

**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.

**MOTION RECORD OF THE MONITOR
(Meetings Order)
(returnable February 12, 2019)**

February 6, 2019

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TO: THE SERVICE LIST

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TAB 1

**ONTARIO
SUPERIOR COURT OF JUSTICE
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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
(Meetings Order)
(Returnable February 12, 2019)**

FTI Consulting Canada Inc., in its capacity as Court-appointed monitor (the "**Monitor**") in the proceedings of the Applicants pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. c-36, as amended (the "**CCAA**") will make a motion to a Judge of the Ontario Superior Court of Justice (Commercial List), on February 12, 2019, 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 attached at Tab 3 of the Motion Record, *inter alia*:

- (a) if necessary, abridging the time for service of this Notice of Motion and the Twenty-Ninth Report of the Monitor dated February 6, 2019 (the “**29th Report**”);
- (b) accepting the filing of the joint plan of compromise and arrangement of the Sears Canada Entities (as it may be amended, supplemented, or restated or amended and restated, the “**Plan**”);
- (c) approving the partial consolidation of the Sears Canada Entities, other than 9370-2751 Québec Inc. (“**Former Corbeil**”), into two estates for the limited purposes of the Plan;
- (d) authorizing the establishment of two classes of Affected Unsecured Creditors (as defined in the Plan) for the purpose of considering and voting on the Plan;
- (e) authorizing the Monitor to call, hold and conduct a meeting of each of the two classes of Affected Unsecured Creditors (each, a “**Meeting**”) to consider and vote on whether to approve the Plan, and approving the procedures to be followed with respect to the Meetings;
- (f) appointing Employee Representative Counsel and Pension Representative Counsel (as defined in the Plan) as deemed proxy holder for the creditors they represent (being the ERC Employees and PRC Retirees, respectively); and
- (g) setting the date for the Monitor’s motion seeking sanction of the Plan should the Plan be approved by the required majority of each class of Affected Unsecured Creditors at the Meetings; and

2 Such further and other relief as this Court may deemed just.

THE GROUNDS FOR THE MOTION ARE:

1 The Applicants and SearsConnect (together, the “**Sears Canada Entities**”) were granted protection from their creditors under the CCAA pursuant to the Initial Order of this Court dated June 22, 2017 (as amended and restated, the “**Initial Order**”);¹

2 FTI Consulting Canada Inc. was appointed in the Initial Order to act as the Monitor in these proceedings;

3 Following receipt of the Initial Order, this Court granted Orders, among other things,

(a) setting out the terms of the appointment of Ursel Phillips Fellows Hopkinson LLP as representative counsel for the non-unionized active and former employees of the Sears Canada Entities (“**Employee Representative Counsel**”); and

(b) setting out the terms of the appointment of Koskie Minsky LLP as representative counsel to the non-unionized retirees and non-unionized active and former employees of the Sears Canada Entities with respect to pension and post-employment benefit matters (“**Pension Representative Counsel**”);

4 On December 3, 2018, this Court granted an Order establishing a governance protocol pursuant to which the Monitor has taken over supervision of the Sears Canada Entities’ participation in the remaining matters to be completed in these proceedings, including the facilitation of distributions to creditors of the Sears Canada Entities by way of a Plan;

5 Further to a mediation process commenced with Regional Senior Justice Morawetz, the Sears Canada Entities have reached settlements with various Affected Unsecured Creditors

¹ All capitalized terms that are not otherwise defined herein have the meaning given to them in the Plan or, where not so defined, in the draft Meetings Order.

with respect to their Claims, including the Pension Parties pursuant to, and subject to the conditions of, the Pension Support Agreement;

6 The settlement embodied in the Pension Support Agreement is subject to a condition that a Plan be implemented by no later than April 30, 2019;

7 The Monitor, on behalf of the Sears Canada Entities, seeks the Meeting Order at this time in order to move ahead with the Plan;

8 The purpose of the Plan is to:

- (a) effect a compromise and settlement of all Affected Claims, in exchange for the distributions to Affected Unsecured Creditors with Proven Affected Unsecured Claims;
- (b) facilitate the payment of distributions in respect of Proven Affected Unsecured Claims and Proven Priority Claims;
- (c) implement the resolution of a number of significant claims against the Sears Canada Entities, including (i) claims relating to the wind-up deficit in the Pension Plan of Sears Canada, and (ii) certain class action claims; and
- (d) allow those Affected Unsecured Creditors of Sears Canada Inc. who have not opted out of participation in the litigation being pursued by the Monitor and the Litigation Trustee against certain third parties, to fund the costs of such litigation, and receive the benefit from any potential recoveries that may be derived therefrom,

all in the expectation that the persons who have an interest in the Sears Canada Entities, when considered as a whole, will derive a greater benefit from the implementation of the Plan than would otherwise result, including under a bankruptcy;

9 The proposed Meetings Order establishes procedures for the calling and conduct of the meetings to approve of the Plan that are reasonable, appropriate and efficient in the circumstances, and provides for, among other things:

- (a) comprehensive notification of the Meetings, the Plan and the Sanction Hearing to Affected Creditors;
- (b) the establishment of reasonable and appropriate deadlines, including the Proxy Deadline;
- (c) the establishment of two classes of Affected Unsecured Creditors (being Affected Unsecured Creditors of the Sears Parties and the SLH Parties respectively)², who would consider and vote on the Plan on the basis that their interests are sufficiently similar to give them a commonality of interest;
- (d) customary procedures for the conduct of each Meeting, including that a representative of the Monitor will preside as chair of each Meeting and, subject to any further Order of this Court, will decide all matters relating to the conduct of each Meeting;
- (e) the manner of valuing Affected Unsecured Claims for voting purposes;

² With respect to Affected Unsecured Creditors of Former Corbeil, since it has sufficient assets to pay all of its Affected Unsecured Creditors in full, such Affected Unsecured Creditors will have no shortfall on their claims and so will not be entitled to vote.

- (f) the process by which the Monitor will keep a separate record of votes cast by Affected Unsecured Creditors holding Unresolved Claims;
- (g) the requirements for approval of the Plan, including that the Plan must be approved by the Required Majority of each Unsecured Creditor Class;
- (h) Employee Representative Counsel and Pension Representative Counsel to serve as deemed proxy holders for the constituent Affected Unsecured Creditors they already each respectively represent;
- (i) certain types of Affected Unsecured Creditors with claims below a certain threshold not to receive a direct mailing of meeting materials in light of the costs of mailing such materials; and
- (j) the ability of the Monitor to make amendments to the Plan, provided that certain appropriate noticing and other preconditions are met;

10 The provisions of the CCAA;

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

12 Such further and other grounds as counsel may advise.

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

1 The 29th Report; and

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

February 6, 2019

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TO: **THE SERVICE LIST**

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

NOTICE OF MOTION
(Meetings Order)
(Returnable February 12, 2019)

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TAB 2

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

**SEARS CANADA INC.,
AND RELATED APPLICANTS**

TWENTY-NINTH REPORT OF FTI CONSULTING CANADA INC., AS MONITOR

February 6, 2019

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3339611 CANADA INC.

APPLICANTS

**TWENTY-NINTH REPORT TO THE COURT
SUBMITTED BY FTI CONSULTING CANADA INC.,
IN ITS CAPACITY AS MONITOR**

A. INTRODUCTION AND SUMMARY OF CCAA PROCEEDINGS

1. On June 22, 2017, Sears Canada Inc. (“**Sears Canada**”) and a number of its operating subsidiaries (collectively, with Sears Canada, the “**Applicants**”) sought and obtained an initial order (as amended and restated on July 13, 2017, the “**Initial Order**”), under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”). The relief granted pursuant to the Initial Order was also extended to Sears Connect, a partnership forming part of the operations of the Applicants (and together with the Applicants, the “**Sears Canada Entities**”). The proceedings commenced under the CCAA by the Applicants are referred to herein as the “**CCAA Proceedings**”.
2. The Initial Order, among other things:

- (a) appointed FTI Consulting Canada Inc. (“**FTI**”) as monitor of the Sears Canada Entities (the “**Monitor**”) in the CCAA Proceedings;
 - (b) granted an initial stay of proceedings against the Sears Canada Entities until July 22, 2017 (the “**Stay Period**”); and
 - (c) scheduled a comeback motion for July 13, 2017 (the “**Comeback Motion**”).
3. Following the Comeback Motion, the Court extended the Stay Period to October 4, 2017. In addition, the following orders, among others, were issued:
 - (a) the amended and restated Initial Order;
 - (b) an order setting out the terms of the appointment of Ursel Phillips Fellows Hopkinson LLP as representative counsel for the non-unionized active and former employees of the Sears Canada Entities (“**Employee Representative Counsel**”). A copy of this order is attached hereto as **Appendix “B”**; and
 - (c) an order setting out the terms of the appointment of Koskie Minsky LLP as representative counsel to the non-unionized retirees and non-unionized active and former employees of the Sears Canada Entities with respect to pension and post-employment benefit matters (“**Pension Representative Counsel**”). A copy of this order is attached hereto as **Appendix “C”**.
4. On July 18, 2017, the Court issued an order approving an agreement and a process for the liquidation of inventory and FF&E at certain initial closing Sears Canada locations, which liquidation process was completed earlier in these proceedings.
5. On October 13, 2017, the Court issued, among other orders, an order approving an agreement and a process for the liquidation of the inventory and FF&E at all remaining Sears Canada retail locations, which liquidation commenced shortly thereafter and is now complete.

6. On December 8, 2017, the Court issued an Order (the “**General Claims Procedure Order**”) approving a claims process for the identification, determination and adjudication of claims of creditors against the Sears Canada Entities and their Officers and Directors.
7. On February 22, 2018, the Court issued an Employee and Retiree Claims Procedure Order approving a process for the identification, determination and adjudication of claims of employees and retirees of the Sears Canada Entities. This Order also expanded the mandate of Pension Representative Counsel to include the representation of all unionized Retirees who do not opt out of such representation.
8. As described in prior reports, a mediation process (the “**Mediation**”), which was approved by the Court on May 9, 2018, was initiated to facilitate a resolution of certain of the most material disputed claims in the estate. The Mediation commenced on June 13, 2018 and continued thereafter with Regional Senior Justice Morawetz acting as mediator.
9. Further to the Mediation, the Monitor reached an agreement with substantially all landlords on a formula for the valuation of claims filed by landlords, excluding post-filing claims, environmental claims and D&O Claims.
10. The Monitor also reached an agreement with Morneau Shepell Ltd., as administrator of Sears Canada’s Pension Plan (the “**Pension Plan Administrator**”), the Ontario Superintendent of Financial Services, as Administrator of the Pension Benefits Guarantee Fund, and Pension Representative Counsel (collectively, the “**Pension Parties**”) on the terms of a resolution of the priority and quantum of the claim (the “**Pension Claim**”) for the wind-up deficiency under the defined benefit component of the Pension Plan of Sears Canada (the “**Pension Resolution**”).
11. Finally, the Mediation also recently resulted in an agreement on the resolution (the “**Dealer Resolution**”) of a significant class action claim by certain of the “Sears Hometown” store dealers (collectively, the “**Dealers**”), as made by the Dealer Representative Plaintiff on their behalf.
12. The terms of each of these resolutions are to be implemented as part of the proposed joint plan of compromise and arrangement (the “**Plan**”) that is the subject of this Report.

13. On December 3, 2018, the Court granted orders (the “**Litigation Orders**”) that, among other things:
- (a) authorized and empowered the Monitor to commence and continue a claim (the “**Monitor 2013 Dividend Claim**”) against ESL Investments Inc., ESL Partners, LP, SPE I Partners, LP, SPE Master I, LP, ESL Institutional Partners, LP, Edward Lampert, William Harker and William Crowley, pursuant to Section 96 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, as incorporated into the CCAA under Section 36.1, relating to a dividend paid to shareholders of Sears Canada Inc. on December 6, 2013 in the amount of approximately \$509 million (the “**2013 Dividend**”);
 - (b) appointed the Honourable J. Douglas Cunningham, Q.C. as an officer of the Court to be the litigation trustee (the “**Litigation Trustee**”) over and in respect of certain claims of the Applicants arising from the 2013 Dividend and authorized the Litigation Trustee to commence claims, in his own name or on behalf of the Applicants, (the “**Litigation Trustee Claims**” and, together with the Monitor 2013 Dividend Claim, the “**Estate 2013 Dividend Claims**”) against ESL Investments Inc. (and certain affiliates), Edward Lampert, William Crowley, William Harker, Donald Ross, Ephraim J. Bird, Deborah Rosati, R. Raja Khanna, James McBurney and Douglas Campbell; and
 - (c) lifted the stay of proceedings provided for in the Initial Order to allow these claims, as well as a claim by the Pension Plan Administrator (the “**Pension 2013 Dividend Claim**”) and a claim by the Dealers (the “**Dealer 2013 Dividend Claim**”), each also arising from the 2013 Dividend, to be commenced or continued against the foregoing parties.

Copies of the Litigation Orders are attached hereto as **Appendices “D”** and **“E”**.

14. Statements of Claim in connection with the Estate 2013 Dividend Claims and the Pension 2013 Dividend Claim were issued on December 19, 2018. The Dealer 2013 Dividend Claim was commenced on October 21, 2015.

15. Also on December 3, 2018, the Court granted an Order extending the Stay Period to May 2, 2019 and establishing a governance protocol pursuant to which the Monitor has taken over supervision of the Sears Canada Entities' participation in the remaining matters to be completed in these proceedings (the "**Governance Protocol Order**"). A copy of the Governance Protocol Order is attached hereto as **Appendix "F"**.
16. On January 7, 2019, in accordance with an Order of the Court granted on October 16, 2018, FTI was appointed as receiver of certain specified bank accounts of the Applicants (in such capacity, the "**Receiver**"). This appointment has been granted for the limited purpose of permitting former employees of the Applicants to access the Wage Earner Protection Program.
17. The liquidation of assets at Sears Canada's retail locations is now complete, all retail locations are closed, and leases in respect of such locations have been disclaimed or surrendered back to the landlord.
18. The only remaining material asset of Sears Canada, other than possible litigation-related assets, that has not been sold or is not subject to a binding sale agreement is a real property asset located in Barrie, Ontario.
19. In connection with the CCAA Proceedings, the Monitor has provided twenty-eight reports and twenty-one supplemental reports (collectively, the "**Prior Reports**"), and prior to its appointment as Monitor, FTI also provided to this Court a pre-filing report of the proposed Monitor dated June 22, 2017 (the "**Pre-Filing Report**"). The Pre-Filing Report, the Prior Reports and other Court-filed documents and notices in these CCAA Proceedings are available on the Monitor's website at cfcanada.fticonsulting.com/searscanada/ (the "**Monitor's Website**").

B. PURPOSE

20. The purpose of this twenty-ninth report of the Monitor (the "**29th Report**") is to provide:

- (a) the Court with information regarding the Monitor's request for an Order (the "**Meetings Order**") *inter alia* accepting the filing of the Sears Canada Entities' proposed Plan; and
 - (b) the Monitor's description and assessment of the Plan.
21. This 29th Report will be included in the materials to be delivered to certain creditors and posted on the Monitor's Website in accordance with the Meetings Order, if granted.

C. TERMS OF REFERENCE

22. In preparing this 29th Report, the Monitor has relied upon audited and unaudited financial information of the Sears Canada Entities, the Sears Canada Entities' books and records, certain financial information and forecasts prepared by the Sears Canada Entities and discussions and correspondence with, among others, the senior management ("**Management**") of, and advisors to, the Sears Canada Entities (collectively, the "**Information**").
23. Except as otherwise described in this 29th Report:
- (a) the Monitor has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would comply with Generally Accepted Assurance Standards pursuant to the *Chartered Professional Accountants of Canada Handbook*; and
 - (b) the Monitor has not examined or reviewed the financial forecasts or projections referred to in this 29th Report in a manner that would comply with the procedures described in the *Chartered Professional Accountants of Canada Handbook*.
24. Future-oriented financial information reported in or relied on in preparing this 29th Report is based on Management's assumptions regarding future events. Actual results will vary from these forecasts and such variations may be material.

25. The Monitor has prepared this 29th Report in connection with the Monitor's motion for the Meetings Order and to provide general information regarding the Plan. The 29th Report should not be relied on for any other purpose.
26. Unless otherwise stated, all monetary amounts contained herein are expressed in Canadian Dollars.
27. Capitalized terms not otherwise defined herein have the meanings ascribed to them in the Plan or, where not so defined, in the following documents filed as part of the CCAA Proceedings: (a) the affidavits of Mr. Billy Wong, the former Chief Financial Officer of Sears Canada; (b) the affidavit of Ms. Becky Penrice, the former Executive Vice-President and Chief Operating Officer of Sears Canada; (c) the affidavits of Mr. Philip Mohtadi, General Counsel and Corporate Secretary of Sears Canada; and (d) the Prior Reports.

D. OVERVIEW OF PLAN

28. The Monitor, on behalf of the Sears Canada Entities, is seeking the granting of the Meetings Order which if granted would, *inter alia*:
 - (a) accept the filing of the Plan;
 - (b) approve the partial substantive consolidation of certain estates for the limited purposes of the Plan;
 - (c) approve the classification of creditors for the purposes of voting on and receiving distributions under the Plan;
 - (d) authorize the convening of meetings of creditors to consider and vote on the Plan;
and
 - (e) appoint Employee Representative Counsel and Pension Representative Counsel as deemed proxy holder for the creditors they respectively represent.
29. Capitalized terms used in this section and not otherwise defined have the meanings given to them in the Plan, a copy of which is attached hereto as **Appendix "A"**.

Purpose of the Plan

30. The Governance Protocol Order provides that all matters related to a Plan, including, without limitation, the drafting of the Plan and bringing of any motion to the Court with respect thereto will be supervised and administered by the Monitor for the benefit of all creditors whose distributions will be determined in accordance with their legal entitlements or any negotiated resolutions resulting from the Claims Resolution Process (as defined in the Governance Protocol Order).
31. The Monitor proposes the Plan on behalf of all of the Applicants jointly and for the primary purposes of:
- (a) implementing a distribution of the Applicants' remaining funds to their creditors in accordance with such creditors' legal entitlements and the settlements agreed to through the Mediation; and
 - (b) providing a mechanism for the Estate 2013 Dividend Claims to proceed for the benefit of the unsecured creditors of Sears Canada who have not opted out of sharing the costs of and the benefit of any recoveries from such claims; and
 - (c) implementing the terms of the settlements agreed to under the Mediation, including the Pension Resolution.
32. The Plan provides for interim distributions to be made from time to time on account of Proven Affected Unsecured Claims. No distributions in respect of an Affected Unsecured Claim will be made until it is a Proven Claim.

Classification of Creditors and Substantive Consolidation

33. For the purposes of voting on the Plan and receiving distributions thereunder, the Plan provides for two classes of Affected Unsecured Creditors (each an “**Unsecured Creditor Class**” and together the “**Unsecured Creditor Classes**”), which are:
- (a) the **Sears Creditor Class**, being all Affected Unsecured Creditors of any of the Sears Canada Entities other than 9370-2751 Québec Inc. (“**Former Corbeil**”),

191020 Canada Inc. (“**Former SLH**”) and 168886 Canada Inc. (“**168886**”) (collectively, the “**Sears Parties**”); and

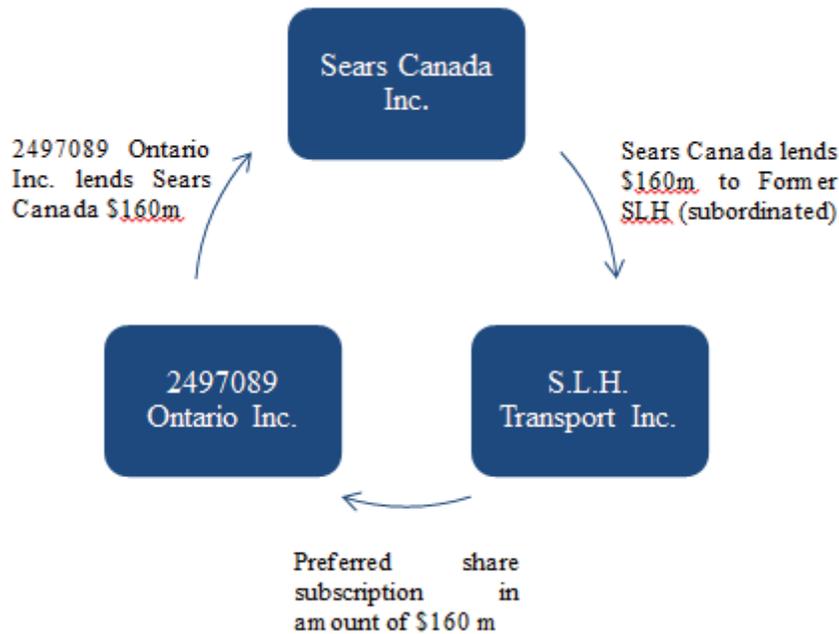
- (b) the **SLH Creditor Class**, being all Affected Unsecured Creditors of Former SLH and 168886 (collectively, the “**SLH Parties**”).
34. This voting structure is proposed to match the distribution structure under the Plan through which members of the Sears Creditor Class would be paid out of the assets of the Sears Parties, who would be partially substantively consolidated under the Plan, while the members of the SLH Creditor Class would be paid out of the assets of the SLH Parties, who would be similarly substantively consolidated.
35. With respect to Former Corbeil, as its creditors will be fully repaid under the Plan from its assets, they will not be entitled to vote on or approve the Plan.
36. The Monitor believes that the substantive consolidation of the Sears Parties is appropriate as each of them, other than Sears Canada, is a subsidiary of Sears Canada and has no material assets or creditors of its own other than inter-company receivables and claims. The substantive consolidation of these parties will not have any material impact on the recoveries of third party creditors of Sears Canada or any other Sears Party, relative to the recoveries that would have been obtained on a stand-alone basis for each of these entities. The Monitor notes however that such substantive consolidation will negate the pre-filing tax structuring transaction (defined in the Plan as the “**Tax Loss Utilization Structure**”) described in greater detail below.
37. The Monitor views the limited substantive consolidation of Former SLH and 168886 as similarly appropriate. Former SLH is a wholly-owned subsidiary of Sears Canada that carried on a stand-alone transportation and logistics business that was sold during these CCAA Proceedings. 168886 is a wholly-owned subsidiary of Former SLH that employed individuals to provide services to the business of Former SLH and did not have business operations independent of Former SLH. The substantive consolidation of these entities has the effect of increasing the pool of claims against the assets of Former SLH as 168886 has substantial claims against it that arise primarily from employees, but no

assets. The Monitor believes this outcome is justified in view of the fact that Former SLH had the benefit of the employees of 168886 during its operation and the two entities operated in a highly integrated manner.

38. In 2016, Sears Canada and certain of its affiliates implemented the Tax Loss Utilization Structure as follows:

- (a) Sears Canada incorporated a new subsidiary, 2497089 Ontario Inc., of which Sears Canada was the sole shareholder;
- (b) Former SLH borrowed \$160 million from Sears Canada evidenced by a promissory note bearing interest at 10%. The payment of interest, principal and other amounts under this note are stated to be subordinated to the right of payment of all other present and future indebtedness and other obligations of Former SLH;
- (c) Former SLH used the proceeds of this subordinated loan to subscribe for \$160 million of preferred shares in 2497089 Ontario Inc. with a stated return of 10.1% annually; and
- (d) 2497089 Ontario Inc. then used the proceeds from the preferred share subscription to lend \$160 million on an interest-free basis back to Sears Canada (the “**249-SCI Loan**”), evidenced by a promissory note with no stated maturity and which is payable on demand.

39. A diagram illustrating the Tax Loss Utilization Structure is set out below:



40. As a result of the proposed substantive consolidation of the Sears Parties set out above and the implementation of the Plan:
- the claim of 2497089 Ontario Inc. against Sears Canada that would otherwise have arisen on the 249-SCI Loan would be effectively cancelled upon the consolidation of these entities' assets and claims;
 - no distribution would be received by Former SLH on its preferred shares of 2497089 Ontario Inc. as this is an equity claim; and
 - no distribution would be received by Sears Canada on account of its subordinated loan to Former SLH, as other non-subordinated creditors of Former SLH will not be paid in full.

The Monitor believes this is the appropriate result as it negates any substantive economic effect of a tax loss consolidation structure that was itself designed to be economically substantially neutral for all entities in a solvent going-concern scenario.

41. As indicated above, while Former Corbeil is a party to the Plan, the creditors of Former Corbeil will be fully repaid from the assets of Former Corbeil under the Plan and any

residual assets of Former Corbeil will be distributed to Sears Canada, as the sole shareholder of Former Corbeil.

42. In the Monitor's view, the substantive consolidation as proposed under the Plan is appropriate in the circumstances. It recognizes that the Sears Parties all ultimately functioned to support the Sears Canada business and their respective creditors should share in its value to the extent there are any claims against such entities, which are minimal. Similarly, it recognizes that 168886 existed to support the business of Former SLH and its creditors should share in the value of that business.
43. Finally, the proposed structure recognizes that Former SLH and Former Corbeil carried on businesses that were independent from Sears Canada, had separate and unrelated creditor pools, and should provide recoveries to those separate creditor pools that reflect the value of the respective businesses of Former Corbeil and Former SLH, each on a stand-alone basis.
44. Under the structure of the Plan, the estimated recoveries to unsecured creditors of the SLH Parties and Former Corbeil are substantially higher than the estimated recoveries to unsecured creditors of the Sears Parties, as detailed in the table below.¹ If the Sears Canada Entities were all treated as one substantially consolidated debtor group, the result would be substantially lower recoveries for unsecured creditors of Former Corbeil and of the SLH Parties, with only modest increases to the estimated recoveries for unsecured creditors of Sears Canada.

Partially Consolidated Basis			Fully Consolidated Basis		
<i>Sears Parties</i>	<i>Former Corbeil</i>	<i>SLH Parties</i>	<i>Sears Parties</i>	<i>Former Corbeil</i>	<i>SLH Parties</i>
7.6%	100.0%	18.6%	7.9%	7.9%	7.9%

¹ The estimated recoveries are based on certain forward-looking assumptions relating to each debtor group's cash realizations and claims pool, and include claims that are currently in dispute and subject to final determination. The estimated recovery figures may be subject to change.

Pension Resolution

45. As described in the Twenty-Eighth Report of the Monitor, the Monitor and the Pension Parties reached agreement on the terms of Pension Resolution settling the priority and quantum of the Pension Claim for the purposes of the Plan.
46. The terms of the Pension Resolution are reflected in the Plan. The Pension Claim will be allowed as a single general unsecured claim for voting purposes in the amount of \$260.2 million (allocated 96% against Sears Canada and 4% against Former SLH) and allowed for distribution purposes at a value at 2.5 times the value of such claim as filed, resulting in a claim for distribution purposes of approximately \$26 million against Former SLH and approximately \$624.5 million against Sears Canada. No portion of the Pension Claim will be entitled to priority recovery and there would be no joint and several liability among any of the Sears Canada Entities for the Pension Claim. Certain adjustments are made to the value of the Pension Claim and the distributions on account of such claim in circumstances where litigation commenced by the Pension Plan Administrator in connection with the 2013 Dividend is successful.

Distributions To Affected Unsecured Creditors Generally, Litigation Recoveries and Other Exceptions

47. Affected Unsecured Creditors with proven claims will receive a pro-rata share of the cash pool available to unsecured creditors in each substantively consolidated debtor group, after all costs of the CCAA Proceedings, priority payment amounts, reserves and intercompany distributions are accounted for. There are three exceptions to this *pro rata* treatment of Affected Unsecured Creditors under the Plan, which are described below.

(a) Litigation Recoveries

48. The first exception to the *pro rata* treatment of all Affected Unsecured Creditors arises in connection with the claims being pursued by the Monitor and the Litigation Trustee regarding the 2013 Dividend. These claims are pursued for the benefit of creditors of the Sears Parties (other than creditors who opt out of such participation in accordance with the TUV Proceeding Approval Order). The Estate 2013 Dividend Claims do not benefit the creditors of the SLH Parties or Former Corbeil.

49. In accordance with the Litigation Order approving the pursuit of the Monitor 2013 Dividend Claim issued December 3, 2018 (the “**TUV Proceeding Approval Order**”), Affected Unsecured Creditors of Sears Canada are entitled to opt out of bearing the costs of and sharing in any recoveries from the Estate 2013 Dividend Claims. To do so, Affected Unsecured Creditors of Sears Canada must return a completed Opt-Out Notice (as defined in the TUV Proceeding Approval Order) so that it is received by the Monitor within 60 days after delivery of such Opt-Out Notice by the Monitor to such creditor. Any creditor who does opt out will not be required to share *pro rata* in the costs of pursuing the Estate 2013 Dividend Claims, but consequently will also not be entitled to share *pro rata* in any litigation recoveries that result.
50. In order to recover the existing and potential future costs associated with such Estate 2013 Dividend Claims from those Affected Unsecured Creditors of Sears Canada who do not opt out of participation in such litigation, the Monitor will hold back an amount from each such Affected Unsecured Creditor’s distribution under the Plan. To the extent such amounts are never expended in connection with the Estate 2013 Dividend Claims, such amounts will be returned *pro rata* to the contributing Affected Unsecured Creditors. The ultimate result of this mechanism will be to ensure that each such creditor bears its *pro rata* share of the overall costs of the pursuit of the Estate 2013 Dividend Claims.
51. The Monitor cannot provide an estimate of the quantum or timing of any such litigation recoveries that may be available.

(b) Indemnity and Contribution Claims

52. The second exception to *pro rata* treatment relates to potential indemnity claims of former directors and officers against Sears Canada as well as any claims for contribution by the other defendants to the Estate 2013 Dividend Claims or Sears Holdings Corporation and its affiliates (referred to in the Plan as the “**ESL Parties**”). Under the Plan, such claims will receive their notional *pro rata* recovery to the extent they are valid. However, the mechanism of achieving this *pro rata* distribution is different than the standard mechanism used for other Affected Unsecured Creditors. The amount otherwise payable by the director, officer or ESL Party to the Monitor or the Litigation Trustee on

account of the Estate 2013 Dividend Claims shall be subject to set-off of an amount equal to the distribution that such director, officer or ESL Party would otherwise have received on account of its indemnity or contribution claim as an Affected Unsecured Claim under the Plan, such that only the net payment by the director, officer or ESL Party, as applicable, shall be made. Pursuant to the Pension Resolution and the Dealer Resolution, the Pension Plan Administrator and the Dealer Representative Plaintiff have agreed to separate mechanisms that achieve the same goal.

(c) Warranty Claims

53. Claims arising from customer warranties issued by the Sears Canada Entities are the third exception to the *pro rata* treatment of Affected Unsecured Claims. Under the Plan, potential Warranty Claims arising from Warranties purchased prior to the Filing Date would be addressed as follows:
- (a) the Monitor will establish a pool of funds (referred to in the Plan as the “**Warranty Reimbursement Pool**”) in an amount equivalent to the amounts which would otherwise be distributable under the Plan on account of all Affected Unsecured Claims arising from Warranties purchased prior to the Filing Date (“**Pre-Filing Warranty Claims**”). For this purpose, these Pre-Filing Warranty Claims would be valued at the remaining unamortized value of their purchase price;
 - (b) the Monitor will provide public notice (by way of publication in *The Globe and Mail* and *La Presse*) of the treatment of Warranty Claims and of the right of a Warranty holder to submit a Reimbursable Warranty Claim (as defined below);
 - (c) a third party administrator selected by the Monitor that specializes in claims administration, will, subject to Monitor oversight, administer the Warranty reimbursement process, including the evaluation of claims and the administration of the Warranty Reimbursement Pool itself;
 - (d) holders of such Warranties would have 180 days from the date of implementation of the Plan to submit an application for reimbursement of any expenses that

would otherwise have been covered by the Warranty they hold (referred to in the Plan as a “**Reimbursable Warranty Claim**”). Following closure of the application period, applicants would no longer be permitted to submit an application for a Reimbursable Warranty Claim;

- (e) once all Reimbursable Warranty Claims have been determined, and all costs associated with administration of the warranty reimbursement process are paid, creditors who are determined to have proven Reimbursable Warranty Claims would receive payment in an amount equal to the lesser of (i) their Reimbursable Warranty Claim; or, (ii) their *pro rata* share of the Warranty Reimbursement Pool based upon the value of their Reimbursable Warranty Claim relative to the aggregate of all Reimbursable Warranty Claims;
- (f) holders of claims arising under Warranties purchased on or after the Filing Date would, to the extent not previously refunded, receive payment equal to the remaining unamortized value (as at October 19, 2017)² of the original purchase price of the Warranty underlying their claim.

Unaffected Claims and Payments Other Than General Unsecured Creditor Distributions

- 54. The Plan does not affect: (a) post-filing claims; (b) secured claims; and (c) claims referred to in Sections 6(3) and 6(5) of the CCAA, if any. These amounts, if any, will be paid in full. With respect to the claims referred to in Section 6(6) of the CCAA, no such claims exist in this case.
- 55. The Plan does not affect insured claims to the extent of the Sears Canada Entities’ available insurance, which claims will be paid from such available insurance if such insurance is finally determined to cover such claims.
- 56. The Plan also provides for a payment of \$2,272.72 per leased store location to each landlord that entered into a settlement agreement with the Sears Canada Entities as soon

² On October 16, 2017, the Sears Canada Entities publicly announced by way of press release that from and after October 18, 2017, they would cease honouring Warranties.

as practicable after implementation of the Plan as a reimbursement of such landlords' costs incurred as part of the negotiation of the global landlord claim settlement entered into in connection with the Mediation. The landlord claim settlement was integral to ensuring the viability of this Plan as it provides certainty on landlord claim values, subject to limited exceptions.

57. The Dealer Representative Plaintiff will receive a payment of \$334,495 as soon as practicable following implementation of the Plan. The Dealer Representative Plaintiff will also share *pro rata* (based upon a claim valued at \$80,000,000) in any recoveries from the Estate 2013 Dividend Claims. The Dealer Representative Plaintiff will receive no other recoveries under the Plan. The Dealer Representative Plaintiff has also agreed to return the first \$334,495 received by the Dealer Representative Plaintiff from the Estate 2013 Dividend Claims recoveries for redistribution among the Affected Unsecured Creditors generally.

De Minimis Claims

58. The Monitor estimates recoveries for Affected Unsecured Creditors under the Plan to be less than 10% before any contingent litigation recoveries. In light of such estimated recoveries as well as the anticipated cost of making each individual distribution payment on Affected Unsecured Claims, it is uneconomical to make distributions on Affected Unsecured Claims of \$80 or less. For this reason, the Plan provides that no holder of Affected Unsecured Claim that is proven at \$80 or less (except Pre-Filing Warranty Claims, which are entitled solely to the recoveries described above) shall be entitled to any distributions under the Plan, and all such *de minimis* claims shall be cancelled and barred.

Releases

59. The Plan provides for releases in favour of (i) current and former directors, officer and employees, as well as certain counsel and advisors who have assisted in these CCAA Proceedings (the “**Sears Released Parties**”), (ii) the Monitor, FTI Consulting Canada Inc., in its capacity as Receiver (pursuant to the Order granted on October 16, 2018) and their respective current and former affiliates, directors, officers and employees and each

of their respective advisors, legal counsel and agents (the “**FTI Released Parties**”); and (iii) Employee Representative Counsel, Pension Representative Counsel, and the Court-appointed pension and employee representatives (the “**Third Party Released Parties**”), in each case from claims based in whole or in part on any act, omission, transaction, duty, responsibility, indebtedness, liability, obligation, dealing or other occurrence existing or taking place on or prior to Plan implementation that are in any way relating to, arising out of or in connection with the business and affairs of the Sears Canada Entities whenever or however conducted, the Plan, the CCAA Proceedings, Claims filed in the CCAA Proceedings, or any matter or transaction involving any of the Sears Canada Entities occurring in or in connection with the CCAA Proceedings.

