

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE MR.

)

TUESDAY, THE 4<sup>TH</sup>

JUSTICE HAINEY

)

)

DAY OF SEPTEMBER, 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**”)



**APPROVAL AND VESTING ORDER**  
**(Belleville DC)**

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 sale of lands and buildings located at 500 and 531 College Street East, Belleville, Ontario, together with certain ancillary assets (the “**Transaction**”) contemplated by an Agreement of Purchase and Sale dated with effect as of August 17, 2018 (the “**APS**”) between Sears Canada Inc. (“**Sears Canada**”), as vendor, and Groupe Mach Inc. (“**Groupe Mach**”), as such APS has been assigned by Groupe Mach to Belleville Complex Inc. (the “**Purchaser**”) as purchaser in accordance with the terms of the APS pursuant to an assignment and assumption of purchase agreement dated as of August 24, 2018 (the “**Assignment Agreement**”), and certain related relief, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion of the Applicants, the Affidavit of Philip Mohtadi affirmed on August 29, 2018 including the exhibits thereto (the “**Mohtadi Affidavit**”), the Nineteenth Report and the Fifth Supplement to the Nineteenth Report of FTI Consulting Canada Inc., in its capacity as Monitor (the “**Monitor**”), filed, and on hearing the submissions of respective counsel for the Applicants, the Monitor, the Purchaser and such other counsel as were present, no one else appearing although duly served as appears from the Affidavit of Service of Lia Bruschetta sworn August 30, 2018, 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**”), or in the APS, as applicable.

### **APPROVAL OF THE APS**

3. THIS COURT ORDERS AND DECLARES that the entering into of the Transaction by Sears Canada is hereby approved and ratified and that the execution of the APS and the Assignment Agreement by Sears Canada is hereby authorized, approved and ratified with such minor amendments as Sears Canada (with the consent of the Monitor) and the Purchaser may agree to in writing. Sears Canada is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction, including the sale, assignment and transfer by Sears Canada of its right, title and interest in and to the Subject Assets to the Purchaser and the Monitor shall be authorized to take such additional steps in furtherance of its responsibilities under the APS and this Order, and shall not incur any liability as a result thereof. The legal descriptions and applicable land registry offices with respect to the Subject Assets are as set out on Schedule “B” hereto.

4. THIS COURT ORDERS AND DECLARES that upon the delivery of a Monitor’s certificate to the Purchaser substantially in the form attached as Schedule “A” hereto (the “**Monitor’s Certificate**”), all of Sears Canada’s right, title and interest in and to the Subject Assets

shall be sold, assigned and transferred to the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise in respect of the Subject Assets (collectively, the “**Claims**”), including, without limiting the generality of the foregoing:

- (a) the Administration Charge, the FA Charge, the KERP Priority Charge, the Directors’ Priority Charge, the KERP Subordinated Charge and the Directors’ Subordinated Charge (as such terms are defined in the Initial Order) and any other charges hereafter granted by this Court in these proceedings (collectively, the “**CCAA Charges**”);
- (b) all charges, security interests or claims evidenced by registrations pursuant to the Personal Property Security Act or any other personal property registry system; and
- (c) those Claims listed on Schedule “B” hereto;

(all of which are collectively referred to as the “**Encumbrances**”, which term shall not include the Permitted Encumbrances listed on Schedule “C” hereto), and, for greater certainty, this Court orders that all of the Claims and Encumbrances affecting or relating to Sears Canada’s right, title and interest in and to the Subject Assets are hereby expunged and discharged as against Sears Canada’s right, title and interest in and to the Subject Assets including the real or immoveable property identified in Schedule “B”.

5. THIS COURT ORDERS that upon the registration in the applicable land registry office of a certified copy of this Order in the manner prescribed by the applicable land registry office, the applicable land registrar is hereby directed to specifically discharge, cancel, delete and expunge from title to the applicable real or immovable property described in Schedule “B” all of the Encumbrances listed in Schedule “B” hereto.

6. THIS COURT ORDERS that for the purposes of determining the nature and priority of Claims, the net proceeds received on the Closing of the Transaction shall stand in the place and stead of the Subject Assets, and that from and after the delivery of the Monitor’s Certificate all Claims and Encumbrances shall attach to the net proceeds from the Transaction (the “**Net**

**Proceeds**”) with the same priority as they had with respect to the Subject Assets immediately prior to the Closing of the Transaction, as if the Transaction had not been completed.

7. THIS COURT ORDERS that the Monitor shall be entitled to retain the Net Proceeds on behalf of the Applicants to be dealt with by further Order of the Court.

8. THIS COURT ORDERS AND DIRECTS the Monitor to file with the Court a copy of the Monitor’s Certificate, forthwith after delivery thereof in accordance with the terms of the APS.

### SEALING

9. THIS COURT ORDERS that Confidential Appendices “B”, “C” and “D” to the Fifth Supplement to the Nineteenth Report of the Monitor shall be and are hereby sealed, kept confidential and shall not form part of the public record pending further Order of this Court.

