

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF SEARS CANADA INC., 9370-2751
QUEBEC INC., 191020 CANADA INC., THE CUT INC., SEARS
CONTACT SERVICES INC., INITIUM LOGISTICS SERVICES
INC., INITIUM COMMERCE LABS INC., INITIUM TRADING
AND SOURCING CORP., SEARS FLOOR COVERING
CENTRES INC., 173470 CANADA INC., 2497089 ONTARIO
INC., 6988741 CANADA INC., 10011711 CANADA INC.,
1592580 ONTARIO LIMITED, 955041 ALBERTA LTD.,
4201531 CANADA INC., 168886 CANADA INC., AND 3339611
CANADA INC.

APPLICANTS

**MOTION RECORD OF THE APPLICANTS
(Motion for Approval of Agreement of Purchase and Sale with
Groupe Mach Inc. (Store #1012 – Place Fleur de Lys))**

June 4, 2018

OSLER, HOSKIN & HARCOURT LLP
Box 50, 1 First Canadian Place
Toronto, ON M5X 1B8

Marc Wasserman LSUC# 44066M
Tel: 416.862.4908

Jeremy Dacks LSUC# 41851R
Tel: 416.862.4923

Tracy Sandler LSUC# 32443N
Tel: 416.862.5890

Karin Sachar LSUC# 59944E
Tel: 416.862.5949

Lawyers for the Applicants

TO: SERVICE LIST

AND TO: SUPPLEMENTAL SERVICE LIST

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

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF SEARS CANADA INC., 9370-2751 QUEBEC INC., 191020 CANADA INC.,
THE CUT INC., SEARS CONTACT SERVICES INC., INITIUM LOGISTICS
SERVICES INC., INITIUM COMMERCE LABS INC., INITIUM TRADING
AND SOURCING CORP., SEARS FLOOR COVERING CENTRES INC.,
173470 CANADA INC., 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

SUPPLEMENTAL SERVICE LIST – FLEUR DE LYS

TO: **OSLER, HOSKIN & HARCOURT LLP**

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

Marc Wasserman

Tel: +1 416.862.4908

Jeremy Dacks

Tel: +1 416.862.4923

Tracy Sandler

Tel: +1 416.862.5890

Michael De Lellis

Tel: +1 416.862.5997

Shawn Irving

Tel: 416.862.4733

mwasserman@osler.com

jdacks@osler.com

tsandler@osler.com

mdelellis@osler.com

sirving@osler.com

Lawyers for the Applicants

AND **FTI CONSULTING CANADA INC.**
TO: TD Waterhouse Tower
79 Wellington Street West
Suite 2010, P.O. Box 104
Toronto, Ontario M4K 1G8

Greg Watson
Paul Bishop
Jim Robinson
Steven Bissell
Linda Kelly
Kamran Hamidi

Toll Free: 1.855.649.8113
Tel: 416.649.8100
416.649.8113
Fax: 416.649.8101

searscanada@fticonsulting.com
greg.watson@fticonsulting.com
paul.bishop@fticonsulting.com
jim.robinson@fticonsulting.com
steven.bissell@fticonsulting.com
linda.kelly@fticonsulting.com
kamran.hamidi@fticonsulting.com

Monitor

AND **GROUPE MACH INC.**
TO: 407 McGill Street, Suite 710
Montreal, Quebec H2Y 2G3

vchiara@groupemach.com
ldlegendre@groupemach.com
bmartin@groupemach.com
jsoliman@groupemach.com

AND **NORTON ROSE FULBRIGHT CANADA LLP**
TO: Royal Bank Plaza, South Tower
200 Bay Street, Suite 3800, P.O. Box 84
Toronto, Ontario M5J 2Z4

Orestes Pasparakis
Tel: +1 416.216.4815
Virginie Gauthier
Tel: +1 416.216.4853
Alan Merskey
Tel: +1 416.216.4805
Evan Cobb
Tel: +1 416.216.1929
Alexander Schmitt
Tel: +1 416.216.2419
Catherine Ma
Tel: +1 416.216.4838
Fax: +1 416.216.3930

orestes.pasparakis@nortonrosefulbright.com
virginie.gauthier@nortonrosefulbright.com
alan.merskey@nortonrosefulbright.com
evan.cobb@nortonrosefulbright.com
alexander.schmitt@nortonrosefulbright.com
catherine.ma@nortonrosefulbright.com

Lawyers to the Monitor, FTI Consulting Canada Inc.

AND **MONTREAL TRUST COMPANY c/o**
TO: **Computershare Trust Company of Canada**
100 University Avenue, 11th Floor
Toronto, Ontario M5J 2Y1

Shelley.bloomberg@computershare.com
Aaron.Cao@computershare.com
Yang.Lu@computershare.com

Email List:

vchiara@groupemach.com; ldlegendre@groupemach.com; bmartin@groupemach.com;
jsoliman@groupemach.com; Shelley.bloomberg@computershare.com;
Aaron.Cao@computershare.com; Yang.Lu@computershare.com

TABLE OF CONTENTS

Tab	Document	Page
1	Notice of Motion, dated June 4, 2018	1
2	Affidavit of Philip Mohtadi, affirmed June 4, 2018	9
	Exhibit "A" Redacted Agreement of Purchase and Sale	19
	Exhibit "B" Redacted Letter dated May 30, 2018	94
3	Draft Approval and Vesting Order – Store #1012 – Place Fleur de Lys	321

TAB 1

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

Ontario
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

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

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

NOTICE OF MOTION
(Motion for Approval of Agreement of Purchase and Sale with
Groupe Mach Inc. (Store #1012 – Fleur de Lys))

The Applicants will make a motion before a judge of the Ontario Superior Court of Justice (Commercial List) on a date to be set by the Court, or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto, Ontario.

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

THE MOTION IS FOR:

1. An Order (the “**Approval and Vesting Order**”) substantially in the form attached to the Motion Record, *inter alia*:
 - (a) if necessary, abridging the time for service of this Notice of Motion and the Motion Record and dispensing with service on any person other than those served;
 - (b) approving the Agreement of Purchase and Sale (the “**APS**”) dated with effect as of May 29, 2018 between Sears Canada Inc. (“**Sears Canada**”) and Groupe Mach Inc.

(the “**Purchaser**”) and vesting Sears Canada’s right, title and interest in and to the Subject Assets (as defined in the Approval and Vesting Order) in the Purchaser; and

(c) sealing from the public record certain commercially-sensitive information and documents (as described below).

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

THE GROUNDS FOR THE MOTION ARE:

1. The Applicants were granted protection from their creditors under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985 c. C-36, as amended (the “**CCAA**”) pursuant to the Initial Order of the Ontario Superior Court of Justice (Commercial List) dated June 22, 2017, as amended and restated;

2. FTI Consulting Canada Inc. was appointed to act as the Monitor (the “**Monitor**”) in the CCAA proceeding;

Approval and Vesting Order

3. On July 13, 2017, the Court approved a process by which BMO Nesbitt Burns Inc. on behalf of Sears Canada and under the supervision of both the Special Committee of the Board of Directors of Sears Canada and the Monitor sought bids and proposals for a broad range of transaction alternatives with respect to the business, assets and/or leases of the Applicants;

4. Sears Canada entered into the APS dated with effect as of May 29, 2018 in which the Purchaser would purchase the Sears store location at the property commonly known as Place Fleur de Lys (Store #1012), located in Quebec City, Quebec, (the “**Property**”), in accordance with the terms and conditions set out in the APS (the “**Transaction**”);

5. The APS provided as a condition of closing that a right of first refusal (“**ROFR**”) in favour of Place Fleur de Lys GP Inc. (“**PFDL GP**”) shall have validly expired in accordance with the terms of the ROFR or as ordered by the Court or have been waived by PFDL GP in writing.

6. On May 30, 2018, following the execution of the APS, Sears Canada contacted PFDL GP to notify it of the Transaction and provided it with a copy of the APS. To the extent that PFDL GP chooses to exercise the ROFR, the Applicants will serve supplementary motion materials in respect of that transaction.

7. Pursuant to the Approval and Vesting Order, the Monitor shall be entitled to retain the net proceeds from the Transaction on behalf of the Applicants to be dealt with by further Order of the Court.

8. The consideration to be received in the transaction is fair and reasonable;

9. The process leading to the APS was fair and reasonable in the circumstances and was approved by the Monitor;

10. The APS is in the best interests of the creditors and other stakeholders of the Applicants;

11. The relief sought on this motion is supported by the Monitor and the Sale Advisor;

Sealing Order

12. The Confidential Appendices to the Monitor's Report filed in connection with this motion contain confidential and commercially sensitive information which, if made public, would be materially prejudicial to Sears Canada and detrimental to any further marketing efforts for the Property if the proposed transaction is not completed;

13. There are no reasonable alternative measures to sealing this information from the public record;

14. The salutary effects of sealing this information outweigh the deleterious effects of doing so;

15. The provisions of the CCAA, including section 36, and the inherent and equitable jurisdiction of this Honourable Court;

16. Rules 1.04, 1.05, 2.03, 3.02, 16 and 37 of the Ontario *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended and section 106 of the Ontario *Courts of Justice Act*, R.S.O. 1990, c. C.43 as amended; and
17. Such further and other grounds as counsel may advise and this Court may permit.

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

1. The Affidavit of Mark Caiger sworn May 28, 2018 and the exhibits attached thereto;
2. The Affidavit of Philip Mohtadi affirmed June 4, 2018 and the exhibits attached thereto;
3. The Report of the Monitor to be served in connection with this Motion; and
4. Such further and other evidence as counsel may advise and this Court may permit.

June 4, 2018

OSLER, HOSKIN & HARCOURT LLP
Box 50, 1 First Canadian Place
Toronto, ON M5X 1B8

Marc Wasserman (LSUC# 44066M)
Jeremy Dacks (LSUC# 41851R)
Tracy Sandler (LSUC# 32443N)
Karin Sachar (LSUC# 59944E)

Tel: (416) 362-2111
Fax: (416) 862-6666

Lawyers for the Applicants

TO: SERVICE LIST

AND TO: SUPPLEMENTAL SERVICE LIST

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

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF SEARS CANADA INC., 9370-2751 QUEBEC INC., 191020 CANADA INC.,
THE CUT INC., SEARS CONTACT SERVICES INC., INITIUM LOGISTICS
SERVICES INC., INITIUM COMMERCE LABS INC., INITIUM TRADING
AND SOURCING CORP., SEARS FLOOR COVERING CENTRES INC.,
173470 CANADA INC., 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

SUPPLEMENTAL SERVICE LIST – FLEUR DE LYS

TO: **OSLER, HOSKIN & HARCOURT LLP**

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

Marc Wasserman

Tel: +1 416.862.4908

Jeremy Dacks

Tel: +1 416.862.4923

Tracy Sandler

Tel: +1 416.862.5890

Michael De Lellis

Tel: +1 416.862.5997

Shawn Irving

Tel: 416.862.4733

mwasserman@osler.com

jdacks@osler.com

tsandler@osler.com

mdelellis@osler.com

sirving@osler.com

Lawyers for the Applicants

AND **FTI CONSULTING CANADA INC.**
 TO: TD Waterhouse Tower
 79 Wellington Street West
 Suite 2010, P.O. Box 104
 Toronto, Ontario M4K 1G8

Greg Watson
Paul Bishop
Jim Robinson
Steven Bissell
Linda Kelly
Kamran Hamidi

Toll Free: 1.855.649.8113
 Tel: 416.649.8100
 416.649.8113
 Fax: 416.649.8101

searscanada@fticonsulting.com
 greg.watson@fticonsulting.com
 paul.bishop@fticonsulting.com
 jim.robinson@fticonsulting.com
 steven.bissell@fticonsulting.com
 linda.kelly@fticonsulting.com
 kamran.hamidi@fticonsulting.com

Monitor

AND **GROUPE MACH INC.**
 TO: 407 McGill Street, Suite 710
 Montreal, Quebec H2Y 2G3

vchiara@groupemach.com
 ldlegendre@groupemach.com
 bmartin@groupemach.com
 jsoliman@groupemach.com

AND **NORTON ROSE FULBRIGHT CANADA LLP**
 TO: Royal Bank Plaza, South Tower
 200 Bay Street, Suite 3800, P.O. Box 84
 Toronto, Ontario M5J 2Z4

Orestes Pasparakis
 Tel: +1 416.216.4815
Virginie Gauthier
 Tel: +1 416.216.4853
Alan Merskey
 Tel: +1 416.216.4805
Evan Cobb
 Tel: +1 416.216.1929
Alexander Schmitt
 Tel: +1 416.216.2419
Catherine Ma
 Tel: +1 416.216.4838
 Fax: +1 416.216.3930

orestes.pasparakis@nortonrosefulbright.com
 virginie.gauthier@nortonrosefulbright.com
 alan.merskey@nortonrosefulbright.com
 evan.cobb@nortonrosefulbright.com
 alexander.schmitt@nortonrosefulbright.com
 catherine.ma@nortonrosefulbright.com

Lawyers to the Monitor, FTI Consulting Canada Inc.

AND **MONTREAL TRUST COMPANY c/o**
 TO: **Computershare Trust Company of Canada**
 100 University Avenue, 11th Floor
 Toronto, Ontario M5J 2Y1

Shelley.bloomberg@computershare.com
 Aaron.Cao@computershare.com
 Yang.Lu@computershare.com

Email List:

vchiara@groupemach.com; ldlegendre@groupemach.com; bmartin@groupemach.com;
jsoliman@groupemach.com; Shelley.bloomberg@computershare.com;
Aaron.Cao@computershare.com; Yang.Lu@computershare.com

TAB 2

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

Ontario
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF SEARS CANADA INC., 9370 -2751
QUEBEC INC., 191020 CANADA INC., THE CUT INC., SEARS
CONTACT SERVICES INC., INITIUM LOGISTICS SERVICES
INC., INITIUM COMMERCE LABS INC., INITIUM TRADING
AND SOURCING CORP., SEARS FLOOR COVERING
CENTRES INC., 173470 CANADA INC., 2497089 ONTARIO
INC., 6988741 CANADA INC., 10011711 CANADA INC.,
1592580 ONTARIO LIMITED, 955041 ALBERTA LTD.,
4201531 CANADA INC., 168886 CANADA INC., AND 3339611
CANADA INC.

APPLICANTS

AFFIDAVIT OF PHILIP MOHTADI
(Affirmed June 4, 2018)

(Motion for Approval of Agreement of Purchase and Sale with
Groupe Mach Inc. (Store #1012 - Place Fleur de Lys))

I, Philip Mohtadi, of the City of Toronto, in the Province of Ontario, AFFIRM AND

SAY:

1. I am the General Counsel and Corporate Secretary of the Applicant Sears Canada Inc. ("**Sears Canada**"). I am also a director of each of the other Applicants. As such, I have personal knowledge of the matters deposed to in this Affidavit. Where I have relied on other sources for information, I have specifically referred to such sources and believe them to be true. In preparing this Affidavit, I have consulted with legal, financial and other advisors to Sears Canada, members of the senior management team of Sears Canada, and representatives of FTI Consulting Canada Inc. ("**FTI**" or the "**Monitor**") and its counsel.

2. I affirm this Affidavit in support of the motion brought by the Applicants seeking an Order, substantially in the form attached to the Motion Record, approving the Agreement of Purchase and Sale dated with effect as of May 29, 2018 (the “**APS**”) between Sears Canada and Groupe Mach Inc. (the “**Purchaser**”), relating to the Subject Assets (as defined in the APS), which include all of the right, title and interest of Sears Canada in and to the property municipally known as 500 Wilfrid Hamel Boulevard (the “**Property**”), located in Quebec City, Quebec, the details of which are summarized in the following chart:

Store No.	Related Property	Province	Address	Legal Description / Square Footage
1012	Place Fleur de Lys	Quebec	500 Boulevard Wilfrid Hamel, Quebec City	An emplacement situated in the City of Québec (Borough of Des Rivières), Province of Québec and composed of lot number ONE MILLION NINE HUNDRED FORTY THOUSAND THIRTY-THREE (1 940 033) of the Cadastre du Québec, Registration Division of Québec. With all buildings thereon erected and, more particularly, the building bearing civic number 500 Wilfrid Hamel Boulevard, City of Québec (Borough of Des Rivières), Province of Québec, G1M 2S5. 210,900 sq ft

3. Capitalized terms used in this Affidavit that are not otherwise defined have the meaning given to them in the APS.

4. This Affidavit should be read in conjunction with the affidavit of Mark Caiger sworn May 28, 2018 (the “**Owned Real Estate Process Affidavit**”), which describes in more detail the sales and marketing efforts undertaken by Sears Canada and BMO Capital Markets (“**BMO CM**” or the “**Sale Advisor**”) pursuant to and in connection with the Applicants’ court-

approved sale process (the “SISP”), which efforts resulted ultimately in the APS which is the subject of this motion.

5. I understand from the Monitor that the consideration (the “**Purchase Price**”) that Sears Canada will receive in this proposed transaction, including the Deposit, will be included in a Confidential Appendix to the Monitor’s Report (the “**Confidential Appendix**”) that will be filed in connection with this motion. In the view of the Applicants and the Sale Advisor, the Purchase Price is confidential information and the disclosure of such information could be materially prejudicial to the Applicants in connection with the sale process generally, and in connection with any further marketing of the Subject Assets in particular, should the proposed transaction not proceed to close as anticipated. As such, the Purchase Price and the amount of the Deposit in the APS, which is attached as Exhibit “A” to this Affidavit, has been redacted. The Applicants are requesting that a sealing order be granted with respect to the Confidential Appendix. In addition, considering paragraph 12 of the Honorable Mr. Justice Hainey’s endorsement dated October 27, 2017, the Applicants have redacted the percentage of the Termination Payment in the APS, pending further direction of the Court.

6. The Applicants and the Sale Advisor believe that this transaction is in the best interests of the Applicants and their stakeholders, and that the consideration to be paid is fair and reasonable. Moreover, the Applicants and the Sale Advisor believe that the process leading to the transaction, as described in the Owned Real Estate Process Affidavit and herein, was reasonable in the circumstances.

7. It is my understanding that the Monitor approves the process that has been followed by Sears Canada and the Sale Advisor and supports the Applicants' motion seeking approval of the APS.

Background to the Purchaser's Bid

8. On July 13, 2017, the Court granted the Applicants' request for an order approving the SISP that would be conducted by the Sale Advisor under the supervision of the Monitor and the Special Committee of the Board of Directors of Sears Canada.

9. Although expressions of interest were received for the Property, including a conditional bid from the Purchaser, and for other owned properties of Sears Canada as part of the SISP, Sears Canada determined, in consultation with the Sale Advisor and the Monitor, as well as representatives of various creditor groups and their advisors, that better opportunities to monetize the Property and other owned properties would be available only after additional due diligence materials, including environmental studies, were available to potential purchasers.

10. To that end, a Phase II Environmental Site Assessment report for the Property was completed and uploaded to the electronic data room for this transaction.

11. As set out in the Owned Real Estate Process Affidavit, in or around February 2018, the Applicants resumed the sale process in relation to the Applicants' owned real estate in order to seek out proposals for the acquisition of the Applicants' owned real estate, and to implement one or a combination of such proposals with the objective of maximizing value for the benefit of the Applicants' stakeholders.

12. The Owned Real Estate Process Affidavit provides details regarding the steps that were taken to market and solicit interest in Sears Canada's owned real estate, including the Subject Assets which are subject to the APS.

13. On March 7, 2018, the Purchaser submitted a revised bid in respect of the Subject Assets in which the Purchaser offered to purchase the Subject Assets, including the Property, on the terms and conditions set out in its proposed form of asset purchase and sale agreement.

14. Negotiations ensued with the Purchaser in respect of the financial and legal aspects of the offer, draft documents were exchanged by the parties, and follow up discussions were held as necessary. As a result of those negotiations, and after considering the Purchaser's offer, the ongoing monthly occupancy costs of the Property of approximately \$76,000 per month, and alternatives available, the Sale Advisor recommended to the Board of Directors of Sears Canada that Sears Canada enter into a transaction with the Purchaser for the Subject Assets. After carefully considering the Purchaser's offer, including being satisfied that the Purchase Price being offered is fair and reasonable, the Board of Directors determined that the Purchaser's offer was in the best interests of the Applicants and their stakeholders and authorized Sears Canada to enter into the proposed transaction subject to Court approval.

The APS

15. Sears Canada and the Purchaser entered into the APS dated with effect as of May 29, 2018. The APS provides for, among other things, the following:

- (a) Subject to the terms of the APS, the Initial Order and the SISP Order, Sears Canada agrees to sell, assign and transfer to the Purchaser, and the Purchaser agrees to purchase and assume from Sears Canada, the Subject Assets on the Closing Date in accordance with the terms and conditions set out in the APS.
- (b) The Purchaser will pay the Purchase Price, plus all applicable taxes. The Purchaser paid the Deposit, which is 10% of the Purchase Price, by wire transfer of immediately available funds to the Monitor, in trust. If the transaction is not completed by reason of a default of the Purchaser, the full amount of the Deposit shall be paid to Sears Canada as liquidated damages, without limitation to any other right or remedy Sears Canada may have against the Purchaser. If the Transaction is not completed by any reason other than by a default of the Purchaser, the full amount of the Deposit shall be repaid to the Purchaser.
- (c) The Purchaser will pay the balance of the Purchase Price by wire transfer of immediately available funds to the Monitor payable on the Closing Date. The Purchase Price is subject to certain closing adjustments as set out in the APS, including realty taxes, which adjustments will be final and not subject to readjustment. This allows for final settlement of all of Sears Canada's obligations relating to the Subject Assets, giving certainty of result.
- (d) The APS and the Transaction contemplated therein are subject to the Court issuing the proposed Approval and Vesting Order and the Monitor delivering the Monitor's Certificate.

- (e) Closing will take place on the Business Day that is three Business Days following the issuance of the Approval and Vesting Order or such later date as Sears Canada (with the consent of the Monitor) may advise the Purchaser in writing, or as otherwise ordered by the Court, provided that the Closing Date shall be no later than July 24, 2018.
- (f) Subject to the terms of the APS and the Approval and Vesting Order, the Purchaser is purchasing the Subject Assets on an “as is, where is” basis. On Closing, the Subject Assets shall be subject to the Permitted Encumbrances.
- (g) There are no financing conditions to the APS.
- (h) During the Interim Period between the Execution Date and the Closing Date, Sears Canada shall not be obligated to (i) remove any Inventory, FF&E or Excluded Assets and Sears Canada shall have no liability for any removal or destruction costs relating thereto, or (ii) repair, renovate, alter, improve or upgrade the Property in any manner. Any Inventory, FF&E or Excluded Assets left on the Property on the Closing Date shall become the property of the Purchaser without representation or warranty by Sears Canada.

The Right of First Refusal

16. As set out in the Owned Real Estate Process Affidavit, certain of Sears Canada’s operating agreements provide a right of first refusal, option to purchase or similar right (“**ROFR**”) to the counterparty to such operating agreement.

17. Sears Canada was party to one such operating agreement (the “**Operating Agreement**”) with Place Fleur de Lys GP Inc. (“**PFDL GP**”), which terminated on October 31, 2014. Pursuant to an Amendment of Servitude between Sears Canada and Place Fleur de Lys dated May 25, 2004 (as assigned to PFDL GP), PFDL GP retains a surviving right of first refusal to purchase the Property.

18. Specifically, PFDL GP retains the right to exercise a ROFR upon the same terms and conditions as any offer received by Sears Canada that Sears Canada wishes to accept, by written notice to Sears Canada, within 20 days of receipt of notice of any such offer. If PFDL GP fails to exercise the ROFR, Sears Canada has the right to transfer the property to the original offeror within 90 days of the closing dated specified in the original offer on the same terms and conditions contained in the offer received by Sears Canada. If a sale is not completed within 90 days, Sears Canada shall not proceed with a sale of the Property without again complying with its ROFR requirements.

19. It is a condition of closing under section 7.3(a) of the APS that the ROFR in favour of PFDL GP shall have validly expired in accordance with the terms of the ROFR or as ordered by the Court, or have been waived by PFDL GP in writing, and that Sears Canada shall have provided the Purchaser with commercially reasonable evidence to substantiate the foregoing.

20. Sears Canada does not take the position that the ROFR is not in force or is not triggered by the APS. To that end, pursuant to section 8.1 of the APS, Sears Canada is entitled to disclose the APS, including the Purchase Price and the Deposit, and all information provided

by the Purchaser in connection with the APS, to parties in interest to the CCAA Proceedings (including PFDL GP).

21. Accordingly, on May 30, 2018 following the execution of the APS, Sears Canada contacted PFDL GP to notify it of the Transaction and provided it with a copy of the APS. Attached as Exhibit “B” to this Affidavit is a redacted copy of a letter dated May 30, 2018 from Sears Canada’s counsel to PFDL GP’s counsel. To date, PFDL GP have not advised whether they intend to exercise the ROFR. To the extent that PFDL GP chooses to exercise the ROFR, the Applicants will serve supplementary motion materials in respect of that transaction.

22. Pursuant to section 6.6 of the APS, if the APS is terminated as a result of PFDL GP exercising the ROFR, or a default of Sears Canada and at any time during the period commencing on the Execution Date and ending four months following such termination of the APS, an agreement or other arrangement is entered into with PFDL GP whereby PFDL GP (other than as a result of PFDL GP’s exercise of the ROFR provisions) acquires the Property, Sears Canada has agreed to pay the Purchaser a termination fee of a percentage of the Purchase Price (the “**Termination Payment**”), in consideration of the lost opportunity to the Purchaser.

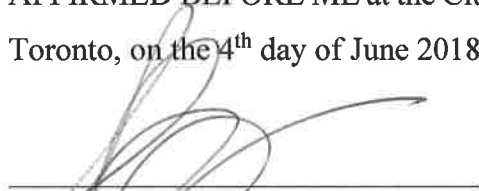
23. The Termination Payment is to be paid in the foregoing cases by Sears Canada to the Purchaser within two Business Days of the termination of the APS by wire transfer of immediately available funds to the Monitor, in trust.

Distribution of Proceeds


24. Under the terms of the APS, the Monitor shall be entitled to retain the net proceeds from the Transaction on behalf of the Applicants to be dealt with by further Order of the Court.

25. For all of the foregoing reasons, the Applicants believe that approval of the APS is in the best interests of the Applicants and their stakeholders.

AFFIRMED BEFORE ME at the City of
Toronto, on the 4th day of June 2018.



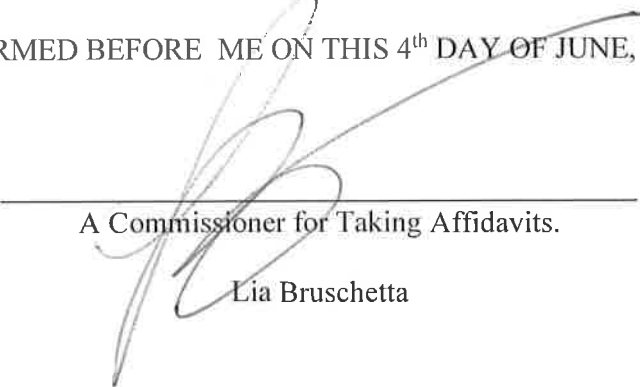
Commissioner for taking Affidavits
Lia Bmechetta



Philip Mohtadi

TAB A

THIS IS EXHIBIT "A" REFERRED TO IN
THE AFFIDAVIT OF PHILIP MOHTADI
AFFIRMED BEFORE ME ON THIS 4th DAY OF JUNE, 2018.



A Commissioner for Taking Affidavits.

Lia Bruschetta

AGREEMENT OF PURCHASE AND SALE

SEARS CANADA INC.
as the Vendor

- and -

GROUPE MACH INC.
as the Purchaser

For the property known as “Fleur de Lys”

TABLE OF CONTENTS

	Page
ARTICLE 1 DEFINITIONS.....	2
1.1 Definitions.....	2
ARTICLE 2 SALE TRANSACTION	7
2.1 Offer and Acceptance	7
2.2 As Is, Where Is.....	7
ARTICLE 3 PURCHASE PRICE	10
3.1 Purchase Price.....	10
3.2 Deposit	10
3.3 Purchase Price Allocation	12
3.4 Trade-Marks.....	12
ARTICLE 4 ADJUSTMENTS	12
4.1 Statement of Adjustments and Absence of Post-Closing Adjustments	12
4.2 General Adjustments.....	13
4.3 Realty Tax Appeals.....	13
4.4 Utilities.....	13
ARTICLE 5 INTERIM PERIOD.....	14
5.1 Interim Period	14
5.2 Contracts	15
5.3 Permitted Encumbrances	15
ARTICLE 6 REPRESENTATIONS, WARRANTIES & COVENANTS	15
6.1 Vendor’s Representations and Warranties.....	15
6.2 Purchaser’s Representations and Warranties	15
6.3 Purchaser’s Covenants	16
6.4 Vendor’s Covenants.....	17
6.5 Tax Matters	17
6.6 Termination Payment.....	18
6.7 Survival of Covenants.....	19
ARTICLE 7 CLOSING	20
7.1 Conditions of Closing for the Benefit of the Purchaser.....	20
7.2 Conditions of Closing for the Benefit of the Vendor.....	20
7.3 Conditions of Closing for the Mutual Benefit of the Parties	20
7.4 Conditions Not Fulfilled	21
7.5 Closing Documents.....	21
7.6 Closing Date.....	23
7.7 Confirmation of Satisfaction of Conditions.....	23
7.8 Closing	23
7.9 Filings and Authorizations.....	24

TABLE OF CONTENTS

(continued)

	Page
7.10 Court Matters	25
7.11 Termination.....	25
ARTICLE 8 OTHER PROVISIONS.....	25
8.1 Confidentiality	25
8.2 Time of the Essence.....	26
8.3 Entire Agreement.....	26
8.4 Waiver.....	26
8.5 Further Assurances.....	26
8.6 Severability	26
8.7 Governing Law	26
8.8 English Language.....	27
8.9 Statute References.....	27
8.10 Headings	27
8.11 References.....	27
8.12 Number and Gender.....	27
8.13 Business Days	27
8.14 Currency and Payment Obligations	27
8.15 Notice.....	27
8.16 Subdivision Control Legislation	29
8.17 Solicitors as Agent and Tender	29
8.18 No Registration of Agreement.....	29
8.19 Third Party Costs	30
8.20 Interpretation.....	30
8.21 No Third Party Beneficiaries	30
8.22 Enurement	30
8.23 Amendments	31
8.24 Counterparts and Delivery	31
SCHEDULE "A" LANDS.....	1
SCHEDULE "B" EXCLUDED ASSETS	1
SCHEDULE "C" PURCHASE PRICE ALLOCATION	- 1 -
SCHEDULE "E" PURCHASER'S GST/HST AND QST CERTIFICATE, UNDERTAKING AND INDEMNITY	1
SCHEDULE "F" FORM OF ASSIGNMENT AND ASSUMPTION OF ASSUMED CONTRACTS AND PERMITTED ENCUMBRANCES.....	1
SCHEDULE "G" FORM OF ASSIGNMENT AND ASSUMPTION OF REALTY TAX APPEALS	1
SCHEDULE "H" PERMITTED ENCUMBRANCES.....	1

TABLE OF CONTENTS
(continued)

Page

SCHEDULE "J" ASSUMED CONTRACTS..... 1

THIS AGREEMENT OF PURCHASE AND SALE dated with effect as of May 29, 2018

BETWEEN:

SEARS CANADA INC.
(the “**Vendor**”)

OF THE FIRST PART,

- and -

GROUPE MACH INC.
(the “**Purchaser**”)

OF THE SECOND PART,

RECITALS:

- A. The Vendor operated a chain of retail department stores throughout Canada under the “Sears” banner.
- B. On the Filing Date, the Vendor and certain of its affiliates and subsidiaries (the “**Sears Group**”) applied for and were granted protection from their creditors under the CCAA pursuant to the Initial Order. Pursuant to the Initial Order, the Court appointed FTI Consulting Canada Inc. as Monitor in connection with the CCAA Proceedings.
- C. On the SISP Order Date, the Court granted the SISP Order which, among other things, approved the SISP. The SISP Order and the SISP govern the process for soliciting and selecting bids for the sale of, among other things, the Assets (as defined in the SISP) of the Sears Group.
- D. The Purchaser hereby offers to acquire from the Vendor, the Vendor’s right, title and interest in and to the Subject Assets on the terms and conditions set out herein (the “**Offer**”).
- E. This Agreement is subject to approval by the Court, and the completion of the Transaction is subject to the Court issuing the Approval and Vesting Order and the Monitor releasing the Monitor’s Certificate, all as more particularly described herein.

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth in this Agreement and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Vendor and the Purchaser (individually, a “**Party**” and collectively, the “**Parties**”) covenant and agree as follows:

ARTICLE 1 DEFINITIONS

1.1 Definitions

Unless otherwise provided for herein, all capitalized terms set out below when used in this Agreement shall have the meaning ascribed thereto unless the context expressly or by necessary implication otherwise requires:

“**Adverse Entry**” means all Encumbrances other than Permitted Encumbrances.

“**Agreement**” means this agreement constituted by the Vendor’s acceptance of the Offer together with all schedules and instruments in written amendment or confirmation of it and the expression “**Section**” followed by a number means and refers to the ascribed thereto Section of this Agreement.

“**Applicable Law**” means, in respect of any Person, assets, transaction, event or circumstance:

- (i) statutes (including all regulations enacted thereunder);
- (ii) judgments, decrees and orders of courts of competent jurisdiction; and
- (iii) regulations, orders, ordinances and directives issued by Governmental Authorities;

which are applicable to such Person, asset, transaction, event or circumstance;

“**Approval and Vesting Order**” means an order issued by the Court approving this Agreement and the transactions contemplated by this Agreement and conveying to the Purchaser all of the Vendor’s right, title and interest in and to the Subject Assets free and clear of all Encumbrances other than the Permitted Encumbrances, which order shall be substantially in the form of Schedule “D” (with only such changes as the Parties shall approve in their reasonable discretion, but in all cases in form and substance acceptable to the Monitor).

“**Assignment and Assumption of Assumed Contracts and Permitted Encumbrances**” means an assignment by the Vendor and an assumption by the Purchaser of the Vendor’s right, title and interest and all liability, covenants and obligations in, to and under the Assumed Contracts and any Permitted Encumbrances. The agreement evidencing same shall include an indemnity given by the Purchaser in favour of the Vendor from and against any Claims arising pursuant to or in connection with any of the Assumed Contracts and Permitted Encumbrances, and shall be in substantially the form attached as Schedule “F”.

“**Assignment and Assumption of Realty Tax Appeals**” means an assignment by the Vendor and an assumption by the Purchaser of the Vendor’s right, title and interest and all liability, covenants and obligations, in respect of the Realty Tax Appeals to be delivered on Closing. The agreement shall be in substantially the form attached as Schedule “G”.

“**Assumed Contracts**” means the Contracts listed on Schedule “I”.

“**Authorization**” means, with respect to any Person, any order, permit, approval, waiver, licence or similar authorization of any Governmental Authority having jurisdiction over the Person.

“**Balance**” has the meaning ascribed thereto in Section 3.1(b).

“**Buildings**” means, individually or collectively, as the context requires, all of the buildings and structures, improvements, appurtenances and fixtures, located on, in or under the Lands, but, for greater certainty, excluding the Excluded Assets.

“**Business Day**” means any day of the year, other than a Saturday, Sunday or any day on which major banks are closed for business in Toronto, Ontario.

“**CCAA**” means the *Companies’ Creditors Arrangement Act* (Canada).

“**CCAA Proceedings**” means the proceedings commenced under the CCAA by the Sears Group pursuant to the Initial Order (Court File No. CV-17-11846-00CL).

“**Claims**” means any and all claims, demands, complaints, grievances, actions, applications, suits, causes of action, Orders, charges, indictments, prosecutions, informations or other similar processes, assessments or reassessments, equitable interests, options, preferential arrangements of any kind or nature, assignments, restrictions, financing statements, deposit arrangements, rights of others, leases, sub-leases, licences, rights of first refusal or similar restrictions, judgments, debts, liabilities, expenses, costs, damages or losses, contingent or otherwise, including loss of value, reasonable professional fees, including fees and disbursements of legal counsel on a full indemnity basis, and all actual and documented costs incurred in investigating or pursuing any of the foregoing or any proceeding relating to any of the foregoing.

“**Closing**” has the meaning ascribed thereto in Section 7.6(a).

“**Closing Date**” means the Business Day that is three (3) Business Days following the issuance of the Approval and Vesting Order or such later date as the Vendor (with the consent of the Monitor) may advise the Purchaser in writing, or as otherwise ordered by the Court.

“**Closing Documents**” means those documents and deliveries to be delivered in connection with the Closing as contemplated in this Agreement including those set out in Section 7.4.

“**Contract and/or PE Assumption Agreements**” has the meaning ascribed thereto in Section 5.3.