60. The releases do not apply to Non-Released Claims, being claims that are finally determined to have arisen from fraud or wilful misconduct, any claims defined as Unaffected Claims under the Plan, any claims secured by the court-ordered charges granted in these proceedings, any claims arising out of or relating to the 2013 Dividend (including the Estate 2013 Dividend Claims, the Pension 2013 Dividend Claim, and the Dealer 2013 Dividend Claim), certain claims against employees of the Sears Canada Entities to the extent of available insurance, and claims against directors or former directors of the Sears Canada Entities that cannot be released pursuant to Section 5.1(2) of the CCAA.
61. The releases further do not affect, release or prejudice any of the claims currently being pursued in connection with the 2013 Dividend.
62. In addition, persons who have commenced claims against an employee personally solely as a result that employee performing their duties as an employee of a Sears Canada Entities would be entitled to continue to pursue recovery but only as against the proceeds of applicable insurance.

Undeliverable Distributions

63. Where any creditor’s distribution cheque in respect of a claim under the Plan is not cashed and becomes stale dated or is returned as undeliverable, or where a social insurance number required to deliver payments to an employee or retiree has not been

provided (each, an “**Undeliverable Distribution**”), the Monitor would hold such payment in reserve until the issues preventing payment are resolved.

64. Once the Monitor is ready to complete the final distribution under the Plan, it will serve notice on the service list and post a notice on the Monitor’s Website advising that it is ready to make such final distribution. Creditors would then have sixty (60) days from the date that such notice is posted to write to the Monitor to claim their Undeliverable Distribution, after which: (a) any claims underlying any Undeliverable Distribution will be forever barred and (b) the funds being held in reserve on account of all remaining and unclaimed Undeliverable Distributions would be returned to the applicable Cash Pools for distribution to Affected Unsecured Creditors on the final distribution.

Conditions Precedent to Plan Implementation

65. The implementation of the Plan, including distributions thereunder, shall be conditional upon the fulfilment or waiver, to the extent permitted by the CCAA, of the following conditions precedent by the date specified therefor:
- (a) each of the Unsecured Creditor Classes shall have approved the Plan in the Required Majority;
 - (b) each of the Meetings Order and the order of the Court approving the Plan (the “**Sanction Order**”) shall have been granted;
 - (c) each of the Meetings Order and the Sanction Order shall have become final orders;
 - (d) the Monitor shall have received such clearance certificates, or comfort letters in lieu thereof from the Canada Revenue Agency or any other applicable taxing authority, as the Monitor considers necessary or advisable, to make any Plan distributions;
 - (e) the Plan implementation shall have occurred before April 30, 2019, or such later date as agreed to by the Pension Parties and the Monitor; and

- (f) the Pension Parties shall be satisfied that:
- (i) the Plan provides no less than \$155,000,000 available for distribution to Affected Unsecured Creditors under the Plan, net of all reserves and before accounting for any costs or recoveries from the Estate 2013 Dividend Litigation; and
 - (ii) such amounts would be distributable on proven Affected Unsecured Claims (other than those of Sears Canada Entities themselves) of not more than \$1,550,000,000 excluding the Pension Claims and indemnification or contribution claims from directors, officers and the ESL Parties.

E. REQUEST FOR MEETINGS ORDER

66. Capitalized terms used in this section and not otherwise defined have the meanings given to them in the Plan, or where not so defined, in the draft Meetings Order, a copy of which is enclosed in the Monitor's Motion Record at Tab 3.
67. The proposed Meetings Order provides for voting on the Plan by the Unsecured Creditor Classes described above at meetings of each class to be held on March 28, 2019 (each a "**Meeting**") at the Metro Toronto Convention Centre in Toronto. The Meeting for the SLH Creditor Class will be held at 10:00 a.m. and the Meeting for the Sears Creditors Class will immediately follow at 10:30 a.m. Each of the two Unsecured Creditor Classes will vote separately at the meeting.
68. Notice of the Meetings and the Sanction Hearing will be given in the following ways:
- (a) to each ERC Employee by delivery by Employee Representative Counsel of the ERC Letter and the Notice of Meetings and Sanction Hearing;
 - (b) to each PRC Retiree by delivery by Pension Representative Counsel of the PRC Letter and the Notice of Meetings and Sanction Hearing;
 - (c) to each Affected Unsecured Creditor that is not an ERC Employee, a PRC Retiree, or a Creditor who holds (i) only a Warranty Claim, or (ii) an Affected

Unsecured Claim of less than \$5,000 (a “**Below Threshold Creditor**”), by delivery by the Monitor of the Notice of Meetings and Sanction Order, the Creditor Proxy, Creditor Letter, the Plan, and a copy of this 29th Report (collectively with the ERC Letter and PRC Letter, the “**Meeting Materials**”);

- (d) the Monitor will post copies of the Meeting Materials on the Monitor’s Website and will provide copies of the Meeting Materials to any Affected Unsecured Creditor that requests them within specified time limits; and
 - (e) the Monitor will cause the Notice of Meetings and Sanction Hearing to be published for a period of two days in *The Globe and Mail* (National Edition) and the electronic edition of *La Presse*, and in such other publications and with such frequency as the Monitor may deem appropriate.
69. The notice procedures described above will provide specific notice of the Meetings and of the Sanction Hearing to each Affected Unsecured Creditor, as well as public notice to all stakeholders.
70. With respect to Below Threshold Creditors, the Meetings Order does not prevent them from voting, but does not contemplate the direct mailing of Meeting Materials in light of the anticipated recoveries to such creditors and the costs of mailing these materials on an individual basis.
71. Affected Unsecured Creditors may attend the applicable Meeting in person, in the case of Affected Unsecured Creditors that are individuals, or by proxy. Affected Unsecured Creditors must file their proxy such that it is received by 5:00 p.m. (Toronto time) five Business Days before the Meetings (*i.e.* by March 21, 2019) (the “**Proxy Deadline**”).
72. The Meetings Order directs that a representative of the Monitor will preside as the Chair of the Meetings and, subject to further order of the Court, will decide all matters related to the conduct of the Meetings. The Chair and the Monitor are each entitled to adjourn a Meeting to such date, time or place as the Chair or the Monitor deems necessary or advisable.

73. Affected Unsecured Creditors holding Voting Claims or Unresolved Voting Claims (collectively, “**Eligible Voting Claims**”) (or such Affected Unsecured Creditors’ proxy holders) will be allowed to vote on the Plan. However, the votes of Affected Unsecured Creditors holding Unresolved Voting Claims will be separately tabulated and reported to the Court, provided that the vote cast in respect of any Unresolved Voting Claim shall not be considered for Plan approval purposes unless and until it is finally determined to be a Proven Claim.
74. In respect of the Eligible Voting Claims of ERC Employees and PRC Retirees:
- (a) Employee Representative Counsel shall be deemed to be a proxy holder in respect of each Eligible Voting Claim of ERC Employees in connection with their Employee Claims; and
 - (b) Pension Representative Counsel shall be deemed to be a proxy holder in respect of each Eligible Voting Claim of PRC Retirees (other than in connection with any Employee Claims or the Pension Claims filed in respect of the wind-up deficiency of the Pension Plan).
75. Only the Pension Plan Administrator or its designated proxy holder may vote the Pension Claims.
76. The Monitor will file a report to the Court by no later than two Business Days after the Meetings (i.e. by April 1, 2019) with respect to the results of the vote, including whether:
- (a) the Required Majority in each Unsecured Creditor Class has approved the Plan; and
 - (b) the votes cast in respect of Unresolved Voting Claims, if applicable, would affect the result of the vote.
77. If the Plan is accepted by the Required Majority of each Unsecured Creditor Class, the Monitor anticipates bringing a motion seeking the Sanction Order on April 3, 2019. Materials must be filed by anyone opposing the Sanction Order by no later than 5:00 p.m. (Toronto time) four Business Days before the Sanction Hearing (i.e. by March 28, 2019).

78. The Meetings Order also proposes to amend the style of cause of these CCAA Proceedings to reflect a change in the legal name of the Applicant 9845488 Canada Inc. (formerly, “Initium Commerce Labs Inc.”), which was recently effected on January 31, 2019 following a sale of the rights to its former name.

F. THE MONITOR’S COMMENTS AND RECOMMENDATIONS ON THE RELIEF SOUGHT

79. The Plan is a joint plan of compromise and arrangement of all of the Sears Canada Entities. Implementation of the Plan would effect a comprehensive settlement of various significant matters in the CCAA Proceedings, including the Pension Claims, and establish a mechanism for the funding of the pursuit of the Estate 2013 Dividend Claims. Effecting that settlement and these mechanisms through the Plan on a joint basis significantly simplifies matters as compared to having individual plans of arrangement for each of the Sears Canada Entities, or for the three individual debtor groups. Furthermore, in the Monitor’s view, there is no apparent material prejudice to any creditor of any of the Sears Canada Entities from the Plan being a joint plan.

80. Finally, the structure of each of the resolutions embodied by the Plan would require any separate plans to be conditional upon each other in any case.

81. The granting of the Meetings Order would provide the forum for Affected Unsecured Creditors to consider and vote on the Plan, as well as the proposed settlements that underpin it.

82. As described earlier in this 29th Report, the Meeting Order and Plan provide for substantive consolidation of the Sears Parties and the SLH Parties, respectively.

83. The Monitor is of the view that this limited substantive consolidation for the purposes of the Plan is reasonable and appropriate and that there is no apparent material prejudice arising therefrom. As noted in part above:

- (a) Former SLH and Former Corbeil operated businesses that were separate and apart from each other and from that of Sears Canada, and each of the three debtor groups have separate and unrelated creditor pools;

- (b) the Sears Parties' assets and operations were intertwined and cannot easily be segregated. Moreover, each of the Sears Parties (other than Sears Canada) is a subsidiary of Sears Canada itself and all ultimately functioned to support its business;
 - (c) the consolidation of the SLH Parties recognizes that Former SLH's subsidiary 168886 existed solely to support the business of its parent and the operations of the two entities were highly integrated; and
 - (d) if the Sears Canada Entities were treated as one consolidated debtor group, estimated recoveries for unsecured creditors of the Sears Parties would increase only modestly by 0.3%, while by contrast those for the SLH Parties and Former Corbeil would decrease by more than 10.7% and 92.1%, respectively.
84. The Monitor has considered the factors set out in Section 22 of the CCAA when recommending the proposed classification of creditors under the Plan. In particular:
- (a) each of the classes is composed solely of unsecured creditors; and
 - (b) the types of remedies available to the unsecured creditors against their respective debtors are substantially the same and their rights outside of the Plan would also be substantially the same after giving effect to the substantive consolidation of these entities, being the enforcement of a claim to a *pro rata* share of each debtor group's unencumbered assets.
85. In the Monitor's view, no alternative classification method is reasonable or required in the circumstances for the unsecured creditors of each of the Sears Canada Entities. The Monitor notes that the creditors of the Sears Parties and the SLH Parties will vote in separate classes in view of the different asset pools against which they claim. In the Monitor's view, this aspect of the classification is important as it ensures the SLH Parties' votes have meaningful input into the approval of the Plan, which would be lost if the SLH Parties' creditors were consolidated with the Sears Parties' creditors.

86. The Monitor further views the proposed inclusion of the Pension Parties (via the Pension Claim) in the same Unsecured Creditor Classes as other Affected Unsecured Creditors as equitable and reasonable in the circumstances and in light of such Creditors' relative rights with respect to the Applicants. Although the Pension Claim is valued for distribution purposes under the Plan at 2.5 times its "face" value, its voting claim has not been increased. The Pension Claim, at this increased amount, remains an unsecured claim and will receive its *pro rata* unsecured distribution under the Plan. The Pension Settlement that resulted in this increase for distribution purposes reflects a commercial resolution that was negotiated at the Mediation over many months.
87. With respect to the balance of the Meetings Order, the Monitor believes that:
- (a) the Meetings Order provides for reasonable, wide and sufficient notice of the Meetings to be provided to Affected Unsecured Creditors;
 - (b) the Proxy Deadline is reasonable in the circumstances;
 - (c) it is reasonable and efficient in the circumstances that Pension Representative Counsel and Employee Representative Counsel be proxy holders for the Affected Unsecured Creditors that they represent. While such a deemed proxy may not be appropriate in every case, the circumstances of this case support the use of such a deemed proxy for efficiency. The Monitor has considered in particular: (i) the large volume of individual creditors that Pension Representative Counsel and Employee Representative Counsel represent, (ii) the potential recoveries based upon known distributable asset values at this time; (iii) the fact that the proposed Plan serves primarily to distribute the remaining assets of the Sears Canada Entities to creditors in accordance with their legal entitlements, and (iv) the reasonable assumption that, given the purpose of this Plan, individual employees and retirees are not likely to have divergent views and interests;
 - (d) it is reasonable and cost-effective in the circumstances that Below-Threshold Creditors not receive a direct mailing of the Meeting Materials in light of the costs

of mailing such materials individually as weighed against the anticipated distributions to such creditors; and

- (e) the provisions of the Meetings Order governing the conduct of the Meetings as well as the timing of the service of materials with respect to the Sanction Hearing are customary, reasonable and appropriate.

88. Accordingly, the Monitor respectfully requests that its motion on behalf of the Sears Canada Entities for the Meetings Order be granted.

G. THE MONITOR'S ASSESSMENT OF THE PLAN

89. Subject to the terms of the limited settlement arrangements described above, the Plan provides the Affected Unsecured Creditors with *pro rata* recoveries in accordance with their entitlements as unsecured creditors. In the Monitor's view, the Plan is fair in its treatment of creditors. Where the Plan deviates from such direct *pro rata* treatment, such deviations are justified for practical and/or commercial reasons.

90. Implementation of the Plan would effect a settlement of various significant matters in the CCAA Proceedings, and as detailed below, would provide substantial incremental benefits to Affected Unsecured Creditors in comparison to the available alternatives.

Joint Plan and Substantive Consolidation

91. With respect to the partial substantive consolidation and the resulting joint plan, for the purposes of the Plan, the Monitor believes that it is appropriate and reasonable in the circumstances—particularly given the independence of the three debtor groups' respective businesses and the intertwined nature of the assets and operations of the Sears Parties and SLH Parties themselves, as detailed above.

Compliance with Statutory Requirements

92. A plan of compromise or arrangement can only be sanctioned by the Court if, among other things, it complies with all statutory requirements.

93. Section 5.1(1) of the CCAA contemplates the compromise of claims against directors provided that such claims do not include those that relate to the contractual rights against one or more directors or that are based in allegations of misrepresentations made by directors to creditors or of wrongful or oppressive conduct by directors. By virtue of the definition of “Non-Released Claims”, section 9.1(a) of the Plan ensures the Plan releases comply with these statutory restrictions.
94. Section 6(3) of the CCAA requires that the Plan provide for the payment in full of certain Crown claims within six months of the Court’s sanctioning of the Plan, while section 6(5) of the CCAA requires that the Plan provide for the payment of certain amounts owing to employees and former employees immediately after sanction. Section 5.8 of the Plan stipulates that any Government Priority Claims and Employee Priority Claims must be paid in compliance with sections 6(3) and 6(5) of the CCAA.
95. Section 6(6) of the CCAA requires that the Plan provide for the payment of certain unpaid amounts relating to pension plans and that the Court be satisfied that such claims can and will be paid. In the present case however, no such amounts that would be payable by the Sears Canada Entities are outstanding, and so this requirement of the CCAA is not engaged.
96. Pursuant to section 6(8) of the CCAA, no plan of compromise or arrangement that provides for payment of an equity claim may be sanctioned by the Court unless all non-equity claims are paid in full. In light of the shortfall on account of the claims of Affected Unsecured Creditors of the Sears Parties and the SLH Parties, Section 5.7 of the Plan provides that no payments will be made on account of equity claims, and stipulates further that such claims will be fully, finally, irrevocably and forever compromised released cancelled are barred. The Monitor notes that in the case of Former Corbeil, amounts will be paid on account of Sears Canada’s equity claim as the shareholder of Former Corbeil as all other claims against Former Corbeil will be paid in full.
97. Pursuant to section 19(2) of the CCAA, a plan of compromise or arrangement may not deal with any claim that relates to the debts or liabilities described in section 19(2) unless the plan explicitly provides for the compromise of such claim and the creditor holding the

claim votes in favour of the plan. Section 5.13 of the Plan provides that claims listed under Section 19(2) of the CCAA shall be Affected Claims for the purposes of the Plan; provided that such claims shall be deemed to be Unaffected Claims to the extent held by any creditors who have not voted in favour of the Plan.

98. Based on the foregoing, the Monitor is not aware of any aspect of the Plan that is not in compliance with the statutory requirements of the CCAA.

Treatment of Pre-Filing Warranty Claims

99. As indicated above, the Plan provides that the holders of Pre-Filing Warranty Claims will not receive payment on account of the allowed value of their claims, but rather (a) establishes the Warranty Reimbursement Pool in an amount equal to the notional distributions that Pre-Filing Warranty Claims would have otherwise received based on the remaining unamortized value of the original purchase price of the Warranties at issue, up to an aggregate amount of \$8,000,000; and (b) grants to any holders of Warranties purchased prior to the Filing Date 180 days from the Plan Implementation Date to establish that they have incurred expenses that would otherwise be reimbursable under the terms of such Warranty, and assert a claim for this expense against the Warranty Reimbursement Pool.

100. In the Monitor's view this approach is reasonable and appropriate in the circumstances as:

- (a) It avoids making large numbers of very small distributions: There are approximately 800,000 Pre-Filing Warranty claim holders. Given the relatively low remaining unamortized value of individual Warranty claims (estimated to be approximately \$125 per claim on average), if the Monitor were to apply the De Minimis Claim Amount threshold, only 32%, or approximately 256,000 claimants, would receive a distribution and each of those distributions, aside from exceptional circumstances, would be very low in value;
- (b) It addresses a practical difficulty with the reliability of creditor contact details: Although the Sears Canada Entities have records with respect to most of the key

details of the Warranties, such as date of purchase, purchase price, and product covered, given the amount of time that has passed since most of these Warranties were sold, they cannot ensure they have accurate contact details for most Warranty holders. As such, the Monitor expects that if cheques were delivered based upon such records, a high number of those cheques would be returned; and

- (c) *It addresses the damages actually suffered:* Making distributions against expenses actually incurred and reimbursable under the terms of a Warranty compensates those claimants for the actual damage that they have suffered as a result of losing the benefit of that Warranty.

Releases

101. As outlined above, the Plan provides for full and final releases of the Sears Released Parties, the FTI Released Parties, and the Third Party Released Parties, subject to certain exceptions, including that (a) the Plan does not release any of the Non-Released Claims identified above, and (b) does not affect, release or prejudice any of the claims currently being pursued or that may arise in connection with the 2013 Dividend, including the Estate 2013 Dividend Claims, the Pension 2013 Dividend Claim, and the Dealer 2013 Dividend Claim.
102. The releases contained in the Plan are important components of the Plan and rationally connected to it. Among other things:
- (a) pursuant to the Claims Procedure Orders, the Applicants have already granted persons ample opportunity to make claims against the current and former officers and directors. Many of the officers and directors who held those positions at the commencement of these CCAA Proceedings have contributed materially to the resolution of these CCAA Proceedings;
- (b) the Sears Canada Entities' advisors have assisted with and provided guidance through the restructuring and ultimate liquidation process and these CCAA Proceedings generally;

- (c) the Monitor has overseen every aspect of these CCAA Proceedings from the outset, and together with its legal counsel and the other FTI Released Parties, has developed and would implement the Plan, if approved; and
- (d) each of Employee Representative Counsel and Pension Representative Counsel, as well as the individual employee and pension representatives, were appointed in their roles by this Court, and have contributed throughout these CCAA Proceedings, including towards the achievement of the Pension Resolution and the development and implementation of the Employee and Retiree Claims Procedure.

103. As such, the Monitor views the releases provided for under the Plan as reasonable and justified in the circumstances.

Estimated Recoveries for Affected Unsecured Creditors under the Plan

104. The amounts available for payment to Affected Unsecured Creditors under the Plan remains uncertain because of a variety of unresolved matters in the CCAA Proceedings, including the resolution of remaining unresolved claims, potential realizations of the Sears Canada Entities' remaining real estate property and other minor assets and potential litigation costs and recoveries.

105. The Monitor has estimated the range of the potential amount to be distributed to Affected Unsecured Creditors (calculated as a potential recovery percentage), leaving aside any potential litigation recoveries, as follows:³

<i>Sears Parties</i>	<i>Former Corbeil</i>	<i>SLH Parties</i>
6 - 8%	100%	15 - 20%

³ The estimated recoveries are based on certain forward-looking assumptions relating to each debtor group's cash realizations and claims pool, and include claims that are currently in dispute and subject to final determination. The estimated recovery figures may be subject to change.

Alternatives to the Plan and Estimated Recoveries

106. If the Plan is not implemented and the settlement of the Pension Claims not effected thereby, the Pension Plan Administrator and other Pension Parties would most likely resume their motions asserting, among other things, that:
- (a) the wind-up deficiency under the Pension Plan has a deemed trust priority over the claims of unsecured creditors (the “**Deemed Trust Motion**”);
 - (b) the Pension Plan Administrator has a statutory lien and charge for the amount of the wind-up deficiency in connection with the Pension Plan (the “**Lien Motion**”); and
 - (c) the Sears Canada Entities have joint and several liability for the wind-up deficiency (the “**Joint and Several Motion**”, and together with the Deemed Trust Motion and Lien Motion, the “**Pension Motions**”).
107. Given that the quantum of the wind-up deficiency of the Pension Plan (estimated at approximately \$250 million) is likely to significantly exceed the aggregate of realizations available to creditors (leaving aside any potential litigation recoveries in connection with the 2013 Dividend), if the Deemed Trust Motion or Lien Motion were successful, the Pension Claims would have priority for the full quantum of the wind-up deficiency and unsecured creditors of the Sears Parties would receive no distributions at all.
108. If the Joint and Several Motion were also to succeed along with the Deemed Trust Motion and/or Lien Motion, creditors of each of Former Corbeil and the SLH Parties would similarly receive no distributions. If only the Joint and Several Motion succeeded, and the Deemed Trust Motion and Lien Motion did not, distributions for the creditors of Former Corbeil and the SLH Parties would not be reduced to zero, but would nevertheless still be significantly reduced.
109. Given the impact of the Pension Motion on potential estimated recoveries therefore, no distributions could be made to unsecured creditors generally until such issues were resolved.

110. The impact on estimated distributions to the three different unsecured creditor groups under the different scenarios presented by the potential recommencement of the Pension Motions is summarized in the table below,⁴ in which:

- (a) Scenario 1 contemplates the failure of the Deemed Trust Motion and Lien Motion and the Joint and Several Motion;
- (b) Scenario 2 contemplates the failure of the Deemed Trust Motion and Lien Motion but the success of the Joint and Several Motion;
- (c) Scenario 3 contemplates the success of the Deemed Trust Motion and/or Lien Motion but the failure of the Joint and Several Motion; and
- (d) Scenario 4 contemplates the success of the Deemed Trust Motion and/or the Lien Motion and the success of the Joint and Several Motion.

		<i>Sears Parties</i>	<i>Former Corbeil</i>	<i>SLH Parties</i>	<i>Total</i>
Scenario 1	Pension Parties	23,000,000	-	2,900,000	25,900,000
	Other 3rd Party Creditors	138,200,000	500,000	6,000,000	144,700,000
		161,200,000	500,000	8,900,000	170,600,000
Scenario 2	Pension Parties	19,700,000	28,400,000	8,100,000	56,200,000
	Other 3rd Party Creditors	113,700,000	100,000	600,000	114,400,000
		133,400,000	28,500,000	8,700,000	170,600,000
Scenario 3	Pension Parties	162,100,000	-	8,000,000	170,100,000
	Other 3rd Party Creditors	-	500,000	-	500,000
		162,100,000	500,000	8,000,000	170,600,000
Scenario 4	Pension Parties	132,400,000	30,200,000	8,000,000	170,600,000
	Other 3rd Party Creditors	-	-	-	-
		132,400,000	30,200,000	8,000,000	170,600,000

111. While the Monitor, together with Employee Representative Counsel, opposed the Pension Motions and believes that the merits of such opposition remains strong, particularly considering the impact of a possible intervening bankruptcy, the uncertainty as to the

⁴ The estimated distributions under each scenario are based on the same set of underlying assumptions relating to realizations and claims except for the treatment of the Pension Claim, as described in each scenario. The figures presented are for illustrative purposes only and are subject to change.

outcome of this issue and related delay justifies the resolution proposed in the Plan. Given the potential impact of the outcome of the Pension Motions on the recoveries of both the Pension Plan and other unsecured creditors, it can be expected that these motions would be both pursued and opposed vigorously, and accordingly there would be significant risk, time and expense associated with litigating such motions. Of further significance would be the time associated with pursuing all potential appeals in connection with the Pension Motions, which could delay distributions for potentially years.

112. Employee Representative Counsel previously brought a motion in connection with the Pension Motions (and currently adjourned *sine die* with those motions in light of the Pension Resolution) to lift the stay of proceedings to commence a bankruptcy application for the Sears Canada Entities. However what effect any bankruptcy of the Sears Canada Entities might have on the Deemed Trust Motion and Lien Motions is a matter that one would expect to be similarly vigorously contested by the Pension Parties. A bankruptcy would also not eliminate the Joint and Several Motion. As such, even in a bankruptcy context distributions to unsecured creditors would need to be delayed until these issues were resolved.

The Monitor's Recommendation

113. In the Monitor's view the Plan is a compromise that is reasonable and appropriate and is the best available alternative in the circumstances. Among other things, it:
- (a) resolves the Pension Motions without the significant time and expense that would otherwise be incurred to litigate such motions;
 - (b) resolves significant further claims against the Sears Canada Entities, including that of the Dealer Representative Plaintiff, without the significant time and expense that would otherwise be incurred to further investigate and adjudicate such claims;
 - (c) enables Affected Unsecured Creditors to opt-in or opt-out of participating in the sharing of the costs and benefits of the Estate 2013 Dividend Claims, which in the

Monitor's view is unlikely to be possible to implement in a bankruptcy context without significant legal and administrative complexity and expense;

- (d) permits post-filing and Pre-Filing Warranty Claims to be addressed in an efficient manner;
- (e) respects the relative rights, priorities and entitlements of creditors of the Sears Canada Entities generally; and
- (f) avoids unnecessary intercompany allocation disputes.

114. Accordingly, the Monitor is of the view that the Plan is fair, equitable and reasonable to affected parties, and recommends that Affected Unsecured Creditors vote in favour of the Plan.

The Monitor respectfully submits to the Court this, its 29th Report.

Dated this 6th day of February, 2019.

FTI Consulting Canada Inc.
in its capacity as Monitor of
the Sears Canada Entities



Paul Bishop
Senior Managing Director



Greg Watson
Senior Managing Director

Appendix A
Plan

**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., 9845488 CANADA 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

**JOINT PLAN OF COMPROMISE AND ARRANGEMENT
PURSUANT TO THE *COMPANIES' CREDITORS ARRANGEMENT ACT***

FEBRUARY 12, 2019

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JOINT PLAN OF COMPROMISE AND ARRANGEMENT

WHEREAS:

- (A) On June 22, 2017, the Court issued an Order (as amended and restated on July 13, 2017, and as further amended, restated or supplemented from time to time, the “**Initial Order**”) commencing proceedings (the “**CCAA Proceedings**”) pursuant to the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) in respect of the applicants (collectively, the “**Applicants**”), being Sears Canada Inc. (“**Sears Canada**”), The Cut Inc, Sears Contact Services Inc., Initium Logistics Services Inc., 9845488 Canada Inc. (formerly “Initium Commerce Labs Inc.”), Initium Trading and Sourcing Corp., Sears Floor Covering Centres Inc., 173470 Canada Inc., 2497089 Ontario Inc., (“**2497089**”) 6988741 Canada Inc., 10011711 Canada Inc., 1592580 Ontario Limited, 955041 Alberta Ltd., 4201531 Canada Inc., 3339611 Canada Inc., 9370-2571 Québec Inc. (“**Former Corbeil**”), 191020 Canada Inc. (“**Former SLH**”), and 168886 Canada Inc. (“**168886**”);
- (B) The Initial Order declared that, although not an Applicant, the general partnership SearsConnect shall enjoy the protections and authorizations provided by the Initial Order (together with the Applicants, the “**Sears Canada Entities**”);
- (C) Pursuant to the Initial Order, FTI Consulting Canada Inc. was appointed Monitor (in such capacity and not in its personal or corporate capacity, the “**Monitor**”) in the CCAA Proceedings;
- (D) As of the date hereof, substantially all material assets of the Sears Canada Entities have been realized upon. With the exception of certain sale proceeds distributed to parties with Proven Secured Claims or other Proven Priority Claims, amounts expended on operating costs and the fees and expenses incurred by the Sears Canada Entities in connection with the CCAA Proceedings, the Monitor and Sears Canada together currently hold the net sale proceeds from these transactions and other amounts received in these CCAA Proceedings, together with any cash on hand at the commencement of these CCAA Proceedings that has not been expended during the CCAA Proceedings and all interest on the foregoing;
- (E) There are certain material outstanding matters that remain to be completed in the CCAA Proceedings, including implementation of the settlement of the Pension Claims that are the subject of the Deemed Trust Motions, as well as the pursuit of the LT Claims by the Litigation Trustee and the pursuit of the TUV Claim by the Monitor;
- (F) Certain Creditors of Sears Canada have opted not to have their recoveries, if any, as unsecured creditors of Sears Canada reduced by their pro rata share of the costs of pursuing the LT Claims and the TUV Claim, and as a consequence will not receive a distribution of any portion of any recoveries of the LT Claims or the TUV Claim;
- (G) Further to a mediation process commenced before Regional Senior Justice Morawetz, the Sears Canada Entities have obtained the support of and have reached settlements with various Affected Unsecured Creditors with respect to their Claims, including the Pension Parties pursuant to the Pension Support Agreement, as well as the Dealer Representative Plaintiff, and a substantial majority of Landlords, the terms and conditions of which settlement are reflected in this Plan; and
- (H) To implement the Pension Claim Settlement and other settlements of material Claims noted above (collectively, and including the Pension Claim Settlement, the “**Mediated Claim Settlements**”), and to provide (a) a method of distribution of their available cash to Affected Unsecured Creditors with Proven Affected Unsecured Claims, (b) a mechanism by which Sears

Opt-In Creditors may benefit from any contingent value that may be derived from the pursuit of the LT Claims and the TUV Claim, and (c) a framework for the completion of the orderly wind-down of the Sears Canada Entities, the Applicants, at the direction of the Monitor, hereby propose this Plan to the Affected Creditors under and pursuant to the CCAA.

Article 1 Interpretation

1.1 Definitions

In the Plan, including the Recitals herein, unless otherwise stated or unless the subject matter otherwise requires, all capitalized terms used shall have the meanings ascribed thereto in **Schedule A**.

1.2 Certain Rules of Interpretation

For the purposes of the Plan:

- (a) any reference in the Plan to a contract, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions;
- (b) any reference in the Plan to an Order of the Court or an existing document or exhibit filed or to be filed means such Order of the Court, document or exhibit as it may have been or may be amended, restated or varied from time to time;
- (c) unless otherwise specified, all references to currency and to "\$" or "Cdn\$" are to Canadian dollars and references to "US\$" are to United States dollars;
- (d) the division of the Plan into "Articles" and "Sections" and the insertion of a Table of Contents are for convenience of reference only and do not affect the construction or interpretation of the Plan, nor are the descriptive headings of "Articles" and "Sections" otherwise intended as complete or accurate descriptions of the content thereof;
- (e) references in the Plan to "Articles", "Sections", "Subsections" and "Schedules" are references to Articles, Sections, Subsections and Schedules of or to the Plan;
- (f) the use of words in the singular or plural, or with a particular gender, including a definition, shall not limit the scope or exclude the application of any provision of the Plan or a Schedule hereto to such Person (or Persons) or circumstances as the context otherwise permits;
- (g) the words "includes" and "including" and similar terms of inclusion shall not, unless expressly modified by the words "only" or "solely", be construed as terms of limitation, but rather shall mean "includes but is not limited to" and "including but not limited to", so that references to included matters shall be regarded as illustrative without being either characterizing or exhaustive;
- (h) unless otherwise provided, any reference to a statute or other enactment of parliament or a legislature includes all regulations made thereunder, all amendments to or re-enactments of such statute or regulations in force from time to time, and, if applicable, any statute or regulation that supplements or supersedes such statute or regulation;
- (i) the terms "the Plan", "hereof", "herein", "hereto", "hereunder" and similar expressions shall be deemed to refer generally to this Plan and the Schedules hereto and not to any

particular "Article", "Section" or other portion of the Plan and include any documents supplemental hereto; and

- (j) the word "or" is not exclusive.

1.3 Time

For purposes of the Plan, unless otherwise specified, all references to time herein and in any document issued pursuant hereto mean prevailing local time in Toronto, Ontario, Canada.

1.4 Date and Time for any Action

For purposes of the Plan:

- (a) in the event that any date on which any action is required to be taken under the Plan by any Person is not a Business Day, that action shall be required to be taken on the next succeeding day which is a Business Day, and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. on such Business Day; and
- (b) unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next succeeding Business Day if the last day of the period is not a Business Day.

1.5 Successors and Assigns

The Plan shall be binding upon and shall enure to the benefit of the heirs, administrators, executors, legal personal representatives, liquidators, receivers, trustees in bankruptcy, and successors and assigns of any Person or party named or referred to in the Plan.

1.6 Governing Law

The Plan shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. All questions as to the interpretation of or application of the Plan and all proceedings taken in connection with the Plan and its provisions shall be subject to the exclusive jurisdiction of the Court.

1.7 Currency

Unless specifically provided for in the Plan or the Sanction Order, for the purposes of voting or distribution under the Plan, a Claim shall be denominated in Canadian dollars and all payments and distributions to Affected Unsecured Creditors on account of their Proven Claims shall be made in Canadian dollars. In accordance with paragraph 6 of the Claims Procedure Order (General) and paragraph 7 of the Claims Procedure Order (E&R), any Claim in a currency other than Canadian dollars is to be converted to Canadian dollars, and any such amount shall be regarded as having been converted at the noon spot rate of exchange quoted by the Bank of Canada for exchanging such currency to Canadian dollars as at the Filing Date, which rate in the case of United States dollars is US\$1:Cdn\$1.3241.

1.8 Actions of the Sears Canada Entities

For greater certainty, any reference to an action of any one or more of the Sears Canada Entities in this Plan or any document contemplated hereunder shall be subject to, and read together with, the Governance Protocol Order, which provides among other things that the Monitor will: (a) cause the Sears Canada Entities to perform such functions as the Monitor considers necessary or desirable in order to facilitate or assist the Sears Canada Entities in dealing with their operations, winding down their estates

or performing other activities; and (b) cause the Sears Canada Entities to administer their remaining property for the purposes of facilitating distributions to creditors of the Sears Canada Entities, including by way of a Plan. Accordingly, any steps to be performed hereunder by any one or more of the Sears Canada Entities may be performed by the Monitor, on behalf of the Sears Canada Entities, subject to the terms of and the protections provided under the Governance Protocol Order.

