

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.
JUSTICE HAINEY

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TUESDAY, THE 21ST
DAY OF NOVEMBER, 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**”)

**ORDER APPROVING ASSIGNMENT OF CONTRACTS
(Corbeil Électrique Inc.)**

THIS MOTION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) for an order, *inter alia*, approving the assignment, pursuant to section 11.3 of the CCAA, of certain Real Property Leases, Assumed Contracts and Personal Property Leases to the Buyer as contemplated by the Asset Purchase Agreement between Corbeil Électrique Inc. (the “**Seller**”), as vendor, Am-Cam Électroménagers Inc. (the “**Buyer**”), as buyer, Distinctive Appliances Inc. (“**Distinctive**”), as guarantor, and to which Sears Canada Inc. intervenes (“**Sears Canada**”), dated September 29, 2017 (the “**APA**”) was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion of the Applicants, the Affidavit of Billy Wong sworn on November 13, 2017 including the exhibits thereto, and the Seventh Report of FTI Consulting Canada Inc., in its capacity as the Monitor (the “**Monitor**”), filed, and on hearing the submissions of respective counsel for the Applicants, the Monitor, the Buyer, the DIP Term Agent and such other counsel as were present, no one else appearing although duly served as appears from the Affidavits of Service of Geoffrey Grove sworn November 17, 2017, filed:

SERVICE AND DEFINITIONS

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

2. THIS COURT ORDERS that any capitalized term used and not defined herein shall have the meaning ascribed thereto in the Amended and Restated Initial Order in these proceedings dated June 22, 2017 (the “**Initial Order**”), the Approval and Vesting Order dated October 4, 2017 in respect of the APA (the “**Approval and Vesting Order**”) or in the APA, as applicable.

APPROVAL OF ASSIGNMENT OF CONTRACTS

3. THIS COURT ORDERS AND DECLARES that immediately upon the delivery of a Monitor’s certificate substantially in the form attached as Schedule A to the Approval and Vesting Order (the “**Monitor’s Certificate**”), all of the rights and obligations of the Seller under the Real Property Leases, Assumed Contracts and Personal Property Leases listed in Schedule A hereto (collectively, the “**Remaining Contracts**”) shall be assigned, conveyed and transferred to the Buyer pursuant to section 11.3 of the CCAA. As and from the Closing Time, the Buyer shall be entitled and subject to all of the rights and obligations as tenant pursuant to the terms of the Real Property Leases and registrations thereof and may enter into and upon and hold and enjoy each premises contemplated by the Real Property Leases and, if applicable, any renewals thereof, for its own use and benefit, all in accordance with the terms of the Real Property Leases, without any interruption from the Seller, the landlords under the Real Property Leases or any person whomsoever claiming through or under the Seller or the landlords under the Real Property Leases.

4. THIS COURT ORDERS that the assignment and transfer of the Remaining Contracts shall further be subject to the provision of this Court's Approval and Vesting Order dated October 4, 2017 directing that the Seller's rights and obligations under the Remaining Contracts shall vest in the Buyer free and clear of all Encumbrances other than the Permitted Encumbrances.

5. THIS COURT ORDERS that the assignment of the Remaining Contracts is valid and binding upon all of the counterparties to the Remaining Contracts, notwithstanding any restriction or prohibition contained in any such Remaining Contract relating to the assignment thereof, including, but not limited to, any provision requiring the consent of any party to the transfer, conveyance, or assignment of the Remaining Contracts.

6. THIS COURT ORDERS that no counterparty under any Remaining Contract, nor any other person, upon the assignment and transfer to, and assumption by, the Buyer of the Remaining Contracts hereunder shall make or pursue any demand, Claim, action or suit or exercise any right or remedy (including any termination rights) under any Remaining Contract against the Buyer relating to:

- (a) the Seller having sought or obtained relief under the CCAA;
- (b) the insolvency of the Seller; or
- (c) any failure by the Seller to perform a non-monetary obligation under any Remaining Contract;

and all such counterparties and persons shall be forever barred and estopped from taking such action. For greater certainty, nothing herein shall limit or exempt the Buyer in respect of obligations accruing, arising or continuing after the date hereof, under the Remaining Contracts other than in respect of items (a) - (c) above.

