

**SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
IN BANKRUPTCY AND INSOLVENCY**

BETWEEN:

CANADIAN IMPERIAL BANK OF COMMERCE

Applicant

- and -

**PTL HOLDINGS LIMITED and
PTL SERVICES (EQUIPMENT) LIMITED and
CSL SERVICES (INDUSTRIAL) LIMITED AND
9263357 CANADA INC.**

Respondents

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

FIRST REPORT TO THE COURT

**SUBMITTED BY BDO CANADA LIMITED
IN ITS CAPACITY AS RECEIVER OF
PTL HOLDINGS LIMITED, PTL SERVICES (EQUIPMENT) LIMITED,
CSL SERVICES (INDUSTRIAL) LIMITED AND 9263357 CANADA INC.**

JULY 26, 2017.

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1.0 INTRODUCTION AND PURPOSE OF REPORT

1.1 Introduction

- 1.1.1** PTL Holdings Limited (“Holdings”) is a Newfoundland & Labrador (“NL”) company which owns all of the issued and outstanding shares of PTL Services (Equipment) Limited (“PTL”), CSL Services (Industrial) Limited (“CSL”) and 9263357 Canada Inc. (“926”). Holdings was incorporated in 2014 and has five (5) primary shareholders who own the Company through various corporations and family trusts.
- 1.1.2** Holdings, PTL, CSL and 926 (collectively referred to herein as the “PTL Group” or the “Company”), operate as an integrated entity with shared management, directors, accounting, finance and human resources staff. Holdings’ head office is located in St. John’s, NL in combined offices with Talon Energy Services, an affiliated company. The Company has offices, and operates, at 1 Main Street, Southern Harbour.
- 1.1.3** PTL provides a wide range of services for the construction industry, oil and gas industry and the public sector, primarily operating from property at 21-23 Marine Drive, Southern Harbour, NL, which is owned by 926 (the “Premises”). The Premises has an approximate 14,000 square foot repair facility (i.e. auto garage for repairs of its own fleet and for the public) and consists of approximately 10.8 acres of area. PTL owns a fleet of over 225 pieces of equipment, an adjacent vacant property at 20 Marine Drive, Southern Harbour, which is used for storage, and a property in Come By Chance. It is unionized with over 70 employees, which are drawn from various local union halls.
- 1.1.4** CSL provides contracted labour services on a short-term, project-by-project basis and has numerous union agreements with various trades.
- 1.1.5** 926 is a real estate holding company for the Premises at 21-23 Marine Drive, Southern Harbour.
- 1.1.6** The PTL Group has a geographic advantage to service key construction oil and gas locations including Bull Arm (10 km away); Come by Chance (7 km away); Long Harbour (34 km away) and Whiffen head (2 km away).

1.2 Appointment of Receiver

- 1.2.1** Pursuant to credit agreements dated December 15, 2014, subsequently replaced and amended, Canadian Imperial Bank of Commerce (“CIBC”) provided the following loans to the PTL Group:
- a) a demand loan in favour of Holdings in the total principal sum of \$7,500,000 (the “Demand Loan”); and,
 - b) a demand operating credit facility in favour of PTL in the amount of \$2,000,000 (the “Operating Facility” and collectively with the Demand Loan the “CIBC Loans”).

1.2.2 As security for the CIBC Loans, CIBC obtained, among other security (collectively referred to as the “CIBC Security”) the following:

- a) General security agreement (“GSA”) dated December 31, 2014 between Holdings and CIBC;
- b) GSA dated December 31, 2014 between PTL and CIBC;
- c) Demand debenture between PTL, CSL, 926 and CIBC dated December 31, 2014;
- d) Individual guarantees dated December 31, 2014 from various related companies or entities in favour of CIBC in respect of the obligations of the PTL Group to CIBC;
- e) Individual guarantees from Terry King, Greg Drodge, Barry Whelan and Keith Way all dated December 31, 2014 and limited to \$600,000, \$600,000, \$500,000 and \$300,000, respectively; and,
- f) Inter-Creditor Priority Agreements between: (1) CIBC and Kevin Parsons and Bruce Fancy as trustees of the Trust on behalf of various individuals (the “Parsons Vendors”); and (2) 11230 Newfoundland Ltd. and 11231 Newfoundland Ltd. (the “CSL Vendors”) and Holdings, PTL, CSL and 926 dated December 31, 2015, setting out the relative rights of the parties including acknowledgement that the CIBC Security ranks in priority to the security held by the Parsons Vendors and CSL Vendors up to \$9.5 million.

1.2.3 Specific details on the CIBC Security is outlined in the CIBC Application for a Court Appointed Receiver attached as Appendix A.

1.2.4 In December 2017, Holdings and PTL were in default of their obligations set out in the CIBC Security. CIBC agreed to forbear from enforcing and entered into a forbearance agreement, with various extensions up to May 1, 2018 (the “Forbearance Agreement”). Under the Forbearance Agreement and related extensions, the Company acknowledged and agreed that the CIBC Security is valid; Holdings and PTL are in breach of their obligations; and CIBC is entitled to make immediate demand.

1.2.5 Among other obligations in the Forbearance Agreement, the PTL Group was required to engage a financial advisor (by January 26, 2018) and run a strategic alternatives process (the “Strategic Alternatives Process”). The objective of the Strategic Alternatives Process was to replace the CIBC Loans with new capital by exploring all options related to the following possible alternatives:

- Source a going concern sale of the PTL Group (or parts thereof);
- Source refinancing;
- Source a party(ies) to provide an equity injection; and
- Source liquidating auction proposals.

