

District of Ontario  
Division No. 07-Hamilton  
Court File No. 32-2211776  
Estate No. 32-2211776

*ONTARIO*  
SUPERIOR COURT OF JUSTICE  
IN BANKRUPTCY

IN THE MATTER OF THE PROPOSAL OF  
PV LABS INC.  
OF THE CITY OF BURLINGTON,  
IN THE REGIONAL MUNICIPALITY OF HALTON,  
IN THE PROVINCE OF ONTARIO.

FIRST REPORT OF THE PROPOSAL TRUSTEE  
JANUARY 30, 2017

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## INTRODUCTION

1. PV Labs Inc. (“PVL” or the “Company”) is a corporation incorporated pursuant to the *Business Corporations Act* (Ontario) and designs and develops turnkey aerial imaging systems for the (a) cinema, (b) intelligence, surveillance, reconnaissance, and (c) aerial survey markets. PVL currently employs 31 individuals, of which 19 are engineers, and operates out of a leased facility located in Burlington.
2. The Company maintains a 100% ownership in Pictorvision Holdings Inc., a Delaware company whose sole asset is all of the shares of Pictorvision Inc. (“Pictorvision”), another Delaware company. Pictorvision leases out imaging systems under an arrangement with a California-based supplier of telescopic cranes.
3. The Company also owns a minor interest (less than 5%) in GeoDigital International Inc. (“GDI”), which mainly provides aerial survey solutions for the power utility market.
4. On January 27, 2017, PVL filed a Notice of Intention to Make Proposal (“NOI”) under the *Bankruptcy and Insolvency Act* (Canada) (“BIA”). BDO Canada Limited was named as the Proposal Trustee (“Proposal Trustee”) in the proposal proceedings (“Proposal Proceedings”). A copy of the Certificate of Filing of a Notice of Intention to Make a Proposal dated January 27, 2017 is attached hereto as **Appendix ‘A’**.
5. The primary purpose of the Proposal Proceedings is to facilitate a restructuring of PVL by raising necessary funding through any or a combination of:
  - a sale of all or a portion of the Company’s assets and operations;
  - the refinancing of the Company’s secured and other liabilities; and/or
  - an equity investment by a new investor.
6. This is the first report of the Proposal Trustee (“Report”) to be filed in the Company’s estate. The purpose of this Report is to:
  - a) Provide this Court with information regarding:
    - (i) The activities of the Proposal Trustee;

- (ii) The proposed Sale and Investor Solicitation Process (“SISP”) (as described elsewhere in this Report);
  - (iii) Cash flow requirement for DIP financing; and
- b) Support the Company’s request for an order which:
- (i) Approves the SISP;
  - (ii) Authorizes the Proposal Trustee to carry out the SISP and take such incidental steps as it considers necessary or desirable in the circumstances to complete the SISP;
  - (iii) Approves a \$250,000 first ranking priority charge over all of the Company’s assets, undertakings, and property (the “Administration Charge”) in favour of the Proposal Trustee, the Proposal Trustee’s legal counsel, Pallett Valo LLP (“Pallett Valo”), and the Company’s legal counsel, Chaitons LLP (“Chaitons”, and together with the Proposal Trustee and Pallett Valo, the “Professional Group”) to secure payment of their professional fees and disbursements. The Administration Charge shall rank in priority to all other charges;
  - (iv) Authorizes the Company to enter into arrangements with 902878 Ontario Limited (“902”) to obtain financing of up to \$1,500,000 (the “DIP Facility”) to facilitate the continued operations of the Company during these proceedings and approves an \$1,500,000 priority charge over all of the Company’s assets, undertakings and property (the “DIP Charge”) in favour of 902 to secure repayment of the financing. The DIP Charge shall rank in priority to all other obligations other than the Administration Charge, statutory super priority deemed trusts and liens for unpaid source deductions and such other permitted priority encumbrances as may be agreed to in writing by 902.
  - (v) Approves a \$150,000 priority charge over all of the Company’s assets, undertakings, and property (the “D&O Charge”) in favour of the Company’s officers and directors to mitigate any exposure faced by them

in respect of obligations and liabilities that they may incur as directors and officers during the Proposal Proceedings. The D&O Charge shall rank in priority to all security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise, other than the Administration Charge and the DIP Charge.

- (vi) Approves an extension of the stay of proceedings of 45 days and the time by which to file a proposal from February 26, 2017 to April 12, 2017; and
  - (vii) Approves the Report of the Proposal Trustee.
7. This Report is to be read in conjunction with the affidavit of Mark Chamberlain sworn on January 27, 2017 (the “Chamberlain Affidavit”).
  8. In preparing this Report, the Proposal Trustee has relied upon unaudited financial information prepared by the Company’s representatives, the Company’s books and records and discussions with its representatives. The Proposal Trustee has not performed an audit or other verification of such information. An examination of the Company’s financial forecasts as outlined in the Canadian Institute of Chartered Accountants Handbook has not been performed. Future oriented financial information relied upon in this Report is based on assumptions formulated by the Company’s representatives regarding future events; actual results achieved may vary from this information and these variations may be material.

## **BACKGROUND**

9. As reported above, PVL designs and develops turnkey aerial imaging systems, which technology is used for, among other things, i) cinema, ii) surveillance, and iii) reconnaissance. PVL’s customers include film studios, various levels of governments and military.
10. PVL’s expertise is in the development of solutions that require high performance gimbal stabilization (a gimbal is a platform that can pivot enabling a video recording device to remain stable and fixed), optics and data management that leverage common software and hardware components.

11. PVL has recently developed the next generation of stabilization technology. This technology represents the fifth generation of stabilization technology (“GEN V”) and is the first platform stabilization technology to utilize a six degree of freedom “Flex-Pivot-Isolator” to replace the traditional mechanical constraint system in a gimbal. The new technology includes both software and hardware that enable a structure to provide a simple, direct support for the imager.
12. A summary of the history of platform stabilization technology from first generation to the current, fifth, is as follows:
  - (i) Gen-I  
Semi-active stabilization: Inertia is dominant feature
  - (ii) Gen-II  
Classic Active Gimbal System (large travel, direct drive actuators closing rate loops)
  - (iii) Gen-III  
Limited travel, high bandwidth, inner gimbal mounted on a large travel, low bandwidth, outer gimbal. Passive isolation mounted between inner and outer gimbals.
  - (iv) Gen-IV  
Unconstrained Voice Coil Actuator Inner Gimbal version of Gen-III with very high bandwidth inner gimbal.
  - (v) Gen-V  
Gimballess 6 DOF Gen-IV with semi-active isolation. 6 DOF Flex Pivot Isolator array replaces gimbal bearings, constraint structure, and passive isolation. Provides a simple, direct, structural support for the payload.
13. Currently there are products offered by PVL competitors that use a similar technology or provide the same level of performance. The competitive advantage of the GEN V

technology based products is its significant improvements in size, weight and performance. PVL has patented its technology.

14. PVL currently employs 31 non-unionized individuals, including 19 engineers, and anticipates the continued employment for its entire workforce during its restructuring.

### **Secured Lenders and Trade Creditors**

#### **Royal Bank of Canada**

15. PVL maintains a revolving line of credit with Royal Bank of Canada (“RBC”) in the maximum amount of \$600,000. RBC holds a general security interest against all of PVL’s assets which has been registered under the *Personal Property Security Act* (Ontario) (the “PPSA”). As of the date of this Report PVL is indebted to RBC in the amount of \$376,000.
16. It is the intent of the Company to use the DIP Facility to pay out RBC in full.

#### **Business Development Bank of Canada**

17. Business Development Bank of Canada (“BDC”) granted a loan to PVL in the amount of \$2,500,000. BDC holds a general security interest against all of PVL’s assets which has been registered under the PPSA.
18. PVL is in default under its obligations owed to BDC, which is in a position to demand repayment in full of all amounts owed. As of the date of this Report, PVL’s indebtedness to BDC is approximately \$2,165,000.

#### **PV Labs Capital Corporation**

19. PV Labs Capital Corporation (“PVLCC”) granted, among other things, a convertible loan to PVL in the amount of \$2,000,000. PVLCC holds a general security interest against all of PVL’s assets which has been registered under the PPSA.
20. The term of the loan by PVLCC expired in 2014, at which time all amounts properly owed to PVLCC became repayable, subject to the terms of the agreements between the parties. PVL and PVLCC disagree on some of the terms of the agreement and



have been attempting to resolve the various issues between them. As at the date of this Report, certain issues remain unresolved.

21. PVL is in default under its obligations owed to PVLCC. On January 18, 2017, PVLCC issued a demand letter to PVL, along with a Notice of Intention to Enforce Security, pursuant to subsection 244(1) of the BIA. A copy of PVLCC's demand is attached hereto as Appendix 'B'.