“**Contracts**” means, collectively, all of the Vendor’s contracts and agreements to enter into contracts with respect to the operation, fire protection, servicing, maintenance, repair and cleaning of the Subject Assets (and no other properties), or the furnishing of supplies or services to the Subject Assets, any property management or asset management contracts, any employment contracts and any insurance contracts entered into by the Vendor or any manager or agent on behalf of the Vendor, in each case solely with respect to the Subject Assets.

“**Court**” means the Ontario Superior Court of Justice (Commercial List).

“**Data Site**” means the electronic data site with respect to information and material regarding the Subject Assets.

“**Deposit**” has the meaning ascribed thereto in Section 3.1(a).

“Disclosed to the Purchaser” means any information which no later than the date which is one (1) Business Day immediately before the Execution Date, is either: (a) delivered or made available to the Purchaser on the Data Site; (b) a Permitted Encumbrance that is registered (and/or notice of which is registered) against title to the Property; or (c) delivered to the Purchaser or the Purchaser’s solicitors.

“Encumbrance” means any 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.

“Environment” means the environment or natural environment as defined in any Environmental Laws and includes air, surface water, ground water, land surface, soil and subsurface strata.

“Environmental Laws” means Laws relating to the protection of human health and the Environment, and includes Laws relating to the storage, generation, use, handling, manufacture, processing, transportation, treatment, Release, remediation, management and disposal of Hazardous Substances.

“Excise Tax Act” means the *Excise Tax Act*, R.S.C., 1985, c. E-15, as amended, restated, supplemented or substituted from time to time.

“Excluded Assets” means those assets (in each case, as of the Closing Date) described in Schedule “B”.

“Execution Date” means the date of this Agreement as set out on the top of page 1 hereof.

“FF&E” means all tools, signs, furniture, machinery, equipment, personal or moveable property, chattels, furnishings and fixtures including shelves, counters, video cameras and equipment, security systems, point-of-sales systems and related appurtenances, telecommunications systems and related appurtenances, electric light fixtures, elevating devices and equipment, in each case to the extent owned, leased or licensed by the Vendor, if any.

“Filing Date” means June 22, 2017.

“Financial Advisor” means BMO Nesbitt Burns Inc.

“Governmental Authorities” means governments, regulatory authorities, governmental departments, agencies, agents, commissions, bureaus, officials, ministers, Crown corporations, courts, bodies, boards, tribunals or dispute settlement panels or other law or regulation-making organizations or entities: (a) having or purporting to have jurisdiction on behalf of any nation, province, territory or state or any other geographic or political subdivision of any of them; or (b) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power.

“GST/HST and QST Certificate, Undertaking and Indemnity” mean the Purchaser’s certificate to be in substantially the form set out in Schedule “E”.

“**Hazardous Substances**” means pollutants, contaminants, wastes of any nature, hazardous substances, hazardous materials, toxic substances, prohibited substances, dangerous substances or dangerous goods regulated by or under Environmental Laws.

“**Holders**” has the meaning ascribed thereto in Section 5.3.

“**Initial Order**” means the Initial Order granted by the Court on June 22, 2017 pursuant to which the Sears Group were granted protection from their creditors under the CCAA (as amended, restated, supplemented and/or modified from time to time).

“**Interim Period**” means the period between the close of business on the Execution Date and the Closing on the Closing Date.

“**Inventory**” includes all inventory, stock, supplies and all other items owned by the Vendor and located at the Property.

“**Joint Direction**” has the meaning ascribed thereto in Section 3.2(e).

“**Lands**” means the lands and premises legally described in Schedule “A”.

“**Laws**” means any and all Applicable Laws, including all statutes, codes, ordinances, decrees, rules, regulations, municipal by-laws, judicial or arbitral or administrative or ministerial or departmental or regulatory judgments, orders, decisions, ruling or awards, and general principles of common and civil law and equity, binding on or affecting the Person referred to in the context in which the word is used.

“**Monitor**” means FTI Consulting Canada Inc., in its capacity as Court-appointed monitor of the Sears Group pursuant to the Initial Order and not in its personal capacity.

“**Monitor’s Certificate**” means the certificate to be filed with the Court by the Monitor certifying receipt of (i) confirmation from the Purchaser and the Vendor that all conditions of Closing in Sections 7.1, 7.2 and 7.3 of this Agreement have been satisfied or waived and (ii) the Purchase Price and any Taxes payable to the Vendor and that are not self-assessed and remitted by the Purchaser.

“**NDA**” means the confidentiality, non-disclosure and non-use agreement between the Vendor and the Purchaser dated July 12, 2017, as amended or supplemented in writing from time to time.

“**Notice**” has the meaning ascribed thereto in Section 8.14.

“**Off-Title Compliance Matters**” means open permits or files, work orders, deficiency notices, directives, notices of violation, non-compliance and/or complaint and/or other outstanding matters or matters of non-compliance with the zoning and/or other requirements of any Governmental Authorities or any open building permits and Orders relating to any of the foregoing.

“**Offer**” has the meaning ascribed thereto in Recital D.

“**Orders**” means orders, injunctions, judgments, administrative complaints, decrees, rulings, awards, assessments, directions, instructions, penalties or sanctions issued, filed or imposed by any Governmental Authority or arbitrator.

“**Outside Date**” means July 24, 2018.

“**Permitted Encumbrances**” means, collectively: (a) any Encumbrances resulting from the Purchaser’s actions; and (b) the items identified in Schedule “H” hereto.

“**Person**” means an individual, partnership, corporation, trust, unincorporated organization, company, government, or any department or agency thereof, and the successors and assigns thereof or the heirs, executors, administrators or other legal representatives of an individual.

“**Plans**” means all documentation in the Vendor’s possession and located on the Property on the Closing Date or located on the Execution Date in the electronic data room and monitored by the Financial Advisor relevant to the construction of the Buildings including, working drawings, detail drawings, shop drawings, approved municipal plans, structural, mechanical, electrical and engineering plans, site plans, surveys, reference or topographical plans, other documentation prepared to illustrate or define a particular aspect of the Buildings, consultants’ contracts, construction contracts, and plans submitted with all building permits issued for the Property.

“**Property**” means, collectively, the Lands and the Buildings.

“**Purchase Price**” has the meaning ascribed thereto in Section 3.1.

“**Purchaser**” has the meaning ascribed thereto on page 1 hereof.

“**QST**” means the Québec Sales Tax exigible pursuant to *An Act respecting the Québec Sales Tax*.

“**Realty Tax Appeals**” has the meaning ascribed thereto in Section 4.3(a).

“**Realty Tax Refunds**” has the meaning ascribed thereto in Section 4.3(b).

“**Release**” has the meaning prescribed in any Environmental Laws and includes any release, spill, leak, pumping, pouring, emission, emptying, discharge, injection, escape, leaching, disposal, dumping, deposit, spraying, burial, abandonment, incineration, seepage, placement or introduction.

“**ROFR**” means the right of first refusal contained in the Amendment of Servitude dated May 25, 2004 between Place Fleur de Lys and the Vendor, as amended, restated, supplemented and/or modified from time to time.

“**ROFR Beneficiary**” means Place Fleur de Lys GP Inc., or its successor or assign, as beneficiary of the ROFR.

“**SISP**” means the Sale and Investment Solicitation Process approved by the SISP Order (as amended, restated, supplemented and/or modified from time to time).

“**SISP Order**” means the Order granted by the Court on the SISP Order Date (as amended, restated, supplemented and/or modified from time to time), which, among other things, approved the SISP.

“**SISP Order Date**” means July 13, 2017.

“Subject Assets” means all of the right, title and interest of the Vendor, if any, in and to: (a) the Property; (b) the Realty Tax Appeals; (c) the Assumed Contracts; (d) the Warranties; and (e) all Inventory, FF&E and Excluded Assets left on the Property on the Closing Date, but excludes, the Vendor’s right, title and interest in and to each of the other Excluded Assets and any and all other assets of the Vendor relating to the Property not included in the foregoing.

“Taxes” means taxes, duties, fees, premiums, assessments, imposts, levies and other similar charges imposed by any Governmental Authority under applicable Laws, including all interest, penalties, fines, additions to tax or other additional amounts imposed by any Governmental Authority in respect thereof, and including those levied on, or measured by, or referred to as, income, gross receipts, profits, capital, transfer, land transfer, registration, sales, goods and services, harmonized sales, use, value-added, excise, stamp, withholding, business, franchising, property, development, occupancy, all surtaxes, all customs duties and import and export taxes, countervail and anti-dumping, and all licence, franchise and registration fees.

“Transaction” means collectively the transactions contemplated in this Agreement.

“Vendor” has the meaning ascribed thereto on page 1 hereof.

“Warranties” means any existing warranties and guarantees in favour of the Vendor in connection with the construction, condition or operation of the Buildings or any component thereof or any improvements made to the Buildings or any component thereof (other than the Excluded Assets) which are assignable without the consent of the counterparty thereto.

ARTICLE 2 SALE TRANSACTION

2.1 Offer and Acceptance

- (a) Subject to the terms of this Agreement, the Initial Order and the SISP Order, the Vendor hereby agrees to sell, assign and transfer to the Purchaser, and the Purchaser hereby agrees to purchase and assume from the Vendor, the Subject Assets on the Closing Date in accordance with the terms and conditions of this Agreement.
- (b) The Offer shall be irrevocable by the Purchaser until 5:00 p.m. (Toronto time) on May 31, 2018.
- (c) Upon acceptance of this Offer by the Vendor, this Offer shall constitute a binding agreement to acquire the Subject Assets, on the terms of this Agreement.

2.2 As Is, Where Is

Notwithstanding the foregoing or anything else contained herein or elsewhere, the Purchaser acknowledges and agrees in favour of the Vendor that as of the Execution Date and the Closing Date:

- (a) the Purchaser is purchasing the Subject Assets (including the state of title thereto and/or the state of any Encumbrances and Permitted Encumbrances) and accepting and assuming the Subject Assets on an “as is, where is” basis, without any written or oral statements, representations, warranties, promises or guaranties of any nature

or kind whatsoever, either legal or conventional, express or implied (by operation of law or otherwise), as to the condition of any of the Subject Assets, the Permitted Encumbrances, the rentable area of the Buildings, the existence of any default on the part of the Vendor, the physical, environmental or other condition of, in, on, under or in the vicinity of the Property, the use permitted at the Property, the existence of any Encumbrance and/or Off-Title Compliance Matters affecting the Subject Assets, or any other aspects of any of the Subject Assets and the Permitted Encumbrances, the structural integrity or any other aspect of the physical condition of any Subject Assets, the conformity of any Building to any Plans or specifications (including, but not limited to, any Plans and specifications that may have been or which may be provided to the Purchaser), compliance with Environmental Laws, the conformity of the Property to past, current or future applicable zoning or building code requirements or other applicable Laws, the existence of soil instability, past soil repairs, soil additions or conditions of soil fill or any other matter affecting the stability or integrity of the Lands, or any Building situated on or as part of the Property, the sufficiency of any drainage, whether the Property is located wholly or partially in a flood plain or a flood hazard boundary or similar area, the existence or non-existence of underground and/or above ground storage tanks, the availability of public utilities, access, parking and/or services for the Property, the fitness or suitability of the Property for occupancy or any intended use (including matters relating to health and safety), the potential for further development of the Property, the existence of land use, zoning or building entitlements affecting the Property, the presence, release or use of wastes of any nature, Hazardous Substances, pollutants, contaminants or other regulated substances in, under, on or about the Property or any neighbouring lands; and without limiting the foregoing, any and all conditions or warranties expressed or implied pursuant to the *Sale of Goods Act* (Ontario) or similar legislation in other jurisdictions will not apply and are hereby waived by the Purchaser and the Parties agree to exclude the effect of the legal warranty provided for by Article 1716 of the Civil Code of Québec and that the Purchaser is purchasing the Subject Assets at its own risk within the meaning of Article 1733 of the Civil Code of Québec;

- (b) on Closing, the Subject Assets shall be subject to, without limitation, the Permitted Encumbrances;
- (c) any disclosure in respect of any of the Subject Assets was made available to the Purchaser solely as a courtesy but the Purchaser is not entitled to rely on such disclosure, and it is expressly acknowledged by the Purchaser that no written or oral statement, representation, warranty, promise or guarantee of any nature or kind whatsoever, either legal or conventional, express or implied (by operation of law or otherwise), is made by the Vendor and/or the Monitor and/or their respective legal counsel, the Financial Advisor or other advisors or representatives as to the accuracy, currency or completeness of any such disclosure, and each of them expressly disclaims any and all liabilities with respect to such disclosure and any and all errors therein or omissions therefrom;
- (d) the Purchaser hereby unconditionally and irrevocably waives any and all actual or potential rights or Claims the Purchaser might have against the Vendor pursuant to

any warranty, legal or conventional, express or implied, of any kind or type relating to the Subject Assets or any other assets or any other aspect of the Transaction. Such waiver is absolute, unlimited and includes, but is not limited to, waiver of express warranties, implied warranties, any warranties at law and/or in equity, warranties of fitness for a particular use, warranties of merchantability, warranties of occupancy, strict liability and Claims of every kind and type, including, but not limited to, Claims regarding defects, whether or not discoverable, product liability Claims, or similar Claims, and to all other extent or later created or conceived of strict liability or strict liability type Claims and rights;

- (e) the Purchaser conducted its own independent review, inspection, diligence and investigations and forming its own independent opinions and conclusions in respect of the Subject Assets. The Purchaser's decision to make this Offer and enter into this Agreement was made of its own accord without reference to or reliance upon any disclosure in respect of any of the Subject Assets. The Purchaser acknowledges having been given a reasonable and adequate opportunity to conduct its own independent diligence prior to entering in this Agreement;
- (f) the Vendor shall not be responsible for making any repairs, replacements, renovations, alterations, improvements or upgrades or undertaking any remediation to address a Release in or to the Property or any part thereof, and it shall be the sole responsibility of the Purchaser to make, at the Purchaser's sole cost, any repairs, replacements, renovations, alterations, improvements and upgrades in or to the Property following Closing as may be required by the Purchaser to make the Property suitable for its purposes and to undertake any required, necessary, or desired remediation to address a Release at, on, under or migrating from the Property or any part thereof;
- (g) the Subject Assets may be subject to certain Off-Title Compliance Matters, municipal requirements, including building or zoning by-laws and regulations, easements or servitudes for hydro, gas, telephone affecting the Subject Assets, and like services to the Property, and restrictions and covenants which run with the land, including but not limited to the Permitted Encumbrances. Without limiting the foregoing, the Vendor shall not be responsible for rectification of any matters disclosed by any Governmental Authority or quasi-governmental authority having jurisdiction and the Purchaser shall accept the Subject Assets subject to such matters;
- (h) the Purchaser shall accept full responsibility for all conditions related to the Property, and the Purchaser shall comply with all orders relating to the condition of the Property issued by any competent Governmental Authority, including any order issued against the Vendor including without limitation, any non-compliance with Environmental Laws or relating to the existence of any Hazardous Substance; and
- (i) if any statement, error or omission shall be found in the particulars of the legal and/or the Subject Assets' description, the same shall not annul the sale or entitle the Purchaser to be relieved of any obligation hereunder, nor shall any compensation be allowed to the Purchaser in respect thereof.

The Vendor has no and shall have no obligations or responsibility to the Purchaser after Closing with respect to any matter relating to the Subject Assets or the condition thereof save and only to the extent expressly provided in this Agreement. The Purchaser shall be responsible for and hereby indemnifies and saves harmless the Vendor and its employees, directors, officers, appointees and agents from any costs, including legal and witness costs, claims, demands, civil actions, prosecutions, or administrative hearings, fines, judgments, awards, including awards of costs, that may arise as a result of the condition of the Property, any order issued by any competent Governmental Authority in connection with the condition of the Property, or any loss, damage, or injury caused either directly or indirectly as a result of the condition of the Property including, without limitation, non-compliance with Environmental Laws or the existence of any Hazardous Substances. This Section 2.2 shall survive and not merge on Closing and all Closing Documents shall incorporate this Section 2.2 by reference.

ARTICLE 3 PURCHASE PRICE

3.1 Purchase Price

The Purchase Price for the Subject Assets shall be [REDACTED] [REDACTED] (the “**Purchase Price**”) exclusive of HST/GST and QST. Subject only to adjustment in accordance with this Agreement, the Purchase Price shall be paid to the Vendor as follows:

- (a) as to the sum of [REDACTED] [REDACTED] (the “**Deposit**”), by wire transfer of immediately available funds payable to or to the order of the Monitor, in trust, or as it may otherwise direct in writing, on or prior to 5:00 p.m. (Toronto time) within twenty-four (24) hours of the signature of this Offer by the Vendor, to be held in trust as a deposit and invested in accordance with the provisions of Section 3.2 below pending the completion or other termination of this Agreement; provided that if the Deposit is not delivered to the Monitor, in trust, on or prior to 5:00 p.m. (Toronto time) within twenty-four (24) hours of the signature of this Offer by the Vendor, the Vendor may terminate this Agreement by notice to the Purchaser; and
- (b) as to the balance of the Purchase Price (the “**Balance**”), subject only to the adjustments made in accordance with this Agreement, by wire transfer of immediately available funds payable to the Monitor or as it may direct on the Closing Date.

3.2 Deposit

- (a) Following receipt, the Deposit shall be invested by the Monitor, in trust, in an interest bearing account or term deposit or guaranteed investment certificate pending completion of the Transaction or earlier termination or non-completion of this Agreement. In holding and dealing with the Deposit and any interest earned thereon pursuant to this Agreement, the Monitor is not bound in any way by any agreement other than this Section 3.2, and the Monitor shall not and shall not be considered to assume any duty, liability or responsibility other than to hold the Deposit, and any interest earned thereon, in accordance with the provisions of this

Section 3.2, and to pay the Deposit, and any interest earned thereon, to the Person becoming entitled thereto in accordance with the terms of this Agreement, except in the event of a dispute between the Parties as to entitlement to the Deposit. In the case of such dispute, the Monitor may, in its sole, subjective and unreviewable discretion, or shall, if requested by any of the Parties, pay the Deposit and any and all interest earned thereon into Court, whereupon the Monitor shall have no further obligations relating to the Deposit or any interest earned thereon. The Monitor shall not, under any circumstances, be required to verify or determine the validity of any notice or other document whatsoever delivered to the Monitor and the Monitor is hereby relieved of any liability or responsibility for any Claims which may arise as a result of the acceptance by the Monitor of any such notice or other document.

- (b) If the Transaction is completed, the Deposit shall be paid to the Vendor forthwith on Closing and applied to the Purchase Price. Interest on the Deposit shall accrue from the date of deposit with the Monitor until the Closing or other termination or non-completion of this Agreement. If the Transaction is successfully completed, all interest earned on the Deposit until Closing shall be paid to the Purchaser following Closing or applied to the Purchase Price.
- (c) If the Transaction is not completed by reason of a default of the Purchaser, the full amount of the Deposit together with all accrued interest earned thereon shall be paid to the Vendor as liquidated damages (and not as a penalty) to compensate the Vendor for the expenses incurred and the delay caused and opportunities foregone as a result of the failure of the Transaction to close. The entitlement of the Vendor to receive and retain the Deposit together with all accrued interest earned thereon, if any, in such circumstances shall not limit the Vendor's right to exercise any other rights or remedies, which the Vendor may have against the Purchaser in respect of such breach or default.
- (d) If the Transaction is not completed by any reason other than the default of the Purchaser, the full amount of the Deposit together with all accrued interest earned thereon shall be paid to the Purchaser as full and final settlement and the Purchaser shall have no further recourse against the Vendor.
- (e) In holding and dealing with the Deposit and any interest earned thereon pursuant to this Agreement, the Monitor shall release the Deposit and any interest earned thereon to the Persons becoming entitled thereto in accordance with the provisions of (i) Section 7.7(c); or (ii) this Section 3.2 as evidenced by a joint direction in writing executed by the Vendor and the Purchaser (the "**Joint Direction**") except in the event of a dispute between the Parties as to entitlement to the Deposit and any interest earned thereon in which event the Monitor may, in its sole, unfettered and unreviewable discretion, pay the Deposit and any interest earned thereon into Court, whereupon the Monitor shall have no further obligations relating to the Deposit and any interest earned thereon or otherwise hereunder.
- (f) The Monitor shall not, under any circumstances, be required to verify or determine the validity of the Joint Direction or any written confirmation received pursuant to Section 7.8(b) and the Monitor is hereby relieved of any liability or responsibility

for any loss or damage which may arise as the result of the acceptance by the Monitor of the Joint Direction.

- (g) Notwithstanding the foregoing or anything else contained herein or elsewhere, each of the Vendor and the Purchaser acknowledges and agrees that: (i) the Monitor's obligations hereunder are and shall remain limited to those specifically set out in this Section 3; and (ii) FTI Consulting Canada Inc. is acting solely in its capacity as the Court-appointed Monitor of the Vendor in the CCAA Proceedings and not in its personal or corporate capacity, and the Monitor has no liability in connection with this Agreement whatsoever, in its personal or corporate capacity or otherwise.
- (h) The Parties acknowledge that the Monitor may rely upon the provisions of this Section 3.2 notwithstanding that the Monitor is not a party to this Agreement. The provisions of this Section 3.2 shall survive the termination or non-completion of the Transaction.

3.3 Purchase Price Allocation

The allocation of the Purchase Price as between the Subject Assets is as set out on Schedule "C". The Vendor and the Purchaser shall adopt such allocations for the purposes of all tax returns, elections and filings respectively made by them or on their behalf. The Vendor and the Purchaser shall each use reasonable commercial efforts to agree, by the Closing Date, upon the allocation of the Purchase Price between the Lands and the Buildings for the Property. If no such agreement is reached by Closing, each of the Vendor and the Purchaser shall be free to make its own allocation.

3.4 Trade-Marks

Notwithstanding the foregoing or anything else contained herein or elsewhere, the Purchaser acknowledges and agrees that: (a) no signs, trade-marks, trade-names, logos, commercial symbols, business names or other intellectual property rights identifying "Sears" are conveyed or intended to be conveyed to the Purchaser as part of the Subject Assets; and (b) all right, title and interest of the Vendor in and to all of its existing signs, trade-marks, trade-names, logos, commercial symbols, business names or other intellectual property rights identifying "Sears" or containing the words "Sears" are hereby specifically reserved and excluded from the Subject Assets. Notwithstanding the foregoing or anything to the contrary, the Vendor shall not be obligated to remove any interior or exterior signs located at the Property, including those identifying "Sears" and the Vendor shall have no liability for any removal or destruction costs relating thereto and any such signs left on the Property on the Closing Date shall become the property of the Purchaser without a bill of sale, representation, warranty or other title documentation. This Section shall survive and not merge on Closing.

ARTICLE 4 ADJUSTMENTS

4.1 Statement of Adjustments and Absence of Post-Closing Adjustments

The Vendor shall prepare a statement of adjustments and deliver same with supporting documentation to the Purchaser no later than two (2) Business Days prior to the Closing Date. If the amount of any adjustments required to be made pursuant to this Agreement cannot be

reasonably determined as of the Closing Date, an estimate shall be made by the Vendor as of the Closing Date based upon the best information available to the Parties at such time, each Party acting reasonably and such estimate shall serve as a final determination. The final form of statement of adjustments shall be satisfactory to the Monitor, acting reasonably. There shall be no further adjustments or readjustments after Closing of any amounts adjusted or intended to be adjusted on the statement of adjustments pursuant to this Agreement and the amounts set out on the statement of adjustments shall be final.

4.2 General Adjustments

- (a) The adjustments shall include realty taxes, local improvement rates and charges and, except as set out in this Agreement, other adjustments established by usual practice in the municipality in which the Property is located for the purchase and sale of similar properties. In addition, the adjustments shall include the other matters referred to in this Agreement which are stated to be the subject of adjustment and shall exclude the other matters in this Agreement which are stated not to be the subject of adjustment.
- (b) From and after the Closing Date, the Purchaser shall be responsible for all expenses and shall be entitled to all revenue from the Subject Assets. The Vendor shall be responsible for all expenses and entitled to all revenue from the Subject Assets for that period prior to the Closing Date.
- (c) The Purchaser shall be responsible for and pay all applicable Taxes payable in connection with the transfer of any of the Subject Assets by the Vendor to the Purchaser.

4.3 Realty Tax Appeals

- (a) The Vendor and the Purchaser acknowledge that with respect to the Property the Vendor may have instituted certain appeals and/or claims in respect of realty taxes or assessments for certain periods prior to the Closing Date and possibly including the tax year in which the Closing Date occurs (all such appeals and any associated reassessments are hereinafter collectively referred to as the “**Realty Tax Appeals**”).
- (b) On Closing and provided all municipal taxes due are paid, in consideration of an additional adjustment in favour of the Vendor in the amount equal to 100% of any expected credit, refund and/or rebate which may arise from any of the Realty Tax Appeals (collectively, the “**Realty Tax Refunds**”) for any period that is prior to the Closing Date, the Vendor shall assign to the Purchaser all of its right, title and interest, if any, in and to such Realty Tax Refunds.

4.4 Utilities

- (a) The Purchaser shall not assume any contracts or agreements entered into by or on behalf of the Vendor for the supply of any utilities (including electricity, gas, water, fuel, telephone service, internet services, security and surveillance services or otherwise) at the Property. On or before the Closing Date, the Vendor shall

terminate all of its contracts and agreements for the supply of any utilities to the Property. For the avoidance of doubt, there shall be no adjustment at Closing in respect of the payment of any utilities provided that there are no outstanding amounts owing by the Vendor in connection with such accounts for which the Purchaser would be liable. The provisions of this Section 4.4(a) shall survive and not merge on Closing.

- (b) From and after the Closing Date, any and all utility charges and other related fees payable for any of the Property, pursuant to any invoice or statement issued on or after the Closing Date, shall be the sole responsibility of the Purchaser, and there shall be no adjustments between the Vendor and the Purchaser of any utility charges or related fees paid by the Purchaser pursuant to any such invoice or statement issued on or after the Closing Date, with the exception of any costs for utilities that were incurred before the Closing Date which shall be the responsibility of the Vendor.

ARTICLE 5 INTERIM PERIOD

5.1 Interim Period

- (a) The Vendor shall not be obligated to (i) remove any Inventory, FF&E or Excluded Assets and the Vendor shall have no liability for any removal or destruction costs relating thereto, or (ii) repair, renovate, alter, improve or upgrade the Property in any manner. Any Inventory, FF&E or Excluded Assets left on the Property on the Closing Date shall become the property of the Purchaser without a bill of sale, representation, warranty or other title documentation. This Section shall survive and not merge on Closing.
- (b) From and after the Execution Date, the Vendor will not agree to enter into any new Permitted Encumbrance without the consent of the Purchaser.
- (c) In the event that prior to the Closing Date all or a part of the Lands is expropriated or notice of expropriation or intent to expropriate all or a part of the Lands is issued by any Governmental Authority, the Vendor shall immediately advise the Purchaser thereof by Notice in writing. Notwithstanding the occurrence of any of the foregoing, the Purchaser shall complete the Transaction contemplated herein in accordance with the terms hereof without reduction of the Purchase Price and all compensation for expropriation shall be payable to the Purchaser and all right, title and interest of the Vendor to such amounts, if any, shall be assigned to the Purchaser on a without recourse basis.
- (d) The Subject Assets shall be and remain until Closing at the risk of the Vendor. In the event of material damage by fire or other hazard to the Subject Assets or any part thereof occurring before the Closing Date, the Vendor shall immediately advise the Purchaser thereof by Notice in writing. Notwithstanding the occurrence of any of the foregoing, the Purchaser shall complete the Transaction contemplated herein in accordance with the terms hereof without the reduction of the Purchase Price and the proceeds of any insurance actually paid or payable to the Vendor to a maximum

of that portion of the Purchase Price allocated in Schedule “C” for the Subject Assets which are so damaged, shall be paid and/or assigned to the Purchaser.

5.2 Contracts

The Vendor covenants to terminate effective as of the Closing Date, at its sole cost and expense, all Contracts other than the Assumed Contracts and Permitted Encumbrances.

5.3 Permitted Encumbrances

The Purchaser shall provide such reasonable financial, business, organizational, managerial and other information and enter into such assumption agreements or deeds of re-hypothecation as the relevant party to a Permitted Encumbrance (the relevant party being a “**Holder**”) shall require to effect the assumption of the Permitted Encumbrances, as applicable, by the Purchaser (collectively, the “**PE Assumption Agreements**”). The Purchaser shall use reasonable efforts to assist the Vendor and shall co-operate with the Vendor (but at no additional cost to the Purchaser), as reasonably requested, to obtain from third parties a full release of the Vendor’s obligations under the Permitted Encumbrances, and shall provide such financial and other information and enter into such assumption agreements as such third parties may reasonably require, in form and substance acceptable to each of the parties thereto acting reasonably and without delay.

ARTICLE 6 REPRESENTATIONS, WARRANTIES & COVENANTS

6.1 Vendor’s Representations and Warranties

The Vendor represents and warrants to and in favour of the Purchaser that as of the Execution Date and as of Closing as to the following and acknowledges and confirms that the Purchaser is relying upon such representations and warranties in connection with the entering into of this Agreement:

- (a) the execution, delivery and performance by the Vendor of this Agreement has been duly authorized by all necessary corporate action on the part of the Vendor subject to the Approval and Vesting Order and authorization as is required by the Court;
- (b) the Vendor is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada); and
- (c) the Vendor is a registrant for the purposes of the tax imposed under Part IX of the *Excise Tax Act*.

6.2 Purchaser’s Representations and Warranties

The Purchaser represents and warrants to and in favour of the Vendor that as of the Execution Date and as of Closing as to the following and acknowledges and confirms that the Vendor is relying upon such representations and warranties in connection with the entering into of this Agreement:

- (a) the Purchaser has been duly formed or incorporated and is validly subsisting under the Laws of the jurisdiction of its formation or incorporation, and has all requisite

corporate or other capacity, power and authority to carry on its business as now conducted by it and to own its properties and assets and is qualified to carry on business under the Laws of the jurisdictions where it carries on a material portion of its business;

- (b) the Purchaser is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada);
- (c) the Purchaser is a registrant for the purposes of the tax imposed under Part IX of the *Excise Tax Act*;
- (d) the execution, delivery and performance by the Purchaser of this Agreement:
 - (i) has been duly authorized by all necessary corporate or other action on the part of the Purchaser;
 - (ii) does not (or would not with the giving of notice, the lapse of time or the happening of any other event or condition) require any consent or approval under, result in a breach or a violation of, or conflict with, any of the terms or provisions of its constating documents or by-laws or any contracts or instruments to which it is a party or pursuant to which any of its assets or property may be affected; and
 - (iii) will not result in the violation of any Laws;
- (e) this Agreement has been duly executed and delivered by the Purchaser and constitutes legal, valid and binding obligations of the Purchaser, enforceable against it in accordance with their respective terms subject only to any limitation under applicable Laws relating to (i) bankruptcy, winding-up, insolvency, arrangement and other similar Laws of general application affecting the enforcement of creditors' rights, and (ii) the discretion that a court may exercise in the granting of equitable remedies such as specific performance and injunction; and
- (f) the Purchaser has, and will have at Closing, all funds on hand necessary to pay the Purchase Price and any Taxes payable and that are not self-assessed and remitted by the Purchaser.

The Purchaser's representations and warranties shall survive Closing for a period of one (1) year thereafter.

6.3 Purchaser's Covenants

- (a) The Purchaser shall use commercially reasonable efforts to take all such actions as are within its power or control, and to use commercially reasonable efforts to cause other actions to be taken which are not within its power or control, so as to ensure compliance with each of the conditions and covenants set forth in Article 7 which are for the benefit of any other Party.
- (b) The Purchaser shall take any and all commercially reasonable steps in order to avoid the filing of an application for, or the issuance of any interim Order or other

Order which would have the effect of delaying or preventing the Closing, and if any such interim Order or other Order is issued, the Purchaser shall take any and all steps to have it rescinded, revoked or set aside as soon as possible. For greater certainty, “any and all steps” shall include, committing to or effecting undertakings, a consent agreement, a hold separate arrangement, a consent Order, a hold separate Order, a sale, a divestiture, a disposition or other action, in any such case without any reduction of the Purchase Price.

- (c) The Purchaser will promptly notify the Vendor and the Vendor will promptly notify the Purchaser upon:
 - (i) becoming aware of any Order or any complaint requesting an Order restraining or enjoining the execution of this Agreement or the consummation of the Transactions; or
 - (ii) receiving any notice from any Governmental Authority of its intention:
 - (A) to institute a suit or proceeding to restrain or enjoin the execution of this Agreement or the consummation of the Transaction; or
 - (B) to nullify or render ineffective this Agreement or such Transaction.

6.4 Vendor’s Covenants

The Vendor agrees, that subject to the Initial Order, the SISP Order and the Approval and Vesting Order, to thereafter take all commercially reasonable actions as are within its power to control, and to use its commercially reasonable efforts to cause other actions to be taken which are not within its power to control, so as to fulfill the conditions set forth in Article 7 which are for the benefit of the Vendor or the mutual benefit of the Parties.

6.5 Tax Matters

In addition to the representations and warranties set forth in Section 6.2, the Purchaser further warrants, represents and covenants to the Vendor, and acknowledges and confirms that the Vendor is relying on such representations and warranties, indemnities and covenants in connection with the entering into of this Agreement, that:

- (a) the Purchaser is duly registered under Subdivision (d) of Division V of Part IX of the *Excise Tax Act* with respect to the goods and services tax and harmonized sales tax and under Division I of Chapter VIII of Title I of *An Act respecting the Québec Sales Tax* with respect to the Québec sales tax which registrations shall be in full force and effect and shall not have been cancelled or revoked on the Closing Date;
- (b) the Purchaser has entered into this Agreement and is purchasing the Subject Assets on the Closing Date, as principal for its own account and not as an agent, nominee, trustee or otherwise on behalf of another Person;
- (c) to the extent permitted under subsection 221(2) of the *Excise Tax Act* and any equivalent or corresponding provision under any applicable provincial or territorial legislation, the Purchaser shall self-assess and remit directly to the appropriate

Governmental Authority any Taxes including goods and services tax or harmonized sales tax, as the case may be, imposed under the *Excise Tax Act* and any similar value added or multi-staged tax or sales tax imposed by any applicable provincial or territorial legislation payable in connection with the purchase and sale transaction of the Subject Assets, including the transfer of the Vendor's real or immovable property interests in the corresponding Subject Assets;

- (d) on Closing, the Purchaser will pay, in addition to the Purchase Price, and the Vendor will collect, any Taxes including transfer taxes as well as goods and services tax or harmonized sales tax, as the case may be, imposed under the *Excise Tax Act* and any similar value added or multi-staged tax or sales tax exigible on the purchase and sale transaction of the Subject Assets, except to the extent that the Purchaser is permitted under subsection 221(2) of the *Excise Tax Act* and any equivalent or corresponding provision under any applicable provincial or territorial legislation to self-assess and remit such Taxes directly to the appropriate Governmental Authority, and the Purchaser shall have executed and delivered a certificate, undertaking and indemnity which includes its certification of its registration numbers issued under the *Excise Tax Act* and *An Act respecting the Québec Sales Tax*, and incorporates the provisions of this Section 6.5 (the “**GST/HST and QST Certificate, Undertaking and Indemnity**”);
- (e) the Purchaser shall make and file all required return(s) in accordance with the requirements of subsection 228(4) of the *Excise Tax Act* and any equivalent or corresponding provision under any applicable provincial or territorial legislation; and
- (f) the Purchaser shall indemnify and save the Vendor harmless from and against any and all Taxes including, transfer taxes and goods and services tax or harmonized sales tax, as the case may be, imposed under the *Excise Tax Act* and any similar value added or multi-staged tax or sales tax, penalties, costs and/or interest which may become payable by or assessed against the Vendor as a result of any failure by the Vendor to collect and remit any goods and services tax or harmonized sales tax payable under the *Excise Tax Act* or any similar value added or multi-staged tax or sales tax and applicable on the sale and conveyance of the Subject Assets by the Vendor to the Purchaser or as a result of any inaccuracy, misstatement, or misrepresentation made by the Purchaser in connection with any matter raised in this Section 6.5 or in the GST/HST and QST Certificate, Undertaking and Indemnity or any failure by the Purchaser to comply with the provisions of this Section 6.5 or the GST/HST and QST Certificate, Undertaking and Indemnity.

The provisions of this Section 6.5 shall survive and not merge on Closing.

6.6 Termination Payment

- (a) If this Agreement is terminated as a result of (i) the condition in Section 7.3(a) not being satisfied, whereby the ROFR Beneficiary has exercised the ROFR to purchase the Property as a result of the Transaction; or (ii) a default of the Vendor under this Agreement and at any time during the period commencing on the Execution Date and ending four (4) months after the termination of this Agreement, an agreement or

other arrangement is entered into with the ROFR Beneficiary whereby the ROFR Beneficiary (other than a result of the ROFR Beneficiary exercising the ROFR) acquires the Property (each a “**Trigger Event**”), then the Vendor hereby covenants and agrees to pay the Purchaser a termination fee of [REDACTED] of the Purchase Price (the “**Termination Payment**”), in consideration of the lost opportunity to the Purchaser. Such Termination Payment is to be paid by the Vendor within two (2) Business Days of the termination of this Agreement pursuant to the Triggering Event.