7. THIS COURT ORDERS that all Cure Costs incurred or accrued on or before the Closing Date shall be paid in accordance with Section 8.5(g) of the APA. The Monitor is hereby directed to pay, from the Purchase Price received, in conjunction with the closing, Cure Costs in the amounts and to the parties set out in a written direction from the Seller. The Monitor shall be entitled to rely, without independent verification, upon such written directions.

8. THIS COURT ORDERS that notwithstanding anything contained in this Order, nothing shall derogate from the obligations of the Buyer to assume the liabilities and to perform its obligations under the Remaining Contracts, as set out in the APA.

9. THIS COURT ORDERS AND DIRECTS that the Monitor is hereby authorized and directed to take such actions as it deems necessary or appropriate in the circumstances to assist the Seller in the assignment and transfer of the Remaining Contracts.

SEALING

10. THIS COURT ORDERS that Confidential Appendix "C" to the Seventh Report of the Monitor shall be and is hereby sealed, kept confidential and shall not form part of the public record pending further Order of this Court.

GENERAL PROVISIONS

11. THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of any of the Applicants and any bankruptcy order issued pursuant to any such applications; or
- (c) any assignment in bankruptcy made in respect of any of the Applicants;

the assignment of the Remaining Contracts in and to the Buyer pursuant to this Order shall be binding on any trustee in bankruptcy or receiver that may be appointed in respect of any of the Applicants and shall not be void or voidable by creditors of any of the Applicants, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

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

13. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative bodies, having jurisdiction in Canada or in the United States of America, to give effect to this Order and to assist the 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.

14. THIS COURT ORDERS that the Seller, the Buyer, the Monitor, Sears Canada and any counterparty to any Remaining Contract being assigned may apply to this Court for advice and direction, or to seek relief in respect of any matters arising from or under this Order, including without limitation, as necessary, to effect the transfer of the Remaining Contracts (including any transfer of title registrations in respect of such Remaining Contracts), the interpretation of this Order or the implementation thereof, and for any further order that may be required, on notice to any party likely to be affected by the order sought or on such notice as this Court requires.



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

NOV 21 2017

PER / PAR: RW

SCHEDULE A
List of Remaining Contracts

CORBEIL ÉLECTRIQUE INC.

