

Court File No.: CV-17-11846-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF SEARS CANADA INC., 9370-2751 QUEBEC INC., 191020
CANADA 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. AND 3339611 CANADA INC.

MOTION RECORD
(Motion re. Temporary Lift of Stay)
(returnable November 1, 2018)

September 7, 2018

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Employee Representative Counsel

TO: THE SERVICE LIST

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF SEARS CANADA INC., 9370-2751 QUEBEC INC., 191020 CANADA
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.,
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INC. AND 3339611 CANADA INC.

(Motion re. Temporary Lift of Stay)
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IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, c. C-36. AS AMENDED Court File No.: CV-17-11846-00CL
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(each, an "Applicant", and collectively, the "Applicants")

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at TORONTO

**MOTION RECORD OF
EMPLOYEE REPRESENTATIVE COUNSEL**

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Employee Representative Counsel

Tab 1

Court File No.: CV-17-11846-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SEARS
CANADA INC., 9370-2751 QUÉBEC INC., 191020 CANADA 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., AND 3339611 CANADA INC.

Applicants

**NOTICE OF MOTION
(Temporary Lift of Stay)
(returnable November 1, 2018)**

Ursel Phillips Fellows Hopkinson LLP in its capacity as representative counsel ("**Employee Representative Counsel**") to the court-appointed representatives of the Employees (as defined below) will make a motion to a Judge of the Ontario Superior Court of Justice (Commercial List), on Thursday, November 1, 2018, at 10:00 am or as soon after that time as the motion can be heard, at the courthouse located at 330 University Avenue.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

THE MOTION IS FOR:

- 1 an Order, substantially in the form included in the Motion Record (the "**Lift Stay Order**"):
- (a) if necessary, abridging and validating the timing and method of service of this Notice of Motion and the Motion Record and dispensing with service on any person other than those served; and

(b) lifting the Stay of Proceedings to permit Employee Representative Counsel, on behalf of the Employees, to issue an Application for a Bankruptcy Order in respect of each of Sears Canada Inc. ("**Sears**"), 9370-2751 Québec Inc. (formerly Corbeil Électrique Inc.) ("**Former Corbeil**"), 191020 Canada Inc. (formerly S.L.H. Transport Inc.) and 168886 Canada Inc. (together "**Former SLH**", and collectively with Sears and Corbeil, the "**Employers**"; with such applications being collectively, the "**Bankruptcy Applications**"); and

2 such further and other relief as counsel may advise and this Court may deem just.

THE GROUNDS FOR THE MOTION ARE:

1 The Employers, among others, were granted protection from their creditors under the *Companies' Creditors Arrangement Act*, R.S.C. 1985 c. C-36, as amended (the "**CCAA**") pursuant to an initial order of the Ontario Superior Court of Justice (Commercial List) granted on June 22, 2017 (as amended and restated, the "**Initial Order**");

2 The Initial Order granted a stay of proceedings (the "**Stay of Proceedings**") in favour of the Employers, among others, until July 22, 2017, which period has since been extended by the Court and which currently expires December 18, 2018;

3 Pursuant to an employee representative counsel order issued by the Court on July 13, 2017 (the "**Employee Representative Counsel Order**"), Ursel Phillips Fellows Hopkinson LLP was appointed as Employee Representative Counsel to represent the interests of the approximately 22,000 non-unionized Active Employees and Former Employees of the Sears Canada Entities, excluding any Opt-Out Individuals (as each such term is defined in the Employee Representative Counsel Order) (collectively, the "**Employees**") for the purposes set out in such Order. The Employee Representative Counsel Order also appointed five individuals

as representatives of all Employees to act in the overall best interests of the Employees, and to advise and where appropriate instruct Employee Representative Counsel;

4 As at the date hereof, and further to the claims methodologies set out in the employee and retiree claims procedure order granted by the Court on February 22, 2018, the Applicants are indebted to the Employees in an amount claimed to be not less than \$192,361,000.00;

5 On August 24, 2018, Morneau Shepell Ltd., in its capacity as Administrator (the "**Plan Administrator**") of the Sears Canada Inc. Registered Retirement Plan (the "**Pension Plan**") and the Superintendent of Financial Services in his capacity as Administrator of the Ontario Pension Benefits Guarantee Fund (the "**Superintendent**") jointly served a motion (the "**Administrators' Deemed Trust Motion**") seeking an order, among other things, that:

- (a) the Employers, be deemed to hold all assets and proceeds therefrom (the "**Proceeds**") up to the amount due by them in respect of the wind up of the Pension Plan in trust for the beneficiaries of the Pension Plan (such amount being the "**Wind-Up Deficiency**");
- (b) the Plan Administrator has a lien and charge attached to the Proceeds for the amounts due the wind-up of the Pension Plan by the Employers;
- (c) the Superintendent has a lien and charge attached to the Proceeds as security for any funds that are paid out of Ontario's Pension Benefit Guarantee Fund in respect of the Wind-Up Deficiency; and
- (d) such claims in respect of the Wind-Up Deficiency have priority to the claims of all other creditors of the Employers, including the Employees represented by Employee Representative Counsel;

6 The Administrators' Deemed Trust Motion follows a motion (the "**Pensioners' Deemed Trust Motion**") served on July 20, 2018 by Representative Counsel to the court-appointed representatives of employees and retirees of the Sears Canada Entities with respect to pensions and post-retirement benefits, which motion seeks substantially similar relief as the Administrators' Deemed Trust Motion (together with the Pensioners' Deemed Trust Motion, the "**Deemed Trust Motions**") but in respect of the assets and proceeds of Sears only and not those of Former SLH or Former Corbeil;

7 It is just and equitable that, at this time, the Stay of Proceedings be lifted to permit Employee Representative Counsel to issue the Bankruptcy Applications in respect of the Employers, each in order to allow the Employees to preserve their rights as creditors of the Employers and the relative priorities of their claims vis a vis those of the Plan Administrator, the Superintendent and Pension Plan beneficiaries in light of the Deemed Trust Motions;

8 The facts and circumstances in the affidavit of Emily Elder sworn September 6, 2018;

9 The provisions of the CCAA, including section 11 thereof, and the inherent and equitable jurisdiction of this Court;

10 Section 43 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3;

11 Rules 1.04, 1.05, 2.03, 3.02, 16 and 37 of the *Rules of Civil Procedure*, R.R.O 1990, Reg. 194, as amended; and

12 Such other and further grounds as counsel may advise and this Court may permit.

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

1 The affidavit of Emily Elder sworn September 6, 2018; and

2 Such further and other evidence as counsel may advise and this Court may permit.

September 7, 2018

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Employee Representative Counsel

TO: **THE SERVICE LIST**

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

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AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SEARS
CANADA INC., et al.

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceeding commenced at TORONTO

**NOTICE OF MOTION
(Temporary Lift of Stay)
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Ursel Phillips Fellows Hopkinson LLP
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Employee Representative Counsel

Tab 2

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
SEARS CANADA INC., 9370-2751 QUÉBEC INC., 191020 CANADA INC., THE CUT
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ONTARIO LIMITED, 955041
ALBERTA LTD., 4201531 CANADA INC., 168886 CANADA INC. AND
3339611 CANADA INC.

APPLICANTS

**AFFIDAVIT OF EMILY ELDER
(Sworn September 6, 2018)**

I, Emily Elder, of the City of Toronto, in the Province of Ontario, **MAKE OATH
AND SAY AS FOLLOWS:**

1. I am an associate with the law firm of Ursel Phillips Fellows Hopkinson LLP, in its capacity as Employee Representative Counsel in these proceedings, as defined below. As such, I have knowledge of the matters hereinafter deposed to.

2. I swear this Affidavit in support of the motion by Ursel Phillips Fellows Hopkinson LLP in its capacity as representative counsel ("**Employee Representative Counsel**") to the court-appointed representatives of the Employees (as defined below) seeking a temporary lifting of the stay of proceedings in order to issue, on behalf of the Employees, an Application for a Bankruptcy Order in respect of each of the Applicants Sears Canada Inc., 9370-2751 Québec Inc. (formerly Corbeil Électrique Inc.), 191020 Canada Inc. (formerly S.L.H. Transport Inc.) and

168886 Canada Inc. (collectively, the “**Employers**”, with such applications being collectively, the “**Bankruptcy Applications**”).

Background

3. On June 22, 2017, the Applicants were granted protection from their creditors under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985 c. C-36, as amended pursuant to an initial order of the Ontario Superior Court of Justice (Commercial List) granted on June 22, 2017 (as amended and restated, the “**Initial Order**”). A copy of the Initial Order is attached hereto as **Exhibit “A”**.

4. The Initial Order granted a stay of proceedings (the “**Stay of Proceedings**”) in favour of the Applicants until July 22, 2017, which period has since been extended by the Court and which currently expires December 18, 2018.

5. Pursuant to an employee representative counsel order issued by the Court on July 13, 2017 (the “**Employee Representative Counsel Order**”), Ursel Phillips Fellows Hopkinson LLP was appointed as Employee Representative Counsel to represent the interests of the approximately 22,000 non-unionized Active Employees and Former Employees of the Sears Canada Entities, excluding any Opt-Out Individuals (as each such term is defined in the Employee Representative Counsel Order) (collectively, the “**Employees**”) for the purposes set out in such Order. The Employee Representative Counsel Order also appointed five individuals as representatives of all Employees to act in the overall best interests of the Employees, and to advise and where appropriate instruct Employee Representative Counsel. A copy of the Employee Representative Counsel Order is attached hereto as **Exhibit “B”**.

6. On February 22, 2018, the Court granted an Order (the “**Employee and Retiree Claims Procedure Order**”) that, among other things:

- (a) approved various methodologies further to which the substantial majority of all claims of the Employees relating to the termination of their employment would be calculated; and
- (b) established an identification and adjudication process for the calculation of all such claims.

A copy of the Employee and Retiree Claims Procedure Order (without schedules) is attached hereto as **Exhibit “C”**.

7. Although certain Employee claims continue to be adjudicated, those claims that are capable of calculation and allowance pursuant to the methodologies (referred to in the Employee and Retiree Claims Procedure Order as “**Termination Claims**”) set out in the Employee and Retiree Claims Procedure Order are not less than \$192,361,000. As other claims of Employees continue to be assessed, adjudicated, and finally determined, the total allowed claims of Employees as a whole only increases on top of this figure.

8. Recently, on August 24, 2018, Morneau Shepell Ltd., in its capacity as Administrator (the “**Plan Administrator**”) of the Sears Canada Inc. Registered Retirement Plan (the “**Pension Plan**”) and the Superintendent of Financial Services in his capacity as Administrator of the Ontario Pension Benefits Guarantee Fund (the “**Superintendent**”) jointly served a motion (the “**Administrators’ Deemed Trust Motion**”) seeking an order, among other things, that:

- (a) the Employers, be deemed to hold all assets and proceeds therefrom (the “**Proceeds**”) up to the amount due by them in respect of the wind

up of the Pension Plan in trust for the beneficiaries of the Pension Plan (such amount being the **"Wind-Up Deficiency"**);

- (b) the Plan Administrator has a lien and charge attached to the Proceeds for the Wind-Up Deficiency;
- (c) the Superintendent has a lien and charge attached to the Proceeds as security for any funds that are paid out of Ontario's Pension Benefit Guarantee Fund for the Wind-Up Deficiency; and
- (d) such claims in respect of the Wind-Up Deficiency have priority to the claims of all other creditors of the Employers, including the Employees represented by Employee Representative Counsel.

9. The Administrators' Deemed Trust Motion follows a motion (the **"Pensioners' Deemed Trust Motion"**) served on July 20, 2018 by Representative Counsel to the court-appointed representatives of employees and retirees of the Sears Canada Entities with respect to pensions and post-retirement benefits, which motion seeks substantially similar relief as the Administrators' Deemed Trust Motion (together with the Pensioners' Deemed Trust Motion, the **"Deemed Trust Motions"**) but in respect of only the assets and proceeds of Sears.

Lifting of the Stay of Proceedings

10. Pursuant to the Initial Order, no proceedings or enforcement process in any court shall be commenced in respect of the Applicants except with the written consent of the Applicants, or with leave of the Court.

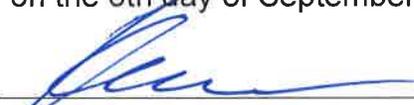
11. The issuance of the Bankruptcy Applications by Employee Representative Counsel on behalf of the Employees is intended to allow the Employees to preserve their rights as creditors of the Employers and the relative priorities of their claims vis

a vis those of the Plan Administrator, the Superintendent and the Pension Plan beneficiaries in light of the Deemed Trust Motions.

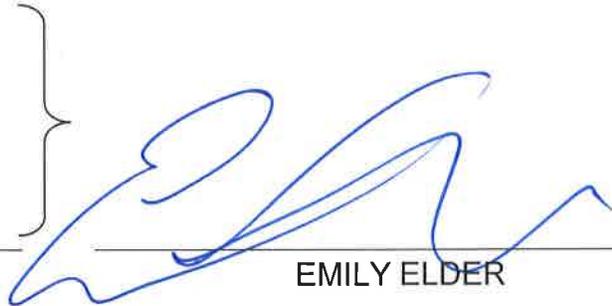
Relief Requested

12. Accordingly, I request that this Court grant the requested Order lifting the Stay of Proceedings and thereby permit issuance of the Bankruptcy Applications.

SWORN BEFORE ME at the
City of Toronto,
In the Province of Ontario
on the 6th day of September, 2018.



A Commissioner for taking affidavits,
etc.
Karen Ensslen LS: 60419G

} 

EMILY ELDER

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
SEARS CANADA INC., *et al.*

Court File No: CV-17-11846-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceeding commenced at TORONTO

**AFFIDAVIT OF EMILY ELDER
(SWORN SEPTEMBER 6, 2018)**

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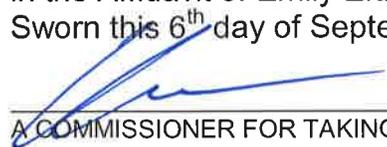
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Employee Representative Counsel

Tab A

This is Exhibit "A" referred to
in the Affidavit of Emily Elder
Sworn this 6th day of September, 2018



A COMMISSIONER FOR TAKING AFFIDAVITS

Court File No. CV-17-11846-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.)	THURSDAY, THE 22 ND
)	
JUSTICE HAINEY)	DAY OF JUNE, 2017



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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF 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., AND 3339611 CANADA INC.

(each, an “**Applicant**”, and collectively, the “**Applicants**”)

INITIAL ORDER

THIS APPLICATION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Billy Wong sworn June 22, 2017, and the Exhibits thereto (collectively, the “**Wong Affidavit**”), and the pre-filing report dated June 22, 2017 of FTI Consulting Canada Inc. (“**FTI**”), in its capacity as the proposed Monitor of the Applicants (the “**Pre-Filing Report**”), and on hearing the submissions of counsel to the Applicants and Sears Connect LP (the “**Partnership**”, and collectively with the Applicants, the “**Sears Canada**

- 2 -

Entities”), counsel to the Board of Directors (the “**Board of Directors**”) of Sears Canada Inc. (“**SCI**”) and the Special Committee of the Board of Directors (the “**Special Committee**”) of SCI, counsel to FTI, counsel to Wells Fargo Capital Finance Corporation Canada (the “**DIP ABL Agent**”), as administrative agent under the DIP ABL Credit Agreement (as defined herein), and counsel to GACP Finance Co., LLC (the “**DIP Term Agent**”), as administrative agent under the DIP Term Credit Agreement (as defined herein), Koskie Minsky LLP as counsel for Store Catalogue Retiree Group, counsel for the Financial Services Commission of Ontario, and on reading the consent of FTI to act as the Monitor.

SERVICE

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

APPLICATION

2. **THIS COURT ORDERS AND DECLARES** that the Applicants are companies to which the CCAA applies. Although not an Applicant, the Partnership shall enjoy the benefits of the protections and authorizations provided by this Order.

PLAN OF ARRANGEMENT

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

POSSESSION OF PROPERTY AND OPERATIONS

4. **THIS COURT ORDERS** that the Sears Canada Entities shall remain in possession and control of their respective current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”). For greater certainty, the “**Property**” includes all inventory, assets, undertakings and property of the Sears Canada Entities in the possession or control of the Hometown Dealers (as defined in the Wong Affidavit) and all inventory, assets, undertakings and property of the Sears Canada

- 3 -

Entities in the possession or control of the Corbeil Franchisees (as defined in the Wong Affidavit). Subject to further Order of this Court, the Sears Canada Entities shall continue to carry on business in a manner consistent with the preservation of the value of their business (the “**Business**”) and Property. The Sears Canada Entities shall each be authorized and empowered to continue to retain and employ the employees, independent contractors, advisors, consultants, agents, experts, accountants, counsel and such other persons (collectively, “**Assistants**”) currently retained or employed by them, with liberty, subject to the terms of the Definitive Documents (as defined herein) to retain such further Assistants, as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

5. **THIS COURT ORDERS** that the Sears Canada Entities shall be entitled to continue to utilize the central cash management services currently in place as described in the Wong Affidavit, or, with the consent of the Monitor, the DIP ABL Agent on behalf of the DIP ABL Lenders (as defined herein) and the DIP Term Agent on behalf of the DIP Term Lenders (as defined herein), replace it with another substantially similar central cash management services (the “**Cash Management System**”) and that any present or future bank or other institution providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the Sears Canada Entities of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the Sears Canada Entities, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System; provided, however, that no bank or other institution providing such Cash Management System shall be obliged to extend any overdraft credit, on an aggregate net basis, directly or indirectly in connection therewith and further provided that, to the extent any overdraft occurs, on an aggregate net basis, the Sears Canada Entities shall make arrangements to repay such overdraft forthwith.

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6. **THIS COURT ORDERS** that the Sears Canada Entities, subject to availability under, and in accordance with the terms of the DIP Facilities (as defined herein) and the Definitive Documents, and subject to further Order of this Court, shall be entitled but not required to pay the following expenses whether incurred prior to, on or after this Order to the extent that such expenses are incurred and payable by the Sears Canada Entities:

- (a) all outstanding and future wages, salaries, commissions, employee and retiree benefits (including, without limitation, medical, dental, life insurance and similar benefit plans or arrangements), pension benefits or contributions, vacation pay, expenses, and director fees and expenses, payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements (but not including termination or severance payments), and all other payroll, pension and benefits processing and servicing expenses;
- (b) all outstanding and future amounts owing to or in respect of Persons working as independent contractors in connection with the Business;
- (c) all outstanding or future amounts owing in respect of customer rebates, refunds, discounts or other amounts on account of similar customer programs or obligations;
- (d) all outstanding or future amounts related to honouring customer obligations, whether existing before or after the date of this Order, including customer financing, product warranties, pre-payments, deposits, gift cards, Sears Club programs (including redemptions of Sears Club points) and other customer loyalty programs, offers and benefits, in each case incurred in the ordinary course of business and consistent with existing policies and procedures;
- (e) the fees and disbursements of any Assistants retained or employed by the Sears Canada Entities at their standard rates and charges; and
- (f) with the consent of the Monitor, amounts owing for goods or services actually supplied to the Sears Canada Entities prior to the date of this Order by:

- 5 -

- (i) logistics or supply chain providers, including customs brokers and freight forwarders, fuel providers, repair, maintenance and parts providers, and security and armoured truck carriers, and including amounts payable in respect of customs and duties for goods;
- (ii) providers of information, internet, and other technology, including e-commerce providers and related services;
- (iii) providers of credit, debit and gift card processing related services; and
- (iv) other third party suppliers up to a maximum aggregate amount of \$25 million, if, in the opinion of the Sears Canada Entities, the supplier is critical to the business and ongoing operations of the Sears Canada Entities.