- (b) The Vendor shall wire transfer the amount equal to the Termination Payment (the “**Termination Deposit**”) of immediately available funds payable to or to the order of the Monitor, in trust, on or prior to 3 p.m. (Toronto time) one Business Day following the acceptance of this Agreement by the Vendor, to be held in trust as a deposit in accordance with this Section 6.6 and invested in accordance with the provisions of Section 3.2.
- (c) The full amount of the Termination Deposit together with all accrued interest earned thereon shall be paid to the Vendor: (i) on Closing, if the Transaction is completed; (ii) following the day of termination of this Agreement other than as a result of the default of the Vendor; or (iii) on the Business Day following the expiration of the four (4) month period starting on the termination of this Agreement as a result of the default of the Vendor, if the Trigger Event has not occurred by such date.
- (d) If the Trigger Event has occurred, the full amount of the Termination Deposit together with all accrued interest earned thereon shall be paid to the Purchaser forthwith upon the occurrence of such Trigger Event in the full satisfaction of the Vendor’s obligations in Section 6.6(a). For greater certainty, the Monitor shall release the Termination Deposit and any interest accrued thereon to the person becoming entitled thereto in accordance with the provisions of this Section 6.6 as evidenced by a Joint Direction, except in the event of a dispute between the Parties as to entitlement to the Termination Deposit and any such interest, in which event the Monitor may, in its sole unfettered and unreviewable discretion, pay the Termination Deposit and any interest accrued thereon into Court, whereupon the Monitor shall have no further obligations relating to the Deposit and any interest earned thereon or otherwise hereunder.
- (e) Sections 3.2(e) to (g) inclusive shall apply *mutatis mutandis* to the Termination Deposit, except where in conflict with this Section 6.6.
- (f) The provisions of this Section 6.6 shall survive the termination or non-completion of the Transaction.

6.7 Survival of Covenants,

Except as otherwise expressly provided in this Agreement to the contrary, no representations, warranties, covenants or agreements of the Vendor or the Purchaser in this Agreement shall survive the Closing.

ARTICLE 7 CLOSING

7.1 Conditions of Closing for the Benefit of the Purchaser

The Purchaser's obligation to complete the purchase and sale of the Subject Assets is subject to the following conditions to be fulfilled or performed, on or before the Closing Date, which conditions are for the exclusive benefit of the Purchaser and may be waived, in whole or in part, by the Purchaser:

- (a) the representations and warranties of the Vendor in Section 6.1 shall be true and correct as of the Closing Date with the same force and effect as if such representations and warranties were made on and as of such date;
- (b) the Vendor shall have performed and complied with all of the other terms and conditions in this Agreement on its part to be performed or complied with at or before Closing in all material respects and shall have executed and delivered or caused to have been executed and delivered to the Purchaser at Closing all the Closing Documents contemplated or required to be so executed and delivered in this Agreement;
- (c) vacant possession of the Property shall have been given to the Purchaser subject to the Assumed Contracts and Permitted Encumbrances; and
- (d) the Purchaser shall have received the Closing Documents.

7.2 Conditions of Closing for the Benefit of the Vendor

The Vendor's obligation to complete the purchase and sale of the Subject Assets is subject to the following conditions to be fulfilled or performed, on or before the Closing Date, which conditions are for the exclusive benefit of the Vendor and may be waived, in whole or in part, by the Vendor:

- (a) the representations and warranties of the Purchaser in Section 6.2 shall be true and correct as of the Closing Date with the same force and effect as if such representations and warranties were made on and as of such date;
- (b) the Purchaser shall have paid the Balance in its entirety to the Monitor and shall have performed and complied with all of the terms and conditions in this Agreement on its part to be performed or complied with at or before Closing in all material respects and shall have executed and delivered or caused to have been executed and delivered to the Vendor at Closing all the documents contemplated required to be so executed and delivered in this Agreement; and
- (c) the Vendor shall have received the Closing Documents.

7.3 Conditions of Closing for the Mutual Benefit of the Parties

The obligations of either the Vendor or the Purchaser to complete the purchase and sale of the Subject Assets are subject to the following conditions to be fulfilled or performed, on or before

the Closing Date, which conditions are for the mutual benefit of each of the parties and may only be waived, in whole or in part, by agreement of the parties to this Agreement:

- (a) the ROFR shall have validly expired in accordance with the terms of the ROFR or as ordered by the Court or been waived by the ROFR Beneficiary in writing and the Vendor has provided commercially reasonable evidence to the Purchaser substantiating the foregoing;
- (b) the Approval and Vesting Order, substantially in the form attached hereto as Schedule “D”, shall have been issued and entered by the Court and any appeal or motion for leave to appeal related to the Approval and Vesting Order shall have been fully disposed of with no further right of appeal or leave to appeal;
- (c) there shall be no Order against either of the parties or involving any of the Subject Assets enjoining, preventing or restraining the completion of the Transaction; and
- (d) the Monitor shall have delivered the Monitor’s Certificate.

7.4 Conditions Not Fulfilled

If any of the conditions contained in Sections 7.1, 7.2. or 7.3 hereof is not fulfilled on or prior to the Closing Date and such non-fulfillment is not directly or indirectly as a result of any action or omission of the applicable party benefitting from such condition, then the party entitled to the benefit of such condition may, in its sole discretion and without limiting its rights or remedies available at law or in equity:

- (a) terminate this Agreement by notice to the other parties and the Monitor, in which event the Purchaser, Vendor and Monitor shall be released from their obligations under this Agreement to complete the Transaction and the Deposit and all interest accrued thereon shall forthwith be returned to the Purchaser without deduction; or
- (b) waive compliance with any such condition without prejudice to the right of termination in respect of the non-fulfillment of any other condition.

7.5 Closing Documents

On or before Closing, subject to the provisions of this Agreement, the Vendor and the Purchaser shall, execute or cause to be executed and shall deliver or cause to be delivered into escrow (in a sufficient number of copies or counterparts for the Purchaser and the Vendor and, where applicable, in registerable form), the following, which shall be in form and substance reasonably satisfactory to the Purchaser and the Vendor and their respective solicitors:

- (a) By the Vendor and the Purchaser:
 - (i) a deed of sale executed by the Vendor and the Purchaser, substantially in the form attached as Schedule “K”;
 - (ii) the Assignment and Assumption of Realty Tax Appeals;

- (iii) the Assignment and Assumption of Assumed Contracts and Permitted Encumbrances; and
 - (iv) such other documents as each Party or each Party's solicitors shall reasonably require in good faith in accordance with this Agreement or as may be required under applicable Laws.
- (b) By the Vendor:
- (i) the Approval and Vesting Order;
 - (ii) the statement of adjustments evidencing the adjustments made at Closing;
 - (iii) a certificate signed by a senior officer of the Vendor confirming that the Vendor is not a non-resident of Canada within the meaning of section 116 of the *Income Tax Act* (Canada);
 - (iv) an assignment of Warranties, to the extent there are any and are in the Vendor's possession and located on the Property and to the further extent that they are assignable without cost or consent;
 - (v) all master keys relating to the Buildings, if any, all security cards and access cards relating to the Buildings, if any, and all combinations and passwords to vaults and combination locks and other security features located in the Buildings, if any, in each case, to the extent in the possession of the Vendor;
 - (vi) such other documents as the Purchaser or the Purchaser's solicitors shall reasonably require in good faith in accordance with this Agreement or as may be required under applicable Laws.
- (c) By the Purchaser:
- (i) the Balance plus all Taxes thereon;
 - (ii) GST/HST and QST Certificate, Undertaking and Indemnity;
 - (iii) an assignment of this Agreement, if applicable, in accordance with Section 8.22;
 - (iv) where applicable, the Contract and/or PE Assumption Agreements along with any deliveries to the Holders required in respect of the Assumed Contracts or Permitted Encumbrances; and
 - (v) such other documents as the Vendor or the Vendor's solicitors shall reasonably require in good faith in accordance with this Agreement or as may be required under applicable Laws.

7.6 Closing Date

- (a) The completion of the Transaction contemplated by this Agreement (the “**Closing**”) shall take place at 10:00 a.m. (Toronto time) on the Closing Date at the Toronto office of Osler, Hoskin and Harcourt LLP, or at such other place as may be agreed upon by the Vendor and the Purchaser in writing.
- (b) Subject to satisfaction or waiver by the relevant Party or Parties, as applicable, of the conditions of closing in its favour contained in this Article 7, at Closing, the Purchaser will pay or satisfy the Purchase Price in accordance with Article 3, and the Closing of the Transaction will take effect, pursuant to the Approval and Vesting Order, upon delivery of the Monitor’s Certificate.

7.7 Confirmation of Satisfaction of Conditions

On the Closing Date, subject to satisfaction or waiver by the relevant Party or Parties, as applicable, of the conditions of Closing in its favour contained in Article 7, the parties or their respective solicitors shall confirm to the Monitor the satisfaction of all conditions to Closing and upon the Monitor receiving the Balance and any Taxes payable to the Vendor and that are not self-assessed and remitted by the Purchaser, the Monitor shall deliver copies of the Monitor’s Certificate to the Parties hereto and release the Deposit and the Balance and any Taxes payable to the Vendor and that are not self-assessed and remitted by the Purchaser to the Vendor and following Closing file the Monitor’s Certificate with the Court.

7.8 Closing

- (a) Subject always to Section 3.2 hereof, the Deposit and the Balance and any Taxes payable to the Vendor and that are not self-assessed and remitted by the Purchaser shall be held by the Monitor, in trust in a separate interest bearing account, pending completion of the Transaction or earlier termination of this Agreement. In holding and dealing with the funds paid to the Monitor in trust and any interest earned thereon pursuant to this Agreement, the Monitor is not bound in any way by any agreement other than Section 3.2 and this Section 7.8 and the Monitor shall not assume or be deemed to assume any duty, liability or responsibility other than to hold the trust funds and any interest earned thereon in accordance with the provisions of this Section 7.8 and to pay the funds, and any interest earned thereon, to the Party becoming entitled thereto in accordance with the terms of this Agreement, except in the event of a dispute between the parties as to entitlement to the trust funds, of which the Monitor has been given notice in writing, the Monitor may, in its sole, subjective and unreviewable discretion, or shall, if requested by either of the parties, pay the trust funds and any and all interest earned thereon into court, whereupon the Monitor shall have no further obligations relating to the trust funds or any interest earned thereon or otherwise hereunder.
- (b) The Monitor shall not, under any circumstances, be required to verify or determine the validity of any written notice or other document whatsoever delivered to the Monitor in connection with the trust funds and the Monitor is hereby relieved of any liability or responsibility for any loss or damage, which may arise as a result of the acceptance by the Monitor of any such written notice or other document.

- (c) On or before Closing, the parties' respective solicitors shall exchange the Closing Documents in escrow and the Balance and any Taxes payable to the Vendor and that are not self-assessed and remitted by the Purchaser shall be delivered to or paid to the order of the Monitor, in trust, and the Deposit and the Balance and any Taxes payable to the Vendor and that are not self-assessed and remitted by the Purchaser shall remain in escrow with the Monitor until the Monitor has delivered the Monitor's Certificate to the Vendor and the Purchaser, upon the occurrence of which the escrow shall be lifted, the Closing Documents shall take effect as of the date and time set out in the Monitor's Certificate, the entire amount of the Deposit and the Balance and any Taxes payable to the Vendor and that are not self-assessed and remitted by the Purchaser shall be forthwith released to the Vendor and the Closing shall be deemed to have occurred as of such date and time set out in the Monitor's Certificate and fully signed Closing Documents shall be released to each of the Vendor and Purchaser.
- (d) The parties acknowledge that, notwithstanding that the Monitor is not a party to this Agreement, the Monitor may rely upon the provisions of Section 3.2 hereof and this Section 7.8.
- (e) This Section 7.8 shall survive the Closing or termination of this Agreement.

7.9 Filings and Authorizations

- (a) Each of the Vendor and the Purchaser, as promptly as practicable after the execution of this Agreement, will make, or cause to be made, all such filings and submissions under all Laws applicable to it, as may be required for it to consummate the purchase and sale of the Subject Assets in accordance with the terms of this Agreement (other than the motion seeking approval of the Transaction and the issuance of the Approval and Vesting Order). The Vendor and the Purchaser shall co-ordinate and cooperate with one another in exchanging such information and supplying such assistance as may be reasonably requested by each in connection with the foregoing including, providing each other with all notices and information supplied to or filed with any Governmental Authority (except for notices and information which the Vendor or the Purchaser, in each case acting reasonably, considers highly confidential and sensitive which may be filed on a confidential basis), and all notices and correspondence received from any Governmental Authority.
- (b) The Parties acknowledge and agree that the Monitor shall be entitled to deliver to the parties and file the Monitor's Certificate with the Court, without independent investigation, upon receiving written confirmation from the Vendor and the Purchaser or their respective solicitors that all conditions of Closing have been satisfied or waived and upon receipt of the Balance and any Taxes payable to the Vendor and that are not self-assessed and remitted by the Purchaser, and the Monitor shall have no liability to the Vendor or the Purchaser or any other Person as a result of filing the Monitor's Certificate.

7.10 Court Matters

- (a) The Vendor shall consult and co-ordinate with the Purchaser and their respective legal advisors regarding the parties upon whom the motion seeking the Approval and Vesting Order will be served.
- (b) The Purchaser shall provide such information and take such actions as may be reasonably requested by the Vendor to assist the Vendor in obtaining the Approval and Vesting Order and any other order of the Court reasonably necessary to consummate the transactions contemplated by this Agreement, including, any Court ordered assignment of the Contracts.
- (c) Notwithstanding anything else contained in this Agreement or elsewhere, the Purchaser acknowledges and agrees that the Vendor cannot guarantee that it will obtain the Approval and Vesting Order and the Approval and Vesting Order may or may not be granted by the Court.

7.11 Termination

This Agreement may, by notice in writing given at or prior to Closing, be terminated:

- (a) by mutual consent of the Purchaser and the Vendor (in respect of which the Vendor shall require the consent of the Monitor to provide its consent) or on further order of the Court;
- (b) by the Purchaser if any of the conditions in Section 7.1 have not been satisfied on or before the Closing Date and the Purchaser has not waived such condition;
- (c) by the Vendor with the consent of the Monitor if any of the conditions in Section 7.2 have not been satisfied on or before the Closing Date and the Vendor has not waived such condition; or
- (d) by either Party if any of the conditions precedent in Section 7.3 have not been satisfied on or before the Closing Date and the parties have not waived such condition; or
- (e) by the Vendor (with the consent of the Monitor) or the Purchaser if Closing has not occurred on or before the Outside Date, provided that the Vendor or the Purchaser may not terminate this Agreement pursuant to this Section 7.10(e) if it has failed to perform any one or more of its respective obligations or covenants under this Agreement and the Closing has not occurred because of such failure.

ARTICLE 8 OTHER PROVISIONS

8.1 Confidentiality

The Vendor shall be entitled to disclose this Agreement and all information provided by the Purchaser in connection herewith to the Court, the Monitor, and parties in interest to the CCAA Proceedings. The NDA shall survive and not merge on Closing.

8.2 Time of the Essence

Time shall be of the essence of this Agreement.

8.3 Entire Agreement

This Agreement and the NDA constitute the entire agreement between the parties with respect to the Transaction and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties with respect to the subject matter of this Agreement. There are no representations, warranties, covenants, conditions or other agreements, legal or conventional, express or implied, collateral, statutory or otherwise, between the parties in connection with the subject matter of this Agreement, except as specifically set forth in this Agreement. The parties have not relied and are not relying on any other information, discussion or understanding in entering into and completing the Transaction.

8.4 Waiver

- (a) No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision (whether or not similar), nor shall such waiver be binding unless executed in writing by the Party to be bound by the waiver.
- (b) No failure on the part of the Vendor or the Purchaser to exercise, and no delay in exercising any right under this Agreement shall operate as a waiver of such right; nor shall any single or partial exercise of any such right preclude any other or further exercise of such right or the exercise of any other right.

8.5 Further Assurances

Each of the parties covenants and agrees to do such things, to attend such meetings and to execute such further conveyances, transfers, documents and assurances as may be reasonably deemed to be necessary or advisable from time to time in order to effectively transfer the Subject Assets to the Purchaser and carry out the terms and conditions of this Agreement in accordance with their true intent. The provisions of this Section 8.5 shall survive and shall not merge on Closing.

8.6 Severability

If any provision of this Agreement shall be determined by a court of competent jurisdiction to be illegal, invalid or unenforceable, that provision shall be severed from this Agreement and the remaining provisions shall continue in full force and effect.

8.7 Governing Law

This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. Each Party irrevocably and unconditionally waives, to the fullest extent permitted by applicable Laws, any objection that it may now or hereafter have to the venue of any action or proceeding arising out of or relating to this Agreement or the Transaction in any court of the Province of Ontario. Each of the Parties hereby irrevocably waives, to the fullest extent permitted by applicable Laws, the defence of an inconvenient forum to the maintenance of such action or proceeding in any such court.

8.8 English Language

The parties hereto have requested that this Agreement be drafted in English only. *Les parties aux présentes ont demandé à ce que la présente convention soit rédigée en anglais seulement.*

8.9 Statute References

Any reference in this Agreement to any statute or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, restated or re-enacted from time to time.

8.10 Headings

The division of this Agreement into Sections, the insertion of headings is for convenience of reference only and are not to be considered in, and shall not affect, the construction or interpretation of any provision of this Agreement.

8.11 References

Where in this Agreement reference is made to an article or section, the reference is to an article or section in this Agreement unless the context indicates the reference is to some other agreement. The terms “this Agreement”, “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof and include any agreement supplemental hereto. The word “includes” or “including” shall mean “includes without limitation” or “including without limitation”, respectively. The word “or” is not exclusive.

8.12 Number and Gender

Unless the context requires otherwise, words importing the singular include the plural and vice versa and words importing gender include all genders.

8.13 Business Days

If any payment is required to be made or other action is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be made or taken on the next Business Day. All actions to be made or taken by a particular Business Day must be made or taken by no later than 5:00 p.m. (Toronto time) on a Business Day and any action made or taken thereafter shall be deemed to have been made and received on the next Business Day.

8.14 Currency and Payment Obligations

Except as otherwise expressly provided in this Agreement all dollar amounts referred to in this Agreement are stated in Canadian Dollars.

8.15 Notice

Any notice, consent or approval required or permitted to be given in connection with this Agreement (a “**Notice**”) shall be in writing and shall be sufficiently given if delivered (whether in person, by courier service or other personal method of delivery), or if transmitted by facsimile or e-mail:

(a) in the case of a Notice to the Vendor at:

Sears Canada Inc.
290 Yonge Street, Suite 700
Toronto, ON M5B 2C3

Attn: Philip Mohtadi
Email: pmohtad@sears.ca

With a copy to:

Osler, Hoskin & Harcourt LLP
100 King Street West
1 First Canadian Place
Suite 6200, P.O. Box 50
Toronto, ON M5X 1B8

Attn: Marc Wasserman & Tracy Sandler
Email: mwasserman@osler.com & tsandler@osler.com

With a copy to:

FTI Consulting Canada Inc.
TD South Tower
Suite 2010, P.O. Box 104
Toronto, ON M5K 1G8

Attn: Paul Bishop
Email: paul.bishop@fticonsulting.com

With a copy to:

Norton Rose Fulbright Canada LLP
Suite 3800, Royal Bank Plaza, South Tower
200 Bay Street, P.O. Box 84
Toronto, ON M5J 2Z4

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

(b) in the case of a Notice to the Purchaser at:

Groupe Mach Inc.
407 McGill Street, Suite 710
Montreal, Quebec H2Y 2G3

Attn.: Vincent Chiara
Email: vchiara@groupemach.com,
ldlegendre@groupemach.com,
bmartin@groupemach.com and
jsoliman@groupemach.com

A Notice is deemed to be given and received (i) if sent by personal delivery or same day courier, on the date of delivery if it is a Business Day and the delivery was made prior to 5:00 p.m. (local time in the place of receipt) and otherwise on the next Business Day, (ii) if sent by overnight courier, on the next Business Day, or (iii) if transmitted by facsimile, on the Business Day following the date of confirmation of transmission by the originating facsimile, or (iv) if sent by email, when the sender receives an email from the recipient acknowledging receipt, provided that an automatic “read receipt” does not constitute acknowledgment of an email for purposes of this section. Any Party may change its address for service from time to time by providing a Notice in accordance with the foregoing. Any subsequent Notice must be sent to the Party at its changed address. Any element of a Party’s address that is not specifically changed in a Notice will be assumed not to be changed. Subject to Section 8.17, sending a copy of a Notice to a Party’s legal counsel as contemplated above is for information purposes only and does not constitute delivery of the Notice to that Party. The failure to send a copy of a Notice to legal counsel does not invalidate delivery of that Notice to a Party.

8.16 Subdivision Control Legislation

This Agreement and the Transaction are subject to compliance with the applicable subdivision control legislation to the extent applicable.

8.17 Solicitors as Agent and Tender

Any Notice, approval, waiver, agreement, instrument, document or communication permitted, required or contemplated in this Agreement (including, without limitation, any agreement to amend this Agreement) may be given or delivered and accepted or received by the Purchaser’s solicitors on behalf of the Purchaser and by the Vendor’s solicitors on behalf of the Vendor and any tender of Closing Documents may be made upon the Vendor’s solicitors and the Purchaser’s solicitors, as the case may be.

8.18 No Registration of Agreement

The Purchaser covenants and agrees not to register or cause or permit to be registered this Agreement or any notice of this Agreement on title to any of the Subject Assets and that no reference to or notice of it or any caution, certificate of pending litigation or other similar court process in respect thereof shall be registered on title to the Subject Assets and/or any part thereof and the Purchaser shall be deemed to be in material default under this Agreement if it makes, or causes or permits, any registration to be made on title to the Subject Assets and/or any part thereof prior to the successful completion of the Transaction contemplated herein on the Closing Date. The Purchaser shall indemnify and save the Vendor harmless from and against any and all Claims whatsoever arising from or with respect to any such registration, including, all the legal fees, on a full indemnity basis, including those incurred by the Vendor with respect to obtaining the removal

of such registration. This indemnity shall survive and not merge on the expiration, non-completion and/or termination of this Agreement for any reason.

8.19 Third Party Costs

Each of the Parties hereto shall be responsible for the costs of their own solicitors, respectively, in respect of the Transaction. The Purchaser shall be solely responsible for and shall pay, in addition to the Purchase Price, any land transfer taxes and transfer duties payable on the transfer of the Subject Assets, all registration taxes, fees and other costs payable in respect of registration of any documents to be registered by the Purchaser at Closing and all federal and provincial sales and other taxes payable upon or in connection with the conveyance or transfer of the Subject Assets, including, goods and services tax, harmonized sales tax or other similar value added or multi-staged tax imposed by any applicable provincial or territorial legislation, as the case may be, and any other provincial sales taxes. This Section 9.19 shall survive the Closing or the termination of this Agreement. The Purchaser acknowledges that, subject to the limitations contained in Section 2.3, the Vendor has provided to the Purchaser, solely as a courtesy an updated environmental report prepared by Pinchin in respect of the Lands and an updated building condition report prepared by Pinchin in respect of the Buildings and reliance letters for such reports, and that the costs and expenses incurred by the Vendor in obtaining such reports and reliance letters will be paid by the Purchaser to the Vendor on Closing and will be shown on the statement of adjustments as an additional adjustment in favour of the Vendor. This Section 9.19 shall survive the Closing or the termination of this Agreement.

8.20 Interpretation

The parties hereto acknowledge and agree that: (a) each Party and its counsel reviewed and negotiated the terms and provisions of this Agreement and have contributed to their revision, (b) the rule of construction to the effect that any ambiguities are resolved against the drafting Party shall not be employed in the interpretation of this Agreement, and (c) the terms and provisions of this Agreement shall be construed fairly as to all parties hereto and not in favour of or against any Party, regardless of which Party was generally responsible for the preparation of this Agreement.

8.21 No Third Party Beneficiaries

Each Party hereto intends that this Agreement shall not benefit or create any right or cause of action in or on behalf of any Person, other than the Parties hereto and the Monitor, and no Person, other than the Parties hereto and the Monitor, shall be entitled to rely on the provisions hereof in any Claim, proceeding, hearing or other forum. The Parties acknowledge and agree that the Monitor, acting in its capacity as the Monitor, will have no liability in connection with this Agreement whatsoever, in its capacity as Monitor, in its personal capacity or otherwise.

8.22 Enurement

This Agreement shall become effective when executed by the Vendor and the Purchaser and after that time shall be binding upon and enure to the benefit of the parties and their respective heirs, executors, personal legal representatives, successors and permitted assigns. The Purchaser has and shall have no right to assign, convey and/or transfer its rights and/or obligations hereunder or to direct title to any of the Subject Assets to any other Person or to effect a "change of control" so as to indirectly effect the foregoing, without in each case first obtaining the prior written consent of

the Vendor, which consent may be arbitrarily and unreasonably withheld by the Vendor. Notwithstanding the foregoing, the Purchaser shall have the right, upon 5 Business Days' prior written notice to the Vendor and before the Approval and Vesting Order is issued, but in Purchaser's sole discretion, to assign all of its rights and obligations pursuant to this Agreement, to another Person(s) which is/are controlled directly or indirectly by the Purchaser, provided in the case of such assignment the assignee executes and delivers an agreement in favour of the Vendor (in a form approved by Vendor acting reasonably) agreeing to be bound by all obligations of the Purchaser hereunder and the original Purchaser shall not be relieved of its obligations hereunder, until the occurrence of Closing

8.23 Amendments

This Agreement may only be amended, supplemented or otherwise modified by written agreement signed by the Vendor and the Purchaser, except that the time for doing or completing of any matter provided for herein may be extended or abridged by an agreement in writing signed by the Vendor or the Vendor's solicitors on one hand and the Purchaser or the Purchaser's solicitors on the other.

8.24 Counterparts and Delivery

All Parties agree that this Agreement and any amendments hereto (and any other agreements, Notices, or documents contemplated hereby) may be executed in counterpart and transmitted by facsimile or e-mail (PDF) and that the reproduction of signatures in counterpart by way of facsimile or e-mail (PDF) will be treated as though such reproduction were executed originals.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF the parties have executed this Agreement.

SEARS CANADA INC.

By: P. MONTYER

Name: P. MONTYER

Title: Secretary

By: _____

Name:

Title:

GROUPE MACH INC.

By: _____

Name: Vincent Chiara

Title: President

IN WITNESS WHEREOF the parties have executed this Agreement.

SEARS CANADA INC.

By: _____

Name:

Title:

By: _____

Name:

Title:

GROUPE MACH INC.

By: _____

Name: Vincent Chiara

Title: President

**SCHEDULE “A”
LANDS**

An emplacement situated in the City of Québec (Borough of Des Rivières), Province of Québec and composed of lot number ONE MILLION NINE HUNDRED FORTY THOUSAND THIRTY-THREE (1 940 033) of the Cadastre du Québec, Registration Division of Québec.

With all buildings thereon erected and, more particularly, the building bearing civic number 500 Wilfrid Hamel Boulevard, City of Québec (Borough of Des Rivières), Province of Québec, G1M 2S5.

**SCHEDULE “B”
EXCLUDED ASSETS**

1. All intellectual property or proprietary rights, whether registered or not, and any intangible property, owned, used or held by the Vendor.
2. All items, materials and signs bearing the logo, trade-mark, trade-name or business name or other mark or design of the Vendor.
3. All FF&E and Inventory which have been removed from the Property by or on behalf of the Vendor or its agents or their respective representatives prior to the Closing Date.
4. All insurance policies of the Vendor.
5. All rights and interests in trade-marks, trade-names, logos, commercial symbols and business names containing “Sears” or any other proprietary wording or intellectual property rights of the Vendor or any of its affiliates (including, the websites).
6. All rights of the Vendor against the Purchaser pursuant to this Agreement.
7. All (i) computers and related systems and information storage media and other IT equipment, (ii) video cameras and equipment, and (iii) point-of-sales systems and all appurtenances thereto.

SCHEDULE "C"
PURCHASE PRICE ALLOCATION

100% to Lands and Buildings.

**SCHEDULE “D”
FORM OF APPROVAL AND VESTING ORDER**

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.)	
	)	●, THE ● TH
JUSTICE HAINEY	)	DAY OF ●, 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 – ●

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 ●, together with certain ancillary assets (the “**Transaction**”) contemplated by an Agreement of Purchase and Sale between Sears Canada Inc. (“**Sears Canada**”), as vendor, and ● (the “**Purchaser**”) as purchaser dated ●, 2018 (the “**APA**”) 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 ● sworn on ●, 2018 including the exhibits thereto (the “**● Affidavit**”), and the ● 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 ● sworn ●, 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 APA, as applicable.

APPROVAL OF THE APA

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 APA 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 APA 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 (Ontario), the *Civil Code of Quebec* 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 immovable 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 APA.

SEALING

9. THIS COURT ORDERS that Confidential Appendix "●" to the ● 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

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.

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 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**”)

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 between Sears Canada Inc. (“**Sears Canada**”), as vendor, and ● (the “**Purchaser**”) as purchaser dated ●, 2018 (the “**APA**”), a copy of which is attached as Exhibit ● to the Affidavit of ● dated ●, 2018.

B. Pursuant to the Approval and Vesting Order the Court approved the APA 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 APA), 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 APA 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 APA) 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 APA 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"

No .	Location / Address	Province	Land Registry Office	Legal Description	Encumbrances to be Expunged/ Deleted
Sect	●	●	●	●	[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 APA.

**SCHEDULE “E”
PURCHASER’S GST/HST AND QST CERTIFICATE, UNDERTAKING AND
INDEMNITY**

TO: Sears Canada Inc. (the “**Vendor**”)

AND TO: Osler, Hoskin & Harcourt LLP, the Vendor’s solicitors

RE: Agreement of Purchase and Sale dated ●, 2018, made between the Vendor, as Vendor, and ●, as Purchaser, (the “**Purchaser**”), as amended from time to time (the “**Purchase Agreement**”), for the purchase and sale of the Property and other Subject Assets (as such terms are defined in the Purchase Agreement)

In consideration of the completion of the transaction set out in the Agreement, the Purchaser hereby certifies and agrees as follows:

- a) the Subject Assets are being purchased by the Purchaser as principal for its own account and not as an agent, nominee, trustee or otherwise on behalf of or for another Person;
- b) the Purchaser is registered under Subdivision (d) of Division V of Part IX of the *Excise Tax Act* (Canada) (the “**Excise Tax Act**”) for the collection and remittance of goods and services tax and harmonized sales tax (“**GST/HST**”) and under Division I of Chapter VIII of Title I of *An Act respecting the Québec Sales Tax* (the “**Québec Act**”) with respect to the Québec sales tax (“**QST**”) and its registration numbers are ● and such registrations are in good standing and have not been varied, cancelled or revoked;
- c) the Purchaser shall be liable for, shall self-assess and shall remit to the appropriate governmental authority, all GST/HST which is payable under the *Excise Tax Act* and all QST which is payable under the Québec Act in connection with the transfer of the Subject Assets, all in accordance with the *Excise Tax Act* and the Québec Act respectively;
- d) the Purchaser shall indemnify and save harmless the Vendor from and against any and all GST/HST, QST, penalties, interest and/or other costs which may become payable by or be assessed against the Vendor as a result of any failure by the Vendor to collect and remit any GST/HST or QST applicable on the sale and conveyance of the Subject Assets by the Vendor to the Purchaser or as a result of any inaccuracy, misstatement or misrepresentation by the Purchaser in this GST/HST and QST Certificate, Undertaking and Indemnity or any failure by the Purchaser to comply with the provisions of this GST/HST and QST Certificate, Undertaking and Indemnity; and
- e) this GST/HST and QST Certificate, Undertaking and Indemnity shall survive and not merge upon closing of the above-noted transaction.

This GST/HST and QST Certificate, Undertaking and Indemnity may be executed in counterpart and transmitted by facsimile or e-mail (PDF) and that the reproduction of signatures in counterpart by way of facsimile or e-mail (PDF) will be treated as though such reproduction were executed originals.

DATED _____, 2018.

[PURCHASER]

By: _____

Name: ●

Title: ●

By: _____

Name: ●

Title: ●

SCHEDULE “F”

**FORM OF ASSIGNMENT AND ASSUMPTION OF ASSUMED CONTRACTS AND
PERMITTED ENCUMBRANCES**

THIS AGREEMENT is made as of the _____ day of _____, 2018 (the “**Effective Date**”)

B E T W E E N:

SEARS CANADA INC.

(the “**Vendor**”)

- and -

●

(the “**Purchaser**”)

RECITALS:

A. The Vendor and certain of its affiliates and subsidiaries applied for and were granted protection from their creditors under the CCAA pursuant to the Initial Order of the Court. Pursuant to the Initial Order, the Court appointed FTI Consulting Canada Inc. as Monitor in connection with the CCAA Proceedings.

B. The Vendor and the Purchaser entered into an agreement of purchase and sale dated ●, 2018 (the “**Purchase Agreement**”), whereby, among other things, the Vendor agreed to assign to the Purchaser all of the Vendor’s right, title and interest in and to the Permitted Encumbrances.

C. The Purchase Agreement was approved by the Court pursuant to the Order dated ● (the “**Approval and Vesting Order**”).

D. The Vendor and the Purchaser are entering into this Agreement to provide for the assignment and assumption of the Assumed Contracts and the Permitted Encumbrances by the Vendor to the Purchaser in accordance with the Purchase Agreement and the Approval and Vesting Order.

E. Unless otherwise expressly provided for herein, all capitalized terms when used in this Agreement have the same meaning given to such terms in the Purchase Agreement.

THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1 ASSIGNMENT

1.1 Assignment by Vendor

The Vendor assigns and transfers to the Purchaser, as of the Effective Date, all of the Vendor's obligations, rights, title and interest, both at law and at equity, in and to the Assumed Contracts and the Permitted Encumbrances and all related rights, benefits and advantages thereto (collectively, the "Assigned Interest").

1.2 Assumption by Purchaser

The Purchaser hereby accepts the assignment of the Assigned Interest provided for in this Agreement and assumes all of the Vendor's obligations, right, title and interest in and to the Assigned Interest from and after the Effective Date.

1.3 Indemnity

The Purchaser hereby covenants with the Vendor, as of and from the Effective Date to indemnify and save the Vendor harmless from any and all Claims arising from, relating to or in connection with any non-payment of amounts payable on the part of the Purchaser to be paid from time to time under the Assumed Contracts and the Permitted Encumbrances, or any non-observance or non-performance of any of the terms, agreements, covenants, obligations and conditions on the part of the Purchaser under the Assumed Contracts and the Permitted Encumbrances to be paid, observed or performed from time to time, in respect of the period on or after the Effective Date, or otherwise arising, incurred or accrued on or after the Effective Date whether in respect of the period before or after the Effective Date, including, without limitation, any default as a consequence of the closing of the Transaction contemplated by the Purchase Agreement.

1.4 Paramourncy

The rights and obligations of the parties respectively with respect to the Assumed Contracts and the Permitted Encumbrances and any other Subject Assets shall be governed by the Purchase Agreement. In the event of any conflict, inconsistency, ambiguity or difference between the provisions of this Agreement and of the Purchase Agreement, then the provisions of the Purchase Agreement shall govern and be paramount, and any such provision in this Agreement shall be deemed to be amended, to the extent necessary to eliminate any such conflict, inconsistency, ambiguity or difference.

ARTICLE 2 GENERAL

2.1 Time of the Essence

Time shall be of the essence of this Agreement.

2.2 Enurement

This Agreement shall become effective when executed by the Vendor and the Purchaser and after that time shall be binding upon and enure to the benefit of the parties and their respective heirs,

executors, personal legal representatives, successors and permitted assigns. Neither this Agreement nor any of the rights or obligations under this Agreement shall be assignable or transferable by either party without the consent of the other party.

2.3 Entire Agreement

This Agreement and the Purchase Agreement constitute the entire agreement between the parties with respect to the assignment and assumption of the Assumed Contracts and the Permitted Encumbrances contemplated in the Purchase Agreement and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties with respect to the subject matter of this Agreement. There are no representations, warranties, covenants, conditions or other agreements, legal or conventional, express or implied, collateral, statutory or otherwise, between the parties in connection with the subject matter of this Agreement, except as specifically set forth in this Agreement and the Purchase Agreement. The parties have not relied and are not relying on any other information, discussion or understanding in entering into and completing the transactions contemplated by this Agreement and the Purchase Agreement.