#### **902878 Ontario Limited**

22. On or around July 27, 2016, 902878 Ontario Limited ("902") financed PVL's 2016 Scientific Research and Experimental Development ("SRED") tax credit. PVL estimated its 2016 SRED refund to be approximately \$1,300,000. PVL's revolving credit facility with 902 was for a maximum amount of \$1,000,000.
23. PVL granted security to 902 over all of its existing and after-acquired personal property. Additionally, PVL assigned to John Heersink, the principal of 902, its rights to all amounts payable to it under the federal Scientific Research and Experimental Development Tax Incentive Program ("SRED") for the fiscal year ending September 30, 2016. 902's security interest was registered under the PPSA.
24. On or about January 19, 2017, PVL received its 2016 SRED tax credit, totaling \$1,338,209, and subsequently remitted \$1,007,808.22 to 902 in full satisfaction of outstanding principal and interest.
25. PVL is currently not indebted to 902.

#### **Other Creditors**

26. Other creditors include the following:
  - a) Various leasing and financing companies with specific registrations against computers, photocopiers and software, including Xerox Canada Ltd., National Leasing Group Inc., and Dell Financial Services Canada Limited;
  - b) Trade and other creditors who are owed approximately \$1,700,000 as at January 27, 2017; and

- c) Customer advances of approximately \$1,100,000 as of January 27, 2017.

**Events Leading to NOI**

- 27. Over the past 4 years, PVL invested approximately \$10 million in the development of its proprietary GEN V technology and gimbal.
- 28. Based on the strength from customer interest and an initial order for five PV-15 units (incorporating a 15” gimbal), PVL began purchasing the necessary inventory for production.
- 29. However, the initial commercial product based on the GEN V technology was delayed approximately one year due to technical design problems and supplier delays.
- 30. The first completed PV-15 was shipped in or around December 2016. The delayed delivery of the first units has resulted in a significant delay in revenue, while at the same time inventory has increased significantly.
- 31. Additionally, the ongoing dispute with PVLCC has prevented PVL from obtaining additional financing to fund the cash shortfall and capitalize the Company.
- 32. PVL currently finds itself in a significant cash shortage, unable to meet immediate financial and operating obligations and subject to PVLCC’s demand.
- 33. The Company’s management initiated the Proposal Proceedings in consideration of the following:
  - a) PVL has insufficient working capital to continue operations;
  - b) PVLCC issued its demand letter, along with its Notice of Intention to Enforce Security, on January 18, 2017;
  - c) Without a stay of proceedings and the ability to borrow funds on a super-priority basis, there would be no readily available source of liquidity such that PVL could continue to meet its working capital obligations as they come due and continue to operate in the ordinary course of business; and

- d) Management's view is that a sale or refinancing of the Company's assets and business operations is necessary to restructure the underlying business operations and maximize the repayment of the Company's obligations to stakeholders.

34. In filing the NOI, management's objective is to:

- a) Obtain a stay of proceedings to preserve the status-quo;
- b) Create a court-supervised environment to allow management to focus on satisfying immediate cash-flow needs and stabilize the business and operations of the Company; and
- c) Implement the Company's restructuring plan within a transparent court-supervised environment: (i) first, to authorize the Proposal Trustee to administer and oversee a court-approved marketing and sales process to sell all or a portion of the Company's assets and operations; and (ii) second, to work with the Proposal Trustee to solicit equity injections in and to the Company's operations, all of which will contribute to the Company's goal of developing and presenting a proposal for creditors.

## ACTIVITIES OF THE PROPOSAL TRUSTEE

### Notice to Creditors

35. In accordance with its obligations under the BIA, the Proposal Trustee issued a notice by mail on January 30, 2017 to all known creditors of the Company regarding the filing of the NOI. In addition, the Proposal Trustee will post certain court documents and other information about the proceedings at its website, [www.extranets.bdo.ca/pvlabs](http://www.extranets.bdo.ca/pvlabs).

### Cash-flow Projection

36. The Company's cash-flow projection and related assumptions for the 13 week period ending April 28, 2017, together with management's report on the cash-flow projection (as required under subsection 50.4(2)(c) of the BIA) is attached as Appendix 'C'.

37. The cash-flow projection demonstrates that absent the DIP Facility, PVL forecasts a projected shortfall of approximately \$1,480,000 up to April 21, 2017.
38. Based on the Proposal Trustee's review of the cash-flow projection, there are no material assumptions which seem unreasonable in the present circumstances. The Proposal Trustee's report for the Company on the cash-flow projection (as required under subsection 50.4(2)(b) of the BIA) is attached as **Appendix 'D'**.
39. The Company's cash-flow projection reflects management's assumption that the Company will stay current with post-filing obligations for trade purchases and other ordinary business expenditures. However, the Company is not expected to generate sufficient cash-flow during the restructuring period to pay all professional costs as they are incurred. As a result, the Company is seeking a charge over its assets to support its ongoing and accruing obligations to its restructuring professionals, as discussed below.

#### **Monitoring Receipts and Disbursements**

40. The Proposal Trustee has arranged reporting and monitoring processes with management, including reviewing all cash-flow and financial reporting and receipts and disbursements of the Company on a weekly basis.

#### **SALE AND INVESTOR SOLICITATION PROCESS**

41. The Proposal Trustee, in conjunction with the Company's management, has developed a sale and investor solicitation process ("**SISP**") for the Company's assets and operations. A summary of the process, substantially in the form as attached, is appended as **Appendix 'E'**.
42. By way of overview, the SISP will proceed as follows:
  - a) The Proposal Trustee will administer and implement the SISP;
  - b) The Proposal Trustee, with the assistance of the Company's management, will prepare a list of prospective and strategic targets who may be interested in

purchasing/financing/investing in the Company's assets and operations on a going-concern basis (each, a "**Potential Bidder**");

- c) The Proposal Trustee will prepare a "teaser" setting out the purchasing/financing/investing opportunity to be delivered to the Potential Bidders to elicit interest;
- d) The Proposal Trustee will publish an advertisement in the national edition of The Globe and Mail to canvas further interested bidders, all of whom shall be added to the list of Potential Bidders;
- e) The Proposal Trustee will prepare a confidentiality agreement (the "**CA**") which will be provided to those Potential Bidders who have indicated an interest in further exploring the purchasing/financing/investing opportunity;
- f) The Proposal Trustee will prepare a confidential information memorandum (the "**CIM**") which will provide a concise summary of the Company's assets and operations and which will allow prospective bidders who have signed a CA to initially assess the Company's financial and operating situation and the purchasing/financing/investing opportunity. The CIM will focus high level on those key business and investment highlights that are most relevant to a range of prospective bidders. The CIM will set out:
  - a. a timeline for the SISP, including the submission of formal offers, a proposed date for closing a successful bid, and general information on proposed terms (including the form of consideration, deposit details and requisite proof of financial capacity of the prospective bidder to complete their bid);
  - b. a detailed outline of the assets available for purchase;
  - c. the form of non-binding letter of intent ("**LOI**") which Potential Bidders will have to complete and submit to the Proposal Trustee;

- d. the form of binding offer letter (“Offer Letter”) which Potential Bidders (who have previously submitted an LOI) will be required to submit to complete their bid;
  - g) Potential Bidders that sign a CA will be provided with the CIM;
  - h) Potential Bidders will be required to deliver an executed non-binding LOI by the stipulated deadline date;
  - i) The Proposal Trustee will review all LOIs and determine which parties will be provided access to a comprehensive electronic data room (the “Data Room”) that will include all relevant financial, operational and corporate data that would reasonably be required by a Potential Bidder in the due diligence process. The Company will assist the Proposal Trustee in compiling data for the due diligence review;
  - j) Potential Bidders will have approximately 2 weeks to review the CIM, access and review the due diligence information contained in the Data Room, and to submit a binding Offer Letter;
  - k) Upon the deadline for receipt of Offer Letters, the Proposal Trustee (with the consultation of the Company and affected stakeholders, as may be appropriate) will review all Offer Letters submitted and determine whether additional negotiations are required in order to select the successful bid(s);
  - l) After execution of an agreement (the “Agreement”) with the successful bidder, the Company will seek any Court approval required with respect to the Agreement.
43. The closing of any sale(s) of the Company’s assets and other interests shall be conditional upon approval of the Court.
44. The timeline for the SISP will be as follows (subject to necessary adjustment as may be determined by the Proposal Trustee):

Distribution Date for Teaser..... February 3, 2017

|   |                   |
|---|-------------------|
| Suggested deadline for receipt of LOIs.....                                 | February 22, 2017 |
| Deadline for receipt of Offer Letters.....                                  | March 8, 2017     |
| Deadline for negotiations with a bidder and execution of the Agreement..... | March 15, 2017    |
| Transaction approval hearing at court.....                                  | March 29, 2017    |
| Closing of approved transaction.....  | April 14, 2017    |

45. The SISP is designed to be completed by the end of April 14, 2017. The timeframe was developed in consideration of the following factors:
  - a) Management’s advice that the pool of potentially interested parties for the business may be limited given the scope of the business and industry;
  - b) DIP Facility available;
  - c) Maintenance of goodwill; and
  - d) There is a concern that a longer SISP might create instability that would negatively impact PVL’s relationship with customers.
46. The SISP is necessary to permit the Company to determine whether a transaction is available that would allow the Company to develop and file a meaningful proposal to its trade and other unsecured creditors after payment of its secured obligations. Conducting the SISP will allow this assessment without any obligation on the part of the Company to accept any offer received.
47. The SISP preserves this Court’s authority to approve any sale under section 65.13 of the BIA.
48. The Proposal Trustee will administer and oversee the SISP at the Company’s request. The Proposal Trustee has considerable experience in conducting such processes and is qualified to do so. The Proposal Trustee will conduct the SISP in accordance with the order being sought and will fulfill its obligations to the Court to ensure the fairness, transparency and integrity of the proposed process.

