2015 Birch submitted a further revised version of the Birch APA. It is my understanding that this version of the Birch APA is substantively similar to the Birch APA executed by the parties and for which the Primus Entities seek court approval.

Comwave Claim

37. I have had an opportunity to review the Statement of Claim issued by Comwave bearing court file number CV-16-544689 and attached as Exhibit "M" of the Nowlan Affidavit (the "**Comwave Claim**"). I disagree with the allegations contained in the Comwave Claim and wish to address the following specific allegations:

- (a) Contrary to paragraph 14 of the Comwave Claim, Origin did not seek permission nor did it feel in any way obligated to seek permission from Comwave, or any other bidder regarding the Phase II deadline. In fact paragraph 23 of the SISP permitted variations in deadlines contained therein;
- (b) Contrary to paragraph 17 of the Comwave Claim, at no time did Origin advise Comwave that it was "the only Qualified Bidder" or that it was the only bidder "who had in fact satisfied all of the requirements of Qualified Bid as set out in the SISP". In fact (and as outlined in the Nowlan Affidavit) the statement that Comwave was "the only Qualified Bidder" is factually inaccurate as Comwave was specifically advised that there were other bidders and discussions with those bidders were ongoing;
- (c) Contrary to paragraph 20 of the Comwave Claim, at no time did Origin represent to Comwave that, "subject to definitive documentation only...it

was the Successful Bidder as defined in the SISP”. Further, Origin never represented that the Primus Entities “would not be negotiating further with any other parties”. Over the weeks that followed the Phase II deadline there were periods of time where Origin and the Primus Entities were only negotiating with Comwave. Further, there were points in time where Comwave’s offer was the closest to being in an executable form. However, there were also instances when other bidders (including, but not limited to, the US Proposed Purchaser – who, in Origin’s mind, was integral to the success of any Comwave bid), would likewise advance their proposals regarding the Canadian Assets and/or the US Assets. I conveyed to Mr. Yakobson that while the negotiations with Comwave were moving well, they were not exclusive and that the best way to make them exclusive was for Comwave and the Primus Entities to finalize their definitive documents. Finally, while I was not involved in the negotiations, in reading the Nowlan Affidavit, I understand that the Primus Entities’ counsel and Comwave’s counsel were negotiating, but had not executed an exclusivity agreement. It is not explained in Comwave’s Statement of Claim why it was necessary to negotiate an exclusivity agreement if the Primus Entities had already agreed that they “would not be negotiating with any other parties”; and

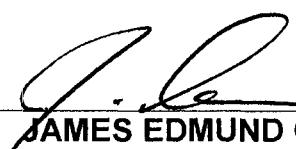
- (d) While paragraph 26 does not state who specifically advised Comwave that “the Defendants had decided to negotiate a sale to another party that had not participated in the SISP”, I can advise that Origin did not make this statement to Comwave. Further the statement is factually inaccurate as Birch was a participant in the SISP;

38. Most importantly, and described above (and in the Nowlan Affidavit), it was Comwave who terminated negotiations on the Comwave APA, not Origin, FTI, or the Primus Entities. Comwave provided the Comwave Deadline and ultimately, the Primus Entities determined they would not meet that deadline.

Conclusions

39. For the reasons explained above and in the Nowlan Affidavit, Origin supports the Primus Entities' motion for the relief described at paragraph 2 of the Nowlan Affidavit.

SWORN BEFORE ME at the City of Toronto,
in the Province of Ontario, this 2nd day of
February, 2016.

} 

JAMES EDMUND OSLER



A Commissioner for taking Affidavits

Elizabeth Emily Charlotte Barrass, a Commissioner, etc.,
Province of Ontario, while a Student-at-Law.
Expires May 22, 2018.

TAB A

Roxanne Swatogor

From: Ari Yakobson <AYakobson@wildlaw.ca>
Sent: December-12-15 1:19 PM
To: Jim Osler
Subject: Re: FTI Bible
Attachments: image001.png

I think that the tight timeline made sense and frankly still does.
 I hope that you can get the US portion done and if not that they sell it shortly in the new year which should have no negative impact.
 They should have never commenced this process if there was a real potential for it to terminate while a real buyer is available. I hope they realize that and move on.

