

**INSTRUCTION LETTER FOR CONSTRUCTION CONTRACTORS
WITH CONSTRUCTION CLAIMS AGAINST THE SEARS CANADA ENTITIES¹
AND/OR THEIR DIRECTORS AND OFFICERS**

CLAIMS PROCEDURE ORDER

On December 8, 2017, the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) issued an order (the “**Claims Procedure Order**”) in the *Companies’ Creditors Arrangement Act* proceedings of the Sears Canada Entities, commencing a claims procedure (the “**Claims Process**”) for the purpose of identifying and determining, among other things, all Construction Claims against the Sears Canada Entities and/or their respective Directors and Officers. Reference should be made to the Claims Procedure Order for the complete definition of “**Construction Claim**”, but in general it includes all:

- (a) Claims under the trust provisions of applicable provincial builders’ lien or construction lien legislation and Claims asserted against the holdback under such legislation;
- (b) Claims secured in whole or in part by the registration of a builders’ lien or construction lien under such legislation against any real property that has been or is owned or leased by any of the Sears Canada Entities; and
- (c) Claims secured by any security held in connection with a Vacated or Discharged Lien.

Capitalized terms not defined herein have the meanings ascribed to them in the Claims Procedure Order, a copy of which can be obtained from the website of FTI Consulting Canada Inc., the Court-appointed Monitor (the “**Monitor**”) of the Sears Canada Entities, at cfcanada.fticonsulting.com/searscanada/.

You have received this letter because, as indicated by the enclosed Notice of Construction Claim, you have been identified as a Construction Contractor with a Construction Claim. This letter provides general information about the Claims Process as related to Construction Claims, the obligations of Construction Contractors thereunder, and instructions for completing a Notice of Dispute of Construction Claim form.

CLAIMS PROCESS, OBLIGATIONS, AND INSTRUCTIONS TO CONSTRUCTION CONTRACTORS

If you, as the Construction Contractor on behalf of yourself and all Connected Sub-Contractors, disagree with the assessment of the Construction Claim as stated in a Notice of Construction Claim, you must complete the Notice of Dispute of Construction Claim in accordance with the guidelines herein and deliver the executed Notice of Dispute of Construction Claim to the

¹ The “Sears Canada Entities” are Sears Canada Inc., Corbeil Électrique Inc., S.L.H. Transport Inc., The Cut Inc., Sears Contact Services Inc., Initium Logistics Services Inc., Initium Commerce Labs Inc., Initium Trading and Sourcing Corp., Sears Floor Covering Centres Inc., 173470 Canada Inc., 2497089 Ontario Inc., 6988741 Canada Inc., 10011711 Canada Inc., 1592580 Ontario Limited, 955041 Alberta Ltd., 4201531 Canada Inc., 168886 Canada Inc., 3339611 Canada Inc., and SearsConnect.

Monitor such that it is received by no later than 5:00 p.m. (Toronto time) on February 15, 2018 (the “Construction Claims Bar Date”).

Please note that a Construction Contractor’s Construction Claim in relation to a given improvement is deemed to include the Construction Claims of the Construction Contractor and all Construction Claims of any and all Construction Sub-Contractors under an agreement (written or oral) or otherwise engaged by the Construction Contractor or any other Construction Sub-Contractor at any level in connection with the relevant improvement (each, a “**Connected Sub-Contractor**” and together the “**Connected Sub-Contractors**”).

For greater certainty, no Connected Sub-Contractor shall be required to submit a separate Notice of Dispute of Construction Claim in respect of their portion of the above Construction Claim – rather, any such disagreement by a Connected Sub-Contractor is to be included in the Notice of Dispute of Construction Claim submitted by the Construction Contractor.

As a result of the co-ordination that will be required between the Construction Contractor and the Connected Sub-Contractors, the Claims Procedure Order requires you, as the Construction Contractor, to send as soon as possible a copy of both your Notice of Construction Claim and the enclosed Construction Sub-Contractor Instruction Letter to all Construction Sub-Contractors in a direct contractual agreement or engagement with you in connection with the relevant improvement and take steps to ensure that every Construction Sub-Contractor sends as soon as possible a copy of both your Notice of Construction Claim and a Construction Sub-Contractor Instruction Letter to all Construction Sub-Contractors with whom they are in a direct contractual agreement or engagement with in connection with the relevant improvement.

If a completed Notice of Dispute of Construction Claim in respect of the Construction Claim set out in the Notice of Construction Claim is not received by the Monitor by the Construction Claims Bar Date, then both you and all Connected Sub-Contractors in connection with the relevant improvement shall be deemed to have accepted the Construction Claim set out therein, and no such Construction Claimant shall have any further right to dispute the same as against the Sears Canada Entities and/or their Directors and Officers.

Since you, as the Construction Contractor, are to file the Notice of Dispute of Construction Claim on behalf of yourself and all Connected Sub-Contractors, it is your responsibility, as the Construction Contractor, to give each Connected Sub-Contractor the opportunity to determine and negotiate with you, any rights they may have with respect to the Construction Claim and incorporate it into the Notice of Dispute of Construction Claim.

IF A NOTICE OF DISPUTE OF CONSTRUCTION CLAIM IS NOT RECEIVED BY THE MONITOR WITHIN THE PRESCRIBED TIME PERIOD, THE CONSTRUCTION CLAIM AS SET OUT IN THE NOTICE OF CONSTRUCTION CLAIM WILL BE BINDING ON YOU AND ALL CONNECTED SUB-CONTRACTORS.