49. While the Proposal Trustee has not completed a valuation of the assets and operations of the Company, the SISP will fully expose the opportunity to the market with a view to maximizing recoveries for the benefit of the Company's creditors.
50. The Proposal Trustee respectfully requests that the Court approve the SISP as the SISP has been designed to identify interested purchasers/financiers/investors.
51. In the above circumstances, the Proposal Trustee believes the SISP provides an effective and timely method to market the Company's business and assets to interested parties for a reasonable period of time.

#### **CASH FLOW/DIP FACILITY**

52. As explained above, the Company has insufficient capital to maintain its operations through these Proposal Proceedings.
53. PV Labs received an offer for interim financing from 902 which it evaluated with the assistance of its counsel and the Proposal Trustee, considering, among other things, the costs and fees associated with the proposal, the priority ranking of charges securing the proposed interim financing and the Company's liquidity requirements during the proposal proceedings.
54. After evaluating the financing proposal from 902 with a view to the best interests of PV Labs and its stakeholders, PV Labs negotiated with 902's principal, John Heersink, to finalize the terms of the proposed financing. A copy of the finalized term sheet (the "**DIP Term Sheet**") setting out the terms of the DIP Facility is appended hereto as **Appendix 'F'**.
55. It is contemplated that all obligations of the Company under the DIP Term Sheet are to be secured by a court-ordered charge over all present and after-acquired property, assets and undertakings of the Company, ranking in priority to all other obligations other than the Administration Charge, statutory super priority deemed trusts and liens for unpaid source deductions and such other permitted priority encumbrances as may be agreed to in writing by 902.



56. Management has limited venues to search for interim financing. Any potential lender would likely demand a first-ranking charge in priority to all other creditors.
57. Management believes that the terms of the DIP Facility are favourable to it having regard to the present circumstances. Management also believes that the amount of the DIP Facility is reasonable in the circumstances and will enable the Company to fund the additional production and these Proposal Proceedings pending a transaction resulting from the SISP.
58. The DIP Charge will affect the security position of RBC, BDC, and PVLCC (collectively, the “Secured Creditors”). As such, PVL has made the Secured Creditors aware of the necessity and the impact of the proposed DIP Facility.
59. The Proposal Trustee is of the view that the DIP Charge is appropriate in the circumstances:
  - a) The DIP Facility will enhance the Company’s ability to meet various financial obligations and allow it to continue to operate under these Proposal Proceedings, maintaining its goodwill and going concern value, thereby enhancing an anticipated recovery for the benefit of all stakeholders;
  - b) The quantum and terms of the DIP Charge are reasonable in the present circumstances; and
  - c) The DIP Facility is provided on terms that are fair and reasonable and is the product of an arms’ length negotiation and compromise.

#### **ADMINISTRATION CHARGE**

60. Based on management’s latest cash-flow projection, PVL will not generate sufficient cash-flow during the restructuring period to pay professional costs as they are incurred. The Professional Group, comprising the Proposal Trustee, Pallett Valo (counsel to the Proposal Trustee), and Chaitons (counsel to the Company), accordingly seeks the protection of a \$250,000 charge against the assets, undertakings and property of the Company to secure payment of professional fees and disbursements incurred in the Proposal Proceedings, including with respect to

the fees and disbursements of the Professional Group incurred in the preparation and filing of the NOI.

61. The Administration Charge in favour of professionals is common in restructuring proceedings of this nature and is, in the view of the Proposal Trustee, appropriate in the present case due to the Company's lack of liquidity. It is unlikely that the Professional Group will continue to participate in these proceedings unless their fees and expenses are secured by way of the proposed Administrative Charge.
62. As set out in the Chamberlain Affidavit, the Company believes the Administration Charge is essential to a successful restructuring and a fair and transparent SISP.
63. It is envisioned that the Proposal Trustee will oversee and implement the Proposal Proceedings and SISP, and will call upon counsel as appropriate to carry out its obligations relating thereto. A summary of essential services to be provided include:
  - a) Administration and monitoring of the Proposal Proceedings, including preparing reports to creditors, the Official Receiver, and this Court as may be required by the BIA, and reviewing the Company's cash-flows and related financial disclosure;
  - b) Implementation of the SISP over a 6 week period, including drafting of the solicitation package (including the CA, the CIM, the LOI, and the Offer Letter), preparation of the Data Room, assisting Potential Bidders with the due diligence process, reviewing bids and negotiating and drafting transaction documents;
  - c) Preparing, drafting and filing all court materials, including the motion to approve any proposed sale of the Company's assets;
  - d) Providing general corporate and specialized restructuring advice to the Company; and
  - e) Assisting the Company in the preparation of its financial reporting as may be required under the BIA.
64. Because of their institutional knowledge of the Company's business and their specialized experience in proposal proceedings generally, the services to be provided by the Professional Group are critical to the success of the Company's restructuring.

Further, the Professional Group has and will work cooperatively to ensure there is no unwarranted duplication of work completed.

65. The Proposal Trustee is of the view that the Administration Charge is appropriate in these circumstances:
- a) The proposed services are essential to both a successful restructuring and the conduct of a Court-approved SISP;
  - b) It is necessary for the Company to pay the reasonable fees and disbursements of the Professional Group;
  - c) The Company's cash-flow demonstrates that they will be unable to satisfy the reasonable fees and disbursements of the Professional Group as they are incurred;
  - d) The Professional Group is not willing to assume the risk of extending further credit to the Company in respect of the Proposal Proceedings. It is unlikely that the Professional Group will continue to participate in the Proposal Proceedings unless their reasonable fees and disbursements are secured by way of the proposed Administration Charge; and
  - e) The quantum of the proposed Administration Charge is reasonable given the nature and scope of the services to be provided, the expected duration of the SISP, and the inability of the Company to fund professional charges from free cash-flow.
66. Section 64.2 of the BIA provides the Court with jurisdiction to grant a super-priority charge such as the Administration Charge requested herein where notice is given to secured creditors. In this regard, the Proposal Trustee is advised by Chaitons that all other creditors having registrations against the Company under the *Personal Property Security Act* (Ontario) will be served with the Company's motion record.

#### **DIRECTORS AND OFFICERS CHARGE**

67. To address legitimate concerns expressed by the Company's directors and officers with respect to their potential exposure if they continue to act (rather than resign

before a significant portion of the liability can be triggered), the directors and officers have requested reasonable protection against personal liability if they are to remain and assist in these Proposal Proceedings.

68. Having the directors and officers remain and assist in the restructuring will greatly increase the prospects of a successful restructuring, which in turn will maximize value for all stakeholders.
69. In this regard, the Company seeks a director's charge ranking in priority to all security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise, other than the Administration Charge and the DIP Charge to protect the directors and officers from all claims and liabilities that may arise after the filing date as a result of their association with the Company.
70. As described in the Chamberlain Affidavit, the Company has no unpaid and unremitted or outstanding amounts of sales taxes, deductions at source or any other amounts for which the directors and officers of the Company might be liable. However the proposed charge provides a contingency in the event that certain obligations arise during the restructuring proceedings or insufficient funds are advanced und the DIP facilities. The D&O Charge would be only available to the Directors and Officers in the event that any existing insurance policy does not provide coverage.
71. The Proposal Trustee is of the view that the D&O Charge is reasonable in the circumstances.

#### **EXTENSION OF STAY OF PROCEEDINGS**

72. The SISP will run for an expected period of 10 weeks.
73. Given the date on which the NOI was filed, the Company is currently required to file a Proposal by February 26, 2017.

74. The Company is requesting an extension of the stay of proceedings of 45 days and the time by which to file a proposal from February 26, 2017 to April 12, 2017 on the following grounds:
- a) The SISP will not be completed before the current deadline for the filing of a proposal;
  - b) The Company seeks the extension to permit it to fully pursue the SISP and assess whether a sale or other transaction or proposal (or a combination of the two) would be most beneficial to the Company's creditors;
  - c) The extension will increase the likelihood of a feasible transaction or a proposal; and
  - d) The continuation of operations will aid the Company's efforts in marketing the assets and operations of PVL on a going-concern basis.
75. With the aid of the DIP Facility, the Company's cash-flow projection indicates the Company have sufficient cash-flow to meet its financial obligations, with the possible exception of professional fees, during the proposed extension period.
76. The Proposal Trustee supports the Company's request to extend the stay of proceedings of 45 days and the time by which to file a proposal from February 26, 2017 to April 12, 2017. The Proposal Trustee does so for the following reasons:
- a) Thus far, PVL has continued operations in the normal course and, in the opinion of the Proposal Trustee, has complied with the requirements of the BIA;
  - b) The Company has acted, and continues to act, in good faith and with due diligence;
  - c) In the opinion of the Proposal Trustee, no creditor will be materially prejudiced if the extension is granted;
  - d) The extension eliminates a further Court attendance solely to consider an extension of the stay of proceedings and saves the costs of doing so.