1.9 Schedules

The following are the Schedules to the Plan, which are incorporated by reference into the Plan and form a part of it:

Schedule A – Definitions

Schedule B – Pre-Filing Interco Claims

Schedule C – Pension Claims

Schedule D – Litigation Cost Recovery Amount Illustration

Article 2 Purpose and Effect of the Plan

2.1 Purpose of Plan

The purpose of the Plan is to:

- (a) effect a compromise and settlement of all Affected Claims, in exchange for the distributions to Affected Unsecured Creditors with Proven Affected Unsecured Claims as contemplated by the Plan; provided, however, and for greater certainty that none of the compromises, settlements, releases and discharges contemplated herein shall release, affect or prejudice Non-Released Claims, including any claims that arise out of or relate to the dividend paid to shareholders of Sears Canada on or around December 3, 2013 in the amount of approximately \$509 million, the LT/TUV Litigation or Pension/Dealer Litigation or provide any defence to any party to such litigation;
- (b) facilitate the distribution of the consideration provided for herein in respect of Proven Affected Unsecured Claims, Proven Priority Claims and Proven Secured Claims, if any;
- (c) implement the Pension Claim Settlement and other Mediated Claim Settlements; and
- (d) allow Sears Opt-In Creditors to benefit from any contingent value that may be derived from the pursuit of the LT Claims by the Litigation Trustee and the TUV Claim by the Monitor,

all in the expectation that Persons with an economic interest in the Property will, collectively, derive a greater benefit from the implementation of the Plan than would result from any alternative distribution and claims resolution processes for the Sears Canada Entities, including bankruptcy.

2.2 Persons Affected

The Plan provides for a compromise and/or settlement of the Affected Claims. The Plan will become effective at the Effective Time on the Plan Implementation Date. The Plan shall be binding on and shall enure to the benefit of the Sears Canada Entities, the Affected Creditors, the Released Parties and all other Persons named or referred to herein, receiving the benefit of, or subject to, the Plan. On, from and after the Plan Implementation Date, all Affected Claims will be fully and finally compromised and settled

(and in the case of the Released Parties, De Minimis Claims and Equity Claims, released and discharged) to the extent provided for under the Plan.

2.3 Persons Not Affected

The Plan does not affect Unaffected Creditors with respect to and to the extent of their Unaffected Claims. Nothing in the Plan shall affect any of the Sears Canada Entities' rights and defenses, both legal and equitable, with respect to any Unaffected Claims, including all rights with respect to entitlements to set-offs or recoupment against any and all such Unaffected Claims.

2.4 Claims Against the Sears Canada Entities

Without limiting the effect of the releases, discharges, compromises and settlements herein in favour of the Released Parties:

- (a) any Affected Claim against the Sears Canada Entities that is not, or does not become, a Proven Claim, including Affected Claims that have not been filed by the claims bar date provided under the Claims Procedure Orders, shall be deemed fully and finally released, discharged, barred and extinguished; and
- (b) any Affected Claim against the Sears Canada Entities that is a Proven Claim shall not be released but shall be entitled to recoveries against the assets of the Sears Canada Entities solely in accordance with distributions provided by this Plan and any further rights in respect of such Affected Claims against the Sears Canada Entities or their assets are compromised and settled in accordance with this Plan.

Article 3 Substantive Consolidation and Claims Valuation

3.1 Substantive Consolidation

The Sears Canada Entities, except for Former Corbeil, shall be partially substantively consolidated, into two Debtor Group estates, in the manner set out herein as follows:

- (a) Sears Canada, The Cut Inc., Sears Contact Services Inc., Initium Logistics Services Inc., 9845488 Canada Inc., Initium Trading and Sourcing Corp., Sears Floor Covering Centres Inc., 173470 Canada Inc., 2497089, 6988741 Canada Inc., 10011711 Canada Inc., 1592580 Ontario Limited, 955041 Alberta Ltd., 4201531 Canada Inc., 3339611 Canada Inc. and SearsConnect (collectively, the "**Sears Parties**"); and
- (b) Former SLH and 168886 (together, the "**SLH Parties**"),

such that the Affected Unsecured Creditors of each set of consolidated Sears Canada Entities shall (i) as provided in Article 4 below, be members of the same Unsecured Creditor Class for purposes of voting on the Plan, and (ii) as provided in Sections 5.2 and 7.1 below, receive Plan Distributions as if each of the individual members of such set of consolidated Sears Canada Entities comprised one Sears Canada Entity.

3.2 Claims Procedure and Adjustment of Pension Claims

- (a) The procedure for determining the validity and quantum of Affected Unsecured Claims for voting and distribution purposes under the Plan shall be governed by the Claims Procedure Orders, subject to the following:

- (i) Pre-Filing Interco Claims shall, subject to Section 4.2(b), be allowed for voting and distribution purposes in the amounts set out on **Schedule B** hereto and shall be treated as Proven Affected Unsecured Claims for the purposes of the Plan;
 - (ii) solely for the purpose of determining the quantum of the Warranty Reimbursement Pool pursuant to Section 5.3(a)(ii), each Pre-Filing Warranty Claim shall be allowed in the amount of the remaining unamortized value (as at October 19, 2017) of the underlying Warranty Payment Amount, as calculated by the Monitor based upon the records of Sears Canada; and
 - (iii) subject to Section 3.2(b) below and solely for the purposes of the Plan, the Pension Claims shall be allowed for voting and distribution purposes in the amounts and as against the applicable Sears Canada Entities as set out on **Schedule C** hereto and shall be treated as Proven Affected Unsecured Claims for the purposes of the Plan.
- (b) The Pension Claims for distribution purposes shall be subject to reduction immediately prior to each distribution by Cdn\$2.50 for every Cdn\$1 of recovery (if any) that any Pension Party has received at the time of such distribution (such reductions to be allocated between the Sears Parties and the SLH Parties in the proportions set out on **Schedule C** hereto) directly as a result of any litigation commenced by any of the Pension Parties against any Directors and/or Officers or any third party for Pension Claims, net of all fees, costs and disbursements incurred by the Pension Parties further to such litigation, and not recovered by them (the "**Pension Litigation Recovery Adjustment**"). For greater certainty, nothing in this Section 3.2(b) shall require any retroactive adjustment to the Pension Claim amount for past distributions and any adjustment in respect of past distributions shall solely be effected pursuant to the reimbursement obligation provided under Section 5.2(b) herein.

Article 4

Classification of Creditors, Voting Claims and Related Matters

4.1 Classification

For the purposes of considering, voting on and receiving distributions under the Plan, the Affected Unsecured Creditors shall be grouped into the following classes (each an "**Unsecured Creditor Class**", and collectively, the "**Unsecured Creditor Classes**"):

- (a) **Sears Creditor Class:** Affected Unsecured Creditors of any of the Sears Parties; and
- (b) **SLH Creditor Class:** Affected Unsecured Creditors of any of the SLH Parties.

As the Proven Affected Unsecured Claims of Creditors of Former Corbeil are to be paid in full under the Plan, no holder of an Affected Unsecured Claim against Former Corbeil shall be a member of either Unsecured Creditor Class, be entitled to vote on or approve the Plan or attend at any Meeting in respect of such Affected Unsecured Claim.

4.2 Voting

- (a) Except as otherwise provided in the Meetings Order, and subject to the provisions of the Plan, Affected Unsecured Creditors shall be entitled to vote their Eligible Voting Claims at the applicable Meeting in respect of the Plan.

- (b) In accordance with the CCAA, the Sears Canada Entities (through the Monitor), as related parties, will only be permitted to vote their Eligible Voting Claims, if any, against, but not for, the Plan.
- (c) Employee Representative Counsel shall be deemed to be a proxy holder in respect of each Eligible Voting Claim of an ERC Employee that is an Employee Claim and shall vote such Claims at the applicable Meeting on all ERC Employees' behalf, without the requirement for any ERC Employee to submit a proxy form to the Monitor or any other Person.
- (d) Pension Representative Counsel shall be deemed to be a proxy holder in respect of each Eligible Voting Claim of a PRC Retiree (other than relating to the Pension Claims or Employee Claims) and shall vote such Claims at the applicable Meeting on such PRC Retirees' behalf, without the requirement for any PRC Retiree to submit a proxy form to the Monitor or any other Person.
- (e) For greater certainty, only the Pension Plan Administrator or its designated proxy may vote the Pension Claims.

4.3 Unaffected Claims

Unaffected Claims shall not be compromised under the Plan. No holder of an Unaffected Claim shall be:

- (a) entitled to vote on or approve the Plan or attend at any Meeting in respect of such Unaffected Claim; or
- (b) entitled to or receive any distributions pursuant to the Plan in respect of such Unaffected Claim, unless specifically provided for under and pursuant to the Plan.

4.4 Meetings

- (a) The Meetings shall be held in accordance with the Plan, the Meetings Order and any further Order of the Court. The only Persons entitled to notice of, to attend or to speak at the Meetings are the Eligible Voting Creditors (or their respective duly-appointed proxyholders), representatives of the Monitor, the Sears Canada Entities, Employee Representative Counsel, the Pension Parties, all such parties' financial and legal advisors, the chair, and secretary and scrutineers thereof. Any other Person may be admitted to the Meetings only by invitation of the Monitor or as permitted under the Meetings Order or any further Order of the Court.
- (b) If the Plan is approved by the Required Majority in each Unsecured Creditor Class, then the Plan shall be deemed to have been agreed to, accepted and approved by the Affected Unsecured Creditors and, if sanctioned by the Court, shall be binding upon all Affected Creditors immediately upon the delivery of the Plan Implementation Date Certificate in accordance with Section 10.4.

4.5 No Double Proof or Recovery

In respect of any Claim which is compromised under the Plan (a) which is subject to a Guarantee or (b) in respect of which a Person has any right to or claim over in respect of or to be subrogated to the rights of any Person (such compromised Claim being the "**Principal Claim**"), no Person shall:

- (a) be entitled to any greater rights against the Sears Canada Entity in respect of which the Principal Claim relates than the Person holding the Principal Claim;

- (b) be entitled to vote on the Plan to the extent that the Person holding the Principal Claim votes on the Plan; or
- (c) be entitled to receive any distribution under the Plan to the extent that the Person holding the Principal Claim is receiving a distribution.

Article 5 Treatment of Claims

5.1 Treatment of Pre-Filing Interco Claims and Tax Loss Utilization Structure

- (a) In accordance with Section 7.1(a), each Debtor Group holding a Pre-Filing Interco Claim against:
 - (i) another Debtor Group (other than Former Corbeil) shall be entitled to receive an amount equal to its Pre-Filing Interco Pro Rata Share of the Debtor Cash Pool for the Debtor Group against which such Pre-Filing Interco Claim is made; and
 - (ii) Former Corbeil shall be entitled to receive an amount equal to its Pre-Filing Interco Claim.
- (b) For greater certainty with respect to the Tax Loss Utilization Structure and as a result of the substantive consolidation effected pursuant to Section 3.1 above:
 - (i) the Pre-Filing Interco Claim of 2497089 resulting from the 249 SCI Loan made by 2497089 to Sears Canada as part of the Sears Canada Entities' Tax Loss Utilization Structure shall receive no distribution under the Plan;
 - (ii) no value shall be distributable under the Plan from 2497089 to Former SLH in respect of its preferred equity interest in 2497089 as such interest only gives rise to an Equity Claim; and
 - (iii) no value shall be distributable under the Plan from Former SLH to Sears Canada on account of the Pre-Filing Interco Claim that arises as a result of its Sears Canada Subordinated Transport Loan from Sears Canada, which loan was agreed to be treated as subordinated to all other indebtedness of Former SLH, which will not be paid in full.

5.2 Treatment of Affected Third Party Unsecured Claims, Pension Litigation Recovery Adjustment and Dealer Matters

- (a) In accordance with Section 7.1(c), each:
 - (i) Affected Third Party Unsecured Creditor with a Proven Affected Unsecured Claim against Former Corbeil shall be entitled to receive a distribution from the Corbeil Cash Pool in an amount equal to its Proven Affected Unsecured Claim;
 - (ii) Affected Third Party Unsecured Creditor with a Proven Affected Unsecured Claim against an SLH Party shall be entitled to receive a distribution in an amount equal to its Third Party Pro Rata Share of the SLH Cash Pool, as adjusted by the applicable Cash Pool/Holdback Adjustments;
 - (iii) Affected Third Party Unsecured Creditor with a Proven Affected Unsecured Claim against a Sears Party shall be entitled to receive a distribution in an

amount equal to its Third Party Pro Rata Share of the Sears Cash Pool, as adjusted by the applicable Cash Pool/Holdback Adjustments; and

- (iv) Sears Opt-In Creditor with a Proven Affected Unsecured Claim shall be further entitled to receive a distribution in an amount equal to its Third Party Pro Rata Share of the Litigation Recoveries Pool, subject to adjustment under any applicable Cash Pool/Holdback Adjustments.
- (b) The Pension Parties shall reimburse the Monitor, in trust for Affected Unsecured Creditors other than the Pension Parties, in the amount by which any Plan Distributions the Pension Parties have received in respect of the Pension Claims as determined pursuant to Section 3.2(a)(iii) exceed the Plan Distributions that would have been received if, at the time of such distribution, the Pension Claims for distribution purposes were equal to: (X) the value of the Pension Claims pursuant to Section 3.2(a)(iii); less (Y) the Pension Litigation Recovery Adjustment described in Section 3.2(b).
 - (c) Notwithstanding any other provisions of this Plan, the treatment of all Dealer Claims shall be as follows:
 - (i) as soon as practicable following the Plan Implementation Date, the Monitor, on behalf of Sears Canada, will pay to the Dealer Representative Plaintiff, on behalf of all Dealers, out of the Sears Cash Pool, \$334,495 (the “**Upfront Dealer Payment**”);
 - (ii) the Dealers will not be entitled to receive any other amounts from any Debtor Cash Pool on account of or in respect of any Dealer Claims;
 - (iii) the Dealer Representative Plaintiff shall be further entitled to receive, on behalf of all Dealers, a distribution in an amount equal to its Third Party Pro Rata Share (based upon a Proven Affected Unsecured Claim against Sears Canada valued solely for the purposes of the Plan at \$80,000,000) of any amount in the Litigation Recoveries Pool in excess of \$10,000,000, subject to adjustment under any applicable Cash Pool/Holdback Adjustments; and
 - (iv) the first \$334,495 of distributions that may be received by the Dealer Representative Plaintiff, on behalf of the Dealers, pursuant to Section 5.2(c)(iii) shall be deemed re-contributed by the Dealer Representative Plaintiff, on behalf of the Dealers, to the Sears Cash Pool for distribution in accordance with this Plan.

Except as set out above, no Dealer shall have an entitlement to any distributions under the Plan.

5.3 Treatment of Warranty Claims

- (a) Notwithstanding any other provisions of this Plan, the treatment of all Pre-Filing Warranty Claims shall be solely as follows:
 - (i) forthwith following the Plan Implementation Date, the Monitor shall publish for two days in *The Globe and Mail* (National Edition) and the electronic edition of *La Presse* (and in such other publications and with such frequency as the Monitor may deem appropriate) notice of the establishment of the Warranty Reimbursement Pool and the opportunity to submit an application for recovery on a Reimbursable Warranty Claim from the Warranty Reimbursement Pool;

- (ii) on the Initial Distribution Date, the Warranty Claims Administrator shall establish and maintain, on behalf of the Sears Parties, a Warranty Reimbursement Pool in an amount equal to the funds that would otherwise be distributable under the Plan on account of all Pre-Filing Warranty Claims (as valued for such purpose in accordance with Section 3.2(a)(ii)) if such Pre-Filing Warranty Claims were treated as Proven Affected Unsecured Claims and received distributions pursuant to Section 7.1(c)(ii), without accounting for Litigation Recoveries; provided however that the amount of the Warranty Reimbursement Pool shall in no event exceed \$8,000,000;
- (iii) in order to receive a distribution from the Warranty Reimbursement Pool, a holder's Pre-Filing Warranty Claim must be a Reimbursable Warranty Claim and such holder must submit, on or before 5:00 p.m. (Eastern Standard Time) on the date that is 180 days following the Plan Implementation Date (the "**Warranty Claims Bar Date**") and in the manner and using the documentation contemplated by the Warranty Claims Protocol, an application establishing to the satisfaction of the Warranty Claims Administrator that they have a valid Reimbursable Warranty Claim;
- (iv) any Pre-Filing Warranty Claim for which a claimant has not submitted the application required by the Warranty Claims Protocol on or before the Warranty Claims Bar Date or that has been Finally Determined not to be a Reimbursable Warranty Claim shall be forever barred as against the Sears Canada Entities without any compensation therefor; and
- (v) on or following the Initial Distribution Date, and once (i) all Reimbursable Warranty Claims have been Finally Determined to be or not to be Proven Claims in accordance with the Warranty Claims Protocol, and (ii) all Warranty Administration Costs have been paid from the Warranty Reimbursement Pool, the Monitor, on behalf of the Sears Parties, shall forthwith distribute from the Warranty Reimbursement Pool to each holder of a Proven Reimbursable Warranty Claim an amount equal to the lesser of such holder's (A) Third Party Pro Rata Share of the Warranty Reimbursement Pool; and (B) Proven Reimbursable Warranty Claim. If Proven Reimbursable Warranty Claims have been paid in full, the Monitor shall transfer the remaining balance in the Warranty Reimbursement Pool, if any, to the Sears Cash Pool for further distribution to Affected Unsecured Creditors of the Sears Parties.

Except as set out above, no Person holding a Pre-Filing Warranty Claim shall have an entitlement to any distributions under the Plan with respect to such Pre-Filing Warranty Claim.

- (b) For greater certainty, any Warranty Claim that arises under a Warranty purchased from a Sears Canada Entity on or after the Filing Date shall constitute a Post-Filing Claim. Creditors holding such Warranty Claims shall be unaffected by the Plan and to the extent not previously paid, shall receive payment out of the Administrative Reserve as soon as reasonably practicable after the Plan Implementation Date on account of such Warranty Claims, such payment to be at the remaining unamortized value (as at October 19, 2017) of the underlying Warranty Payment Amount as determined by the Sears Canada Entities, in consultation with Monitor.

5.4 Treatment of De Minimis Claims

Notwithstanding any other provision of this Plan, no holder of an Affected Unsecured Claim (other than a Pre-Filing Warranty Claim, which shall be entitled solely to the recoveries expressly provided for Pre-Filing Warranty Claims pursuant to Section 5.3(a)) that has been Finally Determined to be less than \$80

(a “**De Minimis Claim**”) shall be entitled to or receive any distributions pursuant to the Plan in respect of such De Minimis Claim, and all such De Minimis Claims shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred, and shall be treated as such in the calculation of any Third Party Pro Rata Share under this Plan.

5.5 Unresolved Claims

- (a) No Affected Unsecured Creditors or holders of Priority Claims shall be entitled to receive any distributions or any payments under or pursuant to the Plan with respect to an Affected Unsecured Claim, or Priority Claim, or in each case, any portion thereof, unless and until, and then only to the extent that (i) such Claim is Finally Determined to be a Proven Claim, or (ii) is treated as a Proven Claim in accordance with the terms of the Plan, such that, in each case, the Claim is a Proven Affected Unsecured Claim or Proven Priority Claim and is entitled to the treatment described in the Plan. Except with respect to Reimbursable Warranty Claims, potential maximum distributions in respect of Unresolved Affected Unsecured Claims or potential maximum payments to Unresolved Priority Claims for each Debtor Group will be maintained by the Monitor in the Unresolved Claims Reserve for such Debtor Group until such Claims are Finally Determined.
- (b) An Unresolved Claims Reserve may be reduced by the Monitor from time to time to the extent the amount of such Unresolved Claims Reserve exceeds the maximum amounts distributable or payable for remaining Unresolved Affected Unsecured Claims, or Unresolved Priority Claims in respect of the applicable Debtor Group.

5.6 D&O Claims, Directors’ Indemnities, and Claims for Contribution from ESL Parties

- (a) Any Claim of a Director, Officer or ESL Party for indemnification or contribution and indemnity from a Sears Canada Entity arising out of or resulting from any such Director, Officer or ESL Party personally paying awards or settlement amounts in connection with the LT/TUV Litigation shall receive no distribution from the applicable Debtor Cash Pool or Litigation Recoveries Pool. To the extent any Director, Officer or ESL Party is determined to have a Proven Affected Unsecured Claim in respect of such indemnification or contribution and indemnity from a Sears Canada Entity, such distributions shall be satisfied through set off by such Directors, Officers and/or ESL Parties against the award or settlement amounts otherwise payable by those Directors, Officers and/or ESL Parties in an amount equal to the distributions such Director, Officer and/or ESL Party would have received under the Plan as a result of such Claim.
- (b) With respect to an award or settlement amount in connection with the Dealer 2013 Dividend Claim that (i) is to be personally paid by a Director, Officer or ESL Party to or on behalf of the Dealer Representative Plaintiff in such litigation, and (ii) is subject to a Claim by such Director, Officer or ESL Party for indemnification or contribution and indemnity from a Sears Canada Entity, the Dealer Representative Plaintiff shall direct that such Director, Officer or ESL Party shall pay the portion of such award or settlement amount equal to the distribution that would be payable to such Director, Officer or ESL Party under the Plan on account of the Proven Affected Unsecured Claim that such Director, Officer, or ESL Party has, if any, for indemnification or contribution and indemnity in connection with the Dealer 2013 Dividend Claim (as calculated by the Monitor) to the Monitor for distribution under the Plan to such Director, Officer or ESL Party.
- (c) With respect to an award or settlement amount in connection with a Non-Released Claim (other than a Non-Released Claim asserted by a Pension Party) that: (i) is to be personally paid by a Director, Officer or ESL Party to or on behalf of the holder of such Non-Released Claim (excluding, for greater certainty, any Pension Party), and (ii) is subject to a Claim by such Director, Officer or ESL Party for indemnification or contribution and indemnity from a Sears Canada Entity, the holder of such Non-Released

Claim (excluding, for greater certainty, any Pension Party) shall direct that such Director, Officer or ESL Party shall pay the portion of such award or settlement amount equal to the distribution that would be payable to such Director, Officer or ESL Party under the Plan on account of the Proven Affected Unsecured Claim that such Director, Officer, or ESL Party has, if any, for indemnification or contribution and indemnity in connection with the Non-Released Claim (as calculated by the Monitor) to the Monitor for distribution under the Plan to such Director, Officer or ESL Party.

- (d) To the extent any Claim of a Director, Officer or ESL Party for indemnification or contribution and indemnity from a Sears Canada Entity arises from a Claim that is itself in respect of an Equity Claim, such claim for indemnification or contribution and indemnity shall be treated for all purposes under the Plan as an Equity Claim.
- (e) No D&O Insurer shall have any Claim against a Sears Canada Entity arising out of any amounts paid by such D&O Insurer on behalf of any Director or Officer in connection with the LT/TUV Litigation or Pension/Dealer Litigation, including any Claim arising by subrogation.

5.7 Equity Claims

On the Plan Implementation Date, all Equity Claims (other than those in respect of Former Corbeil), if any, shall be fully, finally, irrevocably and forever compromised, released, discharged, cancelled and barred. Holders of Equity Claims shall not be entitled to vote on the Plan at the Meetings.

5.8 Employee Priority Claims and Government Priority Claims

- (a) All Employee Priority Claims and Government Priority Claims which are Proven Claims, if any, to the extent unpaid prior to the Plan Implementation Date, shall be paid in accordance with Sections 6(3) and 6(5) of the CCAA from the applicable Debtor Cash Pool for the Debtor Group(s) such Proven Claims are made against.
- (b) There are no amounts payable pursuant to Section 6(6) of the CCAA.

5.9 WEPP

Without limiting the subrogation rights available to the Government of Canada, any Employee who receives a payment from the Wage Earner Protection Program shall not receive a distribution under the Plan in respect of the portion of such Employee's Affected Unsecured Claim satisfied by such payment

5.10 Landlord Cost Payments

Every Landlord whose Affected Unsecured Claim was settled pursuant to a Landlord Settlement Agreement shall be paid the amount of \$2,272.72 (each, a "**Landlord Cost Payment**") per location that such Landlord leased as of the Filing Date to the Sears Canada Entities as soon as reasonably practicable after the Plan Implementation Date, such amounts to be paid (a) from the Debtor Cash Pool for the applicable Sears Canada Entity that was tenant under the lease arrangements for such location; and (b) on account of the legal costs of such Landlords incurred in connection with their negotiation of, and entrance into, the Landlord Settlement Agreements.

5.11 Duplicate Claims

Where (a) an Affected Unsecured Creditor has or would have had a Duplicate Claim, arising from a Guarantee, where the principal debtor is a Sears Canada Entity and the guarantor is a Sears Canada Entity in a different Debtor Group, or (b) there is joint and several liability of two or more Sears Canada Entities in different Debtor Groups in respect of an Affected Unsecured Claim or portion thereof, such

Affected Unsecured Creditor (to the extent its Affected Unsecured Claim is found to be a Proven Claim against each applicable Sears Canada Entity) shall be entitled to receive distributions under and vote on the Plan on account of its Proven Affected Unsecured Claims in each such Sears Canada Entity's Unsecured Creditor Class, provided that such Affected Unsecured Creditor shall not receive Plan Distributions in an aggregate amount more than the total amount of its Proven Affected Unsecured Claim.

5.12 Extinguishment of Affected Claims

On the Plan Implementation Date, in accordance with the provisions of the Plan and Sanction Order, the treatment of Affected Claims (including Proven Claims and Unresolved Affected Unsecured Claims) and all Released Claims, in each case as set forth herein, shall be final and binding on all Sears Canada Entities, all Affected Creditors (and their respective heirs, executors, administrators, legal personal representatives, successors and assigns) and any Person holding a Released Claim. All Affected Claims shall be compromised, settled, barred and shall be entitled to no further recovery from the assets of the Sears Canada Entities other than as set out herein, and all Released Claims shall be fully, finally, irrevocably and forever released, discharged, cancelled, and barred, and the Released Parties and the Sears Canada Entities shall thereupon have no further obligations whatsoever in respect of the Affected Claims and the Released Claims, as applicable; provided that:

- (a) nothing herein releases any of the Sears Canada Entities (including through the Monitor) or any other Person from their obligations to make distributions in the manner and to the extent provided for in the Plan;
- (b) such compromise, settlement and bar in favour of the Sears Canada Entities shall be without prejudice to the right of an Affected Creditor in respect of an Unresolved Affected Unsecured Claim to prove such Unresolved Affected Unsecured Claim in accordance with the applicable Claims Procedure Order so that such Unresolved Affected Unsecured Claim may become a Proven Claim entitled to receive consideration under Section 5.2 of the Plan; and
- (c) for greater certainty, the compromises, settlements, releases and discharges contemplated herein shall not release, affect or prejudice the LT/TUV Litigation or Pension/Dealer Litigation or provide any defence to any party to such litigation, and shall be limited accordingly.

5.13 Section 19(2) Claims

Claims listed under Section 19(2) of the CCAA ("**Section 19(2) Claims**") shall be Affected Claims for the purposes of this Plan; provided, however, that Section 19(2) Claims shall be deemed Unaffected Claims to the extent held by any Creditors who have not voted in favour of the Plan.

Article 6 Establishment and Maintenance of Reserves, Cash Pools and Litigation Costs Recovery Fund

6.1 Establishment and Maintenance on Accounting Basis

The Monitor shall establish and maintain each of the Reserves and Cash Pools required under the Plan as well as the Litigation Costs Recovery Fund, and may do so in each case on an accounting basis only. The Monitor, may, but is not required, to establish separate bank accounts for any of the Reserves, or in connection with any of the Cash Pools, the Litigation Costs Recovery Fund or the Warranty Reimbursement Pool. The Monitor is authorized to delegate authority to the Warranty Claims Administrator to administer any separate bank account established for the Warranty Reimbursement Pool.

6.2 Administrative Reserve

- (a) An Administrative Reserve shall be established by the Monitor, on behalf of the Sears Canada Entities, from the SLH Cash, the Corbeil Cash, and the Sears Cash in an aggregate amount sufficient to fund the Administrative Reserve Amounts, from time to time, all as allocated among the Debtor Groups in accordance with the Cost Allocation Methodology.
- (b) The Monitor shall hold and maintain the Administrative Reserve for the purposes of paying the Administrative Reserve Amounts, from time to time, in accordance with the Plan and in accordance with the Cost Allocation Methodology. The Monitor shall be entitled from time to time to transfer amounts held in the Administrative Reserve that the Monitor in its sole discretion determines are no longer needed to fund Administrative Reserve Amounts to the Debtor Cash Pools for further distribution to Affected Unsecured Creditors. After the Final Distribution and all remaining Administrative Reserve Amounts have been paid, the Monitor shall distribute the remaining balance in the Administrative Reserve, if any, in accordance with Section 7.8 of the Plan.

6.3 Litigation Costs Recovery Fund

- (a) A Litigation Costs Recovery Fund shall be established by the Monitor, on behalf of the Sears Parties and for the Sears Opt-In Creditors, in the amount of the aggregate of the Litigation Cost Recovery Amounts.
- (b) The Litigation Costs Recovery Fund is established to reimburse Litigation Costs incurred as of the Plan Implementation Date and to pay Litigation Costs going forward from time to time in accordance with the Plan. The Monitor, in its discretion, following consultation with the Litigation Trustee, shall be entitled to transfer amounts held in the Litigation Costs Recovery Fund that are no longer needed to fund Litigation Costs as a result of the resolution, settlement or other termination of the TUV Claim and LT Claims to the Litigation Recoveries Pool for further distribution to Sears Opt-In Creditors (a) if so ordered by the Court; or (b) as a part of the Final Distribution. Subject to Section 7.1 below, after the Final Distribution and once all remaining Administrative Reserve Amounts have been paid, the Monitor shall distribute the remaining balance in the Litigation Costs Recovery Fund, if any, in accordance with Section 7.8 of the Plan.

6.4 Unresolved Claims Reserves

- (a) **General:** The Monitor shall establish a separate Unresolved Claims Reserve for and on behalf of each Debtor Group from the applicable Available Cash for such Debtor Group, in an aggregate amount sufficient to fund, without duplication:
 - (i) Plan Distributions of such Debtor Group should all Unresolved Affected Unsecured Claims in respect of such Debtor Group be Finally Determined to be Proven Affected Unsecured Claims; and
 - (ii) payments on account of Unresolved Priority Claims in respect of such Debtor Group should all such Unresolved Claims be Finally Determined to be Proven Priority Claims,

and the Monitor shall hold and maintain each Unresolved Claims Reserve for the purposes of paying all such aforesaid claims if such claims are Finally Determined to be Proven Claims in accordance with Section 6.4(b).

- (b) **Unresolved Claims:** As Unresolved Affected Unsecured Claims and Unresolved Priority Claims are Finally Determined, the Monitor shall:
- (i) if an Unresolved Affected Unsecured Claim is Finally Determined to be :
 - (A) a Proven Affected Unsecured Claim against a Sears Party or SLH Party, distribute to the Affected Unsecured Creditor holding such Claim, an amount equal to its Third Party Pro Rata Share of the applicable Cash Pool plus or minus, if such Affected Unsecured Creditor is a Sears Opt-In Creditor, such further amounts which it is entitled to receive and/or required to contribute pursuant to Sections 7.1(d) and (e); or
 - (B) a Proven Affected Unsecured Claim against Former Corbeil, distribute to the Affected Unsecured Creditor holding such Claim, an amount equal to such Proven Affected Unsecured Claim;
 - (ii) if the Unresolved Priority Claim is Finally Determined to be a Proven Priority Claim, pay the holder of such Proven Priority Claim in accordance with Section 5.8; or
 - (iii) if the Unresolved Claim is Finally Determined not to be a Proven Claim, transfer cash, on an accounting basis, from the applicable Unresolved Claim Reserve to the applicable Cash Pool for distribution to Affected Unsecured Creditors thereof with Proven Affected Unsecured Claims, including Pre-Filing Interco Claims.

6.5 Creation of the Debtor Cash Pools and Litigation Recoveries Pool

- (a) On the Plan Implementation Date, the Monitor shall establish and maintain:
 - (i) the SLH Cash Pool from the SLH Cash, after first deducting or adding, as applicable, the Landlord Cost Payments, the Cost Allocation Amount and Ordinary Course Post-Filing Intercompany Position for the SLH Parties, and reserving for the SLH Reserves;
 - (ii) the Corbeil Cash Pool from the Corbeil Cash, after first deducting or adding, as applicable, the Landlord Cost Payments, the Cost Allocation Amount and Ordinary Course Post-Filing Intercompany Position for Former Corbeil and reserving for the Corbeil Reserves; and
 - (iii) the Sears Cash Pool from the Sears Cash, after first deducting or adding, as applicable, the Landlord Cost Payments, the Upfront Dealer Payment, the Cost Allocation Amount and Ordinary Course Post-Filing Intercompany Position for the Sears Parties, and reserving for the Sears Reserves.
- (b) From and after the Plan Implementation Date, the Monitor shall further establish and maintain a Litigation Recoveries Pool from any Litigation Recoveries, if any, and all such Litigation Recoveries received from time to time by or on behalf of Sears Canada shall be transferred by the Monitor to the Litigation Recoveries Pool.
- (c) The Monitor, on behalf of the Sears Canada Entities, shall distribute the cash in the Cash Pools and make the Cash Pool/Holdback Adjustments, in each case in accordance with Section 7.1 of the Plan, and shall distribute any remaining balance in the Sears Cash Pool or SLH Cash Pool after the Final Distribution in accordance with Section 7.8 of the Plan. When all Proven Claims existing from time to time against Former Corbeil have been paid any remaining balance in the Corbeil Cash Pool, net of the Unresolved Claims

Reserve for Former Corbeil shall be distributed by the Monitor in accordance with Section 7.1(b) of the Plan.