Construction Claimants requiring further information or claim documentation may contact the Monitor at the following address:

FTI Consulting Canada Inc., Sears Canada Monitor
TD Waterhouse Tower
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto, Ontario M5K 1G8

Attention: **Sears Canada Claims Process**

Tel.: 416-649-8113

Toll Free: 1-855-649-8113

Fax No.: 416-649-8101

Email: searscanada@fticonsulting.com

GUIDE TO COMPLETING THE NOTICE OF DISPUTE OF CONSTRUCTION CLAIM FORM

Please note that this is a guide only, and that in the event of any inconsistency between the terms of this guide and the terms of the Claims Procedure Order made on December 8, 2017, the terms of the Claims Procedure Order will govern. The guide provides instructions by sections corresponding to the headings of the Notice of Dispute of Construction Claim.

SECTION 1(A) – PARTICULARS OF CONSTRUCTION CONTRACTOR

- 1 Enter the reference number of the Construction Claim as indicated at the top of the Notice of Construction Claim.
- 2 The full legal name of the Construction Contractor and its current particulars must be provided.
- 3 If the Construction Contractor operates under a different name or names, please indicate this in a separate schedule in the supporting documentation.

SECTION 1(B) – PARTICULARS OF CONSTRUCTION SUB-CONTRACTOR, IF APPLICABLE

- 1 If a Construction Sub-Contractor at any level in connection with the relevant improvement disputes the Construction Claim as set out in the Notice of Construction Claim, attach documents evidencing (a) such Construction Sub-Contractor's relationship to the Construction Contractor and/or Construction Sub-Contractor who agreed with or engaged them to provide goods/services/work in connection with the relevant improvement; and (b) provide full contact particulars in the table below of such Construction Sub-Contractor and each *other* Construction Sub-Contractor in the contractual "chain" between such Construction Sub-Contractor and the Construction Contractor. If there is insufficient space on the form for such particulars, include them in a separate attached schedule.
- 2 The full legal name of each relevant Construction Sub-Contractor and its current particulars must be provided.
- 3 If any such Construction Sub-Contractor operates under a different name or names, please indicate this in a separate schedule to be prepared and attached by you.

SECTION 2 – DISPUTE OF CLAIM AS DETERMINED IN NOTICE OF CONSTRUCTION CLAIM

- 1 Indicate both the amount set out in the Notice of Construction Claim and the amount asserted by you, as the Construction Contractor and on behalf of all Connected Sub-Contractors, for each Construction Claim: (i) against a Sears Canada Entity under trust provisions of applicable Provincial Lien Legislation, (ii) against a Director or Officer under trust provisions of applicable Provincial Lien Legislation, (iii) secured by registration of a builders' lien or construction lien, or secured by any security held in connection with a Vacated or Discharged Lien, and (iv) to the extent applicable, any unsecured portion of such Construction Claim.

- 2 Each specific Sears Canada Entity, Director or Officer claimed against must be named in the appropriate column.
- 3 If the amount claimed is in a currency other than Canadian dollars, please indicate this in the table.
- 4 If necessary, currency will be converted in accordance with the Claims Procedure Order.

SECTION 3 – REASONS FOR DISPUTE

- 1 Provide full particulars of why the Construction Contractor on behalf of itself and all Connected Sub-Contractors disputes the determination of the Construction Claim as set out in the Notice of Construction Claim. If there is insufficient space on the form for such particulars, provide it on a separate schedule.
- 2 Attach all supporting documentation, including without limitation amount, description of transaction(s) or agreement(s) giving rise to the Construction Claim(s), name of any guarantor(s) which has guaranteed payment of the Construction Claim(s), and any amount allocated thereto, the date and number of all invoices and supporting documentation, particulars of all credits, discounts, etc. claimed, the full particulars of each person for whom the services or materials were provided to by a given Construction Claimant related to the Construction Claim, a brief description of the services or materials supplied by each Construction Claimant, each contract price or subcontract price, the date of each Construction Claimant's date of last supply, date of substantial performance if applicable, copies of each contract/subcontract at issue including any change orders, amendments, and purchase orders or other related documents.
- 3 The particulars provided must support the value of the Construction Claim as stated by you in Section 2 above.
- 4 The Notice of Dispute of Construction Claim is to be signed only by the Person submitting the Notice of Dispute of Construction Claim.

FILING OF NOTICE OF DISPUTE OF CONSTRUCTION CLAIM

The Notice of Dispute of Construction Claim MUST be received by the Monitor on or before 5:00 p.m. (Toronto time) on the Construction Claims Bar Date of February 15, 2018 by prepaid ordinary mail, registered mail, courier, personal delivery, facsimile transmission or email at the following address:

FTI Consulting Canada Inc., Sears Canada Monitor
TD Waterhouse Tower
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto, Ontario M5K 1G8

Attention: Sears Canada Claims Process

Fax No.: 416-649-8101

Email: searscanada@fticonsulting.com

IF A NOTICE OF DISPUTE OF CONSTRUCTION CLAIM IS NOT RECEIVED BY THE MONITOR WITHIN THE PRESCRIBED TIME PERIOD, THE CONSTRUCTION CLAIM AS SET OUT IN THE NOTICE OF CONSTRUCTION CLAIM WILL BE BINDING ON YOU AND ALL CONNECTED SUB-CONTRACTORS