Ari Yakobson
 WILDEBOER DELLELCE LLP
 ayakobson@wildlaw.ca | www.wildlaw.ca
 T 416 847 6913 | F 416 361 1790 | C 416 520 8505
 Suite 800 | Wildeboer Dellelce Place
 365 Bay Street, Toronto, ON M5H 2V1

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On Dec 12, 2015, at 1:08 PM, Jim Osler <Jim.Osler@originmerchant.com> wrote:

I don't think it has changed at all. We have been trying to serve many masters here but time still seems to be of the essence for most parties. The banks put a very tight timeframe on the process. We told them it was tight and would likely slip, especially given the complication of selling multiple businesses in multiple transactions. It has unfolded (surprisingly) almost exactly as we had indicated when the SISF document was put together.

Jim Osler | Origin Merchant Partners | e: jim.osler@originmerchant.com | t: 416-800-0784 | c: 416-903-4195
 220 Bay Street, Suite 1500, Toronto, Ontario, M5J 2W4



From: Ari Yakobson [<mailto:AYakobson@wildlaw.ca>]
Sent: Saturday, December 12, 2015 12:57 PM
To: Jim Osler
Subject: Re: FTI Bible

This is Exhibit.....4.....referred to in the
 affidavit of.....James Edmund Osler
 sworn before me, this.....2nd.....
 day of.....February.....2016.....


 A COMMISSIONER FOR TAKING AFFIDAVITS

Elizabeth Emily Charlotte Barrass, a Commissioner, etc.,
 Province of Ontario, while a Student-at-Law.
 Expires May 22, 2018.

Thanks Jim. Do you think that you will get the US matter resolved by then?
I don't understand why they would not sell the US separately even if it is in the foreseeable future.

We were at all times told that this process was about certainty of closing and that the bank wanted out of this process quickly. Jim how did this all change?

Ari

FTI BIBLE

www.ftibible.ca | www.ftibible.com
T 416 476 9133 | F 416 476 1777 | C 16 520 3505
Suite 1000 | 100 King Street East | Toronto, ON
365 King Street, Toronto, ON M5H 2V1

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On Dec 12, 2015, at 12:52 PM, Jim Osler <jim.C@ftibible.com> wrote:

The bank have given us until Tues to bring some resolution to the US to indicate they are willing to give any clear direction to our client.

From: Ari Yakobson [mailto:ari@ftibible.com], Sent: Friday, December 11, 2015 7:41 PM

To: Jim Osler <jim.C@ftibible.com>
Subject: Fwd: FTI Bible

<[img_001.png](#)>

From: Ari Yakobson [mailto:ari@ftibible.com]
Sent: Friday, December 11, 2015 7:41 PM
To: Jim Osler
Subject: Fwd: FTI Bible

Jim please see below.
How do we manage the fact that this doc expires on Monday ?

Ari Yakobson
 WILDEBOEIN LLP
ayakobson@wildlaw.ca | www.wildlaw.ca
 T 416 847 6913 | F 416 361 1790 | C 16 520 1005
 Suite 800 | Wilcocks Court | Ice Place
 365 Bay Street, Toronto, ON M5H 2V1

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Begin forwarded message:

From: Artur Agivaev <Artur.Agivaev@wcmcapital.com>
Date: December 11, 2015 at 7:26:47 PM EST
To: Ari Yakobson <ayakobson@wildlaw.ca>
Subject: FTI Bible

Attached is Nigel's constitution.

Section 17. If no Qualified Bids are received by the Bid Deadline or if no Qualified Bid(s) are accepted or if no Successful Bidder(s) have been selected or no Auction has been pursued by the Company by December 14, 2015, the SISP shall automatically terminate. If no transaction has been successfully consummated with the Successful Bidder by December 31, 2015, the SISP shall automatically terminate

Also look at s. 20, 23, and 24 re them not being required to conclude a sale, and them not having any liability to anyone of course.

Artur Agivaev
 WCM Capital
 T: 416-847-6907

TAB B

Roxanne Swatogor

From: Ari Yakobson <AYakobson@wildlaw.ca>
Sent: December-18-15 6:28 AM
To: Jim Osler
Subject: Re: Project Thunder

Thanks
Call when ready please

Ari Yakobson
WILDEBOER DELLELCE LLP
ayakobson@wildlaw.ca | www.wildlaw.ca
T 416 847 6913 | F 416 361 1790 | C 416 520 8505
Suite 800 | Wildeboer Dellelce Place
365 Bay Street, Toronto, ON M5H 2V1

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On Dec 18, 2015, at 5:45 AM, Jim Osler <Jim.Osler@originmerchant.com> wrote:


Sorry Ari. Back in Toronto now. Not really following the flow of correspondence here but we agreed to \$36 on Tues. Heading in to meet with banks at 11:00 this morning. Let's talk before that.