- 1.2.6** The PTL Group retained Ernst & Young as its financial advisor, who, together with the PTL Group, prepared teaser documents, non disclosure agreement, confidential information memorandums, and a data room and ran a formal process seeking refinancing, equity investment and liquidation auction proposals.
- 1.2.7** CIBC engaged BDO Canada Limited (“BDO”) as financial advisor to review and report on the business and affairs of the PTL Group including a review of the cash flow, financial position and the progress on the Strategic Alternatives Process.
- 1.2.8** The Strategic Alternatives Process was run by the PTL Group for approximately 4.5 months from approximately mid-January 2018 through to May 1, 2018. During the Strategic Alternatives Process the Company entered into an exclusivity agreement with a potential going concern purchaser, and continued its efforts to source another lender(s).
- 1.2.9** On March 16, 2018 the Company entered into a binding letter of intent with a going concern purchaser that provided that:
- The PTL Group would continue to seek refinancing and could terminate the letter of intent with the going concern purchaser should a binding letter of intent from another lender(s) be received, with stakeholder support, before April 6, 2018; and
 - Should no binding letter of intent from another lender(s) come forward by April 6, 2018, PTL Group would proceed with the going concern sale which contemplated a closing on April 23, 2018.
- 1.2.10** No binding letter of intent was received before April 6, 2018 and the Company proceeded to pursue the going concern sale.
- 1.2.11** No letter of intent to provide an equity injection was ever received during the Strategic Alternatives Process process.
- 1.2.12** The Company did source liquidation proposals from auctioneers.
- 1.2.13** On April 18, 2018 the going concern purchaser withdrew their offer.
- 1.2.14** The PTL Group continued with the Strategic Alternatives Process into early May 2018, without success. Ultimately the Company was unable to complete a sale, find alternative financing, or find an equity injection.
- 1.2.15** Based on the information gathered from the Company, in consultation with BDO, namely relating to the defaults under the CIBC Security and the Forebearance Agreement, the financial and cash flow position of the Company and the lack of readily available sources of investment or interest in acquiring the Company, CIBC believed an immediate stay of proceedings was necessary in the circumstances and took steps to enforce under the CIBC Security. Additional details are included in CIBC’s Application for a Court Appointed Receiver which is attached as Appendix A.

1.2.16 As a result, CIBC issued a formal demand for repayment of the CIBC Loans on or about April 20, 2018 and delivered a notice of intention to enforce Security pursuant to section 244 of the *Bankruptcy and Insolvency Act* (“BIA”).

1.2.17 Consequently, CIBC brought an application for an order appointing a receiver over the assets, properties and undertakings of the PTL Group and BDO was appointed receiver (in such capacity, the “Receiver”), pursuant to an order (the “Appointment Order”) of the Supreme Court of Newfoundland and Labrador in Bankruptcy and Insolvency (the “Court”), dated May 11, 2018 (the “Appointment Date”). A copy of the Appointment Order is attached hereto as Appendix B.

1.2.18 The Appointment Order empowered and authorized, but did not obligate the Receiver to, among other things, do the following:

- take possession and control of the Property (as defined in the Appointment Order) and any and all proceeds and receipts arising therefrom;
- manage, operate and carry on the business or to cease operations;
- market any or all of the Property on such terms and conditions of sale as the Receiver deems appropriate;
- sell, convey, transfer, lease or assign the Property; and
- report to, meet and discuss with affected Persons (as defined in the Appointment Order), as the Receiver deems appropriate, all matters relating to the Property and the receivership proceedings.

1.3 Purpose of this Report

1.3.1 This constitutes the Receiver’s First report to the Court (the “First Report”) in this matter and it is filed to:

- Report on the Receiver’s activities in these receivership proceedings since the Appointment Date;
- Report on the results of the Sale Process (as defined herein); and
- Request an Order, *inter alia*:
 - approving the First Report and the activities of the Receiver set out herein;
 - approving the sale transaction contemplated by the asset purchase agreement entered into between the Receiver, as seller, and Locke’s Electrical Limited, as purchaser (the “Purchaser”), dated June 14, 2018, and amended July 5, 2018 (the “Locke’s APA”), pursuant to which the Purchaser agreed to purchase, and the Receiver agreed to sell certain assets of the PTL Group outlined therein (collectively, the “Purchased Assets”);
 - vesting in the Purchaser all of PTL Group’s right, title and interest, if any, in the Purchased Assets free and clear of any and all encumbrances;

- approving the Receiver's interim statement of receipts and disbursements for the period May 11, 2018 to July 20, 2018; and
- such other relief as the Court deems appropriate.

1.4 Scope and Terms of Reference

- 1.4.1** The First Report has been prepared for the use of this Court and PTL Group's stakeholders as general information relating to the PTL Group and to assist the Court in making a determination of whether to approve the relief sought herein. Accordingly, the reader is cautioned that the First Report may not be appropriate for any other purpose. The Receiver will not assume responsibility or liability for losses incurred by the reader as a result of the circulation, publication, reproduction or use of the First Report different than the provisions of this paragraph.
- 1.4.2** In preparing this First Report, the Receiver has relied upon the PTL Group's records and available unaudited financial information. While the Receiver has reviewed certain of PTL Group's records, such work does not constitute an audit or verification of such information for accuracy, completeness, or compliance with Generally Accepted Accounting Principles or International Financial Reporting Standards. Accordingly, the Receiver expresses no opinion or other form of assurances with respect to such information except as expressly stated herein.
- 1.4.3** Capitalized terms used but not defined in this First Report shall have the meaning ascribed to them in the Appointment Order.
- 1.4.4** This First Report, and all court materials and orders issued and filed in these receivership proceedings are available on the Receiver's website at: <http://www.extranets.bdo.ca/PTLGroup> and will remain available on the website for a period of six (6) months following the Receiver's discharge.

2.0

RECEIVER'S ACTIVITIES

2.0 Possession of Property

- 2.0.1 Immediately following its appointment the Receiver attended the PTL Group's Premises to secure the Property. The Receiver reviewed the existing physical security arrangements, changing the passcodes to the gated front entrance to the Premises. The Receiver physically secured the equipment, equipment keys and updated access to only those employees required to have access. The Receiver ensured access to the Premises was supervised during normal business hours, and the gate closed and locked after hours. PTL Group staff were required to attend the Premises 24 hours per day to pick up or drop off equipment or parts for active jobs, and accordingly, it was deemed not feasible to change all the keyed locks to the Premises.
- 2.0.2 Security and safety processes were reviewed with existing staff, with reporting processes updated to include the Receiver.
- 2.0.3 The Receiver located and deposited approximately \$13,100 in cash. A small amount of customer cheques and cash from garage sales was on hand and is included in collection of accounts receivable, and sales respectively.