## CONCLUSION AND RECOMMENDATION

77. At the time of this Report, discussions remain ongoing amongst the Company and major stakeholders with respect to the: i) SISP, and ii) requested extension of the stay of proceeding. The Company remains hopeful a consensus will be obtained before its motion is heard.
78. Based on the above, the Proposal Trustee respectfully recommends that the Court grant an order providing the relief described in section 6(b) of this Report.

All of which is respectfully submitted this 30<sup>th</sup> day of January, 2017.

### **BDO CANADA LIMITED**

in its capacity as Trustee under the  
Notice of Intention to Make a Proposal  
filed by PV Labs Inc. and not in its  
personal capacity

Per:



Eugene P. Migus, CPA, CA, CIRP, LIT  
Senior Vice President

## APPENDIX 'A'



Industry Canada  
Office of the Superintendent  
of Bankruptcy Canada

Industrie Canada  
Bureau du surintendant  
des faillites Canada

District of Ontario  
Division No. 07 - Hamilton  
Court No. 32-2211776  
Estate No. 32-2211776

In the Matter of the Notice of Intention to make a  
proposal of:

**PV Labs Inc.**  
Insolvent Person

**BDO CANADA LIMITED / BDO CANADA LIMITÉE**  
Licensed Insolvency Trustee

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Date of the Notice of Intention: January 27, 2017

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CERTIFICATE OF FILING OF A NOTICE OF INTENTION TO MAKE A PROPOSAL  
Subsection 50.4 (1)

I, the undersigned, Official Receiver in and for this bankruptcy district, do hereby certify that the aforementioned insolvent person filed a Notice of Intention to Make a Proposal under subsection 50.4 (1) of the *Bankruptcy and Insolvency Act*.

Pursuant to subsection 69(1) of the Act, all proceedings against the aforementioned insolvent person are stayed as of the date of filing of the Notice of Intention.

Date: January 27, 2017, 15:23

E-File/Dépôt Electronique

Official Receiver

Federal Building - Hamilton, 55 Bay Street N, 9th Floor, Hamilton, Ontario, Canada, L8R3P7, (877)376-9902

**Canada**



## APPENDIX 'B'



**R. Graham Phoenix**  
Direct Line: (416) 748-4776  
E-mail: [gphoenix@loonix.com](mailto:gphoenix@loonix.com)

January 18, 2017  
File No. TBD

**VIA COURIER**

**PV LABS INC.**  
1074 Cooke Blvd.  
Burlington, ON L7T 4A8  
(Mailing Address)

**PV LABS INC.**  
175 Longwood Road – Suite 400A  
Hamilton, ON L8P 0A1  
(Registered Office)

Dear Sir/Madam:

**Re: DEMAND FOR PAYMENT  
and SERVICE OF SECTION 244 NOTICE**

---

We are the solicitors for PV Capital Corporation (the "Lender") in respect of the matters set out herein.

*Indebtedness*

Pursuant to the promissory note dated January 18, 2013, the term sheet dated January 18, 2013 and the loan agreement date June 30, 2013 (together, the "Loan Agreements"), the Lender agreed to and did advance certain funds to PV Labs Inc. (the "Borrower") on a secured basis.

As at January 18, 2017, the Borrower is indebted to the Lender pursuant to the Loan Agreements in the aggregate amount of \$4,111,396.45, plus interest, fees and costs continuing to accrue (the "Indebtedness").

In addition, the Borrower, is liable for such legal costs and other enforcement costs as may be incurred by Lender in respect of enforcement of the Loan Agreements and the Security (defined below), from time to time, the particulars of which can be provided upon request (collectively, the "Costs").

The Borrower is in default of its obligations under the Loan Agreements, including but not limited to is payment obligations thereunder.



Security

As security for the payment and performance of all of its indebtedness, liabilities and obligations to the Lender, the Borrower executed:

- (a) a general security agreement in favour of the Lender dated January 17, 2013;
- (b) a security agreement in favour of the Lender dated January 18, 2013 respect of certain intellectual property; and
- (c) a share pledge in favour of the Lender dated January 18, 2013 in respect of a certain shares of GeoDigital International Inc.,

(collectively, the "Security"), which Security is registered under the Ontario *Personal Property Security Act*.

Demand

***As a result of the Borrower's defaults and the Lender's rights under the Loan Agreements and the Security, the Lender is entitled to and does hereby demand from the Borrower the immediate payment in full of the Indebtedness and Costs by or before 5:00p.m. on January 28, 2017.***

To obtain an updated pay-out statement, including Costs, and to arrange delivery of payment, please contact the undersigned.

If the Borrower fails to pay the Indebtedness and Costs on or before January 28, 2017, the Lender will pursue such legal rights and remedies for the collection of such amounts as it may deem fit, including without limitation the right to exercise any and all rights and remedies available at law, under the Loan Agreements and the Security, and in equity. The Lender may exercise such rights without further notice to the Borrower.

In the event that the Borrower qualifies as an "insolvent person" within the meaning of such term under the *Bankruptcy and Insolvency Act*, we enclose herewith a Notice of Intention to Enforce Security pursuant to section 244 of the *Bankruptcy and Insolvency Act*.



Page 3

In the interim, the Lender expressly reserves all of its rights to take whatever measures it may consider necessary or appropriate to preserve and protect its interests and to pursue its remedies under the Loan Agreements and the Security, any statute, at common law and/or in equity, including without limitation the right to seek the appointment of a receiver by a Court of competent jurisdiction. Nothing in this letter shall be construed as a waiver of such rights.

Yours very truly,

**LOOPSTRA NIXON LLP**

Per:

R. Graham Phoenix

Enclosure

## NOTICE OF INTENTION TO ENFORCE SECURITY

### (Subsection 244(1) of the *Bankruptcy and Insolvency Act*)

[THE EXECUTION AND DELIVERY OF THIS NOTICE DOES NOT CONSTITUTE AN ACKNOWLEDGEMENT THAT THE CREDITOR IS OBLIGED TO SEND THIS NOTICE OR THAT SECTION 244 OF THE BANKRUPTCY AND INSOLVENCY ACT APPLIES TO THIS CASE OR AN ALLEGATION THAT THE DEBTOR IS AN INSOLVENT PERSON WITHIN THE MEANING OF THE BANKRUPTCY AND INSOLVENCY ACT.]

TO: **PV LABS INC.**  
1074 Cooke Blvd.  
Burlington, ON L7T 4A8  
(Mailing Office)

**PV LABS INC.**  
175 Longwood Road – Suite 400A  
Hamilton, ON L8P 0A  
(Registered Office)

#### TAKE NOTICE that:

1. PV Capital Corporation (the "Lender"), a secured creditor, intends to enforce its security on all of your present and after acquired property, assets and undertaking and/or any proceeds thereof.
2. The security that is to be enforced comprises;
  - (a) a general security agreement in favour of the Lender dated January 17, 2013;
  - (b) a security agreement in favour of the Lender dated January 18, 2013 respect of certain intellectual property; and
  - (c) a share pledge in favour of the Lender dated January 18, 2013 in respect of a certain shares of GeoDigital International Inc.,  
(collectively, the "Security").
3. The total amount of indebtedness secured by the Security and sought via the demand delivered herewith is \$4,111,396.45 as at January 18, 2017, together with accruing interest and all other charges and expenses of enforcement claimable thereunder.

4. The Lender will not have the right to enforce the security until the expiry of a 10-day period following the sending of this Notice, unless you consent to an earlier enforcement by execution of the attached waiver.

DATED at Toronto, this 18<sup>th</sup> day of January, 2017.

PV CAPITAL CORPORATION, by its  
solicitors Loopstra Nixon LLP

  
Per: R. Graham Phoenix

**WAIVER**

The undersigned hereby waives the notice period provided for under section 244(2) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, and consents to the immediate enforcement by PV Capital Corporation of its security described in the attached Notice of Intention to Enforce Security dated January 18, 2017.

DATED at \_\_\_\_\_, Ontario this \_\_\_\_ day of \_\_\_\_\_, 2017.

**PV LABS INC.**

\_\_\_\_\_  
per:

Title:

## APPENDIX 'C'


IN THE MATTER OF THE PROPOSAL OF  
PV LABS INC.  
OF THE CITY OF BURLINGTON,  
IN THE REGIONAL MUNICIPALITY OF HALTOW,  
IN THE PROVINCE OF ONTARIO.