### GENERAL PROVISIONS

10. 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 sale, assignment and transfer of the Subject Assets in the Purchaser 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.

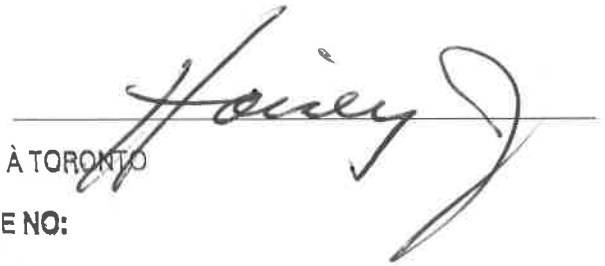
11. THIS COURT ORDERS that this Order shall have full force and effect in all provinces and territories in Canada.

12. 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.

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

SEP 04 2018

PER / PAR:



**SCHEDULE "A"**

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

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF SEARS CANADA INC., 9370-2751  
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CONTACT SERVICES INC., INITIUM LOGISTICS SERVICES  
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INC., 6988741 CANADA INC., 10011711 CANADA INC.,  
1592580 ONTARIO LIMITED, 955041 ALBERTA LTD.,  
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CANADA INC.

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

**MONITOR'S CERTIFICATE**

**RECITALS**

A. All undefined terms in this Monitor's Certificate have the meanings ascribed to them in the Order of the Court dated ●, 2018 (the "**Approval and Vesting Order**") approving the Agreement of Purchase and Sale dated with effect as of August 17, 2018 (the "**APS**") between Sears Canada Inc. ("**Sears Canada**"), as vendor, and Groupe Mach Inc. ("**Groupe Mach**"), as such APS has been assigned by Groupe Mach to Belleville Complex Inc. (the "**Purchaser**") as purchaser, in accordance with the terms of the APS pursuant to an assignment and assumption of purchase agreement dated as of August 24, 2018, a copy of such APS as attached as Exhibit "A" to the Affidavit of Philip Mohtadi dated August 29, 2018.

B. Pursuant to the Approval and Vesting Order the Court approved the APS and provided for the sale, assignment and transfer to the Purchaser of Sears Canada's right, title and interest in and to the Subject Assets (as defined in the APS), which sale, assignment and transfer is to be effective with respect to the Subject Assets upon the delivery by the Monitor to the Purchaser and Sears

Canada of a certificate confirming that (i) the conditions to Closing as set out in sections 7.1, 7.2 and 7.3 of the APS have been satisfied or waived by the Purchaser and Sears Canada, as applicable, and (ii) the Purchase Price and any Taxes payable (each as defined in the APS) to Sears Canada that are not self-assessed and remitted by the Purchaser have been received by the Monitor.

THE MONITOR CERTIFIES the following:

1. The conditions to Closing as set out in sections 7.1, 7.2 and 7.3 of the APS have been satisfied or waived by the Purchaser and Sears Canada, as applicable; and
2. The Purchase Price and any Taxes payable to Sears Canada that are not self-assessed and remitted by the Purchaser have been received by the Monitor.

This Monitor's Certificate was delivered by the Monitor at \_\_\_\_\_ [TIME] on \_\_\_\_\_ [DATE].

**FTI CONSULTING CANADA INC.**, in its capacity as Court-appointed Monitor of Sears Canada Inc., et al. and not in its personal or corporate capacity

Per: \_\_\_\_\_  
Name:  
Title:

**SCHEDULE "B"**

<b>No</b>	<b>Location / Address</b>	<b>Province</b>	<b>Land Registry Office</b>	<b>Legal Description</b>	<b>Encumbrances to be Expunged/ Deleted</b>
1.	500 and 531 College Street East, Belleville	ON	LRO #21 Hastings	<p>PIN 40520-0313 (LT)            PT LTS 12, 13 CON 2 THURLOW PTS 10-11 21R22046; S/T QR452004; BELLEVILLE; COUNTY OF HASTINGS</p> <p>PIN 40520-0331 (LT)            PT LTS 11-13 CON 2 THURLOW PTS 1 TO 9 21R7327, PTS 1 TO 6 21R13826, EXCEPT PTS 1-17 21R22046; EXCEPT COLLEGE ST; S/T QR452000, QR452002, QR452004, QR91249, QR452005, QR534786, THD8364, THD9461, BELLEVILLE; COUNTY OF HASTINGS</p>	NIL



**SCHEDULE "C"**  
**PERMITTED ENCUMBRANCES**

**"Permitted Encumbrances"** means, collectively, (a) any Encumbrances resulting from the Purchaser's actions; and (b) the items identified in Schedule "H" of the APS.

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.

Applicants

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**APPROVAL AND VESTING ORDER  
(Belleville DC)**

**OSLER, HOSKIN & HARCOURT, LLP**

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