2.1 Employees

- 2.1.1 As at the Appointment Date, PTL and CSL employed approximately 70 individuals and 10 individuals, respectively.
- 2.1.2 The Receiver met with the management and staff located at the offices of the PTL Group in Southern Harbour, NL to advise them of the Appointment Order and of the intention of the Receiver to continue the operations and business while undertaking a Sale Process (as defined herein). From and after the Appointment Date, the majority of the employees have remained employees of PTL and CSL and accordingly, there are no significant amounts owing at this time pursuant to the *Wage Earner Protection Program Act* ("WEPPA").
- 2.1.3 The Receiver obtained the support of the employee group to continue operations while the Receiver undertook the Sale Process. Without the cooperation of the employee group, the operations would have ceased and the Receiver would not have been able to run a going concern Sale Process.
- 2.1.4 Since the appointment, the Receiver has maintained the workforce with one (1) employee being terminated by the Receiver, and two (2) have resigned.
- 2.1.5 In addition, the Receiver has provided the employee group regular updates on the status of the Sales Process and the administration of the estate.
- 2.1.6 The Receiver understands that the Purchaser will make offers of employment to those employees it wishes to retain as at the Time of Closing.

2.2 Unions

2.2.1 The Company currently operates pursuant to arrangements with the following labour or trade unions (collectively the “Unions”) including:

- Boilermakers Local 203 (the “Boilermakers”);
- International Union of Operating Engineers Local 904 (the “OE’s”);
- Labour’s International Local 1208 (the “Labourer’s”);
- Teamsters Local 855 (the “Teamsters”);
- Carpenters Local 579 (the “Carpenters”);
- International Brotherhood of Electrical Workers Local 1620 (“IBEW”);
- Iron Workers Local 764 (the “Iron Workers”); and
- United Steelworkers Union Local 9097 (the “Steelworkers”).

2.2.2 The Receiver notified the Unions of its appointment and advised of the Receiver’s intention to continue the operations for a limited period through the Sale Process. The Receiver further advised that it will fund the applicable union remittances on behalf of the Company relating to employee union deductions and Company contributions for the period subsequent to May 11, 2018. The Receiver has undertaken a review of the outstanding PTL Group balances owing to the Unions as at May 10, 2018 to determine the portion thereof that have a priority claim.

2.2.3 The Receiver was able to obtain the support of the Unions to continue operating while the Receiver undertook the Sale Process. Without this support, the operations would have ceased and the Receiver would not have been able to proceed with a going concern Sale Process.

2.3 Insurance

2.3.1 As at the Appointment Date, the PTL Group’s insurance coverage included Commercial Liability (“Commercial”), Pollution Liability (“Pollution”) and Automobile Liability (“Automobile”), all of which were coordinated through AON Reed Stenhouse Inc. (“AON”) as the broker and carried by Northbridge General Insurance Corporation (“Northbridge”). The following chart lists the insurance coverage in place as at the Appointment Date:

Policy Type	Insured	Expiry Date	Aggregate Limit	Insurer
Commercial, Pollution, General, Auto	Holdings, PTL, & 926	Dec 31, 2018	\$5,000,000	Northbridge

Commercial, General and Auto	CSL	Dec 31, 2018	\$5,000,000	Northbridge
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- 2.3.2 Following its appointment, the Receiver notified AON of the Appointment Order and had the Receiver added as an additional named insured on the PTL Group insurance policies.
- 2.3.3 The Receiver has reviewed the PTL Group insurance policies with AON and they appear appropriate in the circumstances.
- 2.3.4 AON has confirmed that the insurance policies remain in force and that the Receiver was added as an additional named insured.

2.4 Banking and CIBC

- 2.4.1 As at the Appointment Date, each member of the PTL Group operated with accounts at CIBC. PTL held an Operating Facility with a maximum availability, subject to margining, of \$2.0 million, and Holdings a Demand Term Loan. CSL, Holdings and 926 held current accounts. As at the Appointment Date, the PTL account had an operating line balance prior to ongoing costs and interest of approximately \$1,958,208, Holdings had a balance of \$3,855,235 while the CSL, Holdings, and 926 current accounts, and corporate visa cash collateral held cash balances totaling approximately \$43,782.
- 2.4.2 The Receiver notified CIBC of its appointment and requested that the PTL Group accounts be frozen with respect to disbursements and only be functional for deposit, or as directed further by the Receiver.
- 2.4.3 CIBC, with the authorization of the Receiver, exercised its right of set-off pursuant to Paragraph 9 of the Appointment Order and offset the positive cash balances in the CSL, Holdings, 926 current accounts, and the cash collateral on the corporate visa totaling \$43,782 against the balance of the PTL Operating Facility. Details are set out below.

Account Name	Account #	Balance
PTL Services	000637621310	\$ (1,958,207.85)
CSL Services	000637621019	18,494.44
PTL Holdings	000637621116	16,516.09
9263357 Canada Inc.	000637621213	3,707.36
Corporate Visa	Cash Collateral	5,063.80
Net Loan Position (after set-off)		<u>\$ (1,914,426.16)</u>

- 2.4.4 Collectively, subject to ongoing costs and interest, the balance due to CIBC on appointment is as follows:

<u>Account</u>	<u>Balance</u>
Net Operating Facility	\$ (1,914,426)
Term Loan	(3,855,235)
Balance due to CIBC	<u>\$ (5,769,661)</u>

2.4.5 Numerous customers had arrangements to make direct deposits into the PTL and CSL CIBC accounts, and accordingly, with the Bank's approval, the Receiver maintained the PTL and CSL accounts to avoid any disruption in customer deposits. Additionally, the Receiver maintained the PTL and CSL accounts, and with the Bank's authorization processed certain payments in respect of payroll that needed to be funded, prior to the Receiver's accounts being set up.

2.4.6 The Receiver has established new estate trust accounts for each of PTL CSL, 926 and Holdings in order to administer the estate. The estate trust accounts are reviewed by the Receiver and reconciled on a monthly basis.

2.4.7 The Receiver retains access to the former bank accounts and routinely reconciles any new activity and transfers customer deposits over to the estates trust accounts.

2.5 Parsons Vendors and CSL Vendors ("VTB")

2.5.1 The Receiver has not yet confirmed the position of the VTB holders as of May 11, 2018. Based on the Company records this secured claim, which is subordinated to CIBC, is approximately \$11,500,000.