2.4 Waiver

- (a) No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision (whether or not similar), nor shall such waiver be binding unless executed in writing by the party to be bound by the waiver.
- (b) No failure on the part of the Vendor or the Purchaser to exercise, and no delay in exercising any right under this Agreement shall operate as a waiver of such right; nor shall any single or partial exercise of any such right preclude any other or further exercise of such right or the exercise of any other right.

2.5 Further Assurances

Each of the parties covenants and agrees to do such things, to attend such meetings and to execute such further conveyances, transfers, documents and assurances as may be deemed necessary or advisable from time to time in order to effectively transfer the Subject Assets to the Purchaser and carry out the terms and conditions of this Agreement in accordance with their true intent.

2.6 Severability

If any provision of this Agreement shall be determined to be illegal, invalid or unenforceable, that provision shall be severed from this Agreement and the remaining provisions shall continue in full force and effect.

2.7 Governing Law

This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Province in which the Property is located and the federal laws of Canada applicable therein.

2.8 CCAA Proceedings

Each party to this Agreement submits to the exclusive jurisdiction of the Court in any action, application, reference or other proceeding arising out of or related to this Agreement or the

Purchase Agreement and agrees that all claims in respect of any such actions, application, reference or other proceeding shall be heard and determined in the CCAA Proceedings before the Court.

2.9 English Language

The parties hereto have requested that this Agreement be drafted in English only. *Les parties aux présentes ont demandé à ce que la présente convention soit rédigée en anglais seulement.*

2.10 Statute References

Any reference in this Agreement to any statute or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, restated or re-enacted from time to time.

2.11 Headings

The division of this Agreement into Sections, the insertion of headings is for convenience of reference only and are not to be considered in, and shall not affect, the construction or interpretation of any provision of this Agreement.

2.12 References

Where in this Agreement reference is made to an article or section, the reference is to an article or section in this Agreement unless the context indicates the reference is to some other agreement. The terms “this Agreement”, “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof and include any agreement supplemental hereto. The word “includes” or “including” shall mean “includes without limitation” or “including without limitation”, respectively. The word “or” is not exclusive.

2.13 Number and Gender

Unless the context requires otherwise, words importing the singular include the plural and vice versa and words importing gender include all genders.

2.14 Business Days

If any payment is required to be made or other action is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be made or taken on the next Business Day. All actions to be made or taken by a particular Business Day must be made or taken by no later than 4:30 p.m. (Toronto time) on a Business Day and any action made or taken thereafter shall be deemed to have been made and received on the next Business Day.

2.15 Notice

Any notice, consent or approval required or permitted to be given in connection with this Agreement (a “**Notice**”) shall be in writing and shall be sufficiently given if delivered or transmitted in accordance with the Purchase Agreement.

2.16 Counterparts and Delivery

All parties agree that this Agreement may be executed in counterpart and transmitted by facsimile or e-mail (PDF) and that the reproduction of signatures in counterpart by way of facsimile or e-mail (PDF) will be treated as though such reproduction were executed originals.

[Signature pages follow.]

IN WITNESS WHEREOF the Vendor has executed this Agreement.

SEARS CANADA INC.

By: _____
Name:
Title:
By: _____
Name:
Title:

IN WITNESS WHEREOF the Purchaser has executed this Agreement.

●

By: _____
Name: ●
Title: ●

By: _____
Name: ●
Title: ●

**SCHEDULE “G”
FORM OF ASSIGNMENT AND ASSUMPTION OF REALTY TAX APPEALS**

THIS AGREEMENT is made as of the _____ day of _____, 2018 (the “**Effective Date**”)

B E T W E E N:

SEARS CANADA INC.

(the “**Vendor**”)

- and -

●

(the “**Purchaser**”)

RECITALS:

A. The Vendor and certain of its affiliates and subsidiaries applied for and were granted protection from their creditors under the CCAA pursuant to the Initial Order of the Court. Pursuant to the Initial Order, the Court appointed FTI Consulting Canada Inc. as Monitor in connection with the CCAA Proceedings.

B. The Vendor and the Purchaser entered into an agreement of purchase and sale dated ●, 2018 (the “**Purchase Agreement**”), whereby, among other things, the Vendor agreed to assign to the Purchaser all of the Vendor’s right, title and interest in and to the Property.

C. The Purchase Agreement was approved by the Court pursuant to the Order dated ● (the “**Approval and Vesting Order**”).

D. The Vendor and the Purchaser are entering into this Agreement to provide for the assignment of the Realty Tax Refunds by the Vendor to the Purchaser in accordance with the Purchase Agreement and the Approval and Vesting Order.

E. Unless otherwise expressly provided for herein, all capitalized terms when used in this Agreement have the same meaning given to such terms in the Purchase Agreement.

THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE 3 ASSIGNMENT

3.1 Assignment and Assumption

Subject to the terms and conditions contained herein, effective as of the Effective Date, the Vendor hereby assigns, transfers and sets over unto the Purchaser all of the Vendor's right, title and interest, if any, in and to the Realty Tax Appeals and any Realty Tax Refunds which may arise from any of the Realty Tax Appeals for any period that is prior to the Closing Date.

3.2 Carriage of Realty Tax Appeals

From and after the Closing Date, the Purchaser may, at its sole cost and expense but without any obligation to do so, assume or retain the carriage of the Realty Tax Appeals and continue as the appellant in the Realty Tax Appeals.

3.3 Authorization and Direction

This Agreement shall serve as authorization and direction to the municipal and/or provincial taxing authority to pay to the Purchaser, from and after the Effective Date, the Realty Tax Refunds.

3.4 Paramountcy

The rights and obligations of the parties respectively with respect to the Realty Tax Appeals and Realty Tax Refunds shall be governed by the Purchase Agreement. In the event of any conflict, inconsistency, ambiguity or difference between the provisions of this Agreement and of the Purchase Agreement, then the provisions of the Purchase Agreement shall govern and be paramount, and any such provision in this Agreement shall be deemed to be amended, to the extent necessary to eliminate any such conflict, inconsistency, ambiguity or difference.

ARTICLE 4 GENERAL

4.1 Time of the Essence

Time shall be of the essence of this Agreement.

4.2 Enurement

This Agreement shall become effective when executed by the Vendor and the Purchaser and after that time shall be binding upon and enure to the benefit of the parties and their respective heirs, executors, personal legal representatives, successors and permitted assigns. Neither this Agreement nor any of the rights or obligations under this Agreement shall be assignable or transferable by either party without the consent of the other party.

4.3 Entire Agreement

This Agreement and the Purchase Agreement constitute the entire agreement between the parties with respect to the assignment and assumption of the Realty Tax Appeals contemplated in the Purchase Agreement and supersede all prior agreements, understandings, negotiations and

discussions, whether oral or written, of the parties with respect to the subject matter of this Agreement. There are no representations, warranties, covenants, conditions or other agreements, legal or conventional, express or implied, collateral, statutory or otherwise, between the parties in connection with the subject matter of this Agreement, except as specifically set forth in this Agreement and the Purchase Agreement. The parties have not relied and are not relying on any other information, discussion or understanding in entering into and completing the transactions contemplated by this Agreement and the Purchase Agreement.

4.4 Waiver

- (a) No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision (whether or not similar), nor shall such waiver be binding unless executed in writing by the party to be bound by the waiver.
- (b) No failure on the part of the Vendor or the Purchaser to exercise, and no delay in exercising any right under this Agreement shall operate as a waiver of such right; nor shall any single or partial exercise of any such right preclude any other or further exercise of such right or the exercise of any other right.

4.5 Further Assurances

Each of the parties covenants and agrees to do such things, to attend such meetings and to execute such further conveyances, transfers, documents and assurances as may be deemed necessary or advisable from time to time in order to effectively transfer the Subject Assets to the Purchaser and carry out the terms and conditions of this Agreement in accordance with their true intent.

4.6 Severability

If any provision of this Agreement shall be determined to be illegal, invalid or unenforceable, that provision shall be severed from this Agreement and the remaining provisions shall continue in full force and effect.

4.7 Governing Law

This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Province in which the Property is located and the federal laws of Canada applicable therein.

4.8 CCAA Proceedings

Each party to this Agreement submits to the exclusive jurisdiction of the Court in any action, application, reference or other proceeding arising out of or related to this Agreement or the Purchase Agreement and agrees that all claims in respect of any such actions, application, reference or other proceeding shall be heard and determined in the CCAA Proceedings before the Court.

4.9 Statute References

Any reference in this Agreement to any statute or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, restated or re-enacted from time to time.

4.10 Headings

The division of this Agreement into Sections, the insertion of headings is for convenience of reference only and are not to be considered in, and shall not affect, the construction or interpretation of any provision of this Agreement.

4.11 References

Where in this Agreement reference is made to an article or section, the reference is to an article or section in this Agreement unless the context indicates the reference is to some other agreement. The terms “this Agreement”, “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof and include any agreement supplemental hereto. The word “includes” or “including” shall mean “includes without limitation” or “including without limitation”, respectively. The word “or” is not exclusive.

4.12 Number and Gender

Unless the context requires otherwise, words importing the singular include the plural and vice versa and words importing gender include all genders.

4.13 Business Days

If any payment is required to be made or other action is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be made or taken on the next Business Day. All actions to be made or taken by a particular Business Day must be made or taken by no later than 4:30 p.m. (Toronto time) on a Business Day and any action made or taken thereafter shall be deemed to have been made and received on the next Business Day.

4.14 English Language

The parties hereto have requested that this Agreement be drafted in English only. *Les parties aux présentes ont demandé à ce que la présente convention soit rédigée en anglais seulement.*

4.15 Currency and Payment Obligations

Except as otherwise expressly provided in this Agreement all dollar amounts referred to in this Agreement are stated in Canadian Dollars.

4.16 Notice

Any notice, consent or approval required or permitted to be given in connection with this Agreement (a “**Notice**”) shall be in writing and shall be sufficiently given if delivered or transmitted in accordance with the Purchase Agreement.

4.17 Counterparts and Delivery

All parties agree that this Agreement may be executed in counterpart and transmitted by facsimile or e-mail (PDF) and that the reproduction of signatures in counterpart by way of facsimile or e-mail (PDF) will be treated as though such reproduction were executed originals.

[Signature pages follow.]

IN WITNESS WHEREOF the Vendor has executed this Agreement.

SEARS CANADA INC.

By: _____
Name:
Title:
By: _____
Name:
Title:

IN WITNESS WHEREOF the Purchaser has executed this Agreement.

●

By: _____
Name: ●
Title: ●
By: _____
Name: ●
Title: ●

SCHEDULE “H”**PERMITTED ENCUMBRANCES****GENERAL ENCUMBRANCES**

- (a) The reservations, limitations, exceptions, provisos and conditions, if any, expressed in any original grants from the Crown including, without limitation, the reservation of any royalties, mines and minerals in the Crown or in any other person.
- (b) Subdivision agreements, site plan control agreements, development agreements, heritage easements and agreements relating thereto, servicing agreements, utility agreements, permits, licenses, airport zoning regulations and other similar agreements with Governmental Authorities or private or public utilities affecting the development or use of any Property, in each of the foregoing cases, Disclosed to the Purchaser.
- (c) Any easements, servitudes, or rights-of-way in favour of any Governmental Authority, any private or public utility, any railway company or any adjoining owner, in each of the foregoing cases, Disclosed to the Purchaser.
- (d) Any unregistered easements, servitudes, rights-of-way or other unregistered interests or claims not disclosed by registered title in respect of the provision of utilities to the Property, in each of the foregoing cases, Disclosed to the Purchaser.
- (e) Any rights of expropriation, access or use or any other similar rights conferred or reserved by applicable Law (which, if exercised shall be governed by the terms of this Agreement).
- (f) Encumbrances for real or immovable property taxes (which term includes charges, rates and assessments) or charges for electricity, power, gas, water and other services and utilities in connection with the Property that have accrued but are not yet due and owing or, if due and owing, are adjusted for on Closing.
- (g) Minor encroachments by the Property over neighbouring lands and/or permitted under agreements with neighbouring landowners and minor encroachments over the Property by improvements of neighbouring landowners and/or permitted under agreements with neighbouring landowners.
- (h) The provisions of all applicable Laws, including by-laws, regulations, ordinances and similar instruments relating to development and zoning of the Property.
- (i) The exceptions and qualifications contained in Section 44(1) of the *Land Titles Act* (Ontario) (other than paragraphs 4, 6 and 11) or the *Land Titles Act* (Alberta).
- (j) Security given to a public utility or any municipality or governmental or other public authority when required by the operations of the Property in the ordinary course of business, including, without limitation, the right of the municipality to

- 2 -

acquire portions of the Property for road widening or interchange construction and the right of the municipality to complete improvements, landscaping or remedy deficiencies in any pedestrian walkways or traffic control or monitoring to be provided to the Property.

- (k) Any minor title defects, irregularities, easements, servitudes, encroachments, rights of way or other discrepancies in title or possession relating to the Property, in each of the foregoing cases, Disclosed to the Purchaser.
- (l) Permits, licenses, agreements, servitudes, easements, (including, without limitation, heritage easements and agreements relating thereto), restrictions, restrictive covenants, options, rights-of-way, public ways, rights in the nature of an easement or servitude and other similar rights in land granted to or reserved by other persons (including, without in any way limiting the generality of the foregoing, permits, licenses, agreements, easements, rights-of-way, sidewalks, public ways, and rights in the nature of easements or servitudes for sewers, drains, steam, gas and water mains or electric light and power or telephone and telegraph conduits, poles, wires and cables) (other than those described in paragraph (c) and (d) of this Schedule) which do not materially impair the current operation of the Property.
- (m) All Off-Title Compliance Matters.
- (n) Any reference plans or plans registered pursuant to the *Boundaries Act* (Ontario).
- (o) Any unregistered interests in the Property of which the Purchaser has actual notice.
- (p) All instruments which are registered against title to a Property: (i) as of the date that is one (1) Business Days prior to the Execution Date; or (ii) otherwise agreed to by the Purchaser; or (iii) permitted by this Agreement, except for those Encumbrances to be vested off pursuant to the Approval and Vesting Order.

SPECIFIC ENCUMBRANCES

The characterization or descriptions of those items on the balance of this Schedule "H" is prepared for purposes of convenience only and for accurate reference, recourse should be had to the registration itself.

- (q) The ROFR.

SCHEDULE "J"
ASSUMED CONTRACTS

Nil.

SCHEDULE “K”

FORM OF DEED OF SALE

DEED OF SALE made as of the ● (●) day of ●, two thousand eighteen (2018).

BETWEEN: **SEARS CANADA INC.**, a corporation existing under the *Canada Business Corporations Act*, having its head office at 290 Yonge Street, Suite 700, at the City of Toronto, Province of Ontario, M5B 2C3, herein acting and represented by ●, its ●, duly authorized for the purposes hereof in virtue of a resolution of its Board of Directors adopted on ●, 2018;

(hereinafter referred to as the “**Vendor**”)

AND: **[INSERT NAME OF PURCHASER]**, a [corporation] existing under the laws of ●, having its head office at ●, Province of ●, ●, herein acting and represented by ●, its ●, duly authorized for the purposes hereof [in virtue of a resolution of its Board of Directors adopted on ●, 2018];

(hereinafter referred to as the “**Purchaser**”)

WHEREAS on June 22, 2017, an Initial Order was granted by the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) pursuant to which the Vendor and certain of its affiliates and subsidiaries (collectively, the “**Sears Group**”) were granted protection from their creditors under the *Companies’ Creditors Arrangement Act* (Canada) and FTI Consulting Canada Inc. was appointed as monitor (the “**Monitor**”);

WHEREAS on July 13, 2017, the Court granted an Order approving the Sale and Investment Solicitation Process for soliciting and selecting bids for the sale of, among other things, the Assets (as defined therein) of the Sears Group;

WHEREAS pursuant to an agreement of purchase and sale dated ●, 2018 (the “**Asset Purchase Agreement**”), the Vendor agreed to sell, assign and transfer to the Purchaser, all of the Vendor’s right, title and interest in certain assets being the Subject Assets (as such term is defined in the Asset Purchase Agreement), including the Property (as defined below);

WHEREAS the Asset Purchase Agreement has been approved and the transactions contemplated therein have been authorized by an order of the Court rendered on ●, 2018, in the file of the Court bearing number ● (the “**Approval and Vesting Order**”); and

WHEREAS the Vendor and the Purchaser have agreed to execute this Deed of Sale in furtherance of the terms of the Asset Purchase Agreement and the Approval and Vesting Order and to cause this Deed of Sale to be registered at the land register.

NOW THEREFORE, the parties agree as follows:

SALE

In furtherance of the Approval and Vesting Order, the Vendor hereby sells and transfers to the Purchaser, hereto present and accepting, all of its right, title and interest in and to the following immovable property:

DESCRIPTION

- **[INSERT CADASTRAL DESCRIPTION]**

With the building erected thereon bearing civic address ●, in the City of ●, Province of Québec, ●.

As the Property now subsists, without exception nor reserve of any kind on the part of the Vendor, subject to all servitudes benefiting or affecting the Property.

(herein referred to as the “**Property**”)

NO WARRANTY

Except as otherwise expressly set out in the Asset Purchase Agreement, the Purchaser acknowledges and agrees that it is acquiring the Property on an “as is, where is” basis, without the benefit of any legal warranty as to ownership or quality as referred to in Article 1716 of the *Civil Code of Québec* or any other representation or warranty whatsoever, legal or conventional, and at its own risk within the meaning of Article 1733 of the Civil Code of Quebec and that the Vendor is not a professional seller.

TITLE

- The Property was acquired by the Vendor (or its predecessor) in virtue of the following deed(s) : ●.

POSSESSION

The Purchaser shall become the owner and have possession of the Property as at the date of delivery of the Monitor’s Certificate (as defined in the Asset Purchase Agreement) as contemplated by the terms of the Asset Purchase Agreement.

Notwithstanding paragraph 2 of Article 1456 of the *Civil Code of Québec*, the Purchaser shall assume the risks attached to the Property, in accordance with Article 950 of the *Civil Code of Québec*, as of the date of this Deed of Sale.

ASSET PURCHASE AGREEMENT

The parties hereby acknowledge that this Deed of Sale is being executed pursuant to the Asset Purchase Agreement. The parties acknowledge that the terms and conditions of the Asset Purchase Agreement shall survive the execution and registration of this Deed of Sale and remain in full force and effect for the period set forth in the Asset Purchase Agreement. In the case of any conflict or inconsistency between the terms and conditions of the Asset Purchase Agreement and the provisions of this Deed of Sale, the terms and conditions of the Asset Purchase Agreement shall prevail.

PURCHASE PRICE

The sale of the Property is made for a purchase price of ● DOLLARS (\$●), in lawful money of Canada (the “**Purchase Price**”), and the Vendor hereby acknowledges receipt thereof in full, whereof quit.

ADJUSTMENTS

The parties declare that they have made or provided for all adjustments between them relating to the present sale of the Property, the whole in accordance with the terms of the Asset Purchase Agreement.

DECLARATIONS REGARDING GST AND QST

The Vendor and the Purchaser declare that the present sale of the Property constitutes a “taxable supply” subject to the payment of the tax commonly referred to as the “Goods and Services Tax” (the “**GST**”) under the *Excise Tax Act* (Canada) (the “**ETA**”) and the “Québec Sales Tax” (the “**QST**”) under an *Act respecting the Québec Sales Tax* (the “**QSTA**”). Moreover, the Vendor and the Purchaser declare that the Purchase Price does not include any amount in respect of such taxes.

The Vendor declares that it is registered under subdivision (d) of Division V of Part IX of the ETA, and that its registration number thereunder is ● and that it is registered under Division I of Chapter VIII of Title I of the QSTA and that its registration number thereunder is ●.

The Purchaser declares that it is registered under subdivision (d) of Division V of Part IX of the ETA, and that its registration number thereunder is ●, and that it is registered under Division I of Chapter VIII of Title I of the QSTA and that its registration number thereunder is ●.

The Vendor and Purchaser declare that in accordance with sections 221(2)(b), 228(4) and 228(6) of the ETA and paragraph (2) of sections 423, 428 and 441 of the QSTA, the Purchaser shall not be required to pay to the Vendor and the Vendor is relieved of its obligation to collect from the Purchaser the GST and the QST imposed *inter alia* in respect of the present

sale pursuant to sections 165(1) and 221(1) of the ETA and section 16 of the QSTA respectively, the responsibility for the payment thereof, if any, being exclusively assumed by the Purchaser and, accordingly, the Purchaser does hereby indemnify and agree to hold harmless the Vendor with respect to any liability or recourse with respect thereto.

GOVERNING LAW

This Deed of Sale shall be governed by and construed in accordance with the laws of the Province of Québec and the laws of Canada applicable therein.

LANGUAGE OF AGREEMENT

- The parties hereto declare that they have specifically requested, and do hereby confirm their request, that this Deed of Sale be drafted and executed in the English language. *Les parties aux présentes déclarent qu'elles ont spécifiquement demandé que le présent acte de vente soit rédigé et signé en anglais et par les présentes confirment leur dite demande.*

PARTICULARS REQUIRED IN VIRTUE OF SECTION 9 OF AN ACT RESPECTING DUTIES ON TRANSFERS OF IMMOVABLES (the "Act")

The Vendor and the Purchaser hereby make the following declarations:

- (a) the name and address of each of the transferor (Vendor) and the transferee (Purchaser) are as they are set out on the first page of this Deed of Sale;
- (b) the Property herein transferred is situated in the territory of the City of ●, Province of Québec;
- (c) according to the parties, the amount of the consideration for the transfer of the Property herein transferred is: ● dollars and ● cents (\$●);
- (d) according to the parties, the amount constituting the basis of imposition of the transfer duties is: ● dollars (\$●);
- (e) the amount of transfer duties is: ● dollars and ● cents (\$●); and
- (f) the transfer of the Property does not include, at the same time, a corporeal immovable property and movable property which is permanently attached or joined to the immovable, without losing its individuality and without being incorporated and which, in the immovable, are used for the operation of an enterprise or the pursuit of activities, the whole as provided in section 1.0.1 of the Act.

[Signature pages follow]

EXECUTED by the Vendor in the City of _____, Province of _____ as of the date first hereinabove mentioned on the first page of this Deed of Sale.

SEARS CANADA INC.

Per: _____

Name:

Title:

CERTIFICATE

Re: Deed of Sale executed by SEARS CANADA INC., as vendor (the “Vendor”), in the City of ●, Province of ●, and by ●, as Purchaser, in the City of ●, Province of ●, on the ● (●) day of ●, two thousand and eighteen (2018).

I, the undersigned, ●, Advocate, member of the Barreau du Québec, hereby certify that:

1. I have verified the identity, quality and capacity of the Vendor;
2. this Deed of Sale represents the will expressed by the Vendor; and
3. this Deed of Sale is valid as to its form.

CERTIFIED at Montreal, Province of Quebec, on this _____ (____) day of _____, two thousand and eighteen (2018).

Name: ●
 Quality: Advocate
 Address: 1000 De La Gauchetière Street West
 Suite 2100
 Montreal, Quebec H3B 4W5

 ●, Advocate, Member of the *Barreau du Québec*

EXECUTED by the Purchaser in the City of _____, Province of _____ as of the date first hereinabove mentioned on the first page of this Deed of Sale.

[INSERT NAME OF PURCHASER]

Per: _____
 Name:
 Title:

Per: _____
 Name:
 Title:

CERTIFICATE

Re: Deed of Sale executed by SEARS CANADA INC., as vendor, in the City of ●, Province of ●, and by ●, as purchaser (the “Purchaser”), in the City of ●, Province of ●, on the ● (●) day of ●, two thousand and eighteen (2018).

I, the undersigned, ●, Advocate, member of the Barreau du Québec, hereby certify that:

1. I have verified the identity, quality and capacity of the Purchaser;
2. this Deed of Sale represents the will expressed by the Purchaser; and
3. this Deed of Sale is valid as to its form.

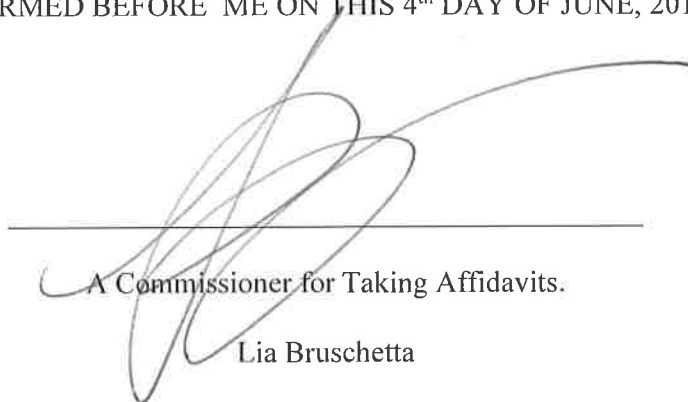
CERTIFIED at Montreal, Province of Quebec, on this _____
 (____) day of _____, two thousand and eighteen (2018).

Name: ●
 Quality: Advocate
 Address: ●

 ●, Advocate, Member of the *Barreau du Québec*

TAB B

THIS IS EXHIBIT "B" REFERRED TO IN
THE AFFIDAVIT OF PHILIP MOHTADI
AFFIRMED BEFORE ME ON THIS 4th DAY OF JUNE, 2018.



A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right, is written over a solid horizontal line.

A Commissioner for Taking Affidavits.

Lia Bruschetta

Osler, Hoskin & Harcourt LLP
 Box 50, 1 First Canadian Place
 Toronto, Ontario, Canada M5X 1B8
 416.362.2111 MAIN
 416.862.6666 FACSIMILE

OSLER

Toronto

May 30, 2018

Montréal

Matthew Ritchie
 Direct Dial: 416.862.5674
 mritchie@osler.com
 Our Matter Number: 1179649

Calgary

Sent by Electronic Mail

Ottawa

Camelino Galessiere LLP
 6 Adelaide Street East
 Suite 220
 Toronto, ON M5C 1H6

Place Fleur de Lys GP Inc.
 66 Wellington Street West
 Suite 4400
 Toronto Ontario M5K 1H6

Vancouver

New York

Attention: Linda Galessiere

Place Fleur de Lys GP Inc.
 c/o Cushman Wakefield
 One Queen Street East
 Suite 300
 Toronto, ON M5C 2W5

c/o Cushman Wakefield
 Place Fleur de Lys
 552 Wilfrid-Hamel Blvd.
 Quebec City, Quebec G1M 3E5

Attention: Louise Gagnon, Directrice générale

Attention: Michael G. Cogliano,
 VP Legal & General Counsel

Dear Linda:

RE: CCAA Proceedings of Sears Canada Inc. (“SCI”) *et al.*

AND RE: Amendment of Servitude dated May 25, 2004 between Place Fleur De Lys and Sears Canada Inc. (as assigned, the “Servitude Amendment”)

AND RE: ROFR notice with respect to the property commonly known as Place Fleur de Lys and municipally known as 500 Wilfred Hamel, Quebec City, Quebec (the “Property”)

As you are aware, SCI and certain of its subsidiaries and affiliates filed for and were granted protection from their creditors under the *Companies’ Creditors Arrangement Act* (Canada) and we are counsel to SCI.

We are writing to you, as counsel to Place Fleur De Lys GP Inc. (the “**ROFR Holder**”), the counterparty to the Servitude Amendment, with respect to the right of first refusal for the Property pursuant to the Servitude Amendment (the “**ROFR**”). We hereby give you notice that SCI has accepted a bona fide offer to purchase the Property (the “**Offer**”) from Groupe Mach Inc. for a purchase price of [REDACTED] on the terms and conditions

The logo for the law firm Osler, Hoskin & Harcourt LLP, featuring the word "OSLER" in a bold, serif, reddish-brown font.

contained in such Offer, including a mutual condition that the ROFR Holder does not exercise the ROFR. A copy of the Offer is attached hereto as Schedule "A". Pursuant to the Servitude Amendment, the ROFR Holder has the option to exercise the ROFR at the price and upon the terms and conditions contained in the Offer, by written notice to SCI within 20 days of receipt of this letter. Attached hereto as Schedule "B" is an agreement on substantially the same terms as the Offer for the ROFR Holder to execute and deliver to SCI **on or before 20 days of receipt of this letter (being June 19, 2018)** in order for the ROFR Holder to exercise the ROFR (the "**ROFR Exercise**"). We have also attached in Schedule "C" a blackline of such agreement to the Offer.

If the ROFR Holder does not elect to proceed with the ROFR Exercise on or before June 19, 2018, SCI shall be free to complete the sale of the Property pursuant to the Offer within 90 days of the closing date set out in the Offer.

In accordance with the terms of the Servitude Amendment, if the ROFR Holder does not elect to proceed with the ROFR Exercise on or before June 19, 2018 and the sale is completed pursuant to the Offer, the ROFR shall terminate and be of no force and effect.

We look forward to receiving your response. If the ROFR Holder does not intend to deliver the ROFR Exercise, we would appreciate if you could provide us with your confirmation as soon as possible by having the ROFR Holder signing below and returning a copy of this letter to us.

Yours very truly,

A handwritten signature in blue ink, appearing to read "Matthew Ritchie".

Matthew Ritchie

c: Tracy C. Sandler, *Osler, Hoskin & Harcourt LLP*
Jeremy Dacks, *Osler, Hoskin & Harcourt LLP*
Ryan Nielsen, *Osler, Hoskin & Harcourt LLP*
Phil Mohtadi, *Sears Canada Inc.*
Greg Watson, *FTI Consulting Canada Inc.*
Steven Bissell, *FTI Consulting Canada Inc.*
Evan Cobb, *Norton Rose Fulbright Canada LLP*

OSLER

The undersigned ROFR Holder hereby confirms that it waives its rights to exercise the ROFR in connection with the Offer and that SCI may proceed to sell the Property in accordance with the Offer, provided such Offer is not amended, in any substantial respect.

PLACE FLEUR DE LYS GP INC.

By: _____

Name:

Title:

By: _____

Name:

Title:

SCHEDULE “A”

(Please see attached.)

AGREEMENT OF PURCHASE AND SALE

SEARS CANADA INC.
as the Vendor

- and -

GROUPE MACH INC.
as the Purchaser

For the property known as “Fleur de Lys”

TABLE OF CONTENTS

	Page
ARTICLE 1 DEFINITIONS.....	2
1.1 Definitions.....	2
ARTICLE 2 SALE TRANSACTION	7
2.1 Offer and Acceptance	7
2.2 As Is, Where Is.....	7
ARTICLE 3 PURCHASE PRICE	10
3.1 Purchase Price.....	10
3.2 Deposit	10
3.3 Purchase Price Allocation	12
3.4 Trade-Marks.....	12
ARTICLE 4 ADJUSTMENTS	12
4.1 Statement of Adjustments and Absence of Post-Closing Adjustments	12
4.2 General Adjustments.....	13
4.3 Realty Tax Appeals.....	13
4.4 Utilities.....	13
ARTICLE 5 INTERIM PERIOD.....	14
5.1 Interim Period	14
5.2 Contracts	15
5.3 Permitted Encumbrances	15
ARTICLE 6 REPRESENTATIONS, WARRANTIES & COVENANTS	15
6.1 Vendor’s Representations and Warranties.....	15
6.2 Purchaser’s Representations and Warranties	15
6.3 Purchaser’s Covenants	16
6.4 Vendor’s Covenants.....	17
6.5 Tax Matters	17
6.6 Termination Payment.....	18
6.7 Survival of Covenants.....	19
ARTICLE 7 CLOSING	20
7.1 Conditions of Closing for the Benefit of the Purchaser.....	20
7.2 Conditions of Closing for the Benefit of the Vendor.....	20
7.3 Conditions of Closing for the Mutual Benefit of the Parties	20
7.4 Conditions Not Fulfilled	21
7.5 Closing Documents.....	21
7.6 Closing Date.....	23
7.7 Confirmation of Satisfaction of Conditions.....	23
7.8 Closing	23
7.9 Filings and Authorizations.....	24

TABLE OF CONTENTS

(continued)

	Page
7.10 Court Matters	25
7.11 Termination.....	25
ARTICLE 8 OTHER PROVISIONS.....	25
8.1 Confidentiality	25
8.2 Time of the Essence.....	26
8.3 Entire Agreement.....	26
8.4 Waiver.....	26
8.5 Further Assurances.....	26
8.6 Severability	26
8.7 Governing Law	26
8.8 English Language.....	27
8.9 Statute References.....	27
8.10 Headings	27
8.11 References.....	27
8.12 Number and Gender.....	27
8.13 Business Days	27
8.14 Currency and Payment Obligations	27
8.15 Notice.....	27
8.16 Subdivision Control Legislation	29
8.17 Solicitors as Agent and Tender	29
8.18 No Registration of Agreement.....	29
8.19 Third Party Costs	30
8.20 Interpretation.....	30
8.21 No Third Party Beneficiaries	30
8.22 Enurement	30
8.23 Amendments	31
8.24 Counterparts and Delivery	31
SCHEDULE "A" LANDS.....	1
SCHEDULE "B" EXCLUDED ASSETS	1
SCHEDULE "C" PURCHASE PRICE ALLOCATION	- 1 -
SCHEDULE "E" PURCHASER'S GST/HST AND QST CERTIFICATE, UNDERTAKING AND INDEMNITY	1
SCHEDULE "F" FORM OF ASSIGNMENT AND ASSUMPTION OF ASSUMED CONTRACTS AND PERMITTED ENCUMBRANCES.....	1
SCHEDULE "G" FORM OF ASSIGNMENT AND ASSUMPTION OF REALTY TAX APPEALS	1
SCHEDULE "H" PERMITTED ENCUMBRANCES.....	1

TABLE OF CONTENTS
(continued)

Page

SCHEDULE "J" ASSUMED CONTRACTS..... 1

THIS AGREEMENT OF PURCHASE AND SALE dated with effect as of May 29, 2018

BETWEEN:

SEARS CANADA INC.
(the “**Vendor**”)

OF THE FIRST PART,

- and -

GROUPE MACH INC.
(the “**Purchaser**”)

OF THE SECOND PART,

RECITALS:

- A. The Vendor operated a chain of retail department stores throughout Canada under the “Sears” banner.
- B. On the Filing Date, the Vendor and certain of its affiliates and subsidiaries (the “**Sears Group**”) applied for and were granted protection from their creditors under the CCAA pursuant to the Initial Order. Pursuant to the Initial Order, the Court appointed FTI Consulting Canada Inc. as Monitor in connection with the CCAA Proceedings.
- C. On the SISP Order Date, the Court granted the SISP Order which, among other things, approved the SISP. The SISP Order and the SISP govern the process for soliciting and selecting bids for the sale of, among other things, the Assets (as defined in the SISP) of the Sears Group.
- D. The Purchaser hereby offers to acquire from the Vendor, the Vendor’s right, title and interest in and to the Subject Assets on the terms and conditions set out herein (the “**Offer**”).
- E. This Agreement is subject to approval by the Court, and the completion of the Transaction is subject to the Court issuing the Approval and Vesting Order and the Monitor releasing the Monitor’s Certificate, all as more particularly described herein.

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth in this Agreement and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Vendor and the Purchaser (individually, a “**Party**” and collectively, the “**Parties**”) covenant and agree as follows:

ARTICLE 1 DEFINITIONS

1.1 Definitions

Unless otherwise provided for herein, all capitalized terms set out below when used in this Agreement shall have the meaning ascribed thereto unless the context expressly or by necessary implication otherwise requires:

“**Adverse Entry**” means all Encumbrances other than Permitted Encumbrances.

“**Agreement**” means this agreement constituted by the Vendor’s acceptance of the Offer together with all schedules and instruments in written amendment or confirmation of it and the expression “**Section**” followed by a number means and refers to the ascribed thereto Section of this Agreement.

“**Applicable Law**” means, in respect of any Person, assets, transaction, event or circumstance:

- (i) statutes (including all regulations enacted thereunder);
- (ii) judgments, decrees and orders of courts of competent jurisdiction; and
- (iii) regulations, orders, ordinances and directives issued by Governmental Authorities;

which are applicable to such Person, asset, transaction, event or circumstance;

“**Approval and Vesting Order**” means an order issued by the Court approving this Agreement and the transactions contemplated by this Agreement and conveying to the Purchaser all of the Vendor’s right, title and interest in and to the Subject Assets free and clear of all Encumbrances other than the Permitted Encumbrances, which order shall be substantially in the form of Schedule “D” (with only such changes as the Parties shall approve in their reasonable discretion, but in all cases in form and substance acceptable to the Monitor).

“**Assignment and Assumption of Assumed Contracts and Permitted Encumbrances**” means an assignment by the Vendor and an assumption by the Purchaser of the Vendor’s right, title and interest and all liability, covenants and obligations in, to and under the Assumed Contracts and any Permitted Encumbrances. The agreement evidencing same shall include an indemnity given by the Purchaser in favour of the Vendor from and against any Claims arising pursuant to or in connection with any of the Assumed Contracts and Permitted Encumbrances, and shall be in substantially the form attached as Schedule “F”.