7. **THIS COURT ORDERS** that, except as otherwise provided to the contrary herein and subject to the terms of the Definitive Documents, the Sears Canada Entities shall be entitled but not required to pay all reasonable expenses incurred by them in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order and any other Order of this Court, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors' and officers' insurance), maintenance (including environmental remediation) and security services; and
- (b) payment for goods or services actually supplied to the Sears Canada Entities following the date of this Order.

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

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

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- (b) all goods and services taxes, harmonized sales taxes or other applicable sales taxes (collectively, “**Sales Taxes**”) required to be remitted by the Sears Canada Entities in connection with the sale of goods and services by the Sears Canada Entities, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order;
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business, workers’ compensation or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the Sears Canada Entities; and
- (d) taxes under the *Income Tax Act* (Canada) or other relevant taxing statutes to the extent that such taxing statutes give rise to statutory deemed trust amounts in favour of the Crown in right of Canada or any Province thereof or any political subdivision thereof or any other taxation authority.

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

RESTRUCTURING

10. **THIS COURT ORDERS** that the Sears Canada Entities shall, subject to such requirements as are imposed by the CCAA, and subject to the terms of the Definitive Documents, have the right to:

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- (a) permanently or temporarily cease, downsize or shut down any of their Business or operations, and to dispose of redundant or non-material assets not exceeding \$2 million in any one transaction or \$5 million in the aggregate in any series of related transactions, provided that, with respect to leased premises, the Sears Canada Entities may, subject to the requirements of the CCAA and paragraphs 11 to 13 herein, vacate, abandon or quit the whole (but not part of) and may permanently (but not temporarily) cease, downsize or shut down any of their Business or operations in respect of any leased premises;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as the relevant Sears Canada Entity deems appropriate; and
- (c) pursue all avenues of refinancing, restructuring, selling and reorganizing the Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing, restructuring, sale or reorganization,

all of the foregoing to permit the Sears Canada Entities to proceed with an orderly restructuring of the Sears Canada Entities and/or the Business (the “**Restructuring**”).

REAL PROPERTY LEASES

11. **THIS COURT ORDERS** that until a real property lease is disclaimed or resiliated in accordance with the CCAA, the Sears Canada Entities shall pay, without duplication, all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under its lease, but for greater certainty, excluding accelerated rent or penalties, fees or other charges arising as a result of the insolvency of any or all of the Sears Canada Entities or the making of this Initial Order) or as otherwise may be negotiated between the applicable Sears Canada Entity and the landlord from time to time (“**Rent**”), for the period commencing from and including the date of this Order, twice-monthly in equal payments on the first and fifteenth day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

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12. **THIS COURT ORDERS** that the Sears Canada Entities shall provide each of the relevant landlords with notice of the relevant Sears Canada Entity's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the entitlement of a Sears Canada Entity to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the relevant Sears Canada Entity, or by further Order of this Court upon application by the Sears Canada Entities on at least two (2) days' notice to such landlord and any such secured creditors. If any of the Sears Canada Entities disclaims or resiliates the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer or resiliation of the lease shall be without prejudice to the relevant Sears Canada Entity's claim to the fixtures in dispute.

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

NO PROCEEDINGS AGAINST THE SEARS CANADA ENTITIES, THE BUSINESS OR THE PROPERTY

14. **THIS COURT ORDERS** that until and including July 22, 2017, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of the

Sears Canada Entities or the Monitor or their respective employees and representatives acting in such capacities, or affecting the Business or the Property, except with the written consent of the Sears Canada Entities and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of the Sears Canada Entities or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

15. **THIS COURT ORDERS** that during the Stay Period, no Person having any agreements or arrangements with the owners, operators, managers or landlords of commercial shopping centres or other commercial properties (including retail, office and industrial (warehouse) properties) in which there is located a store, office or warehouse owned or operated by the Sears Canada Entities shall take any Proceedings or exercise any rights or remedies under such agreements or arrangements that may arise upon and/or as a result of the making of this Order, the insolvency of, or declarations of insolvency by, any or all of the Sears Canada Entities, or as a result of any steps taken by the Sears Canada Entities pursuant to this Order and, without limiting the generality of the foregoing, no Person shall terminate, accelerate, suspend, modify, determine or cancel any such arrangement or agreement or be entitled to exercise any rights or remedies in connection therewith.

16. **THIS COURT ORDERS** that during the Stay Period, no Person having any agreements or arrangements with the Hometown Dealers or the Corbeil Franchisees shall take any Proceedings or exercise any rights or remedies under such agreements or arrangements that may arise upon and/or as a result of the making of this Order, the insolvency of, or declarations of insolvency by, any or all of the Sears Canada Entities, or as a result of any steps taken by the Sears Canada Entities pursuant to this Order and, without limiting the generality of the foregoing, no Person shall terminate, accelerate, suspend, modify, determine or cancel any such arrangement or agreement or be entitled to exercise any rights or remedies in connection therewith.

17. **THIS COURT ORDERS** that during the Stay Period all rights and remedies, of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**") against or in respect of the Sears Canada Entities or the Monitor or their respective employees and representatives acting in

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such capacities, or affecting the Business or the Property, are hereby stayed and suspended, except with the written consent of the Sears Canada Entities and the Monitor, or leave of this Court, provided that nothing in this Order shall: (a) empower the Sears Canada Entities to carry on any business that the Sears Canada Entities are not lawfully entitled to carry on; (b) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA; (c) prevent the filing of any registration to preserve or perfect a security interest; or (d) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

18. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, lease, sublease, licence or permit in favour of or held by the Sears Canada Entities, except with the written consent of the Sears Canada Entities and the Monitor, or leave of this Court. Without limiting the foregoing, no right, option, remedy, and/or exemption in favour of the relevant Sears Canada Entity shall be or shall be deemed to be negated, suspended, waived and/or terminated as a result of this Order.

CONTINUATION OF SERVICES

19. **THIS COURT ORDERS** that during the Stay Period, all Persons having oral or written agreements with the Sears Canada Entities or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all trademark license and other intellectual property, computer software, communication and other data services, centralized banking services, payroll and benefit services, insurance, warranty services, transportation services, freight services, security and armoured truck carrier services, utility, customs clearing, warehouse and logistics services or other services to the Business or the Sears Canada Entities are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply or license of such goods, services, trademarks and other intellectual property as may be required by the Sears Canada Entities, and that the Sears Canada Entities shall be entitled to the continued use of the trademarks and other intellectual property currently licensed to, used or owned by the Sears Canada Entities, premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by

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the Sears Canada Entities in accordance with normal payment practices of the Sears Canada Entities or such other practices as may be agreed upon by the supplier or service provider and each of the Sears Canada Entities and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

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

KEY EMPLOYEE RETENTION PLAN

21. **THIS COURT ORDERS** that the Key Employee Retention Plan (the “**KERP**”), as described in the Wong Affidavit, is hereby approved and the Sears Canada Entities are authorized to make payments contemplated thereunder in accordance with the terms and conditions of the KERP.

22. **THIS COURT ORDERS** that the key employees referred to in the KERP (the “**Key Employees**”) shall be entitled to the benefit of and are hereby granted the following charges on the Property, which charges shall not exceed: (a) an aggregate amount of \$4.6 million (the “**KERP Priority Charge**”) to secure the first \$4.6 million payable to the Key Employees under the KERP; and (b) an aggregate amount of \$4.6 million (the “**KERP Subordinated Charge**”) to secure any other payments to the Key Employees under the KERP. The KERP Priority Charge and the KERP Subordinated Charge shall have the priority set out in paragraphs 46, 47 and 49 hereof.

APPROVAL OF FINANCIAL ADVISOR AGREEMENT

23. **THIS COURT ORDERS** that the agreement dated May 15, 2017 engaging BMO Nesbitt Burns Inc. (the “**Financial Advisor**”) as financial advisor to SCI and attached as Confidential Appendix C to the Pre-Filing Report (the “**Financial Advisor Agreement**”), and the retention of the Financial Advisor under the terms thereof, is hereby ratified and approved

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and SCI is authorized and directed *nunc pro tunc* to make the payments contemplated thereunder in accordance with the terms and conditions of the Financial Advisor Agreement.

24. **THIS COURT ORDERS** that the Financial Advisor shall be entitled to the benefit of and is hereby granted a charge (the “**FA Charge**”) on the Property, which charge shall not exceed an aggregate amount of \$3.3 million, as security for the fees and disbursements payable under the Financial Advisor Agreement, both before and after the making of this Order in respect of these proceedings. The FA Charge shall have the priority set out in paragraphs 46, 47 and 49 hereof.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

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

DIRECTORS’ AND OFFICERS’ INDEMNIFICATION AND CHARGE

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

27. **THIS COURT ORDERS** that the directors and officers of the Sears Canada Entities shall be entitled to the benefit of and are hereby granted the following charges on the Property, which charges shall not exceed: (a) an aggregate amount of \$44 million (the “**Directors’**

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Priority Charge"); and (b) an aggregate amount of \$19.5 million (the "**Directors' Subordinated Charge**"), respectively, and in each case, as security for the indemnity provided in paragraph 26 of this Order. The Directors' Priority Charge and the Directors' Subordinated Charge shall have the priority set out in paragraphs 46, 47 and 49 hereof.

28. **THIS COURT ORDERS** that, notwithstanding any language in any applicable insurance policy to the contrary: (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Priority Charge and the Directors' Subordinated Charge; and (b) the Sears Canada Entities' directors and officers shall only be entitled to the benefit of the Directors' Priority Charge and the Directors' Subordinated Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 26 of this Order.

APPOINTMENT OF MONITOR

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

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

- (a) monitor the Sears Canada Entities' receipts and disbursements;
- (b) liaise with the Sears Canada Entities and the Assistants and, if determined by the Monitor to be necessary, the Hometown Dealers and Corbeil Franchisees, with respect to all matters relating to the Property, the Business, the Restructuring and such other matters as may be relevant to the proceedings herein;

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- (c) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, the Restructuring and such other matters as may be relevant to the proceedings herein;
- (d) assist the Sears Canada Entities, to the extent required by the Sears Canada Entities, in their dissemination of financial and other information to the DIP ABL Agent, the DIP ABL Lenders, the DIP Term Agent, the DIP Term Lenders and each of their respective counsel and financial advisors, pursuant to and in accordance with the Definitive Documents;
- (e) advise the Sears Canada Entities in their preparation of the Sears Canada Entities' cash flow statements and any reporting required by the Definitive Documents, which information shall be reviewed with the Monitor and delivered to the DIP ABL Agent, the DIP ABL Lenders, the DIP Term Agent, the DIP Term Lenders and each of their respective counsel and financial advisors, pursuant to and in accordance with the Definitive Documents;
- (f) advise the Sears Canada Entities in their development of the Plan and any amendments to the Plan;
- (g) assist the Sears Canada Entities, to the extent required by the Sears Canada Entities, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (h) have full and complete access to the Property (including any Property in the possession of the Hometown Dealers and the Corbeil Franchisees), including the premises, books, records, data, including data in electronic form, and other financial documents of the Sears Canada Entities, to the extent that is necessary to adequately assess the Business and the Sears Canada Entities' financial affairs or to perform its duties arising under this Order;
- (i) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;

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- (j) assist the Sears Canada Entities, to the extent required by the Sears Canada Entities, with any matters relating to any foreign proceeding commenced in relation to any of the Sears Canada Entities, including retaining independent legal counsel, agents, experts, accountants, or such other persons as the Monitor deems necessary or desirable respecting the exercise of this power; and
- (k) perform such other duties as are required by this Order or by this Court from time to time.

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

32. **THIS COURT ORDERS** that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

33. **THIS COURT ORDERS** that the Monitor shall provide any creditor of the Sears Canada Entities, the DIP ABL Agent, the DIP ABL Lenders, the DIP Term Agent and the DIP Term Lenders with information provided by the Sears Canada Entities in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor

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shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by the Sears Canada Entities is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and the Sears Canada Entities may agree.

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

35. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, counsel to the Sears Canada Entities and counsel to the Board of Directors and the Special Committee shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, whether incurred prior to or subsequent to the date of this Order, by the Sears Canada Entities as part of the costs of these proceedings. The Sears Canada Entities are hereby authorized and directed to pay the accounts of the Monitor, counsel to the Monitor, counsel to the Sears Canada Entities and counsel to the Board of Directors and the Special Committee on a weekly basis and, in addition, the Sears Canada Entities are hereby authorized to pay to the Monitor, counsel to the Monitor, counsel to the Sears Canada Entities and counsel to the Board of Directors and the Special Committee, retainers in the aggregate amount of \$700,000, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

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

37. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor, counsel to the Sears Canada Entities and counsel to the Board of Directors and the Special Committee shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the Property, which charge shall not exceed an aggregate amount of \$5 million, as security for their professional fees and disbursements incurred at their respective standard rates and charges, both

before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 46, 47 and 49 hereof.

DIP FINANCING

38. **THIS COURT ORDERS** that the Sears Canada Entities are hereby authorized and empowered to obtain and borrow or guarantee, as applicable, on a joint and several basis, under:

- (a) the Senior Secured Superpriority Debtor-in-Possession Amended and Restated Credit Agreement dated as of June 22, 2017 and attached to the Wong Affidavit as Exhibit K, among the Sears Canada Entities, the DIP ABL Agent and the lenders from time to time party thereto (the “**DIP ABL Lenders**”) (as may be amended, restated, supplemented and/or modified, subject to approval of this Court in respect of any amendment that the Monitor determines to be material, the “**DIP ABL Credit Agreement**”), in order to finance the Sears Canada Entities’ working capital requirements and other general corporate purposes and capital expenditures, all in accordance with the Definitive Documents, provided that borrowings under DIP ABL Credit Agreement shall not exceed \$300 million unless permitted by further Order of this Court (the “**DIP ABL Credit Facility**”); and
- (b) the Senior Secured, Superpriority Debtor-in-Possession Credit Agreement dated as of June 22, 2017 and attached to the Wong Affidavit as Exhibit K, among the Sears Canada Entities, the DIP Term Agent and the lenders from time to time party thereto (the “**DIP Term Lenders**”) (as may be amended, restated, supplemented and/or modified, subject to approval of this Court in respect of any amendment that the Monitor determines to be material, the “**DIP Term Credit Agreement**”), in order to finance the Sears Canada Entities’ working capital requirements and other general corporate purposes and capital expenditures, all in accordance with the Definitive Documents, provided that borrowings under the DIP Term Credit Agreement shall not exceed \$150 million unless permitted by further Order of this Court (the “**DIP Term Credit Facility**”, and together with the DIP ABL Credit Facility, the “**DIP Facilities**”).

39. **THIS COURT ORDERS** that the DIP Facilities shall be on the terms and subject to the conditions set forth in the DIP ABL Credit Agreement, the DIP Term Credit Agreement and the other Definitive Documents.

40. **THIS COURT ORDERS** that the Sears Canada Entities are hereby authorized and empowered to execute and deliver the DIP ABL Credit Agreement, the DIP Term Credit Agreement and such mortgages, charges, hypothecs and security documents, guarantees and other definitive documents (collectively, and including any schedules (as amended and updated from time to time) thereto, the “**Definitive Documents**”), as are contemplated by the DIP ABL Credit Agreement and the DIP Term Credit Agreement or as may be reasonably required by the DIP ABL Agent on behalf of the DIP ABL Lenders and the DIP Term Agent on behalf of the DIP Term Lenders pursuant to the terms thereof, as applicable, and the Sears Canada Entities are hereby authorized and directed to pay and perform all of its indebtedness, interest, fees, liabilities and obligations to the DIP ABL Agent, the DIP ABL Lenders, the DIP Term Agent and the DIP Term Lenders under and pursuant to the Definitive Documents as and when the same become due and are to be performed, notwithstanding any other provision of this Order.

41. **THIS COURT ORDERS** that the DIP ABL Agent and the DIP ABL Lenders shall be entitled to the benefit of and are hereby granted a charge (the “**DIP ABL Lenders’ Charge**”) on the Property as security for any and all Obligations (as defined in the DIP ABL Credit Agreement) other than the Prepetition Obligations (as defined in the DIP ABL Credit Agreement) (including on account of principal, interest, fees, expenses and other liabilities, and the aggregate of all such obligations, the “**DIP ABL Obligations**”), which DIP ABL Lenders’ Charge shall be in the aggregate amount of the DIP ABL Obligations outstanding at any given time under the DIP ABL Credit Agreement. The DIP ABL Lenders’ Charge shall not secure an obligation that exists before this Order is made. The DIP ABL Lenders’ Charge shall have the priority set out in paragraphs 46, 47 and 49 hereof.

42. **THIS COURT ORDERS** that the DIP Term Agent and the DIP Term Lenders shall be entitled to the benefit of and are hereby granted a charge (the “**DIP Term Lenders’ Charge**”) on the Property as security for any and all Obligations (as defined in DIP Term Credit Agreement) (including on account of principal, interest, fees, expenses and other liabilities, and the aggregate of all such obligations, the “**DIP Term Obligations**”), which DIP Term Lenders’ Charge shall

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be in the aggregate amount of the DIP Term Obligations outstanding at any given time under the DIP Term Credit Agreement. The DIP Term Lenders' Charge shall not secure an obligation that exists before this Order is made. The DIP Term Lenders' Charge shall have the priority set out in paragraphs 46, 47 and 49 hereof.

43. **THIS COURT ORDERS** that SCI's reimbursement obligation with respect to the letters of credit outstanding under the Wells Fargo Credit Agreement (as defined in the Wong Affidavit) prior to the date of this Order and which are drawn upon on or after the date of this Order shall be deemed to form part of the DIP ABL Credit Facility and shall be included as DIP ABL Obligations for the purposes of determining the amount of the DIP ABL Lenders' Charge.

44. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order:

- (a) the DIP ABL Agent on behalf of the DIP ABL Lenders, as applicable, may take such steps from time to time as they may deem necessary or appropriate to file, register, record or perfect the DIP ABL Lenders' Charge, the DIP ABL Credit Agreement or any of the other Definitive Documents;
- (b) the DIP Term Agent on behalf of the DIP Term Lenders, as applicable, may take such steps from time to time as they may deem necessary or appropriate to file, register, record or perfect the DIP Term Lenders' Charge, the DIP Term Credit Agreement or any of the other Definitive Documents;
- (c) upon the occurrence of an event of default under the DIP ABL Credit Agreement, the other related Definitive Documents or the DIP ABL Lenders' Charge, the DIP ABL Agent and the DIP ABL Lenders, as applicable, may, subject to the provisions of the DIP ABL Credit Agreement with respect to the giving of notice or otherwise, and in accordance with the DIP ABL Credit Agreement, the other related Definitive Documents and the DIP ABL Lenders' Charge, as applicable, cease making advances to the Sears Canada Entities, make demand, accelerate payment and give other notices; provided that, the DIP ABL Agent and the DIP ABL Lenders must apply to this Court on seven (7) days' prior written notice (which may include the service of materials in connection with such an application to this Court) to the Sears Canada Entities, the DIP Term Agent, the DIP Term Lenders and the Monitor, to enforce

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against or exercise any other rights and remedies with respect to the Sears Canada Entities or any of the Property (including to set off and/or consolidate any amounts owing by the DIP ABL Agent and the DIP ABL Lenders to the Sears Canada Entities against the obligations of the Sears Canada Entities to the DIP ABL Agent and the DIP ABL Lenders under the DIP ABL Credit Agreement, the other related Definitive Documents or the DIP ABL Lenders' Charge), to appoint a receiver, receiver and manager or interim receiver, or to seek a bankruptcy order against the Sears Canada Entities and to appoint a trustee in bankruptcy of the Sears Canada Entities;

- (d) upon the occurrence of an event of default under the DIP Term Credit Agreement, the other related Definitive Documents or the DIP Term Lenders' Charge, the DIP Term Agent and the DIP Term Lenders, as applicable, may, subject to the provisions of the DIP Term Credit Agreement with respect to the giving of notice or otherwise, and in accordance with the DIP Term Credit Agreement, the other related Definitive Documents and the DIP Term Lenders' Charge, as applicable, cease making advances to the Sears Canada Entities, make demand, accelerate payment and give other notices; provided that, the DIP Term Agent and the DIP Term Lenders must apply to this Court on seven (7) days' prior written notice (which may include the service of materials in connection with such an application to this Court) to the Sears Canada Entities, the DIP ABL Agent, the DIP ABL Lenders and the Monitor, to enforce against or exercise any other rights and remedies with respect to the Sears Canada Entities or any of the Property (including to set off and/or consolidate any amounts owing by the DIP Term Agent and the DIP Term Lenders to the Sears Canada Entities against the obligations of the Sears Canada Entities to the DIP Term Agent and the DIP Term Lenders under the DIP Term Credit Agreement, the other related Definitive Documents or the DIP Term Lenders' Charge), to appoint a receiver, receiver and manager or interim receiver, or to seek a bankruptcy order against the Sears Canada Entities and to appoint a trustee in bankruptcy of the Sears Canada Entities; and
- (e) the foregoing rights and remedies of the DIP ABL Agent, the DIP ABL Lenders, the DIP Term Agent and the DIP Term Lenders shall be enforceable against any trustee

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in bankruptcy, interim receiver, receiver or receiver and manager of the Sears Canada Entities or the Property.