2.6 Receiver's Notice

2.6.1 Based on the books and records of the PTL Group (the "Books and Records"), the Receiver prepared and issued the prescribed notices (together, the "Receiver's Notices") pursuant to Section 245(1) and 246(1) of the BIA. Copies of the Holdings, PTL, CSL and 926 Receiver's Notices are attached hereto at Appendix C, Appendix D, Appendix E and Appendix F, respectively.

2.7 Creditor Communications

2.7.1 The Receiver has continuously provided updates on the status of the administration of the estate to all stakeholders of the PTL Group. The Receiver has provided regular updates to key creditors, and has responded to creditor inquiries in a timely fashion.

2.8 Ongoing Operations

2.8.1 Subsequent to its appointment, the Receiver contacted the Company's key customers to notify them of the Receiver's appointment and the Receiver's intention to continue to operate the business, to the Receiver's best ability, pursuant to the contracts/agreements in place without disruption, while

undertaking a Sale Process. The key customers, and the majority of all existing customers agreed to continue to support the Company. That support has continued and the PTL Group has been delivering against these contracts in the normal course. However given the insolvency proceeding, and the uncertainty created, the Receiver has not been bidding on any new contracts.

- 2.8.2 Accordingly, the Receiver made arrangements with PTL and CSL suppliers to continue to provide services as necessary. With the exception of one supplier, Madsen Construction Equipment (“Madsen”) who rented certain heavy equipment to PTL, all other necessary suppliers have either cooperated with the Receiver, or alternative suppliers have been sourced. Madsen, without the Receiver’s authority attended the PTL Premises, and 2 PTL customer worksites, and in contravention of the Appointment Order removed 3 pieces of equipment without the Receiver’s consent. The Receiver has reported the matter to the authorities, and to Madsen’s legal counsel. The Receiver made alternative arrangements for the equipment that was removed.
- 2.8.3 As at the Appointment Date, the Company was in the midst of a major turnaround project (the “Turnaround Project”) during a shut-down for NARL Refining LP (“NARL”), and had ongoing projects at Soldier’s Pond for Talon Energy Services and Whiffen Head for IMTT-NTL Ltd. (“IMTT”). All projects at the time of the Appointment Date and/or scheduled to start thereafter, with the exception of one project for Newfoundland & Labrador Hydro, a Nalcor Energy Company, have been continued by the PTL Group.

2.9 Accounts Receivable and Billings

- 2.9.1 The book value of PTL’s and CSL’s accounts receivable (“AR”) as at the Appointment Date totaled approximately \$1,650,000 and \$187,000, respectively. The largest balances owing were due from the Company’s largest customer, NARL, in the amounts of \$868,000 and \$187,000 respectively. To date, the Receiver has collected approximately \$1,360,000 of the opening PTL AR and \$183,000 of the opening CSL AR.
- 2.9.2 During the receivership period through to July 13, 2018, billings generated from ongoing operations totaled approximately \$2,900,000 exclusive of HST, with approximately \$1,100,000 collected as at July 13, 2018. The Receiver notes that arrangements had been made for weekly collections from NARL, however, as discussed further below, liens were filed by two creditors against the NARL operating site and accordingly, NARL has suspended payments. In addition payment terms with Talon Energy Services were amended to have invoices due on receipt.
- 2.9.3 The Receiver is continuing to pursue the collection of the opening AR and ongoing sales.

2.10 Fixed Assets and Inventory

- 2.10.1 The Company has in excess of 225 pieces of owned heavy machinery and equipment, which are rented out to customers and/or utilized in the completion of customer projects. The machinery and equipment includes, but is not limited

to, dump trucks, boom trucks, cranes, etc. Inventory consists of garage and other truck parts, tool crib parts, etc.

2.10.2 In addition, as at the Appointment Date, the Company had capital lease arrangements for 7 pieces of equipment (the “Financed Equipment”) which are financed via Paccar Financial Ltd./Paccar Financial Services Ltd. (“Paccar”), CNH Industrial Capital Canada (“CNH”), and CWB National Leasing Inc., formerly National Leasing Inc. (“National” and collectively with Paccar and CNH the “Equipment Lessors”). Pursuant to the terms of the Locke’s APA, the Purchaser has agreed to assume the leases for the Financed Equipment.

2.11 Real Property

2.11.1 Owned real property and the respective entity which owns the property are as follows:

Municipal Address	Owner	Size
21-23 Marine Drive, Southern Harbour, NL	926	10.83 acres
20 Marine Drive, Southern Harbour, NL	PTL	3.38 acres
48 Alexander Gilbert Road (sometimes referred as being on Refinery Road), Come By Chance, NL	PTL	1.82 acres

2.12 Government Accounts - Canada Revenue Agency Source Deductions

2.12.1 Following the issuance of the Appointment Order, the Receiver notified Canada Revenue Agency (“CRA”) of its appointment. PTL and CSL have employees and a corresponding source deduction account while Holdings and 926 do not have employees.

2.12.2 As at the Appointment Date, the employee source deductions for PTL and CSL relating to the May 5, 2018 payroll that was paid on May 10, 2018, the date prior to the Receiver’s appointment, were outstanding. The Receiver paid the deducted employee taxes, Canada Pension Plan (“CPP”) and Employment Insurance (“EI”) amounts from the May 10, 2018 payroll. Details are as follows:

	PTL	CSL	Total
Employee Deductions	\$ 65,107.51	\$ 3,860.83	\$ 68,968.34
Employer Contributions	10,370.31	419.40	10,789.71
	<u>\$ 75,477.82</u>	<u>\$ 4,280.23</u>	<u>\$ 79,758.05</u>

2.12.3 PTL and CSL records show there is approximately \$13,000 and \$32,000, respectively, in outstanding employer CPP and EI contributions which relates to the May 10 payroll, plus outstanding penalties and interest. The Receiver has requested a source deduction trust examination and is awaiting a reply from CRA.

2.12.4 The Receiver has been filing and remitting in the normal course and on a timely basis post appointment.

2.13 Government Accounts - Canada Revenue Agency HST

2.13.1 The Company has filed all outstanding HST returns that were due as at the Appointment Date. As at December 31, 2017, after consideration of a corporate tax refund, PTL was in an HST refund position and CRA refunded PTL approximately \$226,000.