“**Assignment and Assumption of Realty Tax Appeals**” means an assignment by the Vendor and an assumption by the Purchaser of the Vendor’s right, title and interest and all liability, covenants and obligations, in respect of the Realty Tax Appeals to be delivered on Closing. The agreement shall be in substantially the form attached as Schedule “G”.

“**Assumed Contracts**” means the Contracts listed on Schedule “I”.

“**Authorization**” means, with respect to any Person, any order, permit, approval, waiver, licence or similar authorization of any Governmental Authority having jurisdiction over the Person.

“**Balance**” has the meaning ascribed thereto in Section 3.1(b).

“**Buildings**” means, individually or collectively, as the context requires, all of the buildings and structures, improvements, appurtenances and fixtures, located on, in or under the Lands, but, for greater certainty, excluding the Excluded Assets.

“**Business Day**” means any day of the year, other than a Saturday, Sunday or any day on which major banks are closed for business in Toronto, Ontario.

“**CCAA**” means the *Companies’ Creditors Arrangement Act* (Canada).

“**CCAA Proceedings**” means the proceedings commenced under the CCAA by the Sears Group pursuant to the Initial Order (Court File No. CV-17-11846-00CL).

“**Claims**” means any and all claims, demands, complaints, grievances, actions, applications, suits, causes of action, Orders, charges, indictments, prosecutions, informations or other similar processes, assessments or reassessments, equitable interests, options, preferential arrangements of any kind or nature, assignments, restrictions, financing statements, deposit arrangements, rights of others, leases, sub-leases, licences, rights of first refusal or similar restrictions, judgments, debts, liabilities, expenses, costs, damages or losses, contingent or otherwise, including loss of value, reasonable professional fees, including fees and disbursements of legal counsel on a full indemnity basis, and all actual and documented costs incurred in investigating or pursuing any of the foregoing or any proceeding relating to any of the foregoing.

“**Closing**” has the meaning ascribed thereto in Section 7.6(a).

“**Closing Date**” means the Business Day that is three (3) Business Days following the issuance of the Approval and Vesting Order or such later date as the Vendor (with the consent of the Monitor) may advise the Purchaser in writing, or as otherwise ordered by the Court.

“**Closing Documents**” means those documents and deliveries to be delivered in connection with the Closing as contemplated in this Agreement including those set out in Section 7.4.

“**Contract and/or PE Assumption Agreements**” has the meaning ascribed thereto in Section 5.3.

“**Contracts**” means, collectively, all of the Vendor’s contracts and agreements to enter into contracts with respect to the operation, fire protection, servicing, maintenance, repair and cleaning of the Subject Assets (and no other properties), or the furnishing of supplies or services to the Subject Assets, any property management or asset management contracts, any employment contracts and any insurance contracts entered into by the Vendor or any manager or agent on behalf of the Vendor, in each case solely with respect to the Subject Assets.

“**Court**” means the Ontario Superior Court of Justice (Commercial List).

“**Data Site**” means the electronic data site with respect to information and material regarding the Subject Assets.

“**Deposit**” has the meaning ascribed thereto in Section 3.1(a).

“Disclosed to the Purchaser” means any information which no later than the date which is one (1) Business Day immediately before the Execution Date, is either: (a) delivered or made available to the Purchaser on the Data Site; (b) a Permitted Encumbrance that is registered (and/or notice of which is registered) against title to the Property; or (c) delivered to the Purchaser or the Purchaser’s solicitors.

“Encumbrance” means any 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.

“Environment” means the environment or natural environment as defined in any Environmental Laws and includes air, surface water, ground water, land surface, soil and subsurface strata.

“Environmental Laws” means Laws relating to the protection of human health and the Environment, and includes Laws relating to the storage, generation, use, handling, manufacture, processing, transportation, treatment, Release, remediation, management and disposal of Hazardous Substances.

“Excise Tax Act” means the *Excise Tax Act*, R.S.C., 1985, c. E-15, as amended, restated, supplemented or substituted from time to time.

“Excluded Assets” means those assets (in each case, as of the Closing Date) described in Schedule “B”.

“Execution Date” means the date of this Agreement as set out on the top of page 1 hereof.

“FF&E” means all tools, signs, furniture, machinery, equipment, personal or moveable property, chattels, furnishings and fixtures including shelves, counters, video cameras and equipment, security systems, point-of-sales systems and related appurtenances, telecommunications systems and related appurtenances, electric light fixtures, elevating devices and equipment, in each case to the extent owned, leased or licensed by the Vendor, if any.

“Filing Date” means June 22, 2017.

“Financial Advisor” means BMO Nesbitt Burns Inc.

“Governmental Authorities” means governments, regulatory authorities, governmental departments, agencies, agents, commissions, bureaus, officials, ministers, Crown corporations, courts, bodies, boards, tribunals or dispute settlement panels or other law or regulation-making organizations or entities: (a) having or purporting to have jurisdiction on behalf of any nation, province, territory or state or any other geographic or political subdivision of any of them; or (b) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power.

“GST/HST and QST Certificate, Undertaking and Indemnity” mean the Purchaser’s certificate to be in substantially the form set out in Schedule “E”.

“**Hazardous Substances**” means pollutants, contaminants, wastes of any nature, hazardous substances, hazardous materials, toxic substances, prohibited substances, dangerous substances or dangerous goods regulated by or under Environmental Laws.

“**Holders**” has the meaning ascribed thereto in Section 5.3.

“**Initial Order**” means the Initial Order granted by the Court on June 22, 2017 pursuant to which the Sears Group were granted protection from their creditors under the CCAA (as amended, restated, supplemented and/or modified from time to time).

“**Interim Period**” means the period between the close of business on the Execution Date and the Closing on the Closing Date.

“**Inventory**” includes all inventory, stock, supplies and all other items owned by the Vendor and located at the Property.

“**Joint Direction**” has the meaning ascribed thereto in Section 3.2(e).

“**Lands**” means the lands and premises legally described in Schedule “A”.

“**Laws**” means any and all Applicable Laws, including all statutes, codes, ordinances, decrees, rules, regulations, municipal by-laws, judicial or arbitral or administrative or ministerial or departmental or regulatory judgments, orders, decisions, ruling or awards, and general principles of common and civil law and equity, binding on or affecting the Person referred to in the context in which the word is used.

“**Monitor**” means FTI Consulting Canada Inc., in its capacity as Court-appointed monitor of the Sears Group pursuant to the Initial Order and not in its personal capacity.

“**Monitor’s Certificate**” means the certificate to be filed with the Court by the Monitor certifying receipt of (i) confirmation from the Purchaser and the Vendor that all conditions of Closing in Sections 7.1, 7.2 and 7.3 of this Agreement have been satisfied or waived and (ii) the Purchase Price and any Taxes payable to the Vendor and that are not self-assessed and remitted by the Purchaser.

“**NDA**” means the confidentiality, non-disclosure and non-use agreement between the Vendor and the Purchaser dated July 12, 2017, as amended or supplemented in writing from time to time.

“**Notice**” has the meaning ascribed thereto in Section 8.14.

“**Off-Title Compliance Matters**” means open permits or files, work orders, deficiency notices, directives, notices of violation, non-compliance and/or complaint and/or other outstanding matters or matters of non-compliance with the zoning and/or other requirements of any Governmental Authorities or any open building permits and Orders relating to any of the foregoing.

“**Offer**” has the meaning ascribed thereto in Recital D.

“**Orders**” means orders, injunctions, judgments, administrative complaints, decrees, rulings, awards, assessments, directions, instructions, penalties or sanctions issued, filed or imposed by any Governmental Authority or arbitrator.

“**Outside Date**” means July 24, 2018.

“**Permitted Encumbrances**” means, collectively: (a) any Encumbrances resulting from the Purchaser’s actions; and (b) the items identified in Schedule “H” hereto.

“**Person**” means an individual, partnership, corporation, trust, unincorporated organization, company, government, or any department or agency thereof, and the successors and assigns thereof or the heirs, executors, administrators or other legal representatives of an individual.

“**Plans**” means all documentation in the Vendor’s possession and located on the Property on the Closing Date or located on the Execution Date in the electronic data room and monitored by the Financial Advisor relevant to the construction of the Buildings including, working drawings, detail drawings, shop drawings, approved municipal plans, structural, mechanical, electrical and engineering plans, site plans, surveys, reference or topographical plans, other documentation prepared to illustrate or define a particular aspect of the Buildings, consultants’ contracts, construction contracts, and plans submitted with all building permits issued for the Property.

“**Property**” means, collectively, the Lands and the Buildings.

“**Purchase Price**” has the meaning ascribed thereto in Section 3.1.

“**Purchaser**” has the meaning ascribed thereto on page 1 hereof.

“**QST**” means the Québec Sales Tax exigible pursuant to *An Act respecting the Québec Sales Tax*.

“**Realty Tax Appeals**” has the meaning ascribed thereto in Section 4.3(a).

“**Realty Tax Refunds**” has the meaning ascribed thereto in Section 4.3(b).

“**Release**” has the meaning prescribed in any Environmental Laws and includes any release, spill, leak, pumping, pouring, emission, emptying, discharge, injection, escape, leaching, disposal, dumping, deposit, spraying, burial, abandonment, incineration, seepage, placement or introduction.

“**ROFR**” means the right of first refusal contained in the Amendment of Servitude dated May 25, 2004 between Place Fleur de Lys and the Vendor, as amended, restated, supplemented and/or modified from time to time.

“**ROFR Beneficiary**” means Place Fleur de Lys GP Inc., or its successor or assign, as beneficiary of the ROFR.

“**SISP**” means the Sale and Investment Solicitation Process approved by the SISP Order (as amended, restated, supplemented and/or modified from time to time).

“**SISP Order**” means the Order granted by the Court on the SISP Order Date (as amended, restated, supplemented and/or modified from time to time), which, among other things, approved the SISP.

“**SISP Order Date**” means July 13, 2017.

“**Subject Assets**” means all of the right, title and interest of the Vendor, if any, in and to: (a) the Property; (b) the Realty Tax Appeals; (c) the Assumed Contracts; (d) the Warranties; and (e) all Inventory, FF&E and Excluded Assets left on the Property on the Closing Date, but excludes, the Vendor’s right, title and interest in and to each of the other Excluded Assets and any and all other assets of the Vendor relating to the Property not included in the foregoing.

“**Taxes**” means taxes, duties, fees, premiums, assessments, imposts, levies and other similar charges imposed by any Governmental Authority under applicable Laws, including all interest, penalties, fines, additions to tax or other additional amounts imposed by any Governmental Authority in respect thereof, and including those levied on, or measured by, or referred to as, income, gross receipts, profits, capital, transfer, land transfer, registration, sales, goods and services, harmonized sales, use, value-added, excise, stamp, withholding, business, franchising, property, development, occupancy, all surtaxes, all customs duties and import and export taxes, countervail and anti-dumping, and all licence, franchise and registration fees.

“**Transaction**” means collectively the transactions contemplated in this Agreement.

“**Vendor**” has the meaning ascribed thereto on page 1 hereof.

“**Warranties**” means any existing warranties and guarantees in favour of the Vendor in connection with the construction, condition or operation of the Buildings or any component thereof or any improvements made to the Buildings or any component thereof (other than the Excluded Assets) which are assignable without the consent of the counterparty thereto.

ARTICLE 2 SALE TRANSACTION

2.1 Offer and Acceptance

- (a) Subject to the terms of this Agreement, the Initial Order and the SISP Order, the Vendor hereby agrees to sell, assign and transfer to the Purchaser, and the Purchaser hereby agrees to purchase and assume from the Vendor, the Subject Assets on the Closing Date in accordance with the terms and conditions of this Agreement.
- (b) The Offer shall be irrevocable by the Purchaser until 5:00 p.m. (Toronto time) on May 31, 2018.
- (c) Upon acceptance of this Offer by the Vendor, this Offer shall constitute a binding agreement to acquire the Subject Assets, on the terms of this Agreement.

2.2 As Is, Where Is

Notwithstanding the foregoing or anything else contained herein or elsewhere, the Purchaser acknowledges and agrees in favour of the Vendor that as of the Execution Date and the Closing Date:

- (a) the Purchaser is purchasing the Subject Assets (including the state of title thereto and/or the state of any Encumbrances and Permitted Encumbrances) and accepting and assuming the Subject Assets on an “as is, where is” basis, without any written or oral statements, representations, warranties, promises or guaranties of any nature

or kind whatsoever, either legal or conventional, express or implied (by operation of law or otherwise), as to the condition of any of the Subject Assets, the Permitted Encumbrances, the rentable area of the Buildings, the existence of any default on the part of the Vendor, the physical, environmental or other condition of, in, on, under or in the vicinity of the Property, the use permitted at the Property, the existence of any Encumbrance and/or Off-Title Compliance Matters affecting the Subject Assets, or any other aspects of any of the Subject Assets and the Permitted Encumbrances, the structural integrity or any other aspect of the physical condition of any Subject Assets, the conformity of any Building to any Plans or specifications (including, but not limited to, any Plans and specifications that may have been or which may be provided to the Purchaser), compliance with Environmental Laws, the conformity of the Property to past, current or future applicable zoning or building code requirements or other applicable Laws, the existence of soil instability, past soil repairs, soil additions or conditions of soil fill or any other matter affecting the stability or integrity of the Lands, or any Building situated on or as part of the Property, the sufficiency of any drainage, whether the Property is located wholly or partially in a flood plain or a flood hazard boundary or similar area, the existence or non-existence of underground and/or above ground storage tanks, the availability of public utilities, access, parking and/or services for the Property, the fitness or suitability of the Property for occupancy or any intended use (including matters relating to health and safety), the potential for further development of the Property, the existence of land use, zoning or building entitlements affecting the Property, the presence, release or use of wastes of any nature, Hazardous Substances, pollutants, contaminants or other regulated substances in, under, on or about the Property or any neighbouring lands; and without limiting the foregoing, any and all conditions or warranties expressed or implied pursuant to the *Sale of Goods Act* (Ontario) or similar legislation in other jurisdictions will not apply and are hereby waived by the Purchaser and the Parties agree to exclude the effect of the legal warranty provided for by Article 1716 of the Civil Code of Québec and that the Purchaser is purchasing the Subject Assets at its own risk within the meaning of Article 1733 of the Civil Code of Québec;

- (b) on Closing, the Subject Assets shall be subject to, without limitation, the Permitted Encumbrances;
- (c) any disclosure in respect of any of the Subject Assets was made available to the Purchaser solely as a courtesy but the Purchaser is not entitled to rely on such disclosure, and it is expressly acknowledged by the Purchaser that no written or oral statement, representation, warranty, promise or guarantee of any nature or kind whatsoever, either legal or conventional, express or implied (by operation of law or otherwise), is made by the Vendor and/or the Monitor and/or their respective legal counsel, the Financial Advisor or other advisors or representatives as to the accuracy, currency or completeness of any such disclosure, and each of them expressly disclaims any and all liabilities with respect to such disclosure and any and all errors therein or omissions therefrom;
- (d) the Purchaser hereby unconditionally and irrevocably waives any and all actual or potential rights or Claims the Purchaser might have against the Vendor pursuant to

any warranty, legal or conventional, express or implied, of any kind or type relating to the Subject Assets or any other assets or any other aspect of the Transaction. Such waiver is absolute, unlimited and includes, but is not limited to, waiver of express warranties, implied warranties, any warranties at law and/or in equity, warranties of fitness for a particular use, warranties of merchantability, warranties of occupancy, strict liability and Claims of every kind and type, including, but not limited to, Claims regarding defects, whether or not discoverable, product liability Claims, or similar Claims, and to all other extent or later created or conceived of strict liability or strict liability type Claims and rights;

- (e) the Purchaser conducted its own independent review, inspection, diligence and investigations and forming its own independent opinions and conclusions in respect of the Subject Assets. The Purchaser's decision to make this Offer and enter into this Agreement was made of its own accord without reference to or reliance upon any disclosure in respect of any of the Subject Assets. The Purchaser acknowledges having been given a reasonable and adequate opportunity to conduct its own independent diligence prior to entering in this Agreement;
- (f) the Vendor shall not be responsible for making any repairs, replacements, renovations, alterations, improvements or upgrades or undertaking any remediation to address a Release in or to the Property or any part thereof, and it shall be the sole responsibility of the Purchaser to make, at the Purchaser's sole cost, any repairs, replacements, renovations, alterations, improvements and upgrades in or to the Property following Closing as may be required by the Purchaser to make the Property suitable for its purposes and to undertake any required, necessary, or desired remediation to address a Release at, on, under or migrating from the Property or any part thereof;
- (g) the Subject Assets may be subject to certain Off-Title Compliance Matters, municipal requirements, including building or zoning by-laws and regulations, easements or servitudes for hydro, gas, telephone affecting the Subject Assets, and like services to the Property, and restrictions and covenants which run with the land, including but not limited to the Permitted Encumbrances. Without limiting the foregoing, the Vendor shall not be responsible for rectification of any matters disclosed by any Governmental Authority or quasi-governmental authority having jurisdiction and the Purchaser shall accept the Subject Assets subject to such matters;
- (h) the Purchaser shall accept full responsibility for all conditions related to the Property, and the Purchaser shall comply with all orders relating to the condition of the Property issued by any competent Governmental Authority, including any order issued against the Vendor including without limitation, any non-compliance with Environmental Laws or relating to the existence of any Hazardous Substance; and
- (i) if any statement, error or omission shall be found in the particulars of the legal and/or the Subject Assets' description, the same shall not annul the sale or entitle the Purchaser to be relieved of any obligation hereunder, nor shall any compensation be allowed to the Purchaser in respect thereof.

The Vendor has no and shall have no obligations or responsibility to the Purchaser after Closing with respect to any matter relating to the Subject Assets or the condition thereof save and only to the extent expressly provided in this Agreement. The Purchaser shall be responsible for and hereby indemnifies and saves harmless the Vendor and its employees, directors, officers, appointees and agents from any costs, including legal and witness costs, claims, demands, civil actions, prosecutions, or administrative hearings, fines, judgments, awards, including awards of costs, that may arise as a result of the condition of the Property, any order issued by any competent Governmental Authority in connection with the condition of the Property, or any loss, damage, or injury caused either directly or indirectly as a result of the condition of the Property including, without limitation, non-compliance with Environmental Laws or the existence of any Hazardous Substances. This Section 2.2 shall survive and not merge on Closing and all Closing Documents shall incorporate this Section 2.2 by reference.

ARTICLE 3 PURCHASE PRICE

3.1 Purchase Price

The Purchase Price for the Subject Assets shall be [REDACTED] [REDACTED] (the “**Purchase Price**”) exclusive of HST/GST and QST. Subject only to adjustment in accordance with this Agreement, the Purchase Price shall be paid to the Vendor as follows:

- (a) as to the sum of [REDACTED] [REDACTED] (the “**Deposit**”), by wire transfer of immediately available funds payable to or to the order of the Monitor, in trust, or as it may otherwise direct in writing, on or prior to 5:00 p.m. (Toronto time) within twenty-four (24) hours of the signature of this Offer by the Vendor, to be held in trust as a deposit and invested in accordance with the provisions of Section 3.2 below pending the completion or other termination of this Agreement; provided that if the Deposit is not delivered to the Monitor, in trust, on or prior to 5:00 p.m. (Toronto time) within twenty-four (24) hours of the signature of this Offer by the Vendor, the Vendor may terminate this Agreement by notice to the Purchaser; and
- (b) as to the balance of the Purchase Price (the “**Balance**”), subject only to the adjustments made in accordance with this Agreement, by wire transfer of immediately available funds payable to the Monitor or as it may direct on the Closing Date.

3.2 Deposit

- (a) Following receipt, the Deposit shall be invested by the Monitor, in trust, in an interest bearing account or term deposit or guaranteed investment certificate pending completion of the Transaction or earlier termination or non-completion of this Agreement. In holding and dealing with the Deposit and any interest earned thereon pursuant to this Agreement, the Monitor is not bound in any way by any agreement other than this Section 3.2, and the Monitor shall not and shall not be considered to assume any duty, liability or responsibility other than to hold the Deposit, and any interest earned thereon, in accordance with the provisions of this

Section 3.2, and to pay the Deposit, and any interest earned thereon, to the Person becoming entitled thereto in accordance with the terms of this Agreement, except in the event of a dispute between the Parties as to entitlement to the Deposit. In the case of such dispute, the Monitor may, in its sole, subjective and unreviewable discretion, or shall, if requested by any of the Parties, pay the Deposit and any and all interest earned thereon into Court, whereupon the Monitor shall have no further obligations relating to the Deposit or any interest earned thereon. The Monitor shall not, under any circumstances, be required to verify or determine the validity of any notice or other document whatsoever delivered to the Monitor and the Monitor is hereby relieved of any liability or responsibility for any Claims which may arise as a result of the acceptance by the Monitor of any such notice or other document.

- (b) If the Transaction is completed, the Deposit shall be paid to the Vendor forthwith on Closing and applied to the Purchase Price. Interest on the Deposit shall accrue from the date of deposit with the Monitor until the Closing or other termination or non-completion of this Agreement. If the Transaction is successfully completed, all interest earned on the Deposit until Closing shall be paid to the Purchaser following Closing or applied to the Purchase Price.
- (c) If the Transaction is not completed by reason of a default of the Purchaser, the full amount of the Deposit together with all accrued interest earned thereon shall be paid to the Vendor as liquidated damages (and not as a penalty) to compensate the Vendor for the expenses incurred and the delay caused and opportunities foregone as a result of the failure of the Transaction to close. The entitlement of the Vendor to receive and retain the Deposit together with all accrued interest earned thereon, if any, in such circumstances shall not limit the Vendor's right to exercise any other rights or remedies, which the Vendor may have against the Purchaser in respect of such breach or default.
- (d) If the Transaction is not completed by any reason other than the default of the Purchaser, the full amount of the Deposit together with all accrued interest earned thereon shall be paid to the Purchaser as full and final settlement and the Purchaser shall have no further recourse against the Vendor.
- (e) In holding and dealing with the Deposit and any interest earned thereon pursuant to this Agreement, the Monitor shall release the Deposit and any interest earned thereon to the Persons becoming entitled thereto in accordance with the provisions of (i) Section 7.7(c); or (ii) this Section 3.2 as evidenced by a joint direction in writing executed by the Vendor and the Purchaser (the "**Joint Direction**") except in the event of a dispute between the Parties as to entitlement to the Deposit and any interest earned thereon in which event the Monitor may, in its sole, unfettered and unreviewable discretion, pay the Deposit and any interest earned thereon into Court, whereupon the Monitor shall have no further obligations relating to the Deposit and any interest earned thereon or otherwise hereunder.
- (f) The Monitor shall not, under any circumstances, be required to verify or determine the validity of the Joint Direction or any written confirmation received pursuant to Section 7.8(b) and the Monitor is hereby relieved of any liability or responsibility

for any loss or damage which may arise as the result of the acceptance by the Monitor of the Joint Direction.

- (g) Notwithstanding the foregoing or anything else contained herein or elsewhere, each of the Vendor and the Purchaser acknowledges and agrees that: (i) the Monitor's obligations hereunder are and shall remain limited to those specifically set out in this Section 3; and (ii) FTI Consulting Canada Inc. is acting solely in its capacity as the Court-appointed Monitor of the Vendor in the CCAA Proceedings and not in its personal or corporate capacity, and the Monitor has no liability in connection with this Agreement whatsoever, in its personal or corporate capacity or otherwise.
- (h) The Parties acknowledge that the Monitor may rely upon the provisions of this Section 3.2 notwithstanding that the Monitor is not a party to this Agreement. The provisions of this Section 3.2 shall survive the termination or non-completion of the Transaction.

3.3 Purchase Price Allocation

The allocation of the Purchase Price as between the Subject Assets is as set out on Schedule "C". The Vendor and the Purchaser shall adopt such allocations for the purposes of all tax returns, elections and filings respectively made by them or on their behalf. The Vendor and the Purchaser shall each use reasonable commercial efforts to agree, by the Closing Date, upon the allocation of the Purchase Price between the Lands and the Buildings for the Property. If no such agreement is reached by Closing, each of the Vendor and the Purchaser shall be free to make its own allocation.

3.4 Trade-Marks

Notwithstanding the foregoing or anything else contained herein or elsewhere, the Purchaser acknowledges and agrees that: (a) no signs, trade-marks, trade-names, logos, commercial symbols, business names or other intellectual property rights identifying "Sears" are conveyed or intended to be conveyed to the Purchaser as part of the Subject Assets; and (b) all right, title and interest of the Vendor in and to all of its existing signs, trade-marks, trade-names, logos, commercial symbols, business names or other intellectual property rights identifying "Sears" or containing the words "Sears" are hereby specifically reserved and excluded from the Subject Assets. Notwithstanding the foregoing or anything to the contrary, the Vendor shall not be obligated to remove any interior or exterior signs located at the Property, including those identifying "Sears" and the Vendor shall have no liability for any removal or destruction costs relating thereto and any such signs left on the Property on the Closing Date shall become the property of the Purchaser without a bill of sale, representation, warranty or other title documentation. This Section shall survive and not merge on Closing.

ARTICLE 4 ADJUSTMENTS

4.1 Statement of Adjustments and Absence of Post-Closing Adjustments

The Vendor shall prepare a statement of adjustments and deliver same with supporting documentation to the Purchaser no later than two (2) Business Days prior to the Closing Date. If the amount of any adjustments required to be made pursuant to this Agreement cannot be

reasonably determined as of the Closing Date, an estimate shall be made by the Vendor as of the Closing Date based upon the best information available to the Parties at such time, each Party acting reasonably and such estimate shall serve as a final determination. The final form of statement of adjustments shall be satisfactory to the Monitor, acting reasonably. There shall be no further adjustments or readjustments after Closing of any amounts adjusted or intended to be adjusted on the statement of adjustments pursuant to this Agreement and the amounts set out on the statement of adjustments shall be final.

4.2 General Adjustments

- (a) The adjustments shall include realty taxes, local improvement rates and charges and, except as set out in this Agreement, other adjustments established by usual practice in the municipality in which the Property is located for the purchase and sale of similar properties. In addition, the adjustments shall include the other matters referred to in this Agreement which are stated to be the subject of adjustment and shall exclude the other matters in this Agreement which are stated not to be the subject of adjustment.
- (b) From and after the Closing Date, the Purchaser shall be responsible for all expenses and shall be entitled to all revenue from the Subject Assets. The Vendor shall be responsible for all expenses and entitled to all revenue from the Subject Assets for that period prior to the Closing Date.
- (c) The Purchaser shall be responsible for and pay all applicable Taxes payable in connection with the transfer of any of the Subject Assets by the Vendor to the Purchaser.

4.3 Realty Tax Appeals

- (a) The Vendor and the Purchaser acknowledge that with respect to the Property the Vendor may have instituted certain appeals and/or claims in respect of realty taxes or assessments for certain periods prior to the Closing Date and possibly including the tax year in which the Closing Date occurs (all such appeals and any associated reassessments are hereinafter collectively referred to as the “**Realty Tax Appeals**”).
- (b) On Closing and provided all municipal taxes due are paid, in consideration of an additional adjustment in favour of the Vendor in the amount equal to 100% of any expected credit, refund and/or rebate which may arise from any of the Realty Tax Appeals (collectively, the “**Realty Tax Refunds**”) for any period that is prior to the Closing Date, the Vendor shall assign to the Purchaser all of its right, title and interest, if any, in and to such Realty Tax Refunds.

4.4 Utilities

- (a) The Purchaser shall not assume any contracts or agreements entered into by or on behalf of the Vendor for the supply of any utilities (including electricity, gas, water, fuel, telephone service, internet services, security and surveillance services or otherwise) at the Property. On or before the Closing Date, the Vendor shall

terminate all of its contracts and agreements for the supply of any utilities to the Property. For the avoidance of doubt, there shall be no adjustment at Closing in respect of the payment of any utilities provided that there are no outstanding amounts owing by the Vendor in connection with such accounts for which the Purchaser would be liable. The provisions of this Section 4.4(a) shall survive and not merge on Closing.

- (b) From and after the Closing Date, any and all utility charges and other related fees payable for any of the Property, pursuant to any invoice or statement issued on or after the Closing Date, shall be the sole responsibility of the Purchaser, and there shall be no adjustments between the Vendor and the Purchaser of any utility charges or related fees paid by the Purchaser pursuant to any such invoice or statement issued on or after the Closing Date, with the exception of any costs for utilities that were incurred before the Closing Date which shall be the responsibility of the Vendor.

ARTICLE 5 INTERIM PERIOD

5.1 Interim Period

- (a) The Vendor shall not be obligated to (i) remove any Inventory, FF&E or Excluded Assets and the Vendor shall have no liability for any removal or destruction costs relating thereto, or (ii) repair, renovate, alter, improve or upgrade the Property in any manner. Any Inventory, FF&E or Excluded Assets left on the Property on the Closing Date shall become the property of the Purchaser without a bill of sale, representation, warranty or other title documentation. This Section shall survive and not merge on Closing.
- (b) From and after the Execution Date, the Vendor will not agree to enter into any new Permitted Encumbrance without the consent of the Purchaser.
- (c) In the event that prior to the Closing Date all or a part of the Lands is expropriated or notice of expropriation or intent to expropriate all or a part of the Lands is issued by any Governmental Authority, the Vendor shall immediately advise the Purchaser thereof by Notice in writing. Notwithstanding the occurrence of any of the foregoing, the Purchaser shall complete the Transaction contemplated herein in accordance with the terms hereof without reduction of the Purchase Price and all compensation for expropriation shall be payable to the Purchaser and all right, title and interest of the Vendor to such amounts, if any, shall be assigned to the Purchaser on a without recourse basis.
- (d) The Subject Assets shall be and remain until Closing at the risk of the Vendor. In the event of material damage by fire or other hazard to the Subject Assets or any part thereof occurring before the Closing Date, the Vendor shall immediately advise the Purchaser thereof by Notice in writing. Notwithstanding the occurrence of any of the foregoing, the Purchaser shall complete the Transaction contemplated herein in accordance with the terms hereof without the reduction of the Purchase Price and the proceeds of any insurance actually paid or payable to the Vendor to a maximum

of that portion of the Purchase Price allocated in Schedule “C” for the Subject Assets which are so damaged, shall be paid and/or assigned to the Purchaser.

5.2 Contracts

The Vendor covenants to terminate effective as of the Closing Date, at its sole cost and expense, all Contracts other than the Assumed Contracts and Permitted Encumbrances.

5.3 Permitted Encumbrances

The Purchaser shall provide such reasonable financial, business, organizational, managerial and other information and enter into such assumption agreements or deeds of re-hypothecation as the relevant party to a Permitted Encumbrance (the relevant party being a “**Holder**”) shall require to effect the assumption of the Permitted Encumbrances, as applicable, by the Purchaser (collectively, the “**PE Assumption Agreements**”). The Purchaser shall use reasonable efforts to assist the Vendor and shall co-operate with the Vendor (but at no additional cost to the Purchaser), as reasonably requested, to obtain from third parties a full release of the Vendor’s obligations under the Permitted Encumbrances, and shall provide such financial and other information and enter into such assumption agreements as such third parties may reasonably require, in form and substance acceptable to each of the parties thereto acting reasonably and without delay.

ARTICLE 6 REPRESENTATIONS, WARRANTIES & COVENANTS

6.1 Vendor’s Representations and Warranties

The Vendor represents and warrants to and in favour of the Purchaser that as of the Execution Date and as of Closing as to the following and acknowledges and confirms that the Purchaser is relying upon such representations and warranties in connection with the entering into of this Agreement:

- (a) the execution, delivery and performance by the Vendor of this Agreement has been duly authorized by all necessary corporate action on the part of the Vendor subject to the Approval and Vesting Order and authorization as is required by the Court;
- (b) the Vendor is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada); and
- (c) the Vendor is a registrant for the purposes of the tax imposed under Part IX of the *Excise Tax Act*.

6.2 Purchaser’s Representations and Warranties

The Purchaser represents and warrants to and in favour of the Vendor that as of the Execution Date and as of Closing as to the following and acknowledges and confirms that the Vendor is relying upon such representations and warranties in connection with the entering into of this Agreement:

- (a) the Purchaser has been duly formed or incorporated and is validly subsisting under the Laws of the jurisdiction of its formation or incorporation, and has all requisite

corporate or other capacity, power and authority to carry on its business as now conducted by it and to own its properties and assets and is qualified to carry on business under the Laws of the jurisdictions where it carries on a material portion of its business;

- (b) the Purchaser is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada);
- (c) the Purchaser is a registrant for the purposes of the tax imposed under Part IX of the *Excise Tax Act*;
- (d) the execution, delivery and performance by the Purchaser of this Agreement:
 - (i) has been duly authorized by all necessary corporate or other action on the part of the Purchaser;
 - (ii) does not (or would not with the giving of notice, the lapse of time or the happening of any other event or condition) require any consent or approval under, result in a breach or a violation of, or conflict with, any of the terms or provisions of its constating documents or by-laws or any contracts or instruments to which it is a party or pursuant to which any of its assets or property may be affected; and
 - (iii) will not result in the violation of any Laws;
- (e) this Agreement has been duly executed and delivered by the Purchaser and constitutes legal, valid and binding obligations of the Purchaser, enforceable against it in accordance with their respective terms subject only to any limitation under applicable Laws relating to (i) bankruptcy, winding-up, insolvency, arrangement and other similar Laws of general application affecting the enforcement of creditors' rights, and (ii) the discretion that a court may exercise in the granting of equitable remedies such as specific performance and injunction; and
- (f) the Purchaser has, and will have at Closing, all funds on hand necessary to pay the Purchase Price and any Taxes payable and that are not self-assessed and remitted by the Purchaser.

The Purchaser's representations and warranties shall survive Closing for a period of one (1) year thereafter.

6.3 Purchaser's Covenants

- (a) The Purchaser shall use commercially reasonable efforts to take all such actions as are within its power or control, and to use commercially reasonable efforts to cause other actions to be taken which are not within its power or control, so as to ensure compliance with each of the conditions and covenants set forth in Article 7 which are for the benefit of any other Party.
- (b) The Purchaser shall take any and all commercially reasonable steps in order to avoid the filing of an application for, or the issuance of any interim Order or other

Order which would have the effect of delaying or preventing the Closing, and if any such interim Order or other Order is issued, the Purchaser shall take any and all steps to have it rescinded, revoked or set aside as soon as possible. For greater certainty, “any and all steps” shall include, committing to or effecting undertakings, a consent agreement, a hold separate arrangement, a consent Order, a hold separate Order, a sale, a divestiture, a disposition or other action, in any such case without any reduction of the Purchase Price.

- (c) The Purchaser will promptly notify the Vendor and the Vendor will promptly notify the Purchaser upon:
 - (i) becoming aware of any Order or any complaint requesting an Order restraining or enjoining the execution of this Agreement or the consummation of the Transactions; or
 - (ii) receiving any notice from any Governmental Authority of its intention:
 - (A) to institute a suit or proceeding to restrain or enjoin the execution of this Agreement or the consummation of the Transaction; or
 - (B) to nullify or render ineffective this Agreement or such Transaction.

6.4 Vendor’s Covenants

The Vendor agrees, that subject to the Initial Order, the SISP Order and the Approval and Vesting Order, to thereafter take all commercially reasonable actions as are within its power to control, and to use its commercially reasonable efforts to cause other actions to be taken which are not within its power to control, so as to fulfill the conditions set forth in Article 7 which are for the benefit of the Vendor or the mutual benefit of the Parties.