45. **THIS COURT ORDERS AND DECLARES** that the DIP ABL Agent, the DIP ABL Lenders, the DIP Term Agent and the DIP Term Lenders shall be treated as unaffected in any plan of arrangement or compromise filed by the Sears Canada Entities or any of them under the CCAA, or any proposal filed by the Sears Canada Entities or any of them under the *Bankruptcy and Insolvency Act* of Canada (the “**BIA**”), with respect to any advances made under the DIP ABL Credit Agreement, the DIP Term Credit Agreement and the other Definitive Documents.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

46. **THIS COURT ORDERS** that the priorities of the Administration Charge, the FA Charge, the DIP ABL Lenders’ Charge, the DIP Term Lenders’ Charge, the Directors’ Priority Charge, the Directors’ Subordinated Charge, the KERP Priority Charge and the KERP Subordinated Charge (collectively, the “**Charges**”), as among them, with respect to ABL Priority Collateral (as defined in the Intercreditor Agreement dated March 20, 2017 and attached as Exhibit J to the Wong Affidavit) shall be as follows:

First – Administration Charge, to the maximum amount of \$5 million, and the FA Charge, to the maximum amount of \$3.3 million, on a *pari passu* basis;

Second – KERP Priority Charge, to the maximum amount of \$4.6 million;

Third – Directors’ Priority Charge, to the maximum amount of \$44 million;

Fourth – DIP ABL Lenders’ Charge, to the maximum amount of the quantum of the DIP ABL Obligations at the relevant time;

Fifth – the DIP Term Lenders’ Charge, to the maximum amount of the quantum of the DIP Term Obligations at the relevant time;

Sixth – KERP Subordinated Charge, to the maximum amount of \$4.6 million; and

Seventh – the Directors’ Subordinated Charge, to the maximum amount of \$19.5 million.

- 22 -

47. **THIS COURT ORDERS** that the priorities of the Charges as among them, with respect to all Property other than the ABL Priority Collateral shall be as follows:

First – Administration Charge, to the maximum amount of \$5 million, and the FA Charge, to the maximum amount of \$3.3 million, on a *pari passu* basis;

Second – KERP Priority Charge, to the maximum amount of \$4.6 million;

Third – Directors’ Priority Charge, to the maximum amount of \$44 million;

Fourth – DIP Term Lenders’ Charge, to the maximum amount of the quantum of the DIP Term Obligations at the relevant time;

Fifth – DIP ABL Lenders’ Charge, to the maximum amount of the quantum of the DIP ABL Obligations at the relevant time;

Sixth – KERP Subordinated Charge, to the maximum amount of \$4.6 million; and

Seventh – the Directors’ Subordinated Charge, to the maximum amount of \$19.5 million.

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

49. **THIS COURT ORDERS** that each of the Charges shall constitute a charge on the Property, and such Charges shall rank in priority to all other security interests, trusts (including constructive trusts), liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (including without limitation any deemed trust that may be created under the Ontario *Pension Benefits Act*) (collectively, “**Encumbrances**”) other than (a) any Person with a properly perfected purchase money security interest under the *Personal Property Security Act* (Ontario) or such other applicable provincial legislation that has not been served with notice of this Order; and (b) statutory super-priority deemed trusts and liens for unpaid employee source deductions.

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50. **THIS COURT ORDERS** that except as otherwise expressly provided for herein, or as may be approved by this Court, the Sears Canada Entities shall not grant any Encumbrances over any of the Property that rank in priority to, or *pari passu* with, any of the Charges, unless the Sears Canada Entities also obtain the prior written consent of the Monitor, the DIP ABL Agent on behalf of the DIP ABL Lenders, the DIP Term Agent on behalf of the DIP Term Lenders and the other beneficiaries of affected Charges, or further Order of this Court.

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

- (i) neither the creation of the Charges nor the execution, delivery, perfection, registration or performance of the DIP ABL Credit Agreement, the DIP Term Credit Agreement or the other Definitive Documents shall create or be deemed to constitute a breach by the Sears Canada Entities of any Agreement to which it is a party;
- (ii) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by or resulting from the Sears Canada Entities entering into the DIP ABL Credit Agreement and the DIP Term Credit Agreement, the creation of the Charges, or the execution, delivery or performance of the other Definitive Documents; and
- (iii) the payments made by the Sears Canada Entities pursuant to this Order, the DIP ABL Credit Agreement, the DIP Term Credit Agreement or the other Definitive Documents, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

- 24 -

52. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the relevant Sears Canada Entity's interest in such real property leases.

53. **THIS COURT ORDERS** that, notwithstanding any other provision of this Order, the L/C Collateral Account (as defined in the DIP ABL Credit Agreement) shall be deemed to be subject to a lien, security, charge and security interest in favour of the DIP ABL Agent solely for the reimbursement obligation of SCI related to the letters of credit issued under the Wells Fargo Credit Agreement which remain undrawn from and after the Comeback Motion (as defined herein). The Charges as they may attach to the L/C Collateral Account, including by operation of law or otherwise: (a) shall rank junior in priority to the lien, security, charge and security interest in favour of the DIP ABL Agent in respect of the L/C Collateral Account; and (b) shall attach to the L/C Collateral Account only to the extent of the rights, if any, of any Sears Canada Entity to the return of any cash from the L/C Collateral Account in accordance with the DIP ABL Credit Agreement.

CORPORATE MATTERS

54. **THIS COURT ORDERS** that SCI be and is hereby relieved of any obligation to call and hold an annual meeting of its shareholders until further Order of this Court.

55. **THIS COURT ORDERS** that SCI be and is hereby relieved of any obligation to appoint any new directors until further Order of this Court.

SERVICE AND NOTICE

56. **THIS COURT ORDERS** that the Monitor shall: (a) without delay, publish in The Globe and Mail (National Edition) and La Presse a notice containing the information prescribed under the CCAA; and (b) within five days after the date of this Order, (i) make this Order publicly available in the manner prescribed under the CCAA, (ii) send or cause to be sent, in the prescribed manner, a notice to every known creditor who has a claim against the Sears Canada Entities of more than \$1,000 (excluding individual employees, former employees with pension and/or retirement savings plan entitlements, and retirees and other beneficiaries who have entitlements under any pension or retirement savings plans), and (iii) prepare a list showing the

names and addresses of those creditors and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder, provided that the Monitor shall not make the claims, names and addresses of the individuals who are creditors publicly available.

57. **THIS COURT ORDERS** that the Monitor shall create, maintain and update as necessary a list of all Persons appearing in person or by counsel in this proceeding (the “**Service List**”). The Monitor shall post the Service List, as may be updated from time to time, on the Monitor’s Website (as defined herein) as part of the public materials to be made available thereon in relation to this proceeding. Notwithstanding the foregoing, the Monitor shall have no liability in respect of the accuracy of or the timeliness of making any changes to the Service List.

58. **THIS COURT ORDERS** that any employee of any of the Sears Canada Entities that receives a notice of termination from any of the Sears Canada Entities shall be deemed to have received such notice of termination by no more than the seventh day following the date such notice of termination is delivered, if such notice of termination is sent by ordinary mail, courier or registered mail.

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

60. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Sears Canada Entities and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to the Sears Canada Entities’ creditors or other

interested parties at their respective addresses as last shown on the records of the Sears Canada Entities and that any such service or distribution by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

61. **THIS COURT ORDERS** that the Applicants, the Monitor, the Financial Advisor, the DIP Term Agent on behalf of the DIP Term Lenders and the DIP ABL Agent on behalf of the DIP ABL Lenders, and their respective counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the Applicants' creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the Electronic Commerce Protection Regulations, Reg. 81000-2-175 (SOR/DORS).

COMEBACK MOTION

62. **THIS COURT ORDERS** that the comeback motion shall be heard on July 13, 2017 (the "Comeback Motion").

GENERAL

63. **THIS COURT ORDERS** that the Sears Canada Entities or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

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

65. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist the Sears Canada Entities, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to

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the Sears Canada Entities and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Sears Canada Entities and the Monitor and their respective agents in carrying out the terms of this Order.

66. **THIS COURT ORDERS** that each of the Applicants and the Monitor be at liberty and are hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada, including acting as the foreign representative of the Applicants to apply to the United States Bankruptcy Court for relief pursuant to Chapter 15 of the *United States Bankruptcy Code*, 11 U.S.C. §§ 101-1515, as amended, and to act as foreign representative in respect of any such proceedings and any ancillary relief in respect thereto, and to take such other steps as may be authorized by the Court.

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

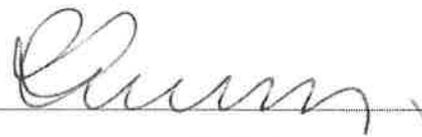
68. **THIS COURT ORDERS** that Confidential Appendix B and Confidential Appendix C to the Pre-Filing Report shall be and are hereby sealed, kept confidential and shall not form part of the public record pending further Order of this Court.

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

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

JUN 22 2017

PER / PAR: 


C. Irwin
Registrar

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
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., AND 3339611 CANADA INC. (collectively, the "Applicants")

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

Proceeding commenced at Toronto

INITIAL ORDER

OSLER, HOSKIN & HARCOURT LLP
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Toronto, Canada M5X 1B8

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Michael De Lellis (LSUC #: 48038U)
Tel: 416.862.5997

Lawyers for the Applicants

Tab B

This is Exhibit "B" referred to
in the Affidavit of Emily Elder
Sworn this 6th day of September, 2018



A COMMISSIONER FOR TAKING AFFIDAVITS

Court File No. CV-17-11846-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**



HONOURABLE MR.)
JUSTICE HAINEY)

THURSDAY, THE 13TH
DAY OF JULY, 2017

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF 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., AND 3339611 CANADA INC.

(each, an "**Applicant**", and collectively, the "**Applicants**")

EMPLOYEE REPRESENTATIVE COUNSEL ORDER

THIS APPLICATION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Billy Wong sworn June 22, 2017, and the Exhibits attached thereto (collectively, the "**Wong Affidavit**"), the pre-filing report dated June 22, 2017 of FTI Consulting Canada Inc., in its capacity as the proposed Monitor of the Applicants, and the affidavit of Ashley Schuitema sworn July 12, 2017, and on hearing the submissions of counsel for the Applicants and SearsConnect (the "**Partnership**", and collectively with the Applicants,

the “**Sears Canada Entities**”), counsel to the Board of Directors of Sears Canada Inc. (“**SCI**”) and the Special Committee of the Board of Directors of SCI, counsel to the proposed Monitor, and on hearing from Employee Representative Counsel (as defined below), and those other parties present:

APPOINTMENT OF REPRESENTATIVE COUNSEL

1. **THIS COURT ORDERS** that Ursel Phillips Fellows Hopkinson LLP (the “**Employee Representative Counsel**”) is hereby appointed as employee representative counsel to represent the interests of the non-unionized Active Employees and Former Employees (each as defined below) of the Sears Canada Entities (collectively, the “**Employees**”) in these CCAA proceedings, other than with respect to (a) entitlements of Employees under the Sears Pension Plan and the Supplemental Plan (each as defined in the Wong Affidavit), and any other pension or retirement plan of the Sears Canada Entities; and (b) Employees’ other post-employment benefits entitlements (the “**Purpose**”). As used herein, “**Active Employees**” means all non-union employees of the Sears Canada Entities employed as of June 22, 2017, including such employees on authorized leaves of absence; “**Former Employees**” means all non-union employees of the Sears Canada Entities who (i) received notice of termination of employment dated June 22, 2017; or (ii) received notice of cessation of severance payments dated June 22, 2017; and “**Employees**” shall (x) exclude the senior management of the Sears Canada Entities; and (y) include any person claiming an interest under or on behalf of an Employee.

2. **THIS COURT ORDERS** that Paul Webber, Nancy Demeter, Sheena Wrigglesworth, Sara Sawyer and Barb Wilser (collectively, the “**Employee Representatives**”) are hereby appointed as representatives of all Employees (excluding the Opt-Out Individuals (as defined below), if any) in these CCAA proceedings, to act in the overall best interests of the Employees,

and to advise and where appropriate instruct the Employee Representative Counsel, in every case, solely for the Purpose. The Employee Representative Counsel may rely upon the advice, information and instructions received from the Employee Representatives in carrying out the mandate of the Employee Representative Counsel without further communications with or instructions from the Employees, except as may be recommended by the Employee Representative Counsel or ordered by this Court.

3. **THIS COURT ORDERS** that, with the exception of Opt-Out Individuals, (a) the Employee Representatives and the Employee Representative Counsel shall represent all Employees in these CCAA proceedings; (b) the Employees shall be bound by the actions of the Employee Representatives and the Employee Representative Counsel in these CCAA proceedings; and (c) the Employee Representatives shall be entitled, on the advice of counsel, to reach any settlement agreements, advocate on behalf of the Employees for the Purpose and compromise any rights, entitlements or claims of the Employees, subject to approval of this Court.

4. **THIS COURT ORDERS** that the Sears Canada Entities shall provide to the Employee Representative Counsel, subject to confidentiality arrangements satisfactory to the Sears Canada Entities and the Monitor, without charge, the following information, documents and data (the "**Information**") to only be used for the Purpose in the context of these CCAA proceedings,

- (a) the names, last known addresses and last known telephone numbers and e-mail addresses (if any) of the Employees (excluding Opt-Out Individuals, if any, who have opted out prior to delivery of the Information); and
- (b) upon request of the Employee Representative Counsel, such documents and data as may be reasonably relevant to matters relating to the issues affecting the

Employees in these CCAA proceedings provided that such Information is to be only used for the Purpose;

and that, in so doing, the Sears Canada Entities are not required to obtain express consent from such Employees authorizing disclosure of the Information to the Employee Representative Counsel for the Purpose and, further, in accordance with section 7(3) of the *Personal Information Protection and Electronic Documents Act*, this Order shall be sufficient to authorize the disclosure of the Information for the Purpose, without the knowledge or consent of the individual Employees.

5. **THIS COURT ORDERS** that notice of the granting of this Order shall be provided by:

- (a) the Sears Canada Entities, with the assistance of the Monitor, delivering a letter from the Employee Representative Counsel explaining the terms of this Order, which shall include the Monitor's website address where a full copy of this Order can be reviewed, to be delivered forthwith to the Employees by ordinary mail to the physical address of each Employee as last shown in the books and records of the Sears Canada Entities, or by such other electronic means as is maintained by the Sears Canada Entities for the purposes of communicating directly with its non-unionized active and former employees, and further that a copy of this Order be posted on the Monitor's website; and
- (b) the Sears Canada Entities, with the assistance of the Monitor, publishing (i) in *The Globe & Mail* (National Edition), an English notice substantially in the form attached as Schedule "A" hereto (the "**English Notice**") within 14 days of the date of this Order; and (ii) in *La Presse*, the English Notice and a French notice

substantially in the form attached as Schedule "B" hereto within 14 days of the date of this Order.

6. **THIS COURT ORDERS** that any individual Employee who does not wish to be represented by the Employee Representatives and the Employee Representative Counsel in these CCAA proceedings shall, within 30 days of the date of the letter pursuant to paragraph 5 above, notify the Monitor, in writing, that he or she is opting out of representation by the Employee Representatives and the Employee Representative Counsel by delivering to the Monitor an English or French opt-out notice in the form attached as Schedule "C" hereto (each an "**Opt-Out Notice**"), and shall thereafter not be bound by the actions of the Employee Representatives or the Employee Representative Counsel and shall represent himself or herself or be represented by any counsel that he or she may retain exclusively at his or her own expense in these CCAA proceedings (any such persons who deliver an Opt-Out Notice in compliance with the terms of this paragraph, "**Opt-Out Individuals**"). The Monitor shall deliver copies of all Opt-Out Notices received to the Sears Canada Entities and the Employee Representative Counsel as soon as reasonably practicable.

7. **THIS COURT ORDERS** that the Employee Representative Counsel shall be given notice of all motions to which the Employees are entitled to receive notice in these CCAA proceedings and that it shall be entitled to represent those on whose behalf it is hereby appointed in all such proceedings.

8. **THIS COURT ORDERS** that Employee Representative Counsel may retain such actuarial, financial and other advisors and assistants (collectively, the "**Advisors**") as may be reasonably necessary in connection with its duties as Employee Representative Counsel in relation to the Purpose.

9. **THIS COURT ORDERS** that, subject to the terms of the letter agreement between SCI and the Employee Representative Counsel dated as of June 22, 2017 (the “**Employee Representative Counsel Letter**”), which Employee Representative Counsel Letter has been approved by the Monitor, the Employee Representative Counsel shall be paid its reasonable fees and disbursements (including disbursements relating to Advisors retained by the Employee Representative Counsel) by the Sears Canada Entities on a monthly basis, forthwith upon rendering its accounts to the Sears Canada Entities for fulfilling its mandate in accordance with this Order, and subject to such redactions to the invoices as are necessary to maintain solicitor-client privilege between the Employee Representative Counsel and the Employees. In the event of any disagreement with respect to such fees and disbursements, such disagreement may be remitted to this Court for determination.

10. **THIS COURT ORDERS** that the Employee Representative Counsel shall be entitled to benefit of the Administration Charge (as defined in the Initial Order in these CCAA proceedings issued by the Court on June 22, 2017, as amended), as security for its professional fees and disbursements incurred at its standard rates and charges, up to an aggregate maximum amount of \$75,000.

11. **THIS COURT ORDERS** that the payments made by the Sears Canada Entities pursuant to this Order do not and will not constitute preferences, fraudulent conveyances, transfers of undervalue, oppressive conduct or other challengeable or voidable transactions under any applicable laws.

12. **THIS COURT ORDERS** that the Employee Representative Counsel is hereby authorized to take all steps and do all acts necessary or desirable to carry out the terms of this Order.

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13. **THIS COURT ORDERS** that the Employee Representative Counsel shall be at liberty, and is hereby authorized, at any time, to apply to this Court for advice and directions in respect of its appointment or the fulfillment of its duties in carrying out the provisions of this Order or any variation of the powers and duties of the Employee Representative Counsel, which shall be brought on notice to the Sears Canada Entities, the Monitor, Wells Fargo Capital Finance Corporation Canada as administrative agent under the DIP Revolving Credit Agreement (as defined in the Wong Affidavit), GACP Finance Co., LLC as administrative agent under the DIP Term Credit Agreement (as defined in the Wong Affidavit), and other interested parties, unless this Court orders otherwise.