2.13.2 Based on the PTL records for the period subsequent to December 31, 2017 it appears there is outstanding HST of \$97,500. In addition, CRA has submitted a notification of the reversal of ITC's totaling approximately \$184,000 relating to HST ITC's included in the PTL outstanding accounts payable as at the Appointment Date.

2.13.3 The CSL records show an outstanding HST balance of \$416,000. Similar to PTL, CRA has submitted a notification of the reversal of CSL's ITC's totaling approximately \$17,000 relating to HST ITC's included in the CSL outstanding accounts payable as at the Appointment Date.

2.13.4 The Receiver requested that CRA set up HST accounts in the Receiver's name for future HST filings in respect of PTL, CSL and 926.

2.13.5 The Receiver has been filing and remitting in the normal course and on a timely basis post appointment.

2.14 Government of Newfoundland and Labrador HAPSET

2.14.1 As at the Appointment Date, the PTL and CSL outstanding obligations for Health and Post-Secondary Education Tax ("HAPSET") totaled \$62,000 and \$15,000, respectively. The Receiver is funding the post Appointment Date HAPSET charges.

2.14.2 The Receiver has been filing and remitting in the normal course and on a timely basis post appointment.

2.15 Workplace Newfoundland & Labrador

2.15.1 The Receiver requested and obtained new workers compensation accounts for the post Appointment Date operations and is submitting the applicable amounts. The balance outstanding, or recoverable, on appointment is yet to be determined.

2.15.2 The Receiver has been filing and remitting in the normal course and on a timely basis post appointment

2.16 Liens

- 2.16.1** D.C.H Crane Rentals Ltd. (“DCH”) filed a lien (Mechanic Lien 18808) against the NARL property on May 29, 2018 in the amount of \$1,030,089 (the “DCH Lien”). The Receiver had previously agreed to pay DCH for any invoicing relating to the Turnaround Project and/or other maintenance or capital projects from the time of the Receiver’s appointment, subject to collection of the related PTL invoicing to NARL. Prior to notification of the DCH Lien the Receiver paid \$372,000 to DCH. As a result of the DCH Lien, NARL ceased payments to the Receiver and the Receiver has made no further payments to DCH.
- 2.16.2** On June 22, 2018, DCH filed an amended lien (Mechanic Lien 18833) in the amount of \$829,367 (the “Amended Lien”). In summary, the Amended Lien includes approximately \$23,000 of interest and approximately \$233,000 for invoices dated prior to the Appointment Date and/or prior to 30 days before the DCH Lien was filed. It is the Receiver’s view that these amounts are not lienable. The Receiver, NARL and DCH have agreed to the settlement of the DCH Lien through the payment of \$405,403 from NARL directly to DCH, at which time DCH will withdraw the lien. The Receiver agrees to pay \$167,490 on receipt of the related PTL invoicing to NARL. The balance of the lien, \$256,474, would continue to rank as an unsecured claim in the estate. At the time of the writing of this report the settlement had not yet, but was, expected to be completed.
- 2.16.3** The Receiver had filed an application to vacate the Lien, which was scheduled to be heard on July 19, 2018. The hearing was put over to July 27, 2018 pending conclusion of the settlement.
- 2.16.4** On settlement, the Receiver expects NARL to continue payments in the ordinary course.
- 2.16.5** As a result of the DCH Lien and related dispute, NARL ceased payments for outstanding PTL and CSL invoicing. In order to protect the interests of the PTL Group stakeholders, the Receiver filed a lien against the NARL property (the “Receiver’s Lien”) on behalf of PTL on June 29, 2018 (Mechanics Lien 18844) in the amount of \$1,766,613 and on behalf of CSL on June 29, 2018 (Mechanics Lien 18843) in the amount of \$34,890, which the Receiver intends to remove, upon receipt of the outstanding NARL invoices.
- 2.16.6** Fortis Concrete Inc. (“Fortis”) filed a lien against the NARL property on May 25, 2018 in the amount of approximately \$44,576 (the “Fortis Lien”). In reviewing the Fortis Lien with legal counsel, the Receiver identified that one invoice totaling \$4,456 was issued within 30 days of filing the Fortis Lien which the Receiver has remitted to counsel for Fortis. The Receiver is of the view that Fortis does not have lien rights for the balance of its claim and therefore has filed an application to vacate the Fortis Lien.
- 2.16.7** The Receiver’s application for a hearing to set the date for a hearing on the application to vacate the Fortis lien is scheduled on August 2, 2018.
- 2.16.8** Newcrete Investments GP Ltd. doing business as Capital Precast filed a lien against a property in the Town of Come By Chance on June 1, 2018 in the amount of

approximately \$6,049 (the "Newcrete Lien"). The goods were delivered to the PTL site prior to the appointment, and were subsequently used by the Receiver in the project for the Town of Come By Chance. Accordingly, the Receiver funded the balance of the invoice to Newcrete with agreement that the lien would be vacated upon receipt of the funds.

2.16.9 The Receiver is awaiting documentation of the lien being vacated.

3.0 RECEIVER'S SALE PROCESS AND APA

3.0 Receiver's Sale Process

- 3.0.1** Pursuant to the Appointment Order, the Receiver was authorized to market any or all of the assets and operations of the PTL Group, including advertising and soliciting offers and negotiating such terms and conditions of sale as the Receiver, in its discretion, may deem appropriate.
- 3.0.2** The Receiver outlined its marketing and sale process including the steps and timelines taken by the Receiver in its formal sale process (the "Sale Process") which was distributed to parties that expressed an interest in purchasing the assets of the PTL Group.
- 3.0.3** The Sale Process was included in the Receiver's Confidential Information Memorandum (the "CIM"). A copy of the CIM is attached hereto as Appendix G.
- 3.0.4** The Sales Process was intended to leverage the 4.5 month Strategic Alternatives Process undertaken by the Company prior to the appointment of the Receiver. The Receiver is of the view that, when combined with the 5 week Receiver's advertising process, it appropriately balances the competing interests of maximum exposure of the opportunity in the marketplace against the costs and risk of continuing operations of the PTL Group, in receivership.
- 3.0.5** On appointment the Receiver took custody and control of the Company's data room and updated the related materials and immediately began to market the assets of the PTL Group for sale.
- 3.0.6** The following is a summary of the key steps of the Sale Process that were undertaken by the Receiver (all capitalized terms used in this Section but not otherwise defined in this First Report shall have the meanings ascribed to them in the Sale Process):
- **Direct Marketing Effort** - Developed a list of potential purchasers (known through the Strategic Alternatives Process, operations, and new parties as identified by the Receiver) and notified them by sending a Teaser Letter (as defined in the Sale Process). A copy of the Teaser Letter is attached hereto as Appendix H.
 - **Advertising** - The Receiver marketed the opportunity, primarily in Atlantic Canada, through the following channels in order to maximize the exposure of the opportunity to the marketplace:
 - A link to the Teaser was posted on Insolvency Insider which is distributed to a wide range of insolvency and restructuring professionals across Canada. The link was available weekly from May 22, 2018 through to the initial bid deadline;