STATEMENT OF PROJECTED CASH-FLOW  
FOR THE PERIOD ENDING APRIL 28, 2017

|                                      | 27-Jan-17   | 3-Feb-17     | 10-Feb-17    | 17-Feb-17    | 24-Feb-17    | 3-Mar-17     | 10-Mar-17    | 17-Mar-17    | 24-Mar-17    | 31-Mar-17    | 7-Apr-17       | 14-Apr-17      | 21-Apr-17      | 28-Apr-17    |
|--------------------------------------|-------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|----------------|----------------|----------------|--------------|
| <b>RECEIPTS</b>                      |             |              |              |              |              |              |              |              |              |              |                |                |                |              |
| Accounts Receivable - existing       | \$ 67,500   | \$ 34,162    | \$ -         | \$ -         | \$ -         | \$ 50,103    | \$ -         | \$ 141,250   | \$ 106,250   | \$ -         | \$ -           | \$ -           | \$ -           | \$ 111,500   |
| Accounts Receivable - New orders     | -           | -            | -            | -            | -            | -            | -            | 375,000      | -            | -            | -              | -              | -              | 847,500      |
| Interim Financing - DIP              | -           | -            | -            | -            | -            | -            | -            | -            | -            | -            | -              | -              | -              | -            |
| HST Refund                           | 14,743      | -            | 11,512       | -            | -            | -            | -            | -            | -            | -            | -              | -              | -              | -            |
| SRED - 2016                          | -           | -            | -            | -            | -            | -            | -            | -            | -            | -            | -              | -              | -              | -            |
|                                      | 77,243      | 34,162       | 11,512       | -            | -            | 50,103       | 516,250      | 106,250      | -            | -            | -              | -              | -              | 959,000      |
| <b>DISBURSEMENTS</b>                 |             |              |              |              |              |              |              |              |              |              |                |                |                |              |
| Payroll                              | -           | (131,918)    | -            | -            | -            | (131,918)    | -            | (136,354)    | -            | (126,354)    | (5,564)        | (126,354)      | -              | (126,354)    |
| RRSP                                 | -           | (65,000)     | -            | -            | -            | -            | -            | -            | -            | -            | -              | -              | -              | -            |
| A/P                                  | -           | -            | -            | (127,354)    | -            | -            | -            | -            | -            | -            | -              | -              | -              | -            |
| Material Purchases - existing orders | (27,500)    | (4,678)      | (10,000)     | (37,500)     | -            | -            | -            | (8,500)      | (21,812)     | (500)        | -              | -              | -              | (40,559)     |
| Material Purchases - NEW orders      | (500)       | (500)        | (10,500)     | (59,500)     | (500)        | (500)        | (500)        | (6,500)      | (364,800)    | (500)        | (500)          | (500)          | (500)          | (283,450)    |
| U.S. employee                        | -           | (6,500)      | -            | (10,000)     | -            | (6,500)      | -            | (6,500)      | -            | (6,500)      | -              | -              | -              | (6,500)      |
| Health benefits                      | -           | (10,058)     | -            | -            | -            | (10,058)     | -            | -            | -            | -            | (10,058)       | -              | -              | -            |
| Facility and Insurance               | (2,501)     | (22,048)     | -            | -            | (4,351)      | (24,100)     | -            | -            | (1,048)      | (9,151)      | (16,150)       | -              | -              | (748)        |
| Professional fees                    | (20,950)    | (4,400)      | (5,650)      | (22,400)     | (22,400)     | (5,650)      | (5,650)      | (32,600)     | (5,650)      | (5,650)      | (5,650)        | (22,600)       | -              | (5,650)      |
| Leases                               | (433)       | (1,780)      | (3,713)      | -            | (693)        | (1,850)      | (3,713)      | -            | (3,187)      | (295)        | (1,990)        | (3,209)        | -              | (693)        |
| Travel & misc                        | (20,000)    | (1,500)      | -            | -            | -            | (15,000)     | -            | -            | (15,000)     | -            | -              | -              | -              | (65)         |
| Interest - SRED                      | -           | -            | -            | -            | -            | -            | -            | -            | -            | -            | -              | -              | -              | -            |
| Principal - SRED                     | -           | -            | -            | -            | -            | -            | -            | -            | -            | -            | -              | -              | -              | -            |
| Principal - BDC                      | -           | -            | -            | -            | -            | -            | -            | -            | -            | -            | -              | -              | -              | -            |
| Interest - BDC                       | -           | -            | -            | -            | -            | -            | -            | -            | -            | -            | -              | -              | -              | -            |
|                                      | (67,084)    | (250,382)    | (29,863)     | (256,954)    | (236,954)    | (236,194)    | (174,926)    | (163,954)    | (613,477)    | (142,800)    | (39,912)       | (159,163)      | (331,100)      | (132,081)    |
| <b>PROJECTED MONTHLY CASH FLOW</b>   | 10,159      | (216,220)    | (18,351)     | (256,954)    | (236,954)    | 23,909       | (174,926)    | (57,704)     | (613,477)    | (142,800)    | (39,912)       | (159,163)      | (331,100)      | 824,019      |
| <b>CASH BALANCE</b>                  |             |              |              |              |              |              |              |              |              |              |                |                |                |              |
| Opening Position per ... Books       | (79,751)    | (69,591)     | (285,811)    | (304,162)    | (304,162)    | (561,116)    | (537,207)    | (712,133)    | (205,746)    | (261,450)    | (876,947)      | (1,059,659)    | (1,218,822)    | (1,549,922)  |
| Ending Position per ... Books        | \$ (69,591) | \$ (285,811) | \$ (304,162) | \$ (304,162) | \$ (561,116) | \$ (537,207) | \$ (712,133) | \$ (205,746) | \$ (261,450) | \$ (876,947) | \$ (1,059,659) | \$ (1,218,822) | \$ (1,549,922) | \$ (725,903) |

BDO CANADA LIMITED

Per:

  
Mark Chamberlain  
Vice-President

  
Date

This statement of projected cash-flow for PV Labs Inc. has been prepared in accordance with section 50(6) of the Insolvency and Insolvency Act, and should be read in conjunction with Trustee's Report on Cash-Flow, dated January 27, 2017



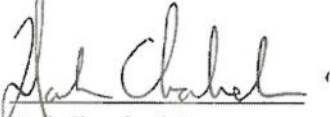
IN THE MATTER OF THE PROPOSAL OF  
PV LABS INC.  
OF THE CITY OF BURLINGTON,  
IN THE REGIONAL MUNICIPALITY OF HALTON,  
IN THE PROVINCE OF ONTARIO.

NOTES AND ASSUMPTIONS TO  
THE STATEMENT OF PROJECTED CASH-FLOW

1. This projected cash-flow statement has been prepared for the purposes of filing a proposal pursuant to Part III of the Bankruptcy and Insolvency Act.
2. The projected cash-flow statement has been prepared by management of the insolvent person.
3. The following outlines the assumptions incorporated in the attached cash-flow statement:
  - a) The collection of accounts receivable are management's estimates and are based on historical customer payment patterns and discussions with customers.
  - b) Accounts receivable - New Orders is based on procurement of post NOI filing contracts and the negotiated payment terms. Management believes new orders are imminent.
  - c) Material Purchases - Existing Orders is based on managements best estimated costs to complete the existing orders.
  - d) Material Purchases - New Orders is based on managements best estimated costs to complete the new orders. For the period ending April 27, 2017, payments to vendors will be for deposits on materials required.
  - e) The Company is forecasting a shortfall in cash flow from operations. A Company has signed a term sheet with a DIP Lender for the maximum amount of \$1,500,000 to supplement cash flow operations while the Company and Porposal Trustee attempt to sell the business as a going concern.
  - f) The majority of receipts are in USD. The projections reflect an exchange rate of \$1.25CDN to \$1.00USD

PV LABS INC.

Per:



Mark Chamberlain  
President

27 January 2017  
Date

BDO CANADA LIMITED

Per:



Peter Naumis, B. Comm., CIRP, LIT  
Vice-President

1/27/17  
Date

IN THE MATTER OF THE PROPOSAL OF  
PV LABS INC.  
OF THE CITY OF BURLINGTON,  
IN THE REGIONAL MUNICIPALITY OF HALTON,  
IN THE PROVINCE OF ONTARIO.

REPORT ON CASH FLOW STATEMENT  
BY THE PERSON MAKING THE PROPOSAL

PV Labs Inc. (the "Company") has developed the assumptions and prepared the attached statement of projected cash-flow of the insolvent person, as of the 27<sup>th</sup> day of January, 2017, consisting of the Statement of Projected Cash-Flow and Notes and Assumptions to the Statement of Projected Cash-Flow.

The hypothetical assumptions are reasonable and consistent with the purpose of the projection described in Note 1, and the probable assumptions are suitably supported and consistent with the plans of the insolvent person and provide a reasonable basis for the projection. All such assumptions have been disclosed in Notes 2 - 3.


Since the projection is based on assumptions regarding future events, actual results will vary from the information presented and the variations may be material.