Article 7

Provisions Regarding Distributions, Payments, Disbursements and Contributions

7.1 Distributions, Payments and Disbursements Generally; Order and Sequencing of Distributions and Payments

Each and every Plan Distribution, payment and disbursement by or on behalf of the Sears Canada Entities, made on or after the Plan Implementation Date pursuant to or in accordance with the Plan shall, in each case, be made (A) in the manner, order and sequencing set out in Sections 7.1(a) to (e) below, (B) subject to and in accordance with Sections 7.2, 7.3, 7.4, and 7.7, and (C) shall be reflected by accounting entries and adjustments in the applicable Cash Pools and Litigation Costs Recovery Fund:

- (a) the Monitor, on behalf of the Sears Canada Entities, shall distribute from the applicable Debtor Cash Pool to each holder of a Pre-Filing Interco Claim an amount equal to (X) their Pre-Filing Interco Pro Rata Share, or (Y) in the case of a Pre-Filing Interco Claim against Former Corbeil, an amount equal to such holder's Pre-Filing Interco Claim, as set out below:
 - (i) **Corbeil Cash Pool:** each holder of a Pre-Filing Interco Claim against Former Corbeil shall receive from the Corbeil Cash Pool an amount equal to such holder's Pre-Filing Interco Claim; and
 - (ii) **Sears Cash Pool:** each holder of a Pre-Filing Interco Claim against the Sears Parties shall receive an amount equal to such holder's Pre-Filing Interco Pro Rata Share of the Sears Cash Pool;
- (b) the Monitor, on behalf of Former Corbeil, shall distribute from the Corbeil Cash Pool to each Affected Third Party Unsecured Creditor with a Proven Affected Unsecured Claim against Former Corbeil, an amount equal to such Proven Affected Unsecured Claim, and upon the payment in full of all Proven Affected Unsecured Claims against Former Corbeil, shall transfer on behalf of Former Corbeil any balance in the Corbeil Cash Pool remaining from time to time over to the Sears Cash Pool as a corporate dividend paid to Sears Canada, which dividend shall first be subject to distribution in accordance with Section 7.1(a)(ii) above before any further distribution of the remaining portion of such dividend to Affected Third Party Unsecured Creditors in accordance with Section 7.1(c) below;
- (c) the Monitor, on behalf of the Sears Canada Entities, shall distribute to each Affected Third Party Unsecured Creditor with a Proven Affected Unsecured Claim its Third Party Pro Rata Share of the applicable Debtor Cash Pools, after adjustments for the distributions described in Sections 7.1(a) and 7.1(b) above, as set out below:
 - (i) **SLH Cash Pool:** Each Affected Third Party Unsecured Creditor of the SLH Parties with a Proven Affected Unsecured Claim against the SLH Parties shall receive an amount equal to its Third Party Pro Rata Share of the SLH Cash Pool. In the case of an Unresolved Affected Unsecured Claim that has become a Proven Affected Unsecured Claim, this distribution will include any amounts that would have been distributed on account of such Affected Unsecured Claim on prior distributions had it been a Proven Affected Unsecured Claim at the Initial Distribution Date; and
 - (ii) **Sears Cash Pool:** Each Affected Third Party Unsecured Creditor of the Sears Parties with a Proven Affected Unsecured Claim against the Sears Parties shall

receive an amount equal to its Third Party Pro Rata Share of the Sears Cash Pool, subject to Sections 7.1(d) and (e). In the case of an Unresolved Affected Unsecured Claim that has become a Proven Affected Unsecured Claim, this distribution will include any amounts that would have been distributed on account of such Affected Unsecured Claim on prior distributions had it been a Proven Affected Unsecured Claim at the Initial Distribution Date in addition, each Affected Third Party Unsecured Creditor of the Sears Parties who is not a Sears Opt-In Creditor shall receive its pro rata share of any Litigation Reimbursement Amount;

- (d) as illustrated in the example set out at **Schedule D** hereto the Monitor shall hold back the Litigation Cost Recovery Amount from the first Plan Distribution made on account of each Proven Affected Unsecured Claim (including any Unresolved Affected Unsecured Claim that becomes a Proven Claim) of a Sears Opt-In Creditor; such Litigation Cost Recovery Amount to be deducted in equal proportion from the first Plan Distribution made to each Sears Opt-In Creditor on account of its Proven Affected Unsecured Claim. The Monitor shall also be permitted to increase the Litigation Cost Recovery Amount from time to time as deemed necessary to satisfy any Monitor's Cost Indemnity Claim or the Litigation Trustee's Indemnity, provided that any such increase shall be funded pro rata from amounts otherwise distributable hereunder to all Sears Opt-In Creditors;
- (e) once (i) the LT Claims and TUV Claim have been Finally Determined, (ii) all applicable Litigation Recoveries, if any, from such Final Determination have been received by or on behalf of Sears Canada Entities, (iii) all Litigation Costs have been paid, and (iv) all Unresolved Affected Unsecured Claims have been Finally Determined to be or not be Proven Claims, the Monitor, on behalf of the Sears Parties, shall distribute to each Sears Opt-In Creditor with a Proven Affected Third Party Unsecured Claim:
 - (A) its Third Party Pro Rata Share of the Litigation Recoveries Pool; and
 - (B) such share of the remaining balance of Litigation Costs Recovery Fund as determined by the Monitor in its sole discretion that is necessary to ensure that:
 - (I) all remaining Cash in the Litigation Costs Recovery Fund is returned to the Sears Opt-In Creditors; and
 - (II) each Sears Opt-In Creditor with a Proven Affected Unsecured Claim has contributed its pro rata share of the aggregate amount of the Litigation Costs,

and notwithstanding the foregoing, interim distributions from the Litigation Recoveries Pool and Litigation Costs Recovery Fund shall be permitted as the Monitor deems appropriate or as approved by the Court.

7.2 Tax Matters

- (a) Subject to Section 7.2(b), notwithstanding any provisions of the Plan, each Person that receives a distribution, disbursement or other payment pursuant to the Plan shall have sole and exclusive responsibility for the satisfaction and payment of any Tax obligations imposed on such Person by any Taxing Authority on account of such distribution, disbursement or payment.
- (b) Any payor shall be entitled to deduct and withhold and remit from any distribution, payment or consideration otherwise payable to any Person pursuant to the Plan such

amounts as are required to be deducted and withheld with respect to such payment under the *Income Tax Act* (Canada), or any provision of federal, provincial, territorial, state, local or foreign tax law, in each case, as amended or restated (a “**Withholding Obligation**”). For greater certainty, no distribution, payment or other consideration shall be made to or on behalf of a Person until such Person has delivered to the Monitor such documentation prescribed by Applicable Law or otherwise reasonably required by the Monitor as will enable it to determine whether or not, and to what extent, such distribution, payment or consideration to such Person is subject to any Withholding Obligation imposed by any Taxing Authority.

- (c) To the extent that amounts are withheld or deducted from an amount payable to any Person and paid over to the applicable Taxing Authority, such withheld or deducted amounts shall be treated for all purposes of the Plan as having been paid to such Person, together with the remainder of the payment in respect of which such withholding and deduction were made.
- (d) For the avoidance of doubt, it is expressly acknowledged and agreed that all distributions, payments and disbursements made hereunder shall be made by, or on behalf of, the Sears Canada Entities, and no provision hereof shall be construed to have effect to the contrary.

7.3 Priority of Payments

The aggregate amount payable (the “**Payment Amount**”) under this Plan to a particular Creditor (the “**Payee Party**”) in respect of a particular Plan Distribution from a particular Sears Canada Entity (the “**Payor Party**”) shall be applied as follows in respect of the particular Claims giving rise to the applicable distribution or payment:

- (a) first, to the repayment of the principal amount of any loans or cash advances made by the Payee Party to the Payor Party up to the total principal amount;
- (b) second, to the extent that the applicable Payment Amount exceeds the aggregate of the amounts described in paragraph (a), to interest payable on any such loans or cash advances;
- (c) third, to the extent that the applicable Payment Amount exceeds the aggregate of the amounts described in paragraphs (a) and (b), to unpaid fees in respect of services provided by or on behalf of the Payee Party to the Payor Party, other than any such unpaid fees in respect of services rendered in Canada; and
- (d) finally, to the extent that the applicable Payment Amount exceeds the aggregate of the amounts described in paragraphs (a) through (c), to any remaining Claims not described in such paragraphs.

For greater certainty, any terms or conditions of any Affected Claim that purport to deal with the ordering or grant of priority of payment of principal, interest, payments or other amounts shall be deemed void and ineffective to the extent inconsistent with the ordering provided for in this Section 7.3.

7.4 Method of Payment

All Plan Distributions to Affected Unsecured Creditors with Proven Affected Unsecured Claims (other than to Sears Canada Entities, which shall be made as set out in Sections 5.1 and 7.1, and other than Plan Distributions effected by set-off) to be made by the Monitor, on the Sears Canada Entities’ behalf, under the Plan shall be made:

- (a) in the case of an Affected Unsecured Creditor that has not assigned its Affected Unsecured Claim:
 - (i) subject to subsection (ii) below, if the Affected Unsecured Creditor duly filed a Proof of Claim that set out an address for such Creditor or its agent, to the address set out in such Proof of Claim;
 - (ii) if any address was subsequently provided to the Monitor in accordance with the applicable Claims Procedure Order, to such address;
 - (iii) if no address was provided to the Monitor under subsections (i) and (ii) above, and the Affected Unsecured Creditor is an Employee in respect of whom Employee Representative Counsel has provided an address, to such address;
 - (iv) if no address was provided to the Monitor under subsections (i) and (ii) above, and the Affected Unsecured Creditor is a Retiree in respect of whom Pension Representative Counsel has provided an address, to such address; and
 - (v) in all other cases, to the address on file in the books and records of the Sears Canada Entities; and
- (b) in the case of an Affected Unsecured Creditor that is a Valid Transferee, to the address set out in such Valid Transferee's Notice of Transfer or Assignment.

7.5 Treatment of Uncashed Distributions or Payments

- (a) If any Creditor's distribution in respect of its Affected Unsecured Claim, Priority Claim or Secured Claim is not cashed and becomes stale-dated or is returned as undeliverable or a social insurance number, which is required to deliver distributions to an Employee or Retiree, is not provided by or on behalf of such Employee or Retiree to the Monitor in accordance with the terms of any Order of the Court (an "**Undeliverable Distribution**"), no distributions shall be made to such Creditor unless and until the Monitor is notified in writing by such Creditor of such Creditor's current address and (if applicable) social insurance number, at which time all such distributions shall be made to such Creditor. The Monitor (or the Warranty Claims Administrator, as applicable) shall reserve from the applicable Cash Pool (or the Warranty Reimbursement Pool, if applicable) the amount of cash equal to the Undeliverable Distribution.
- (b) All notices from Creditors seeking to recover an Undeliverable Distribution existing prior to the Final Distribution must be made in writing to the Monitor (in the manner contemplated by Section 11.8 hereof) on or before the date that is sixty (60) days following the date on which the Monitor serves on the Service List and posts a copy of the Final Distribution Certificate on the Website (the "**Final Distribution Bar Date**"), after which date any Affected Unsecured Claims, Priority Claims or Secured Claims underlying any Undeliverable Distributions shall be forever barred as against the Sears Canada Entities without any compensation therefor, notwithstanding any Applicable Law to the contrary.
- (c) The amount of any Undeliverable Distributions that remain unclaimed, undeliverable or uncashed and stale-dated sixty (60) days following the Final Distribution Bar Date shall be returned to the applicable Cash Pools for distribution to Affected Unsecured Creditors on the Final Distribution. Any Undeliverable Distributions that may arise from the Final Distribution shall be delivered to the Pension Plan Administrator for distribution to the Pension Plan.

- (d) Nothing in the Plan or Sanction Order shall (i) require the Monitor or the Sears Canada Entities to attempt to locate any Affected Unsecured Creditor, Employee, Retiree, Governmental Authority or Secured Creditor with respect to an Undeliverable Distribution, nor (ii) require the Monitor or the Sears Canada Entities to make any further distribution to any Creditor while a prior distribution in respect of such Creditor's Affected Unsecured Claim, Priority Claim or Secured Claim constitutes an Undeliverable Distribution. No interest shall be payable in respect of an Undeliverable Distribution.

7.6 Payment and Treatment of Certain Unaffected Claims, Including Litigation Costs

- (a) The following Unaffected Claims shall be paid from the Administrative Reserve, and allocated in each case to such Debtor Group's share of the Administrative Reserve in accordance with the Cost Allocation Methodology, all in accordance with this Article 7 and pursuant to the Sanction Order and the CCAA:
- (i) all fees and disbursements of counsel to the Sears Canada Entities, the Monitor and counsel to the Monitor, Employee Representative Counsel, and Pension Representative Counsel (x) accrued but not yet paid prior to the Plan Implementation Date, and (y) accruing after the Plan Implementation Date; and
 - (ii) ordinary course expenses of the Sears Canada Entities.
- (b) All Litigation Costs shall be paid from or credited against the Litigation Costs Recovery Fund.
- (c) From and after the Plan Implementation Date, the Administration Charge and Litigation Trustee's Charge shall continue against the Cash Pools, the Reserves, the Litigation Costs Recovery Fund, all remaining Property of the Sears Canada Entities and any additional proceeds realized by the Sears Canada Entities (including Tax Refunds and Litigation Recoveries) until such monies are disbursed or distributed by the Monitor, on behalf of the applicable Sears Canada Entity. The Administration Charge shall be in the same amounts and priority as set out in the Initial Order (as amended by the Litigation Approval Orders) pursuant to and in accordance with the Sanction Order, as such amounts may be reduced from time to time in the determination of the Monitor or by further Order of the Court.
- (d) On the Plan Implementation Date, the CCAA Charges (other than the Administration Charge and the Litigation Trustee's Charge) shall be terminated in accordance with the Sanction Order.
- (e) Notwithstanding anything to the contrary herein, Insured Claims shall not be compromised, released, discharged, cancelled and barred by this Plan, provided that from and after the Plan Implementation Date, any Person having an Insured Claim shall be irrevocably limited to recovery in respect of such Insured Claim solely from the applicable Insurance Policies. This Section 7.6(e) may be relied upon and raised or pleaded by the Sears Canada Entities in defence or estoppel of or to enjoin any claim, action or proceeding brought in contravention of this Section. Nothing in this Plan shall prejudice, compromise, release or otherwise affect any right or defence of any insured or insurer in respect of an Insured Claim.

7.7 Timing of Distributions

The Monitor may from time to time make Plan Distributions on account of Proven Affected Unsecured Claims and will make no distribution in respect of a Claim until it is a Proven Claim.

7.8 Remaining Cash

If the final amount in the applicable Cash Pool is an amount for which the Monitor determines the cost of such distribution relative to the amount to be distributed is not justified, no Plan Distribution of such final amount shall occur and instead such amount shall be paid to the Pension Plan Administrator for distribution to the Pension Plan.

Article 8 Plan Implementation

8.1 Corporate Authorizations

The adoption, execution, delivery, implementation and consummation of all matters contemplated under the Plan involving any corporate or other action of any of the Sears Canada Entities will occur and be effective as of the Effective Time, and will be authorized and approved under the Plan and by the Court, where appropriate, as part of the Sanction Order, in all respects and for all purposes without any requirement of further action by shareholders, partners, Directors or Officers of such Sears Canada Entity. All necessary approvals to take actions shall be deemed to have been obtained from the Directors or shareholders or partners of the Sears Canada Entities, as applicable.

Article 9 Releases

9.1 Plan Releases

- (a) As at the Effective Time, each of the Directors, Officers and Employees, as well as the Specified Advisors (being referred to individually as a “**Sears Released Party**”) shall be released and discharged from any and all demands, claims, actions, applications, causes of action, counterclaims, suits, debts, sums of money, accounts, covenants, damages, judgments, orders (including for priority, injunctive relief or specific performance and compliance orders), expenses, executions, encumbrances and other recoveries on account of any Liability, obligation, demand or cause of action of whatever nature, which any Affected Creditor, Unaffected Creditor (except to the extent of its Unaffected Claim) or other Person may be entitled to assert, whether known or unknown, matured or unmatured, foreseen or unforeseen, existing or hereafter arising, based in whole or in part on any act, omission, transaction, duty, responsibility, indebtedness, Liability, obligation, dealing or other occurrence existing or taking place on or prior to the Plan Implementation Date that are in any way relating to, arising out of or in connection with the Claims, the Business and affairs of the Sears Canada Entities whenever or however conducted, the Plan, the CCAA Proceedings or any matter or transaction involving any of the Sears Canada Entities occurring in or in connection with the CCAA Proceedings (including the Plan or the development thereof, the Deemed Trust Motions, any Claim that has been barred or extinguished by the Claims Procedure Orders, or any distributions, payments, disbursements, actions, steps or transactions, taken to implement the Plan), and in each case all claims arising out of such aforesaid matters shall be forever waived and released all to the full extent permitted by Applicable Law; with the following exceptions:
- (i) nothing herein shall release, affect, prejudice or discharge Non-Released Claims or shall release, affect prejudice or discharge the LT/TUV Litigation or Pension/Dealer Litigation or provide any defence to any party to such litigation or to any future litigation in respect of any Non-Released Claims; and
 - (ii) any claim (excluding, for greater certainty, the LT/TUV Litigation, the Pension/Dealer Litigation or any future litigation in respect of any Non-Released

Claim) that has been commenced as of the Plan Implementation Date against an Employee personally solely as a result of performing their duties as an Employee of a Sears Canada Entity shall not be released but shall be limited to recovery from any insurance proceeds payable in respect of such claim under any Insurance Policy, and any Persons with any such claim shall have no right to, and shall not, make any claim or seek any recoveries from any Person (including any such Employee) other than enforcing such Person's rights to be paid from such insurance proceeds by the applicable insurer(s); provided further that nothing in this Plan shall prejudice, compromise, release or otherwise affect any right or defence of any insured or insurer in respect of any such claim.

- (b) As at the Effective Time, the Monitor, FTI (including in its capacity as receiver further to the Receivership Order) and their respective current and former affiliates, directors, officers and employees and all of their respective advisors, legal counsel and agents, as well as Employee Representative Counsel, Pension Representative Counsel, the Employee Representatives, and the Pension Representatives (being referred to individually as a "**Third Party Released Party**") shall be released and discharged from any and all demands, claims, actions, applications, causes of action, counterclaims, suits, debts, sums of money, accounts, covenants, damages, judgments, orders (including for priority, injunctive relief or specific performance and compliance orders), expenses, executions, encumbrances and other recoveries on account of any Liability, obligation, demand or cause of action of whatever nature, which any Affected Creditor, Unaffected Creditor or other Person may be entitled to assert, whether known or unknown, matured or unmatured, foreseen or unforeseen, existing or hereafter arising, based in whole or in part on any act, omission, transaction, duty, responsibility, indebtedness, Liability, obligation, dealing or other occurrence existing or taking place on or prior to the Plan Implementation Date that are in any way relating to, arising out of or in connection with the Claims, the Business and affairs of the Sears Canada Entities whenever or however conducted, the Plan, the CCAA Proceedings or any matter or transaction involving any of the Sears Canada Entities occurring in or in connection with the CCAA Proceedings (including the Plan or the development thereof, the Deemed Trust Motions, any Claim that has been barred or extinguished by the Claims Procedure Orders, or any distributions, payments, disbursements, actions, steps or transactions, taken to implement the Plan), and in each case all claims arising out of such aforesaid matters shall be forever waived and released all to the full extent permitted by Applicable Law, provided that nothing herein shall release or discharge any Non-Released Claims.
- (c) Without limiting the foregoing releases and discharges in favour of the Released Parties, as against any Sears Canada Entity, any
- (i) De Minimis Claim,
 - (ii) Equity Claim; and
 - (iii) other Affected Claim against the Sears Canada Entities that is not, or does not become, a Proven Claim, including Affected Claims that have not been filed by the claims bar date provided under the Claims Procedure Orders,
- shall be deemed fully and finally released, discharged, barred and extinguished.
- (d) Any Affected Claim against the Sears Canada Entities that is a Proven Claim shall not be released but shall be entitled to recoveries against the assets of the Sears Canada Entities solely in accordance with distributions provided by this Plan and any further rights in respect of such Affected Claims against the Sears Canada Entities or their assets are compromised and settled in accordance with this Plan.

Article 10 Court Sanction, Conditions Precedent and Plan Implementation

10.1 Application for Sanction Order

If the Plan is approved by the Required Majority in each Unsecured Creditor Class at the Meetings, the Monitor shall file a motion seeking the Sanction Order to be heard on or before April 3, 2019 or such later date as the Court may order.

10.2 Sanction Order

The Sanction Order shall, among other things:

- (a) declare that (i) the Plan has been approved by the Required Majority in each Unsecured Creditor Class voting in conformity with the CCAA and the Meetings Order; (ii) the Sears Canada Entities (directly or through the Monitor) have complied with the provisions of the CCAA and the Orders of the Court; (iii) the Court is satisfied that the Sears Canada Entities (directly or through the Monitor) have not done or purported to do anything that is not authorized by the CCAA; (iv) the Sears Canada Entities (directly or through the Monitor) have each acted in good faith and with due diligence; and (v) the Plan and the implementation steps contemplated thereby are fair and reasonable;
- (b) authorize the Monitor to perform its functions under the Plan, including the establishment of the Reserves and Litigation Costs Recovery Fund, and cause the Sears Canada Entities to perform their obligations and functions under the Plan and to perform all such other acts and execute such documents as may be required in connection with the foregoing;
- (c) declare that the Plan and all associated steps, compromises, transactions and arrangements effected thereby are approved, binding and effective on the Sears Canada Entities, all Affected Creditors, the Released Parties and all Persons named or referred to in, affected by, or subject to the Plan as of the Effective Time;
- (d) order that, upon delivery to the Monitor of the Condition Certificate as to the fulfillment or waiver of the condition precedent to implementation of the Plan set out in Section 10.3(f) and satisfaction of the Monitor as to the fulfillment or waiver of all other conditions precedent to implementation of the Plan as set out in Sections 10.3(a) through (e) below, the Monitor shall issue forthwith the Plan Implementation Date Certificate, and file with the Court the Plan Implementation Date Certificate as soon as reasonably practicable after issuance thereof;
- (e) order that, upon issuance of the Plan Implementation Date Certificate, the Deemed Trust Motions and the motion of Employee Representative Counsel to lift the stay of proceedings to file bankruptcy applications against Sears Canada Entities shall be deemed to be withdrawn and discontinued without costs;
- (f) as of the Plan Implementation Date, declare that the ability of any Person to proceed against any one or more of the Sears Canada Entities in respect of or relating to any Affected Claims shall be forever discharged and restrained, and all proceedings with respect to, in connection with or relating to such Affected Claims be permanently stayed, subject only to the right of Affected Creditors to receive distributions pursuant to the Plan in respect of their Affected Claims (to the extent they are or become Proven Affected Unsecured Claims); provided, however, and for greater certainty that none of the compromises, settlements, releases and discharges contemplated herein shall release, affect or prejudice Non-Released Claims, including any claims that arise out of or relate

to the dividend paid to shareholders of Sears Canada on or around December 3, 2013 in the amount of approximately \$509 million, including but not limited to the LT/TUV Litigation or Pension/Dealer Litigation or provide any defence to any party to such litigation;

- (g) as of the Plan Implementation Date, approve the releases set forth in Article 9 hereof and enjoin the prosecution, whether directly, derivatively or otherwise, of any Claim, obligation, suit, judgment, damage, demand, debt, right, cause of action, Liability or interest released, discharged, compromised or terminated pursuant to the Plan;
- (h) provide for discharge of the CCAA Charges (other than the Administration Charge and the Litigation Trustee's Charge) and the continuation of the Administration Charge and Litigation Trustee's Charge, which shall survive the Plan Implementation Date and attach to the Property, the Reserves and the Litigation Costs Recovery Fund, all in accordance with the Plan;
- (i) provide for the termination of the Hardship Process and that all remaining amounts shall become Sears Cash on the Plan Implementation Date; and
- (j) declare that, in carrying out the terms of the Sanction Order and the Plan, (i) the Monitor shall benefit from all the protections given to it by the CCAA, the Initial Order and any other Order in the CCAA Proceedings, and as an officer of the Court, including the stay of proceedings in its favour; (ii) the Monitor shall incur no liability or obligation as a result of carrying out the provisions of the Sanction Order and/or the Plan; and (iii) the Monitor and any Authorized Representative (as defined in the Governance Protocol Order) shall be entitled to rely on the books and records of the Sears Canada Entities and any information provided by any of the Sears Canada Entities without independent investigation and shall not be liable for any claims or damages resulting from any errors or omissions in such books, records or information.

10.3 Conditions Precedent to Implementation of the Plan

The implementation of the Plan, including distributions thereunder, shall be conditional upon the fulfilment or waiver, to the extent permitted by the CCAA, of the following conditions precedent by the date specified therefor:

- (a) each Unsecured Creditor Class shall have approved the Plan in the Required Majority;
- (b) each of the Meetings Order and the Sanction Order shall have been granted;
- (c) each of the Meetings Order and the Sanction Order shall have become Final Orders;
- (d) the Monitor shall have received such clearance certificates, or comfort letters in lieu thereof from the Canada Revenue Agency or any other applicable Taxing Authority, as the Monitor considers necessary or advisable, to make any Plan Distributions;
- (e) the Plan Implementation Date shall have occurred before April 30, 2019, or such later date as agreed to by the Pension Parties and Monitor; and
- (f) the Pension Parties shall be satisfied that:
 - (i) the Plan provides no less than \$155,000,000 available for distribution to Affected Unsecured Creditors, net of all Reserves and without accounting for any Litigation Recoveries or the contribution of amounts to the Litigation Cost Recovery Fund; and

- (ii) Proven Affected Third Party Unsecured Claims shall be no more than \$1,550,000,000, excluding the Pension Claims, and any claims of Directors, Officers and ESL Parties for indemnification or contribution from the Sears Canada Entities, whether liquidated or unliquidated.

The Monitor may at any time and from time to time waive the fulfillment or satisfaction, in whole or in part, of the conditions set out herein, provided however, that (i) the conditions set out in (a) and (b) above cannot be waived; and (ii) the conditions set out in (e) and (f) above may be waived by the Monitor only with the consent or agreement of the Pension Parties.

At or prior to the time of the Meetings, the Pension Parties shall deliver to the Monitor written notice confirming, as applicable, the fulfillment or waiver, to the extent available, of the condition precedent to implementation of the Plan as set out in Section 10.3(f) above (the “**Condition Certificate**”).

10.4 Plan Implementation Date Certificate

Upon receipt by the Monitor of the Condition Certificate from the Pension Parties, and upon satisfaction of the Monitor as to the fulfillment or waiver, to the extent permitted herein, of the conditions described in Sections 10.3(a) through (e), the Monitor shall (a) issue forthwith the Monitor’s Plan Implementation Date Certificate to the Sears Canada Entities and serve a copy of such Plan Implementation Date Certificate on the Service List, and (b) file as soon as reasonably practicable a copy of the Monitor’s Plan Implementation Date Certificate with the Court. With respect to the condition set out at Section 10.3(f), the Monitor will be relying exclusively on the Condition Certificate, without any obligation whatsoever to verify the satisfaction or waiver of such condition. Following the filing of the Monitor’s Plan Implementation Date Certificate with the Court, the Monitor shall post a copy of same on the Website.

Article 11 General

11.1 General

On the Plan Implementation Date, or at such other times as provided in the Plan:

- (a) the Plan will become effective at the Effective Time;
- (b) the steps set out in Article 7 will commence;
- (c) the treatment of Claims under the Plan shall be final and binding for all purposes and enure to the benefit of the Sears Canada Entities, all Affected Creditors, the Released Parties and all other Persons and parties named or referred to in, or subject to, the Plan and their respective heirs, executors, trustees in bankruptcy, administrators and other legal representatives, successors and assigns;
- (d) all releases, compromises and settlements contained in Section 9.1 of the Plan shall become effective;
- (e) each Person named or referred to in, or subject to, the Plan shall be deemed to have consented and agreed to all of the provisions of the Plan, in its entirety; and
- (f) each Person named or referred to in, or subject to, the Plan shall be deemed to have executed and delivered to the Sears Canada Entities and/or Monitor all consents, releases, directions, assignments and waivers, statutory or otherwise, required to implement and carry out the Plan in its entirety.

11.2 Claims Bar Dates

Nothing in this Plan extends or shall be interpreted as extending or amending any deadline or claims bar date provided for under either Claims Procedure Order, or gives or shall be interpreted as giving any rights to any Person in respect of Claims that have been barred or extinguished pursuant to the Claims Procedure Orders.

11.3 Deeming Provisions

In the Plan, the deeming provisions are not rebuttable and are conclusive and irrevocable.

11.4 Non-Consummation

The Monitor reserves the right to revoke or withdraw the Plan at any time prior to the Plan Implementation Date with approval of the Court. If: (i) the Monitor revokes or withdraws the Plan in accordance with the foregoing, or (ii) the Plan Implementation Date does not occur before April 30, 2019 or such later date as agreed to by the Monitor and the Pension Parties, then: (a) the Plan (including all steps taken thereunder) shall be null and void in all respects, (b) any settlement or compromise embodied in the Plan, or any document or agreement executed pursuant to or in connection with the Plan shall be deemed to be null and void; and (c) nothing contained in the Plan, and no acts taken in preparation for consummation of the Plan, shall:

- (a) constitute or be deemed to constitute a waiver or release of any Claims by or against any of the Sears Canada Entities, the Pension Parties or any other Person;
- (b) prejudice in any manner the rights of the Sears Canada Entities, the Pension Parties or any other Person in any further proceedings involving any of the Sears Canada Entities; or
- (c) constitute an admission of any sort by any of the Sears Canada Entities or any other Person.

11.5 Modifications of the Plan

The Monitor may at any time prior to and after the Meetings (and both prior to and subsequent to the obtaining of the Sanction Order), file a Plan Modification (a) pursuant to an Order of the Court, or (b) without further Court or Creditor approval, where such Plan Modification concerns (i) a matter which is of an administrative nature required to better give effect to the implementation of the Plan and the Sanction Order, or (ii) cure any errors, omissions or ambiguities, and in either case of foregoing clause (i) and (ii), is not materially adverse to the financial or economic interests of the Affected Creditors.

11.6 Paramountcy

From and after the Effective Time, any conflict between:

- (a) the Plan; and
- (b) the covenants, warranties, representations, terms, conditions, provisions or obligations, expressed or implied, of any contract, mortgage, security agreement, indenture, trust indenture, loan agreement, commitment letter, agreement for sale, lease or other agreement (including the Pension Support Agreement), written or oral and any and all amendments or supplements thereto existing between any Person and the Sears Canada Entities as at the Plan Implementation Date and the articles and by-laws or other constating documents of the Sears Canada Entities

will be deemed to be governed by the terms, conditions and provisions of the Plan and the Sanction Order, which shall take precedence and priority.

11.7 Responsibilities of the Monitor

FTI is acting and will continue to act in all respects in its capacity as Monitor in the CCAA Proceedings with respect to the Sears Canada Entities and not in its personal or corporate capacity. The Monitor will not be responsible or liable in its personal or corporate capacity for carrying out its obligations under the Plan or the Sanction Order nor will the Monitor be responsible for any obligations of the Sears Canada Entities whatsoever. The Monitor will have the powers and protections granted to it by the Plan, the CCAA, the Initial Order, the Sanction Order and any other Order of the Court made in the CCAA Proceedings.

11.8 Notices

Any notice or other communication to be delivered hereunder must be in writing and reference the Plan and may, subject as hereinafter provided, be made or given by personal delivery, or by email addressed to the respective parties as follows:

- (a) If to the Sears Canada Entities:

Sears Canada Inc.
c/o FTI Consulting Canada Inc.
79 Wellington Street West
TD South Tower, Suite 2010
PO Box 104
Toronto, ON M5K 1G8

Attention: Steve Bissell
Email: searscanada@fticonsulting.com

with a copy to:
Norton Rose Fulbright Canada LLP
Royal Bank Plaza, South Tower. Suite 3800
200 Bay Street
Toronto, ON M5J 2Z4

Attention: Orestes Pasparakis & Virginie Gauthier
Email: orestes.pasparakis@nortonrosefulbright.com /
virginie.gauthier@nortonrosefulbright.com

- (b) If to the Monitor:

FTI Consulting Canada Inc.
79 Wellington Street West
TD South Tower, Suite 2010
PO Box 104
Toronto, ON M5K 1G8

Attention: Steve Bissell
Email: searscanada@fticonsulting.com

with a copy to:

Norton Rose Fulbright Canada LLP
Royal Bank Plaza, South Tower. Suite 3800

200 Bay Street
Toronto, ON M5J 2Z4

Attention: Orestes Pasparakis & Virginie Gauthier
Email: orestes.pasparakis@nortonrosefulbright.com /
virginie.gauthier@nortonrosefulbright.com

or to such other address as any party may from time to time notify the others in accordance with this Section. Any such communication so given or made shall be deemed to have been given or made and to have been received on the day of delivery if delivered, or on the day of sending by means of recorded electronic communication, provided that such day in either event is a Business Day and the communication is so delivered or sent before 5:00 p.m. on such day. Otherwise, such communication shall be deemed to have been given and made and to have been received on the next following Business Day.

11.9 Further Assurances

Each of the Persons named or referred to in, or subject to, the Plan will execute and deliver all such documents and instruments and do all such acts and things as may be necessary or desirable to carry out the full intent and meaning of the Plan and to give effect to the transactions contemplated herein.

DATED as of the 12th day of February, 2019.