- The Heavy Civil Association of Newfoundland and Labrador e-mailed the Teaser Letter to its approximately 40 members during the week of May 21 to 25, 2018;
- An advertisement on AllNewfoundland.com and AllNovaScotia.com ran for 10 business days commencing May 28, 2018, and placed an advertisement in 3 issues of the St. John’s Telegram on May 30, June 2 and June 6, 2018. A copy of the Advertisement is attached hereto as Appendix I;
- The Receiver is confident that the advertising of the Sales Process resulted in significant exposure of the Sale Process to possible interested parties.
- Upon execution of a confidentiality and non-disclosure agreement (the “NDA”) provided by the Receiver, potential purchasers were provided with the CIM and with an opportunity to commence due diligence, including gaining access to the Receiver’s Data Room, where additional confidential information was made available by the Receiver, and/or gaining access to and touring the Premises and operations;
- Bidders were required to provide a deposit of not less than 15% of the purchase price offered (the “Deposit”) and to submit their bids in the form of the template asset purchase agreement (the “Template APA”) provided by the Receiver; and
- The Receiver provided a deadline of 2:00 p.m. NDT on Thursday, June 14, 2018 (the “Bid Deadline”) to submit binding offers in accordance with the Sale Process.

3.0.7 As a result of the foregoing, the Receiver was in contact with a total of 47 potential interested parties, 31 of whom requested the NDA. Thereafter, 27 signed and returned a form of the NDA, and accessed the Data Room. A total of 9 bids were submitted to the Receiver.

3.0.8 The Initial Bids included: (i) five (5) bids from auctioneers/liquidators who submitted liquidation bids on a net minimum guarantee (“NMG”) basis or for a direct outright purchase of the Company’s machinery and equipment; (ii) two (2) bids from parties that met the Receiver’s criteria of utilizing the Template APA (the “Qualifying Bidders”); and (iii) two (2) letters of interest (the “Non-Binding LOIs”).

3.0.9 The details of the Initial Bids are included in Appendix J attached hereto, the high level details of which are summarized below:

Bidder	Purchase Price	Deposit	Key Conditions / Notes
10651 Newfoundland Inc. (“10651”) Via JSM Electrical	\$4.2 million; Including AR;	\$630,000	<ul style="list-style-type: none"> • LOI submitted; • Offer expired on June 8, 2018;

			<ul style="list-style-type: none"> Evidence of deposit provided;
Locke's Electrical Limited ("Locke's")	\$4.1 million; Excluding AR; Assumed Equipment Leases;	\$615,000	<ul style="list-style-type: none"> Offer conditional on NARL's consent to the assignment of two contracts;
81966 Newfoundland Inc. ("81966") Via Terry King & Greg Drodge	\$6.8 million; Includes \$500,000 of closing AR; Assumed Equipment leases;	\$1,020,000	<ul style="list-style-type: none"> Offer subject to financing; Assigned contracts for all PTL Group customers and other contracts; Releases by CIBC and VTB Holders;
RothLochston Constructors Inc. ("Roth")	\$4.5 million; Excluding AR; Assumed Equipment Leases;	\$675,000	<ul style="list-style-type: none"> Letter of interest submitted in line with APA Template outlining conditions of the bidder including: Assigned contracts with all counterparties agreeing to release and hold harmless the Purchaser; Agreements/ Memorandums of Understanding with two Unions;
Maynards Industries Canada Ltd. ("Maynards")	\$3.135 million NMG	NONE	<ul style="list-style-type: none"> Net Minimum Guarantee with 95%/5% split above NMG in favour of the Receiver;
Infinity Assets ("Infinity")	\$3.05 million NMG	\$500,000	<ul style="list-style-type: none"> Net Minimum Guarantee with 85%/15% split above NMG in favour of the Receiver;

Other Liquidators (3)	NMG or direct purchases ranging from \$2.4 million to \$3.0 million		<ul style="list-style-type: none"> Only one party submitted a deposit, however, their submission was significantly below Infinity and Maynards;
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3.1 Review of Initial Bids:

- 3.1.1 The letter of intention from 10651 was submitted prior to the Receiver’s bid deadline and had an expiry date of June 8, 2018, which was prior to the Sales Process Bid Deadline. The 10651 bid included AR outstanding as at the Closing Date. After review it was deemed not acceptable by the Receiver. Accordingly, the Receiver advised 10651 that the Receiver was not in a position to accept its bid.
- 3.1.2 As outlined in the chart above, each of the bids submitted by Locke’s, 81966 and Roth’s included conditions which required the consent of third parties and were not conditions that could be satisfied by the Receiver. These conditions included assignment of PTL Group contracts, releases from certain secured lenders, and amendment to union agreements. Locke’s was seeking the consent to the assignment of customer contracts; Roth’s was seeking amended agreements with Unions and assignment of certain PTL Group contracts; and 81966 included a financing condition as well as the assignment of all customer and other contracts, and releases by two secured creditors.
- 3.1.3 Following its review of the terms and conditions contained in the Initial Bids, the Receiver sought clarification and/or additional information from all of the prospective purchasers to consider their bids. Based on the results of those discussions and correspondence, the Receiver asked the 3 remaining operating bidders Locke’s, 81966 and Roth to seek to satisfy or lift the various terms and conditions contained in their bids. The Receiver provided a further deadline of Thursday, July 5, 2018 for these three bidders to respond.
- 3.1.4 The top two liquidation bidders, Infinity and Maynards, were also provided the same further deadline of Thursday July 5, 2018 to alter/improve their bids.
- 3.1.5 In the intervening period, the Receiver worked to coordinate meetings and/or discussions between the bidders and the respective unions and/or customers which the bidders were seeking consent/agreement.