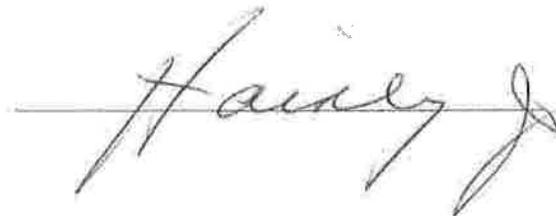
14. **THIS COURT ORDERS** that the Employee Representative Counsel and the Employee Representatives shall have no personal liability or obligations as a result of the performance of their duties in carrying out the provisions of this Order or any subsequent Orders in these CCAA proceedings, save and except for liability arising out of gross negligence or wilful misconduct.

15. **THIS COURT ORDERS** that no action or other proceeding may be commenced against the Employee Representative Counsel or the Employee Representatives in respect of the performance of their duties under this Order without leave of this Court on seven (7) days' notice to the Employee Representative Counsel or the Employee Representatives, as the case may be.

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

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give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order and in case, any which motion to be served within three (3) weeks of the date of this order.



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

JUL 13 2017

PER / PAR:



SCHEDULE "A"

ENGLISH NEWSPAPER NOTICE

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., AND 3339611 CANADA INC. (collectively referred to as the "Sears Canada Entities")

NOTICE TO CERTAIN NON-UNIONIZED ACTIVE AND FORMER EMPLOYEES

On June 22, 2017, the Sears Canada Entities commenced court-supervised restructuring proceedings under the Companies' Creditors Arrangement Act ("CCAA") pursuant to an Order (the "Initial Order") of the Ontario Superior Court of Justice (Commercial List) (the "Court"). FTI Consulting Canada Inc. has been appointed by the Court as monitor in the Applicants' CCAA proceedings (the "Monitor").

TAKE NOTICE THAT pursuant to an Order of the Court:

1. Ursel Phillips Fellows Hopkinson LLP ("Employee Representative Counsel") was appointed as employee representative counsel for the purpose of representing the interests of the non-unionized employees of the Sears Canada Entities who were employed as of June 22, 2017 (including those on authorized leaves of absence) and non-unionized former employees of the Sears Canada Entities who received notice of termination of employment dated June 22, 2017 or received notice of cessation of severance payments dated June 22, 2017 and of any person claiming an interest under or on behalf of such persons (collectively, the "Employees"), in relation to the CCAA proceedings or any other forum related to this purpose. Employee Representative Counsel represents the interests of the Employees other than with respect to their entitlements under the Sears Canada Inc. Registered Retirement Plan or any other pension or retirement plan provided by the Sears Canada Entities and of any individual with an entitlement to other post-employment benefits (including retiree health and dental benefits and retiree life insurance benefits). Employee Representative Counsel will also advise the representatives appointed by the Court (collectively, the "Employee Representatives") as representatives of all Employees.

For active employees, all regular inquiries about your ongoing employment should continue to be directed to you appropriate human resources representative.

2. For more information, visit the Employee Representative Counsel's website at [<http://www.upfhlaw.ca/areas-of-practice/sears-canada-employees-and-former-employees>]

IF YOU DO NOT WISH TO BE REPRESENTED by the Employee Representatives and the Employee Representative Counsel, you must, before ●, 2017, provide an Opt-Out Notice (a copy of which can be obtained from the Employee Representative Counsel's website) indicating that you wish to opt-out of such representation and send the completed Opt-Out Notice to:

FTI Consulting Canada Inc., in its capacity as Court-appointed Monitor of the Sears Canada Entities

TD Waterhouse Tower
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto, ON, M4K 1G8
Fax: 416-649-8101

Attention: Jim Robinson

Persons requiring further information should review the website established by the Monitor <http://cfcanada.fticonsulting.com/searscanada> or call the Monitor's Hotline at 1-855-649-8113.

SCHEDULE "B"

AVIS DANS LES JOURNAUX FRANÇAIS

SEARS CANADA INC., CORBEIL ÉLECTRIQUE INC., TRANSPORTS S.L.H. INC., THE CUT INC., SERVICES CLIENTÈLE SEARS INC., INITIUM LOGISTICS SERVICES INC., INITIUM COMMERCE LABS INC., INITIUM TRADING AND SOURCING CORP., CENTRE DE REVÊTEMENTS DE SOL SEARS 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. ET 3339611 CANADA INC. (collectivement appelées les « entités Sears Canada »)

AVIS À CERTAINS ANCIENS EMPLOYÉS ET EMPLOYÉS ACTIFS NON SYNDIQUÉS

Le 22 juin 2017, les entités Sears Canada ont amorcé un processus de restructuration supervisé par un tribunal en vertu de la *Loi sur les arrangements avec les créanciers des compagnies* (la « LACC ») aux termes d'une ordonnance (l'« ordonnance initiale ») de la Cour supérieure de justice de l'Ontario (rôle commercial) (la « Cour »). La Cour a nommé FTI Consulting Canada Inc. à titre de contrôleur aux fins de l'instance en vertu de la LACC intentée par les requérants (le « contrôleur »).

AVIS EST PAR LES PRÉSENTES DONNÉ qu'aux termes d'une ordonnance de la Cour :

1. Le cabinet Ursel Phillips Fellows Hopkinson LLP (les « conseillers juridiques des représentants des employés ») a été nommé à titre de conseiller juridique des employés dans le but de défendre les intérêts des employés non syndiqués des entités Sears Canada qui était à l'emploi de celles-ci en date du 22 juin 2017 (dont les employés en congé autorisé) et des anciens employés non syndiqués des entités Sears Canada qui ont reçu un avis de cessation d'emploi daté du 22 juin 2017 ou un avis de cessation lié à leur indemnité de départ daté du 22 juin 2017, ainsi que des personnes revendiquant un droit par l'intermédiaire de ces personnes ou pour celles-ci (collectivement, les « employés ») en lien avec l'instance en vertu de la LACC ou toute autre procédure portant sur cette question. Les conseillers juridiques des représentants des employés représentent les intérêts des employés, sauf en ce qui a trait à leurs droits aux termes du régime de retraite agréé de Sears Canada Inc. ou des autres régimes de retraite offerts par les entités Sears Canada, et des personnes physiques qui ont droit à d'autres avantages postérieurs à la retraite (dont l'assurance santé et dentaire et l'assurance-vie pour les retraités). Les conseillers juridiques des représentants des employés conseilleront aussi les représentants que la Cour a nommés (collectivement, les « représentants des employés ») en qualité de représentants de tous les employés.

Les employés actifs qui ont des questions courantes concernant leur emploi peuvent continuer à les adresser à leur représentant des ressources humaines.

2. Pour de plus amples renseignements, veuillez consulter le site Web des conseillers juridiques des représentants des employés à <http://www.upfhlaw.ca/areas-of-practice/sears-canada-employees-and-former-employees>.

SI VOUS NE SOUHAITEZ PAS ÊTRE REPRÉSENTÉ par les représentants des employés et les conseillers juridiques des représentants des employés, vous devez, avant le ● 2017, remettre un Avis de retrait (dont vous trouverez copie sur le site Web des conseillers juridiques des représentants des employés) sur lequel vous aurez indiqué que vous ne souhaitez pas être représenté, et faire parvenir cet Avis de retrait rempli à :

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FTI Consulting Canada Inc., en sa qualité de contrôleur des entités Sears Canada nommé par la Cour
TD Waterhouse Tower
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto (Ontario) M4K 1G8
Télec. : 416 649-8101

À l'attention de Jim Robinson

Les personnes qui souhaitent obtenir de plus amples renseignements devraient consulter le site Web que le contrôleur a créé à <http://cfcanada.fticonsulting.com/searscanada>, ou composer le 1 855 649-8113 pour obtenir la ligne d'aide du contrôleur.

SCHEDULE "C"

FORM OF OPT-OUT NOTICE

To: **FTI CONSULTING CANADA INC.**, in its capacity as Court-appointed Monitor of the Sears Canada Entities
 TD Waterhouse Tower
 79 Wellington Street West
 Suite 2010, P.O. Box 104
 Toronto, ON, M4K 1G8
 Fax: 416-649-8101

Attention: Jim Robinson

I hereby provide written notice that I do not wish to be represented by Ursel Phillips Fellows Hopkinson LLP, employee representative counsel (the "Employee Representative Counsel") for the Active Employees and the Former Employees of Sears Canada Inc. and certain of its subsidiaries (collectively, the "Sears Canada Entities") in their proceedings under the *Companies' Creditors Arrangement Act* (Court File No. CV-17-11846-00CL) (the "CCAA Proceedings"). I understand that by opting out of representation if I wish to take part in the CCAA Proceedings I would need to do so as an independent party. I am responsible for retaining my own legal counsel should I choose to do so, and that I would be personally liable for the costs of my own legal representation.

I understand that a copy of this Opt-Out Form will be provided to the Employee Representative Counsel and to the Sears Canada Entities.

 Witness

 Signature

Name [please print]: _____

Address: _____

Telephone: _____

Note: To opt out, this form must be completed and received at the above address on or before _____, 2017.

ANNEXE "C"

AVIS DE RETRAIT

À : FTI CONSULTING CANADA INC., en sa qualité de contrôleur des entités
 Sears Canada nommé par la Cour
 TD Waterhouse Tower
 79 Wellington Street West
 Suite 2010, P.O. Box 104
 Toronto (Ontario) M4K 1G8
 Téléc. : 416 649-8101

À l'attention de Jim Robinson

Par les présentes, je vous avise que je ne souhaite pas être représenté par le cabinet Ursel Phillips Fellows Hopkinson LLP, conseillers juridiques des représentants des employés (les « conseillers juridiques des représentants des employés ») qui représentent les employés actifs et les anciens employés de Sears Canada Inc. et de certaines de ses filiales (collectivement, les « entités Sears Canada ») dans le cadre l'instance intentée en vertu de la *Loi sur les arrangements avec les créanciers des compagnies* (n° de dossier de la Cour : CV-17-11846-00CL) (l'« instance en vertu de la LACC »). Je comprends que si je refuse d'être ainsi représenté et que je souhaite prendre part à l'instance en vertu de la LACC, je devrai le faire à titre indépendant. Je devrai alors, le cas échéant, retenir les services de mes propres conseillers juridiques, et je serai personnellement responsable des frais de ma propre représentation juridique.

Je comprends qu'une copie du présent avis de retrait sera remise aux conseillers juridiques des représentants des employés et aux entités Sears Canada.

Témoin

Signature

Nom [en caractères d'imprimerie] : _____

Adresse : _____

Téléphone : _____

Note : Pour refuser les services de représentation, le présent formulaire doit être rempli et reçu à l'adresse qui précède au plus tard le _____ 2017.

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

Court File No. CV-17-11846-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF 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., AND 3339611 CANADA INC. (collectively, the "Applicants")

ONTARIO
SUPERIOR COURT OF JUSTICE
 (Commercial List)

Proceeding commenced at Toronto

EMPLOYEE REPRESENTATIVE COUNSEL ORDER

OSLER, HOSKIN & HARCOURT LLP

Box 50, 1 First Canadian Place
 Toronto, Canada M5X 1B8

Marc Wasserman (LSUC #: 44066M)
 Tel: 416.862.4908

Jeremy Dacks (LSUC #: 41851R)
 Tel: 416.862.4923

Michael De Lellis (LSUC #: 48038U)
 Tel: 416.862.5997

Lawyers for the Applicants

TAB C

This is Exhibit "C" referred to
in the Affidavit of Emily Elder
Sworn this 6th day of September, 2018



A COMMISSIONER FOR TAKING AFFIDAVITS

Court File No. CV-17-11846-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**



THE HONOURABLE MR.
JUSTICE HARNEY

)
)
)

THURSDAY, THE 22nd
DAY OF FEBRUARY, 2018

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF SEARS CANADA INC., 9370-2751
QUÉBEC INC., 191020 CANADA 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., AND 3339611
CANADA INC.

(each, an "**Applicant**", and collectively, the "**Applicants**")

EMPLOYEE AND RETIREE CLAIMS PROCEDURE ORDER

THIS MOTION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. c-36, as amended (the "**CCAA**") for an order establishing a claims procedure for the identification and quantification of Employee Claims and Retiree Claims (each as defined below) against (i) the Applicants and SearsConnect (collectively, the "**Sears Canada Entities**") and (ii) the current and former directors and officers of the Sears Canada Entities, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion of the Applicants, the Affidavit of Becky Penrice sworn on February 16, 2018 including the exhibits thereto (the "**Penrice Affidavit**"), the

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Thirteenth Report of FTI Consulting Canada Inc., in its capacity as monitor (the “**Monitor**”), filed, and on hearing the submissions of respective counsel for the Applicants, the Monitor, Pension Representative Counsel (as defined below), Employee Representative Counsel (as defined below), the Pension Plan Administrator (as defined below), the Superintendent (as defined below), and such other counsel as were present, no one else appearing although duly served as appears from the Affidavits of Service of Francesca Del Rizzo and Justine Erickson sworn February 20 and 21, 2018,

SERVICE

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

SCOPE

2. THIS COURT ORDERS that except as otherwise specifically set out herein, this Order shall apply only to Claims as defined in this Order.

DEFINITIONS AND INTERPRETATION

3. THIS COURT ORDERS that any capitalized term used and not defined herein shall have the meaning ascribed thereto in the Amended and Restated Initial Order in these proceedings dated June 22, 2017 as amended, restated, supplemented and/or modified from time to time (the “**Initial Order**”).

4. THIS COURT ORDERS that for the purposes of this Order the following terms shall have the following meanings:

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- (a) “**Advisors**” means, collectively, any actuarial, financial, legal and other advisors and assistants;
- (b) “**Agent**” means the contractual joint venture comprised of Gordon Brothers Canada ULC, Merchant Retail Solutions ULC, Tiger Capital Group, LLC and GA Retail Canada ULC;
- (c) “**Agency Agreements**” means: (i) the Amended and Restated Agency Agreement between Sears Canada Inc. and the Agent dated July 12, 2017 and amended and restated on July 14, 2017, and (ii) the Amended and Restated Agency Agreement between Sears Canada Inc. and the Agent dated October 10, 2017;
- (d) “**Bar Date**” means the Proof of Claim Bar Date, the Request for Correction Bar Date or the Notice of Proposed Revision Bar Date, as applicable;
- (e) “**Business Day**” means a day, other than a Saturday, Sunday or statutory holiday, on which banks are generally open for business in Toronto, Ontario;
- (f) “**CCAA Proceedings**” means the CCAA proceedings commenced by the Applicants in the Court under Court File No. CV-17-11846-00CL;
- (g) “**Claim**” means any Employee Claim or Retiree Claim, including, for greater certainty, any D&O Claim, provided however that in any case “**Claim**” shall not include an Excluded Claim;
- (h) “**Claims Website**” means, collectively, the online employee claims portal and the online retiree claims portal, each to be maintained by the Monitor for the purposes of this Employee and Retiree Claims Process;

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- (i) “**Claimant**” means any Person with an entitlement to an Employee Claim or a Retiree Claim that has been asserted by or on behalf of such Person;
- (j) “**Claims Officer**” means the individuals designated by the Court pursuant to paragraph 70 of this Order;
- (k) “**Claims Package**” means an ERC Employee Package, Non-ERC Employee Package, PRC Retiree Package, Non-PRC Retiree Package or Proof of Claim Package, as applicable, each to be sent by the Monitor in accordance with the terms of this Order;
- (l) “**Claims Procedure Order**” means the Claims Procedure Order issued by the Court on December 8, 2017, as may be amended from time to time;
- (m) “**Court**” means the Ontario Superior Court of Justice (Commercial List);
- (n) “**CPO Claim**” means any General Creditor Claim, Construction Claim or Intercompany Claim (each as defined in the Claims Procedure Order);
- (o) “**D&O Claim**” means any Sears Pension Claim, Supplemental Plan Claim, Other Employee Claim or Other Retiree Claim against a Director or Officer under this Order (including, for greater certainty, any D&O Claim in respect of termination and severance pay, damages for loss of employment-related perquisites and benefits, and/or damages for loss of OPEB Entitlements);
- (p) “**D&O Proof of Claim**” means the proof of claim form to be filed by Claimants in respect of any D&O Claim, substantially in the form attached as Schedule “S”

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hereto, which shall include all available supporting documentation in respect of such D&O Claim;

- (q) **“D&O Proof of Claim Instruction Letter”** means the letter containing instructions for completing the D&O Proof of Claim form, substantially in the form attached as Schedule “R” hereto;
- (r) **“DB Only Retiree”** means: (i) any Retiree who has any entitlements under the defined benefit component of the Sears Pension Plan (including, for greater certainty, any active Employee with such entitlements), and (ii) any Retiree who has any entitlements under the Supplemental Plan (including, for greater certainty, any active Employee with such entitlements), but in either case, who does not have any OPEB Entitlements, based on the books and records of the Sears Canada Entities;
- (s) **“Director”** means anyone who is or was or may be deemed to be or have been, whether by statute, operation of law or otherwise, a director or *de facto* director of any of the Sears Canada Entities, in such capacity;
- (t) **“Duplicate Claim”** means a Claim that is asserted against a Sears Canada Entity or a Director or Officer that duplicates in whole or in part another Claim or CPO Claim, and includes a Claim or any portion thereof that is based on an obligation or legal right asserted in another Claim or CPO Claim;
- (u) **“Employee”** means any (i) active or inactive union or non-union employee of any one of the Sears Canada Entities on or after the Filing Date, including an employee of any one of the Sears Canada Entities who received notice of termination of

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employment dated on or after the Filing Date or who resigned or otherwise ceased employment on or after the Filing Date; and (ii) former employee of any one of the Sears Canada Entities, including without limitation any former employee who was terminated for cause at any time, any former employee who received notice, on or after the Filing Date, of the cessation of his or her termination or severance payments, and any former employee who has an outstanding active action, claim or complaint as of the Filing Date;

(v) **“Employee Claim”** means each of the following:

- (i) Termination Claims;
- (ii) Warranty Claims; and
- (iii) Other Employee Claims;

including any Employee Claim arising through subrogation against any Sears Canada Entity or Director or Officer, provided however that in any case **“Employee Claim”** shall not include an Excluded Claim;

(w) **“Employee and Retiree Claims Process”** means the procedures outlined in this Order in connection with the solicitation and assertion of Employee Claims and Retiree Claims against the Sears Canada Entities and/or the Directors and Officers;

(x) **“Employee Representative Counsel”** means Ursel Phillips Fellows Hopkinson LLP;

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- (y) **“Employee Representative Counsel Order”** means the Employee Representative Counsel Order issued by the Court dated July 13, 2017, as may be amended from time to time;
- (z) **“Employee Representative Counsel’s Website”** means <http://www.upflaw.ca/areas-of-practice/sears-canada-employees-and-former-employees/>;
- (aa) **“Employee Representatives”** means Paul Webber, Nancy Demeter, Sheena Wrigglesworth, Barb Wilser and Darrin Whitney, or such other representatives as may be duly appointed by the Court from time to time;
- (bb) **“Employee Request for Correction”** means the request form, substantially in the form attached as Schedule “J” hereto, or in an electronic form acceptable to the Monitor, to be submitted by an Employee to the Monitor requesting a correction to the Personal Information set out in the Termination Claim Statement or Monitor Corrected Claim Statement, if applicable, provided to such Employee;
- (cc) **“ERC Employee”** means any Employee represented by Employee Representative Counsel;
- (dd) **“ERC Employee Letter”** means the letter to ERC Employees, substantially in the form attached as Schedule “D” hereto, which shall, among other things, provide a link to access the Claims Website (where an Employee may submit an Employee Request for Correction and which will include a link to the Proof of Claim Package);