Schedule A Definitions

“**168886**” has the meaning ascribed thereto in the Recitals;

“**2497089**” has the meaning ascribed thereto in the Recitals;

“**249 SCI Loan**” means the \$160 million loan made by 2497089 to Sears Canada under the Tax Loss Utilization Structure;

“**Administration Charge**” has the meaning given to such term in the Initial Order;

“**Administrative Reserve**” means a Cash reserve from the SLH Cash, Corbeil Cash and Sears Cash, as applicable in accordance with the Cost Allocation Methodology, in an amount to be adjusted from time to time as determined by the Monitor, and to be reserved by the Monitor on an accounting basis, for the purpose of paying the Administrative Reserve Amounts, from time to time;

“**Administrative Reserve Amounts**” means:

- (a) costs incurred and in respect of: (i) the Monitor’s fees and disbursements (including of its legal counsel and other consultants and advisors) in connection with the performance of its duties under the Plan and in the CCAA Proceedings, including all costs associated with resolving Unresolved Claims; (ii) any third party fees in connection with the administration of distributions, disbursements and payments under the Plan; (iii) fees and disbursements of the Sears Canada Entities’ legal counsel, consultants and other advisors; (iv) the fees and disbursements of Employee Representative Counsel and Pension Representative Counsel; (v) the fees and disbursements of any Claims Officer appointed under the Claims Procedure Orders; (vi) ordinary course costs (including operating costs such as wages and rent) expected to be incurred following the previous Distribution Date; and (vii) any other reasonable amounts in respect of any determinable contingency as the Monitor may determine in its sole discretion, but excluding any and all Litigation Costs; and
- (b) Post-Filing Claims and Unaffected Claims, to the extent not already resolved and paid;

“**Affected Claim**” means any Claim other than an Unaffected Claim;

“**Affected Creditor**” means any Creditor holding an Affected Claim, including a Sears Canada Entity holding an Affected Claim;

“**Affected Third Party Unsecured Claim**” means an Affected Unsecured Claim of an Affected Third Party Unsecured Creditor;

“**Affected Third Party Unsecured Creditor**” means the Pension Plan Administrator in respect of the Pension Claims or an Affected Unsecured Creditor, other than a Sears Canada Entity;

“**Affected Unsecured Claim**” means an Unsecured Claim that is an Affected Claim, which for greater certainty includes the Pension Claims;

“**Affected Unsecured Creditor**” means a Creditor who has an Affected Unsecured Claim;

“**Affiliate**” means, with respect to any Person, any other Person who directly or indirectly controls, is controlled by, or is under direct control or indirect common control with, such Person, and includes any Person in like relation to an Affiliate. A Person shall be deemed to “**control**” another Person if such Person possesses, directly or indirectly, the power to direct or cause the direction of the management and

policies of such other Person, whether through ownership of voting securities, by contract or otherwise, and the term “**controlled**” shall have a similar meaning;

“**Applicants**” has the meaning ascribed thereto in the Recitals;

“**Applicable Law**” means any law (including any principle of civil law, common law or equity), statute, order, decree, judgment, rule, regulation, ordinance, by-law or other pronouncement having the effect of law, whether in Canada or any other country or any domestic or foreign province, state, city, county or other political subdivision;

“**Assessments**” means Claims of Her Majesty the Queen in Right of Canada or of any province or territory or municipality or any other Taxing Authority in any Canadian or foreign jurisdiction, including amounts which may arise or have arisen under any notice of assessment, notice of objection, notice of reassessment, notice of appeal, audit, investigation, demand or similar request from any Taxing Authority;

“**Available Cash**” means, in respect of a Debtor Group, either the SLH Cash, the Corbeil Cash, or the Sears Cash, as applicable, for such Debtor Group;

“**BIA**” means the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended;

“**Business**” means the direct and indirect business operations, activities and affairs carried on, or formerly carried on, by Sears Canada Entities both before and on and after the Filing Date;

“**Business Day**” means a day on which banks are open for business in the City of Toronto, Ontario, Canada, but does not include a Saturday, Sunday or a statutory holiday in the Province of Ontario;

“**Cash**” means cash, certificates of deposit, bank deposits, commercial paper, treasury bills and other cash equivalents;

“**Cash Pools**” means, together, the Debtor Cash Pools and the Litigation Recoveries Pool;

“**Cash Pool/Holdback Adjustments**” means, with respect to a Cash Pool or the Litigation Cost Recovery Fund, the adjustments to such Cash Pool or the Litigation Cost Recovery Fund, as applicable, as applied in the order set out in Sections 7.1(a) to (e);

“**CCAA**” has the meaning ascribed thereto in the Recitals;

“**CCAA Charges**” means the Administration Charge, the Litigation Trustee’s Charge, the KERP Priority Charge, the Directors’ Priority Charge, the DIP ABL Lenders’ Charge, the DIP Term Lenders’ Charge, the KERP Subordinated Charge, and the Directors’ Subordinated Charge, the FA Charge, and any other charges granted by the Court in the CCAA Proceedings;

“**CCAA Proceedings**” has the meaning ascribed thereto in the Recitals;

“**Claim**” means a Pre-Filing Claim, a Restructuring Period Claim, a Post-Filing Claim, and a D&O Claim, and for greater certainty shall include a Construction Claim, a Warranty Claim, an Employee Claim and a Retiree Claim, as well as any Claim arising through subrogation or assignment against any Sears Canada Entity or Director or Officer;

“**Claims Officer**” means any individual or individuals appointed by the Court pursuant to a Claims Procedure Order;

“**Claims Procedure Order (E&R)**” means the Employee and Retiree Claims Procedure Order of the Court dated February 22, 2018 (as such order may be amended, supplemented or restated from time to time), approving and implementing the claims procedure for the Claims of Employees and Retirees made

in respect of the Sears Canada Entities and the Directors and Officers (including all schedules and appendices thereof);

“Claims Procedure Order (General)” means the Claims Procedure Order of the Court dated December 8, 2017 (as such order may be amended, supplemented or restated from time to time), approving and implementing the claims procedure in respect of the Sears Canada Entities and the Directors and Officers (including all schedules and appendices thereof);

“Claims Procedure Orders” means together the Claims Procedure Order (General) and the Claims Procedures Order (E&R);

“Condition Certificate” has the meaning ascribed thereto in Section 10.3;

“Construction Claim” has the meaning ascribed thereto in the Claims Procedure Order (General);

“Corbeil Cash” means all Cash on hand of Former Corbeil as at the Filing Date, plus the proceeds of sale of the Corbeil Transaction, and all Cash that is received by Former Corbeil following the Filing Date, whether from the sale, disposition or monetization of any remaining assets, receipt of any Tax Refund or any other Cash received by Former Corbeil from time to time, less:

- (a) Cash actually spent or distributed by Former Corbeil since the Filing Date but prior to the Plan Implementation Date,
- (b) the amount of the Corbeil Reserves,
- (c) the amount of any Plan Distributions, payments on account of Proven Unaffected Claims, or payments made pursuant to or as contemplated by the Plan, attributable to or on behalf of Former Corbeil,

plus or minus, as applicable,

- (d) Former Corbeil’s Cost Allocation Amount and Ordinary Course Post-Filing Intercompany Position;

“Corbeil Cash Pool” means the Corbeil Cash available for distribution to (a) the Affected Unsecured Creditors of Former Corbeil with Proven Affected Unsecured Claims under the Plan, or (b) Sears Canada as the shareholder of Former Corbeil, calculated on each Distribution Date, immediately prior to any Cash Pool/Holdback Adjustment;

“Corbeil Reserves” means, collectively, the Unresolved Claims Reserve for Former Corbeil, that portion of the Administrative Reserve allocated in accordance with the Cost Allocation Methodology to Former Corbeil, and any other reserve the Monitor considers necessary or appropriate, as each of them may be adjusted from time to time in accordance with the Plan;

“Corbeil Transaction” means the sale transaction contemplated by the asset purchase agreement between Former Corbeil, as seller, and Am-Cam Electroménagers Inc. as buyer, Distinctive Appliances Inc., as guarantor, and Sears Canada, as intervenor, dated October 1, 2017 and approved by the Court on October 4, 2017;

“Cost Allocation Amount” means, in respect of a Debtor Group, an amount equal to the difference between:

- (a) the actual amounts paid out of such Debtor Group’s Available Cash on account of (i) post-filing professional fees incurred up to and including the relevant Distribution Date, (ii)

amounts repaid on account of principal, interest and fees under the DIP Loan Agreements, and (iii) any shared services overhead; and

- (b) such Debtor Group's share as determined by the Cost Allocation Methodology of all of the foregoing amounts paid by the Sears Canada Entities as a whole;

"Cost Allocation Methodology" means the methodology for the allocation of the costs of the CCAA Proceedings amongst the Sears Canada Entities as set out at paragraph 84 of the Sixteenth Report of the Monitor dated April 2, 2018;

"Court" means the Ontario Superior Court of Justice (Commercial List) or any appellate court seized with jurisdiction in the CCAA Proceedings, as the case may be;

"Creditor" means any Person having a Claim, but only with respect to and to the extent of such Claim, including the transferee or assignee of a transferred Claim that is recognized as a Creditor in accordance with the Claims Procedure Orders, the Plan and the Meetings Order, or a trustee, executor, liquidator, receiver, receiver and manager of, or other Person acting on behalf of or through, such Person;

"D&O Claim" means any right or claim of any Person against one or more of the Directors and/or Officers howsoever arising, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including any Assessments and any right or ability of any Person to advance a claim for contribution, indemnity or otherwise against any of the Directors and/or Officers with respect to any matter, action, cause or chose in action, however arising, for which any Director or Officer is alleged to be, by statute or otherwise by law or equity, liable to pay in his or her capacity as a Director or Officer;

"D&O Insurer" means any insurer under a directors' and officers' insurance policy pursuant to which any Director and/or Officer is insured;

"Dealer" means any Person carrying on business as "Sears Hometown" stores any time after July 5, 2011 pursuant to a dealer agreement with Sears Canada;

"Dealer 2013 Dividend Claim" means the claim bearing court file number 4114/15 CP, against Sears Canada, Sears Holdings Corporation, ESL Investments and certain Directors and Officers commenced on or about October 21, 2015, for, among other things, oppression under the *Canada Business Corporations Act* (Canada);

"Dealer Claim" means any Claim of a Dealer;

"Dealer Representative Plaintiff" means 1291079 Ontario Inc., in its capacity as class representative for the following claims:

- (a) claim bearing court file number 3769/13 CP against Sears Canada and Sears Roebuck and Co. commenced on or about July 5, 2013 for, among other things, breaches under the *Arthur Wishart Act (Franchise Disclosure), 2000* (Ontario); and
- (b) claim bearing court file number 4114/15 CP, against Sears Canada, Sears Holdings Corporation, ESL Investments and certain Directors and Officers commenced on or about October 21, 2015, for, among other things, oppression under the *Canada Business Corporations Act* (Canada);

"Debtor Cash Pools" means, collectively, the SLH Cash Pool, the Corbeil Cash Pool and the Sears Cash Pool;

“Debtor Groups” means, collectively, Former Corbeil, the Sears Parties and the SLH Parties, and **“Debtor Group”** means any one of Former Corbeil, the Sears Parties (collectively), or the SLH Parties (collectively);

“Deemed Trust Motions” means the motions in the CCAA Proceedings brought variously by Pension Representative Counsel, the Superintendent and the Pension Plan Administrator for orders, among other things,

- (c) that the amount of the wind-up deficit in connection with the Pension Plan is deemed to be held in trust for the beneficiaries of the Pension Plan pursuant to Section 57(4) of the *Pension Benefits Act* (Ontario) (**“PBA”**) with priority ahead of the claims of all other creditors of Sears Canada other than amounts secured by the CCAA Charges;
- (d) that the Plan Administrator, has a lien and charge under Section 57(5) of the PBA for the amount of the wind-up deficit in connection with the Pension Plan;
- (e) that the foregoing orders survive any future bankruptcy or receivership of the Applicants; and
- (f) that Former Corbeil and the SLH Parties are jointly and severally liable with Sears Canada for the obligations under the Pension Plan and that the assets of Former Corbeil and the SLH Parties may also be subject to the deemed trust and lien under the PBA as described above,

but excluding the motion for directions with respect to spousal waivers provided in connection with the Pension Plan;

“De Minimis Claim” has the meaning ascribed thereto in Section 5.4;

“DIP ABL Agent” means Wells Fargo Capital Finance Corporation Canada as administrative agent under the DIP ABL Credit Agreement;

“DIP ABL Credit Agreement” the Senior Secured Superpriority Debtor-in-Possession Credit Agreement dated as of June 22, 2017 among the Sears Canada Entities, the DIP ABL Agent and the lenders from time to time party thereto;

“DIP ABL Lenders’ Charge” has the meaning given to such term in the Initial Order;

“DIP Lenders” means the DIP ABL Agent and the DIP Term Agent and those lenders party from time to time to the DIP Loan Agreements;

“DIP Loan Agreements” means, collectively, the DIP ABL Credit Agreement and the DIP Term Credit Agreement;

“DIP Term Agent” means GACP Financing Co., LLC, as administrative agent under the DIP Term Credit Agreement;

“DIP Term Credit Agreement” the Senior Secured Superpriority Credit Agreement dated as of June 22, 2017 among the Sears Canada Entities, the DIP Term Agent and the lenders from time to time party thereto;

“DIP Term Lenders’ Charge” has the meaning given to such term in the Initial Order;

“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;

“Directors’ Priority Charge” has the meaning given to such term in the Initial Order;

“Directors’ Subordinated Charge” has the meaning given to such term in the Initial Order;

“Distribution Date” means the date of any Plan Distribution;

“Duplicate Claim” means a Proven Affected Unsecured Claim against more than one of the Sears Canada Entities based on the same underlying obligation;

“Effective Time” means 12:01 a.m. on the Plan Implementation Date or such other time on the Plan Implementation Date as the Monitor shall determine or as otherwise ordered by the Court;

“Eligible Voting Claims” means a Voting Claim or an Unresolved Voting Claim;

“Eligible Voting Creditors” means, subject to Section 4.2(b), Affected Unsecured Creditors holding Voting Claims or Unresolved Voting Claims;

“Employee” means any (i) active or inactive union or non-union employee of any one or more of the Sears Canada Entities on or after the Filing Date, including an employee of any one or more of the Sears Canada Entities who received notice of termination of 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 whose employment terminated with or without 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 had an outstanding active action, claim or complaint as of the Filing Date;

“Employee Claim” means an “Employee Claim” as defined in the Claims Procedure Order (E&R);

“Employee Priority Claims” means, in respect of a Sears Canada Entity, the following claims of Employees of such Sears Canada Entity:

- (a) claims equal to the amounts that such Employees would have been qualified to receive under paragraph 136(1)(d) of the BIA if the Sears Canada Entity had become bankrupt on the Filing Date, which for greater certainty, excludes any OPEB, pension contribution, and termination and severance entitlements; and
- (b) claims for wages, salaries, commissions or compensation for services rendered by such Employees after the Filing Date and on or before the Plan Implementation Date together with, in the case of travelling salespersons, disbursements properly incurred by them in connection with the Business during the same period, which for greater certainty, excludes any OPEB, pension contribution, and termination and severance entitlements;

“Employee Representative Counsel” means Ursel, Phillips, Fellows, Hopkinson LLP as appointed pursuant to the Employee Representative Counsel Order made July 13, 2017, as amended;

“Employee Representatives” means Paul Webber, Nancy Demeter, Sheena Wrigglesworth, Barb Wilser, and Darrin Whitney, or such other representatives as may be duly appointed by Employee Representative Counsel;

“Equity Claim” has the meaning ascribed thereto in section 2 of the CCAA;

“ERC Employee” means any Employee other than a Non-ERC Employee;

“ESL Parties” means Sears Holdings Corporation and its affiliates, ESL Investments Inc., ESL Partners, LP, SPE I Partners, LP, SPE Master I, LP, ESL Institutional Partners, LP, Edward S. Lampert and any other Person (other than a Director or Officer) against whom a claim is made under the LT/TUV Litigation, the Dealer 2013 Dividend Claim, or by or on behalf of the Pension Plan Administrator or the beneficiaries of the Pension Plan under the Pension 2013 Dividend Claim, and **“ESL Party”** means any one of them;

“FA Charge” has the meaning given to such term in the Initial Order;

“Former Corbeil” has the meaning ascribed thereto in the Recitals;

“Former SLH” has the meaning ascribed thereto in the Recitals;

“Filing Date” means June 22, 2017;

“Final Determination” and **“Finally Determined”** as pertains to a Claim, matter or issue, means either:

- (a) in respect of a Claim, such Claim has been finally determined for distribution purposes in accordance with the applicable Claims Procedure Order (or Warranty Claims Protocol, if such Claim is a Reimbursable Warranty Claim) and the Plan;
- (b) there has been a Final Order in respect of the matter or issue; or
- (c) there has been an agreed and binding settlement of the issue or matter by the relevant parties;

“Final Distribution” means the final Plan Distribution made under the Plan by the Monitor, on behalf of the Sears Canada Entities;

“Final Distribution Bar Date” has the meaning ascribed to such term in Section 7.5;

“Final Distribution Certificate” means a certificate of the Monitor to be posted by the Monitor on the Website indicating that the Monitor intends to make a Final Distribution on a specified date not less than ninety (90) days following the date of the certificate, and a copy of which certificate shall be served on the Service List in the CCAA Proceedings and filed with the Court;

“Final Order” means an Order of the Court, which has not been reversed, modified or vacated, and is not subject to any stay or appeal, and for which any and all applicable appeal periods have expired;

“FTI” means FTI Consulting Canada Inc.;

“Governance Protocol Order” means the Governance Protocol and Stay Extension Order of the Court made December 3, 2018 (as such order may be amended, supplemented or restated from time to time) establishing a governance protocol for the Sears Canada Entities;

“Governmental Authority” means any government, including any federal, provincial, territorial or municipal government, and any government department, body, ministry, agency, tribunal, commission, board, court, bureau or other authority exercising or purporting to exercise executive, legislative, judicial, regulatory or administrative functions of, or pertaining to, government including without limitation any Taxing Authority;

“Government Priority Claims” means all claims of Governmental Authorities that are described in section 6(3) of the CCAA;

“Guarantee” means any guarantee, indemnity, surety or similar agreement granted by a Person to guarantee, indemnify or otherwise hold harmless any other Person from or against any losses, liabilities or damages of that other Person;

“Hardship Process” means the former employee hardship application process that was established pursuant to Order of the Court dated August 18, 2017, as same has been amended and extended from time to time as approved by the Court;

“Initial Order” has the meaning given to it in the Recitals;

“Initial Distribution Date” means the first date on which Plan Distributions are made under the Plan;

“Insurance Policy” means any insurance policy pursuant to which any Sears Canada Entity is insured, and for greater certainty excludes any insurance policy pursuant to which any Director, Officer or third party is insured;

“Insured Claim” means all or that portion of a Claim against a Sears Canada Entity that is insured under an Insurance Policy, but solely to the extent that such Claim, or portion thereof, is so insured, and only as against such insurance;

“KERP Priority Charge” has the meaning given to such term in the Initial Order;

“KERP Subordinated Charge” has the meaning given to such term in the Initial Order;

“Landlord” means a landlord under any real property lease or occupancy agreement for any of the Applicants' premises;

“Landlord Cost Payment” has the meaning ascribed thereto in Section 5.10;

“Landlord Settlement Agreement” means, in respect of a Landlord, either (i) the Landlord Claim Formula Term Sheet dated July 26, 2018 entered into among such Landlord and the Monitor, (ii) any joinder agreement entered into among such Landlord and the Monitor with respect to the same, or (iii) the settlement agreement dated November 30, 2018 entered into between the Monitor and Blaney McMurtry LLP on behalf of such Landlord;

“Liability” means any indebtedness, obligations and other liabilities of a Person whether absolute, accrued, contingent, fixed or otherwise, or whether due or to become due;

“Lien” means any lien, mortgage, charge, security interest, hypothec or deemed trust, arising pursuant to contract, statute or Applicable Law;

“Litigation Approval Orders” means the TUV Proceedings Approval Order and the Litigation Trustee Appointment Order;

“Litigation Costs” means costs incurred from and after December 3, 2018 in respect of: (a) the Monitor's fees and disbursements (including of its legal counsel and other consultants and advisors) in connection with the pursuit of the TUV Claim; (b) the Litigation Trustee's fees and disbursements (including of its legal counsel and other consultants and advisors) in connection with the pursuit of the LT Claims; (c) any third party fees in connection with the pursuit of the TUV Claim and LT Claims; (d) any adverse cost awards against Sears Canada, the Monitor or the Litigation Trustee in connection with the pursuit of the TUV Claim and LT Claims; and (e) any other reasonable amounts in respect of any contingency desirable or necessary for the pursuit of the TUV Claim and LT Claims, as the Monitor may determine, in consultation with the Litigation Trustee and Creditors' Committee (as continued in the Litigation Trustee Appointment Order);

“Litigation Costs Recovery Fund” means a cash fund to be established from the aggregate of the Litigation Cost Recovery Amounts in an amount to be adjusted from time to time as determined by the Monitor, to be reserved by the Monitor on an accounting basis, for the purpose of paying or recovering the Litigation Costs, from time to time, which amount may be increased by the Monitor from time to time as deemed necessary to satisfy any Monitor’s Cost Indemnity Claim or the Litigation Trustee’s Indemnity, provided that any such increase shall be funded pro rata from distributions otherwise payable to all Sears Opt-In Creditors. The Monitor will consult with the Litigation Trustee and the Creditors’ Committee prior to any increase in the Litigation Cost Recovery Fund to an amount in excess of the Litigation Cost Recovery Amount, except in the case of any increases determined by the Monitor to be necessary to satisfy any potential Monitor’s Cost Indemnity Claim or Litigation Trustee’s Indemnity;

“Litigation Cost Recovery Amount” means, in respect of the first Plan Distribution to be made to each Sears Opt-In Creditor with a Proven Affected Unsecured Claim, whether at the Initial Distribution Date or otherwise, an amount equal to the product of (a) such first Plan Distribution; and (b) a fraction, the numerator of which is \$12 million, and the denominator of which is the aggregate the amount of all Plan Distributions to be made to Sears Opt-In Creditors with Proven Affected Unsecured Creditors on the Initial Distribution Date, without considering any deduction of Litigation Cost Recovery Amounts;

“Litigation Recoveries” means any net recoveries received by or on behalf of any of the Sears Canada Entities from time to time on account of the LT Claims and TUV Claim;

“Litigation Recoveries Pool” means the aggregate amount of Litigation Recoveries, determined on the Distribution Date immediately prior to any Cash Pool/Holdback Adjustment;

“Litigation Reimbursement Amount” means the amount of Litigation Costs paid or accrued up to the Initial Distribution Date;

“Litigation Trustee” means the Honourable J. Douglas Cunningham, Q.C. in his capacity as litigation trustee in respect of the LT Claims, as appointed pursuant to the Litigation Trustee Appointment Order, and any individual replacing Mr. Cunningham in such capacity pursuant to an Order of the Court;

“Litigation Trustee Appointment Order” means the Order of the Court dated December 3, 2018 (as such order may be amended, supplemented or restated from time to time), and which, among other things, appointed the Litigation Trustee and authorized and directed him to pursue the LT Claims;

“Litigation Trustee’s Charge” means the charge over the Property of Sears Canada created by paragraph 12 of the Litigation Trustee Appointment Order, and which has the priority provided by such paragraph;

“Litigation Trustee’s Indemnity” means the indemnity provided by Sears Canada in favour of the Litigation Trustee pursuant to paragraph 9 of the Litigation Trustee Appointment Order;

“LT Claims” means any claims pursued by the Litigation Trustee pursuant to the Litigation Trustee Appointment Order;

“LT/TUV Litigation” means, collectively, the TUV Claim and the LT Claims.

“Mediated Claim Settlements” has the meaning ascribed thereto in the Recitals;

“Meetings” means the meetings of Affected Unsecured Creditors in the Unsecured Creditor Classes in respect of the SLH Parties and the Sears Parties, and called for the purposes of considering and voting in respect of the Plan, which has been set by the Meetings Order to take place at the times, dates and locations as set out in the Meetings Order;

“Meetings Order” means the Order of the Court dated ●, 2019, among other things, setting the time, date and location of the Meetings and establishing meeting procedures for the Meetings (as such order may be amended, supplemented or restated from time to time);

“Monitor” has the meaning ascribed thereto in the Recitals;

“Monitor’s Cost Indemnity Claim” means the claim provided for under paragraph 8 of the TUV Proceeding Approval Order allowing the Monitor to claim for indemnity against the Property to satisfy any legal costs associated with the TUV Claim and which may be awarded against the Monitor;

“Non-ERC Employee” means any of the following Employees (i) Unionized Employee; (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 made July 13, 2017, as amended;

“Non-Released Claim” means, collectively:

- (a) Sears Canada Entities’ obligations under the Plan (including the right of Affected Unsecured Creditors to receive distributions pursuant to the Plan);
- (b) any claim against a Released Party that is determined by a Final Order of a court of competent jurisdiction to have arisen from such Released Party’s fraud or wilful misconduct;
- (c) any claim that arises out of or relates to the dividend paid to shareholders of Sears Canada on December 6, 2013 in the amount of approximately \$509 million, including, but not limited to, claims asserted in the LT/TUV Litigation or the Pension/Dealer Litigation;
- (d) any Unaffected Claims as against the Sears Released Parties;
- (e) any D&O Claim that is not permitted to be released pursuant to section 5.1 (2) of the CCAA;
- (f) any obligation secured by any of the CCAA Charges; and
- (g) claims against Employees to the extent described in Section 9.1(a)(ii);

“Notice of Transfer or Assignment” means a written notice of transfer or assignment of a Claim, together with satisfactory evidence of such transfer or assignment in accordance with the applicable Claims Procedure Order and the Meetings Order;

“Officer” means any Person 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;

“OPEB” means 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;

“Ordinary Course Post-Filing Intercompany Position” means, in respect of a Debtor Group, the net aggregate of all amounts payable by and receivable of such Debtor Group to or from the other Debtor Groups on account of transactions (which for greater certainty shall exclude all (a) post-filing professional fees, (b) amounts repaid on account of principal, interest and fees under the DIP Loan Agreements, and (c) shared services overhead) between such Debtor Groups after the Filing Date;

"Payee Party" has the meaning ascribed thereto in Section 7.3;

"Payment Amount" has the meaning ascribed thereto in Section 7.3;

"Payor Party" has the meaning ascribed thereto in Section 7.3;

"Pension 2013 Dividend Claim" means the claim bearing court file number CV-18-00611217-00CL commenced by the Pension Plan Administrator against ESL Investments Inc., certain Affiliates of ESL Investments Inc., Edward S. Lampert, and certain former directors and officers of Sears Canada Inc.;

"Pension Claim Settlement" means the settlement between the Sears Canada Entities, Monitor and the Pension Parties as made further to the Pension Support Agreement, and pursuant to which (a) the Pension Claims will be allowed as Proven Affected Unsecured Claims by the Monitor for the purposes of the Plan in the amounts and subject to the exceptions as agreed to by the parties, (b) the Pension Parties will discontinue the Deemed Trust Motions upon implementation of the Plan; and (c) the Pension Parties have agreed to adjust the value of the Pension Claims for distribution purposes, and reimburse the Sears Canada Parties, as applicable, in accordance with Sections 3.2(b) and 5.2(b) of the Plan;

"Pension Claims" means Claims with respect to the administration, funding or termination of the Pension Plan, including any Claim for unpaid normal cost payments, or special/amortization payments or any wind up deficiency, and further including any subrogated claim, and **"Pension Claim"** means any one of them;

"Pension/Dealer Litigation" means together the Dealer 2013 Dividend Claim and the Pension 2013 Dividend Claim;

"Pension Litigation Recovery Adjustment" has the meaning ascribed thereto in Section 3.2(b);

"Pension Parties" means the Pension Plan Administrator, the Superintendent and Pension Representative Counsel on behalf of the Retirees, and **"Pension Party"** means any one of them;

"Pension Plan" means the 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.);

"Pension Plan Administrator" means Morneau Shepell Ltd. in its capacity as administrator of the Sears Pension Plan;

"Pension Representative Counsel" means Koskie Minsky LLP, as appointed by the Court pursuant to the Representative Counsel Order for Pensions and Post-Retirement Benefits made July 13, 2017 (as amended);

"Pension Representatives" means Bill Turner, Ken Eady and Larry Moore;

"Pension Support Agreement" means the Pension Support Agreement dated October 18, 2018 among the Pension Plan Administrator, the Superintendent and Pension Representative Counsel, and the Sears Canada Entities by and through the Monitor;

"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;

"Plan" means this joint plan of compromise and arrangement under the CCAA, including the Schedules hereto, as amended, supplemented or replaced from time to time;

“Plan Distributions” means, from time to time, distributions made under this Plan to Affected Unsecured Creditors in accordance with Article 7 and Sections 5.2(c), 5.3(a), and 5.10;

“Plan Implementation Date” means the Business Day on which all of the conditions precedent to the implementation of the Plan have been fulfilled, or, to the extent permitted pursuant to the terms and conditions of the Plan, waived, as evidenced by filing of the Monitor’s Plan Implementation Date Certificate with the Court;

“Plan Implementation Date Certificate” means the certificate substantially in the form to be attached to the Sanction Order to be filed by the Monitor with the Court, declaring that all of the conditions precedent to implementation of the Plan have been satisfied or waived;

“Plan Modification” has the meaning ascribed thereto in the Meetings Order;

“Post-Filing Claim” means (i) any right or claim of any Sears Supplier against any of the Sears Canada Entities in connection with any non-payment by any such Sears Canada Entity to such Sears Supplier for goods or services supplied to such Sears Canada Entity on or after the Filing Date to the extent such right or claim is a Proven Claim; (ii) a Warranty Claim that arises under a Warranty purchased on or after the Filing Date, as valued in accordance with Section 5.3(b); and (iii) any Claim against any of the Sears Canada Entities that is not included in (i) or (ii) above and is based in whole on facts arising after the Filing Date (which shall exclude, for greater certainty, any Restructuring Period Claim).

“PRC Retiree” means any Retiree who is represented by Pension Representative Counsel and has primary coverage entitlements with respect to any entitlements to health and dental post-employment benefits and/or life insurance benefits provided by any Sears Canada Entity as a post-employment benefit and ;

“Pre-Filing Claim” means any right or claim of any Person against any of the Sears Canada Entities, whether or not asserted, including in connection with any indebtedness, liability or obligation of any kind whatsoever of any such Sears Canada Entity to such Person, in existence on the Filing Date, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including rights or claims with respect to any Assessment, Construction Claim, Warranty, any claim brought by any representative plaintiff on behalf of a class in a class action, or contract, or by reason of any equity interest, right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive or otherwise), and any right or ability of any Person to advance a claim for contribution or indemnity or otherwise against any of the Sears Canada Entities with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, which right or claim, including in connection with indebtedness, liability or obligation, is based in whole or in part on facts that existed prior to the Filing Date, including for greater certainty any claim against any of the Sears Canada Entities for indemnification by any Director or Officer in respect of a D&O Claim;

“Pre-Filing Interco Claims” means the Pre-Filing Claims of the Sears Canada Entities in one Debtor Group against the Sears Canada Entities in any other Debtor Group, as set out in Schedule B to the Plan;

“Pre-Filing Interco Pro Rata Share” means, in respect of Debtor Group holding a Pre-Filing Interco Claim against another Debtor Group (after accounting for all applicable set-off amounts), the fraction that is equal to (a) such Pre-Filing Interco Claim, divided by (b) the aggregate of all Affected Unsecured Claims, including all Pre-Filing Interco Claims held by all Sears Canada Entities against such Debtor Group;

“Pre-Filing Warranty Claim” means a Warranty Claim in which the underlying Warranty was purchased from a Sears Canada Entity prior to the Filing Date;

“Principal Claim” has the meaning ascribed thereto in Section 4.5;

“Priority Claims” means, collectively, the (a) Employee Priority Claims; and (b) Government Priority Claims;

“Proof of Claim” means the applicable proof of claim form that was required to be completed by a Creditor setting forth its applicable Claim and filed with the Monitor (including via the Website), pursuant to the applicable Claims Procedure Order;

“Property” means all current and future assets, rights, undertakings and properties of the Sears Canada Entities, of every nature and kind whatsoever, and wherever situate, including all Cash or other proceeds thereof;

“Proven Affected Third Party Unsecured Claim” means an Affected Third Party Unsecured Claim that is a Proven Claim;

“Proven Affected Unsecured Claim” means an Affected Unsecured Claim that is a Proven Claim;

“Proven Claim” means (a) a Claim as Finally Determined for voting, distribution and payment purposes in accordance with the applicable Claims Procedure Order and the Plan, (b) in the case of a Pre-Filing Interco Claim, as such Claim is valued for the purposes of the Plan pursuant to Section 3.2(a)(i) of the Plan, (c) in the case of the Pension Claims, as such Claims are valued for the purposes of the Plan pursuant to Section 3.2 of the Plan, and (d) in the case of a Reimbursable Warranty Claim, as Finally Determined for distribution and payment purposes in accordance with the Warranty Claims Protocol;

“Proven Priority Claim” means a Priority Claim that is a Proven Claim;

“Proven Reimbursable Warranty Claim” means a Reimbursable Warranty Claim that is a Proven Claim;

“Proven Secured Claim” means a Secured Claim that is a Proven Claim;

“Receivership Order” means the Amended and Restated Receivership Order dated October 16, 2018 (as such order may be amended, supplemented or restated from time to time, and including all schedules and appendices thereof);

“Reimbursable Warranty Claim” means the Pre-Filing Warranty Claim of a Creditor that has incurred costs that would be reimbursable under the terms of the underlying Warranty;

“Released Claim” means the matters that are subject to release and discharge pursuant to Article 9 hereof;

“Released Party” means any Person who is the beneficiary of a release under the Plan, including the Sears Released Parties and the Third Party Released Parties;

“Required Majority” means, with respect to each Unsecured Creditor Class, a majority in number of Affected Unsecured Creditors who represent at least two-thirds in value of the Voting Claims of such Affected Unsecured Creditors in each case who actually vote on the Plan (in person, by proxy or by ballot) at the applicable Meeting or who were deemed to vote on the Plan in accordance with the Plan and the Meeting Order;

“Reserves” means, collectively, the Administrative Reserve, the Unresolved Claims Reserve for Former Corbeil, the Unresolved Claims Reserve for the Sears Parties, the Unresolved Claims Reserve for the SLH Parties, and any other reserve the Monitor, considers necessary or appropriate, as each of them may be adjusted from time to time in accordance with the Plan;

“Restructuring Period Claim” means any right or claim of any Person against any of the Sears Canada Entities, including in connection with any indebtedness, liability or obligation of any kind whatsoever of any such Sears Canada Entity to such Person, arising on or after the Filing Date, including without limitation rights or claims arising with respect to the restructuring, disclaimer, rescission, termination or breach by such Sears Canada Entity on or after the Filing Date of any contract, lease or other agreement whether written or oral; but excluding any Post-Filing Claim;

“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 entitlements to health and dental post-employment benefits and/or life insurance benefits provided by any Sears Canada Entity as a post-employment benefit; (iv) entitlements to the lifetime associate discount provided as a post-employment benefit (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;

“Retiree Claim” means a “Retiree Claim” as defined in the Claims Procedure Order (E&R);

“Sanction Order” means the Order of the Court to be sought by the Monitor from the Court as contemplated under the Plan which, *inter alia*, approves and sanctions the Plan and the transactions contemplated thereunder, pursuant to section 6(1) of the CCAA;

“Sears Canada” has the meaning ascribed thereto in Recital A;

“Sears Canada Subordinated Transport Loan” means the loan entered into on January 29, 2016 under which Former SLH borrowed \$160 million from Sears Canada further to the Tax Loss Utilization Structure, and further to which repayment of principal, interest, and other amounts is subordinated in right of payment to the prior payment of all other present and future indebtedness and other obligations of Former SLH;

“Sears Canada Entities” has the meaning ascribed thereto in the Recitals, and **“Sears Canada Entity”** means any one of them;

“Sears Cash” means all Cash of the Sears Parties as at the Filing Date, including but not limited to the Sears Parties’ Cash on hand, and all Cash that is received by any of the Sears Parties following Filing Date, whether from the sale, disposition or monetization of any remaining assets, receipt of any Tax Refund or any other Cash received by the Sears Parties from time to time, less:

- (a) Cash actually spent or distributed by the Sears Parties since the Filing Date but prior to the Plan Implementation Date,
- (b) the amount of the Sears Reserves, and
- (c) the amount of any Plan Distributions, payments on account of Proven Unaffected Claims, or payments made pursuant to or as contemplated by the Plan, attributable to or on behalf of the Sears Parties

plus or minus, as applicable,

- (d) the Sears Parties’ Cost Allocation Amount and Ordinary Course Post-Filing Intercompany Position, all as attributable to or on behalf of the Sears Parties,

but excluding any Litigation Recoveries;

“Sears Cash Pool” means the Sears Cash available for distribution to the Affected Unsecured Creditors of the Sears Parties with Proven Affected Unsecured Claims under the Plan, calculated on each

Distribution Date, immediately prior to any Cash Pool/Holdback Adjustment, and including any amounts re-contributed by the Dealer Representative Plaintiff, on behalf of the Dealers, to the Sears Cash Pool in accordance with Section 5.2(c)(iv).