6.5 Tax Matters

In addition to the representations and warranties set forth in Section 6.2, the Purchaser further warrants, represents and covenants to the Vendor, and acknowledges and confirms that the Vendor is relying on such representations and warranties, indemnities and covenants in connection with the entering into of this Agreement, that:

- (a) the Purchaser is duly registered under Subdivision (d) of Division V of Part IX of the *Excise Tax Act* with respect to the goods and services tax and harmonized sales tax and under Division I of Chapter VIII of Title I of *An Act respecting the Québec Sales Tax* with respect to the Québec sales tax which registrations shall be in full force and effect and shall not have been cancelled or revoked on the Closing Date;
- (b) the Purchaser has entered into this Agreement and is purchasing the Subject Assets on the Closing Date, as principal for its own account and not as an agent, nominee, trustee or otherwise on behalf of another Person;
- (c) to the extent permitted under subsection 221(2) of the *Excise Tax Act* and any equivalent or corresponding provision under any applicable provincial or territorial legislation, the Purchaser shall self-assess and remit directly to the appropriate

Governmental Authority any Taxes including goods and services tax or harmonized sales tax, as the case may be, imposed under the *Excise Tax Act* and any similar value added or multi-staged tax or sales tax imposed by any applicable provincial or territorial legislation payable in connection with the purchase and sale transaction of the Subject Assets, including the transfer of the Vendor's real or immovable property interests in the corresponding Subject Assets;

- (d) on Closing, the Purchaser will pay, in addition to the Purchase Price, and the Vendor will collect, any Taxes including transfer taxes as well as goods and services tax or harmonized sales tax, as the case may be, imposed under the *Excise Tax Act* and any similar value added or multi-staged tax or sales tax exigible on the purchase and sale transaction of the Subject Assets, except to the extent that the Purchaser is permitted under subsection 221(2) of the *Excise Tax Act* and any equivalent or corresponding provision under any applicable provincial or territorial legislation to self-assess and remit such Taxes directly to the appropriate Governmental Authority, and the Purchaser shall have executed and delivered a certificate, undertaking and indemnity which includes its certification of its registration numbers issued under the *Excise Tax Act* and *An Act respecting the Québec Sales Tax*, and incorporates the provisions of this Section 6.5 (the “**GST/HST and QST Certificate, Undertaking and Indemnity**”);
- (e) the Purchaser shall make and file all required return(s) in accordance with the requirements of subsection 228(4) of the *Excise Tax Act* and any equivalent or corresponding provision under any applicable provincial or territorial legislation; and
- (f) the Purchaser shall indemnify and save the Vendor harmless from and against any and all Taxes including, transfer taxes and goods and services tax or harmonized sales tax, as the case may be, imposed under the *Excise Tax Act* and any similar value added or multi-staged tax or sales tax, penalties, costs and/or interest which may become payable by or assessed against the Vendor as a result of any failure by the Vendor to collect and remit any goods and services tax or harmonized sales tax payable under the *Excise Tax Act* or any similar value added or multi-staged tax or sales tax and applicable on the sale and conveyance of the Subject Assets by the Vendor to the Purchaser or as a result of any inaccuracy, misstatement, or misrepresentation made by the Purchaser in connection with any matter raised in this Section 6.5 or in the GST/HST and QST Certificate, Undertaking and Indemnity or any failure by the Purchaser to comply with the provisions of this Section 6.5 or the GST/HST and QST Certificate, Undertaking and Indemnity.

The provisions of this Section 6.5 shall survive and not merge on Closing.

6.6 Termination Payment

- (a) If this Agreement is terminated as a result of (i) the condition in Section 7.3(a) not being satisfied, whereby the ROFR Beneficiary has exercised the ROFR to purchase the Property as a result of the Transaction; or (ii) a default of the Vendor under this Agreement and at any time during the period commencing on the Execution Date and ending four (4) months after the termination of this Agreement, an agreement or

other arrangement is entered into with the ROFR Beneficiary whereby the ROFR Beneficiary (other than a result of the ROFR Beneficiary exercising the ROFR) acquires the Property (each a “**Trigger Event**”), then the Vendor hereby covenants and agrees to pay the Purchaser a termination fee of [REDACTED] of the Purchase Price (the “**Termination Payment**”), in consideration of the lost opportunity to the Purchaser. Such Termination Payment is to be paid by the Vendor within two (2) Business Days of the termination of this Agreement pursuant to the Triggering Event.

- (b) The Vendor shall wire transfer the amount equal to the Termination Payment (the “**Termination Deposit**”) of immediately available funds payable to or to the order of the Monitor, in trust, on or prior to 3 p.m. (Toronto time) one Business Day following the acceptance of this Agreement by the Vendor, to be held in trust as a deposit in accordance with this Section 6.6 and invested in accordance with the provisions of Section 3.2.
- (c) The full amount of the Termination Deposit together with all accrued interest earned thereon shall be paid to the Vendor: (i) on Closing, if the Transaction is completed; (ii) following the day of termination of this Agreement other than as a result of the default of the Vendor; or (iii) on the Business Day following the expiration of the four (4) month period starting on the termination of this Agreement as a result of the default of the Vendor, if the Trigger Event has not occurred by such date.
- (d) If the Trigger Event has occurred, the full amount of the Termination Deposit together with all accrued interest earned thereon shall be paid to the Purchaser forthwith upon the occurrence of such Trigger Event in the full satisfaction of the Vendor’s obligations in Section 6.6(a). For greater certainty, the Monitor shall release the Termination Deposit and any interest accrued thereon to the person becoming entitled thereto in accordance with the provisions of this Section 6.6 as evidenced by a Joint Direction, except in the event of a dispute between the Parties as to entitlement to the Termination Deposit and any such interest, in which event the Monitor may, in its sole unfettered and unreviewable discretion, pay the Termination Deposit and any interest accrued thereon into Court, whereupon the Monitor shall have no further obligations relating to the Deposit and any interest earned thereon or otherwise hereunder.
- (e) Sections 3.2(e) to (g) inclusive shall apply *mutatis mutandis* to the Termination Deposit, except where in conflict with this Section 6.6.
- (f) The provisions of this Section 6.6 shall survive the termination or non-completion of the Transaction.

6.7 Survival of Covenants,

Except as otherwise expressly provided in this Agreement to the contrary, no representations, warranties, covenants or agreements of the Vendor or the Purchaser in this Agreement shall survive the Closing.

ARTICLE 7 CLOSING

7.1 Conditions of Closing for the Benefit of the Purchaser

The Purchaser's obligation to complete the purchase and sale of the Subject Assets is subject to the following conditions to be fulfilled or performed, on or before the Closing Date, which conditions are for the exclusive benefit of the Purchaser and may be waived, in whole or in part, by the Purchaser:

- (a) the representations and warranties of the Vendor in Section 6.1 shall be true and correct as of the Closing Date with the same force and effect as if such representations and warranties were made on and as of such date;
- (b) the Vendor shall have performed and complied with all of the other terms and conditions in this Agreement on its part to be performed or complied with at or before Closing in all material respects and shall have executed and delivered or caused to have been executed and delivered to the Purchaser at Closing all the Closing Documents contemplated or required to be so executed and delivered in this Agreement;
- (c) vacant possession of the Property shall have been given to the Purchaser subject to the Assumed Contracts and Permitted Encumbrances; and
- (d) the Purchaser shall have received the Closing Documents.

7.2 Conditions of Closing for the Benefit of the Vendor

The Vendor's obligation to complete the purchase and sale of the Subject Assets is subject to the following conditions to be fulfilled or performed, on or before the Closing Date, which conditions are for the exclusive benefit of the Vendor and may be waived, in whole or in part, by the Vendor:

- (a) the representations and warranties of the Purchaser in Section 6.2 shall be true and correct as of the Closing Date with the same force and effect as if such representations and warranties were made on and as of such date;
- (b) the Purchaser shall have paid the Balance in its entirety to the Monitor and shall have performed and complied with all of the terms and conditions in this Agreement on its part to be performed or complied with at or before Closing in all material respects and shall have executed and delivered or caused to have been executed and delivered to the Vendor at Closing all the documents contemplated required to be so executed and delivered in this Agreement; and
- (c) the Vendor shall have received the Closing Documents.

7.3 Conditions of Closing for the Mutual Benefit of the Parties

The obligations of either the Vendor or the Purchaser to complete the purchase and sale of the Subject Assets are subject to the following conditions to be fulfilled or performed, on or before

the Closing Date, which conditions are for the mutual benefit of each of the parties and may only be waived, in whole or in part, by agreement of the parties to this Agreement:

- (a) the ROFR shall have validly expired in accordance with the terms of the ROFR or as ordered by the Court or been waived by the ROFR Beneficiary in writing and the Vendor has provided commercially reasonable evidence to the Purchaser substantiating the foregoing;
- (b) the Approval and Vesting Order, substantially in the form attached hereto as Schedule “D”, shall have been issued and entered by the Court and any appeal or motion for leave to appeal related to the Approval and Vesting Order shall have been fully disposed of with no further right of appeal or leave to appeal;
- (c) there shall be no Order against either of the parties or involving any of the Subject Assets enjoining, preventing or restraining the completion of the Transaction; and
- (d) the Monitor shall have delivered the Monitor’s Certificate.

7.4 Conditions Not Fulfilled

If any of the conditions contained in Sections 7.1, 7.2. or 7.3 hereof is not fulfilled on or prior to the Closing Date and such non-fulfillment is not directly or indirectly as a result of any action or omission of the applicable party benefitting from such condition, then the party entitled to the benefit of such condition may, in its sole discretion and without limiting its rights or remedies available at law or in equity:

- (a) terminate this Agreement by notice to the other parties and the Monitor, in which event the Purchaser, Vendor and Monitor shall be released from their obligations under this Agreement to complete the Transaction and the Deposit and all interest accrued thereon shall forthwith be returned to the Purchaser without deduction; or
- (b) waive compliance with any such condition without prejudice to the right of termination in respect of the non-fulfillment of any other condition.

7.5 Closing Documents

On or before Closing, subject to the provisions of this Agreement, the Vendor and the Purchaser shall, execute or cause to be executed and shall deliver or cause to be delivered into escrow (in a sufficient number of copies or counterparts for the Purchaser and the Vendor and, where applicable, in registerable form), the following, which shall be in form and substance reasonably satisfactory to the Purchaser and the Vendor and their respective solicitors:

- (a) By the Vendor and the Purchaser:
 - (i) a deed of sale executed by the Vendor and the Purchaser, substantially in the form attached as Schedule “K”;
 - (ii) the Assignment and Assumption of Realty Tax Appeals;

- (iii) the Assignment and Assumption of Assumed Contracts and Permitted Encumbrances; and
 - (iv) such other documents as each Party or each Party's solicitors shall reasonably require in good faith in accordance with this Agreement or as may be required under applicable Laws.
- (b) By the Vendor:
- (i) the Approval and Vesting Order;
 - (ii) the statement of adjustments evidencing the adjustments made at Closing;
 - (iii) a certificate signed by a senior officer of the Vendor confirming that the Vendor is not a non-resident of Canada within the meaning of section 116 of the *Income Tax Act* (Canada);
 - (iv) an assignment of Warranties, to the extent there are any and are in the Vendor's possession and located on the Property and to the further extent that they are assignable without cost or consent;
 - (v) all master keys relating to the Buildings, if any, all security cards and access cards relating to the Buildings, if any, and all combinations and passwords to vaults and combination locks and other security features located in the Buildings, if any, in each case, to the extent in the possession of the Vendor;
 - (vi) such other documents as the Purchaser or the Purchaser's solicitors shall reasonably require in good faith in accordance with this Agreement or as may be required under applicable Laws.
- (c) By the Purchaser:
- (i) the Balance plus all Taxes thereon;
 - (ii) GST/HST and QST Certificate, Undertaking and Indemnity;
 - (iii) an assignment of this Agreement, if applicable, in accordance with Section 8.22;
 - (iv) where applicable, the Contract and/or PE Assumption Agreements along with any deliveries to the Holders required in respect of the Assumed Contracts or Permitted Encumbrances; and
 - (v) such other documents as the Vendor or the Vendor's solicitors shall reasonably require in good faith in accordance with this Agreement or as may be required under applicable Laws.

7.6 Closing Date

- (a) The completion of the Transaction contemplated by this Agreement (the “**Closing**”) shall take place at 10:00 a.m. (Toronto time) on the Closing Date at the Toronto office of Osler, Hoskin and Harcourt LLP, or at such other place as may be agreed upon by the Vendor and the Purchaser in writing.
- (b) Subject to satisfaction or waiver by the relevant Party or Parties, as applicable, of the conditions of closing in its favour contained in this Article 7, at Closing, the Purchaser will pay or satisfy the Purchase Price in accordance with Article 3, and the Closing of the Transaction will take effect, pursuant to the Approval and Vesting Order, upon delivery of the Monitor’s Certificate.

7.7 Confirmation of Satisfaction of Conditions

On the Closing Date, subject to satisfaction or waiver by the relevant Party or Parties, as applicable, of the conditions of Closing in its favour contained in Article 7, the parties or their respective solicitors shall confirm to the Monitor the satisfaction of all conditions to Closing and upon the Monitor receiving the Balance and any Taxes payable to the Vendor and that are not self-assessed and remitted by the Purchaser, the Monitor shall deliver copies of the Monitor’s Certificate to the Parties hereto and release the Deposit and the Balance and any Taxes payable to the Vendor and that are not self-assessed and remitted by the Purchaser to the Vendor and following Closing file the Monitor’s Certificate with the Court.

7.8 Closing

- (a) Subject always to Section 3.2 hereof, the Deposit and the Balance and any Taxes payable to the Vendor and that are not self-assessed and remitted by the Purchaser shall be held by the Monitor, in trust in a separate interest bearing account, pending completion of the Transaction or earlier termination of this Agreement. In holding and dealing with the funds paid to the Monitor in trust and any interest earned thereon pursuant to this Agreement, the Monitor is not bound in any way by any agreement other than Section 3.2 and this Section 7.8 and the Monitor shall not assume or be deemed to assume any duty, liability or responsibility other than to hold the trust funds and any interest earned thereon in accordance with the provisions of this Section 7.8 and to pay the funds, and any interest earned thereon, to the Party becoming entitled thereto in accordance with the terms of this Agreement, except in the event of a dispute between the parties as to entitlement to the trust funds, of which the Monitor has been given notice in writing, the Monitor may, in its sole, subjective and unreviewable discretion, or shall, if requested by either of the parties, pay the trust funds and any and all interest earned thereon into court, whereupon the Monitor shall have no further obligations relating to the trust funds or any interest earned thereon or otherwise hereunder.
- (b) The Monitor shall not, under any circumstances, be required to verify or determine the validity of any written notice or other document whatsoever delivered to the Monitor in connection with the trust funds and the Monitor is hereby relieved of any liability or responsibility for any loss or damage, which may arise as a result of the acceptance by the Monitor of any such written notice or other document.

- (c) On or before Closing, the parties' respective solicitors shall exchange the Closing Documents in escrow and the Balance and any Taxes payable to the Vendor and that are not self-assessed and remitted by the Purchaser shall be delivered to or paid to the order of the Monitor, in trust, and the Deposit and the Balance and any Taxes payable to the Vendor and that are not self-assessed and remitted by the Purchaser shall remain in escrow with the Monitor until the Monitor has delivered the Monitor's Certificate to the Vendor and the Purchaser, upon the occurrence of which the escrow shall be lifted, the Closing Documents shall take effect as of the date and time set out in the Monitor's Certificate, the entire amount of the Deposit and the Balance and any Taxes payable to the Vendor and that are not self-assessed and remitted by the Purchaser shall be forthwith released to the Vendor and the Closing shall be deemed to have occurred as of such date and time set out in the Monitor's Certificate and fully signed Closing Documents shall be released to each of the Vendor and Purchaser.
- (d) The parties acknowledge that, notwithstanding that the Monitor is not a party to this Agreement, the Monitor may rely upon the provisions of Section 3.2 hereof and this Section 7.8.
- (e) This Section 7.8 shall survive the Closing or termination of this Agreement.

7.9 Filings and Authorizations

- (a) Each of the Vendor and the Purchaser, as promptly as practicable after the execution of this Agreement, will make, or cause to be made, all such filings and submissions under all Laws applicable to it, as may be required for it to consummate the purchase and sale of the Subject Assets in accordance with the terms of this Agreement (other than the motion seeking approval of the Transaction and the issuance of the Approval and Vesting Order). The Vendor and the Purchaser shall co-ordinate and cooperate with one another in exchanging such information and supplying such assistance as may be reasonably requested by each in connection with the foregoing including, providing each other with all notices and information supplied to or filed with any Governmental Authority (except for notices and information which the Vendor or the Purchaser, in each case acting reasonably, considers highly confidential and sensitive which may be filed on a confidential basis), and all notices and correspondence received from any Governmental Authority.
- (b) The Parties acknowledge and agree that the Monitor shall be entitled to deliver to the parties and file the Monitor's Certificate with the Court, without independent investigation, upon receiving written confirmation from the Vendor and the Purchaser or their respective solicitors that all conditions of Closing have been satisfied or waived and upon receipt of the Balance and any Taxes payable to the Vendor and that are not self-assessed and remitted by the Purchaser, and the Monitor shall have no liability to the Vendor or the Purchaser or any other Person as a result of filing the Monitor's Certificate.

7.10 Court Matters

- (a) The Vendor shall consult and co-ordinate with the Purchaser and their respective legal advisors regarding the parties upon whom the motion seeking the Approval and Vesting Order will be served.
- (b) The Purchaser shall provide such information and take such actions as may be reasonably requested by the Vendor to assist the Vendor in obtaining the Approval and Vesting Order and any other order of the Court reasonably necessary to consummate the transactions contemplated by this Agreement, including, any Court ordered assignment of the Contracts.
- (c) Notwithstanding anything else contained in this Agreement or elsewhere, the Purchaser acknowledges and agrees that the Vendor cannot guarantee that it will obtain the Approval and Vesting Order and the Approval and Vesting Order may or may not be granted by the Court.

7.11 Termination

This Agreement may, by notice in writing given at or prior to Closing, be terminated:

- (a) by mutual consent of the Purchaser and the Vendor (in respect of which the Vendor shall require the consent of the Monitor to provide its consent) or on further order of the Court;
- (b) by the Purchaser if any of the conditions in Section 7.1 have not been satisfied on or before the Closing Date and the Purchaser has not waived such condition;
- (c) by the Vendor with the consent of the Monitor if any of the conditions in Section 7.2 have not been satisfied on or before the Closing Date and the Vendor has not waived such condition; or
- (d) by either Party if any of the conditions precedent in Section 7.3 have not been satisfied on or before the Closing Date and the parties have not waived such condition; or
- (e) by the Vendor (with the consent of the Monitor) or the Purchaser if Closing has not occurred on or before the Outside Date, provided that the Vendor or the Purchaser may not terminate this Agreement pursuant to this Section 7.10(e) if it has failed to perform any one or more of its respective obligations or covenants under this Agreement and the Closing has not occurred because of such failure.

ARTICLE 8 OTHER PROVISIONS

8.1 Confidentiality

The Vendor shall be entitled to disclose this Agreement and all information provided by the Purchaser in connection herewith to the Court, the Monitor, and parties in interest to the CCAA Proceedings. The NDA shall survive and not merge on Closing.

8.2 Time of the Essence

Time shall be of the essence of this Agreement.

8.3 Entire Agreement

This Agreement and the NDA constitute the entire agreement between the parties with respect to the Transaction and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties with respect to the subject matter of this Agreement. There are no representations, warranties, covenants, conditions or other agreements, legal or conventional, express or implied, collateral, statutory or otherwise, between the parties in connection with the subject matter of this Agreement, except as specifically set forth in this Agreement. The parties have not relied and are not relying on any other information, discussion or understanding in entering into and completing the Transaction.

8.4 Waiver

- (a) No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision (whether or not similar), nor shall such waiver be binding unless executed in writing by the Party to be bound by the waiver.
- (b) No failure on the part of the Vendor or the Purchaser to exercise, and no delay in exercising any right under this Agreement shall operate as a waiver of such right; nor shall any single or partial exercise of any such right preclude any other or further exercise of such right or the exercise of any other right.

8.5 Further Assurances

Each of the parties covenants and agrees to do such things, to attend such meetings and to execute such further conveyances, transfers, documents and assurances as may be reasonably deemed to be necessary or advisable from time to time in order to effectively transfer the Subject Assets to the Purchaser and carry out the terms and conditions of this Agreement in accordance with their true intent. The provisions of this Section 8.5 shall survive and shall not merge on Closing.

8.6 Severability

If any provision of this Agreement shall be determined by a court of competent jurisdiction to be illegal, invalid or unenforceable, that provision shall be severed from this Agreement and the remaining provisions shall continue in full force and effect.

8.7 Governing Law

This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. Each Party irrevocably and unconditionally waives, to the fullest extent permitted by applicable Laws, any objection that it may now or hereafter have to the venue of any action or proceeding arising out of or relating to this Agreement or the Transaction in any court of the Province of Ontario. Each of the Parties hereby irrevocably waives, to the fullest extent permitted by applicable Laws, the defence of an inconvenient forum to the maintenance of such action or proceeding in any such court.

8.8 English Language

The parties hereto have requested that this Agreement be drafted in English only. *Les parties aux présentes ont demandé à ce que la présente convention soit rédigée en anglais seulement.*

8.9 Statute References

Any reference in this Agreement to any statute or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, restated or re-enacted from time to time.

8.10 Headings

The division of this Agreement into Sections, the insertion of headings is for convenience of reference only and are not to be considered in, and shall not affect, the construction or interpretation of any provision of this Agreement.

8.11 References

Where in this Agreement reference is made to an article or section, the reference is to an article or section in this Agreement unless the context indicates the reference is to some other agreement. The terms “this Agreement”, “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof and include any agreement supplemental hereto. The word “includes” or “including” shall mean “includes without limitation” or “including without limitation”, respectively. The word “or” is not exclusive.

8.12 Number and Gender

Unless the context requires otherwise, words importing the singular include the plural and vice versa and words importing gender include all genders.

8.13 Business Days

If any payment is required to be made or other action is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be made or taken on the next Business Day. All actions to be made or taken by a particular Business Day must be made or taken by no later than 5:00 p.m. (Toronto time) on a Business Day and any action made or taken thereafter shall be deemed to have been made and received on the next Business Day.

8.14 Currency and Payment Obligations

Except as otherwise expressly provided in this Agreement all dollar amounts referred to in this Agreement are stated in Canadian Dollars.

8.15 Notice

Any notice, consent or approval required or permitted to be given in connection with this Agreement (a “**Notice**”) shall be in writing and shall be sufficiently given if delivered (whether in person, by courier service or other personal method of delivery), or if transmitted by facsimile or e-mail:

(a) in the case of a Notice to the Vendor at:

Sears Canada Inc.
290 Yonge Street, Suite 700
Toronto, ON M5B 2C3

Attn: Philip Mohtadi
Email: pmohtad@sears.ca

With a copy to:

Osler, Hoskin & Harcourt LLP
100 King Street West
1 First Canadian Place
Suite 6200, P.O. Box 50
Toronto, ON M5X 1B8

Attn: Marc Wasserman & Tracy Sandler
Email: mwasserman@osler.com & tsandler@osler.com

With a copy to:

FTI Consulting Canada Inc.
TD South Tower
Suite 2010, P.O. Box 104
Toronto, ON M5K 1G8

Attn: Paul Bishop
Email: paul.bishop@fticonsulting.com

With a copy to:

Norton Rose Fulbright Canada LLP
Suite 3800, Royal Bank Plaza, South Tower
200 Bay Street, P.O. Box 84
Toronto, ON M5J 2Z4

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

(b) in the case of a Notice to the Purchaser at:

Groupe Mach Inc.
407 McGill Street, Suite 710
Montreal, Quebec H2Y 2G3

Attn.: Vincent Chiara
Email: vchiara@groupemach.com,
ldlegendre@groupemach.com,
bmartin@groupemach.com and
jsoliman@groupemach.com

A Notice is deemed to be given and received (i) if sent by personal delivery or same day courier, on the date of delivery if it is a Business Day and the delivery was made prior to 5:00 p.m. (local time in the place of receipt) and otherwise on the next Business Day, (ii) if sent by overnight courier, on the next Business Day, or (iii) if transmitted by facsimile, on the Business Day following the date of confirmation of transmission by the originating facsimile, or (iv) if sent by email, when the sender receives an email from the recipient acknowledging receipt, provided that an automatic “read receipt” does not constitute acknowledgment of an email for purposes of this section. Any Party may change its address for service from time to time by providing a Notice in accordance with the foregoing. Any subsequent Notice must be sent to the Party at its changed address. Any element of a Party’s address that is not specifically changed in a Notice will be assumed not to be changed. Subject to Section 8.17, sending a copy of a Notice to a Party’s legal counsel as contemplated above is for information purposes only and does not constitute delivery of the Notice to that Party. The failure to send a copy of a Notice to legal counsel does not invalidate delivery of that Notice to a Party.

8.16 Subdivision Control Legislation

This Agreement and the Transaction are subject to compliance with the applicable subdivision control legislation to the extent applicable.

8.17 Solicitors as Agent and Tender

Any Notice, approval, waiver, agreement, instrument, document or communication permitted, required or contemplated in this Agreement (including, without limitation, any agreement to amend this Agreement) may be given or delivered and accepted or received by the Purchaser’s solicitors on behalf of the Purchaser and by the Vendor’s solicitors on behalf of the Vendor and any tender of Closing Documents may be made upon the Vendor’s solicitors and the Purchaser’s solicitors, as the case may be.

8.18 No Registration of Agreement

The Purchaser covenants and agrees not to register or cause or permit to be registered this Agreement or any notice of this Agreement on title to any of the Subject Assets and that no reference to or notice of it or any caution, certificate of pending litigation or other similar court process in respect thereof shall be registered on title to the Subject Assets and/or any part thereof and the Purchaser shall be deemed to be in material default under this Agreement if it makes, or causes or permits, any registration to be made on title to the Subject Assets and/or any part thereof prior to the successful completion of the Transaction contemplated herein on the Closing Date. The Purchaser shall indemnify and save the Vendor harmless from and against any and all Claims whatsoever arising from or with respect to any such registration, including, all the legal fees, on a full indemnity basis, including those incurred by the Vendor with respect to obtaining the removal

of such registration. This indemnity shall survive and not merge on the expiration, non-completion and/or termination of this Agreement for any reason.

8.19 Third Party Costs

Each of the Parties hereto shall be responsible for the costs of their own solicitors, respectively, in respect of the Transaction. The Purchaser shall be solely responsible for and shall pay, in addition to the Purchase Price, any land transfer taxes and transfer duties payable on the transfer of the Subject Assets, all registration taxes, fees and other costs payable in respect of registration of any documents to be registered by the Purchaser at Closing and all federal and provincial sales and other taxes payable upon or in connection with the conveyance or transfer of the Subject Assets, including, goods and services tax, harmonized sales tax or other similar value added or multi-staged tax imposed by any applicable provincial or territorial legislation, as the case may be, and any other provincial sales taxes. This Section 9.19 shall survive the Closing or the termination of this Agreement. The Purchaser acknowledges that, subject to the limitations contained in Section 2.3, the Vendor has provided to the Purchaser, solely as a courtesy an updated environmental report prepared by Pinchin in respect of the Lands and an updated building condition report prepared by Pinchin in respect of the Buildings and reliance letters for such reports, and that the costs and expenses incurred by the Vendor in obtaining such reports and reliance letters will be paid by the Purchaser to the Vendor on Closing and will be shown on the statement of adjustments as an additional adjustment in favour of the Vendor. This Section 9.19 shall survive the Closing or the termination of this Agreement.

8.20 Interpretation

The parties hereto acknowledge and agree that: (a) each Party and its counsel reviewed and negotiated the terms and provisions of this Agreement and have contributed to their revision, (b) the rule of construction to the effect that any ambiguities are resolved against the drafting Party shall not be employed in the interpretation of this Agreement, and (c) the terms and provisions of this Agreement shall be construed fairly as to all parties hereto and not in favour of or against any Party, regardless of which Party was generally responsible for the preparation of this Agreement.

8.21 No Third Party Beneficiaries

Each Party hereto intends that this Agreement shall not benefit or create any right or cause of action in or on behalf of any Person, other than the Parties hereto and the Monitor, and no Person, other than the Parties hereto and the Monitor, shall be entitled to rely on the provisions hereof in any Claim, proceeding, hearing or other forum. The Parties acknowledge and agree that the Monitor, acting in its capacity as the Monitor, will have no liability in connection with this Agreement whatsoever, in its capacity as Monitor, in its personal capacity or otherwise.

8.22 Enurement

This Agreement shall become effective when executed by the Vendor and the Purchaser and after that time shall be binding upon and enure to the benefit of the parties and their respective heirs, executors, personal legal representatives, successors and permitted assigns. The Purchaser has and shall have no right to assign, convey and/or transfer its rights and/or obligations hereunder or to direct title to any of the Subject Assets to any other Person or to effect a "change of control" so as to indirectly effect the foregoing, without in each case first obtaining the prior written consent of

the Vendor, which consent may be arbitrarily and unreasonably withheld by the Vendor. Notwithstanding the foregoing, the Purchaser shall have the right, upon 5 Business Days' prior written notice to the Vendor and before the Approval and Vesting Order is issued, but in Purchaser's sole discretion, to assign all of its rights and obligations pursuant to this Agreement, to another Person(s) which is/are controlled directly or indirectly by the Purchaser, provided in the case of such assignment the assignee executes and delivers an agreement in favour of the Vendor (in a form approved by Vendor acting reasonably) agreeing to be bound by all obligations of the Purchaser hereunder and the original Purchaser shall not be relieved of its obligations hereunder, until the occurrence of Closing

8.23 Amendments

This Agreement may only be amended, supplemented or otherwise modified by written agreement signed by the Vendor and the Purchaser, except that the time for doing or completing of any matter provided for herein may be extended or abridged by an agreement in writing signed by the Vendor or the Vendor's solicitors on one hand and the Purchaser or the Purchaser's solicitors on the other.

8.24 Counterparts and Delivery

All Parties agree that this Agreement and any amendments hereto (and any other agreements, Notices, or documents contemplated hereby) may be executed in counterpart and transmitted by facsimile or e-mail (PDF) and that the reproduction of signatures in counterpart by way of facsimile or e-mail (PDF) will be treated as though such reproduction were executed originals.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF the parties have executed this Agreement.

SEARS CANADA INC.

By: P. MONTYER

Name: P. MONTYER

Title: Secretary

By: _____

Name:

Title:

GROUPE MACH INC.

By: _____

Name: Vincent Chiara

Title: President

IN WITNESS WHEREOF the parties have executed this Agreement.

SEARS CANADA INC.

By: _____

Name:

Title:

By: _____

Name:

Title:

GROUPE MACH INC.

By: _____

Name: Vincent Chiara

Title: President

**SCHEDULE “A”
LANDS**

An emplacement situated in the City of Québec (Borough of Des Rivières), Province of Québec and composed of lot number ONE MILLION NINE HUNDRED FORTY THOUSAND THIRTY-THREE (1 940 033) of the Cadastre du Québec, Registration Division of Québec.

With all buildings thereon erected and, more particularly, the building bearing civic number 500 Wilfrid Hamel Boulevard, City of Québec (Borough of Des Rivières), Province of Québec, G1M 2S5.

**SCHEDULE “B”
EXCLUDED ASSETS**

1. All intellectual property or proprietary rights, whether registered or not, and any intangible property, owned, used or held by the Vendor.
2. All items, materials and signs bearing the logo, trade-mark, trade-name or business name or other mark or design of the Vendor.
3. All FF&E and Inventory which have been removed from the Property by or on behalf of the Vendor or its agents or their respective representatives prior to the Closing Date.
4. All insurance policies of the Vendor.
5. All rights and interests in trade-marks, trade-names, logos, commercial symbols and business names containing “Sears” or any other proprietary wording or intellectual property rights of the Vendor or any of its affiliates (including, the websites).
6. All rights of the Vendor against the Purchaser pursuant to this Agreement.
7. All (i) computers and related systems and information storage media and other IT equipment, (ii) video cameras and equipment, and (iii) point-of-sales systems and all appurtenances thereto.

SCHEDULE "C"
PURCHASE PRICE ALLOCATION

100% to Lands and Buildings.

**SCHEDULE “D”
FORM OF APPROVAL AND VESTING ORDER**

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.	)	●, THE ● TH
)	
JUSTICE HAINEY	)	DAY OF ●, 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 – ●

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 ●, together with certain ancillary assets (the “**Transaction**”) contemplated by an Agreement of Purchase and Sale between Sears Canada Inc. (“**Sears Canada**”), as vendor, and ● (the “**Purchaser**”) as purchaser dated ●, 2018 (the “**APA**”) 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 ● sworn on ●, 2018 including the exhibits thereto (the “**● Affidavit**”), and the ● 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 ● sworn ●, 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 APA, as applicable.

APPROVAL OF THE APA

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 APA 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 APA 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 (Ontario), the *Civil Code of Quebec* 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 immovable 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 APA.

SEALING

9. THIS COURT ORDERS that Confidential Appendix "●" to the ● 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

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.

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 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**”)

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 between Sears Canada Inc. (“**Sears Canada**”), as vendor, and ● (the “**Purchaser**”) as purchaser dated ●, 2018 (the “**APA**”), a copy of which is attached as Exhibit ● to the Affidavit of ● dated ●, 2018.

B. Pursuant to the Approval and Vesting Order the Court approved the APA 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 APA), 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 APA 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 APA) 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 APA 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"

No .	Location / Address	Provi nce	Land Registr y Office	Legal Description	Encumbr ances to be Expunged/ Deleted
Sect	●	●	●	●	[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 APA.

**SCHEDULE “E”
PURCHASER’S GST/HST AND QST CERTIFICATE, UNDERTAKING AND
INDEMNITY**

TO: Sears Canada Inc. (the “Vendor”)

AND TO: Osler, Hoskin & Harcourt LLP, the Vendor’s solicitors

RE: Agreement of Purchase and Sale dated ●, 2018, made between the Vendor, as Vendor, and ●, as Purchaser, (the “Purchaser”), as amended from time to time (the “Purchase Agreement”), for the purchase and sale of the Property and other Subject Assets (as such terms are defined in the Purchase Agreement)

In consideration of the completion of the transaction set out in the Agreement, the Purchaser hereby certifies and agrees as follows:

- a) the Subject Assets are being purchased by the Purchaser as principal for its own account and not as an agent, nominee, trustee or otherwise on behalf of or for another Person;
- b) the Purchaser is registered under Subdivision (d) of Division V of Part IX of the *Excise Tax Act* (Canada) (the “*Excise Tax Act*”) for the collection and remittance of goods and services tax and harmonized sales tax (“GST/HST”) and under Division I of Chapter VIII of Title I of *An Act respecting the Québec Sales Tax* (the “*Québec Act*”) with respect to the Québec sales tax (“QST”) and its registration numbers are ● and such registrations are in good standing and have not been varied, cancelled or revoked;
- c) the Purchaser shall be liable for, shall self-assess and shall remit to the appropriate governmental authority, all GST/HST which is payable under the *Excise Tax Act* and all QST which is payable under the *Québec Act* in connection with the transfer of the Subject Assets, all in accordance with the *Excise Tax Act* and the *Québec Act* respectively;
- d) the Purchaser shall indemnify and save harmless the Vendor from and against any and all GST/HST, QST, penalties, interest and/or other costs which may become payable by or be assessed against the Vendor as a result of any failure by the Vendor to collect and remit any GST/HST or QST applicable on the sale and conveyance of the Subject Assets by the Vendor to the Purchaser or as a result of any inaccuracy, misstatement or misrepresentation by the Purchaser in this GST/HST and QST Certificate, Undertaking and Indemnity or any failure by the Purchaser to comply with the provisions of this GST/HST and QST Certificate, Undertaking and Indemnity; and
- e) this GST/HST and QST Certificate, Undertaking and Indemnity shall survive and not merge upon closing of the above-noted transaction.

This GST/HST and QST Certificate, Undertaking and Indemnity may be executed in counterpart and transmitted by facsimile or e-mail (PDF) and that the reproduction of signatures in counterpart by way of facsimile or e-mail (PDF) will be treated as though such reproduction were executed originals.

DATED _____, 2018.

[PURCHASER]

By: _____

Name: ●

Title: ●

By: _____

Name: ●

Title: ●

SCHEDULE “F”

**FORM OF ASSIGNMENT AND ASSUMPTION OF ASSUMED CONTRACTS AND
PERMITTED ENCUMBRANCES**

THIS AGREEMENT is made as of the _____ day of _____, 2018 (the “**Effective Date**”)

B E T W E E N:

SEARS CANADA INC.

(the “**Vendor**”)

- and -

●

(the “**Purchaser**”)

RECITALS:

A. The Vendor and certain of its affiliates and subsidiaries applied for and were granted protection from their creditors under the CCAA pursuant to the Initial Order of the Court. Pursuant to the Initial Order, the Court appointed FTI Consulting Canada Inc. as Monitor in connection with the CCAA Proceedings.

B. The Vendor and the Purchaser entered into an agreement of purchase and sale dated ●, 2018 (the “**Purchase Agreement**”), whereby, among other things, the Vendor agreed to assign to the Purchaser all of the Vendor’s right, title and interest in and to the Permitted Encumbrances.

C. The Purchase Agreement was approved by the Court pursuant to the Order dated ● (the “**Approval and Vesting Order**”).

D. The Vendor and the Purchaser are entering into this Agreement to provide for the assignment and assumption of the Assumed Contracts and the Permitted Encumbrances by the Vendor to the Purchaser in accordance with the Purchase Agreement and the Approval and Vesting Order.

E. Unless otherwise expressly provided for herein, all capitalized terms when used in this Agreement have the same meaning given to such terms in the Purchase Agreement.

THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1 ASSIGNMENT

1.1 Assignment by Vendor

The Vendor assigns and transfers to the Purchaser, as of the Effective Date, all of the Vendor's obligations, rights, title and interest, both at law and at equity, in and to the Assumed Contracts and the Permitted Encumbrances and all related rights, benefits and advantages thereto (collectively, the "Assigned Interest").