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(ee) “**ERC Employee Package**” means a document package, which shall include: (i) the ERC Employee Letter; (ii) an individualized Termination Claim Statement, and (iii) such other materials as the Monitor, in consultation with the Sears Canada Entities and Employee Representative Counsel, may consider appropriate or desirable;

(ff) “**Excluded Claim**” means any:

(i) CPO Claim;

(ii) Claim that may be asserted by any beneficiary of the Administration Charge, the FA Charge, the KERP Priority Charge, the Directors’ Priority Charge, the KERP Subordinated Charge and the Directors’ Subordinated Charge and any other charges granted by the Court in the CCAA Proceedings, with respect to such charges;

(iii) Claim by the Agent under the Agency Agreements;

(iv) Monitor Claim; and

(v) Claim that may be asserted by any of the Sears Canada Entities against any Directors and/or Officers;

and for greater certainty, shall include any Excluded Claim arising through subrogation;

(gg) “**Filing Date**” means June 22, 2017;

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- (hh) “**Grievance Claim**” means any grievance (or part of such grievance) by an Employee against any Sears Canada Entity, where that grievance (or part of such grievance) is (i) pursuant to a collective agreement with such Sears Canada Entity, (ii) for monetary compensation, and (iii) is not covered in a Termination Claim Statement or Monitor Corrected Claim Statement, if applicable, and the Termination Claims Methodology. Where part of a grievance is for monetary compensation, and part of the same grievance is for other relief, only that part of the grievance that is for monetary compensation shall be a Grievance Claim for the purposes of this Order;
- (ii) “**Indemnification Claim**” means any claim of any Employee against one or more of the Sears Canada Entities for indemnification and/or contribution arising from such Employee’s service to any Sears Canada Entity;
- (jj) “**Lifetime Discount**” means the lifetime associate discount awarded as a post-employment benefit to certain current and former employees of the Sears Canada Entities who qualified for such discount by virtue of satisfying applicable age and service eligibility criteria (and, for greater certainty, such current and former employees shall be included in the definition of “Retiree” for the purposes of this Order);
- (kk) “**Lifetime Discount Claim**” means any claim against the Sears Canada Entities with respect to a Lifetime Discount, which, for greater certainty, will be calculated for the purposes of this Employee and Retiree Claims Process in accordance with the Lifetime Discount Claims Methodology;

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- (ll) “**Lifetime Discount Claims Methodology**” means the methodology and assumptions for the calculation of Lifetime Discount Claims, as described in paragraphs 56 to 60 of the Penrice Affidavit;
- (mm) “**Meeting**” means any meeting of the creditors of the Sears Canada Entities called for the purpose of considering and voting in respect of a Plan;
- (nn) “**Monitor Claim**” means a Claim (as defined in the Claims Procedure Order), including a D&O Claim (as defined in the Claims Procedure Order) and any claim pursued in accordance with section 36.1 of the CCAA, that may be asserted by the Monitor;
- (oo) “**Monitor Corrected Claim Statement**” means a revised Termination Claim Statement or Retiree Benefit Claim Statement, as applicable, to be sent by the Monitor to a Claimant if any errors are independently discovered by or made known to the Monitor in the Personal Information that affect the amount of the Termination Claim or Retiree Benefit Claim, as applicable, of such Claimant;
- (pp) “**Monitor’s Website**” means <http://cfcanada.fticonsulting.com/searscanada/>;
- (qq) “**Non-ERC Employee**” means any of the following Employees: (i) Unionized Employees; (ii) any Employee who is currently or was previously a member of senior management of any of the Sears Canada Entities and who was not eligible for representation by Employee Representative Counsel; and (iii) any Employee who was eligible for representation by Employee Representative Counsel and who opted out of such representation in accordance with the requirements contained in the Employee Representative Counsel Order;

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- (rr) **“Non-ERC Employee Letter”** means the letter to Non-ERC Employees, substantially in the form attached as Schedule “E” hereto, which shall, among other things: (i) provide a link to access the Claims Website (where an Employee may submit an Employee Request for Correction and which will include a link to the Proof of Claim Package), and (ii) instruct such Non-ERC Employees to contact the Monitor to obtain a Notice of Proposed Revision;
- (ss) **“Non-ERC Employee Package”** means a document package, which shall include: (i) the Non-ERC Employee Letter; (ii) an individualized Termination Claim Statement, and (iii) such other materials as the Monitor, in consultation with the Sears Canada Entities, may consider appropriate or desirable;
- (tt) **“Non-PRC Retiree”** means any Retiree with OPEB Entitlements who is not represented by Pension Representative Counsel, including without limitation: (i) any unionized Retiree who notifies Pension Representative Counsel in writing that such Retiree wishes to opt out of representation by Pension Representative Counsel; (ii) any Retiree who is currently or was previously a member of senior management of any of the Sears Canada Entities and who was not eligible for representation by Pension Representative Counsel, and (iii) any Retiree who was eligible for representation by Pension Representative Counsel and who opted out of such representation in accordance with the requirements contained in the Pension Representative Counsel Order;
- (uu) **“Non-PRC Retiree Letter”** means the letter to Non-PRC Retirees, substantially in the form attached as Schedule “G” hereto, which shall, among other things, provide

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a link to access the Claims Website (where a Retiree may submit a Retiree Request for Correction and which will include a link to the Proof of Claim Package);

- (vv) **“Non-PRC Retiree Package”** means a document package, which shall include: (i) the Non-PRC Retiree Letter; (ii) an individualized Retiree Benefit Claim Statement; (iii) a Retiree Request for Correction form; (iv) a Notice of Proposed Revision form, and (v) such other materials as the Monitor, in consultation with the Sears Canada Entities, may consider appropriate or desirable;
- (ww) **“Notice of Acceptance”** means a notice, substantially in the form attached as Schedule “M” hereto, or in an electronic form acceptable to the Monitor, advising a Claimant that the Monitor has accepted a change to such Claimant’s Personal Information and that such Claimant’s Termination Claim or Retiree Benefit Claim amount, as applicable, shall be revised as outlined therein (or that no changes to such Claim amount shall be made as a result of the change to such Claimant’s Personal Information);
- (xx) **“Notice of Disallowance”** means a Notice of Disallowance (Personal Information) or Notice of Disallowance (Proof of Claim), as the case may be;
- (yy) **“Notice of Disallowance (Personal Information)”** means a notice, substantially in the form attached as Schedule “N” hereto, advising a Claimant that the Monitor has disallowed all or part of the changes that have been requested by such Claimant in a Request for Correction;
- (zz) **“Notice of Disallowance (Proof of Claim)”** means a notice, substantially in the form attached as Schedule “T” hereto, advising a Claimant that the Monitor has

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disallowed all or part of such Claimant's Claim as set out in a Proof of Claim or D&O Proof of Claim filed by or on behalf of such Claimant;

- (aaa) **"Notice of Dispute"** means a Notice of Dispute (Personal Information) or a Notice of Dispute (Proof of Claim), as the case may be;
- (bbb) **"Notice of Dispute (Personal Information)"** means a notice, substantially in the form attached as Schedule "O" hereto, delivered to the Monitor by a Claimant who has received a Notice of Disallowance (Personal Information), notifying the Monitor of his/her intention to dispute such Notice of Disallowance (Personal Information), with reasons for such dispute;
- (ccc) **"Notice of Dispute (Proof of Claim)"** means a notice, substantially in the form attached as Schedule "U" hereto, delivered to the Monitor by a Claimant who has received a Notice of Disallowance (Proof of Claim) in respect of such Claimant's Proof of Claim or D&O Proof of Claim, as applicable, notifying the Monitor of his/her intention to dispute such Notice of Disallowance (Proof of Claim), with reasons for such dispute;
- (ddd) **"Notice of Proposed Revision"** means a notice, substantially in the form attached as Schedule "L" hereto, delivered to the Monitor by a Non-ERC Employee (or, where such Non-ERC Employee is a Unionized Employee, by the Union Representative on behalf of such Unionized Employee) or Non-PRC Retiree, who has received a Termination Claim Statement, Retiree Benefit Claim Statement or Monitor Corrected Claim Statement, notifying the Monitor of such Claimant's intention to revise the methodology used to calculate the Claim contained in such Termination Claim Statement, Retiree Benefit Claim Statement or Monitor

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Corrected Claim Statement, with a description of the proposed revisions to the calculation of such Claimant's Termination Claim or Retiree Benefit Claim, as applicable, and the reasons for such proposed revisions;

- (eee) **"Notice of Proposed Revision Bar Date"** means 5:00 p.m. on May 7, 2018;
- (fff) **"Notice to Claimants"** means the notice to Claimants, substantially in the form attached as Schedule "C" hereto, to be published by the Monitor and posted on the Monitor's Website, Employee Representative Counsel's Website, and Pension Representative Counsel's Website, each in accordance with the terms of this Order, which shall include, without limitation, a notice to all Retirees with entitlements to a Lifetime Discount or Warranty stating that Proofs of Claim are not required to be filed in connection with any such Lifetime Discount or Warranty because all Proofs of Claim with respect to such Lifetime Discounts and Warranties will be deemed to have been properly submitted by the Sears Canada Entities on behalf of each eligible Retiree, based on the books and records of the Sears Canada Entities;
- (ggg) **"Officer"** means anyone who is or was or may be deemed to be or have been, whether by statute, operation of law or otherwise, an officer or *de facto* officer of any of the Sears Canada Entities, in such capacity;
- (hhh) **"OPEB Entitlement"** means any entitlement to health and dental post-employment benefits and/or life insurance benefits, each as provided by any of the Sears Canada Entities as a post-employment benefit;
- (iii) **"Order"** means this Employee and Retiree Claims Procedure Order;

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- (jjj) **“Other Employee Claim”** means: (i) any right or claim of any Employee against any of the Sears Canada Entities that is not a Termination Claim or a Warranty Claim, and (ii) any right or claim of any Employee against any Directors and/or Officers, in either case, including any right or claim in connection with any indebtedness, liability or obligation of any kind whatsoever of any such Sears Canada Entity, Director and/or Officer to such Employee, arising before, on or after the Filing Date, including without limitation any Indemnification Claims or Grievance Claims;
- (kkk) **“Other Retiree Claim”** means: (i) any right or claim of any Retiree, the Pension Plan Administrator and/or Superintendent against any of the Sears Canada Entities that is not a Sears Pension Claim, Supplemental Plan Claim, Retiree Benefit Claim, Lifetime Discount Claim or Warranty Claim, and (ii) any right or claim of any Retiree, the Pension Plan Administrator and/or Superintendent against any Directors and/or Officers that is not a Sears Pension Claim or Supplemental Plan Claim, in either case, including any right or claim in connection with any indebtedness, liability or obligation of any kind whatsoever of any such Sears Canada Entity, Director and/or Officer to such Retiree or in respect of the Sears Pension Plan or Supplemental Plan, arising before, on or after the Filing Date;
- (lll) **“Pension Plan Administrator”** means Morneau Shepell Ltd. in its capacity as administrator of the Sears Pension Plan;
- (mmm) **“Pension Plan Administrator’s Website”** means https://www.pensionwindups.morneaushepell.com/en/plan_info/SRRP/plan_info.asp;

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- (nnn) “**Pension Representative Counsel**” means Koskie Minsky LLP;
- (ooo) “**Pension Representative Counsel Order**” means the Representative Counsel Order for Pensions and Post-Retirement Benefits issued by the Court dated July 13, 2017, as may be amended from time to time;
- (ppp) “**Pension Representative Counsel’s Website**” means <https://kmlaw.ca/cases/sears-canada/>;
- (qqq) “**Pensioner Representatives**” means Bill Turner, Ken Eady and Larry Moore, or such other representatives as may be duly appointed by the Court from time to time;
- (rrr) “**Person**” means any individual, firm, corporation, limited or unlimited liability company, general or limited partnership, association, trust (including a real estate investment trust), unincorporated organization, joint venture, government or any agency or instrumentality thereof or any other entity;
- (sss) “**Personal Information**” means the personal information relating to a particular Employee or Retiree based on the Sears Canada Entities’ books and records as at the date of this Order and updated from time to time, contained in a Termination Claim Statement or Retiree Benefit Claim Statement, as such Personal Information may be amended as a result of a Request for Correction accepted by the Monitor, as a result of a Monitor Corrected Claim Statement, or as a result of a determination pursuant to the dispute resolution mechanisms set out in this Order;
- (ttt) “**Plan**” means, as further defined in the Initial Order, any proposed plan of compromise or arrangement that may be filed in respect of any or all of the Sears

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Canada Entities pursuant to the CCAA as the same may be amended, supplemented or restated from time to time in accordance with the terms thereof;

- (uuu) “**PRC Retiree**” means any Retiree with OPEB Entitlements who is represented by Pension Representative Counsel;
- (vvv) “**PRC Retiree Package**” means a document package, which shall include: (i) the Retiree Letter; (ii) an individualized Retiree Benefit Claim Statement; (iii) a Retiree Request for Correction form, and (iv) such other materials as the Monitor, in consultation with the Sears Canada Entities and Pension Representative Counsel, may consider appropriate or desirable;
- (www) “**Pre-Filing Period**” means the period prior to the Filing Date;
- (xxx) “**Proof of Claim**” means the proof of claim form, substantially in the form attached as Schedule “Q” hereto, to be filed by Claimants in respect of any Sears Pension Claim, Supplemental Plan Claim, Other Employee Claim or Other Retiree Claim against any of the Sears Canada Entities;
- (yyy) “**Proof of Claim Bar Date**” means 5:00 p.m. on April 9, 2018;
- (zzz) “**Proof of Claim Instruction Letter**” means the letter containing instructions for completing the Proof of Claim form, substantially in the form attached as Schedule “P” hereto;
- (aaaa) “**Proof of Claim Package**” means a document package, which shall include: (i) a Proof of Claim form; (ii) a Proof of Claim Instruction Letter; (iii) a D&O Proof of Claim form; (iv) a D&O Proof of Claim Instruction Letter; and (v) such other

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materials as the Monitor, in consultation with the Sears Canada Entities, may consider appropriate or desirable;

(bbbb) “**Request for Correction**” means an Employee Request for Correction or a Retiree Request for Correction, as applicable;

(cccc) “**Request for Correction Bar Date**” means the later of: (i) 5:00 p.m. on May 7, 2018, and (ii) where a Claimant receives a Monitor Corrected Claim Statement, the date that is thirty (30) days after the date on which such Claimant is deemed to receive such Monitor Corrected Claim Statement;

(dddd) “**Restructuring Period**” means the period on or after the Filing Date;

(eeee) “**Retiree**” means any Person with any (i) entitlements under the Sears Pension Plan; (ii) entitlements under the Supplemental Plan; (iii) primary coverage entitlements with respect to any OPEB Entitlements; (iv) entitlements to the Lifetime Discount (including, for greater certainty, current and former Employees who qualify for this discount by virtue of satisfying applicable age and service eligibility criteria); or (v) entitlements under any other pension or retirement plan of the Sears Canada Entities;

(ffff) “**Retiree Benefit Claim**” means any right or claim of any Retiree against any of the Sears Canada Entities in respect of any OPEB Entitlements as calculated in accordance with the Retiree Benefit Claims Methodology, which, for greater certainty, shall include any derivative health and dental coverage claim of any eligible spouse and/or dependant of such Retiree, and which will be set out in a Retiree Benefit Claim Statement;

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(gggg) **“Retiree Benefit Claim Statement”** means an individual claim statement, substantially in the form attached as Schedule “I” hereto, to be prepared by the Sears Canada Entities, in consultation with the Monitor and with the assistance of Pension Representative Counsel, which shall include the amount of such individual Claimant’s Retiree Benefit Claim, as calculated in accordance with the Retiree Benefit Claims Methodology;

(hhhh) **“Retiree Benefit Claims Methodology”** means the methodology and assumptions for the calculation of Retiree Benefit Claims, as described in paragraphs 48 to 53 of the Penrice Affidavit and illustrated in Schedule “B” hereto;

(iii) **“Retiree Claim”** means each of the following (which, for greater certainty, may be asserted by or on behalf of a Retiree, including by Pension Representative Counsel or the Pension Plan Administrator and/or the Superintendent, as appropriate):

- (i) Sears Pension Claims;
- (ii) Supplemental Plan Claims;
- (iii) Retiree Benefit Claims;
- (iv) Lifetime Discount Claims;
- (v) Warranty Claims; and
- (vi) Other Retiree Claims;

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including any Retiree Claim arising through subrogation against any Sears Canada Entity or Director or Officer, provided however that in any case “**Retiree Claim**” shall not include an Excluded Claim;

- (jjjj) “**Retiree Letter**” means the letter to PRC Retirees and DB Only Retirees, substantially in the form attached as Schedule “F” hereto, which shall, among other things, provide a link to access the Claims Website (where a Retiree may submit a Retiree Request for Correction and which will include a link to the Proof of Claim Package);
- (kkkk) “**Retiree Request for Correction**” means the request form, substantially in the form attached as Schedule “K” hereto, or in an electronic form acceptable to the Monitor, to be submitted by a Retiree to the Monitor requesting a correction to the Personal Information set out in the Retiree Benefit Claim Statement or Monitor Corrected Claim Statement, if applicable, provided to such Retiree;
- (llll) “**Sears Pension Claim**” means any right or claim against the Sears Canada Entities or any Directors and/or Officers with respect to the Wind-Up Deficiency, including, for greater certainty, any claim based on statutory deemed trust obligations with respect to the Wind-Up Deficiency (and, for greater certainty, no individual Retiree with entitlements with respect to the defined benefit component of the Sears Pension Plan shall be permitted to submit a Proof of Claim or D&O Proof of Claim with respect to such entitlements or with respect to the Wind-Up Deficiency);
- (mmmm) “**Sears Pension Claim Methodology**” means the methodology and assumptions for the calculation of any Sears Pension Claim, as described in paragraphs 61 to 63 of the Penrice Affidavit;

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- (nnnn) “**Sears Pension Plan**” means the Sears Canada Inc. Registered Retirement Plan (Reg. #0360065), a pension plan registered under the Ontario *Pension Benefits Act*, R.S.O. 1990, c. P.8 and *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.) with a defined benefit component and a defined contribution component;
- (oooo) “**Superintendent**” means the Ontario Superintendent of Financial Services as administrator of the Pension Benefits Guarantee Fund;
- (pppp) “**Supplemental Plan**” means the Sears Canada Inc. Supplementary Retirement Plan, a non-registered supplemental pension plan maintained to provide enhanced pension benefits to eligible members of the defined benefit component of the Sears Pension Plan that are not provided under the Sears Pension Plan;
- (qqqq) “**Supplemental Plan Claim**” means any right or claim against the Sears Canada Entities or any Directors and/or Officers with respect to entitlements of a Retiree under the Supplemental Plan (and, for greater certainty, no Retiree who is represented by Pension Representative Counsel shall be permitted to submit a Proof of Claim or D&O Proof of Claim with respect to such entitlements);
- (rrrr) “**Termination Claim**” means any right or claim of any Employee against any of the Sears Canada Entities in respect of the termination of such Employee’s employment, whether under contract, common law, statute or otherwise, including for termination and severance pay and for damages for loss of employment-related perquisites and benefits (including employee discounts) during his/her period of entitlement to working notice, which, for greater certainty, will be calculated for the purposes of this Employee and Retiree Claims Process in accordance with the Termination Claims Methodology and set out in a Termination Claim Statement;

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- (ssss) **“Termination Claim Statement”** means an individual claim statement, substantially in the form attached as Schedule “H” hereto, or in an electronic form acceptable to the Monitor, to be prepared by the Sears Canada Entities, in consultation with the Monitor and with the assistance of Employee Representative Counsel, which shall include the amount of such individual Claimant’s Termination Claim, as calculated in accordance with the Termination Claims Methodology;
- (tttt) **“Termination Claims Methodology”** means the methodology and assumptions for the calculation of Termination Claims, as described in paragraphs 28 to 47 of the Penrice Affidavit and illustrated in Schedule “A” hereto;
- (uuuu) **“Union Representative”** means a representative of the bargaining agent representing Unionized Employees;
- (vvvv) **“Unionized Employee”** means any Employee represented by a union pursuant to a collective agreement in connection with such Employee’s employment with any of the Sears Canada Entities;
- (wwww) **“Warranty”** means a customer warranty provided by any one of the Sears Canada Entities, including any Sears Protection Agreement but excluding any manufacturer’s warranty;
- (xxxx) **“Warranty Claim”** means any claim of a Claimant in this Employee and Retiree Claims Process against the Sears Canada Entities with respect to a Warranty; and
- (yyyy) **“Wind-Up Deficiency”** means the wind-up deficit with respect to the defined benefit component of the Sears Pension Plan.