“Sears Opt-In Creditor” means a Creditor of the Sears Parties, other than a Sears Opt-Out Creditor;

“Sears Opt-Out Creditor” means any Creditor of the Sears Parties who provides an opt-out notice to the Monitor in accordance with, and at the times required by, the TUV Proceeding Approval Order;

“Sears Parties” has the meaning ascribed thereto in Section 3.1(a), and **“Sears Party”** means any one of them;

“Sears Released Parties” has the meaning ascribed thereto in Section 9.1(a), and **“Sears Released Party”** means any one of them;

“Sears Reserves” means, collectively, the Unresolved Claims Reserve for the Sears Parties, that portion of the Administrative Reserve allocated in accordance with the Cost Allocation Methodology to the Sears Parties, and any other reserve the Monitor considers necessary or appropriate, as each of them may be adjusted from time to time in accordance with the Plan;

“Sears Supplier” means any Person who has supplied goods or services, including by way of their employment, to any Sears Canada Entity;

“Section 19(2) Claims” has the meaning ascribed thereto in Section 5.13;

“Secured Claims” means a Claim that is secured by a Lien;

“Secured Creditors” means Creditors holding Secured Claims;

“Service List” means the service list maintained by the Monitor in the CCAA Proceedings, as updated from time to time and posted on the Website;

“SLH Cash” means all Cash on hand of the SLH Parties as at the Filing Date, plus the proceeds of sale of the SLH Transaction, and all Cash that is received by any of the SLH Parties following the Filing Date, whether from the sale, disposition or monetization of any remaining assets, receipt of any Tax Refund or any other Cash received by the SLH Parties from time to time, less:

- (a) Cash actually spent or distributed by the SLH Parties since the Filing Date but prior to the Plan Implementation Date,
 - (b) the amount of the SLH Reserves, and
 - (c) the amount of any Plan Distributions, payments on account of Proven Unaffected Claims, or payments made pursuant to or as contemplated by the Plan, attributable to or on behalf of the SLH Parties,
- plus or minus, as applicable,
- (d) the SLH Parties’ Cost Allocation Amount and Ordinary Course Post-Filing Intercompany Position;

“SLH Cash Pool” means the SLH Cash available for distribution to the Affected Unsecured Creditors of the SLH Parties with Proven Affected Unsecured Claims under the Plan, calculated on the Plan Implementation Date and each Distribution Date, immediately prior to any Cash Pool/Holdback Adjustment;

“SLH Parties” has the meaning ascribed thereto in Section 3.1(b), and **“SLH Party”** means any one of them;

“SLH Reserves” means, collectively, the Unresolved Claims Reserve for the SLH Parties, that portion of the Administrative Reserve as allocated in accordance with the Cost Allocation Methodology to the SLH Parties, and any other reserve the Monitor considers necessary or appropriate, as each of them may be adjusted from time to time in accordance with the Plan;

“SLH Transaction” means the sale transaction contemplated by the asset purchase agreement between Former SLH, Sears Canada, and 168886, as sellers, and 8507597 Canada Inc., as purchaser, dated September 29, 2017 and approved by the Court on October 4, 2017;

“Specified Advisors” means, collectively, Osler, Hoskin & Harcourt LLP, BMO Nesbitt Burns Inc., and CBRE Limited;

“Specified Payee Party” has the meaning ascribed thereto in Section 7.3(b);

“Superintendent” means the Ontario Superintendent of Financial Services in his capacity as administrator of the Pension Benefit Guarantee Fund;

“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;

“Tax” and **“Taxes”** means any and all taxes including all income, sales, use, goods and services, harmonized sales, value added, capital gains, alternative, net worth, transfer, profits, withholding, payroll, employer health, excise, franchise, real property, and personal property taxes and other taxes, customs, duties, fees, levies, imposts and other Assessments or similar charges in the nature of a tax, including Canada Pension Plan and provincial pension plan contributions, employment insurance and unemployment insurance payments and workers’ compensation premiums, together with any instalments with respect thereto, and any interest, penalties, fines, fees, other charges and additions with respect thereto;

“Taxing Authorities” means Her Majesty the Queen in right of Canada, Her Majesty the Queen in right of any province or territory of Canada, any municipality of Canada, the Canada Revenue Agency, the Canada Border Services Agency, any similar revenue or taxing authority of Canada and each and every province or territory of Canada (including Revenu Québec) and any political subdivision thereof and any Canadian or foreign government, regulatory authority, government department, agency, commission, bureau, minister, court, tribunal or body or regulation making entity exercising taxing authority or power, and **“Taxing Authority”** means any one of the Taxing Authorities;

“Tax Loss Utilization Structure” means the existing tax loss utilization structure of the Sears Canada Entities identified at paragraphs 79 to 82 of the Monitor’s Sixteenth Report made April 2, 2018;

“Tax Refunds” means refunds of any amounts paid by the Sears Canada Entities on account of Taxes, refunded to such Sears Canada Entities from time to time by the applicable Taxing Authorities;

“Third Party Pro Rata Share” means:

- (a) in respect of a distribution (other than in respect of a distribution of Litigation Recoveries or in respect of a Reimbursable Warranty Claim) to an Affected Third Party Unsecured Creditor with Proven Affected Third Party Unsecured Claims in respect of a Debtor Group other than Former Corbeil, the fraction that is equal to (i) the amount of the Proven Affected Unsecured Claim of such Affected Third Party Unsecured Creditor, divided by

- (ii) the aggregate of all Proven Affected Unsecured Claims held by Affected Third Party Unsecured Creditors, in each case in respect of such Debtor Group;
- (b) in respect of a distribution of Litigation Recoveries to a Sears Opt-In Creditor with Proven Affected Unsecured Claims, the fraction that is equal to (i) the amount of the Proven Affected Unsecured Claim(s) of such Sears Opt-In Creditor against the Sears Parties, divided by (ii) the aggregate of all Proven Affected Unsecured Claims held by Sears Opt-In Creditors against the Sears Parties; and
- (c) in respect of a distribution to an Affected Third Party Unsecured Creditor with Proven Reimbursable Warranty Claims, the fraction that is equal to (i) the amount of the Reimbursable Warranty Claim of such Affected Third Party Unsecured Creditor, divided by (ii) the aggregate of all Proven Reimbursable Warranty Claims held by Affected Third Party Unsecured Creditors;

“Third Party Released Party” has the meaning ascribed thereto in Section 9.1(b);

“TUV Claim” means the claim commenced by the Monitor pursuant to the TUV Proceeding Approval Order;

“TUV Proceeding Approval Order” means the Transfer at Undervalue Proceeding Approval Order issued by the Court on December 3, 2018 (as such order may be amended, supplemented or restated from time to time), approving, among other things, the pursuit of the TUV Claim by the Monitor;

“Unaffected Claims” means:

- (a) Post-Filing Claims;
- (b) Insured Claims;
- (c) Secured Claims, including any claim secured by any CCAA Charge;
- (d) Landlord Cost Payments;
- (e) amounts payable under sections 6(3), 6(5) and 6(6) of the CCAA; and
- (f) Priority Claims;

“Unaffected Creditors” means Creditors holding Unaffected Claims;

“Undeliverable Distribution” has the meaning ascribed thereto in Section 7.5(a);

“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;

“Unresolved Affected Unsecured Claim” means an Affected Unsecured Claim that is an Unresolved Claim;

“Unresolved Claim” means a Claim, which at the relevant time, in whole or in part: (a) has not been Finally Determined to be a Proven Claim in accordance with the applicable Claims Procedure Order and this Plan; or (b) is validly disputed and/or remains subject to review in accordance with the applicable Claims Procedure Order, including as to validity and/or quantum;

“Unresolved Claims Reserve” means, in respect of a Debtor Group, the aggregate of the reserves of the applicable Available Cash for such Debtor Group, to be held in respect of each Debtor Group on an

accounting basis, in an aggregate amount to be calculated by the Monitor on the Initial Distribution Date, and recalculated as at any subsequent Distribution Date, equal to the amount that would have been paid if the full amount of all Unresolved Claims in respect of such Debtor Group are Proven Claims as at such later date, or such lesser amount as may be ordered by the Court;

“Unresolved Priority Claim” means a Government Priority Claim or Employee Priority Claim that is an Unresolved Claim;

“Unresolved Voting Claim” means the amount of the Unresolved Affected Unsecured Claim of an Affected Unsecured Creditor as determined in accordance with the terms of the applicable Claims Procedure Order entitling such Affected Unsecured Creditor to vote at the applicable Meeting in accordance with and subject to the limitations of the provisions of the Meetings Order, the Plan and the CCAA;

“Unsecured Claim” means a Claim that is not secured by any Lien;

“Unsecured Creditor Class” has the meaning ascribed thereto in Section 4.1;

“Upfront Dealer Payment” has the meaning ascribed thereto in Section 5.2(c);

“Valid Transferee” means the transferee or assignee of a Claim that has provided the Monitor with a Notice of Transfer or Assignment by no later than seven (7) days’ prior to the Initial Distribution Date and has had such Claim transferred or assigned to it in accordance with the applicable Claims Procedure Order and the Meetings Order;

“Voting Claim” means the amount of the Affected Unsecured Claim of an Affected Unsecured Creditor as Finally Determined in the manner set out in the applicable Claims Procedure Order or as provided pursuant to Section 3.2 of the Plan, entitling such Affected Unsecured Creditor to vote at the applicable Meeting in accordance with the provisions of the Meetings Order, the Plan and the CCAA;

“Warranty” means a customer warranty offered pursuant to a valid and unexpired protection agreement issued by Sears Canada to its customer, and for greater certainty Warranty does not include any manufacturer’s warranty;

“Warranty Administration Costs” means all costs incurred in connection with the administration of the Warranty Claims Protocol and of all distributions, disbursements, and payments under the Plan in respect of Reimbursable Warranty Claims;

“Warranty Claim” means a Claim in respect of a Warranty;

“Warranty Claims Administrator” means the claims administration firm selected by the Monitor for the purpose of administering the Warranty Claims Protocol ;

“Warranty Claims Bar Date” has the meaning ascribed thereto in Section 5.3(a)(iii);

“Warranty Claims Protocol” means a protocol to be developed and established by the Monitor, in consultation with the Warranty Claims Administrator, and pursuant to which the validity and quantum of Reimbursable Warranty Claims is to be determined;

“Warranty Payment Amount” means, in respect of a Warranty, the original cash purchase price paid for such Warranty;

“Warranty Reimbursement Pool” means that portion of the Sears Cash as calculated pursuant to Section 5.3(a)(ii) and available firstly for the payment of all Warranty Administration Costs, and thereafter

for distribution to Affected Unsecured Creditors with Proven Reimbursable Warranty Claims pursuant to Section 5.3(a)(v) of the Plan;

“**Website**” means www.cfcanada.fticonsulting.com/searscanada; and

“**Withholding Obligation**” has the meaning ascribed thereto in Section 7.2(b).

Schedule B
Pre-Filing Interco Claims

	Claimant(s)	Debtor(s)	Amount (Cdn\$)
Sum of Claims "Pre-1" and "Pre-8", as detailed in the 16 th Report	Sears Parties	Former Corbeil	\$16,158,037
Sum of Claims "Pre-2", "Pre-9", "Pre-10" and Pre-13", as detailed in the 16 th Report	SLH Parties	Sears Parties	\$10,654,979

**Schedule C
Pension Claims**

The Pension Claims of the Pension Parties shall be deemed to be comprised of the following:

- (a) a single Voting Claim against Sears Canada in the amount of Cdn\$249,792,000;
- (b) a single Voting Claim against the SLH Parties in the amount of Cdn\$10,408,000;
- (c) a single Proven Affected Unsecured Claim against Sears Canada solely for distribution purposes in the amount of Cdn\$624,480,000; and
- (d) a single Proven Affected Unsecured Claim against the SLH Parties solely for distribution purposes in the amount of Cdn\$26,020,000.

Schedule D
Litigation Cost Recovery Amount Illustration

For illustrative purposes:

If:

- (a) the Monitor requires a Litigation Costs Recovery Fund of not less than \$12 million;
- (b) as of the Initial Distribution Date, there are 2,000 Sears Opt-In Creditors each with Proven Affected Unsecured Claims against Sears Canada that would receive distributions under the Plan (before the Litigation Cost Recovery Amount) of \$50,000 each (or \$100 million in aggregate); and
- (c) as of the Initial Distribution Date, there are 1,000 Creditors holding Unresolved Affected Unsecured Claims against Sears Canada who would also be Sears Opt-In Creditors if such Claims were Finally Determined to be Proven Claims, and if so Finally Determined, each would receive distributions under the Plan (before the Litigation Cost Recovery Amount) of \$25,000 (or \$25 million in aggregate),

Then the Monitor would deduct a Litigation Cost Recovery Amount of \$6,000 (being 12% of \$50,000, and calculated as the fraction equal to the \$12 million required for the Litigation Costs Recovery Fund divided by \$100 million available for Plan Distributions at the Initial Distribution Date (before the deduction of Litigation Cost Recovery Amounts)) from the first Plan Distribution made to each Sears Opt-In Creditor referred to in subparagraph (B) above for a total of \$12 million. Having thereby already contributed their share to the Litigation Costs Recovery Fund, such Sears Opt-In Creditors would not have any further Litigation Cost Recovery Amounts deducted from any of their future Plan Distributions.

The Monitor would also deduct \$3,000 (being 12% of \$25,000) from the Plan Distribution of \$25,000 made in respect of each Proven Claim of the Creditors referred to in subparagraph (C) above for the Litigation Costs Recovery Fund, and in such circumstance more than \$12 million would be collected.

Appendix B

Employee Representative Counsel Order

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)



THE HONOURABLE MR.)
 JUSTICE MAINEY)

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.

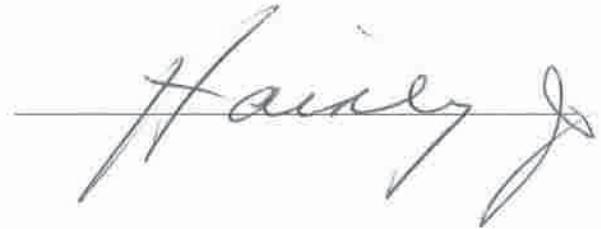
13. **THIS COURT ORDERS** that the Employee Representative Counsel shall be at liberty, and is hereby authorized, at any time, to apply to this Court for advice and directions in respect of its appointment or the fulfillment of its duties in carrying out the provisions of this Order or any variation 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

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 :

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
Télec. : 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

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

Appendix C

Pension Representative Counsel Order

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



THE 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**”)

**REPRESENTATIVE COUNSEL ORDER FOR PENSIONS
AND POST-RETIREMENT BENEFITS**

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**”), and the pre-filing report dated June 22, 2017 of FTI Consulting Canada Inc., in its capacity as the proposed Monitor of the Applicants, 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 Representative Counsel (as defined below), and those other parties present:

APPOINTMENT OF REPRESENTATIVE COUNSEL

1. **THIS COURT ORDERS** that Koskie Minsky LLP (the “**Representative Counsel**”) is hereby appointed as representative counsel to represent the interests of the non-unionized retirees and non-unionized active and former employees of the Sears Canada Entities (collectively, the “**Represented Parties**”) in these CCAA proceedings, solely with respect to (a) entitlements of the Represented Parties 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) Represented Parties’ other post-employment benefits entitlements (the “**Purpose**”). As used herein, “Represented Parties” shall (x) exclude the senior management of the Sears Canada Entities; and (y) include any person claiming an interest under or on behalf of a Represented Party.

2. **THIS COURT ORDERS** that Bill Turner, Ken Eady and Larry Moore (collectively, the “**Representatives**”) are hereby appointed as representatives of all Represented Parties (excluding the Opt-Out Individuals (as defined below), if any) in these CCAA proceedings, to act in the overall best interests of the Represented Parties, and to advise and where appropriate instruct the Representative Counsel, in every case, solely for the Purpose. The Representative Counsel may rely upon the advice, information and instructions received from the Representatives in carrying out the mandate of the Representative Counsel without further communications with or instructions from the Represented Parties, except as may be recommended by the Representative Counsel or ordered by this Court.

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

4. **THIS COURT ORDERS** that the Sears Canada Entities shall provide to the 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 Represented Parties (excluding Opt-Out Individuals, if any, who have opted out prior to delivery of the Information); and
- (b) upon request of the Representative Counsel, such documents and data as may be reasonably relevant to matters relating to the issues affecting the Represented Parties 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 Represented Parties authorizing disclosure of the Information to the 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 Represented Parties.

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 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 Represented Parties by ordinary mail to the physical address of each Represented Party 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 retirees and 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 Represented Party who does not wish to be represented by the Representatives and the 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 Representatives and the 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 Representatives or the 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 Representative Counsel as soon as reasonably practicable.

7. **THIS COURT ORDERS** that the Representative Counsel shall be given notice of all motions to which the Represented Parties 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 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 Representative Counsel in relation to the Purpose.

9. **THIS COURT ORDERS** that, subject to the terms of the letter agreement between SCI and the Representative Counsel dated as of June 22, 2017 (the “**Representative Counsel Letter**”), which Representative Counsel Letter has been approved by the Monitor, the Representative Counsel shall be paid its reasonable fees and disbursements (including disbursements relating to Advisors retained by the 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 Representative Counsel and the Represented

Parties. 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 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 \$125,000.

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 Representative Counsel is hereby authorized to take all steps and do all acts necessary or desirable to carry out the terms of this Order.

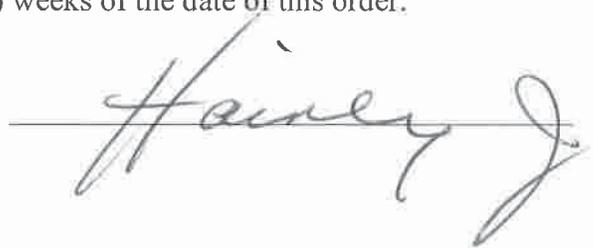
13. **THIS COURT ORDERS** that the Representative Counsel shall be at liberty, and is hereby authorized, at any time, to apply to this Court for advice and directions in respect of its appointment or the fulfillment of its duties in carrying out the provisions of this Order or any variation of the powers and duties of the 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 Representative Counsel and the 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 Representative Counsel or the Representatives in respect of the performance of their duties under this Order without leave of this Court on seven (7) days' notice to the Representative Counsel or the 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 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 A 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 RETIREES, FORMER EMPLOYEES and CERTAIN ACTIVE 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. Koskie Minsky LLP ("Representative Counsel") was appointed as representative counsel for the purpose of representing the interests of the non-unionized retirees and non-unionized active and former employees of the Sears Canada Entities, solely with respect to their entitlements under the Sears Canada Inc. Registered Retirement Plan or any other pension or retirement plan (collectively, the "Retirement Plans") 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) (collectively, the "Retiree Benefits") and of any person claiming an interest under or on behalf of such persons (collectively, the "Represented Parties") and to advise the Representatives with respect to Retirement Plans and Retiree Benefits in relation to the CCAA proceedings or any other forum related to this purpose.

2. Bill Turner, Ken Eady and Larry Moore (collectively, the "Representatives") were appointed to represent the overall best interests of the Represented Parties and to advise and instruct the Representative Counsel.

3. For more information visit Representative Counsel's website at www.kmlaw.ca/searsrepcounsel.

IF YOU DO NOT WISH TO BE REPRESENTED by the Representatives and the Representative Counsel, you must, before ●, 2017, complete the Opt-Out Notice (a copy of which can be obtained from the 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://cfcanda.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 AUX RETRAITÉS, AUX ANCIENS EMPLOYÉS et À CERTAINS EMPLOYÉS ACTIFS

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 Koskie Minsky LLP (les « conseillers juridiques des représentants ») a été nommé à titre de conseiller juridique dans le but de défendre les intérêts des retraités non syndiqués et des anciens employés et des employés actifs non syndiqués des entités Sears Canada, uniquement 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 (collectivement, les « régimes de retraite ») offerts par les entités Sears Canada, 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) (collectivement, les « avantages des retraités ») et des personnes physiques qui revendique un droit par l'intermédiaire de ces personnes physiques ou au nom de celles-ci (collectivement, les « parties représentées »), ainsi que pour conseiller les représentants à l'égard des régimes de retraite et des avantages des retraités en lien avec l'instance en vertu de la LACC ou toute autre procédure portant sur cette question.
2. Bill Turner, Ken Eady et Larry Moore (collectivement, les « représentants ») ont été nommés pour défendre les intérêts fondamentaux des parties représentées et pour donner des conseils et des directives aux conseillers juridiques des représentants.
3. Pour de plus amples renseignements, veuillez consulter le site Web des conseillers juridiques des représentants à <https://kmlaw.ca/cases/sears-canada/?lang=fr>.

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

Les personnes qui souhaitent obtenir de plus amples renseignements devraient consulter le site Web que le contrôleur a créé à <http://cfcandada.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 Koskie Minsky LLP, representative counsel (the "Representative Counsel") for the non-unionized employees and retirees 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 Representative Counsel and to the Sears Canada Entities.

Witness

Signature

Name [please print]:

Address:

[Blank lines for address continuation]

Telephone:

Note: To opt out, this form must be completed and received at the above address on or before [blank], 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
Télec. : 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 Koskie Minsky LLP, conseillers juridiques des représentants (les « conseillers juridiques des représentants ») qui représentent les employés et les retraités non syndiqués 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 et aux entités Sears Canada.

Témoin

Signature

Nom [en caractères d'imprimerie] : _____

Adresse : _____

Téléphone : _____

Note : Pour refuser les services 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

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

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

Appendix D

Litigation Order (Monitor Claim)

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE MR.

)

MONDAY, THE 3RD

JUSTICE HAINEY

)

DAY OF DECEMBER, 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.

Applicants

TRANSFER AT UNDERVALUE PROCEEDING
APPROVAL ORDER

THIS MOTION, made by FTI Consulting Canada Inc., in its capacity as Court-appointed Monitor (the "Monitor") of the Applicants in these proceedings for an order to commence certain proceedings was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion of the Monitor and the twenty-seventh report of the Monitor dated November 5, 2018 (the "Twenty-Seventh Report") and the first supplement to the Twenty-Seventh Report, dated November 20, 2018, and on hearing the submissions of counsel for the Monitor and such other counsel as were present, no one else appearing although duly served as appears from the Affidavit of Service of Catherine Ma, sworn November 6, 2018, filed:

TRANSFER AT UNDERVALUE CLAIM

1. **THIS COURT ORDERS** that the Monitor is authorized and empowered pursuant to section 36.1 of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") to commence and continue a claim against ESL Investments Inc., ESL Partners, LP, SPE I Partners, LP, SPE Master I, LP, ESL Institutional Partners, LP, Edward S. Lampert, William Harker and William Crowley (the "**Transfer at Undervalue Proceedings**") under section 96 of the *Bankruptcy and Insolvency Act (Canada)*, R.S.C. 1985, c. B-3, as amended (the "**BIA**"), as incorporated into the CCAA under Section 36.1, relating to the dividend paid to shareholders of Sears Canada Inc. ("**SCI**") on December 6, 2013 in the amount of approximately \$509 million (the "**2013 Dividend**") as further described in the Twenty-Seventh Report, and as set out in the draft statement of claim appended thereto, with such amendments as the Monitor deems appropriate.
2. **THIS COURT ORDERS** that the granting of this Order permitting the Monitor to commence the Transfer at Undervalue Proceedings does not constitute a determination of any liability under the Monitor's claim.
3. **THIS COURT ORDERS** that the Monitor is authorized to bring the Transfer at Undervalue Proceedings in this Court.
4. **THIS COURT ORDERS** that the stays of proceedings provided for under the initial order issued by this Court, as amended and restated on July 13, 2017 (the "**Initial Order**"), as they apply to former directors of SCI are hereby lifted solely to allow the Monitor to commence and continue the Transfer at Undervalue Proceedings against William Crowley and William Harker.
5. **THIS COURT ORDERS** that in addition to the powers provided to the Monitor pursuant to the Initial Order and the obligations imposed upon those with information and records

pertaining to the Applicants, the Applicants shall cooperate fully with the Monitor in relation to the Transfer at Undervalue Proceedings and the Applicants shall incur no liability by reason of the cooperation referred to in this paragraph.

6. **THIS COURT ORDERS** that the Creditors' Committee established pursuant to the Amended Litigation Investigator Order dated April 26, 2018 shall continue as currently constituted thereunder to also consult with the Monitor in respect of the Transfer at Undervalue Proceedings.

PROTECTIONS TO THE MONITOR

7. **THIS COURT ORDERS** that in relation to all matters connected with the Transfer at Undervalue Proceedings, the Monitor shall have all of the rights, powers and protections provided for pursuant to the Initial Order.

8. **THIS COURT ORDERS** that the Monitor shall continue to have the benefit of the protections provided under paragraph 34 of the Initial Order in the exercise of its powers under this Order, including, without limitation, the commencement and continuation of the Transfer at Undervalue Proceedings.

9. **THIS COURT ORDERS** that the foregoing does not preclude the Court from awarding legal costs associated with the Transfer at Undervalue Proceedings in favour of a party to the Transfer at Undervalue Proceedings and in the event that such costs are awarded against the Monitor, the Monitor shall have a claim for indemnity against the Property (as such term is defined in paragraph 4 of the Initial Order) to satisfy any such costs award ("**Monitor's Cost Indemnity Claim**") and such indemnity claim shall be secured by the Administration Charge (as such term is defined in paragraph 37 of the Initial Order) created in accordance with the Initial Order, as amended by this Order.

10. **THIS COURT ORDERS** that the Initial Order shall be amended as necessary so as to provide that the maximum aggregate amount of the Administration Charge is equal the sum of \$5 million plus the amount of the Monitor's Cost Indemnity Claim.

COSTS AND OPT-OUT MECHANISM

11. **THIS COURT ORDERS** that the Monitor shall separately account for any costs directly related to the Transfer at Undervalue Proceedings and any claims pursued on the recommendation of the Litigation Investigator (as defined in the Twenty-Seventh Report) (the "LI Claims") from any other costs to administer the estates of the Applicants.

12. **THIS COURT ORDERS** that unsecured creditors of SCI who do not wish to have their distributions, if any, affected by the costs or recoveries of the Transfer at Undervalue Proceedings or the LI Claims (the "**Opt-out Creditors**") shall have the option to opt out of such participation and such Opt-out Creditors' recoveries will be neither increased by any recoveries from such claims nor reduced by the costs of pursuing such claims, including the costs of any Monitor's Cost Indemnity Claim.

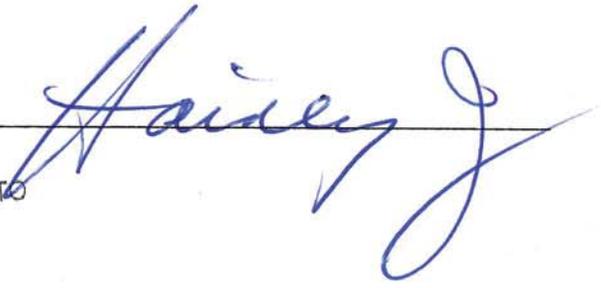
13. **THIS COURT ORDERS** that the form of opt-out notification attached as Appendix "C" to the Twenty-Seventh Report (the "**Opt-out Notice**") is hereby approved and the Monitor is authorized and directed to, as soon as practicable, deliver the Opt-out Notice to all unsecured creditors of SCI (other than those creditors represented by Employee Representative Counsel and Pension Representative Counsel (in each case as defined in the Twenty-Seventh Report)) having unsecured claims that are either resolved or disputed in amounts in excess of \$5,000 to the address shown on such unsecured creditor's proof of claim filed in accordance with the Claims Procedure Order granted on December 8, 2018 in these proceedings. The Monitor is further authorized and directed to, as soon as practicable, deliver the Opt-out Notice to Employee Representative Counsel, Pension Representative Counsel and to Morneau Shepell

Limited, as administrator of the Sears Canada Pension Plan. Employee Representative Counsel and Pension Representative Counsel shall each be authorized to determine whether an Opt-out Notice should be completed and delivered on behalf of those parties they represent and, following such determination, either elect to deliver or not deliver such Opt-out Notice on behalf of those parties they represent. Morneau Shepell Limited, as administrator of the Sears Canada Pension Plan, shall be authorized to determine whether an Opt-out Notice should be delivered in connection with the Sears Pension Claim (as defined in the Employee and Retiree Claims Procedure Order granted on February 22, 2018) and, following such determination, either elect to deliver or not deliver such Opt-out Notice in connection with the Sears Pension Claim. Any creditor, including Morneau Shepell Limited, (or Employee Representative Counsel or Pension Representative Counsel on behalf of the parties they represent) who receives an Opt-out Notice and returns such Opt-out Notice executed to the Monitor at the address shown on the Opt-out Notice so that it is received by the Monitor on or before sixty days after the date of delivery thereof to such creditor (or Employee Representative Counsel or Pension Representative Counsel on behalf of the parties they represent) shall have irrevocably agreed to be treated as an Opt-out Creditor in these proceedings. All other unsecured creditors of SCI shall be deemed not to be Opt-out Creditors.

GENERAL

14. **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 or any other jurisdiction 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, including the U.S. Bankruptcy Court. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Applicants and the Monitor, as an

officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order



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

DEC 04 2018

PER / PAR: *UM*

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

TRANSFER AT UNDERVALUE PROCEEDING
APPROVAL ORDER

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Lawyers to the Monitor, FTI Consulting Canada Inc.

Appendix E

Litigation Order (Litigation Trustee Claim)

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE)	MONDAY, THE 3RD
)	
MR. JUSTICE HAINEY)	DAY OF DECEMBER, 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 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.

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

**ORDER
(APPOINTMENT OF LITIGATION TRUSTEE,
LIFTING OF STAY, AND OTHER RELIEF)**

THIS MOTION, made by the Litigation Investigator, for an Order pursuant to section 11 of the *Companies' Creditors Arrangement Act*, RSC 1985, c C-36,, as amended (the “**CCAA**”) and Rule 6.01 of the *Rules of Civil Procedure*, RRO 1990, Reg. 194, as amended (the “**Rules**”) for an order, among other things, appointing a Litigation Trustee to pursue certain claims on behalf of the Applicants and/or any creditors of the Applicants and providing for the process by which a

common issues trial will be heard, was heard this day at 330 University Avenue, 8th Floor, Toronto, Ontario.

ON READING the Monitor's 27th Report to the Court dated November 5, 2018 and the Litigation Investigator's First Report to the Court dated November 5, 2018 (the "**First Report**"), and on reading and hearing the submissions of counsel for the Applicants, counsel for the Monitor, counsel for the Litigation Investigator, and such other counsel for various creditors and stakeholders as were present, no one else appearing although duly served as appears from the Affidavit of Service.

SERVICE

1. THIS COURT ORDERS that this motion is properly returnable today and hereby dispenses with further service thereof.

TERMINATION OF LITIGATION INVESTIGATOR APPOINTMENT

2. THIS COURT ORDERS that the appointment of the Litigation Investigator pursuant to the Amended Litigation Investigator Order dated April 26, 2018 (the "**Amended Litigation Investigator Order**"), is hereby terminated, effective immediately.

CONTINUATION AND EXTENSION OF LITIGATION CREDITORS' COMMITTEE

3. THIS COURT ORDERS that the Creditors' Committee established pursuant to the Amended Litigation Investigator Order dated April 26, 2018 shall continue as currently constituted thereunder to consult with and provide input to the Litigation Trustee Parties in respect of the claims brought by the Litigation Trustee in accordance with this Order.

4. THIS COURT ORDERS that the Litigation Trustee Parties shall meet with the Creditors' Committee on a monthly basis unless otherwise agreed for a particular month by said parties, and which meetings shall be subject to confidentiality and that privilege shall be maintained.

APPOINTMENT OF LITIGATION TRUSTEE

5. THIS COURT ORDERS that the Honourable J. Douglas Cunningham, Q.C. is hereby appointed as an officer of this Court to be the Litigation Trustee over and in respect of the Applicants' claims identified in the First Report of the Litigation Investigator (the "**Litigation Assets**" or the "**Claims**") on the terms described herein.

LITIGATION TRUSTEE'S POWERS

6. THIS COURT ORDERS that the Litigation Trustee is hereby empowered, authorized and directed to do all things and carry out all actions necessary to prosecute the Claims, including:

- (a) to engage, give instructions and pay counsel as well as consultants, appraisers, agents, advisors, experts, auditors, accountants, managers and such other persons from time to time on whatever basis the Litigation Trustee may agree, in consultation with the Monitor, to assist with the exercise of his powers and duties. Notwithstanding such authority, the Litigation Trustee shall be under no obligation to consult with its counsel, consultants, appraiser, agents, advisors, experts, auditors, accountants, managers and its good faith determination not to do so shall not result in the imposition of liability on the Litigation Trustee, unless such determination is based on gross negligence or willful misconduct;

- (b) to execute, assign, issue and endorse documents of whatever nature in the name of and on behalf of Sears Canada for any purpose in connection with the Claims or otherwise pursuant to this Order; and
- (c) to pursue the Claims, defend any counter claim, third party claim or other claim brought against Sears Canada, and subject to further Order of the Court, and in consultation with the Monitor, to settle or compromise, abandon, dismiss or otherwise dispose of such proceeding. The authority hereby conferred shall extend to any appeals or applications for judicial review in respect of any order or judgment pronounced in such proceeding.

7. THIS COURT ORDERS that, notwithstanding the generality of paragraph 15(d) above, the Litigation Trustee is hereby authorized and empowered to commence claims, in his own name or on behalf of the Applicants, against ESL Investments Inc. (and certain affiliates), Edward Lampert, William C. Crowley, William R. Harker, Donald Campbell Ross, Ephraim J. Bird, Deborah E. Rosati, R. Raja Khanna, James McBurney and Douglas Campbell.

8. THIS COURT ORDERS that the stay of proceedings provided for in paragraph 25 of the Initial Order dated June 22, 2017 (the "**Initial Order**"), is hereby lifted as against William C. Crowley, William R. Harker, Donald Campbell Ross, Ephraim J. Bird, Deborah E. Rosati, R. Raja Khanna, James McBurney and Douglas Campbell for the purposes of permitting the claims referred to in the First Report, including those of the Litigation Trustee, to be commenced and pursued against those persons.

INDEMNITY

9. THIS COURT ORDERS that the Litigation Trustee shall incur no liability or obligation as a result of his appointment or in carrying out of any of the provisions of this Order, save and except for any gross negligence or any willful misconduct. Sears Canada shall indemnify and hold harmless the Litigation Trustee and his designated agents, representatives and professionals with respect to any liability or obligations as a result of his appointment or the fulfillment of his duties in carrying out the provisions of this Order, save and except for any gross negligence or willful misconduct. For clarity, in no event shall the Litigation Trustee be personally liable for any costs awarded against Sears Canada in the action. Any such costs awarded shall be a claim solely against Sears Canada estate. No action, application or other proceeding shall be commenced against the Litigation Trustee as a result of, or relating in any way to his appointment, the fulfillment of his duties or the carrying out of any Order of this Court except with leave of this Court being obtained. Notice of any such motion seeking leave of this Court shall be served upon Sears Canada, the Monitor and the Litigation Trustee at least seven (7) days prior to the return date of any such motion for leave.

10. THIS COURT ORDERS that the indemnity pursuant to paragraphs 4-8 above shall survive any termination, replacement or discharge of the Litigation Trustee. Upon any termination, replacement or discharge of the Litigation Trustee, on not less than 10 business days' notice, all claims against the Litigation Trustee, his designated agents, representatives and professionals for which leave of the Court has not already been sought and obtained shall be, and are hereby forever discharged, other than claims for which a party seeks leave prior to the discharge date to bring a claim against the Litigation Trustee and (i) such leave has been obtained; or (ii) the request for leave remains outstanding.

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LITIGATION TRUSTEE'S ACCOUNTS

11. THIS COURT ORDERS that the Litigation Trustee and counsel to the Litigation Trustee (collectively, the "**Litigation Trustee Parties**") shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by Sears Canada as part of the costs of these proceedings. Sears Canada is authorized and directed to pay the accounts of the Litigation Trustee Parties on a bi-weekly basis (or such other interval as may be mutually agreed upon) and, in addition, Sears Canada is hereby authorized to pay to the Litigation Trustee Parties retainers not exceeding \$50,000.00 each, to be held by them as security for payment of their respective fees and disbursements outstanding from time to time.

12. THIS COURT ORDERS that the Litigation Trustee Parties shall pass their accounts from time to time, and for this purpose the accounts of the Litigation Trustee Parties are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

13. THIS COURT ORDERS that the Litigation Trustee Parties shall be entitled to the benefit of and are hereby granted a charge in the maximum amount of \$500,000.00 (the "**Litigation Trustee's Charge**") on the "**Property**" of Sears Canada as defined by paragraph 4 of the Initial Order, ranking *pari passu* with the Administration Charge (as defined in the Initial Order), in priority to all other security interests, trusts (statutory or otherwise), liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any person, including all charges granted by the Initial Order (other than the Administration Charge) and all other Orders of this Court granted in these proceedings.

14. THIS COURT ORDERS that the filing, registration or perfection of the Litigation Trustee's Charge shall not be required, and that the Litigation Trustee's Charge shall be valid and enforceable for all purposes, notwithstanding any such failure to file, register, record or perfect.

15. THIS COURT ORDERS that the granting of the Litigation Trustee's Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Litigation Trustee's Charge shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declaration of insolvency herein; (b) any application(s) for bankruptcy order(s) issued pursuant to *Bankruptcy and Insolvency Act* (Canada) (the "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; or (d) the provisions of any federal or provincial statutes, and notwithstanding any provision to the contrary in any agreement.