The projection has been prepared solely for the creditors of PV Labs Inc. for the purpose described in Note 1, using a set of probable and hypothetical assumptions set out in Notes 2 - 3. Consequently, readers are cautioned that it may not be appropriate for other purposes.

Dated at the City of Burlington, Ontario, this 27<sup>th</sup> day of January, 2017.

PV LABS INC.

Per:

  
\_\_\_\_\_  
Mark Chamberlain

## APPENDIX 'D'

IN THE MATTER OF THE PROPOSAL OF  
PV LABS INC.  
OF THE CITY OF BURLINGTON,  
IN THE REGIONAL MUNICIPALITY OF HALTON,  
IN THE PROVINCE OF ONTARIO.

Trustee's Report on Cash-flow Statement  
(Paragraph 50(6)(b) of the Act)

The attached statement of projected cash-flow of PV Labs Inc. (the "Company"), as of the 27<sup>th</sup> day of January, 2017, consisting of an unaudited monthly cash flow statement, has been prepared by the Company for the purpose described in Note 1, using the probable and hypothetical assumptions set out in Note 3.

Our review consisted of inquiries, analytical procedures and discussion related to information supplied to us by the Company. Since hypothetical assumptions need not be supported, our procedures with respect to them were limited to evaluating whether they were consistent with the purpose of the projection. We have also reviewed the support provided by the insolvent person for the probable assumptions and the preparation and presentation of the projection.

Based on our review, nothing has come to our attention that causes us to believe that, in all material respects,


- (a) the hypothetical assumptions are not consistent with the purpose of the projection;
- (b) as at the date of this report, the probable assumptions developed by the insolvent person are not suitably supported and consistent with the plans of the insolvent person or do not provide a reasonable basis for the projection, given the hypothetical assumptions; or
- (c) the projection does not reflect the probable and hypothetical assumptions.

Since the projection is based on assumptions regarding future events, actual results will vary from the information presented even if the hypothetical assumptions occur, and the variations may be material. Accordingly, we express no assurance as to whether the projection will be achieved.

The projection has been prepared solely for the creditors of the insolvent person for the purpose described in Note 1, and readers are cautioned that it may not be appropriate for other purposes.

Dated at the City of Mississauga, Ontario this 27<sup>th</sup> day of January, 2017.

**BDO CANADA LIMITED,**  
Trustee  
Per:



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Peter Naumis, B. Comm., CIRP, LIT  
Vice President

## APPENDIX 'E'

## Procedures for the Sales and Investor Solicitation Process

Pursuant to the filing of the notice of intention to make a proposal (the “**NOI**”) dated January 27, 2017, BOO Canada Limited was appointed as proposal trustee (in this capacity, the “**Proposal Trustee**”) over PV Labs Inc. (the “**Company**”)

The Company has prepared the sale and investor solicitation process (the “**SISP**”) set out herein to determine whether a successful bid or bids can be obtained for the assets and operations of the Company.

Pursuant to the Order dated <\*>, the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) approved the SISP (the “**SISP Order**”) described in the First Report of the Proposal Trustee dated January 30, 2017.

Set out below are the procedures (the “**SISP Procedures**”) to be followed with respect to the SISP, to be undertaken and supervised by the Proposal Trustee and, if a successful bid is obtained, to complete the transaction contemplated therein.

In these SISP Procedures, among other things:

“**Business**” means the business being carried on by the Company.

“**Business Day**” means a day, other than a Saturday or Sunday, on which banks are open for business in the City of Toronto.

“**Property**” means the assets, undertakings, operations and property of the Company as more particularly described in the Offer Form (defined below) and to the extent that such Property includes any leases, agreements or contracts to which the Company is a party, such Property shall be subject to any and all third party consents required as set out in the terms of the relevant lease, agreement or contract.

The SISP Procedures set out herein describes, among other things, the Property available for sale, the manner in which prospective bidders may gain access to or continue to have access to due diligence materials concerning the Property and the Business, the receipt and negotiation of bids received, the ultimate selection of a successful bidder or bidders and the Court's approval thereof. The Proposal Trustee shall administer the SISP Procedures. In the event that there is disagreement(s) as to the interpretation or application of the SISP Procedures, the Court will have jurisdiction to hear and resolve such dispute(s).

These SISP Procedures do not, and shall not be interpreted to, create any contractual or other legal relationship between any party and the Company or the Proposal Trustee or their respective subsidiaries or agents.

## **Publication Notice**

As soon as reasonably possible, after the issuance of the SISP Order, the Proposal Trustee shall cause a notice of the SISP Process contemplated herein and such other relevant information which the Proposal Trustee considers appropriate to be published in the Globe and Mail National Edition.

### **Distribution of Teaser to Potential Bidders**

The Proposal Trustee will compile a list of potential purchasers for the Property (each a **"Potential Bidder"**). The list of Potential Bidders will include strategic buyers that may be interested in the Property and the Business as a going concern. The list of Potential Bidders will be compiled based on research by the Proposal Trustee and advise of the Company using available databases as well as existing market resources and information previously gathered by the Company, including unsolicited expressions of interest to date.

The Company will assist the Proposal Trustee in compiling the list of Potential Bidders.

Any party that contacts the Proposal Trustee expressing an interest in the sale opportunity as a result of the publication notice in the Globe and Mail National Edition or otherwise will be added to the list of Potential Bidders.

The Proposal Trustee will prepare and deliver a "teaser" to Potential Bidders to elicit interest in the purchase opportunity.

### **Confidential Information Memorandum**

A confidential information memorandum (the **"CIM"**) describing the opportunity to acquire the Property will be made available by the Proposal Trustee to all Potential Bidders. The CIM will provide a concise summary of the Business that will allow the Potential Bidders to assess the Company from a financial and operational perspective.

The CIM will summarize the SISP Procedures, set out terms and conditions of sale and the timeline for submitting offers for the Property and will include the form of non-binding letter of intent (**"LOI"**) which Potential Bidders will have to complete and submit to access the Data Room (defined below) and the form of binding offer letter (**"Offer Form"**) which Potential Bidders (who have previously submitted an LOI) will be required to submit to complete their bid on the assets available for purchase.

### **Electronic Data Room**

Coincident with the Proposal Trustee's preparation of the CIM and the list of Potential Bidders, the Proposal Trustee will compile a comprehensive electronic data room (the **"Data Room"**) that will include all relevant financial, operational and corporate data that would reasonably be required by a Potential Bidder in the due diligence process.

The Data Room will allow certain Potential Bidders to log on remotely and the electronic site will be fully secure and the Proposal Trustee will be able to customize, monitor and track the activity of any Potential Bidder granted access to the Data Room.

The Company shall cooperate and assist the Proposal Trustee in populating the Data Room. The Company shall comply with the Proposal Trustee's reasonable requests for production of documents throughout the SISP Process.

### **Participation Requirements**

In order to participate in the SISP Process, each Potential Bidder must deliver to the Proposal Trustee at the address specified below (including by email or fax transmission), and prior to the distribution of any confidential information by the Proposal Trustee to such Potential Bidder, an executed confidentiality agreement (the "**Confidentiality Agreement**") in form and substance satisfactory to the Proposal Trustee at its sole discretion, which shall enure to the benefit of any purchaser of the Property.

Only a Potential Bidder that has executed the Confidentiality Agreement will be given access to the CIM.

Only a Potential Bidder that has executed and delivered an LOI will be given access to the Data Room.

### **Due Diligence**

The Proposal Trustee shall provide any Potential Bidder who has signed the Confidentiality Agreement and delivered an LOI access to the Data Room, the Company's facility and management. The Proposal Trustee makes no representation or warranty as to the accuracy or completeness of the information contained in the CIM or the information to be provided through the due diligence process or otherwise.

### **Timeline for Due Diligence and Submission of Bids**

Each Potential Bidder shall have a period of approximately 5 weeks from the date of the SISP Order to review the CIM and access the Data Room. Upon the completion of the review and due diligence period, any Potential Bidders wishing to submit an Offer Letter must do so by no later than 5:00 p.m. on March 8, 2017.

### **"As is, Where Is"**

The sale of the Property will be on an "as is, where is" basis and without representations or warranties of any kind, nature or description by the Company, the Proposal Trustee or any of its agents.

Without limitation to the foregoing, the Proposal Trustee and the Company, together with their respective subsidiaries or agents, do not make any representation or warranty as to the information contained in any document or other information provided through due diligence or otherwise in these SISP Procedures (including the CIM and in the Data



Room), except as expressly set forth in definitive written agreements executed by the Company with the approval of the Court.

### **Free of Any and All Claims and Interests**

In the event of a sale of the Property, all of the right, title and interest of the Company in and to the Property to be acquired will be sold free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options and interests thereon (collectively, the “**Claims and Encumbrances**”), such Claims and Encumbrances to attach to the net proceeds of the sale of such Property (without prejudice to any claims or causes of action regarding the priority, validity or enforceability thereof), except to the extent otherwise set forth in the relevant agreement of purchase and sale with a successful bidder.