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5. THIS COURT ORDERS that all references as to time herein shall mean local time in Toronto, Ontario, Canada, and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. on such Business Day unless otherwise indicated herein, and any reference to an event occurring on a day that is not a Business Day shall mean the next following day that is a Business Day.

6. THIS COURT ORDERS that all references to the word “including” shall mean “including without limitation”, all references to the singular herein include the plural, the plural include the singular, and any gender includes all genders.

GENERAL PROVISIONS

7. THIS COURT ORDERS that any Claim denominated in a foreign currency shall be converted to Canadian dollars at the Bank of Canada exchange rate in effect at the Filing Date. For reference, the exchange rate that will be applied to Claims denominated in U.S. dollars is 1.3241 CAD/USD.

8. THIS COURT ORDERS that, notwithstanding any other provisions of this Order, the solicitation by the Monitor of Proofs of Claim and D&O Proofs of Claim, the delivery by the Monitor of Claims Packages and the Retiree Letter, and the filing by any Claimant of any Proof of Claim or D&O Proof of Claim shall not, for that reason only, grant any Person any rights, including without limitation, in respect of the nature, quantum and priority of his/her Claims or his/her standing in the CCAA Proceedings or any other proceedings, except as specifically set out in this Order (provided that this exception shall not apply in respect of paragraphs 19 to 21 of this Order or to the Sears Pension Claim Methodology).

9. THIS COURT ORDERS that the Monitor, in consultation with the Sears Canada Entities and the applicable Directors and Officers in respect of any D&O Claim, is hereby authorized to

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use reasonable discretion as to the adequacy of compliance with respect to the manner in which any forms delivered hereunder are completed and executed and the time in which they are submitted, and may, where the Monitor, in consultation with the Sears Canada Entities and the applicable Directors and Officers in respect of any D&O Claim, is satisfied that a Claim has been adequately proven, waive strict compliance with the requirements of this Order, including in respect of the completion, execution and time of delivery of such forms; provided that it is recognized and understood that certain Claims will be contingent in nature and/or based on estimates and assumptions which may be subject to change, and therefore will not contain particulars of such Claims that are not yet known as at the time they are filed.

TERMINATION CLAIMS METHODOLOGY

10. THIS COURT ORDERS that the Termination Claims Methodology is hereby approved.

11. THIS COURT ORDERS that the Termination Claims of ERC Employees and Non-ERC Employees shall be calculated by the Sears Canada Entities in consultation with the Monitor and with the assistance of Employee Representative Counsel and its Advisors as well as Union Representatives, where appropriate, in accordance with the Termination Claims Methodology based on the Personal Information relating to such Employee.

12. THIS COURT ORDERS AND DECLARES that:

- (a) the Termination Claims Methodology shall be final and binding on all ERC Employees;
- (b) the Termination Claims Methodology shall be final and binding on any Non-ERC Employees who do not submit a Notice of Proposed Revision (or, in the case of a Unionized Employee, do not have a Union Representative submit a Notice of

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Proposed Revision on such Unionized Employee's behalf) by the Notice of Proposed Revision Bar Date;

- (c) no: (i) ERC Employee, or (ii) Non-ERC Employee who did not submit a Notice of Proposed Revision (or, in the case of a Unionized Employee, did not have a Union Representative submit a Notice of Proposed Revision on such Unionized Employee's behalf) by the Notice of Proposed Revision Bar Date, shall directly or indirectly assert, advance, re-assert or re-file any Termination Claim that is not calculated in accordance with the Termination Claims Methodology; and
- (d) any Termination Claim that is directly or indirectly asserted, advanced, re-asserted or re-filed by an ERC Employee or by a Non-ERC Employee who did not submit a Notice of Proposed Revision (or, in the case of a Unionized Employee, did not have a Union Representative submit a Notice of Proposed Revision on such Unionized Employee's behalf) by the Notice of Proposed Revision Bar Date that is not calculated in accordance with the Termination Claims Methodology shall be disallowed.

RETIREE BENEFIT CLAIMS METHODOLOGY

13. THIS COURT ORDERS that the Retiree Benefit Claims Methodology is hereby approved.

14. THIS COURT ORDERS that any Retiree Benefit Claim of a Retiree shall be calculated by the Sears Canada Entities in consultation with the Monitor and with the assistance of Pension Representative Counsel and its Advisors, where appropriate, in accordance with the Retiree Benefit Claims Methodology based on the Personal Information relating to such Retiree.

15. THIS COURT ORDERS AND DECLARES that:

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- (a) the Retiree Benefit Claims Methodology shall be final and binding on all PRC Retirees;
- (b) the Retiree Benefit Claims Methodology shall be final and binding on all Non-PRC Retirees who do not submit a Notice of Proposed Revision by the Notice of Proposed Revision Bar Date;
- (c) no: (i) PRC Retiree, or (ii) Non-PRC Retiree who did not file a Notice of Proposed Revision by the Notice of Proposed Revision Bar Date, shall directly or indirectly assert, advance, re-assert or re-file any Retiree Benefit Claim that is not calculated in accordance with the Retiree Benefit Claims Methodology; and
- (d) any Retiree Benefit Claim that is directly or indirectly asserted, advanced, re-asserted or re-filed by a PRC Retiree or by a Non-PRC Retiree who did not file a Notice of Proposed Revision by the Notice of Proposed Revision Bar Date that is not calculated in accordance with the Retiree Benefit Claims Methodology shall be disallowed.

LIFETIME DISCOUNT CLAIMS METHODOLOGY

16. THIS COURT ORDERS that the Lifetime Discount Claims Methodology is hereby approved.

17. THIS COURT ORDERS AND DECLARES that:

- (a) the Lifetime Discount Claims Methodology shall be final and binding on all Retirees eligible to submit a Lifetime Discount Claim;

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- (b) the Sears Canada Entities shall be deemed to have submitted Lifetime Discount Claims calculated in accordance with the Lifetime Discount Claims Methodology on behalf of each known Retiree eligible to submit a Lifetime Discount Claim, based on the books and records of the Sears Canada Entities;
- (c) no Retiree shall directly or indirectly assert, advance, re-assert or re-file any Lifetime Discount Claim; and
- (d) any Lifetime Discount Claim that is directly or indirectly asserted, advanced, re-asserted or re-filed by any Retiree shall be disallowed.

SEARS PENSION CLAIM METHODOLOGY

18. THIS COURT ORDERS that the Sears Pension Claim Methodology is hereby approved.

19. THIS COURT ORDERS that only Pension Representative Counsel, the Pension Plan Administrator and the Superintendent may submit a Proof of Claim and/or D&O Proof of Claim with respect to any Sears Pension Claim. The Monitor shall deal with any such Proofs of Claim and/or D&O Proofs of Claim in accordance with paragraphs 65 and 69 below. For greater certainty, no individual Retiree with entitlements with respect to the defined benefit component of the Sears Pension Plan shall be permitted to submit a Proof of Claim or D&O Proof of Claim with respect to any such entitlements or with respect to the Wind-Up Deficiency.

20. THIS COURT ORDERS that any Sears Pension Claim shall be calculated pursuant to the Sears Pension Claim Methodology. For the purposes of the preparation and submission of any Proof of Claim or D&O Proof of Claim relating to a Sears Pension Claim only, the Pension Plan Administrator, Pension Representative Counsel and/or the Superintendent shall be entitled, without independent investigation, to rely on the books and records of the Sears Canada Entities

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and any information provided by the Sears Canada Entities, and shall not be liable for any claims or damages resulting from any errors or omissions in the Sears Canada Entities' books, records or information.

21. THIS COURT ORDERS AND DECLARES that:

- (a) the Sears Pension Claim Methodology shall be final and binding on the Pension Plan Administrator, Pension Representative Counsel, the Superintendent and on all Retirees with entitlements under the defined benefit component of the Sears Pension Plan;
- (b) Sears Pension Claims: (i) may only be submitted by the Pension Plan Administrator, Pension Representative Counsel, and/or the Superintendent, each in accordance with the Sears Pension Claim Methodology and the requirements under this Order (which, for greater certainty, may be adjusted in accordance with the Sears Pension Claim Methodology after the Proof of Claim Bar Date), and (ii) shall not, directly or indirectly, be asserted, advanced, re-asserted or re-filed by any other Person that is not the Pension Plan Administrator, Pension Representative Counsel or the Superintendent;
- (c) any Sears Pension Claim that is directly or indirectly asserted, advanced, re-asserted or re-filed by any Person other than the Pension Plan Administrator, Pension Representative Counsel or the Superintendent, or any Sears Pension Claim that is not calculated in accordance with the Sears Pension Claim Methodology, shall be disallowed;

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- (d) the Monitor shall provide a copy of any Sears Pension Claim received to the Pension Plan Administrator, Pension Representative Counsel and the Superintendent, as appropriate;
- (e) each of the Pension Plan Administrator, Pension Representative Counsel and the Superintendent shall be given written notice by the Monitor of any determination by the Monitor, including as to quantum and/or priority, of any Sears Pension Claim submitted in accordance with this Order; and
- (f) the Pension Plan Administrator, Pension Representative Counsel and the Superintendent shall be given written notice by the Monitor of, and are entitled to participate in (i) any hearing before a Claims Officer concerning a Sears Pension Claim, and (ii) any hearing before the Court concerning a Sears Pension Claim, and any appeals therefrom.

SUPPLEMENTAL PLAN CLAIMS

22. THIS COURT ORDERS that Pension Representative Counsel shall, on behalf of all Retirees with entitlements under the Supplemental Plan, submit a Proof of Claim and/or D&O Proof of Claim with respect to any Supplemental Plan Claims of such Retirees. No Retiree represented by Pension Representative Counsel shall be permitted to submit a Proof of Claim or D&O Proof of Claim with respect to any Supplemental Plan Claim of such Retiree. For greater certainty, any Retiree not represented by Pension Representative Counsel who has entitlements under the Supplemental Plan may submit a separate Proof of Claim or D&O Proof of Claim with respect to such entitlements, and the Monitor shall deal with any such Proofs of Claim and/or D&O Proofs of Claim in accordance with paragraph 69 below.

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23. THIS COURT ORDERS that any Supplemental Plan Claim submitted by Pension Representative Counsel shall be calculated by Pension Representative Counsel and its Advisors. Pension Representative Counsel and its Advisors shall be entitled, without independent investigation, to rely on the books and records of the Sears Canada Entities and any information provided by the Sears Canada Entities, and shall not be liable for any claims or damages resulting from any errors or omissions in the Sears Canada Entities' books, records or information.

24. THIS COURT ORDERS AND DECLARES that:

- (a) any Supplemental Plan Claims submitted by Pension Representative Counsel shall be final and binding on all Retirees represented by Pension Representative Counsel who have entitlements under the Supplemental Plan;
- (b) any Supplemental Plan Claims submitted by Pension Representative Counsel shall be final and binding on all Retirees not represented by Pension Representative Counsel who do not submit any other Proof of Claim or D&O Proof of Claim in respect of their entitlements under the Supplemental Plan before the Proof of Claim Bar Date;
- (c) no Retiree represented by Pension Representative Counsel shall directly or indirectly assert, advance, re-assert or re-file any Supplemental Plan Claim; and
- (d) any Supplemental Plan Claim that is directly or indirectly asserted, advanced, re-asserted or re-filed by any Retiree represented by Pension Representative Counsel shall be disallowed.

MONITOR'S ROLE

25. THIS COURT ORDERS that, in addition to its prescribed rights, duties, responsibilities and obligations under the CCAA, the Initial Order and any other orders of the Court in the CCAA Proceedings, the Monitor is hereby directed and empowered to implement the Employee and Retiree Claims Process set out herein and to take such other actions and fulfill such other roles as are authorized by this Order or incidental thereto.

26. THIS COURT ORDERS that the Monitor (a) shall have all of the protections given to it by the CCAA, the Initial Order, any other orders of the Court in the CCAA Proceedings, and this Order, or as an officer of the Court, including the stay of proceedings in its favour; (b) shall incur no liability or obligation as a result of the carrying out of the provisions of this Order, including in respect of its exercise of discretion as to the completion, execution or time of delivery of any documents to be delivered hereunder, other than in respect of its gross negligence or wilful misconduct; (c) shall be entitled, without independent investigation, to rely on the books and records of the Sears Canada Entities and any information provided by the Sears Canada Entities; and (d) shall not be liable for any claims or damages resulting from any errors or omissions in the Sears Canada Entities' books, records or information.

27. THIS COURT ORDERS that the Sears Canada Entities and their current officers, directors, employees, agents and representatives shall fully cooperate with the Monitor in the exercise of its powers and discharge of its duties and obligations under this Order.

EMPLOYEE REPRESENTATIVE COUNSEL'S ROLE

28. THIS COURT ORDERS that, unless otherwise directed by the Court, Employee Representative Counsel may, on behalf of any ERC Employee: (a) engage in discussions with the Monitor and the Sears Canada Entities with respect to Personal Information; (b) assist in filing an

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Employee Request for Correction, Proof of Claim, D&O Proof of Claim, or Notice of Dispute on behalf of an Employee where requested to do so by the Employee; (c) file a Proof of Claim or a D&O Proof of Claim on behalf an Employee; (d) participate in the adjudication, resolution or settlement of any Termination Claim; and (e) assist an ERC Employee with an Other Employee Claim that, in the judgment of Employee Representative Counsel, is a *bona fide* claim that has not been dealt with through the Termination Claims Methodology; provided however that nothing in this paragraph 28 shall relieve an ERC Employee of his or her responsibility to review the Claims Package provided to him or her (including the Termination Claim Statement), to review the Personal Information upon which the Claim will be calculated, and to submit an Employee Request for Correction, a Proof of Claim, a D&O Proof of Claim, or a Notice of Dispute where such Employee wishes to do so and is entitled to do so in accordance with the procedures and within the time limits set out in this Order.

29. THIS COURT ORDERS that Employee Representative Counsel, the Employee Representatives and any Advisors retained by Employee Representative Counsel: (a) shall have no personal liability or obligations as a result of the performance of their duties in carrying out the provisions of this Order, save and except for liability arising out of gross negligence or wilful misconduct; (b) shall be entitled, without independent investigation, to rely on the books and records of the Sears Canada Entities and any information provided by the Sears Canada Entities; and (c) shall not be liable for any claims or damages resulting from any errors or omissions in the Sears Canada Entities' books, records or information.

30. THIS COURT ORDERS that, subject to existing confidentiality agreements, the Employee Representative Counsel Order and applicable law: (a) the Sears Canada Entities and the Monitor shall cooperate with Employee Representative Counsel in the exercise of its powers and discharge

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of its duties and obligations under this Order, and (b) Employee Representative Counsel shall cooperate with the Monitor and the Sears Canada Entities in the exercise of their respective powers and discharge of their respective duties and obligations under this Order.

PENSION REPRESENTATIVE COUNSEL'S ROLE

31. THIS COURT ORDERS that all unionized Retirees shall be represented by Pension Representative Counsel pursuant to the Pension Representative Counsel Order *nunc pro tunc*, unless any such unionized Retiree specifically notifies Pension Representative Counsel in writing that such Retiree wishes to opt-out of representation by the Pensioner Representatives and Pension Representative Counsel.

32. THIS COURT ORDERS that, unless otherwise directed by the Court, Pension Representative Counsel may, on behalf of any Retiree represented by Pension Representative Counsel: (a) engage in discussions with the Monitor and the Sears Canada Entities with respect to Personal Information; (b) assist in filing a Retiree Request for Correction, Proof of Claim, D&O Proof of Claim, or Notice of Dispute on behalf of a Retiree where requested to do so by the Retiree; (c) file a Proof of Claim or D&O Proof of Claim on behalf of a Retiree; (d) participate in the adjudication, resolution or settlement of any Retiree Benefit Claim; and (e) assist a Retiree with an Other Retiree Claim that, in the judgment of Pension Representative Counsel, is a *bona fide* claim that has not been dealt with through the Retiree Benefit Claims Methodology, the Lifetime Discount Claims Methodology, the Sears Pension Claim Methodology or otherwise; provided however that nothing in this paragraph 31 shall relieve a Retiree of his or her responsibility to review the Claims Package provided to him or her (including the Retiree Benefit Claim Statement), to review the Personal Information upon which the Claim will be calculated, and to submit a Retiree Request for Correction, a Proof of Claim, a D&O Proof of Claim, or a Notice of Dispute

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where such Retiree wishes to do so and is entitled to do so in accordance with the procedures and within the time limits set out in this Order.

33. THIS COURT ORDERS that Pension Representative Counsel, the Pensioner Representatives and any Advisors retained by Pension Representative Counsel: (a) shall have no personal liability or obligations as a result of the performance of their duties in carrying out the provisions of this Order, save and except for liability arising out of gross negligence or wilful misconduct; (b) shall be entitled, without independent investigation, to rely on the books and records of the Sears Canada Entities and any information provided by the Sears Canada Entities; and (c) shall not be liable for any claims or damages resulting from any errors or omissions in the Sears Canada Entities' books, records or information.

34. THIS COURT ORDERS that, subject to existing confidentiality agreements, the Pension Representative Counsel Order and applicable law: (a) the Sears Canada Entities and the Monitor shall cooperate with Pension Representative Counsel, the Pension Plan Administrator and the Superintendent in the exercise of their respective powers and discharge of their respective duties and obligations under this Order, and (b) Pension Representative Counsel, the Pension Plan Administrator and the Superintendent shall cooperate with the Monitor and the Sears Canada Entities in the exercise of their respective powers and discharge of their respective duties and obligations under this Order.

NOTICE OF EMPLOYEE AND RETIREE CLAIMS PROCESS

35. THIS COURT ORDERS that the Monitor shall cause the Notice to Claimants to be published at least three (3) times, beginning the week of February 26, 2018, in The Globe and Mail (National Edition) and the electronic edition of La Presse, and in such other publications and with such frequency as is determined by the Monitor in consultation with the Sears Canada Entities.

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36. THIS COURT ORDERS that the Monitor shall cause the Notice to Claimants and blank copies of the Claims Packages (excluding any blank Termination Claim Statement or Retiree Benefit Claim Statement) to be posted to the Monitor's Website by no later than 5:00 p.m. on February 27, 2018.

37. THIS COURT ORDERS that the Applicants shall cause the Notice to Claimants to be posted to the my.sears.ca portal, as soon as practicable but no later than 5:00 p.m. on February 27, 2018.