16. THIS COURT ORDERS that the payments made by Sears Canada pursuant to this Order and the granting of the Litigation Trustee's Charge, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

LIMITATION ON ENVIRONMENTAL LIABILITIES

17. THIS COURT ORDERS that nothing herein contained shall require the Litigation Trustee 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 Litigation Trustee from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Litigation Trustee shall not, as a result of this Order or anything done in pursuance of the Litigation Trustee’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.

PROCEDURE

18. THIS COURT ORDERS that a case management judge for the claims brought by the Monitor, the Litigation Trustee, the Pension Administrator, and the Class Action plaintiffs as referred to in the First Report will be appointed as soon as possible.

19. THIS COURT ORDERS that the procedure to be followed for the claims brought by the Monitor, the Litigation Trustee, the Pension Administrator, and the Class Action plaintiffs as referred to in the First Report shall be determined by the case management judge.

GENERAL

20. THIS COURT ORDERS that, without limiting any other provisions of this Order, the Litigation Trustee may from time to time apply to this Court for advice and directions in the discharge of his powers and duties hereunder.

21. THIS COURT ORDERS that the Monitor and the Litigation Trustee may report to the Court on their activities from time to time as any of them may see fit or as this Court may direct.

22. 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 Litigation Trustee and its 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 Litigation Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Litigation Trustee and its agents in carrying out the terms of this Order.

23. THIS COURT ORDERS that the Litigation Trustee be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Litigation Trustee 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.

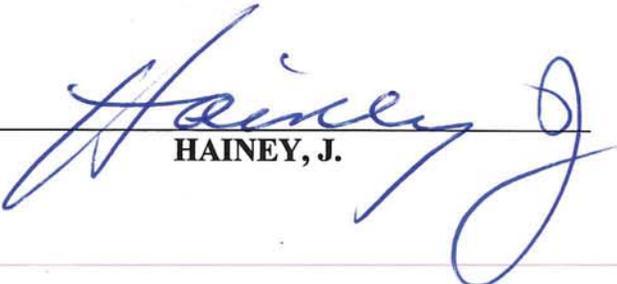
24. THIS COURT ORDERS that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Litigation Trustee and the Monitor and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

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

DEC 04 2018

PER / PAR:

UM


HAINEY, J.

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.

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

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

PROCEEDING COMMENCED AT TORONTO

ORDER

**(APPOINTMENT OF LITIGATION TRUSTEE,
LIFTING OF STAY, AND OTHER RELIEF)**

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Litigator Investigator

Appendix F

Governance Protocol Order

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.)	MONDAY, THE 3RD
)	
JUSTICE HAINEY)	DAY OF DECEMBER, 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.

APPLICANTS

GOVERNANCE PROTOCOL AND STAY EXTENSION ORDER

THIS MOTION, made by FTI Consulting Canada Inc., in its capacity as monitor (the "**Monitor**"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**"), for an order approving the governance protocol for the Applicants and SearsConnect (collectively, the "**Sears Canada Entities**") attached as **Schedule "A"** to this Order (the "**Governance Protocol**") and certain other relief, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion of the Monitor and the Twenty-Eighth Report of the Monitor (the "**Twenty-Eighth Report**"), filed, and on hearing the submissions of respective counsel for the Monitor, the Sears Canada Entities, and such other counsel as were present, no

one else appearing although duly served as appears from the Affidavit of Service of Catherine Ma sworn November 28, 2018, filed:

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion, the Twenty-Eighth Report, 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.
2. **THIS COURT ORDERS** that each capitalized term used and not defined herein shall have the meaning ascribed to such term in the Amended and Restated Initial Order dated June 22, 2017 (the "Initial Order") in these proceedings and in the Twenty-Eight Report.

GOVERNANCE PROTOCOL

3. **THIS COURT ORDERS** that the Governance Protocol is hereby approved and that the Monitor is authorized to take all steps necessary to implement such protocol.
4. **THIS COURT ORDERS** that, the Sears Canada Entities, their advisors and their current and former officers, directors, agents and representatives shall fully co-operate with the Monitor and any directions it may provide pursuant to this Order or the Governance Protocol, and shall provide the Monitor with such assistance as the Monitor may request from time to time to enable the Monitor to carry out and discharge its powers as set out in this Order, the Governance Protocol or any other Order of this Court.
5. **THIS COURT ORDERS** that, without limiting the provisions of the Initial Order, the Monitor shall not take possession of the Property or Business and not be deemed to have taken possession of the Property or Business, or any part thereof.
6. **THIS COURT ORDERS** that the Monitor shall be entitled to exercise any and all of the powers of the Sears Canada Entities set out herein, in the Governance Protocol and in any

other Order in these proceedings. Nothing in this Order shall derogate from the powers of the Monitor as provided for in the CCAA, the Initial Order or any other Order in these proceedings.

7. **THIS COURT ORDERS** that the Monitor be and is hereby authorized and empowered, but not obligated, without any personal liability therefor, in the name of and on behalf of the Sears Canada Entities, to:

- (a) take control of the existing bank accounts of the Sears Canada Entities listed in Schedule "B" attached hereto (the "**Bank Accounts**") and the funds credited thereto or deposited therein including, but not limited to, transferring any funds received into these bank accounts to accounts held in the name of the Monitor; provided that the Monitor shall endeavor to cause Sears Canada to perform the obligations of the Sears Canada Entities with respect to such Bank Accounts, including the payment of any fees or expenses arising in the ordinary course from the use of the accounts. Provided always that nothing in this Order or anything done by the Monitor in furtherance of its duties as Monitor shall create any obligation or liability on the part of the Monitor in respect of any amounts owing by the Sears Canada Entities on account of payment of such fees or expenses; and
- (b) the financial institutions maintaining such Bank Accounts shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken in accordance with the instructions of the Monitor or as to the use or application of funds transferred, paid, collected or otherwise dealt with in accordance with such instructions and such financial institutions shall be authorized to act in accordance with and in reliance upon such instructions without any liability in respect thereof to any person. For greater certainty and except to the extent that any of the terms of the documentation applicable to the Cash Management System (as defined in the Initial Order) are inconsistent with the authorities granted to the Monitor pursuant to this sub-paragraph 7(b) (dealing with Monitor control and access to bank accounts), nothing in this Order shall or shall be deemed to derogate from, limit, restrict or otherwise affect the protections granted pursuant to paragraph 5 of the Initial Order in favour of any bank providing Cash Management Services to the Sears Canada Entities.

PROTECTIONS OF THE MONITOR

8. **THIS COURT ORDERS** that, without limiting the provisions of the Initial Order, all employees of the Sears Canada Entities shall remain employees of the Sears Canada Entities until such time as the employment of such employees is terminated. Nothing in this Order or the Governance Protocol shall cause the Monitor to be liable for any employee-related liabilities or duties, including, without limitation, wages, severance pay, termination pay, vacation pay and pension or benefit amounts.

9. **THIS COURT ORDERS** that nothing in this Order or the Governance Protocol and nothing done by the Monitor in carrying out its duties under the Governance Protocol or hereunder shall result in, or be deemed to result in, the Monitor being an employer, successor employer, responsible person, operator, officer, director, employee receiver, trustee, assignee, liquidator, administrator, legal representative, receiver-manager or agent of the Sears Canada Entities or in possession or control of the Property or any part thereof, in each case, within the meaning of any statute, regulation or rule of law, or equity, for any purpose whatsoever. Without limiting the foregoing, the Monitor shall not, as a result of this Order or the Governance Protocol, or anything done pursuant to its powers pursuant to this Order or the Governance Protocol, be deemed to occupy or to take control, care, charge, possession or management 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 *Environmental Protection Act (Ontario)*, the *Occupational Health and Safety Act (Ontario)* and each of the respective regulations thereunder; provided however, if the Monitor is nevertheless found to be in possession of any Property, then the Monitor shall be deemed to be a person who has been lawfully appointed to take, or has lawfully taken, possession or control of such

Property for the purposes of section 14.06(1.1)(c) of the *Bankruptcy and Insolvency Act* (Canada) (the "BIA") and shall be entitled to the benefits and protections in relation to the Sears Canada Entities and such Property as provided by section 14.06(2) of the BIA to a "trustee" in relation to an insolvent person and its property.

10. **THIS COURT ORDERS** that, in addition to the rights and protections afforded to the Monitor under the CCAA, as an officer of this Court, or under the Initial Order, the Monitor shall not incur any liability or obligation as a result of carrying out the provisions of this Order or the Governance Protocol, save for gross negligence or wilful misconduct on its part, and the Monitor shall not have any liability with respect to any losses, claims, damages or liabilities, of any nature or kind, to any Person from and after the date of this Order, except to the extent such losses, claims, damages or liabilities result from the gross negligence or wilful misconduct on its part.

11. **THIS COURT ORDERS** that any distribution or payment made to creditors of the Sears Canada Entities will be deemed to have been made by the Sears Canada Entities, or any one of them, as applicable.

12. **THIS COURT ORDERS** that any Authorized Representative (as such term is defined in the Governance Protocol) acting upon the direction or delegation of the Monitor shall incur no liability or obligation as a result of carrying out the provisions of the Order or the Governance Protocol, save for gross negligence or wilful misconduct on their part, and any Authorized Representative shall not have any liability with respect to any losses, claims, damages or liabilities, of any nature or kind, to any Person from and after the date of this Order, except to the extent such losses, claims, damages or liabilities result from the gross negligence or wilful misconduct on their part.

13. **THIS COURT ORDERS** that, without limiting any other provision of this Order, the Sears Canada Entities shall, jointly and severally, indemnify the Monitor and any Authorized

Representative against any and all costs, expenses, obligations and liabilities that it or any of them may incur as result of carrying out the provisions of this Order or the Governance Protocol (in the case of an Authorized Representative, at the direction or delegation of the Monitor), except to the extent that liability was incurred as a result of the gross negligence or willful misconduct on the part of the Monitor or such Authorized Representative, as the case may be.

14. **THIS COURT ORDERS** that the Monitor shall continue to have the benefit of all of the indemnities, charges, protections and priorities as set out in the Initial Order and any other Order of this Court and all such indemnities, charges, protections and priorities shall apply and extend to the Monitor in the carrying out of the provisions of this Order and the Governance Protocol and shall also apply and extend to any Authorized Representative acting upon the direction or delegation of the Monitor. For the avoidance of doubt, no Authorized Representative shall be deemed to be a director of any of the Sears Canada Entities, or any entity affiliated with any of the Sears Canada Entities, under applicable law by reason of having been designated as an Authorized Representative pursuant to this Order or the Governance Protocol and/or having acted in such capacity at the direction or delegation of the Monitor.

EXTENSION OF THE STAY PERIOD AND DEADLINE TO ISSUE NOTICES OF REVISION OR DISALLOWANCE

15. **THIS COURT ORDERS** that the Stay Period (as such term is defined in the Amended and Restated Initial Order dated June 22, 2017 made in these proceedings) is hereby extended from December 18, 2018 until and including May 2, 2019. Further, the Application Period for the Employee Hardship Fund (as such terms, respectively, are defined in the Employee Hardship Fund Term Sheet, approved by the Court on August 18, 2017) shall also be extended from December 18, 2018 until and including May 2, 2019.

16. **THIS COURT ORDERS** that the deadline for the Monitor to issue Notices of Revision or Disallowance in respect of D&O Claims and claims filed by the Directors and Officers based

upon claimed indemnity obligations of the Applicants to such Directors and Officers, in each case pursuant to the Claims Procedure Orders, shall be extended until and including March 1, 2019.

SEALING

17. **THIS COURT ORDERS** that Schedule "B" to this Order shall be and is hereby sealed, kept confidential and shall not form part of the public record pending further Order of this Court.

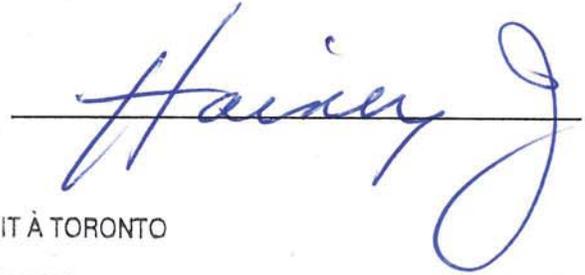
GENERAL

18. **THIS COURT ORDERS** that, except as may be necessary to give effect to this Order and the Governance Protocol, the Initial Order remains in full force and effect and in the event of a conflict between the terms of this Order and those in the Initial Order, the provisions of this Order shall govern.

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

20. **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 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 and the Governance Protocol. 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 and the Governance Protocol, 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 and the Governance Protocol. Without limiting the foregoing, in regard to any Governance Action (as such term is defined in the Governance

Protocol) taken on behalf of any of the Sears Canada Entities by the Monitor, all applicable regulatory or governmental units or agencies are hereby directed to accept any such certificates or other documents filed by the Monitor and to take all such steps necessary or appropriate to allow and effect the Governance Action in question.



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SCHEDULE A
Governance Protocol

Sears Canada Inc. Governance Protocol

All capitalized terms used herein and not otherwise defined have the meanings given to them in the Amended and Restated Initial Order dated June 22, 2017.

WHEREAS substantially all of the Property and assets of the Sears Canada Entities have been sold or otherwise disposed of or are the subject of a binding transaction agreement, with the exception of two remaining real property assets and other non-material assets (the "**Remaining Property**").

WHEREAS the Business previously carried on by the Sears Canada Entities has ceased operations.

WHEREAS the Applicants currently employ not more than ten individuals.

WHEREAS the remaining material steps to be taken in connection with these proceedings are: (i) completing the review, determination and adjudication of certain claims made against any of the Sears Canada Entities pursuant to the Claims Procedure Orders (as defined below) or otherwise (the "**Claims Resolution Process**"); (ii) monetizing the remaining real estate assets (the "**Real Estate Process**"); (iii) distributing the proceeds through a Plan if possible (the "**Distribution Process**"); and (iv) implementing a framework to proceed with certain litigation claims for the benefit of the Sears Canada Entities and their creditors (the "**Litigation Process**" and together with (i), (ii) and (iii), the "**Remaining Matters**").

WHEREAS no ordinary course business operations remain to be supervised and no material commercial transactions outside of the Real Estate Process remain to be implemented.

As a result of the foregoing, the following parties will oversee the Remaining Matters:

- i. the **Claims Resolution Process** has been, and will continue to be, administered by the Monitor in accordance with the Claims Procedure Order granted on December 8, 2017 and the Employee and Retiree Claims Procedure Order granted on February 22, 2018 (collectively, the "**Claims Procedure Orders**");
- ii. the **Real Estate Process** will be overseen by the Monitor. A group of stakeholders of the Sears Canada Entities has been consulted in this process and will continue to be consulted in accordance with past practice;
- iii. the **Distribution Process**, including all matters related to a Plan, including, without limitation, drafting of the Plan, and bringing of any motion to the Court in respect thereto, will be supervised and administered by the Monitor for the benefit of all creditors whose distributions will be determined in accordance with their legal entitlements or any negotiated resolutions resulting from the Claims Resolution Process; and
- iv. the **Litigation Process**, if approved by the Court, will be administered and supervised in accordance with the Order or Orders of the Court by the Court-appointed Litigation Trustee in connection with those claims it pursues on behalf of Sears Canada Inc., and by the Monitor in connection with those claims that the Monitor is empowered by statute to pursue.

In support of the foregoing, the Monitor will, to the exclusion of any other Person, and without the need for approval of the remaining directors of Sears Canada Inc. (the "**Remaining Directors**") or the remaining directors of the other Applicants:

- (a) oversee the remaining wind-down of the Sears Canada Entities, including without limitation:
 1. directing the Sears Canada Entities to preserve, protect and maintain control of the Remaining Property, or any parts thereof;

2. receiving, collecting and taking possession of all monies and accounts now owed or hereafter owing to any of the Sears Canada Entities; and
3. directing the Sears Canada Entities to file, or file on behalf of the Sears Canada Entities, any tax returns and directing the Sears Canada Entities to claim, or claim on behalf of the Sears Canada Entities, any and all rebates, refunds, and other amounts of tax (including sales taxes, capital taxes and income taxes) paid or payable by the Sears Canada Entities,

in each case on the basis that the Monitor shall incur no liability or obligation to any Person with respect to the foregoing matters.

(b) cause the Sears Canada Entities to perform such functions as the Monitor considers necessary or desirable in order to facilitate or assist the Sears Canada Entities in dealing with the Remaining Matters including the Remaining Property or operations, wind-down or other activities, including, without limitation:

1. entering into any agreements or disclaiming any agreements;
2. retaining or terminating employees or contractors, including preparing and filing the Sears Canada Entities' employee-related remittances, T4 statements and records of employment for the Sears Canada Entities' former employees based solely upon information provided by the Sears Canada Entities and on the basis that the Monitor shall incur no liability or obligation to any Person with respect to such returns, remittances, statements, records or other documentation;
3. in the event of dissolution and winding up of any of the Sears Canada Entities, executing, acknowledging and filing all necessary or appropriate certificates or other documents with the appropriate governmental agency or unit on behalf of any such Sears Canada Entity and taking any other action necessary or appropriate to effect such dissolution and wind-up of each such Sears Canada Entity and withdrawing such Sears Canada Entity from qualification in any jurisdiction it is qualified to do business, including without limitation, executing and filing certificates of dissolution and paying of any associated filing fees and the filing of any tax returns deemed necessary or appropriate (and paying the related taxes) on behalf of such entity on the basis that the Monitor shall incur no liability or obligation to any Person with respect to such matters;

(c) cause the Sears Canada Entities to administer the Remaining Property of the Sears Canada Entities as the Monitor considers necessary or desirable for the purposes of completing any transaction involving any Remaining Property or for purposes of facilitating distributions to creditors of the Sears Canada Entities, whether by way of a Plan or otherwise;

(d) cause the Sears Canada Entities to engage assistants or advisors as the Monitor deems necessary to carry out the Remaining Matters and to provide instructions and directions to any current advisors of the Sears Canada Entities;

(e) have authority to sign such agreements, instruments and other documents on behalf of each of the Sears Canada Entities as the Monitor deems appropriate, whether in the Monitor's name or in the name of and on behalf of any one of the Sears Canada Entities (including, without limitation, financial statements, tax returns and tax filings);

~~(f) as appropriate, delegate to any employee of the Sears Canada Entities (an "Authorized Representative") the authority to sign such agreements, instruments, notices, directions, settlements, regulatory and tax filings, certificates, authorizations and other documents on behalf of each of the Sears Canada Entities as the Monitor may direct;~~

(g) be authorized but not obligated to take any and all corporate actions and actions regarding the governance of the Sears Canada Entities (the "**Governance Action**"), including without limitation, authorizing and effecting:

1. amendments or updates to bylaws;
2. amendments to certificates of incorporation;
3. merger or consolidation with any entity;
4. changes to the jurisdiction of incorporation or formation; and
5. dissolution and winding up of any of the Sears Canada Entities;

provided, in each case, that such actions do not have an adverse effect on any creditors of the Applicants, and any Governance Action so taken by the Monitor is hereby authorized without requiring any further action or approval by the applicable entity or the Remaining Directors, former or existing shareholders or officers.

(h) where appropriate or necessary to conduct the administration of the estate, consult with and provide regular updates to stakeholders of the Sears Canada Entities and their advisors and report to the Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to its exercise of the enhanced powers provided herein and other matters as may be relevant to the CCAA proceedings; and

(i) be entitled to exercise any and all of the rights and powers of the Sears Canada Entities set out herein and in any other Order in the CCAA proceedings and to perform such other duties or to take any steps reasonably incidental to the exercise of the powers and obligations conferred upon the Monitor herein.

The Remaining Directors are not removed from their positions as a result of this protocol. Bennett Jones LLP will continue to advise its current clients that were directors of Sears Canada Inc. on June 22, 2017 in dealing with D&O insurers and matters relating to the CCAA proceedings. Following the approval of this protocol by the Court, the Remaining Directors (and the remaining directors of the other Applicants) will have no liability, obligation or responsibility with respect to the Remaining Matters or any other matter over which the Monitor or any other person exercises control in accordance with this protocol. For greater certainty, this specifically does not relate to any liability, obligation or responsibility of the Remaining Directors (and the remaining directors of the other Applicants) that arose prior to the Court approval of the Order related to these Governance Protocols. The payment of legal fees of counsel to the Remaining Directors shall be subject to the approval of the Monitor as to scope and reasonability.

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

**GOVERNANCE PROTOCOL AND STAY EXTENSION
ORDER**

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Lawyers to the Monitor, FTI Consulting Canada Inc.

TAB 3

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

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

THE HONOURABLE MR.) ●, THE ●
)
JUSTICE HAINEY) DAY OF ●, 2019

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

MEETINGS ORDER

THIS MOTION made by FTI Consulting Canada Inc., in its capacity as Court-appointed
monitor (the "**Monitor**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c.
C-36, as amended (the "**CCAA**"), for an Order, *inter alia*:

- (a) accepting the filing of the Plan (as defined below);

- (b) authorizing the classification of creditors for purposes of voting on the Plan and
the substantive consolidation of the Sears Parties and the SLH Parties (each as
defined below) for the purposes of the Plan;

- (c) authorizing and directing the Monitor to call, hold and conduct the Meetings (as defined below) of two classes of affected creditors to consider and vote upon a resolution to approve the Plan;
- (d) approving the procedures to be followed for the calling, holding and conduct of the Meetings; and
- (e) setting a date for the hearing of the motion to this Court for approval of the Plan,

was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion and the Twenty-Ninth Report of the Monitor dated February 6, 2019 (the “**Plan Report**”), and on hearing the submissions of counsel for the Monitor, Employee Representative Counsel, each of the Pension Parties and those other parties present, no one else appearing for any other person although duly served as appears from the affidavit of service of [●] sworn [●],

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 further service thereof is hereby dispensed with.

DEFINITIONS

2. **THIS COURT ORDERS** that, in addition to the capitalized terms defined in the Joint Plan of Compromise and Arrangement of the Sears Canada Entities attached as Appendix “A” to the Plan Report (as it may be amended, supplemented, or restated or amended and restated in accordance with its terms and the terms hereof, the “**Plan**”), the following capitalized terms shall have the following meanings:

- (a) **“Additional Information”** has the meaning given to it in paragraph 7 hereof;
- (b) **“Below-Threshold Creditors”** has the meaning given to it in paragraph 10 hereof;
- (c) **“Chair”** has the meaning given to it in paragraph 32 hereof;
- (d) **“Creditor Letter”** means the letter to be sent from the Monitor to certain Affected Unsecured Creditors substantially in the form attached as Schedule **“C”** hereto;
- (e) **“Creditor Proxy”** means the form of proxy for all Affected Unsecured Creditors substantially in the form attached as Schedule **“B”** hereto;
- (f) **“ERC Information Package”** means, together, the ERC Letter and the Notice of Meetings and Sanction Hearing;
- (g) **“ERC Letter”** means the letter to be sent by Employee Representative Counsel to all ERC Employees providing notice of the Plan and Meetings, such ERC Letter to be prepared by Employee Representative Counsel, in consultation with the Monitor;
- (h) **“General Creditor Information Package”** means, collectively, the Creditor Letter, the Notice of Meetings and Sanction Hearing, the Plan, the Plan Report and the Creditor Proxy;
- (i) **“Governance Protocol Order”** means the Order made by the Court on December 3, 2018, among other things, establishing a governance protocol for the Sears Canada Entities;
- (j) **“Meeting Materials”** means:

- (i) the Creditor Letter;
 - (ii) the Plan;
 - (iii) the Notice of Meetings and Sanction Hearing;
 - (iv) the Creditor Proxy;
 - (v) the ERC Letter;
 - (vi) the PRC Letter;
 - (vii) the Plan Report; and
 - (viii) any Plan Modifications;
- (k) **"Meetings"** has the meaning given to it in paragraph 19 hereof;
- (l) **"Monitor's Website"** means <http://cfcanda.fticonsulting.com/searscanada/>
- (m) **"Notice of Meetings and Sanction Hearing"** means the notice of the Meetings for Affected Unsecured Creditors and Sanction Hearing substantially in the form attached as Schedule **"A"** hereto;
- (n) **"Plan"** has the meaning given to it in paragraph 2 hereof;
- (o) **"Plan Modification"** has the meaning given to it in paragraph 4 hereof;
- (p) **"PRC Information Package"** means, together, the PRC Letter and the Notice of Meetings and Sanction Hearing;

- (q) **"PRC Letter"** means the letter to be sent by Pension Representative Counsel to PRC Retirees providing notice of the Plan and Meetings, such PRC Letter to be prepared by Pension Representative Counsel, in consultation with the Monitor;
- (r) **"Proxy Deadline"** has the meaning given to it in paragraph 22 hereof;
- (s) **"Sanction Hearing"** has the meaning given to it in paragraph 44 hereof;
- (t) **"Scrutineers"** has the meaning given to it in paragraph 33 hereof;
- (u) **"Sears Parties"** has the meaning given to it in subparagraph 16(a) hereof;
- (v) **"Secretary"** has the meaning given to it in paragraph 33 hereof;
- (w) **"SLH Parties"** has the meaning given to it in subparagraph 16(b) hereof; and
- (x) **"Unsecured Creditor Class"** has the meaning given to it in paragraph 17 hereof.

PLAN OF COMPROMISE AND ARRANGEMENT

3. **THIS COURT ORDERS** that the Plan is hereby accepted for filing with the Court, and that the Monitor is authorized to seek approval of the Plan by the Affected Unsecured Creditors holding Eligible Voting Claims at the Meetings in the manner set forth herein.

4. **THIS COURT ORDERS** that the Monitor is hereby authorized to file, in accordance with its terms, any amendment, restatement, modification of or supplement to the Plan (each a "**Plan Modification**"), in which case any such Plan Modification shall, for all purposes, be and be deemed to form part of and be incorporated into the Plan. If the Monitor files a Plan Modification prior to the Meetings, the Monitor shall give notice of any such Plan Modification by service upon the Service List, posting on the Monitor's Website, and distribution to all parties in attendance at the Meetings.

5. **THIS COURT ORDERS** that after the Meetings and both prior to and subsequent to the obtaining of the Sanction Order, the Monitor may effect a Plan Modification in accordance with the terms of the Plan. The Monitor shall forthwith serve on the Service List and post on the Monitor's Website any such Plan Modification.

NOTICE OF MEETINGS

6. **THIS COURT ORDERS** that the following documents are approved:

- (a) the Notice of Meetings and Sanction Hearing substantially in the form attached as Schedule "A" hereto;
- (b) the Creditor Proxy substantially in the form attached as Schedule "B" hereto; and
- (c) the Creditor Letter substantially in the form attached as Schedule "C" hereto.

7. **THIS COURT ORDERS** that the Monitor is hereby authorized to make such amendments, restatements, modifications and/or supplements of or to the Meeting Materials (other than the Plan, which may only be amended in accordance with its terms and the terms of this Order), as the Monitor may consider necessary or desirable to conform the content thereof to the terms of the Plan or this Order or any further Order of the Court ("**Additional Information**"), provided that notice of such Additional Information shall be distributed by the Monitor using the method most reasonably practicable in the circumstances, as the Monitor may determine.

8. **THIS COURT ORDERS** that on or before February 22, 2019, the Monitor shall cause the Notice of Meetings and Sanction Hearing to be published for a period of two (2) Business Days in *The Globe and Mail* (National Edition) and the electronic edition of *La Presse* and in such other publications and with such frequency as the Monitor may deem appropriate.

9. **THIS COURT ORDERS** that, as soon as practicable after the granting of this Order, the Monitor shall cause the Meeting Materials, any Additional Information and this Order to be posted on the Monitor's Website. The Monitor shall ensure that the Meeting Materials and any Additional Information remain posted on the Monitor's Website until at least one (1) Business Day after the Plan Implementation Date.

10. **THIS COURT ORDERS** that, as soon as practicable after the granting of this Order, the Monitor shall cause the General Creditor Information Package to be sent in English and in French (with the exception of the Plan Report, which shall only be in English) to (a) Employee Representative Counsel, (b) Pension Representative Counsel and (c) all Affected Unsecured Creditors with Eligible Voting Claims, except for (w) ERC Employees, (x) PRC Retirees, (y) any Creditors in respect of their Warranty Claims, and (z) holders of Affected Unsecured Claims of less than \$5,000 (the "**Below Threshold Creditors**"). Subject to the last sentence of this paragraph, the Monitor shall send the General Creditor Information Package by regular mail, facsimile, courier or e-mail: (a) subject to subparagraph (b) below, if the Affected Unsecured Creditor duly filed a Proof of Claim that set out an address for such Affected Unsecured Creditor, to the address set out in such Proof of Claim; (b) if any address was subsequently provided to the Monitor in accordance with the applicable Claims Procedure Order, to such address; and (c) in all other cases, to the address on file for such Affected Unsecured Creditor in the books and records of the Sears Canada Entities. In the case of a Valid Transferee, the General Creditor Information Package shall be sent by regular mail, facsimile, courier or e-mail to the address set out in such Valid Transferee's Notice of Transfer or Assignment.

11. **THIS COURT ORDERS** that, as soon as practicable after the granting of this Order: (a) the ERC Information Package shall be sent by Employee Representative Counsel to all ERC Employees; and (b) the PRC Information Package shall be sent by Pension Representative Counsel to all PRC Retirees. The ERC Information Package and the PRC Information Package

shall be sent in English and in French to ERC Employees and PRC Retirees respectively by regular mail, facsimile, courier or e-mail: (a) subject to subparagraph (b), if the addressee duly filed a Proof of Claim that set out an address for such Creditor, to the address set out in such Proof of Claim; (b) if any address was subsequently provided to the Monitor in accordance with the applicable Claims Procedure Order, to such address; (c) if no address was provided to the Monitor under subparagraphs (a) and (b), and such addressee is a ERC Employee or PRC Retiree in respect of whom Employee Representative Counsel or Pension Representative Counsel, as applicable, has provided an address, to such address; and (d) in all other cases, to the address on file in the books and records of the Sears Canada Entities. In the case of a Valid Transferee of an Eligible Voting Claim of an ERC Employee or PRC Retiree, the ERC Information Package or the PRC Information Package, as applicable, should be sent by regular mail, facsimile, courier or e-mail to the address set out in such Valid Transferee's Notice of Transfer or Assignment.

12. **THIS COURT ORDERS** that upon request by any Affected Unsecured Creditor with an Eligible Voting Claim, received not less than seven (7) days before the Meetings, the Monitor shall provide hard copies of the applicable Meeting Materials to such Affected Unsecured Creditor.

13. **THIS COURT ORDERS** that the sending of the applicable Meeting Materials to Affected Unsecured Creditors in accordance with paragraphs 10 to 12 above, the posting of the Meeting Materials on the Monitor's Website and the publication of the Notice of Meetings and Sanction Hearing in accordance with paragraphs 8 and 9 above shall constitute good and sufficient notice of the Meeting Materials on all Persons who may be entitled to receive notice thereof, or who may wish to be present in person or by proxy at the Meetings or in these proceedings, and no other form of notice need be made on such Persons and no other document or material need be delivered to such Persons in respect of the Meetings or these proceedings. Notice shall be

effective, in the case of mailing, three (3) Business Days after the date of mailing, in the case of delivery by courier, on the day after the courier was sent, and in the case of delivery by fax or e-mail, on the day the fax or e-mail was transmitted, unless such day is not a Business Day, or the fax or e-mail transmission was made after 5:00 p.m. (Toronto time), in which case, on the next Business Day.

14. **THIS COURT ORDERS** that the non-receipt by any Person of a copy of any of the Meeting Materials shall not invalidate any resolution passed or proceedings taken at the Meetings.

EMPLOYEE ADDRESSES AND INFORMATION

15. **THIS COURT ORDERS** that the Monitor is hereby authorized to deliver to Employee Representative Counsel and Pension Representative Counsel, for distribution to ERC Employees and PRC Retirees with Eligible Voting Claims, and directly to Non-ERC Employees and Non-PRC Retirees with Eligible Voting Claims, in each case for whom the Monitor does not have a social insurance number, a notice that such Employees and Retirees must provide their respective social insurance numbers to the Monitor as a condition to receiving any distribution under the Plan.

SUBSTANTIVE CONSOLIDATION

16. **THIS COURT ORDERS** that the Sears Canada Entities except for Former Corbeil shall be partially substantively consolidated into two Debtor Group estates in the manner set out below for voting and distribution purposes under the Plan:

- (a) Sears Canada, The Cut Inc, Sears Contact Services Inc., Initium Logistics Services Inc., 9845488 Canada 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., 3339611 Canada Inc. and SearsConnect (collectively, the “**Sears Parties**”); and

- (b) Former SLH and 168886 (together, the “**SLH Parties**”).

AFFECTED UNSECURED CREDITORS CLASSES

17. **THIS COURT ORDERS** that for the purposes of considering and voting on the Plan, the Affected Unsecured Creditors shall be grouped into the following classes (in respect of their Eligible Voting Claims) (each an “**Unsecured Creditor Class**”, and collectively, the “**Unsecured Creditor Classes**”):

- (a) **Sears Creditor Class:** Affected Unsecured Creditors of any Sears Parties; and
- (b) **SLH Creditor Class:** Affected Unsecured Creditors of any SLH Parties.

18. **THIS COURT ORDERS** that for the purposes of voting at the Meetings, each Affected Unsecured Creditor with an Eligible Voting Claim shall be entitled to one vote equal to the dollar value of its Eligible Voting Claim as a member of its Unsecured Creditor Class.

THE MEETINGS

19. **THIS COURT ORDERS** that the Monitor is hereby authorized and directed to call, hold and conduct the following Meetings for the purpose of considering and voting on the resolution to approve the Plan and transacting such other business as may be properly brought before the Meetings:

- (a) **Meeting of the SLH Creditor Class:** March 28, 2019 at 10:00 a.m. (Toronto time) at the Metro Toronto Convention Centre, Room 602, 255 Front Street West, Toronto, Ontario, M5V 2W6; and

- (b) **Meeting of the Sears Creditor Class:** March 28, 2019 at 10:30 a.m. (Toronto time) at the Metro Toronto Convention Centre, Room 602, 255 Front Street West, Toronto, Ontario, M5V 2W6

(together, the “**Meetings**” and each such meeting, a “**Meeting**”).

20. **THIS COURT ORDERS** that the only Persons entitled to notice of, to attend or to speak at the Meetings are the Eligible Voting Creditors (or their respective duly-appointed proxyholders), representatives of the Monitor, the Sears Canada Entities, Employee Representative Counsel, the Pension Parties, all such parties’ financial and legal advisors, and the Chair, the Secretary and Scrutineers. Any other person may be admitted to the Meeting only by invitation of the Monitor or the Chair.

21. **THIS COURT ORDERS** that only those Eligible Voting Creditors who submit proxies in accordance with paragraph 22 below and those Eligible Voting Creditors who attend at a Meeting shall be entitled to vote their Eligible Voting Claims at such Meeting.

VOTING BY PROXIES

22. **THIS COURT ORDERS** that all proxies submitted in respect of a Meeting (or any adjournment thereof) must be: (a) submitted to the Monitor so that they are received by the Monitor on or before 5:00 p.m. (Toronto time) five (5) Business Days before the Meeting (the “**Proxy Deadline**”); and (b) in substantially the form attached to this Order as **Schedule “B”** or in such other form acceptable to the Monitor or the Chair. The Monitor is hereby authorized to accept and rely upon any proxy or such other forms as may be acceptable to the Monitor and to use reasonable discretion as to the adequacy of compliance with respect to the manner in which any proxy is completed and executed, and may waive strict compliance with the requirements in connection with the deadlines imposed in connection therewith.