3.2 Review of Revised Bids

- 3.2.1 On or before July 5, 2018, the Receiver received responses and/or revised bids from each of the aforementioned bidders (the “Revised Bids”) as follows:
- a. Maynards did not submit a revised bid;
 - b. Infinity increased its NMG to \$3.2 million;

- c. Roth was not able to clear its conditions relating to certain agreements they were seeking from certain Unions and accordingly, they withdrew their bid submission on July 5, 2018;
- d. Locke's submitted an unconditional (except requirement for court approval) revised bid in the amount of \$4.1 million (same as their prior bid), excluding their prior condition requiring NARL to consent to the assignment of 2 contracts. As a result, the Receiver would be in a position to accept the Locke's bid, subject to Court approval;
- e. 81966 submitted a revised bid, reducing their purchase price from \$6.8 million down to \$6.5 million which the Receiver understands reflects the anticipated lost revenue from customers that had confirmed to 81966 during the extension that they will not consent to an assignment of their contract(s). Other key conditions remained including: (1) financing; (2) assignment of PTL Group customer agreements; (3) the releases of CIBC and the VTB holders; and 4) close date no earlier than August 7, 2018.

3.2.2 The Receiver also requested that the bidders disclose any relationships that may be considered not at arm's length. The following was disclosed:

- Locke's - The bidder disclosed that a member of the VTB holders was part of the bid; and
- 81966 - The bidder disclosed that the group consisted largely of the shareholders of the PTL Group.

3.2.3 Based on the Receiver's review, and discussions with 81966 or its advisors, the Receiver had the following significant concerns regarding the 81966 bid:

- The financing condition was subject to arrangement with NextEdge Commercial Finance ("NextEdge"). It also provided the bidder the right to terminate the agreement anytime, without penalty. In discussion with 81966, they had advised that they had not started the NextEdge required due diligence given the significant up front cost (\$50,000 due diligence fee plus equipment appraisal). The Receiver does not feel the bidder can achieve the conditions in the NextEdge LOI, namely:
 - a) Term loan not to exceed 75% of appraised value of 21-23 Marine Drive and 75% of the FSV of the equipment appraisal. The equipment appraisal to be prepared by 81966 for NextEdge remains outstanding. Based on appraisals in the possession of the Receiver there is significant risk this condition would not be achieved;
 - b) Evidence of a minimum \$1,500,000 equity injection. No evidence supporting this condition was provided by the bidder during the process. In addition, during the Strategic Alternatives Process, the directors indicated an injection of capital by the shareholders was not plausible;

- c) Satisfactory review of all contracts and agreements including evidence of payment history (problematic given certain customers had already advised they would not assign the contract(s) which resulted in a reduced bid);
 - d) Satisfactory review of updated financial forecast including balance sheet, income statement and cash flow for the next 12 months (problematic given lack of certainty around assignment of customer contracts); and
 - e) The NextEdge LOI had expired June 30, 2018;
- Receiver has no ability to control which customers, if any, would agree to an assignment of contracts. Those contacted in the process were either non-committal or indicated they would NOT consent to an assignment to 81966;
 - CIBC would likely only provide releases should they be paid in full, and the Receiver has no ability to control whether the VTB holders would provide a release; and
 - The close date of no earlier than August 7, 2018, was driven by the estimated time for the financing due diligence period. This period is a significant amount of time creating significant cost and risk for the Receiver in respect of a bid that was not in a position to waive its conditions compared to accepting a bid that had no conditions and could be closed.

3.2.4 The following chart illustrates a comparison of the anticipated gross realizations from the sale of the assets and collection of outstanding receivables:

Description	Locke's	81966
Purchase Price	\$ 4,100,000	\$ 6,500,000
AR Excluded	2,000,000	1,500,000
Estimated Gross Realizations	<u>\$ 6,100,000</u>	<u>\$ 8,000,000</u>

Notes:

(1) For purposes of comparing the bid submissions, the Receiver utilized the PTL and CSL AR balances outstanding as at July 6, 2018 net of the DCH Lien amount.

(2) 81966 Bid included \$500,000 of AR at the Time of Closing.

3.2.5 As is illustrated, on an overall basis, the anticipated gross realizations from the 81966 bid submission is greater compared to Locke's, however, based on the various concerns outlined above in respect of the numerous conditions in the 81966 bid, the Receiver is of the view that those conditions, many beyond its control, and the increased costs related to the longer timeframes, make accepting the bid very risky with the possibility of closing highly suspect. In comparison, there are no conditions (with the exception of Court approval) associated with accepting the Locke's bid, and Locke's provided evidence to the Receiver, from its Bank, that it has the financial capacity to close.

- 3.2.6 The Locke's bid provides a greater estimated realization, when compared to the Infinity bid submission, the highest liquidation bid. A liquidation bid, which would result in a liquidation of the assets and cessation of operations is inferior, primarily as a result of the anticipated negative impact on the collection of accounts receivable related to incomplete contracts.
- 3.2.7 Comparing the Infinity liquidation bid with the purchase price allocation submitted by Locke's, the Infinity offer on the machinery and equipment is superior, however, a liquidation of the assets would lead to a complete shut-down of the business, loss of jobs, and the cessation of services to customers which would be expected to negatively impact AR collections. Further, the real property would be vacated and listed for sale, with no prospect of a sale in the short-term thereby impacting its net realizations, as illustrated in the chart below:

Description	Locke's	Infinity / Liquidation
Machinery & Equipment	\$ 2,800,000	\$ 3,200,000
Real Property	1,300,000	740,000
AR	2,000,000	1,200,000
Estimated Gross Realizations	<u>\$ 6,100,000</u>	<u>\$ 5,140,000</u>

Notes:

(1) The Locke's figures for M&E and Real Property are based on their bid submission in comparison to the Infinity NMG offer. The Real Property in the Liquidation analysis is based on the Altus forced sale value.