38. THIS COURT ORDERS that Employee Representative Counsel shall cause the Notice to Claimants and a blank copy of the ERC Employee Package (excluding any blank Termination Claim Statement) to be posted to Employee Representative Counsel's Website, as soon as practicable but no later than 5:00 p.m. on February 27, 2018.

39. THIS COURT ORDERS that Pension Representative Counsel shall cause the Notice to Claimants and a blank copy of the PRC Retiree Package (excluding any blank Retiree Benefit Claim Statement) to be posted to Pension Representative Counsel's Website, as soon as practicable but no later than 5:00 p.m. on February 27, 2018.

40. THIS COURT ORDERS that as soon as practicable, but no later than 5:00 p.m. on March 5, 2018, the Monitor shall cause: (a) an ERC Employee Package to be sent to each known ERC Employee; (b) a Non-ERC Employee Package to be sent to each known Non-ERC Employee; (c) a PRC Retiree Package to be sent to each known PRC Retiree; (d) a Non-PRC Retiree Package to be sent to each known Non-PRC Retiree; and (e) a Retiree Letter to be sent to each known DB Only Retiree, each at the last known physical or electronic address recorded in the books and records of the Sears Canada Entities and in accordance with the terms of this Order.

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41. THIS COURT ORDERS that as soon as practicable, but no later than 5:00 p.m. on March 5, 2018, the Monitor shall cause a Proof of Claim Package to be sent to each Claimant who the Sears Canada Entities have advised the Monitor may have an outstanding active action, claim or complaint as of the Filing Date but who was not sent a package or a letter in accordance with paragraph 40 above, at the last known physical or electronic address recorded in the books and records of the Sears Canada Entities.

42. THIS COURT ORDERS that to the extent any Claimant requests documents or information relating to the Employee and Retiree Claims Process prior to the Proof of Claim Bar Date, the Monitor shall forthwith send such Claimant a Proof of Claim Package, and shall direct such Claimant to the documents posted on the Monitor's Website or otherwise respond to the request for documents or information as the Monitor (in consultation with the Sears Canada Entities and, where the Monitor deems appropriate, Employee Representative Counsel, Pension Representative Counsel, the Pension Plan Administrator and/or the Superintendent) may consider appropriate in the circumstances. If the Sears Canada Entities or the Monitor become aware of any further Claims after the mailings contemplated in paragraph 40 and 41 herein, the Monitor shall forthwith send such potential Claimant a Proof of Claim Package or other Claims Package, as the Monitor (in consultation with the Sears Canada Entities and, where the Monitor deems appropriate, Employee Representative Counsel, Pension Representative Counsel, the Pension Plan Administrator and/or the Superintendent) deems appropriate, or may direct such potential Claimant to the documents posted on the Monitor's Website.

43. THIS COURT ORDERS that the Employee and Retiree Claims Process and the forms of Notice to Claimants, Proof of Claim Instruction Letter, D&O Proof of Claim Instruction Letter, Proof of Claim, D&O Proof of Claim, Termination Claim Statement, Retiree Benefit Claim

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Statement, Employee Request for Correction, Retiree Request for Correction, Notice of Acceptance, Notice of Disallowance (Personal Information), Notice of Disallowance (Proof of Claim), Notice of Dispute (Personal Information), Notice of Dispute (Proof of Claim), Notice of Proposed Revision, ERC Employee Letter, Non-ERC Employee Letter, Retiree Letter and Non-PRC Retiree Letter are hereby approved, subject to any minor non-substantive changes to the forms as the Monitor and the Sears Canada Entities (in consultation with Employee Representative Counsel and Pension Representative Counsel, as appropriate) may consider necessary or desirable to be made from time to time.

44. THIS COURT ORDERS that the sending of the Claims Packages and the Retiree Letter to the applicable Persons and the publication of the Notice to Claimants, in accordance with this Order, shall constitute good and sufficient service and delivery of notice of this Order and the Bar Dates on all Persons who may be entitled to receive notice and who may wish to assert a Claim, and no other notice or service need be given or made and no other document or material need be sent to or served upon any Person in respect of this Order.

FILING OF REQUESTS FOR CORRECTION

45. THIS COURT ORDERS that if the Monitor independently discovers or is made aware of any errors in the Personal Information that would affect the amount of a Termination Claim or Retiree Benefit Claim of a Claimant, the Monitor has the discretion to correct those errors. If any such errors are discovered and corrections are made by the Monitor, the Monitor shall send a Monitor Corrected Claim Statement together with the applicable Request for Correction to such Claimant, who will have the right to submit such Request for Correction by the Request for Correction Bar Date or such other date as may be agreed to by the Monitor in writing.

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46. THIS COURT ORDERS that if: (i) an Employee disputes the Personal Information contained in his/her Termination Claim Statement or Monitor Corrected Claim Statement, as applicable, or (ii) a Retiree disputes the Personal Information contained in his/her Retiree Benefit Claim Statement or Monitor Corrected Claim Statement, as applicable, such Employee or Retiree, as applicable, shall deliver to the Monitor the applicable Request for Correction. All Requests for Correction must be received by the Monitor by no later than the Request for Correction Bar Date.

47. THIS COURT ORDERS that: (a) if an Employee's Request for Correction is not received by the Monitor on or before the Request for Correction Bar Date or such Employee's Request for Correction is received and accepted by the Monitor through a Notice of Acceptance, the Personal Information contained in his/her Termination Claim Statement, Monitor Corrected Claim Statement or Notice of Acceptance, as applicable, shall be deemed to be correct and confirmed in all respects, shall be final and binding on such Employee, and such Employee shall be barred from making any Termination Claim inconsistent with such Personal Information; and (b) if a Retiree's Request for Correction is not received by the Monitor on or before the Request for Correction Bar Date or such Retiree's Request for Correction is received and accepted by the Monitor through a Notice of Acceptance, the Personal Information contained in his/her Retiree Benefit Claim Statement, Monitor Corrected Claim Statement or Notice of Acceptance, as applicable, shall be deemed to be correct and confirmed in all respects, shall be final and binding on such Retiree, and such Retiree shall be barred from making any Retiree Benefit Claim inconsistent with such Personal Information.

FILING OF NOTICES OF PROPOSED REVISION

48. THIS COURT ORDERS that a Notice of Proposed Revision with respect to a Unionized Employee's Termination Claim may only be submitted by a Union Representative on behalf of

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such Unionized Employee (and, for greater certainty, no Unionized Employee shall be permitted to submit a Notice of Proposed Revision on his/her own behalf). For greater certainty, any Non-PRC Retiree shall be permitted to submit a Notice of Proposed Revision on his/her own behalf, regardless of whether such Non-PRC Retiree is or was represented by a union at any time in relation to such Non-PRC Retiree's employment with any of the Sears Canada Entities.

49. THIS COURT ORDERS that only Non-ERC Employees (or, where such Non-ERC Employee is a Unionized Employee, the Union Representative on behalf of such Unionized Employee) and Non-PRC Retirees shall be permitted to file a Notice of Proposed Revision with respect to the determination of their Termination Claim or Retiree Benefit Claim, as applicable.

50. THIS COURT ORDERS that: (a) if a Non-ERC Employee (or a Union Representative on behalf of a Unionized Employee) disputes the application of the Termination Claims Methodology to determine such Non-ERC Employee's Termination Claim; or (b) if a Non-PRC Retiree disputes the application of the Retiree Benefit Claims Methodology to determine such Non-PRC Retiree's Retiree Benefit Claim, such Claimant (or in the case of a Unionized Employee, the Union Representative on behalf of such Unionized Employee) shall deliver to the Monitor a Notice of Proposed Revision containing a proposed alternative methodology to be used to determine his/her Termination Claim or Retiree Benefit Claim, as applicable. All Notices of Proposed Revision must be received by the Monitor by no later than the Notice of Proposed Revision Bar Date.

51. THIS COURT ORDERS that if a Notice of Proposed Revision is not submitted by an eligible Claimant and received by the Monitor on or before the Notice of Proposed Revision Bar Date: (a) the Termination Claims Methodology or the Retiree Benefit Claims Methodology, as applicable, shall be deemed to be confirmed in all respects by such Claimant and shall be final and binding on such Claimant, such that the only remaining element of such Claimant's Termination

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Claim or Retiree Benefit Claim that may be subject to revision shall be the Personal Information to be applied to such methodology (to the extent that any Request for Correction has been submitted in accordance with paragraphs 45 and 47 above), and (b) the Claimant shall be barred from making any further Termination Claim or Retiree Benefit Claim.

FILING OF PROOFS OF CLAIM

52. THIS COURT ORDERS that any Claimant (or any Union Representative or other Person on behalf of any Claimant, including without limitation the Pension Plan Administrator, Pension Representative Counsel or the Superintendent with respect to any Sears Pension Claim or Other Retiree Claim, Employee Representative Counsel with respect to any Other Employee Claim, or Pension Representative Counsel with respect to any Supplemental Plan Claim) that intends to assert a Sears Pension Claim, Supplemental Plan Claim, Other Employee Claim or Other Retiree Claim, including any D&O Claim relating to any of the foregoing, shall file a Proof of Claim or D&O Proof of Claim, as applicable, with the Monitor on or before the Proof of Claim Bar Date. Any Claimant (or other Person on behalf of such Claimant) who submits a Proof of Claim or D&O Proof of Claim must specify whether such Claim relates to the Pre-Filing Period or to the Restructuring Period. For the avoidance of doubt, a Proof of Claim or D&O Proof of Claim, as applicable, must be filed by every such Claimant (or other Person on behalf of such Claimant) in respect of every such Claim or D&O Claim, regardless of whether or not a legal proceeding in respect of such Claim or D&O Claim has been previously commenced.

53. THIS COURT ORDERS that any Claimant (or other Person on behalf of such Claimant) who is eligible to assert a Sears Pension Claim, Supplemental Plan Claim, Other Employee Claim or Other Retiree Claim, including any D&O Claim relating to any of the foregoing, and who does not file a Proof of Claim or D&O Proof of Claim, as applicable, so that such Proof of Claim or

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D&O Proof of Claim is received by the Monitor on or before the Proof of Claim Bar Date, or such later date as the Monitor (in consultation with the Sears Canada Entities, the applicable Directors and Officers in respect of any D&O Claim and, where the Monitor deems appropriate, Employee Representative Counsel, Pension Representative Counsel, the Pension Plan Administrator and/or the Superintendent) may agree in writing or the Court may otherwise direct:

- (a) be and is hereby forever barred, estopped and enjoined from asserting or enforcing any such Claim or D&O Claim and all such Claims or D&O Claims shall be forever extinguished;
- (b) will not be permitted to vote at any Meeting on account of such Claim(s) or D&O Claim(s);
- (c) will not be entitled to receive further notice with respect to the Employee and Retiree Claims Process or these proceedings unless the Monitor and/or the Sears Canada Entities become aware that such Claimant has any other Claim; and
- (d) will not be permitted to participate in any distribution under any Plan on account of such Claim(s) or D&O Claim(s).

54. THIS COURT ORDERS that the provisions of paragraphs 52 and 53 herein shall not apply to any Lifetime Discount Claims or to any Warranty Claims. Proofs of Claim with respect to any Lifetime Discount Claim and any Warranty Claim shall each be deemed to have been properly submitted in accordance with the applicable requirements of this Order by the Sears Canada Entities on behalf of each eligible Claimant, based on the books and records of the Sears Canada Entities. For greater certainty, no Claimant shall be entitled to any additional Claim against the Sears Canada Entities with respect to any Lifetime Discount or Warranty.

ADJUDICATION OF TERMINATION CLAIMS OR RETIREE BENEFIT CLAIMS***Requests for Correction***

55. THIS COURT ORDERS that the Monitor shall provide, upon request: (i) summaries of Termination Claims of Unionized Employees or copies of Non-ERC Employee Packages sent to Unionized Employees to the applicable Union Representative; and (ii) copies of any Requests for Correction received by it to the appropriate Representative Counsel or Union Representative.

56. THIS COURT ORDERS that the Monitor, in consultation with the Sears Canada Entities, shall review each Request for Correction submitted in accordance with this Order and received on or before the Request for Correction Bar Date, and shall, no later than July 31, 2018 and with a copy to the appropriate Representative Counsel for such Claimant, if applicable:

- (a) accept all of the corrections requested, in which case the Monitor shall cause to be sent to such Claimant a Notice of Acceptance, which will include the value of the Claimant's Termination Claim or Retiree Benefit Claim, as applicable, after applying the revised Personal Information to the Termination Claims Methodology or the Retiree Benefit Claims Methodology, as appropriate; or
- (b) disallow the corrections requested (in whole or in part), in which case the Monitor shall cause to be sent to such Claimant a Notice of Disallowance (Personal Information).

57. THIS COURT ORDERS that any Claimant who intends to dispute a Notice of Disallowance (Personal Information) hereof shall:

- (a) deliver a completed Notice of Dispute (Personal Information), along with the reasons for the dispute, to the Monitor by no later than thirty (30) days after the

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date on which the Claimant is deemed to receive the Notice of Disallowance (Personal Information), or such other date as may be agreed to by the Monitor in writing; and

- (b) in the event that a dispute raised in a Notice of Dispute (Personal Information) is not settled within a time period or in a manner satisfactory to the Monitor, in consultation with the Sears Canada Entities, the Monitor shall refer the dispute raised in the Notice of Dispute (Personal Information) to a Claims Officer or the Court for adjudication at its election.

58. THIS COURT ORDERS that where a Claimant who receives a Notice of Disallowance (Personal Information) does not submit a completed Notice of Dispute (Personal Information) by the time set out in paragraph 57(a), such Claimant's Personal Information shall be deemed to be as set out in the Notice of Disallowance (Personal Information), and such Claimant shall have no further right to dispute same and shall be barred from making any Claim inconsistent with such Personal Information.

Notices of Proposed Revision

59. THIS COURT ORDERS that the Monitor, in consultation with the Sears Canada Entities, shall review each Notice of Proposed Revision submitted in accordance with this Order and received on or before the Notice of Proposed Revision Bar Date, and shall accept, revise or reject the methodology proposed in such Notice of Proposed Revision.

60. THIS COURT ORDERS that, where a Union Representative has submitted a Notice of Proposed Revision on behalf of a Unionized Employee, only the Union Representative shall be entitled to negotiate the methodology proposed in such Notice of Proposed Revision with the Monitor on behalf of such Unionized Employee.

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61. THIS COURT ORDERS that, in the event that an alternative methodology proposed in a Notice of Proposed Revision is not agreed to by the Monitor or is not successfully negotiated with the Claimant (or the Union Representative on behalf of a Unionized Employee) within a time period or in a manner satisfactory to the Monitor, in consultation with the Sears Canada Entities, the Monitor shall refer the dispute to a Claims Officer or the Court for adjudication at its election. For greater certainty, any party may file additional evidence, documentation, reports or information on any hearing to determine the methodology to be applied to calculate an applicable Claimant's Termination Claim or Retiree Benefit Claim, as applicable, and no party shall object to the filing of such additional evidence on the basis that such evidence, documentation, report or information was not included in the initial Termination Claim Statement or Retiree Benefit Claim Statement, Notice of Proposed Revision or Request for Correction, if submitted.

ADJUDICATION OF PROOFS OF CLAIM AND D&O PROOFS OF CLAIM

62. THIS COURT ORDERS that the Monitor, in consultation with the Sears Canada Entities, shall review each Proof of Claim submitted in accordance with this Order and received on or before the Proof of Claim Bar Date, and shall accept, revise or reject each Claim set forth in each such Proof of Claim.

63. THIS COURT ORDERS that the Monitor shall promptly deliver a copy of any D&O Proofs of Claim, Notices of Disallowance (Proof of Claim) with respect to any D&O Claim, and Notices of Dispute (Proof of Claim) with respect to any D&O Claim, to the applicable Directors and Officers named therein.

64. THIS COURT ORDERS that the Monitor, in consultation with the Sears Canada Entities and the applicable Directors and Officers named in any D&O Proof of Claim, and any counsel for such Directors and Officers, shall review each D&O Proof of Claim submitted in accordance with

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this Order and received on or before the Proof of Claim Bar Date. The Monitor shall accept, revise or reject each Claim set forth in each such D&O Proof of Claim, provided that the Monitor shall not accept or revise any portion of a D&O Claim absent consent of the applicable Directors and Officers or further Order of the Court.

65. THIS COURT ORDERS that the Monitor shall notify the Claimant who has delivered such Proof of Claim or D&O Proof of Claim, as applicable, that such Claim has been revised or rejected and the reasons therefor, by sending a Notice of Disallowance (Proof of Claim) by no later than July 31, 2018 or such later date as ordered by the Court on application by the Monitor. However, this July 31, 2018 deadline shall not apply to any Proof of Claim or D&O Proof of Claim filed in respect of any Sears Pension Claim.

66. THIS COURT ORDERS that any Claimant who intends to dispute a Notice of Disallowance (Proof of Claim) in respect of any Proof of Claim or D&O Proof of Claim, as applicable, hereof shall:

- (a) deliver a completed Notice of Dispute (Proof of Claim), along with the reasons for the dispute, to the Monitor by no later than thirty (30) days after the date on which the Claimant is deemed to receive the Notice of Disallowance (Proof of Claim), or such other date as may be agreed to by the Monitor (in consultation with the Sears Canada Entities and any applicable Directors and Officers in respect of any D&O Claim) in writing; and
- (b) in the event that a dispute raised in a Notice of Dispute (Proof of Claim) is not settled within a time period or in a manner satisfactory to the Monitor (in consultation with the Sears Canada Entities and the applicable Directors and Officers in respect of any D&O Claim), the Monitor shall refer the dispute raised

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in the Notice of Dispute (Proof of Claim) to a Claims Officer or the Court for adjudication at its election. Any Claimant who wishes to challenge the method of adjudication elected by the Monitor may apply to the Court to determine the appropriate method of adjudication. For greater certainty, any party may file additional evidence, documentation, reports or information on any hearing to resolve the issues raised in a Notice of Dispute (Proof of Claim) and no party will object to the filing of such additional evidence on the basis that such evidence, documentation, report or information was not included in the initial Proof of Claim, D&O Proof of Claim or Notice of Disallowance (Proof of Claim).

67. THIS COURT ORDERS that where a Claimant who receives a Notice of Disallowance (Proof of Claim) does not submit a completed Notice of Dispute (Proof of Claim) by the time set out in paragraph 66(a), such Claimant's Claim or D&O Claim shall be deemed to be as set out in the Notice of Disallowance (Proof of Claim) and such Claimant shall have no further right to dispute same.

68. THIS COURT ORDERS that the Monitor, in consultation with the Sears Canada Entities and the applicable Directors and Officers in respect of any D&O Claim, may refer any Claim to a Claims Officer or the Court for adjudication at its election by sending written notice to the applicable parties at any time. Any Claimant who wishes to challenge the method of adjudication elected by the Monitor may apply to the Court to determine the appropriate method of adjudication.

69. THIS COURT ORDERS that the Monitor and the Sears Canada Entities shall attempt to identify all Duplicate Claims and shall attempt to resolve such Duplicate Claims with the Person or Persons who submitted such Duplicate Claims. The Monitor and the Sears Canada Entities may at any time seek direction from the Court with respect to the process and procedures for resolving

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Duplicate Claims, on notice to the Person or Persons who have submitted such Duplicate Claims (and to the applicable Directors and Officers in respect of any Duplicate Claim that is a D&O Claim).

CLAIMS OFFICER

70. THIS COURT ORDERS that the Hon. Mr. James Farley, Q.C. and the Hon. Mr. Dennis O'Connor, Q.C., and such other Persons as may be appointed by the Court from time to time on application of the Monitor or the Sears Canada Entities (in consultation with Employee Representative Counsel, Pension Representative Counsel, the Pension Plan Administrator and/or the Superintendent, as applicable), be and are hereby appointed as Claims Officers for the Employee and Retiree Claims Process.