23. **THIS COURT ORDERS** that in respect of Eligible Voting Claims of ERC Employees and PRC Employees:

- (a) Employee Representative Counsel shall be deemed to be the proxy holder in respect of each Eligible Voting Claim of an ERC Employee that is an Employee Claim and shall be entitled to vote such Claims at the Meetings on the ERC Employee's behalf, without the requirement for any ERC Employee to submit a Creditor Proxy to the Monitor; and
- (b) Pension Representative Counsel shall be deemed to be the proxy holder in respect of each Eligible Voting Claim of a PRC Retiree (other than relating to the Pension Claims or Employee Claims) and shall be entitled to vote such Claims at the Meetings on the PRC Retiree's behalf, without the requirement for any PRC Retiree to submit a Creditor Proxy to the Monitor. For greater certainty, only the Pension Plan Administrator or its designated Proxy may vote the Pension Claims.

24. **THIS COURT ORDERS** that, for the purposes of tabulating the votes cast on any matter that may come before the Meetings, the Chair shall be entitled to rely on any vote cast by holders of all proxies that have been duly submitted to the Monitor in the manner set forth in this Order without independent investigation.

25. **THIS COURT ORDERS** that paragraph 22 hereof, and the instructions contained in the Creditor Proxy shall govern the submission of such documents and any deficiencies in respect of the form or substance of such documents filed with the Monitor.

26. **THIS COURT ORDERS** that in the absence of instruction to vote for or against the approval of the resolution to approve the Plan, any duly signed and returned proxy shall be

deemed to include instructions to vote for the approval of the resolution to approve the Plan, provided the proxy holder does not otherwise exercise its right to vote at the Meeting.

TRANSFERS OR ASSIGNMENTS OF CLAIMS

27. **THIS COURT ORDERS** that a Creditor may transfer or assign the whole of its Claim prior to the Meeting, in accordance with the applicable Claims Procedure Order. If a Creditor transfers or assigns the whole of a Claim to another Person, such transferee or assignee shall not be entitled to attend and vote the transferred or assigned Claim at the applicable Meeting unless (a) the assigned Claim is a Voting Claim or an Unresolved Voting Claim, or a combination thereof, and (b) satisfactory notice of and proof of transfer or assignment has been delivered to the Monitor in accordance with the applicable Claims Procedure Order so that it is received by the Monitor no later than the Proxy Deadline.

UNRESOLVED VOTING CLAIMS

28. **THIS COURT ORDERS** that notwithstanding anything to the contrary herein, in the event that an Eligible Voting Creditor holds an Eligible Voting Claim that is an Unresolved Voting Claim as at the date of a Meeting, such Eligible Voting Creditor may attend the Meeting and such Unresolved Voting Claim may be voted at such Meeting by such Eligible Voting Creditor (or its duly appointed proxy holder) in accordance with the provisions of this Order, without prejudice to the rights of the Monitor or the holder of the Unresolved Voting Claim with respect to the final determination of the Claim for distribution purposes, and such vote shall be separately tabulated from votes in respect of Voting Claims at (a) the dollar value of such Unresolved Voting Claim, to the extent a dollar value was ascribed to such claim in the corresponding Proof of Claim, or (b) at a value of \$10, if no value was ascribed to such claim in the corresponding Proof of Claim, provided that, other than as set out herein, the vote cast in respect of any Unresolved Voting Claim shall not be considered for any other purpose, unless,

until and only to the extent that such Unresolved Claim is finally determined to be a Proven Claim.

ENTITLEMENT TO VOTE AT THE MEETINGS

29. **THIS COURT ORDERS** that, notwithstanding anything to the contrary herein, any Person with an Equity Claim shall have no right to, and shall not, vote at the Meetings.

30. **THIS COURT ORDERS** that, in accordance with the CCAA, the Sears Canada Entities, as related parties and as Affected Unsecured Creditors, shall only be permitted to vote their Eligible Voting Claims, if any, against, but not for, the Plan.

31. **THIS COURT ORDERS** that no holder of an Affected Unsecured Claim against Former Corbeil shall be entitled to vote on the Plan or attend at any Meeting in respect of such Affected Unsecured Claim.

PROCEDURE AT THE MEETINGS

32. **THIS COURT ORDERS** that a representative of the Monitor shall preside as the chair of each of the Meetings (the "**Chair**") and, subject to this Order or any further Order of the Court, shall decide all matters relating to the conduct of the Meetings.

33. **THIS COURT ORDERS** that a person designated by the Monitor shall act as secretary at each of the Meetings (the "**Secretary**") and the Monitor may appoint scrutineers for the supervision and tabulation of the attendance, quorum and votes cast at the Meetings (the "**Scrutineers**"). The Scrutineers shall tabulate the votes in respect of all Eligible Voting Claims at the Meetings.

34. **THIS COURT ORDERS** that an Eligible Voting Creditor that is not an individual may only attend and vote at a Meeting if it has appointed a proxy holder to attend and act on its behalf at such Meeting.

35. **THIS COURT ORDERS** that the quorum required at each Meeting shall be one Affected Unsecured Creditor with a Voting Claim present at such Meeting in person or by proxy.

36. **THIS COURT ORDERS** that a Meeting shall be adjourned on one or more occasions to such date, time and place as may be designated by the Chair or the Monitor as the Chair or the Monitor deems necessary or advisable, if:

- (a) the requisite quorum is not present at such Meeting;
- (b) such Meeting is postponed by a vote of the majority in value of the Affected Unsecured Creditors with Eligible Voting Claims for such Unsecured Creditor Class present in person or by proxy at the Meeting; or
- (c) prior to or during such Meeting, the Chair or the Monitor otherwise decides to adjourn such Meeting.

The announcement of the adjournment by the Chair at such Meeting (if the adjournment is during the Meeting), the posting of a notice of such adjournment on the Monitor's Website and the service of notice on the Service List shall constitute sufficient notice of the adjournment and neither the Applicants nor the Monitor shall have any obligation to give any other or further notice to any Person of the adjourned Meeting. Any proxies validly delivered in connection with the adjourned Meeting shall be acceptable as proxies in respect of any Meeting held after an adjournment.

37. **THIS COURT ORDERS** that the Chair be and is hereby authorized to direct a vote at the Meetings, by confidential written ballot or by such other means as the Chair may consider

appropriate, with respect to: (i) a resolution to approve the Plan and any amendments thereto; and (ii) any other resolutions as the Monitor may consider appropriate.

38. **THIS COURT ORDERS** that in order to be approved, the Plan must receive the affirmative vote by the Required Majority from each Unsecured Creditor Class.

39. **THIS COURT ORDERS** that following the votes at the Meetings, the Scrutineers shall tabulate the votes and the Monitor shall determine whether the Plan has been approved by the Required Majority from each Unsecured Creditor Class.

40. **THIS COURT ORDERS** that the Monitor shall file a report to this Court by no later than two (2) Business Days after the Meetings or any adjournment thereof, as applicable, with respect to the results of the vote, including whether:

- (a) the Plan has been approved by the Required Majority in each Unsecured Creditor Class; and
- (b) the votes cast in respect of Unresolved Voting Claims, if applicable, would affect the result of the vote.

41. **THIS COURT ORDERS** that a copy of the Monitor's report regarding the Meetings and the Plan shall be posted on the Monitor's Website prior to the Sanction Hearing.

42. **THIS COURT ORDERS** that if the votes cast by the holders of Unresolved Voting Claims would affect whether the Plan has been approved by the Required Majority, the Monitor shall report this to the Court in accordance with paragraph 40 of this Order, in which case the Monitor may: (a) request this Court to direct an expedited determination of any material Unresolved Voting Claims, (b) request that this Court defer the date of the Sanction Hearing, (c) request that this Court defer or extend any other time periods in this Order or the Plan, and/or (d) seek such further advice and direction as may be considered appropriate.

TREATMENT OF CREDITORS

43. **THIS COURT ORDERS** that the result of any vote conducted at a Meeting shall be binding upon all Affected Unsecured Creditors of each Unsecured Creditor Class, whether or not any such Affected Unsecured Creditor was present or voted at such Meeting.

SANCTION HEARING AND ORDER

44. **THIS COURT ORDERS** that if the Plan has been accepted by the Required Majority of each Unsecured Creditor Class, the Monitor may bring a motion seeking the Sanction Order on April 3, 2019, or such later date as the Monitor may advise the Service List (the "**Sanction Hearing**").

45. **THIS COURT ORDERS** that service of the Notice of Meetings and Sanction Hearing to the parties on the Service List, the delivery of the applicable Meeting Materials in accordance with paragraphs 10 to 12 above and publication of the Notice of Meetings and Sanction Hearings and posting of the Meeting Materials and this Order to the Monitor's Website pursuant to paragraphs 8 and 9 hereof shall constitute good and sufficient service and notice of the Sanction Hearing upon all Persons who may be entitled to receive such service and notice and no other form of service or notice need be made on such Persons and no other materials need be served on such Persons in respect of the Sanction Hearing.

46. **THIS COURT ORDERS** that any Person wishing to receive materials in connection with the Sanction Hearing shall, if they have not already done so, serve upon the lawyers for the Monitor and all other parties on the Service List and file with this Court a Notice of Appearance by no later than 5:00 p.m. (Toronto time) on the date that is seven (7) days prior to the Sanction Hearing.

47. **THIS COURT ORDERS** that any Person who wishes to oppose the motion for the Sanction Order shall serve upon the lawyers for the Monitor and upon all other parties on the Service List, and file with this Court, a copy of the materials to be used to oppose the motion for the Sanction Order by no later than 5:00 p.m. (Toronto time) on the date that is four (4) Business Days prior to the Sanction Hearing.

48. **THIS COURT ORDERS** that if the Sanction Hearing is adjourned, only those Persons who are listed on the Service List (including those Persons who have complied with paragraph 46 of this Order) shall be served with notice of the adjourned date of the Sanction Hearing.

MONITOR'S ROLE

49. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights and obligations under (a) the CCAA; (b) the Initial Order; (c) the Claims Procedure Orders, and (d) the Governance Protocol Order, is hereby directed and empowered to take such other actions and fulfill such other roles as are authorized by this Order.

50. **THIS COURT ORDERS** that: (a) in carrying out the terms of this Order, the Monitor shall have all the protections given to it by the CCAA, the Initial Order, the Claims Procedure Orders, and the Governance Protocol Order, or as an officer of the Court, including the stay of proceedings in its favour; (b) the Monitor may, if it deems it advisable to do so, waive strict compliance with the requirements of this Order, including by waiver of any time limit imposed on any Creditor under this Order; (c) the Monitor and any Authorized Representative (as defined in the Governance Protocol Order) shall incur no liability or obligation as a result of carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its or their parts; (d) the Monitor shall be entitled to rely on the books and records of the Applicants and any information provided by the Applicants without independent investigation;

and (e) the Monitor shall not be liable for any claims or damages resulting from any errors or omissions in such books, records or information.

AMENDMENT TO STYLE OF CAUSE

51. **THIS COURT ORDERS** that the title of these proceedings is hereby changed to:

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., 9845488 Canada 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.

GENERAL

52. **THIS COURT ORDERS** that any notice or other communication to be given pursuant to this Order by or on behalf of any Person to the Monitor shall be in writing and will be sufficiently given only if by mail, courier, e-mail, facsimile or hand-delivery addressed to:

FTI Consulting Canada Inc., Court-appointed Monitor
of the Sears Canada Entities

TD South Tower
79 Wellington Street West, Suite 2010, P.O. Box 104
Toronto, Ontario M5K 1G8

Attention: Elizabeth Pearson

E-mail: searscanada@fticonsulting.com
Fax: 416 649 8101

53. **THIS COURT ORDERS** that notwithstanding any provision herein to the contrary, the Monitor shall be entitled to rely upon any communication given pursuant to this Order (including any delivery of Creditor Proxies) by e-mail.

54. **THIS COURT ORDERS** that if any deadline set out in this Order falls on a day other than a Business Day, the deadline shall be extended to the next Business Day.

55. **THIS COURT ORDERS** that all references 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. (Toronto time) on such Business Day unless otherwise indicated herein.

56. **THIS COURT ORDERS** that the Monitor may from time to time apply to this Court to amend, vary, supplement or replace this Order or for advice and directions concerning the discharge of its powers and duties under this Order or the interpretation or application of this Order.

57. **THIS COURT ORDERS** that subject to any further Order of this Court, in the event of any conflict, inconsistency or ambiguity between the provisions of the Plan and this Order, the provisions of the Plan, if sanctioned by the Court and implemented, shall govern and be paramount.

EFFECT, RECOGNITION AND ASSISTANCE

58. **THIS COURT ORDERS** that this Order shall have full force and effect in all provinces and territories in Canada, outside Canada and against all Persons against whom it may be enforceable.

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

in any foreign proceeding, or to assist the Monitor and their respective agents in carrying out the terms of this Order.

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

Court File No: CV-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

MEETINGS ORDER

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Lawyers the Monitor, FTI Consulting Canada Inc.

Schedule "A"

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., 9845488 CANADA 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.

NOTICE OF MEETINGS AND SANCTION HEARING

NOTICE IS HEREBY GIVEN that a joint plan of compromise and arrangement (as amended, supplemented, restated or amended and restated from time to time, the "**Plan**") under the *Companies' Creditors Arrangement Act* (Canada) ("**CCAA**") has been filed with the Ontario Superior Court of Justice (Commercial List) in respect of Sears Canada Inc. and certain of its affiliates (collectively, the "**Sears Canada Entities**"). Capitalized terms used and not otherwise defined in this notice are as defined in the Plan. A copy of the Plan and the report (the "**Report**") of FTI Consulting Canada Inc., in its capacity as Monitor (the "**Monitor**"), in respect of the Plan, can be found on the website of the Monitor at: <http://cfcanada.fticonsulting.com/searscanada/> (the "**Monitor's Website**").

NOTICE IS ALSO HEREBY GIVEN that Meetings of each of the following Unsecured Creditor Classes of Affected Unsecured Creditors of the Sears Canada Entities will be held at the following date, times and location for the purpose of considering and voting to approve the Plan:

Unsecured Creditor Class	Meeting Information
SLH Creditor Class: Affected Unsecured Creditors of any SLH Parties ¹	March 28, 2019 at 10:00 a.m. Metro Toronto Convention Centre, Room 602 255 Front Street West, Toronto, Ontario, M5V 2W6
Sears Creditor Class: Affected Unsecured Creditors of any of the Sears Parties ²	March 28, 2019 at 10:30 a.m. Metro Toronto Convention Centre, Room 602 255 Front Street West, Toronto, Ontario, M5V 2W6

The Meetings are being held pursuant to the Order of the Ontario Superior Court of Justice (Commercial List) made on ●, 2019 (the "**Meetings Order**"), a copy of which is available on the Monitor's Website.

The Plan provides for the compromise of the Affected Claims of Affected Unsecured Creditors of any of the SLH Parties or Sears Parties. The quorum for each Meeting will be one Affected Unsecured Creditor holding a Voting Claim present in person or by proxy.

The Plan must receive an affirmative vote of the Required Majority of each Unsecured Creditor Class in

¹ The "**SLH Parties**" are 191020 Canada Inc. (formerly known as SLH Transport Inc.) and 168886 Canada Inc.

² The "**Sears Parties**" are Sears Canada Inc., The Cut Inc., Sears Contact Services Inc., Initium Logistics Services Inc., 9845488 Canada Inc. (formerly "Initium Commerce Lab 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., 3339611 Canada Inc. and SearsConnect.

order to be approved by the Affected Unsecured Creditors. The Required Majority is, for each Unsecured Creditor Class, a majority in number of Affected Unsecured Creditors representing at least two-thirds in value of the Voting Claims of Affected Unsecured Creditors, in each case, voting in person or by proxy at the applicable Meeting. The Plan must also be sanctioned by a final order of the Court (the “**Sanction Order**”) pursuant to the CCAA.

NOTICE IS ALSO GIVEN that, if the Plan is approved by the Required Majority of each Unsecured Creditor Class at the Meetings, the Monitor intends to bring a motion before the Court on **[April 3, 2019]** at 10:00 a.m. (Toronto time) (or such other date or time as may be set in accordance with the Meetings Order) seeking the granting of the Sanction Order and for relief ancillary to such sanction. Any person wishing to oppose the motion for the Sanction Order must serve upon the parties on the Service List (as posted on the Monitor's Website) and file with the Court, a copy of the materials to be used to oppose the Sanction Order by no later than 5:00 p.m. (Toronto Time) on **[●]**, 2019.

Completion of Proxies

Any Affected Unsecured Creditor with an Eligible Voting Claim who is unable to attend the applicable Meeting may appoint a proxy to vote on his or her behalf. To do so, such Creditor must complete, sign and return the form of proxy included in its creditor package and deliver its proxy to the Monitor in accordance with the enclosed instructions.

Proxies, once duly completed, dated and signed, must be sent by email to the Monitor, or if it cannot be sent by email, delivered to the Monitor at the address set out on the proxy form. Proxies must be received by the Monitor by no later than 5:00 p.m. (Toronto time) on **[●]**, 2019.

Creditors represented by Employee Representative Counsel or Pension Representative Counsel

If you are an Employee or Retiree of any of the Sears Canada Entities and have not opted out of such representation, then you are represented by Employee Representative Counsel or Pension Representative Counsel, as applicable, and such representative counsel will be voting on your behalf and will be voting FOR approval of the Plan. Accordingly, you should not submit a separate proxy.

Creditors with Warranty Claims

If you are a Creditor holding a customer warranty pursuant to a valid and unexpired protection agreement issued by Sears Canada, please be advised that any Claim you may have that results from that warranty will be addressed under the terms of the Plan.

This notice is given by the Sears Canada Entities pursuant to the Meetings Order. Copies of the Meeting Materials, including the Plan and the ● Report, may be obtained from the Monitor's Website (<http://cfcanada.fticonsulting.com/sears>), or by emailing the Monitor at searscanada@fticonsulting.com

DATED this _____ day of _____, 2019

Schedule "B"

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., 9845488 CANADA 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.

 CREDITOR PROXY

Before completing this proxy, please read carefully the accompanying "Instructions For Completion of Proxy".

Capitalized terms used and not otherwise defined herein have the meanings ascribed to them in the joint plan of compromise and arrangement of Sears Canada Inc. and certain of its affiliates (collectively, the "**Sears Canada Entities**")³ dated [●], 2019 (as may be amended, restated, supplemented, or amended and restated from time to time, the "**Plan**") filed pursuant to the *Companies' Creditors Arrangement Act* with the Ontario Superior Court of Justice (Commercial List) (the "**Court**") or in the meetings order granted by the Court on [●], 2019 (the "**Meetings Order**").

THIS FORM OF PROXY IS FOR USE BY ALL CREDITORS. In accordance with the Plan and the Meetings Order, this proxy may only be filed by Affected Unsecured Creditors having a Voting Claim or an Unresolved Voting Claim ("**Eligible Voting Creditors**") in respect of the Sears Canada Entities other than 9370-2571 Québec Inc. (formerly Corbeil Électrique Inc.).

PROXIES, ONCE DULY COMPLETED, DATED AND SIGNED, MUST BE SENT BY EMAIL TO THE MONITOR, OR IF NOT BY EMAIL, DELIVERED TO THE MONITOR, IN ALL CASES SO THAT IT IS RECEIVED BY NO LATER THAN 5:00 P.M. (TORONTO TIME) ON [●], 2019.

THE UNDERSIGNED ELIGIBLE VOTING CREDITOR hereby revokes all proxies previously given, if any, and nominates, constitutes and appoints [**Mr. Paul Bishop**] of FTI Consulting Canada Inc. in its capacity Monitor of the Sears Canada Entities, or such other Person as [**he**], in [**his**] sole discretion, may designate, or, instead of the foregoing, appoints:

 Print name of proxy holder, if wishing to appoint
 someone other than [**Mr. Paul Bishop**]

to attend on behalf of and act for the undersigned Eligible Voting Creditor at the applicable Meeting(s) to be held in connection with the Plan and at any and all adjournments, postponements or other rescheduling of such Meeting(s), and to vote the dollar value of the Eligible Voting Claim(s) of the undersigned for voting purposes as determined by and accepted for voting purposes in accordance with the Meetings Order and as set out in the Plan as follows:

³ The "**Sears Canada Entities**" are Sears Canada Inc., The Cut Inc., Sears Contact Services Inc., Initium Logistics Services Inc., 9845488 Canada Inc. (formerly "Initium Commerce Lab 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., 3339611 Canada Inc., SearsConnect, 191020 Canada Inc., 168886 Canada Inc. and 9370-2571 Québec Inc.

VOTE
(mark one only):

FOR

APPROVAL OF THE PLAN

AGAINST

The nominee shall vote at the nominee's discretion and otherwise act for and on behalf of the undersigned Affected Unsecured Creditor with respect to any amendments, modifications, variations or supplements to the Plan and to any other matters that may come before the applicable Meeting or any adjournment, postponement or other rescheduling of such Meeting.

In absence of instruction to vote for or against the approval of the resolution to approve the Plan, any duly signed and returned proxy shall be deemed to include instructions to vote for the approval of the resolution to approve the Plan, provided the proxy holder does not otherwise exercise its right to vote at the applicable Meeting.

Dated this _____ day of _____, 2019.

Print Name of Sears Canada Entity the Eligible Voting Claim is held against

Claim Reference Number (if known further to a Notice of Revision or Disallowance sent to you by the Monitor)

Print Name of Eligible Voting Creditor

Print name and title of the authorized signing officer of the corporation, partnership or trust, if applicable signing this form

Signature of Eligible Voting Creditor or, if such creditor is a corporation, partnership or trust, signature of an authorized signing officer of the corporation, partnership or trust

Telephone number of Eligible Voting Creditor or authorized signing officer

Mailing Address of Eligible Voting Creditor

E-mail address of Eligible Voting Creditor

Print Name of Witness

Signature of Witness

INSTRUCTIONS FOR COMPLETION OF PROXY

1. This proxy should be read in conjunction with the joint plan of compromise and arrangement of Sears Canada Inc. and certain of its affiliates (collectively, the “**Sears Canada Entities**”) dated [●], 2019 (as may be amended, restated, supplemented, or amended and restated from time to time, the “**Plan**”) filed pursuant to the *Companies’ Creditors Arrangement Act* with the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) and in connection with the meetings order granted by the Court on [●], 2019 (the “**Meetings Order**”). Capitalized terms used herein that are not otherwise defined herein shall have the meanings ascribed to them in the Plan or Meetings Order.
2. Each Eligible Voting Creditor has the right to appoint as his or her proxy a person (who need not be a Creditor) to attend, act and vote for and on behalf of such Eligible Voting Creditor at the applicable Meeting, and such right may be exercised by inserting the name of the proxy holder in the blank space provided on the proxy.
3. If no name is inserted in the blank space provided in this proxy, the Eligible Voting Creditor will be deemed to have appointed [**Mr. Paul Bishop**] of FTI Consulting Canada Inc., in its capacity as Monitor or such other Person as [**he**], in [**his**] sole discretion may designate, as the Eligible Voting Creditor’s proxy holder.
4. An Eligible Voting Creditor who has given a proxy may revoke it as to any matter on which a vote has not already been cast pursuant to its authority by delivering written notice to the Monitor at the contact details set out below prior to 5:00 pm. (Toronto time) on [●], 2019 (the “**Proxy Deadline**”).
5. If this proxy is not dated in the space provided, it shall be deemed to be dated as of the date on which it is received by the Monitor.
6. A valid proxy from the same Eligible Voting Creditor bearing or deemed to bear a later date shall revoke this proxy. If more than one valid proxy from the same Eligible Voting Creditor in the same capacity and bearing or deemed to bear the same date are received with conflicting instructions, such proxies shall not be counted for the purposes of the vote.
7. This proxy confers discretionary authority upon the proxy holder with respect to amendments or variations to matters identified in the Notice of Meetings and Sanction Hearing and other matters that may properly come before the applicable Meeting or any adjournment or postponement of the applicable Meeting.
8. The proxy holder shall vote the Voting Claim or Unresolved Voting Claim of the Eligible Voting Creditor in accordance with the direction of the Eligible Voting Creditor appointing him or her on any ballot that may be called for at the applicable Meeting or any adjournment or postponement of such Meeting.

IF AN ELIGIBLE VOTING CREDITOR SUBMITS THIS PROXY AND FAILS TO INDICATE ON THIS PROXY A VOTE FOR OR AGAINST APPROVAL OF THE PLAN, AND [MR. PAUL BISHOP] OR [HIS] DESIGNATE IS APPOINTED AS PROXY HOLDER, THIS PROXY SHALL BE VOTED FOR APPROVAL OF THE PLAN, INCLUDING ANY AMENDMENTS, VARIATIONS OR SUPPLEMENTS THERETO.

IF AN ELIGIBLE VOTING CREDITOR SUBMITS THIS PROXY AND FAILS TO INDICATE ON THIS PROXY A VOTE FOR OR AGAINST APPROVAL OF THE PLAN, AND APPOINTS A PROXY HOLDER OTHER THAN [MR. PAUL BISHOP] OR [HIS] DESIGNATE, THE PROXY HOLDER MAY VOTE ON THE PLAN AS HE OR SHE DETERMINES AT THE APPLICABLE MEETING.

9. If the Eligible Voting Creditor is an individual, this proxy must be signed by the Eligible Voting Creditor or by a person duly authorized (by power of attorney) to sign on the Eligible Voting Creditor's behalf. If the Eligible Voting Creditor is a corporation, partnership or trust, this proxy must be signed by a duly authorized officer or attorney of the corporation, partnership or trust. If you are voting on behalf of a corporation, partnership or trust or on behalf of another individual at a Meeting, you must have been appointed as a proxy holder by a duly completed proxy submitted to the Monitor by the Proxy Deadline. You may be required to provide documentation evidencing your power and authority to sign this proxy.
10. **A PROXY, ONCE DULY COMPLETED, DATED AND SIGNED, MUST BE SENT BY EMAIL, OR IF IT CANNOT BE SENT BY EMAIL, DELIVERED, TO THE MONITOR IN EACH CASE SO THAT IT IS RECEIVED BY NO LATER THAN THE PROXY DEADLINE OF 5:00 P.M. (TORONTO TIME) ON ●, 2019.**

By email: searscanada@fticonsulting.com

By mail, courier, or fax: FTI Consulting Canada Inc., as Monitor of the Sears Canada Entities
 TD South Tower
 79 Wellington Street West, Suite 2010, P.O. Box 104
 Toronto, Ontario M5K 1G8
 Attention: Elizabeth Pearson

11. The Monitor is authorized to use reasonable discretion as to the adequacy of compliance with respect to the manner in which any proxy is completed and executed, and may waive strict compliance with the requirements in connection with the deadlines imposed by the Meetings Order.

Schedule "C"

[LETTERHEAD OF MONITOR]

[●], 2019

TO: Affected Unsecured Creditors of Sears Canada Inc., The Cut Inc., Sears Contact Services Inc., Initium Logistics Services Inc., 9845488 Canada Inc. (formerly "Initium Commerce Lab 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., 3339611 Canada Inc. and SearsConnect (collectively, the "**Sears Parties**"), 191020 Canada Inc. (formerly known as SLH Transport Inc.) and 168886 Canada Inc. (together, the "**SLH Parties**") and 9370-2571 Québec Inc. ("**Former Corbeil**", and collectively with the Sears Parties and SLH Parties, the "**Sears Canada Entities**").

Dear Sirs/Mesdames:

Proposed Joint Plan of Compromise and Arrangement of the Sears Canada Entities

Please find enclosed the joint plan of compromise and arrangement (as may be amended, restated, supplemented or amended and restated from time to time, the "**Plan**") under the *Companies' Creditors Arrangement Act* (Canada) (the "**CCAA**") as presented for filing with the Ontario Superior Court of Justice (Commercial List) (the "**Court**") on [●], 2019 by FTI Consulting Canada Inc., in its capacity as the independent Court-appointed Monitor in the CCAA proceedings of the Sears Canada Entities (the "**Monitor**"). Capitalized terms used in this letter that are not otherwise defined in this letter are as defined in the Plan.

Overview

As you may know, on June 22, 2017, Sears Canada Inc. and certain of its affiliates (as defined above, the "**Sears Canada Entities**") obtained creditor protection under the CCAA. The Sears Canada Entities have closed all of their stores, discontinued their operations and liquidated substantially all of their assets in an effort to maximize recoveries for their creditors.

In addition, the Monitor and the Honourable J. Douglas Cunningham, Q.C., as Court-appointed litigation trustee (the "**Litigation Trustee**"), were recently authorized by the Court to pursue litigation against certain third parties on behalf of Sears Canada Inc. and its creditors, in connection with the payment of certain dividends made by Sears Canada Inc. to its shareholders in 2013 (the "**Dividend Litigation**").

In order to distribute the proceeds from the liquidation of the assets of the Sears Canada Entities to their creditors in accordance with their legal entitlements and to facilitate pursuit of the Dividend Litigation, the Monitor has developed the Plan, which is now proposed on behalf of the Sears Canada Entities.

The Plan must be approved by a majority in number of Affected Unsecured Creditors in each of two Unsecured Creditor Classes, representing at least two-thirds in value of the Voting Claims of such Affected Unsecured Creditors, in each case who actually vote in person or by proxy at the applicable Meeting. Effectiveness of the Plan is also subject to the approval of the Court pursuant to the CCAA.

If the Plan is approved by the required majorities of creditors and sanctioned by the Court, the Plan will:

- (a) effect a compromise and settlement of all Affected Claims, in exchange for the distributions to Affected Unsecured Creditors with Proven Affected Unsecured Claims;

- (b) facilitate the payment of distributions in respect of Proven Affected Unsecured Claims, Proven Priority Claims and Proven Secured Claims;
- (c) implement the resolution of a number of significant claims against the Sears Canada Entities, including (i) claims relating to the wind-up deficit in the Sears Canada Pension Plan, and (ii) certain class action claims; and
- (d) allow those Affected Unsecured Creditors of Sears Canada Inc. who have not opted out of participation in the Dividend Litigation (such litigation being referred to in the Plan as the “**TUV Claim**” and the “**LT Claims**”, with such Creditors being “**Sears Opt-In Creditors**”), to fund the costs of the Dividend Litigation, and receive the benefit from any potential recoveries that may be derived from the pursuit of such litigation,

all in the expectation that all persons with an economic interest in the Sears Canada Entities will derive a greater benefit from the implementation of the Plan than would result from any alternative, including and in particular, a bankruptcy.

Classes of Affected Unsecured Creditors and Voting

The Plan is a single joint Plan that will be subject to approval at the Meetings by the vote of each of two Unsecured Creditor Classes, being:

- (a) the Sears Creditor Class, being Affected Unsecured Creditors of any of the Sears Parties; and
- (b) the SLH Creditor Class, being Affected Unsecured Creditors of any of the SLH Parties.

Since Former Corbeil has sufficient funds to pay all of its Affected Unsecured Creditors in full, such creditors will have no shortfall on their claims and so will not be entitled to vote.

Affected Unsecured Creditors in each class will be entitled to vote the amount of their Affected Unsecured Claim as finally determined in accordance with the applicable Claims Procedure Order and the Plan. To the extent that an Affected Unsecured Claim, or any part thereof, remains unresolved, the Affected Unsecured Creditor will also be able to vote its Unresolved Voting Claim and such vote shall be tabulated separately from the votes of Affected Unsecured Creditors with Proven Claims.

Estimated Recoveries

While the value of distributions to Affected Unsecured Creditors cannot be calculated with certainty at this time, the current estimated range of recoveries for Affected Unsecured Creditors of the SLH Parties is approximately 15 to 20 cents on the dollar. For Affected Unsecured Creditors of the Sears Parties (including Sears Canada Inc.), this figure is estimated at approximately 6 to 8 cents on the dollar, although Sears Opt-In Creditors may receive additional recoveries if pursuit of the Dividend Litigation is successful.

Distributions on account of Proven Claims of Affected Unsecured Creditors in the SLH Creditor Class and Sears Creditor Class will be based on the pro rata share of the net funds available in the SLH Parties and Sears Parties' respective estates. As indicated above, Affected Unsecured Creditors of Former Corbeil will be paid in full.

Sears Opt-In Creditors will additionally be entitled to their pro rata share of the net recoveries resulting from the pursuit of the Dividend Litigation, if any. As a consequence, they will also be required to bear their pro rata share of the net costs of such pursuit.

Pension Claims

The Sears Canada Entities, Monitor and the Pension Parties reached a settlement pursuant to which the Pension Claims will be allowed as Proven Affected Unsecured Claims at the value of \$624,480,000 against the Sears Parties and \$26,020,000 against the SLH Parties, subject to certain adjustments. As part of the settlement, the Pension Parties agreed to discontinue the Deemed Trust Motions upon implementation of the Plan.

In conjunction with the settlement, the Monitor reached a support agreement with the Pension Plan Administrator whereby the Pension Plan Administrator or its designated proxy will vote in favour of the Plan, provided that the conditions of the settlement are met.

Releases

The Plan provides for customary releases in favour of the Sears Released Parties and the Third Party Released Parties as set out in greater detail in Article 9 of the Plan.

Notably, the Plan does not provide releases in respect of certain types of claims, including those relating to the matters being pursued by the Monitor, the Litigation Trustee or others in connection with the Dividend Litigation.

Consideration of and Vote on the Plan

The information provided in this letter is intended to give a high level overview of the Plan. You should note, however, that the governing document is the Plan. Accompanying this letter are the following important documents:

- The Plan;
- The Notice of Meetings and Sanction Hearing;
- The Monitor's Report on the Plan; and
- A form of Creditor Proxy and instructions for its completion.

You should read each of these documents carefully and in their entirety. You may wish to consult legal, financial, tax or other professional advisors regarding the Plan and should not construe the contents of this letter as investment, legal or tax advice.

The Meetings will be held on [March 28], 2019 in Toronto, Ontario. Details of the Meetings and the Sanction Hearing are contained in the Notice of Meetings and Sanction Hearing.

Creditors that are corporations, partnerships or trusts wishing to vote on the Plan must submit a properly completed proxy so that it is received by no later than **5:00 p.m. (Toronto time) on ●, 2019** (the "**Proxy Deadline**") appointing a proxy holder to attend and vote at the applicable Meeting.

Creditors that are individuals wishing to vote on the Plan may (i) appoint a proxy holder to attend and vote at the applicable Meeting(s) by submitting a properly completed proxy so that it is received by no later than the Proxy Deadline; or (ii) vote in person at the applicable Meeting(s).

As stated in the Monitor's Report on the Plan, the Monitor recommends that Affected Unsecured Creditors vote FOR approval of the Plan.

Pursuant to the Meetings Order, Employee Representative Counsel and Pension Representative Counsel have been appointed as proxy holder for the Employees ("**ERC Employees**") and Retirees ("**PRC Retirees**") that they respectively represent.

Accordingly, **ERC Employees and PRC Employees do not need to complete a proxy**. Employee Representative Counsel and Pension Representative Counsel will be voting their proxies **FOR** approval of the Plan.

The Pension Plan Administrator, being the largest unsecured creditor in the estate, has also confirmed that, subject to satisfaction of the conditions contained in the Plan, it will vote **FOR** approval of the Plan.

Further Information

If you have any questions regarding the Plan, the vote, or matters with respect to the Meetings or Sanction Hearing, please contact the Monitor by email at searscanada@fticonsulting.com.

Yours sincerely,

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

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

MOTION RECORD OF THE MONITOR
(Meetings Order)
(returnable February 12, 2019)

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