(2) A liquidation would result in the cessation of operations and have a negative impact on AR realizations. For purposes of this analysis, we applied a 40% reserve against AR on a liquidation basis.

3.3 Sale Transaction

- 3.3.1 As a result of a review of the Revised Bids, the Receiver accepted the Locke's bid and entered into an asset purchase agreement (the "Locke's APA") subject to Court approval.
- 3.3.2 The Receiver prepared an estimated net realization analysis comparing the anticipated results on a liquidation basis versus a sale to Locke's. Based on the estimates therein, the Receiver estimated a shortfall to the Bank of \$2,100,000 in a liquidation scenario compared to an estimated shortfall of \$770,000 in completing the Locke's APA. In either scenario, based on the assumptions therein, there are no expected funds available for distribution to the VTB Holders who are the next highest ranking secured creditor.
- 3.3.3 An appraisal of the real property was performed by Altus Group ("Altus") in December 2017, a copy of which is attached as Appendix K. Altus provided an estimated fair market value of \$1.24 million which is in line with the purchase price allocation by

Locke's. In comparison, the Altus forced sale value was estimated at \$740,000 and required a holding period of 3 to 6 months, with additional costs to the estate.

- 3.3.4 Prior to the appointment of the Receiver, the Company engaged Fitzpatrick's Auctioneers Liquidators and Appraisers ("Fitzpatrick's") who provided an appraisal on a liquidation value basis of \$6.1 million (the "Fitzpatrick Appraisal"). Castle Appraisals Ltd. ("Castle") reviewed the Fitzpatrick Appraisal and assessed a net liquidation value thereof in the amount of \$3.1 (the "Castle Valuation") to reflect a discount to represent the use of average prices opposed to highest price and to reflect additional costs to consider the location. Copies of the Fitzpatrick Appraisal and Castle Valuation are attached hereto as Appendix L and Appendix M, respectively. The Castle Valuation is in line with the highest NMG bids received in the Sale Process.
- 3.3.5 In comparison to a liquidation of the PTL Group assets, and the other bids submitted, and asset appraisals, the Receiver is of the view that the proposed Sale Transaction to Locke's for the Purchased Assets is in the best interests of stakeholders.

3.4 Locke's APA

- 3.4.1 The Receiver is of the view that the Locke's Sale Transaction represents the best value for the Purchased Assets, and is in the best interest of stakeholders in the circumstances. The Receiver has discussed the terms of the Sale Transaction with PTL Group's two largest secured creditors - CIBC has advised that they support the Receiver's recommendation and the VTB Holders have advised they do not oppose the Receiver's recommendation with respect to closing the Sale Transaction. A copy of the Locke's APA is attached hereto as Appendix N.
- 3.4.2 Accordingly, the Receiver is seeking approval of the Sale Transaction contemplated by the Locke's APA, with such minor amendments as the Receiver may deem necessary or appropriate. In addition, the Receiver is seeking the vesting of the Purchased Assets in the Purchaser pursuant to an approval and vesting order in a form consistent with other similar orders approved by the Court, to be effective upon the Receiver filing a Receiver's Certificate which confirms that the terms and conditions of the Locke's APA have been satisfied to the Receiver's satisfaction.

3.5 Assets Available for Realization

- 3.5.1 If the Locke's APA is approved by this Court, the Excluded Assets as defined in the Locke's APA, which primarily include AR as at the Closing Date, will be available for the benefit of the estate. The remaining assets will be realized by the Receiver and, together with the sale proceeds generated from the Sale Transaction, will be distributed pursuant to further Order(s) of this Court.

4.0 STATEMENT OF RECEIPTS & DISBURSEMENTS

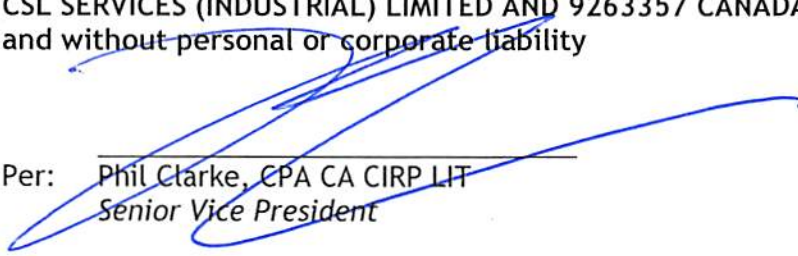
- 4.1 Appendix O, attached, presents a summary of the Receiver's interim statement of Receipts and Disbursements for the period May 11, 2018 to July 20, 2018 (the "Receiver's Interim R&D"). As is illustrated, receipts total approximately \$3,870,000, primarily related to collection of opening AR and ongoing sales, the deposit on the sale of the Purchased Assets and an HST refund.
- 4.2 The Receiver has made disbursements of approximately \$2,575,000, primarily related to payroll and related remittances and operating costs. Accordingly, as at July 20, 2018 the Receiver has net funds in its accounts of approximately \$1,295,000.

5.0 RECOMMENDATIONS

- 5.1 The Receiver respectfully submits this First Report to the Court in support of the Receiver's motion for an Order:
- approving the First Report and the Receiver's activities as outlined herein;
 - authorizing and directing the Receiver to complete the Sale Transaction as contemplated by the Locke's APA, with such minor amendments as the Receiver may deem necessary or appropriate;
 - vesting the Purchased Assets in the Purchaser free and clear of all encumbrances pursuant to an approval and vesting order to be effective upon the Receiver filing of the Receiver's Certificate; and,
 - approving the Receiver's Interim R&D.

All of which is respectfully submitted this 26th day of July, 2018.

BDO CANADA LIMITED,
in its capacity as COURT-APPOINTED RECEIVER OF
PTL HOLDINGS LIMITED, PTL SERVICES (EQUIPMENT) LIMITED,
CSL SERVICES (INDUSTRIAL) LIMITED AND 9263357 CANADA INC.
and without personal or corporate liability

Per: 
Phil Clarke, CPA CA CIRP LIT
Senior Vice President

APPENDIX A

APPENDIX B

APPENDIX C

APPENDIX D

APPENDIX E

APPENDIX F

APPENDIX G

APPENDIX H

APPENDIX I

APPENDIX J

APPENDIX K

APPENDIX L

APPENDIX M

APPENDIX N

APPENDIX O