1.2 Assumption by Purchaser

The Purchaser hereby accepts the assignment of the Assigned Interest provided for in this Agreement and assumes all of the Vendor's obligations, right, title and interest in and to the Assigned Interest from and after the Effective Date.

1.3 Indemnity

The Purchaser hereby covenants with the Vendor, as of and from the Effective Date to indemnify and save the Vendor harmless from any and all Claims arising from, relating to or in connection with any non-payment of amounts payable on the part of the Purchaser to be paid from time to time under the Assumed Contracts and the Permitted Encumbrances, or any non-observance or non-performance of any of the terms, agreements, covenants, obligations and conditions on the part of the Purchaser under the Assumed Contracts and the Permitted Encumbrances to be paid, observed or performed from time to time, in respect of the period on or after the Effective Date, or otherwise arising, incurred or accrued on or after the Effective Date whether in respect of the period before or after the Effective Date, including, without limitation, any default as a consequence of the closing of the Transaction contemplated by the Purchase Agreement.

1.4 Paramourncy

The rights and obligations of the parties respectively with respect to the Assumed Contracts and the Permitted Encumbrances and any other Subject Assets shall be governed by the Purchase Agreement. In the event of any conflict, inconsistency, ambiguity or difference between the provisions of this Agreement and of the Purchase Agreement, then the provisions of the Purchase Agreement shall govern and be paramount, and any such provision in this Agreement shall be deemed to be amended, to the extent necessary to eliminate any such conflict, inconsistency, ambiguity or difference.

ARTICLE 2 GENERAL

2.1 Time of the Essence

Time shall be of the essence of this Agreement.

2.2 Enurement

This Agreement shall become effective when executed by the Vendor and the Purchaser and after that time shall be binding upon and enure to the benefit of the parties and their respective heirs,

executors, personal legal representatives, successors and permitted assigns. Neither this Agreement nor any of the rights or obligations under this Agreement shall be assignable or transferable by either party without the consent of the other party.

2.3 Entire Agreement

This Agreement and the Purchase Agreement constitute the entire agreement between the parties with respect to the assignment and assumption of the Assumed Contracts and the Permitted Encumbrances contemplated in the Purchase Agreement and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties with respect to the subject matter of this Agreement. There are no representations, warranties, covenants, conditions or other agreements, legal or conventional, express or implied, collateral, statutory or otherwise, between the parties in connection with the subject matter of this Agreement, except as specifically set forth in this Agreement and the Purchase Agreement. The parties have not relied and are not relying on any other information, discussion or understanding in entering into and completing the transactions contemplated by this Agreement and the Purchase Agreement.

2.4 Waiver

- (a) No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision (whether or not similar), nor shall such waiver be binding unless executed in writing by the party to be bound by the waiver.
- (b) No failure on the part of the Vendor or the Purchaser to exercise, and no delay in exercising any right under this Agreement shall operate as a waiver of such right; nor shall any single or partial exercise of any such right preclude any other or further exercise of such right or the exercise of any other right.

2.5 Further Assurances

Each of the parties covenants and agrees to do such things, to attend such meetings and to execute such further conveyances, transfers, documents and assurances as may be deemed necessary or advisable from time to time in order to effectively transfer the Subject Assets to the Purchaser and carry out the terms and conditions of this Agreement in accordance with their true intent.

2.6 Severability

If any provision of this Agreement shall be determined to be illegal, invalid or unenforceable, that provision shall be severed from this Agreement and the remaining provisions shall continue in full force and effect.

2.7 Governing Law

This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Province in which the Property is located and the federal laws of Canada applicable therein.

2.8 CCAA Proceedings

Each party to this Agreement submits to the exclusive jurisdiction of the Court in any action, application, reference or other proceeding arising out of or related to this Agreement or the

Purchase Agreement and agrees that all claims in respect of any such actions, application, reference or other proceeding shall be heard and determined in the CCAA Proceedings before the Court.

2.9 English Language

The parties hereto have requested that this Agreement be drafted in English only. *Les parties aux présentes ont demandé à ce que la présente convention soit rédigée en anglais seulement.*

2.10 Statute References

Any reference in this Agreement to any statute or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, restated or re-enacted from time to time.

2.11 Headings

The division of this Agreement into Sections, the insertion of headings is for convenience of reference only and are not to be considered in, and shall not affect, the construction or interpretation of any provision of this Agreement.

2.12 References

Where in this Agreement reference is made to an article or section, the reference is to an article or section in this Agreement unless the context indicates the reference is to some other agreement. The terms “this Agreement”, “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof and include any agreement supplemental hereto. The word “includes” or “including” shall mean “includes without limitation” or “including without limitation”, respectively. The word “or” is not exclusive.

2.13 Number and Gender

Unless the context requires otherwise, words importing the singular include the plural and vice versa and words importing gender include all genders.

2.14 Business Days

If any payment is required to be made or other action is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be made or taken on the next Business Day. All actions to be made or taken by a particular Business Day must be made or taken by no later than 4:30 p.m. (Toronto time) on a Business Day and any action made or taken thereafter shall be deemed to have been made and received on the next Business Day.

2.15 Notice

Any notice, consent or approval required or permitted to be given in connection with this Agreement (a “**Notice**”) shall be in writing and shall be sufficiently given if delivered or transmitted in accordance with the Purchase Agreement.

2.16 Counterparts and Delivery

All parties agree that this Agreement may be executed in counterpart and transmitted by facsimile or e-mail (PDF) and that the reproduction of signatures in counterpart by way of facsimile or e-mail (PDF) will be treated as though such reproduction were executed originals.

[Signature pages follow.]

IN WITNESS WHEREOF the Vendor has executed this Agreement.

SEARS CANADA INC.

By: _____
Name:
Title:
By: _____
Name:
Title:

IN WITNESS WHEREOF the Purchaser has executed this Agreement.

●

By: _____
Name: ●
Title: ●

By: _____
Name: ●
Title: ●

**SCHEDULE “G”
FORM OF ASSIGNMENT AND ASSUMPTION OF REALTY TAX APPEALS**

THIS AGREEMENT is made as of the _____ day of _____, 2018 (the “**Effective Date**”)

B E T W E E N:

SEARS CANADA INC.

(the “**Vendor**”)

- and -

●

(the “**Purchaser**”)

RECITALS:

A. The Vendor and certain of its affiliates and subsidiaries applied for and were granted protection from their creditors under the CCAA pursuant to the Initial Order of the Court. Pursuant to the Initial Order, the Court appointed FTI Consulting Canada Inc. as Monitor in connection with the CCAA Proceedings.

B. The Vendor and the Purchaser entered into an agreement of purchase and sale dated ●, 2018 (the “**Purchase Agreement**”), whereby, among other things, the Vendor agreed to assign to the Purchaser all of the Vendor’s right, title and interest in and to the Property.

C. The Purchase Agreement was approved by the Court pursuant to the Order dated ● (the “**Approval and Vesting Order**”).

D. The Vendor and the Purchaser are entering into this Agreement to provide for the assignment of the Realty Tax Refunds by the Vendor to the Purchaser in accordance with the Purchase Agreement and the Approval and Vesting Order.

E. Unless otherwise expressly provided for herein, all capitalized terms when used in this Agreement have the same meaning given to such terms in the Purchase Agreement.

THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE 3 ASSIGNMENT

3.1 Assignment and Assumption

Subject to the terms and conditions contained herein, effective as of the Effective Date, the Vendor hereby assigns, transfers and sets over unto the Purchaser all of the Vendor's right, title and interest, if any, in and to the Realty Tax Appeals and any Realty Tax Refunds which may arise from any of the Realty Tax Appeals for any period that is prior to the Closing Date.

3.2 Carriage of Realty Tax Appeals

From and after the Closing Date, the Purchaser may, at its sole cost and expense but without any obligation to do so, assume or retain the carriage of the Realty Tax Appeals and continue as the appellant in the Realty Tax Appeals.

3.3 Authorization and Direction

This Agreement shall serve as authorization and direction to the municipal and/or provincial taxing authority to pay to the Purchaser, from and after the Effective Date, the Realty Tax Refunds.

3.4 Paramountcy

The rights and obligations of the parties respectively with respect to the Realty Tax Appeals and Realty Tax Refunds shall be governed by the Purchase Agreement. In the event of any conflict, inconsistency, ambiguity or difference between the provisions of this Agreement and of the Purchase Agreement, then the provisions of the Purchase Agreement shall govern and be paramount, and any such provision in this Agreement shall be deemed to be amended, to the extent necessary to eliminate any such conflict, inconsistency, ambiguity or difference.

ARTICLE 4 GENERAL

4.1 Time of the Essence

Time shall be of the essence of this Agreement.

4.2 Enurement

This Agreement shall become effective when executed by the Vendor and the Purchaser and after that time shall be binding upon and enure to the benefit of the parties and their respective heirs, executors, personal legal representatives, successors and permitted assigns. Neither this Agreement nor any of the rights or obligations under this Agreement shall be assignable or transferable by either party without the consent of the other party.

4.3 Entire Agreement

This Agreement and the Purchase Agreement constitute the entire agreement between the parties with respect to the assignment and assumption of the Realty Tax Appeals contemplated in the Purchase Agreement and supersede all prior agreements, understandings, negotiations and

discussions, whether oral or written, of the parties with respect to the subject matter of this Agreement. There are no representations, warranties, covenants, conditions or other agreements, legal or conventional, express or implied, collateral, statutory or otherwise, between the parties in connection with the subject matter of this Agreement, except as specifically set forth in this Agreement and the Purchase Agreement. The parties have not relied and are not relying on any other information, discussion or understanding in entering into and completing the transactions contemplated by this Agreement and the Purchase Agreement.

4.4 Waiver

- (a) No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision (whether or not similar), nor shall such waiver be binding unless executed in writing by the party to be bound by the waiver.
- (b) No failure on the part of the Vendor or the Purchaser to exercise, and no delay in exercising any right under this Agreement shall operate as a waiver of such right; nor shall any single or partial exercise of any such right preclude any other or further exercise of such right or the exercise of any other right.

4.5 Further Assurances

Each of the parties covenants and agrees to do such things, to attend such meetings and to execute such further conveyances, transfers, documents and assurances as may be deemed necessary or advisable from time to time in order to effectively transfer the Subject Assets to the Purchaser and carry out the terms and conditions of this Agreement in accordance with their true intent.

4.6 Severability

If any provision of this Agreement shall be determined to be illegal, invalid or unenforceable, that provision shall be severed from this Agreement and the remaining provisions shall continue in full force and effect.

4.7 Governing Law

This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Province in which the Property is located and the federal laws of Canada applicable therein.

4.8 CCAA Proceedings

Each party to this Agreement submits to the exclusive jurisdiction of the Court in any action, application, reference or other proceeding arising out of or related to this Agreement or the Purchase Agreement and agrees that all claims in respect of any such actions, application, reference or other proceeding shall be heard and determined in the CCAA Proceedings before the Court.

4.9 Statute References

Any reference in this Agreement to any statute or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, restated or re-enacted from time to time.

4.10 Headings

The division of this Agreement into Sections, the insertion of headings is for convenience of reference only and are not to be considered in, and shall not affect, the construction or interpretation of any provision of this Agreement.

4.11 References

Where in this Agreement reference is made to an article or section, the reference is to an article or section in this Agreement unless the context indicates the reference is to some other agreement. The terms “this Agreement”, “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof and include any agreement supplemental hereto. The word “includes” or “including” shall mean “includes without limitation” or “including without limitation”, respectively. The word “or” is not exclusive.

4.12 Number and Gender

Unless the context requires otherwise, words importing the singular include the plural and vice versa and words importing gender include all genders.

4.13 Business Days

If any payment is required to be made or other action is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be made or taken on the next Business Day. All actions to be made or taken by a particular Business Day must be made or taken by no later than 4:30 p.m. (Toronto time) on a Business Day and any action made or taken thereafter shall be deemed to have been made and received on the next Business Day.

4.14 English Language

The parties hereto have requested that this Agreement be drafted in English only. *Les parties aux présentes ont demandé à ce que la présente convention soit rédigée en anglais seulement.*

4.15 Currency and Payment Obligations

Except as otherwise expressly provided in this Agreement all dollar amounts referred to in this Agreement are stated in Canadian Dollars.

4.16 Notice

Any notice, consent or approval required or permitted to be given in connection with this Agreement (a “**Notice**”) shall be in writing and shall be sufficiently given if delivered or transmitted in accordance with the Purchase Agreement.

4.17 Counterparts and Delivery

All parties agree that this Agreement may be executed in counterpart and transmitted by facsimile or e-mail (PDF) and that the reproduction of signatures in counterpart by way of facsimile or e-mail (PDF) will be treated as though such reproduction were executed originals.

[Signature pages follow.]

IN WITNESS WHEREOF the Vendor has executed this Agreement.

SEARS CANADA INC.

By: _____
Name:
Title:
By: _____
Name:
Title:

IN WITNESS WHEREOF the Purchaser has executed this Agreement.

●

By: _____

Name: ●

Title: ●

By: _____

Name: ●

Title: ●

SCHEDULE "H"

PERMITTED ENCUMBRANCES

GENERAL ENCUMBRANCES

- (a) The reservations, limitations, exceptions, provisos and conditions, if any, expressed in any original grants from the Crown including, without limitation, the reservation of any royalties, mines and minerals in the Crown or in any other person.
- (b) Subdivision agreements, site plan control agreements, development agreements, heritage easements and agreements relating thereto, servicing agreements, utility agreements, permits, licenses, airport zoning regulations and other similar agreements with Governmental Authorities or private or public utilities affecting the development or use of any Property, in each of the foregoing cases, Disclosed to the Purchaser.
- (c) Any easements, servitudes, or rights-of-way in favour of any Governmental Authority, any private or public utility, any railway company or any adjoining owner, in each of the foregoing cases, Disclosed to the Purchaser.
- (d) Any unregistered easements, servitudes, rights-of-way or other unregistered interests or claims not disclosed by registered title in respect of the provision of utilities to the Property, in each of the foregoing cases, Disclosed to the Purchaser.
- (e) Any rights of expropriation, access or use or any other similar rights conferred or reserved by applicable Law (which, if exercised shall be governed by the terms of this Agreement).
- (f) Encumbrances for real or immovable property taxes (which term includes charges, rates and assessments) or charges for electricity, power, gas, water and other services and utilities in connection with the Property that have accrued but are not yet due and owing or, if due and owing, are adjusted for on Closing.
- (g) Minor encroachments by the Property over neighbouring lands and/or permitted under agreements with neighbouring landowners and minor encroachments over the Property by improvements of neighbouring landowners and/or permitted under agreements with neighbouring landowners.
- (h) The provisions of all applicable Laws, including by-laws, regulations, ordinances and similar instruments relating to development and zoning of the Property.
- (i) The exceptions and qualifications contained in Section 44(1) of the *Land Titles Act* (Ontario) (other than paragraphs 4, 6 and 11) or the *Land Titles Act* (Alberta).
- (j) Security given to a public utility or any municipality or governmental or other public authority when required by the operations of the Property in the ordinary course of business, including, without limitation, the right of the municipality to

- 2 -

acquire portions of the Property for road widening or interchange construction and the right of the municipality to complete improvements, landscaping or remedy deficiencies in any pedestrian walkways or traffic control or monitoring to be provided to the Property.

- (k) Any minor title defects, irregularities, easements, servitudes, encroachments, rights of way or other discrepancies in title or possession relating to the Property, in each of the foregoing cases, Disclosed to the Purchaser.
- (l) Permits, licenses, agreements, servitudes, easements, (including, without limitation, heritage easements and agreements relating thereto), restrictions, restrictive covenants, options, rights-of-way, public ways, rights in the nature of an easement or servitude and other similar rights in land granted to or reserved by other persons (including, without in any way limiting the generality of the foregoing, permits, licenses, agreements, easements, rights-of-way, sidewalks, public ways, and rights in the nature of easements or servitudes for sewers, drains, steam, gas and water mains or electric light and power or telephone and telegraph conduits, poles, wires and cables) (other than those described in paragraph (c) and (d) of this Schedule) which do not materially impair the current operation of the Property.
- (m) All Off-Title Compliance Matters.
- (n) Any reference plans or plans registered pursuant to the *Boundaries Act* (Ontario).
- (o) Any unregistered interests in the Property of which the Purchaser has actual notice.
- (p) All instruments which are registered against title to a Property: (i) as of the date that is one (1) Business Days prior to the Execution Date; or (ii) otherwise agreed to by the Purchaser; or (iii) permitted by this Agreement, except for those Encumbrances to be vested off pursuant to the Approval and Vesting Order.

SPECIFIC ENCUMBRANCES

The characterization or descriptions of those items on the balance of this Schedule "H" is prepared for purposes of convenience only and for accurate reference, recourse should be had to the registration itself.

- (q) The ROFR.

SCHEDULE "J"
ASSUMED CONTRACTS

Nil.

SCHEDULE “K”

FORM OF DEED OF SALE

DEED OF SALE made as of the ● (●) day of ●, two thousand eighteen (2018).

BETWEEN: **SEARS CANADA INC.**, a corporation existing under the *Canada Business Corporations Act*, having its head office at 290 Yonge Street, Suite 700, at the City of Toronto, Province of Ontario, M5B 2C3, herein acting and represented by ●, its ●, duly authorized for the purposes hereof in virtue of a resolution of its Board of Directors adopted on ●, 2018;

(hereinafter referred to as the “**Vendor**”)

AND: **[INSERT NAME OF PURCHASER]**, a [corporation] existing under the laws of ●, having its head office at ●, Province of ●, ●, herein acting and represented by ●, its ●, duly authorized for the purposes hereof [in virtue of a resolution of its Board of Directors adopted on ●, 2018];

(hereinafter referred to as the “**Purchaser**”)

WHEREAS on June 22, 2017, an Initial Order was granted by the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) pursuant to which the Vendor and certain of its affiliates and subsidiaries (collectively, the “**Sears Group**”) were granted protection from their creditors under the *Companies’ Creditors Arrangement Act* (Canada) and FTI Consulting Canada Inc. was appointed as monitor (the “**Monitor**”);

WHEREAS on July 13, 2017, the Court granted an Order approving the Sale and Investment Solicitation Process for soliciting and selecting bids for the sale of, among other things, the Assets (as defined therein) of the Sears Group;

WHEREAS pursuant to an agreement of purchase and sale dated ●, 2018 (the “**Asset Purchase Agreement**”), the Vendor agreed to sell, assign and transfer to the Purchaser, all of the Vendor’s right, title and interest in certain assets being the Subject Assets (as such term is defined in the Asset Purchase Agreement), including the Property (as defined below);

WHEREAS the Asset Purchase Agreement has been approved and the transactions contemplated therein have been authorized by an order of the Court rendered on ●, 2018, in the file of the Court bearing number ● (the “**Approval and Vesting Order**”); and

WHEREAS the Vendor and the Purchaser have agreed to execute this Deed of Sale in furtherance of the terms of the Asset Purchase Agreement and the Approval and Vesting Order and to cause this Deed of Sale to be registered at the land register.

NOW THEREFORE, the parties agree as follows:

SALE

In furtherance of the Approval and Vesting Order, the Vendor hereby sells and transfers to the Purchaser, hereto present and accepting, all of its right, title and interest in and to the following immovable property:

DESCRIPTION

- **[INSERT CADASTRAL DESCRIPTION]**

With the building erected thereon bearing civic address ●, in the City of ●, Province of Québec, ●.

As the Property now subsists, without exception nor reserve of any kind on the part of the Vendor, subject to all servitudes benefiting or affecting the Property.

(herein referred to as the “**Property**”)

NO WARRANTY

Except as otherwise expressly set out in the Asset Purchase Agreement, the Purchaser acknowledges and agrees that it is acquiring the Property on an “as is, where is” basis, without the benefit of any legal warranty as to ownership or quality as referred to in Article 1716 of the *Civil Code of Québec* or any other representation or warranty whatsoever, legal or conventional, and at its own risk within the meaning of Article 1733 of the Civil Code of Quebec and that the Vendor is not a professional seller.

TITLE

- The Property was acquired by the Vendor (or its predecessor) in virtue of the following deed(s) : ●.

POSSESSION

The Purchaser shall become the owner and have possession of the Property as at the date of delivery of the Monitor’s Certificate (as defined in the Asset Purchase Agreement) as contemplated by the terms of the Asset Purchase Agreement.

Notwithstanding paragraph 2 of Article 1456 of the *Civil Code of Québec*, the Purchaser shall assume the risks attached to the Property, in accordance with Article 950 of the *Civil Code of Québec*, as of the date of this Deed of Sale.

ASSET PURCHASE AGREEMENT

The parties hereby acknowledge that this Deed of Sale is being executed pursuant to the Asset Purchase Agreement. The parties acknowledge that the terms and conditions of the Asset Purchase Agreement shall survive the execution and registration of this Deed of Sale and remain in full force and effect for the period set forth in the Asset Purchase Agreement. In the case of any conflict or inconsistency between the terms and conditions of the Asset Purchase Agreement and the provisions of this Deed of Sale, the terms and conditions of the Asset Purchase Agreement shall prevail.

PURCHASE PRICE

The sale of the Property is made for a purchase price of ● DOLLARS (\$●), in lawful money of Canada (the “**Purchase Price**”), and the Vendor hereby acknowledges receipt thereof in full, whereof quit.

ADJUSTMENTS

The parties declare that they have made or provided for all adjustments between them relating to the present sale of the Property, the whole in accordance with the terms of the Asset Purchase Agreement.

DECLARATIONS REGARDING GST AND QST

The Vendor and the Purchaser declare that the present sale of the Property constitutes a “taxable supply” subject to the payment of the tax commonly referred to as the “Goods and Services Tax” (the “**GST**”) under the *Excise Tax Act* (Canada) (the “**ETA**”) and the “Québec Sales Tax” (the “**QST**”) under an *Act respecting the Québec Sales Tax* (the “**QSTA**”). Moreover, the Vendor and the Purchaser declare that the Purchase Price does not include any amount in respect of such taxes.

The Vendor declares that it is registered under subdivision (d) of Division V of Part IX of the ETA, and that its registration number thereunder is ● and that it is registered under Division I of Chapter VIII of Title I of the QSTA and that its registration number thereunder is ●.

The Purchaser declares that it is registered under subdivision (d) of Division V of Part IX of the ETA, and that its registration number thereunder is ●, and that it is registered under Division I of Chapter VIII of Title I of the QSTA and that its registration number thereunder is ●.

The Vendor and Purchaser declare that in accordance with sections 221(2)(b), 228(4) and 228(6) of the ETA and paragraph (2) of sections 423, 428 and 441 of the QSTA, the Purchaser shall not be required to pay to the Vendor and the Vendor is relieved of its obligation to collect from the Purchaser the GST and the QST imposed *inter alia* in respect of the present

sale pursuant to sections 165(1) and 221(1) of the ETA and section 16 of the QSTA respectively, the responsibility for the payment thereof, if any, being exclusively assumed by the Purchaser and, accordingly, the Purchaser does hereby indemnify and agree to hold harmless the Vendor with respect to any liability or recourse with respect thereto.

GOVERNING LAW

This Deed of Sale shall be governed by and construed in accordance with the laws of the Province of Québec and the laws of Canada applicable therein.

LANGUAGE OF AGREEMENT

• The parties hereto declare that they have specifically requested, and do hereby confirm their request, that this Deed of Sale be drafted and executed in the English language. *Les parties aux présentes déclarent qu'elles ont spécifiquement demandé que le présent acte de vente soit rédigé et signé en anglais et par les présentes confirment leur dite demande.*

PARTICULARS REQUIRED IN VIRTUE OF SECTION 9 OF AN ACT RESPECTING DUTIES ON TRANSFERS OF IMMOVABLES (the "Act")

The Vendor and the Purchaser hereby make the following declarations:

- (a) the name and address of each of the transferor (Vendor) and the transferee (Purchaser) are as they are set out on the first page of this Deed of Sale;
- (b) the Property herein transferred is situated in the territory of the City of ●, Province of Québec;
- (c) according to the parties, the amount of the consideration for the transfer of the Property herein transferred is: ● dollars and ● cents (\$●);
- (d) according to the parties, the amount constituting the basis of imposition of the transfer duties is: ● dollars (\$●);
- (e) the amount of transfer duties is: ● dollars and ● cents (\$●); and
- (f) the transfer of the Property does not include, at the same time, a corporeal immovable property and movable property which is permanently attached or joined to the immovable, without losing its individuality and without being incorporated and which, in the immovable, are used for the operation of an enterprise or the pursuit of activities, the whole as provided in section 1.0.1 of the Act.

[Signature pages follow]

EXECUTED by the Vendor in the City of _____, Province of _____ as of the date first hereinabove mentioned on the first page of this Deed of Sale.

SEARS CANADA INC.

Per: _____

Name:

Title:

CERTIFICATE

Re: Deed of Sale executed by SEARS CANADA INC., as vendor (the “Vendor”), in the City of ●, Province of ●, and by ●, as Purchaser, in the City of ●, Province of ●, on the ● (●) day of ●, two thousand and eighteen (2018).

I, the undersigned, ●, Advocate, member of the Barreau du Québec, hereby certify that:

1. I have verified the identity, quality and capacity of the Vendor;
2. this Deed of Sale represents the will expressed by the Vendor; and
3. this Deed of Sale is valid as to its form.

CERTIFIED at Montreal, Province of Quebec, on this _____ (____) day of _____, two thousand and eighteen (2018).

Name: ●
 Quality: Advocate
 Address: 1000 De La Gauchetière Street West
 Suite 2100
 Montreal, Quebec H3B 4W5

 ●, Advocate, Member of the *Barreau du Québec*

EXECUTED by the Purchaser in the City of _____, Province of _____ as of the date first hereinabove mentioned on the first page of this Deed of Sale.

[INSERT NAME OF PURCHASER]

Per: _____
 Name:
 Title:

Per: _____
 Name:
 Title:

CERTIFICATE

Re: Deed of Sale executed by SEARS CANADA INC., as vendor, in the City of ●, Province of ●, and by ●, as purchaser (the “Purchaser”), in the City of ●, Province of ●, on the ● (●) day of ●, two thousand and eighteen (2018).

I, the undersigned, ●, Advocate, member of the Barreau du Québec, hereby certify that:

1. I have verified the identity, quality and capacity of the Purchaser;
2. this Deed of Sale represents the will expressed by the Purchaser; and
3. this Deed of Sale is valid as to its form.

CERTIFIED at Montreal, Province of Quebec, on this _____
 (____) day of _____, two thousand and eighteen (2018).

Name: ●
 Quality: Advocate
 Address: ●

 ●, Advocate, Member of the *Barreau du Québec*

SCHEDULE "B"

(Please see attached.)

|

AGREEMENT OF PURCHASE AND SALE

SEARS CANADA INC.

as the Vendor

- and -

PLACE FLEUR DE LYS GP INC.

as the Purchaser

For the property known as “Fleur de Lys”

TABLE OF CONTENTS

	Page
ARTICLE 1 DEFINITIONS.....	2
1.1 Definitions.....	2
ARTICLE 2 SALE TRANSACTION	7
2.1 Offer and Acceptance	7
2.2 As Is, Where Is.....	7
ARTICLE 3 PURCHASE PRICE	10
3.1 Purchase Price.....	10
3.2 Deposit	10
3.3 Purchase Price Allocation	12
3.4 Trade-Marks.....	12
ARTICLE 4 ADJUSTMENTS	12
4.1 Statement of Adjustments and Absence of Post-Closing Adjustments	12
4.2 General Adjustments.....	12
4.3 Realty Tax Appeals.....	13
4.4 Utilities.....	13
ARTICLE 5 INTERIM PERIOD.....	14
5.1 Interim Period	14
5.2 Contracts	14
5.3 Permitted Encumbrances	14
ARTICLE 6 REPRESENTATIONS, WARRANTIES & COVENANTS	15
6.1 Vendor’s Representations and Warranties.....	15
6.2 Purchaser’s Representations and Warranties	15
6.3 Purchaser’s Covenants	16
6.4 Vendor’s Covenants.....	17
6.5 Tax Matters	17
6.6 Intentionally Deleted.....	18
6.7 Survival of Covenants.....	18
ARTICLE 7 CLOSING	18
7.1 Conditions of Closing for the Benefit of the Purchaser.....	18
7.2 Conditions of Closing for the Benefit of the Vendor.....	19
7.3 Conditions of Closing for the Mutual Benefit of the Parties	19
7.4 Conditions Not Fulfilled	20
7.5 Closing Documents.....	20
7.6 Closing Date.....	21
7.7 Confirmation of Satisfaction of Conditions.....	22
7.8 Closing.....	22
7.9 Filings and Authorizations.....	23

TABLE OF CONTENTS

(continued)

	Page
7.10 Court Matters	23
7.11 Termination.....	24
ARTICLE 8 OTHER PROVISIONS	24
8.1 Confidentiality	24
8.2 Time of the Essence	24
8.3 Entire Agreement	24
8.4 Waiver.....	25
8.5 Further Assurances.....	25
8.6 Severability	25
8.7 Governing Law	25
8.8 English Language.....	25
8.9 Statute References.....	25
8.10 Headings	26
8.11 References.....	26
8.12 Number and Gender.....	26
8.13 Business Days	26
8.14 Currency and Payment Obligations	26
8.15 Notice.....	26
8.16 Subdivision Control Legislation	28
8.17 Solicitors as Agent and Tender	28
8.18 No Registration of Agreement.....	28
8.19 Third Party Costs	29
8.20 Interpretation.....	29
8.21 No Third Party Beneficiaries	29
8.22 Enurement	29
8.23 Amendments	30
8.24 Counterparts and Delivery	30
SCHEDULE "A" LANDS.....	1
SCHEDULE "B" EXCLUDED ASSETS	1
SCHEDULE "C" PURCHASE PRICE ALLOCATION	- 1 -
SCHEDULE "E" PURCHASER'S GST/HST AND QST CERTIFICATE, UNDERTAKING AND INDEMNITY	1
SCHEDULE "F" FORM OF ASSIGNMENT AND ASSUMPTION OF ASSUMED CONTRACTS AND PERMITTED ENCUMBRANCES.....	1
SCHEDULE "G" FORM OF ASSIGNMENT AND ASSUMPTION OF REALTY TAX APPEALS	1
SCHEDULE "H" PERMITTED ENCUMBRANCES.....	1

TABLE OF CONTENTS
(continued)

Page

SCHEDULE "J" ASSUMED CONTRACTS..... 1

THIS AGREEMENT OF PURCHASE AND SALE dated with effect as of _____,
2018

BETWEEN:

SEARS CANADA INC.
(the “**Vendor**”)

OF THE FIRST PART,

- and -

PLACE FLEUR DE LYS GP INC.
(the “**Purchaser**”)

OF THE SECOND PART,

RECITALS:

- A. The Vendor operated a chain of retail department stores throughout Canada under the “Sears” banner.
- B. On the Filing Date, the Vendor and certain of its affiliates and subsidiaries (the “**Sears Group**”) applied for and were granted protection from their creditors under the CCAA pursuant to the Initial Order. Pursuant to the Initial Order, the Court appointed FTI Consulting Canada Inc. as Monitor in connection with the CCAA Proceedings.
- C. On the SISP Order Date, the Court granted the SISP Order which, among other things, approved the SISP. The SISP Order and the SISP govern the process for soliciting and selecting bids for the sale of, among other things, the Assets (as defined in the SISP) of the Sears Group.
- D. The Purchaser hereby offers to acquire from the Vendor, the Vendor’s right, title and interest in and to the Subject Assets on the terms and conditions set out herein (the “**Offer**”).
- E. This Agreement is subject to approval by the Court, and the completion of the Transaction is subject to the Court issuing the Approval and Vesting Order and the Monitor releasing the Monitor’s Certificate, all as more particularly described herein.

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth in this Agreement and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Vendor and the Purchaser (individually, a “**Party**” and collectively, the “**Parties**”) covenant and agree as follows:

ARTICLE 1 DEFINITIONS

1.1 Definitions

Unless otherwise provided for herein, all capitalized terms set out below when used in this Agreement shall have the meaning ascribed thereto unless the context expressly or by necessary implication otherwise requires:

“Agreement” means this agreement constituted by the Vendor’s acceptance of the Offer together with all schedules and instruments in written amendment or confirmation of it and the expression **“Section”** followed by a number means and refers to the ascribed thereto Section of this Agreement.

“Applicable Law” means, in respect of any Person, assets, transaction, event or circumstance:

- (i) statutes (including all regulations enacted thereunder);
- (ii) judgments, decrees and orders of courts of competent jurisdiction; and
- (iii) regulations, orders, ordinances and directives issued by Governmental Authorities;

which are applicable to such Person, asset, transaction, event or circumstance;

“Approval and Vesting Order” means an order issued by the Court approving this Agreement and the transactions contemplated by this Agreement and conveying to the Purchaser all of the Vendor’s right, title and interest in and to the Subject Assets free and clear of all Encumbrances other than the Permitted Encumbrances, which order shall be substantially in the form of Schedule **“D”** (with only such changes as the Parties shall approve in their reasonable discretion, but in all cases in form and substance acceptable to the Monitor).

“Assignment and Assumption of Assumed Contracts and Permitted Encumbrances” means an assignment by the Vendor and an assumption by the Purchaser of the Vendor’s right, title and interest and all liability, covenants and obligations in, to and under the Assumed Contracts and any Permitted Encumbrances. The agreement evidencing same shall include an indemnity given by the Purchaser in favour of the Vendor from and against any Claims arising pursuant to or in connection with any of the Assumed Contracts and Permitted Encumbrances, and shall be in substantially the form attached as Schedule **“F”**.

“Assignment and Assumption of Realty Tax Appeals” means an assignment by the Vendor and an assumption by the Purchaser of the Vendor’s right, title and interest and all liability, covenants and obligations, in respect of the Realty Tax Appeals to be delivered on Closing. The agreement shall be in substantially the form attached as Schedule **“G”**.

“Assumed Contracts” means the Contracts listed on Schedule **“I”**.

“Authorization” means, with respect to any Person, any order, permit, approval, waiver, licence or similar authorization of any Governmental Authority having jurisdiction over the Person.

“Balance” has the meaning ascribed thereto in Section 3.1(b).

“**Buildings**” means, individually or collectively, as the context requires, all of the buildings and structures, improvements, appurtenances and fixtures, located on, in or under the Lands, but, for greater certainty, excluding the Excluded Assets.

“**Business Day**” means any day of the year, other than a Saturday, Sunday or any day on which major banks are closed for business in Toronto, Ontario.

“**CCA**” means the *Companies’ Creditors Arrangement Act* (Canada).

“**CCA Proceedings**” means the proceedings commenced under the CCA by the Sears Group pursuant to the Initial Order (Court File No. CV-17-11846-00CL).

“**Claims**” means any and all claims, demands, complaints, grievances, actions, applications, suits, causes of action, Orders, charges, indictments, prosecutions, informations or other similar processes, assessments or reassessments, equitable interests, options, preferential arrangements of any kind or nature, assignments, restrictions, financing statements, deposit arrangements, rights of others, leases, sub-leases, licences, rights of first refusal or similar restrictions, judgments, debts, liabilities, expenses, costs, damages or losses, contingent or otherwise, including loss of value, reasonable professional fees, including fees and disbursements of legal counsel on a full indemnity basis, and all actual and documented costs incurred in investigating or pursuing any of the foregoing or any proceeding relating to any of the foregoing.

“**Closing**” has the meaning ascribed thereto in Section 7.6(a).

“**Closing Date**” means the Business Day that is three (3) Business Days following the issuance of the Approval and Vesting Order or such later date as the Vendor (with the consent of the Monitor) may advise the Purchaser in writing, or as otherwise ordered by the Court.

“**Closing Documents**” means those documents and deliveries to be delivered in connection with the Closing as contemplated in this Agreement including those set out in Section 7.5.

“**Contracts**” means, collectively, all of the Vendor’s contracts and agreements to enter into contracts with respect to the operation, fire protection, servicing, maintenance, repair and cleaning of the Subject Assets (and no other properties), or the furnishing of supplies or services to the Subject Assets, any property management or asset management contracts, any employment contracts and any insurance contracts entered into by the Vendor or any manager or agent on behalf of the Vendor, in each case solely with respect to the Subject Assets.

“**Court**” means the Ontario Superior Court of Justice (Commercial List).

“**Data Site**” means the electronic data site with respect to information and material regarding the Subject Assets.

“**Deposit**” has the meaning ascribed thereto in Section 3.1(a).

“**Disclosed to the Purchaser**” means any information which no later than the date which is one (1) Business Day immediately before the Execution Date, is either: (a) delivered or made available to the Purchaser on the Data Site; (b) a Permitted Encumbrance that is registered (and/or notice of which is registered) against title to the Property; or (c) delivered to the Purchaser or the Purchaser’s solicitors.

“**Encumbrance**” means any 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.

“**Environment**” means the environment or natural environment as defined in any Environmental Laws and includes air, surface water, ground water, land surface, soil and subsurface strata.