Jim Osler | Origin Merchant Partners | e: jim.osler@originmerchant.com | t: 416-800-0784 | c: 416-903-4195
220 Bay Street, Suite 1500, Toronto, Ontario, M5J 2W4
<image001.png>

From: Ari Yakobson [<mailto:AYakobson@wildlaw.ca>]
Sent: Thursday, December 17, 2015 8:25 PM
To: Jim Osler
Subject: Fwd: Project Thunder

See below
Please tell me that we are done on price

Ari Yakobson
WILDEBOER DELLELCE LLP
ayakobson@wildlaw.ca | www.wildlaw.ca
T 416 847 6913 | F 416 361 1790 | C 416 520 8505
Suite 800 | Wildeboer Dellelce Place
365 Bay Street, Toronto, ON M5H 2V1

This is Exhibit B referred to in the affidavit of JAMES EDMUND OSLER sworn before me, this 2nd day of February 2016

A COMMISSIONER FOR TAKING AFFIDAVITS

Elizabeth Emily Charlotte Barrass, a Commissioner, etc.,
Province of Ontario, while a Student-at-Law.
Expires May 22, 2018.

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Begin forwarded message:

From: Ari Jakobson <AYakobson@wildlaw.ca>
Date: December 17, 2015 at 8:23:51 PM EST
To: Samantha Horn <sghorn@stikeman.com>
Cc: "Apps, Alfred" <aapps@millerthomson.com>, Matthew Cameron
 <MCameron@stikeman.com>, "Lalka, Alexander"
 <alalka@millerthomson.com>
Subject: Re: Project Thunder

I am fully under the understanding that this was agreed to on tues with Jim.
 Happy to discuss with him again.
 I believe that he is travelling today.
 Good night.

On Dec 17, 2015, at 8:13 PM, Samantha Horn <sghorn@stikeman.com> wrote:

Ari, I'm not trying to (or going to) negotiate, so please speak to Jim
 about what the final price is for the APA.

From: Ari Jakobson [<mailto:AYakobson@wildlaw.ca>]
Sent: Thursday, December 17, 2015 8:09 PM
To: Samantha Horn
Cc: Apps, Alfred; Matthew Cameron; Lalka, Alexander
Subject: Re: Project Thunder

No need for food.
 We can keep working.
 Final price?

>

Ari Jakobson
 WILDEBOER DELLELCE LLP
ayakobson@wildlaw.ca | www.wildlaw.ca
 T 416 847 6913 | F 416 361 1790 | C 416 520 8505
 Suite 800 | Wildeboer Dellelce Place
 365 Bay Street, Toronto, ON M5H 2V1

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On Dec 17, 2015, at 8:06 PM, Samantha Horn <sghorn@stikeman.com>
 wrote:

>

> Sorry took a break for some food.

>

> That is my understanding yes. We have a call tonight at 10 and a
 meeting with the bank tomorrow morning and a board meeting at 1:30.

Need final APA including final price.

>
 > Samantha Horn
 > Tel : (416) 869-5636
 > sghorn@stikeman.com<<mailto:sghorn@stikeman.com>>
 >
 >
 >
 >
 > STIKEMAN ELLIOTT LLP Barristers & Solicitors
 > 5300 Commerce Court West, 199 Bay Street, Toronto, ON,
 > Canada M5L 1B9
 > www.stikeman.com<<http://www.stikeman.com>>

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>
 >
 > On Dec 17, 2015, at 7:01 PM, Ari Jakobson
 > <AYakobson@wildlaw.ca<<mailto:AYakobson@wildlaw.ca>>> wrote:

>
 >
 > Thank Alfred.
 > I need to update Yuval please.

>
 >
 >
 > Ari Jakobson
 > WILDEBOER DELLELCE LLP
 > ayakobson@wildlaw.ca<<mailto:ayakobson@wildlaw.ca>> |
 > www.wildlaw.ca<<http://www.wildlaw.ca>>
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 > Suite 800 | Wildeboer Dellelce Place
 > 365 Bay Street, Toronto, ON M5H 2V1

>
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 > LinkedIn<<https://www.linkedin.com/company/wildeboer-dellelce-llp>>.

>
 > On Dec 17, 2015, at 6:53 PM, Apps, Alfred
 > <aapps@millertomson.com<<mailto:aapps@millertomson.com>>>
 > wrote:

>
 >
 > Can you confirm that it is your understanding that we are signing
 > everything up tomorrow and that all is set from a business perspective.