Type	Description from Assumed Contracts	Property Description	Company Name	Address	Note
Lease (QC)	Offer to lease dated February 22, 2016 between Corbeil and CP Reit PPL Quebec Developments Ltd. for premises located at 86 Brien Street, Repentigny (QC) (Term expiration: August 31, 2026) – Repentigny (Franchise Store) (#29)	Repentigny (le Centre), 86 rue Brien, No.156, Repentigny, Québec	CP REIT PPL QUÉBEC DEVELOPMENTS LTD	C/O PROPRIÉTÉS DE CHOIX 400 avenue Ste.Croix 3 ^e étage Ouest St-Laurent QC H4N 3L4	Key Consent
Lease (QC)	Offer to Lease dated March 13, 2014 between Corbeil and North American (Boucherville) Corp. and CREIT (Boucherville) Limited Partnership by its General Partner, CREIT (Boucherville) GP Limited for premises located at Carrefour de la Rive Sud (Chemin de Touraine), Boucherville (QC) (Term expiration: approximately October 15, 2024) – Boucherville (Franchise Store) (#39)	Carrefour de la Rive Sud, 584 Chemin de Touraine, Boucherville, Québec, identifié en noir foncé à l'Annexe C ci joint	NORTH AMERICAN (BOUCHERVILLE) CORPORATION ET CREIT (BOUCHERVILLE) GP LIMITED	C/O CENTRECORP MANAGEMENT SERVICES 1010 rue Sherbrooke Ouest Bureau 602 Montréal QC H3A 2R7	Key Consent
Lease (ON)	Lease dated May 31, 1999 between Corbeil and Ikea Properties Limited and Cantrex Group Inc. together with a Sublease dated July 14, 2009 between Corbeil and Ikea Properties Limited and Cantrex Group Inc. and 350811 Canada Inc. for premises located at 2685 Iris Street, Ottawa (ON) (Term expiration: approximately July 31, 2019) – Ottawa (Franchise Store) (#12)	Pinecrest Shopping Centre, 2685 Iris Street, Ottawa, Ontario	IKEA PROPERTIES LIMITED	1065 Plains Road East Burlington ON L7T 4K1	Key Consent
Lease (QC)	Lease agreement dated October 2, 2017 between Corbeil and Centhoms Development Limited for premises located at 1025-1125 Boulevard René-Lévesque, Drummondville (QC) (Term expiration : December 31, 2017) – Drummondville (#51)	1025-1125 Boulevard René-Lévesque, Drummondville, Québec, J2C 7V4, identified on Schedule C attached hereto	CENTHOMS DEVELOPMENTS LIMITED	700 Applewood Cres., suite 100, Vaughan, Ontario, L4K 5X3	Key Consent (short term temporary lease)
Supplier Contract	Commercial Agreement dated May 10, 2017 between Corbeil and Electrolux Produits Pour La Maison., and accessory agreements, as further amended, restated and/or amended and restated from time to time.	-	ELECTROLUX PRODUITS POUR LA MAISON	5855 Terry Fox Way Mississauga ON L5V 3E4	
Supplier Contract	Commercial Agreement dated March 2, 2017 between Corbeil and LG Electronic Canada, Inc., and accessory agreements, as further amended, restated and/or amended and restated from time to time.	-	LG ELECTRONIC CANADA INC.	20 Norelco Drive North York ON M9L 2X6	
Supplier Contract	Vacuum Merchant Agreement dated January 1, 2017 between Corbeil and Miele Limited, and accessory agreements, as further amended,	-	MIELE LIMITÉE	161 Four Valley Drive Vaughan ON L4K 4V8	

Type	Description from Assumed Contracts	Property Description	Company Name	Address	Note
	restated and/or amended and restated from time to time.				
Leased Personal Property	Lease number 614407 (<i>crédit-bail</i>) (undated) between Corbeil and Services Financiers De Lage Landen Canada Inc., and accessory agreements, as further amended, restated and/or amended and restated from time to time.	-	DE LAGE LANDEN FINANCIAL SERVICES CANADA INC.	3450 Superior Court Unit 1 Oakville ON L6L 0C4	
Leased Personal Property	Lease number 624031 (<i>crédit-bail</i>) (undated) between Corbeil and Services Financiers De Lage Landen Canada Inc., and accessory agreements, as further amended, restated and/or amended and restated from time to time.	-	DE LAGE LANDEN FINANCIAL SERVICES CANADA INC.	3450 Superior Court Unit 1 Oakville ON L6L 0C4	
Supplier Contract	Dealer Agreement dated January 1, 2017 between Corbeil and Électroménagers BSH limitée in relation to Thermador products, and accessory agreements, as further amended, restated and/or amended and restated from time to time.	-	ELECTROMENAGERS BSH LIMITÉE	6696 Financial Drive, Unit 3 Mississauga ON L5N 7J6	
Supplier Contract	Growth Support program dated December 30, 2016 between Corbeil and Samsung Electronics Canada Inc., and accessory agreements, as further amended, restated and/or amended and restated from time to time.	-	SAMSUNG ELECTRONIC CANADA INC.	2050 Derry Road West Mississauga ON L5N 0B9	

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., CORBELL 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.

Applicants

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Proceeding commenced at Toronto

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(Corbeil Électrique Inc.)

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