71. THIS COURT ORDERS that a Claims Officer shall determine the validity and amount of disputed Claims, the accuracy of any disputed Personal Information, and the methodology to be applied to any disputed Termination Claim or Retiree Benefit Claim, in accordance with this Order and to the extent necessary may determine whether any Claim or part thereof constitutes an Excluded Claim and shall provide written reasons. A Claims Officer shall determine all procedural matters which may arise in respect of his or her determination of these matters, including the manner in which any evidence may be adduced. A Claims Officer shall have the discretion to determine by whom and to what extent the costs of any hearing before a Claims Officer shall be paid.

72. THIS COURT ORDERS that the Monitor, the Claimant (or any Person on behalf of a Claimant, including any Union Representative, Employee Representative Counsel, Pension Representative Counsel, the Pension Plan Administrator or the Superintendent), the Sears Canada Entities and the applicable Directors and Officers in respect of any D&O Claim may, within ten

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(10) days of such party receiving notice of a Claims Officer's determination of the value of a Claimant's Claim, the accuracy of a Claimant's Personal Information, or the methodology to be applied to a Claimant's Termination Claim or Retiree Benefit Claim, appeal such determination or any other matter determined by the Claims Officer in accordance with paragraph 70 or otherwise to the Court by filing a notice of appeal, and the appeal shall be initially returnable for scheduling purposes within ten (10) days of filing such notice of appeal.

73. THIS COURT ORDERS that, if no party appeals the determination of value of a Claim, of accuracy of a Claimant's Personal Information or of the methodology to be applied to a Claimant's Termination Claim or Retiree Benefit Claim, by a Claims Officer in accordance with the requirements set out in paragraph 72 above, the decision of the Claims Officer in determining the value of the Claim, the accuracy of the Personal Information or the methodology to be applied to a Claimant's Termination Claim or Retiree Benefit Claim shall be final and binding upon the Sears Canada Entities, the Monitor, the applicable Directors and Officers in respect of a D&O Claim and the Claimant, and there shall be no further right of appeal, review or recourse to the Court from the Claims Officer's final determination.

NOTICE OF TRANSFEREES

74. THIS COURT ORDERS that, from the date of this Order until seven (7) days prior to the date fixed by the Court for any distribution in the CCAA Proceedings or any other proceeding, including a bankruptcy, leave is hereby granted to permit a Claimant to provide to the Monitor notice of assignment or transfer of a Claim to any third party, and that no assignment or transfer of a partial Claim shall be permitted.

75. THIS COURT ORDERS that, subject to the terms of any subsequent Order of this Court, if, after the Filing Date, the holder of a Claim transfers or assigns the whole of such Claim to

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another Person, neither the Monitor nor the Sears Canada Entities shall be obligated to give notice to or otherwise deal with the transferee or assignee of such Claim in respect thereof unless and until actual notice of transfer or assignment, together with satisfactory evidence of such transfer or assignment, shall have been received and acknowledged by the Monitor in writing and thereafter such transferee or assignee shall, for the purposes hereof, constitute the "Claimant" in respect of the whole of such Claim. Any such transferee or assignee of a Claim shall be bound by any notices given or steps taken in respect of such Claim in accordance with this Order prior to receipt and acknowledgement by the Monitor of satisfactory evidence of such transfer or assignment. A transferee or assignee of a Claim takes the Claim subject to any rights of set-off to which the Sears Canada Entities and/or the applicable Directors and Officers may be entitled with respect to such Claim. For greater certainty, a transferee or assignee of a Claim is not entitled to set-off, apply, merge, consolidate or combine any Claim assigned or transferred to it against or on account or in reduction of any amounts owing by such Person to the Sears Canada Entities or the applicable Directors and Officers.

SERVICE, NOTICE AND DELIVERY

76. THIS COURT ORDERS that, notwithstanding anything to the contrary in this Order but subject to paragraph 77 below, the Monitor may send, serve and deliver or cause to be sent, served and delivered, to a Claimant or other interested Person, any notice, communication or other document required by this Order (a) by forwarding a copy thereof by prepaid ordinary mail, registered mail, courier, personal delivery, facsimile transmission or email to such Claimant or other interested Person at the physical or electronic address, as applicable, last shown on the books and records of the Sears Canada Entities or, where applicable, as set out in such Claimant's Proof of Claim, D&O Proof of Claim or Request for Correction; or (b) if such Claimant has successfully

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logged-in to the Claims Website, by uploading or updating such notice, communication or other document to or on the Claims Website, and sending an email notification to such Claimant.

77. THIS COURT ORDERS that the Monitor may, to satisfy its obligations under paragraph 40 of this Order to ERC Employees and Non-ERC Employees with email addresses listed on the books and records of the Sears Canada Entities, serve and deliver or cause to be served and delivered to each such ERC Employee and Non-ERC Employee an email notice of this Employee and Retiree Claims Process, which shall include a link to the Claims Website and certain information that will allow each such ERC Employee and Non-ERC Employee to log-in the Claims Website to access his/her ERC Employee Package or Non-ERC Employee Package, as applicable; provided however, that in the event that any such ERC Employee or Non-ERC Employee does not successfully log-in to the Claims Website within 14 days of receipt of such email notice (according to the access records to be maintained by the Monitor), the Monitor shall serve and deliver or cause to be served and delivered the applicable ERC Employee Package or Non-ERC Employee Package by prepaid ordinary mail or courier to the physical address of such ERC Employee or Non-ERC Employee as last shown on the books and records of the Sears Canada Entities.

78. THIS COURT ORDERS that, notwithstanding anything to the contrary in this Order, a Claimant may send, serve and deliver or cause to be sent, served and delivered, to the Monitor, any notice, communication or other document required by this Order (a) by forwarding a copy thereof in writing and substantially in the form, if any, provided for in this Order, by prepaid ordinary mail, registered mail, courier, personal delivery, facsimile transmission or email, addressed to:

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FTI Consulting Canada Inc., Sears Canada Monitor
TD Waterhouse Tower
79 Wellington Street West
Suite 2010, P.O. Box 101
Toronto, ON M5K 1G8

Attention: Sears Canada Employee and Retiree Claims Process
Email in respect of Employee Claims: SearsEmployeeClaimSite@fticonsulting.com
Email in respect of Retiree Claims: SearsRetireeClaimSite@fticonsulting.com
Fax: 416-649-8101

or (b) if such Claimant has successfully logged-in to the Claims Website, by submitting such notice, communication or other document in accordance with the instructions provided on the Claims Website. Any notice, communication or other document delivered by a Claimant shall be deemed received upon actual receipt by the Monitor thereof during normal business hours on a Business Day, or if delivered outside of normal business hours, the next Business Day.

79. THIS COURT ORDERS that such service and delivery of any documents in connection with this Employee and Retiree Claims Process shall be deemed to have been received: (a) if sent by ordinary mail, on the third Business Day after mailing to an address within Ontario, the fifth Business Day after mailing to an address within Canada (other than within Ontario), and the tenth Business Day after mailing to an address internationally; (b) if sent by courier or personal delivery, on the next Business Day following dispatch; or (c) if delivered by facsimile transmission, email or submission on the Claims Website, by 5:00 p.m. on a Business Day, on such Business Day and if delivered after 5:00 p.m. or other than on a Business Day, on the following Business Day.

80. THIS COURT ORDERS that if, during any period during which notices or other communications are being given pursuant to this Order, a postal strike or postal work stoppage of general application should occur, such notices or other communications sent by ordinary or registered mail and then not received shall not, absent further Order of this Court, be effective and notices and other communications given hereunder during the course of any such postal strike or

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work stoppage of general application shall only be effective if given by courier, personal delivery, facsimile transmission or email in accordance with this Order.

MISCELLANEOUS

81. THIS COURT ORDERS that at any time, the Monitor or the Sears Canada Entities may request additional information from a Claimant with respect to Personal Information, a proposed methodology contained in a Notice of Proposed Revision, a Sears Pension Claim, a Supplemental Plan Claim, or any Other Employee Claim or Other Retiree Claim made by such Claimant, and, where such Claimant has filed a Proof of Claim or D&O Proof of Claim, the Monitor may request that such Claimant file a revised Proof of Claim or D&O Proof of Claim.

82. THIS COURT ORDERS that the Sears Canada Entities, the Monitor, Employee Representative Counsel, Pension Representative Counsel and the Pension Plan Administrator may from time to time apply to this Court to extend the time for any action which the Sears Canada Entities, the Monitor, Employee Representative Counsel, Pension Representative Counsel or the Pension Plan Administrator is required to take if such extension is reasonably required to carry out its duties and obligations pursuant to this Order and for advice and directions concerning the discharge of its powers and duties under this Order or the interpretation or application of this Order.

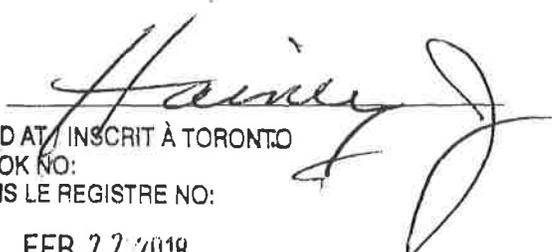
83. THIS COURT ORDERS that nothing in this Order shall prejudice the rights and remedies of any Directors or Officers or other Persons under the Directors' Priority Charge, the Directors' Subordinated Charge or any applicable insurance policy or prevent or bar any Person from seeking recourse against or payment from the Sears Canada Entities' insurance or any Director's or Officer's liability insurance policy or policies that exist to protect or indemnify the Directors or Officers or other Persons, whether such recourse or payment is sought directly by the Person asserting a Claim from the insurer or derivatively through the Director or Officer or any Sears

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Canada Entity; provided, however, that nothing in this Order shall create any rights in favour of such Person under any policies of insurance nor shall anything in this Order limit, remove, modify or alter any defence to such Claim available to the insurer pursuant to the provisions of any insurance policy or at law; and further provided that any Claim or portion thereof for which the Person receives payment directly from, or confirmation that he or she is covered by, the Sears Canada Entities' insurance or any Director's or Officer's liability insurance or other liability insurance policy or policies that exist to protect or indemnify the Directors or Officers or other Persons shall not be recoverable as against a Sears Canada Entity or Director or Officer as applicable.

84. THIS COURT ORDERS that this Order shall have full force and effect in all provinces and territories in Canada.

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


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ON / BOOK NO:
LE / DANS LE REGISTRE NO:

FEB 22 2018

PER / PAR: 

TAB 3

Court File No. CV-17-11846-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.)	FRIDAY, THE 2 ND
)	
JUSTICE HAINEY)	DAY OF NOVEMBER, 2018

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF SEARS CANADA INC., 9370-2751
QUÉBEC INC., 191020 CANADA 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., AND 3339611 CANADA INC.

(each, an “**Applicant**”, and collectively, the “**Applicants**”)

**ORDER
(Temporary Lift of Stay)**

THIS MOTION, made by Ursel Phillips Fellows Hopkinson LLP in its capacity as representative counsel (“**Employee Representative Counsel**”) to the court-appointed representatives of the Applicants’ non-unionized Active Employees and Former Employees, excluding any Opt-Out Individuals (as each such term is defined in the Employee Representative Counsel Order issued in these proceedings on July 13, 2017) for an Order temporarily lifting the stay of proceedings in favour of Sears Canada Inc., 9370-2751 Québec Inc. (formerly Corbeil Électrique Inc.), 191020 Canada Inc. (formerly S.L.H. Transport Inc.) and 168886 Canada Inc. (collectively, the “**Employers**”) for the limited purpose of permitting Employee Representative Counsel to issue an application for a bankruptcy order in respect of

each of the Employers with the Ontario Superior Court of Justice in Bankruptcy and Insolvency, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Affidavit of Emily Elder sworn September 6, 2018, and on hearing the submissions of Employee Representative Counsel, as well as counsel for the Applicants, the Monitor, and those other counsel present, no one else appearing although duly served.

SERVICE

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

LIFT OF STAY

2. THIS COURT ORDERS AND DIRECTS that the stay of proceedings granted in favour of the Employers granted pursuant to the Initial Order dated June 22, 2017, as amended and restated, is hereby lifted for the limited purpose of permitting Employee Representative Counsel to issue an application for a bankruptcy order in respect of each of the Employers with the Ontario Superior Court of Justice in Bankruptcy and Insolvency.

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

Court File No: CV-17-11846-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SEARS CANADA
INC., et al.

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

**ORDER
(TEMPORARY LIFT OF STAY)**

Ursei Phillips Fellows Hopkinson llp
555 Richmond Street West, Suite 1200
Toronto, Ontario M5V 3B1

Susan Ursei, LSO#: 26024G
sursel@upflaw.ca

Karen Enssien (LSUC# 60419G)
kenssien@upflaw.ca

Employee Representative Counsel

Tab 4

Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY AND INSOLVENCY)**

IN THE MATTER OF THE BANKRUPTCY
OF SEARS CANADA INC.,
a corporation incorporated under the laws of
Canada, located at the City of Toronto, Province
of Ontario

APPLICATION FOR BANKRUPTCY ORDER

Ursel Phillips Fellows Hopkinson LLP, of the City of Toronto, in the Province of Ontario (the “**Applicant**”) in its capacity as representative counsel of the non-unionized active employees and former employees of Sears Canada Inc. (the “**Debtor**”) and certain of its affiliates (collectively, the “**Sears Canada Entities**”), excluding any employees who have opted out of representation by the Applicant (collectively, the “**Employees**”) in the proceedings of the Sears Canada Entities under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. c-36, as amended, hereby makes an application to the Court that the Debtor, be adjudged Bankrupt and that a Bankruptcy Order be made in respect of the property of the Debtor, formerly carrying on Business from head offices located at 82 Peter Street, Suite 400, Toronto, Ontario and says that:

1. The Debtor is an insolvent person within the meaning of the *Bankruptcy and Insolvency Act* (Canada) and has at some time during the six months preceding the filing of this Application, resided or carried on business at 82 Peter Street, Suite 400, Toronto, Ontario, within the jurisdiction of this Court;

2. The Debtor is justly and truly indebted to the Employees in the sum of CAD\$192,361,000.00.

3. The Applicant does not, nor does any person on its behalf, hold any security on the said Debtor's property, or on any part thereof, for payment of the said claims.

4. The Debtor has, within the six months preceding the date of the filing of this Application, committed the following acts of bankruptcy, namely:
 - (a) it has ceased to meet its liabilities generally as they become due, including without limitation, the indebtedness owing by the Debtor to the Employees and to other creditors.

 - (b) it has given notice to its creditors that it has suspended payments of its debts.

5. FTI Consulting Canada Inc., of the City of Toronto in the Province of Ontario, is a person qualified to act as trustee of the property of the Debtor (the "Trustee") and has agreed to act as such and is acceptable to the undermentioned creditors:

<u>CREDITOR</u>	<u>ADDRESS</u>	<u>AMOUNT</u>
Ursel Phillips Fellows Hopkinson LLP on behalf of the Employees	555 Richmond St., W., Suite 1200, Toronto, ON M5V 3B1	Not less than \$192,361,000.00

DATED at Toronto, Ontario this _____ day of _____, 2018.

SIGNED by the Applicant

In the presence of:

**URSEL PHILLIPS FELLOWS
HOPKINSON LLP,**
in its capacity as Court-appointed representative
counsel of the Employees and not in any
personal or corporate capacity

Per :

(Signature of Witness)

Name: ●

Title:

ISSUED at Toronto, Ontario this _____ day of _____, 2018.

REGISTRAR IN BANKRUPTCY

Court File No.

**ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY AND INSOLVENCY)**

IN THE MATTER OF THE BANKRUPTCY
OF SEARS CANADA INC.,
a corporation incorporated under the laws of
Canada, located at the City of Toronto, Province
of Ontario

AFFIDAVIT OF VERIFICATION OF STATEMENTS IN APPLICATION

I, **Emily Elder**, of the City of Toronto, in the Province of Ontario, **MAKE OATH AND SAY AS FOLLOWS:**

1. That I am **an associate** with the law firm of Ursel Phillips Fellows Hopkinson LLP (the "**Applicant**") in its capacity as representative counsel of the non-unionized active employees and former employees of Sears Canada Inc. (the "**Debtor**") and certain of its affiliates (collectively, the "**Sears Canada Entities**"), excluding any employees who have opted out of representation by the Applicant (collectively, the "**Employees**") in the proceedings of the Sears Canada Entities under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. c-36, as amended (the "**Proceedings**"). I have been involved in the Proceedings, acting as representative counsel of the Employees. As such, I have knowledge of the facts hereinafter deposed to.
2. That the said Debtor is justly and truly indebted to the Employees in an amount not less than CDN\$192,361,000.

3. That I am duly authorized by the Employees to make this affidavit and to present the said Application on their behalf.

4. That the facts alleged in the said Application are, within my own knowledge, true.

SWORN before me at the City of Toronto, in the Province of Ontario, this ____ day of _____, 2018.

A Commissioner of Oaths

EMILY ELDER

IN THE MATTER OF THE BANKRUPTCY OF SEARS CANADA INC. OF THE CITY OF
TORONTO, IN THE PROVINCE OF ONTARIO

Court File No. _____

**ONTARIO
SUPERIOR COURT OF JUSTICE
(IN BANKRUPTCY AND INSOLVENCY)**

AFFIDAVIT OF VERIFICATION

Ursel Phillips Fellows Hopkinson LLP
555 Richmond Street West, Suite 1200
Toronto, Ontario M5V 3B1

Susan Urssel, LSO#: 26024G
sursel@upfhlaw.ca

Karen Ensslen, LSO#: 60419G
kensslen@upfhlaw.ca

Employee Representative Counsel

TO: Sears Canada Inc.
 82 Peter Street, Suite 400,
 Toronto, Ontario
 M5V 2G5

TAKE NOTICE that an Application for a Bankruptcy Order has been made in respect of your property and will be heard before the Court at 330 University Avenue, in the City of Toronto, Ontario on ____, the ____ day of _____, 2018 at the hour of ____ o'clock a.m., or so soon thereafter as the Application can be heard.

AND FURTHER TAKE NOTICE that if notice of cause against the Application is not filed in Court and a copy thereof served on the solicitor for the applicant at least two (2) days before the hearing and if you do not appear at the hearing, the Court may make a Bankruptcy Order on such proof of the statements in the application as the Court shall think sufficient.

DATED at Toronto, in the Province of Ontario this ____ day of _____, 2018.

Court No. _____

**ONTARIO
 SUPERIOR COURT OF JUSTICE
 (IN BANKRUPTCY AND INSOLVENCY)**

IN THE MATTER OF THE BANKRUPTCY
 OF SEARS CANADA INC.
 a corporation incorporated under the laws of Canada,
 located at the City of Toronto, in the Province of
 Ontario

**APPLICATION FOR
 BANKRUPTCY ORDER**

Ursel Phillips Fellows Hopkinson LLP
 555 Richmond Street West, Suite 1200
 Toronto, Ontario M5V 3B1

Susan Ursel, LSO#: 26024G
 sursel@upfhlaw.ca

Karen Ensslen, LSO#: 60419G
 kensslen@upfhlaw.ca

Employee Representative Counsel

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SEARS CANADA INC., 9370-2751 QUEBEC INC., 191020 CANADA INC., THE CUT INC., SEARS CONTACT SERVICERS INC., INITIUM LOGISTICS SERVICE 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., AND 3339611 CANADA INC.

(each, an "Applicant", and collectively, the "Applicants")

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at TORONTO

**MOTION RECORD OF
EMPLOYEE REPRESENTATIVE COUNSEL**

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