### **Selection of Bids and Negotiation of an Agreement of Purchase and Sale**

The Company has requested and the Proposal Trustee has agreed that the Proposal Trustee shall select the successful bidder and, on behalf of the Company, shall negotiate an agreement of purchase and sale with the successful bidder, which agreement shall be subject to Court approval.

The Company will assist the Proposal Trustee in the selection process and shall support the Proposal Trustee’s selection of the successful bidder. The Company shall assist the Proposal Trustee in the negotiation and shall execute the agreement of purchase and sale and any such other documents as may be required to evidence or support the proposed transaction, subject to further approval of the Court.

Should any successful bid, after acceptance, fail to close, the Proposal Trustee (with the support of the Company) may notify any other bidder of acceptance of their respective bid.

### **Approval Motion**

The Company shall apply to the Court (the “**Approval Motion**”) for an order approving the agreement of purchase and sale entered into by the Company, as well as an order vesting title to the purchased Property in the name of the purchaser. In connection with the Approval Motion, the Proposal Trustee shall file a report to Court outlining its administration of the Sales Process, the bids received, the winning bid and the negotiated purchase agreement.

### **Deposits**

Any and all deposits (the “**Deposit**”) submitted pursuant to the terms of the Offer Form shall be delivered to and retained by the Proposal Trustee. If there is a successful bid, the Deposit paid by the successful bidder whose bid is approved at the Approval Motion shall be applied to the purchase price to be paid by the successful bidder upon closing of the approved transaction and will be non-refundable. The Deposits of Potential Bidders not selected as the successful bidder shall be returned to such

bidders by the Proposal Trustee within five Business Days of the date upon which the successful bid is approved by the Court. If there is no successful bid, all Deposits shall be returned to the bidders within five Business Days of the date upon which the Sales Process is terminated in accordance with these procedures.

### **Notices**

Any notices permitted or required to be given to the Proposal Trustee herein (including an Offer Letter) shall be in writing and addressed Private and Confidential to the Proposal Trustee and mailed, faxed or delivered (including delivery by other means of electronic communication) as follows:

BDO Canada Limited  
1 City Centre Drive, Suite 1040  
Mississauga, Ontario L5B 1M2  
Attention: Peter Naumis (pnaumis@bdo.ca)

Any notice personally delivered as aforesaid shall be deemed to have been received on the date of delivery. If delivered by facsimile transmission or other electronic means, delivery shall also be deemed to have been received on the date of delivery unless delivered after 5:00 p.m. in which case the date of delivery shall be deemed to be the following business day. If delivered by regular mail or prepaid registered mail, the date of delivery shall be deemed to be ten business days after the notice is sent and one business day if sent by courier.

### **Equity Solicitation Process**

Concurrent with the Sales Process and the Proposal Trustee's implementation of the Sales Procedures, the Proposal Trustee, with the assistance and cooperation of the Company, will solicit offers for equity investments (each, an "**Equity Offer**") in and to the Company's business (in whole or in part) from Potential Bidders and other interested parties.

If the Proposal Trustee and the Company is successful in soliciting one or more viable Equity Offer which would likely enhance the recovery of creditors and further the Company's restructuring goals, the Proposal Trustee may declare the Sales Process to be terminated, without recourse of any kind by any party to the Proposal Trustee, the Company, and any of their respective subsidiaries or agents.

### **Amendment and Termination**

The Proposal Trustee and the Company may: (a) amend or terminate the Sales Procedures at any time, including the right to extend, abridge or otherwise amend any timelines described herein as considered necessary or by further order of the Court; (b) reject, at anytime, pursuant to the Sales Process, any bid that is inadequate or insufficient, not in conformity with the Sales Process, the Sales Procedures, the Sales Process Order or any other orders made in the proceedings or is contrary to the best interest of the

Company's estate and the stakeholders as determined by the Proposal Trustee; (c) impose additional terms, conditions or requirements and otherwise modify these Sales Procedures; (d) accept bids not in conformity with these Sales Procedures to the extent that the Proposal Trustee and the Company determines that doing so would benefit the Company's estate; and (e) reject all bids or offers including the highest and best bid in respect of the Property if doing so would benefit the Company's estate, but shall be entitled to recommend to the Court a transaction that, among other things, maximized value for all stakeholders and minimized closing risk.

### **Further Orders**

At any time during the Sales Process, the Proposal Trustee may apply to the Court for advice and directions with respect to the discharge of its duties hereunder.

## APPENDIX 'F'

**902878 ONTARIO LIMITED**  
2201 Lakeshore Road  
Burlington, ON L7R 1A8

January 20, 2017

PV Labs Inc.  
1074 Cooke Blvd.  
Burlington, ON L7T 4A8

**Attention: Mark Chamberlain**

Dear Mr. Chamberlain:

**Re: Interim Financing Term Sheet**

PV Labs Inc. (the “**Borrower**”) has requested and 902878 Ontario Limited (the “**Lender**”) has agreed to provide funding to the Borrower in the context of a proposal proceeding (the “**BIA Proceeding**”) commenced under the *Bankruptcy and Insolvency Act* (the “**BIA**”) subject to and in accordance with the terms set out herein.

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| Borrower     | PV Labs Inc.  |
| DIP Facility | Non-revolving, super-priority, credit facility (the “ <b>DIP Facility</b> ”) in the aggregate amount of \$1.5 million, inclusive of principal, accrued interest and unpaid fees (the “ <b>Maximum Amount</b> ”).  |
| Purpose      | The DIP Facility is for the purpose of funding the Borrower’s activities during the BIA proceeding, including: a) the operating costs, expenses and liabilities of the Borrower substantially in accordance with the budget attached hereto as <b>Schedule A</b> ; b) transaction costs and expenses incurred by the Lender in connection with the DIP Facility; and c) professional fees and expenses incurred by the Borrower and by the trustee in the BIA Proceeding (the “ <b>Proposal Trustee</b> ”) in respect of the DIP Facility and the BIA proceeding. |
| Availability | Subject to the satisfaction of the conditions summarized in this Agreement, and compliance with the DIP Approval Order (defined below), advances (each an “ <b>Advance</b> ” and collectively “ <b>Advances</b> ”) under the DIP Facility will be made available in tranches of \$200,000, as requested by the Borrower and approved by the Proposal Trustee, pursuant to a drawdown certificate it issues (each an “ <b>Advance Request</b> ”).  |
| Repayment    | The Borrower shall repay all obligations owing under the DIP Facility (the “ <b>DIP Obligations</b> ”) on the earlier of: (a) an Event of Default (as defined below) that has not been remedied; (b) performance of a proposal under the BIA (the “ <b>Repayment Date</b> ”); (c) completion of a transaction for the   |

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|  | sale of all or substantially all of the Borrower's assets; and (d) April 28, 2017, or such other date as the Borrower and the Lender may agree to in writing.   |
| Voluntary Payments                                       | The Borrower may make payments of not less than \$100,000 on account of the DIP Obligations at any time and from time to time without bonus or penalty but on two days' written notice.   |
| Interest Rate  | Interest on the principal amount of each Advance outstanding from time to time shall be calculated at a rate of fifteen (15%) percent per annum, which interest shall be calculated on the daily outstanding balance owing under the DIP Facility, not in advance, and shall be compounded monthly on the last day of each month and shall be payable both before and after default, judgment and the date that all indebtedness, obligations, liabilities of the Borrower to the Lender under the DIP Facility become due and payable. All interest on the DIP Facility shall accrue and be paid on the Repayment Date.  |
| Security   | <p>Subject to the terms of the DIP Approval Order, the payment and performance of the DIP Obligations shall be secured and assured by a super priority court-ordered charge in favour of the Lender (the "<b>DIP Charge</b>") over all of the assets, property and undertaking of the Borrower (the "<b>Collateral</b>").</p> <p>The DIP Charge will rank in priority to all other encumbrances of any kind whatsoever except for (a) a court-ordered administration charge to secure payment of professional fees of the Borrower's counsel, the Proposal Trustee and its legal counsel in a principal amount not to exceed \$250,000 in total (the "<b>Administration Charge</b>") and (b) any permitted encumbrances as provided for in the DIP Approval Order ("<b>Permitted Encumbrances</b>").</p> <p>The charges applicable in the BIA Proceeding shall rank in the following order of priority: first, the Administration Charge; second, the DIP Charge; and third, any charge in favour of the directors and officers of the Borrower (a "<b>Director's Charge</b>").</p> |
| Conditions Precedent to the DIP Facility and to Advances | <p>The DIP Facility will become effective upon, and the ability of the Borrower to obtain Advances from time to time shall be subject to, the satisfaction of the following conditions:</p> <ul style="list-style-type: none"><li>• the delivery to the Lender, with a copy to the Proposal Trustee, of an Advance Request;</li><li>• an Order in the BIA Proceeding, in form and content reasonably satisfactory to the Lender, approving this DIP Facility (the "<b>DIP</b></li></ul>   |