>
 > Alfred Apps<<mailto:aapps@millertomson.com>>

> Direct Line: 416.595.8199<tel:416.595.8199>

>

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TAB C

Roxanne Swatogor

From: Ari Yakobson <AYakobson@wildlaw.ca>
Sent: December-20-15 7:10 PM
To: Jim Osler
Subject: Fwd: Comwave's Deadline
Attachments: image001.gif; image002.gif; image003.gif; image003.gif; image002.gif; image001.gif

Jim please see below from michael.

What I propose and Yuval will agree to is the following:

Comwave leaves its bid in place as is as well as the deposit in an effort to finalize the transaction by the end of the month. As you know, we remain committed and continue to believe that Comwave is the best possible purchaser for this asset.

In exchange for leaving the bid out there and allowing the vendors stakeholders to continue to negotiate with us in good faith we would want a 300,000 dollar fee approved by the board and paid to Comwave in the instance where comwave's bid is not approved by the Board and the bank. This amount represents a portion of what Comwave has spent on expenses on this transaction.

I ask that you socialize this concept and get back to me by end of day tomorrow.

If the proposal per the above does not work, kindly refund Comwave's deposit by end of day tomorrow. If as I hope, this proposal works please confirm that if Comwave is not the successful purchaser, per its executed asset purchase agreement Comwave will get the fee per above by Jan 4th as well as a refund of its deposit by the same date.

Jim I am around and working while on holiday. Please let me know.

Ari Yakobson
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T 416 847 6913 | F 416 361 1790 | C 416 520 8505
Suite 800 | Wildeboer Dellelce Place
365 Bay Street, Toronto, ON M5H 2V1

This is Exhibit.....*C*.....referred to in the
affidavit of *JAMES EDMUND OSLER*
sworn before me, this.....*20th*.....
day of.....*February*.....20*16*.....

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[Signature]
A COMMISSIONER FOR TAKING AFFIDAVITS

Begin forwarded message:

From: Yuval Barzakay <ybarzakay@gmail.com>
Date: December 19, 2015 at 8:04:50 PM EST
To: Ari Yakobson <AYakobson@wildlaw.ca>
Subject: Fw: Comwave's Deadline

Elizabeth Emily Charlotte Barrass, a Commissioner
Province of Ontario, while a Student-at-Law.
Expires May 22, 2018.

See below.

Sent from my BlackBerry 10 smartphone

From: Michael Nowlan <MNowlan@primustel.ca>
Sent: Saturday, December 19, 2015 5:17 PM
To: Yuval Barzakay (ybarzakay@gmail.com)
Cc: Jim Osler
Subject: Comwave's Deadline

Yuval

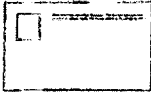
On behalf of the board of Primus, I would like to thank you for your interest in the company, the effort your team has made to bring your transaction proposal forward and your efforts to date as we collectively have tried to reach transaction terms that would best meet the mandate of our board and the goals and objectives of our company and stakeholders.

Unfortunately, we will not be in a position to enter into a transaction with Comwave on the terms that you have proposed before your deadline of 6:00 PM tonight.

Given your stated position if we do not enter in to the exclusivity agreement with you by 6:00PM tonight, your deposit will be returned to you on Monday unless we hear otherwise from you.

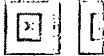
Regards,

Michael Nowlan



Michael Nowlan
GEO
T: 416.207.7121
E: mnowlan@primus.ca

ca



This e-mail message and any files transmitted with it are confidential and intended only for the individual(s) named. If you are not the named addressee you should not disseminate, distribute or copy this e-mail. Please notify the sender immediately by e-mail if you have received this e-mail by mistake. If you are not the named addressee you should not disseminate, distribute or copy this e-mail. Please notify the sender immediately by e-mail if you have received this e-mail by mistake. If you are not the named addressee you should not disseminate, distribute or copy this e-mail. Please notify the sender immediately by e-mail if you have received this e-mail by mistake. If you are not the named addressee you should not disseminate, distribute or copy this e-mail. Please notify the sender immediately by e-mail if you have received this e-mail by mistake.

Pop: [unreadable] [unreadable] [unreadable]



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

Court File No.: CV-16-11257

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**

Proceeding commenced at Toronto

**AFFIDAVIT OF JAMES EDMUND OSLER
(Sworn February 2, 2016)**

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Lawyers for Origin Merchant Partners

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

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

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

**MOTION RECORD
(RETURNABLE FEBRUARY 17, 2016)**

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