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|                                       | <p><b>Approval Order”)</b> will have been obtained;</p> <ul style="list-style-type: none"><li>• there will be no pending appeals, injunctions or other legal impediments relating to the completion of the DIP Facility or pending litigation seeking to restrain or prohibit the completion of the DIP Facility;</li><li>• the representations and warranties set out below will be true and correct in every material respect;</li><li>• no Event of Default will have occurred or be continuing; and</li><li>• the Lender shall not have demanded repayment of the DIP Obligations.</li></ul>   |
| <p>Representations and Warranties</p> | <p>To induce the Lender to make the DIP Facility available to the Borrower, the Borrower will provide the Lender with a management certificate representing and warranting to the Lender the following (which representations and warranties will be deemed to be repeated upon each Advance being made to the Borrower):</p> <ul style="list-style-type: none"><li>• the Borrower is a corporation duly incorporated, and validly existing under the laws of its jurisdiction of incorporation and is duly qualified, licensed or registered to carry on business under the laws applicable to all jurisdictions in which the nature of its assets or business makes such qualification necessary;</li><li>• no authorization under any applicable law, and no registration, qualification, designation, declaration or filing with any Governmental Authority, is or was necessary for the execution and delivery of this Agreement, other than obtaining the DIP Approval Order, where the term “<b>Governmental Authority</b>” herein means any domestic or foreign (a) federal, provincial, state, municipal, local or other government, (b) any governmental or quasi-governmental authority of any nature, including any governmental ministry, agency, branch, department, court, commission, board, tribunal, bureau or instrumentality, or (c) any body exercising or entitled to exercise any administrative, executive, judicial, legislative, regulatory or taxing authority or power of any nature;</li><li>• the business of the Borrower has been and will continue to be conducted in material compliance with all laws of each jurisdiction in which the business has been or is being carried on; and</li><li>• there are no unregistered charges affecting the Collateral.</li></ul> |

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| Positive Covenants | <p>Until the DIP Obligations have been repaid in full and the DIP Facility terminated, the Borrower covenants and agrees to do the following:</p> <ul style="list-style-type: none"><li>● the Lender shall be an unaffected creditor in the BIA Proceeding in respect of the DIP Obligations and any other present and future indebtedness, liabilities and obligations of the Borrower to the Lender;</li><li>● the DIP Obligations and any other present and future indebtedness, liabilities and obligations of the Borrower to the Lender shall not be subject to any compromise or arrangement;</li><li>● comply with all Orders made in the BIA Proceeding except to the extent such Orders have been in whole or in part stayed, reversed, modified or amended;</li><li>● keep the Lender apprised on a timely basis of all material developments with respect to the business and affairs of the Borrower;</li><li>● deliver to the Lender such reporting and other information from time to time reasonably required by the Lender;</li><li>● use the Advances only for the purposes contemplated hereby;</li><li>● maintain its corporate existence;</li><li>● except where the stay of proceedings applies under the BIA, pay promptly when due all statutory Priority Payables, including those payments which rank ahead of the DIP Charge or with respect to such claims arising after the commencement date of the BIA Proceeding;</li><li>● insure and keep insured, to the extent necessary, the Collateral on terms acceptable to the Lender naming the Lender as loss payee and additional insured;</li><li>● comply with all applicable laws, rules and regulations applicable to the business of the Borrower; and</li><li>● pay to the Lender in an amount up to the DIP Obligations then owing to the Lender, proceeds of disposition received by the Borrower from the sale of the Collateral.</li></ul> |
| Negative Covenants | <p>Until the DIP Obligations have been repaid in full and the DIP Facility terminated, the Borrower covenants and agrees not to do or cause to be done the following:</p> <ul style="list-style-type: none"><li>● apply for or consent to any change, amendment or modification to any Order issued in the BIA Proceeding without the prior written consent of the Lender, or fail to oppose any application or motion for a change,</li></ul>   |



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|                     | <p>amendment or modification to such Orders opposed by the Lender;</p> <ul style="list-style-type: none"><li>● create, assume, incur or suffer to exist any encumbrance, without the consent of the Lender, during the BIA Proceeding other than the DIP Charge, Director's Charge and the Administration Charge;</li><li>● make any corporate distributions of any kind whatsoever to any director, officer or shareholder of the Borrower, unless approved by the Lender and the Proposal Trustee; and</li><li>● enter into any transaction without the approval of the Court whereby all or substantially all of its undertaking, property and assets would become the property of any other person whether by way of reconstruction, reorganization, recapitalization, consolidation, amalgamation, merger, transfer, sale or otherwise.</li></ul>                              |
| Reporting Covenants | <p>Until the DIP Obligations have been repaid in full and the DIP Facility terminated, the Borrower covenants and agrees to do or cause to be done the following:</p> <ul style="list-style-type: none"><li>● provide prompt written notice of any action, investigation, suit, proceeding, claim or dispute before any court, governmental department, bureau, agency or similar body affecting the Borrower not stayed in the BIA Proceeding; and</li><li>● no less than monthly, on a date and at a time convenient to the Lender, acting reasonably, and starting in February, 2017, the Proposal Trustee shall, at the request of the Lender, make itself available on a conference call, in which the Proposal Trustee and the Lender will participate, where the Lender will be updated with respect to developments relating the Borrower and the BIA Proceeding.</li></ul> |
| Expenses            | <p>The Proposal Trustee will cause the Borrower to reimburse the Lender for all reasonable fees (including legal and professional fees on a full indemnity basis), disbursements and out-of-pocket expenses incurred by the Lender in any manner in connection with the BIA Proceeding, and any borrowings and any enforcement of the DIP Charge. All such fees, disbursements and expenses shall be included in the DIP Obligations and secured by the DIP Charge.</p>   |

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| Events of Default | <p>The occurrence of any one or more of the following events, without the prior written consent of the Lender, shall constitute an event of default (“<b>Event of Default</b>”) under this DIP Facility:</p> <ul style="list-style-type: none"><li>(a) the issuance of an order terminating the BIA Proceeding or lifting the stay in the BIA Proceeding to permit the enforcement of any security against the Borrower or the appointment of a receiver and manager, receiver, interim receiver or similar official or the making of a bankruptcy order against the Borrower;</li><li>(b) the issuance of an order granting an Encumbrance equal or superior status to that of the DIP Charge, other than the Priority Payables;</li><li>(c) the issuance of an order staying, reversing, vacating or otherwise modifying the DIP Charge or any orders in a manner which adversely impacts the rights and interests of the Lender;</li><li>(d) if (i) the DIP Approval Order is varied without the consent of the Lender in a manner adverse to the Lender or (ii) the stay of proceedings contained in any order is terminated or is lifted to allow an action adverse to the Lender;</li><li>(e) failure of the Borrower to pay any principal, interest, fees or any other amounts, in each case when due and owing hereunder;</li><li>(f) any representation of warranty by the Borrower herein or in any certificate delivered by the Borrower to the Lender shall be incorrect or misleading in any material respect as of the date made or deemed made;</li><li>(g) an Order is made, a liability arises or an event occurs, including any change in the business, assets or conditions, financial or otherwise, of the Borrower that will have a material adverse effect on the Borrower;</li><li>(h) any material violation or breach of any order upon receipt by either of the Borrower of notice from the Lender of such violation or breach; and</li><li>(i) failure of the Borrower to perform or comply with any other term or covenant hereunder and such default shall continue unremedied for a period of three (3) business days.</li></ul> |
| Remedies          | <p>Upon the occurrence of an Event of Default, whether or not there is availability under the DIP Facility, without any notice or demand whatsoever, the right of the Borrower to receive any Advance or other accommodation of credit shall be terminated, subject to any applicable notice provision in any order (as the case may be). Without limiting the</p>   |

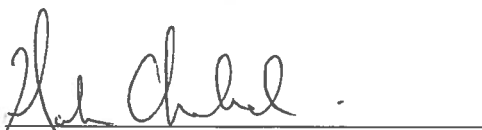
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|               | foregoing, upon further order of the Court, the Lender shall have the right to exercise all other customary remedies, including, without limitation, the right to apply to the court for the appointment of a receiver in order for a receiver to realize on the Collateral. No failure or delay by the Lender in exercising any of its rights, hereunder or at law shall be deemed a waiver of any kind, and the Lender shall be entitled to exercise such rights at any time. All payments received by the Lender shall be applied first to any fees due to the Lender and any expenses of the Lender, then to accrued and unpaid interest, and then to principal. |
| Receivership  | In the event that a receiver is appointed by the Court over the assets, properties and undertakings of the Borrower, the Lender confirms that it is prepared to extend the terms of the DIP Facility to such receiver provided that the Lender is satisfied in its sole discretion that it receives the same protections for its Advances.   |
| Governing Law | The laws of the Province of Ontario and the federal laws of Canada.  |

The undersigned parties accept and agree to the terms and conditions set out in this Agreement.

**902878 Ontario Limited**

Per:   
Name: John Heersink  
Title: President

**PV Labs Inc.**

Per:   
Name: Mark Chamberlain  
Title: President