“**Environmental Laws**” means Laws relating to the protection of human health and the Environment, and includes Laws relating to the storage, generation, use, handling, manufacture, processing, transportation, treatment, Release, remediation, management and disposal of Hazardous Substances.

“**Excise Tax Act**” means the *Excise Tax Act*, R.S.C., 1985, c. E-15, as amended, restated, supplemented or substituted from time to time.

“**Excluded Assets**” means those assets (in each case, as of the Closing Date) described in Schedule “B”.

“**Execution Date**” means the date of this Agreement as set out on the top of page 1 hereof.

“**FF&E**” means all tools, signs, furniture, machinery, equipment, personal or moveable property, chattels, furnishings and fixtures including shelves, counters, video cameras and equipment, security systems, point-of-sales systems and related appurtenances, telecommunications systems and related appurtenances, electric light fixtures, elevating devices and equipment, in each case to the extent owned, leased or licensed by the Vendor, if any.

“**Filing Date**” means June 22, 2017.

“**Financial Advisor**” means BMO Nesbitt Burns Inc.

“**Governmental Authorities**” means governments, regulatory authorities, governmental departments, agencies, agents, commissions, bureaus, officials, ministers, Crown corporations, courts, bodies, boards, tribunals or dispute settlement panels or other law or regulation-making organizations or entities: (a) having or purporting to have jurisdiction on behalf of any nation, province, territory or state or any other geographic or political subdivision of any of them; or (b) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power.

“**GST/HST and QST Certificate, Undertaking and Indemnity**” mean the Purchaser’s certificate to be in substantially the form set out in Schedule “E”.

“**Hazardous Substances**” means pollutants, contaminants, wastes of any nature, hazardous substances, hazardous materials, toxic substances, prohibited substances, dangerous substances or dangerous goods regulated by or under Environmental Laws.

“**Holdings**” has the meaning ascribed thereto in Section 5.3.

“**Initial Order**” means the Initial Order granted by the Court on June 22, 2017 pursuant to which the Sears Group were granted protection from their creditors under the CCAA (as amended, restated, supplemented and/or modified from time to time).

“**Interim Period**” means the period between the close of business on the Execution Date and the Closing on the Closing Date.

“**Inventory**” includes all inventory, stock, supplies and all other items owned by the Vendor and located at the Property.

“**Joint Direction**” has the meaning ascribed thereto in Section 3.2(e).

“**Lands**” means the lands and premises legally described in Schedule “A”.

“**Laws**” means any and all Applicable Laws, including all statutes, codes, ordinances, decrees, rules, regulations, municipal by-laws, judicial or arbitral or administrative or ministerial or departmental or regulatory judgments, orders, decisions, ruling or awards, and general principles of common and civil law and equity, binding on or affecting the Person referred to in the context in which the word is used.

“**Monitor**” means FTI Consulting Canada Inc., in its capacity as Court-appointed monitor of the Sears Group pursuant to the Initial Order and not in its personal capacity.

“**Monitor’s Certificate**” means the certificate to be filed with the Court by the Monitor certifying receipt of (i) confirmation from the Purchaser and the Vendor that all conditions of Closing in Sections 7.1, 7.2 and 7.3 of this Agreement have been satisfied or waived and (ii) the Purchase Price and any Taxes payable to the Vendor and that are not self-assessed and remitted by the Purchaser.

“**Notice**” has the meaning ascribed thereto in Section 8.15.

“**Off-Title Compliance Matters**” means open permits or files, work orders, deficiency notices, directives, notices of violation, non-compliance and/or complaint and/or other outstanding matters or matters of non-compliance with the zoning and/or other requirements of any Governmental Authorities or any open building permits and Orders relating to any of the foregoing.

“**Offer**” has the meaning ascribed thereto in Recital D.

“**Orders**” means orders, injunctions, judgments, administrative complaints, decrees, rulings, awards, assessments, directions, instructions, penalties or sanctions issued, filed or imposed by any Governmental Authority or arbitrator.

“**Outside Date**” means July 24, 2018.

“**PE Assumption Agreements**” has the meaning ascribed thereto in Section 5.3.

“**Permitted Encumbrances**” means, collectively: (a) any Encumbrances resulting from the Purchaser’s actions; and (b) the items identified in Schedule “H” hereto.

“**Person**” means an individual, partnership, corporation, trust, unincorporated organization, company, government, or any department or agency thereof, and the successors and assigns thereof or the heirs, executors, administrators or other legal representatives of an individual.

“**Plans**” means all documentation in the Vendor’s possession and located on the Property on the Closing Date or located on the Execution Date in the electronic data room and monitored by the Financial Advisor relevant to the construction of the Buildings including, working drawings, detail drawings, shop drawings, approved municipal plans, structural, mechanical, electrical and engineering plans, site plans, surveys, reference or topographical plans, other documentation prepared to illustrate or define a particular aspect of the Buildings, consultants' contracts, construction contracts, and plans submitted with all building permits issued for the Property.

“**Property**” means, collectively, the Lands and the Buildings.

“**Purchase Price**” has the meaning ascribed thereto in Section 3.1.

“**Purchaser**” has the meaning ascribed thereto on page 1 hereof.

“**QST**” means the Québec Sales Tax exigible pursuant to *An Act respecting the Québec Sales Tax*.

“**Realty Tax Appeals**” has the meaning ascribed thereto in Section 4.3(a).

“**Realty Tax Refunds**” has the meaning ascribed thereto in Section 4.3(b).

“**Release**” has the meaning prescribed in any Environmental Laws and includes any release, spill, leak, pumping, pouring, emission, emptying, discharge, injection, escape, leaching, disposal, dumping, deposit, spraying, burial, abandonment, incineration, seepage, placement or introduction.

“**SISP**” means the Sale and Investment Solicitation Process approved by the SISP Order (as amended, restated, supplemented and/or modified from time to time).

“**SISP Order**” means the Order granted by the Court on the SISP Order Date (as amended, restated, supplemented and/or modified from time to time), which, among other things, approved the SISP.

“**SISP Order Date**” means July 13, 2017.

“**Subject Assets**” means all of the right, title and interest of the Vendor, if any, in and to: (a) the Property; (b) the Realty Tax Appeals; (c) the Assumed Contracts; (d) the Warranties; and (e) all Inventory, FF&E and Excluded Assets left on the Property on the Closing Date, but excludes, the Vendor’s right, title and interest in and to each of the other Excluded Assets and any and all other assets of the Vendor relating to the Property not included in the foregoing.

“**Taxes**” means taxes, duties, fees, premiums, assessments, imposts, levies and other similar charges imposed by any Governmental Authority under applicable Laws, including all interest, penalties, fines, additions to tax or other additional amounts imposed by any Governmental Authority in respect thereof, and including those levied on, or measured by, or referred to as, income, gross receipts, profits, capital, transfer, land transfer, registration, sales, goods and services, harmonized sales, use, value-added, excise, stamp, withholding, business, franchising,

property, development, occupancy, all surtaxes, all customs duties and import and export taxes, countervail and anti-dumping, and all licence, franchise and registration fees.

“**Transaction**” means collectively the transactions contemplated in this Agreement.

“**Vendor**” has the meaning ascribed thereto on page 1 hereof.

“**Warranties**” means any existing warranties and guarantees in favour of the Vendor in connection with the construction, condition or operation of the Buildings or any component thereof or any improvements made to the Buildings or any component thereof (other than the Excluded Assets) which are assignable without the consent of the counterparty thereto.

ARTICLE 2 SALE TRANSACTION

2.1 Offer and Acceptance

- (a) Subject to the terms of this Agreement, the Initial Order and the SISP Order, the Vendor hereby agrees to sell, assign and transfer to the Purchaser, and the Purchaser hereby agrees to purchase and assume from the Vendor, the Subject Assets on the Closing Date in accordance with the terms and conditions of this Agreement.
- (b) The Offer shall be irrevocable by the Purchaser until 5:00 p.m. (Toronto time) on _____, 2018.
- (c) Upon acceptance of this Offer by the Vendor, this Offer shall constitute a binding agreement to acquire the Subject Assets, on the terms of this Agreement.

2.2 As Is, Where Is

Notwithstanding the foregoing or anything else contained herein or elsewhere, the Purchaser acknowledges and agrees in favour of the Vendor that as of the Execution Date and the Closing Date:

- (a) the Purchaser is purchasing the Subject Assets (including the state of title thereto and/or the state of any Encumbrances and Permitted Encumbrances) and accepting and assuming the Subject Assets on an “as is, where is” basis, without any written or oral statements, representations, warranties, promises or guaranties of any nature or kind whatsoever, either legal or conventional, express or implied (by operation of law or otherwise), as to the condition of any of the Subject Assets, the Permitted Encumbrances, the rentable area of the Buildings, the existence of any default on the part of the Vendor, the physical, environmental or other condition of, in, on, under or in the vicinity of the Property, the use permitted at the Property, the existence of any Encumbrance and/or Off-Title Compliance Matters affecting the Subject Assets, or any other aspects of any of the Subject Assets and the Permitted Encumbrances, the structural integrity or any other aspect of the physical condition of any Subject Assets, the conformity of any Building to any Plans or specifications (including, but not limited to, any Plans and specifications that may have been or which may be provided to the Purchaser), compliance with Environmental Laws,

the conformity of the Property to past, current or future applicable zoning or building code requirements or other applicable Laws, the existence of soil instability, past soil repairs, soil additions or conditions of soil fill or any other matter affecting the stability or integrity of the Lands, or any Building situated on or as part of the Property, the sufficiency of any drainage, whether the Property is located wholly or partially in a flood plain or a flood hazard boundary or similar area, the existence or non-existence of underground and/or above ground storage tanks, the availability of public utilities, access, parking and/or services for the Property, the fitness or suitability of the Property for occupancy or any intended use (including matters relating to health and safety), the potential for further development of the Property, the existence of land use, zoning or building entitlements affecting the Property, the presence, release or use of wastes of any nature, Hazardous Substances, pollutants, contaminants or other regulated substances in, under, on or about the Property or any neighbouring lands; and without limiting the foregoing, any and all conditions or warranties expressed or implied pursuant to the *Sale of Goods Act* (Ontario) or similar legislation in other jurisdictions will not apply and are hereby waived by the Purchaser and the Parties agree to exclude the effect of the legal warranty provided for by Article 1716 of the Civil Code of Québec and that the Purchaser is purchasing the Subject Assets at its own risk within the meaning of Article 1733 of the Civil Code of Québec;

- (b) on Closing, the Subject Assets shall be subject to, without limitation, the Permitted Encumbrances;
- (c) any disclosure in respect of any of the Subject Assets was made available to the Purchaser solely as a courtesy but the Purchaser is not entitled to rely on such disclosure, and it is expressly acknowledged by the Purchaser that no written or oral statement, representation, warranty, promise or guarantee of any nature or kind whatsoever, either legal or conventional, express or implied (by operation of law or otherwise), is made by the Vendor and/or the Monitor and/or their respective legal counsel, the Financial Advisor or other advisors or representatives as to the accuracy, currency or completeness of any such disclosure, and each of them expressly disclaims any and all liabilities with respect to such disclosure and any and all errors therein or omissions therefrom;
- (d) the Purchaser hereby unconditionally and irrevocably waives any and all actual or potential rights or Claims the Purchaser might have against the Vendor pursuant to any warranty, legal or conventional, express or implied, of any kind or type relating to the Subject Assets or any other assets or any other aspect of the Transaction. Such waiver is absolute, unlimited and includes, but is not limited to, waiver of express warranties, implied warranties, any warranties at law and/or in equity, warranties of fitness for a particular use, warranties of merchantability, warranties of occupancy, strict liability and Claims of every kind and type, including, but not limited to, Claims regarding defects, whether or not discoverable, product liability Claims, or similar Claims, and to all other extent or later created or conceived of strict liability or strict liability type Claims and rights;
- (e) the Purchaser conducted its own independent review, inspection, diligence and investigations and forming its own independent opinions and conclusions in respect

of the Subject Assets. The Purchaser's decision to make this Offer and enter into this Agreement was made of its own accord without reference to or reliance upon any disclosure in respect of any of the Subject Assets. The Purchaser acknowledges having been given a reasonable and adequate opportunity to conduct its own independent diligence prior to entering in this Agreement;

- (f) the Vendor shall not be responsible for making any repairs, replacements, renovations, alterations, improvements or upgrades or undertaking any remediation to address a Release in or to the Property or any part thereof, and it shall be the sole responsibility of the Purchaser to make, at the Purchaser's sole cost, any repairs, replacements, renovations, alterations, improvements and upgrades in or to the Property following Closing as may be required by the Purchaser to make the Property suitable for its purposes and to undertake any required, necessary, or desired remediation to address a Release at, on, under or migrating from the Property or any part thereof;
- (g) the Subject Assets may be subject to certain Off-Title Compliance Matters, municipal requirements, including building or zoning by-laws and regulations, easements or servitudes for hydro, gas, telephone affecting the Subject Assets, and like services to the Property, and restrictions and covenants which run with the land, including but not limited to the Permitted Encumbrances. Without limiting the foregoing, the Vendor shall not be responsible for rectification of any matters disclosed by any Governmental Authority or quasi-governmental authority having jurisdiction and the Purchaser shall accept the Subject Assets subject to such matters;
- (h) the Purchaser shall accept full responsibility for all conditions related to the Property, and the Purchaser shall comply with all orders relating to the condition of the Property issued by any competent Governmental Authority, including any order issued against the Vendor including without limitation, any non-compliance with Environmental Laws or relating to the existence of any Hazardous Substance; and
- (i) if any statement, error or omission shall be found in the particulars of the legal and/or the Subject Assets' description, the same shall not annul the sale or entitle the Purchaser to be relieved of any obligation hereunder, nor shall any compensation be allowed to the Purchaser in respect thereof.

The Vendor has no and shall have no obligations or responsibility to the Purchaser after Closing with respect to any matter relating to the Subject Assets or the condition thereof save and only to the extent expressly provided in this Agreement. The Purchaser shall be responsible for and hereby indemnifies and saves harmless the Vendor and its employees, directors, officers, appointees and agents from any costs, including legal and witness costs, claims, demands, civil actions, prosecutions, or administrative hearings, fines, judgments, awards, including awards of costs, that may arise as a result of the condition of the Property, any order issued by any competent Governmental Authority in connection with the condition of the Property, or any loss, damage, or injury caused either directly or indirectly as a result of the condition of the Property including, without limitation, non-compliance with Environmental Laws or the existence of any Hazardous Substances. This Section 2.2

shall survive and not merge on Closing and all Closing Documents shall incorporate this Section 2.2 by reference.

ARTICLE 3 PURCHASE PRICE

3.1 Purchase Price

The Purchase Price for the Subject Assets shall be [REDACTED] [REDACTED] (the “**Purchase Price**”) exclusive of HST/GST and QST. Subject only to adjustment in accordance with this Agreement, the Purchase Price shall be paid to the Vendor as follows:

- (a) as to the sum of [REDACTED] [REDACTED] (the “**Deposit**”), by wire transfer of immediately available funds payable to or to the order of the Monitor, in trust, or as it may otherwise direct in writing, on or prior to 5:00 p.m. (Toronto time) within twenty-four (24) hours of the signature of this Offer by the Vendor, to be held in trust as a deposit and invested in accordance with the provisions of Section 3.2 below pending the completion or other termination of this Agreement; provided that if the Deposit is not delivered to the Monitor, in trust, on or prior to 5:00 p.m. (Toronto time) within twenty-four (24) hours of the signature of this Offer by the Vendor, the Vendor may terminate this Agreement by notice to the Purchaser; and
- (b) as to the balance of the Purchase Price (the “**Balance**”), subject only to the adjustments made in accordance with this Agreement, by wire transfer of immediately available funds payable to the Monitor or as it may direct on the Closing Date.

3.2 Deposit

- (a) Following receipt, the Deposit shall be invested by the Monitor, in trust, in an interest bearing account or term deposit or guaranteed investment certificate pending completion of the Transaction or earlier termination or non-completion of this Agreement. In holding and dealing with the Deposit and any interest earned thereon pursuant to this Agreement, the Monitor is not bound in any way by any agreement other than this Section 3.2, and the Monitor shall not and shall not be considered to assume any duty, liability or responsibility other than to hold the Deposit, and any interest earned thereon, in accordance with the provisions of this Section 3.2, and to pay the Deposit, and any interest earned thereon, to the Person becoming entitled thereto in accordance with the terms of this Agreement, except in the event of a dispute between the Parties as to entitlement to the Deposit. In the case of such dispute, the Monitor may, in its sole, subjective and unreviewable discretion, or shall, if requested by any of the Parties, pay the Deposit and any and all interest earned thereon into Court, whereupon the Monitor shall have no further obligations relating to the Deposit or any interest earned thereon. The Monitor shall not, under any circumstances, be required to verify or determine the validity of any notice or other document whatsoever delivered to the Monitor and the Monitor is hereby relieved of any liability or responsibility for any Claims which may arise as a result of the acceptance by the Monitor of any such notice or other document.

- (b) If the Transaction is completed, the Deposit shall be paid to the Vendor forthwith on Closing and applied to the Purchase Price. Interest on the Deposit shall accrue from the date of deposit with the Monitor until the Closing or other termination or non-completion of this Agreement. If the Transaction is successfully completed, all interest earned on the Deposit until Closing shall be paid to the Purchaser following Closing or applied to the Purchase Price.
- (c) If the Transaction is not completed by reason of a default of the Purchaser, the full amount of the Deposit together with all accrued interest earned thereon shall be paid to the Vendor as liquidated damages (and not as a penalty) to compensate the Vendor for the expenses incurred and the delay caused and opportunities foregone as a result of the failure of the Transaction to close. The entitlement of the Vendor to receive and retain the Deposit together with all accrued interest earned thereon, if any, in such circumstances shall not limit the Vendor's right to exercise any other rights or remedies, which the Vendor may have against the Purchaser in respect of such breach or default.
- (d) If the Transaction is not completed by any reason other than the default of the Purchaser, the full amount of the Deposit together with all accrued interest earned thereon shall be paid to the Purchaser as full and final settlement and the Purchaser shall have no further recourse against the Vendor.
- (e) In holding and dealing with the Deposit and any interest earned thereon pursuant to this Agreement, the Monitor shall release the Deposit and any interest earned thereon to the Persons becoming entitled thereto in accordance with the provisions of (i) Section 7.8(c); or (ii) this Section 3.2 as evidenced by a joint direction in writing executed by the Vendor and the Purchaser (the "**Joint Direction**") except in the event of a dispute between the Parties as to entitlement to the Deposit and any interest earned thereon in which event the Monitor may, in its sole, unfettered and unreviewable discretion, pay the Deposit and any interest earned thereon into Court, whereupon the Monitor shall have no further obligations relating to the Deposit and any interest earned thereon or otherwise hereunder.
- (f) The Monitor shall not, under any circumstances, be required to verify or determine the validity of the Joint Direction or any written confirmation received pursuant to Section 7.8(b) and the Monitor is hereby relieved of any liability or responsibility for any loss or damage which may arise as the result of the acceptance by the Monitor of the Joint Direction.
- (g) Notwithstanding the foregoing or anything else contained herein or elsewhere, each of the Vendor and the Purchaser acknowledges and agrees that: (i) the Monitor's obligations hereunder are and shall remain limited to those specifically set out in this Article 3; and (ii) FTI Consulting Canada Inc. is acting solely in its capacity as the Court-appointed Monitor of the Vendor in the CCAA Proceedings and not in its personal or corporate capacity, and the Monitor has no liability in connection with this Agreement whatsoever, in its personal or corporate capacity or otherwise.
- (h) The Parties acknowledge that the Monitor may rely upon the provisions of this Section 3.2 notwithstanding that the Monitor is not a party to this Agreement. The

provisions of this Section 3.2 shall survive the termination or non-completion of the Transaction.

3.3 Purchase Price Allocation

The allocation of the Purchase Price as between the Subject Assets is as set out on Schedule “C”. The Vendor and the Purchaser shall adopt such allocations for the purposes of all tax returns, elections and filings respectively made by them or on their behalf. The Vendor and the Purchaser shall each use reasonable commercial efforts to agree, by the Closing Date, upon the allocation of the Purchase Price between the Lands and the Buildings for the Property. If no such agreement is reached by Closing, each of the Vendor and the Purchaser shall be free to make its own allocation.

3.4 Trade-Marks

Notwithstanding the foregoing or anything else contained herein or elsewhere, the Purchaser acknowledges and agrees that: (a) no signs, trade-marks, trade-names, logos, commercial symbols, business names or other intellectual property rights identifying “Sears” are conveyed or intended to be conveyed to the Purchaser as part of the Subject Assets; and (b) all right, title and interest of the Vendor in and to all of its existing signs, trade-marks, trade-names, logos, commercial symbols, business names or other intellectual property rights identifying “Sears” or containing the words “Sears” are hereby specifically reserved and excluded from the Subject Assets. Notwithstanding the foregoing or anything to the contrary, the Vendor shall not be obligated to remove any interior or exterior signs located at the Property, including those identifying “Sears” and the Vendor shall have no liability for any removal or destruction costs relating thereto and any such signs left on the Property on the Closing Date shall become the property of the Purchaser without a bill of sale, representation, warranty or other title documentation. This Section shall survive and not merge on Closing.

ARTICLE 4 ADJUSTMENTS

4.1 Statement of Adjustments and Absence of Post-Closing Adjustments

The Vendor shall prepare a statement of adjustments and deliver same with supporting documentation to the Purchaser no later than two (2) Business Days prior to the Closing Date. If the amount of any adjustments required to be made pursuant to this Agreement cannot be reasonably determined as of the Closing Date, an estimate shall be made by the Vendor as of the Closing Date based upon the best information available to the Parties at such time, each Party acting reasonably and such estimate shall serve as a final determination. The final form of statement of adjustments shall be satisfactory to the Monitor, acting reasonably. There shall be no further adjustments or readjustments after Closing of any amounts adjusted or intended to be adjusted on the statement of adjustments pursuant to this Agreement and the amounts set out on the statement of adjustments shall be final.

4.2 General Adjustments

- (a) The adjustments shall include realty taxes, local improvement rates and charges and, except as set out in this Agreement, other adjustments established by usual practice in the municipality in which the Property is located for the purchase and

sale of similar properties. In addition, the adjustments shall include the other matters referred to in this Agreement which are stated to be the subject of adjustment and shall exclude the other matters in this Agreement which are stated not to be the subject of adjustment.

- (b) From and after the Closing Date, the Purchaser shall be responsible for all expenses and shall be entitled to all revenue from the Subject Assets. The Vendor shall be responsible for all expenses and entitled to all revenue from the Subject Assets for that period prior to the Closing Date.
- (c) The Purchaser shall be responsible for and pay all applicable Taxes payable in connection with the transfer of any of the Subject Assets by the Vendor to the Purchaser.

4.3 Realty Tax Appeals

- (a) The Vendor and the Purchaser acknowledge that with respect to the Property the Vendor may have instituted certain appeals and/or claims in respect of realty taxes or assessments for certain periods prior to the Closing Date and possibly including the tax year in which the Closing Date occurs (all such appeals and any associated reassessments are hereinafter collectively referred to as the “**Realty Tax Appeals**”).
- (b) On Closing and provided all municipal taxes due are paid, in consideration of an additional adjustment in favour of the Vendor in the amount equal to 100% of any expected credit, refund and/or rebate which may arise from any of the Realty Tax Appeals (collectively, the “**Realty Tax Refunds**”) for any period that is prior to the Closing Date, the Vendor shall assign to the Purchaser all of its right, title and interest, if any, in and to such Realty Tax Refunds.

4.4 Utilities

- (a) The Purchaser shall not assume any contracts or agreements entered into by or on behalf of the Vendor for the supply of any utilities (including electricity, gas, water, fuel, telephone service, internet services, security and surveillance services or otherwise) at the Property. On or before the Closing Date, the Vendor shall terminate all of its contracts and agreements for the supply of any utilities to the Property. For the avoidance of doubt, there shall be no adjustment at Closing in respect of the payment of any utilities provided that there are no outstanding amounts owing by the Vendor in connection with such accounts for which the Purchaser would be liable. The provisions of this Section 4.4(a) shall survive and not merge on Closing.
- (b) From and after the Closing Date, any and all utility charges and other related fees payable for any of the Property, pursuant to any invoice or statement issued on or after the Closing Date, shall be the sole responsibility of the Purchaser, and there shall be no adjustments between the Vendor and the Purchaser of any utility charges or related fees paid by the Purchaser pursuant to any such invoice or statement issued on or after the Closing Date, with the exception of any costs for utilities that

were incurred before the Closing Date which shall be the responsibility of the Vendor.

ARTICLE 5 INTERIM PERIOD

5.1 Interim Period

- (a) The Vendor shall not be obligated to (i) remove any Inventory, FF&E or Excluded Assets and the Vendor shall have no liability for any removal or destruction costs relating thereto, or (ii) repair, renovate, alter, improve or upgrade the Property in any manner. Any Inventory, FF&E or Excluded Assets left on the Property on the Closing Date shall become the property of the Purchaser without a bill of sale, representation, warranty or other title documentation. This Section shall survive and not merge on Closing.
- (b) From and after the Execution Date, the Vendor will not agree to enter into any new Permitted Encumbrance without the consent of the Purchaser.
- (c) In the event that prior to the Closing Date all or a part of the Lands is expropriated or notice of expropriation or intent to expropriate all or a part of the Lands is issued by any Governmental Authority, the Vendor shall immediately advise the Purchaser thereof by Notice in writing. Notwithstanding the occurrence of any of the foregoing, the Purchaser shall complete the Transaction contemplated herein in accordance with the terms hereof without reduction of the Purchase Price and all compensation for expropriation shall be payable to the Purchaser and all right, title and interest of the Vendor to such amounts, if any, shall be assigned to the Purchaser on a without recourse basis.
- (d) The Subject Assets shall be and remain until Closing at the risk of the Vendor. In the event of material damage by fire or other hazard to the Subject Assets or any part thereof occurring before the Closing Date, the Vendor shall immediately advise the Purchaser thereof by Notice in writing. Notwithstanding the occurrence of any of the foregoing, the Purchaser shall complete the Transaction contemplated herein in accordance with the terms hereof without the reduction of the Purchase Price and the proceeds of any insurance actually paid or payable to the Vendor to a maximum of that portion of the Purchase Price allocated in Schedule "C" for the Subject Assets which are so damaged, shall be paid and/or assigned to the Purchaser.

5.2 Contracts

The Vendor covenants to terminate effective as of the Closing Date, at its sole cost and expense, all Contracts other than the Assumed Contracts and Permitted Encumbrances.

5.3 Permitted Encumbrances

The Purchaser shall provide such reasonable financial, business, organizational, managerial and other information and enter into such assumption agreements or deeds of re-hypothecation as the relevant party to a Permitted Encumbrance (the relevant party being a "**Holder**") shall require to

effect the assumption of the Permitted Encumbrances, as applicable, by the Purchaser (collectively, the “**PE Assumption Agreements**”). The Purchaser shall use reasonable efforts to assist the Vendor and shall co-operate with the Vendor (but at no additional cost to the Purchaser), as reasonably requested, to obtain from third parties a full release of the Vendor’s obligations under the Permitted Encumbrances, and shall provide such financial and other information and enter into such assumption agreements as such third parties may reasonably require, in form and substance acceptable to each of the parties thereto acting reasonably and without delay.

ARTICLE 6 REPRESENTATIONS, WARRANTIES & COVENANTS

6.1 Vendor’s Representations and Warranties

The Vendor represents and warrants to and in favour of the Purchaser that as of the Execution Date and as of Closing as to the following and acknowledges and confirms that the Purchaser is relying upon such representations and warranties in connection with the entering into of this Agreement:

- (a) the execution, delivery and performance by the Vendor of this Agreement has been duly authorized by all necessary corporate action on the part of the Vendor subject to the Approval and Vesting Order and authorization as is required by the Court;
- (b) the Vendor is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada); and
- (c) the Vendor is a registrant for the purposes of the tax imposed under Part IX of the *Excise Tax Act*.

6.2 Purchaser’s Representations and Warranties

The Purchaser represents and warrants to and in favour of the Vendor that as of the Execution Date and as of Closing as to the following and acknowledges and confirms that the Vendor is relying upon such representations and warranties in connection with the entering into of this Agreement:

- (a) the Purchaser has been duly formed or incorporated and is validly subsisting under the Laws of the jurisdiction of its formation or incorporation, and has all requisite corporate or other capacity, power and authority to carry on its business as now conducted by it and to own its properties and assets and is qualified to carry on business under the Laws of the jurisdictions where it carries on a material portion of its business;
- (b) the Purchaser is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada);
- (c) the Purchaser is a registrant for the purposes of the tax imposed under Part IX of the *Excise Tax Act*;
- (d) the execution, delivery and performance by the Purchaser of this Agreement:

- (i) has been duly authorized by all necessary corporate or other action on the part of the Purchaser;
 - (ii) does not (or would not with the giving of notice, the lapse of time or the happening of any other event or condition) require any consent or approval under, result in a breach or a violation of, or conflict with, any of the terms or provisions of its constating documents or by-laws or any contracts or instruments to which it is a party or pursuant to which any of its assets or property may be affected; and
 - (iii) will not result in the violation of any Laws;
- (e) this Agreement has been duly executed and delivered by the Purchaser and constitutes legal, valid and binding obligations of the Purchaser, enforceable against it in accordance with their respective terms subject only to any limitation under applicable Laws relating to (i) bankruptcy, winding-up, insolvency, arrangement and other similar Laws of general application affecting the enforcement of creditors' rights, and (ii) the discretion that a court may exercise in the granting of equitable remedies such as specific performance and injunction; and
- (f) the Purchaser has, and will have at Closing, all funds on hand necessary to pay the Purchase Price and any Taxes payable and that are not self-assessed and remitted by the Purchaser.

The Purchaser's representations and warranties shall survive Closing for a period of one (1) year thereafter.

6.3 Purchaser's Covenants

- (a) The Purchaser shall use commercially reasonable efforts to take all such actions as are within its power or control, and to use commercially reasonable efforts to cause other actions to be taken which are not within its power or control, so as to ensure compliance with each of the conditions and covenants set forth in Article 7 which are for the benefit of any other Party.
- (b) The Purchaser shall take any and all commercially reasonable steps in order to avoid the filing of an application for, or the issuance of any interim Order or other Order which would have the effect of delaying or preventing the Closing, and if any such interim Order or other Order is issued, the Purchaser shall take any and all steps to have it rescinded, revoked or set aside as soon as possible. For greater certainty, "any and all steps" shall include, committing to or effecting undertakings, a consent agreement, a hold separate arrangement, a consent Order, a hold separate Order, a sale, a divestiture, a disposition or other action, in any such case without any reduction of the Purchase Price.
- (c) The Purchaser will promptly notify the Vendor and the Vendor will promptly notify the Purchaser upon:

- (i) becoming aware of any Order or any complaint requesting an Order restraining or enjoining the execution of this Agreement or the consummation of the Transactions; or
- (ii) receiving any notice from any Governmental Authority of its intention:
 - (A) to institute a suit or proceeding to restrain or enjoin the execution of this Agreement or the consummation of the Transaction; or
 - (B) to nullify or render ineffective this Agreement or such Transaction.

6.4 Vendor's Covenants

The Vendor agrees, that subject to the Initial Order, the SISP Order and the Approval and Vesting Order, to thereafter take all commercially reasonable actions as are within its power to control, and to use its commercially reasonable efforts to cause other actions to be taken which are not within its power to control, so as to fulfill the conditions set forth in Article 7 which are for the benefit of the Vendor or the mutual benefit of the Parties.

6.5 Tax Matters

In addition to the representations and warranties set forth in Section 6.2, the Purchaser further warrants, represents and covenants to the Vendor, and acknowledges and confirms that the Vendor is relying on such representations and warranties, indemnities and covenants in connection with the entering into of this Agreement, that:

- (a) the Purchaser is duly registered under Subdivision (d) of Division V of Part IX of the *Excise Tax Act* with respect to the goods and services tax and harmonized sales tax and under Division I of Chapter VIII of Title I of *An Act respecting the Québec Sales Tax* with respect to the Québec sales tax which registrations shall be in full force and effect and shall not have been cancelled or revoked on the Closing Date;
- (b) the Purchaser has entered into this Agreement and is purchasing the Subject Assets on the Closing Date, as principal for its own account and not as an agent, nominee, trustee or otherwise on behalf of another Person;
- (c) to the extent permitted under subsection 221(2) of the *Excise Tax Act* and any equivalent or corresponding provision under any applicable provincial or territorial legislation, the Purchaser shall self-assess and remit directly to the appropriate Governmental Authority any Taxes including goods and services tax or harmonized sales tax, as the case may be, imposed under the *Excise Tax Act* and any similar value added or multi-staged tax or sales tax imposed by any applicable provincial or territorial legislation payable in connection with the purchase and sale transaction of the Subject Assets, including the transfer of the Vendor's real or immovable property interests in the corresponding Subject Assets;
- (d) on Closing, the Purchaser will pay, in addition to the Purchase Price, and the Vendor will collect, any Taxes including transfer taxes as well as goods and services tax or harmonized sales tax, as the case may be, imposed under the *Excise*

Tax Act and any similar value added or multi-staged tax or sales tax exigible on the purchase and sale transaction of the Subject Assets, except to the extent that the Purchaser is permitted under subsection 221(2) of the *Excise Tax Act* and any equivalent or corresponding provision under any applicable provincial or territorial legislation to self-assess and remit such Taxes directly to the appropriate Governmental Authority, and the Purchaser shall have executed and delivered a certificate, undertaking and indemnity which includes its certification of its registration numbers issued under the *Excise Tax Act* and *An Act respecting the Québec Sales Tax*, and incorporates the provisions of this Section 6.5 (the “**GST/HST and QST Certificate, Undertaking and Indemnity**”);

- (e) the Purchaser shall make and file all required return(s) in accordance with the requirements of subsection 228(4) of the *Excise Tax Act* and any equivalent or corresponding provision under any applicable provincial or territorial legislation; and
- (f) the Purchaser shall indemnify and save the Vendor harmless from and against any and all Taxes including, transfer taxes and goods and services tax or harmonized sales tax, as the case may be, imposed under the *Excise Tax Act* and any similar value added or multi-staged tax or sales tax, penalties, costs and/or interest which may become payable by or assessed against the Vendor as a result of any failure by the Vendor to collect and remit any goods and services tax or harmonized sales tax payable under the *Excise Tax Act* or any similar value added or multi-staged tax or sales tax and applicable on the sale and conveyance of the Subject Assets by the Vendor to the Purchaser or as a result of any inaccuracy, misstatement, or misrepresentation made by the Purchaser in connection with any matter raised in this Section 6.5 or in the GST/HST and QST Certificate, Undertaking and Indemnity or any failure by the Purchaser to comply with the provisions of this Section 6.5 or the GST/HST and QST Certificate, Undertaking and Indemnity.

The provisions of this Section 6.5 shall survive and not merge on Closing.

6.6 Intentionally Deleted

6.7 Survival of Covenants,

Except as otherwise expressly provided in this Agreement to the contrary, no representations, warranties, covenants or agreements of the Vendor or the Purchaser in this Agreement shall survive the Closing.

ARTICLE 7 CLOSING

7.1 Conditions of Closing for the Benefit of the Purchaser

The Purchaser’s obligation to complete the purchase and sale of the Subject Assets is subject to the following conditions to be fulfilled or performed, on or before the Closing Date, which conditions are for the exclusive benefit of the Purchaser and may be waived, in whole or in part, by the Purchaser:

- (a) the representations and warranties of the Vendor in Section 6.1 shall be true and correct as of the Closing Date with the same force and effect as if such representations and warranties were made on and as of such date;
- (b) the Vendor shall have performed and complied with all of the other terms and conditions in this Agreement on its part to be performed or complied with at or before Closing in all material respects and shall have executed and delivered or caused to have been executed and delivered to the Purchaser at Closing all the Closing Documents contemplated or required to be so executed and delivered in this Agreement;
- (c) vacant possession of the Property shall have been given to the Purchaser subject to the Assumed Contracts and Permitted Encumbrances; and
- (d) the Purchaser shall have received the Closing Documents.

7.2 Conditions of Closing for the Benefit of the Vendor

The Vendor's obligation to complete the purchase and sale of the Subject Assets is subject to the following conditions to be fulfilled or performed, on or before the Closing Date, which conditions are for the exclusive benefit of the Vendor and may be waived, in whole or in part, by the Vendor:

- (a) the representations and warranties of the Purchaser in Section 6.2 shall be true and correct as of the Closing Date with the same force and effect as if such representations and warranties were made on and as of such date;
- (b) the Purchaser shall have paid the Balance in its entirety to the Monitor and shall have performed and complied with all of the terms and conditions in this Agreement on its part to be performed or complied with at or before Closing in all material respects and shall have executed and delivered or caused to have been executed and delivered to the Vendor at Closing all the documents contemplated required to be so executed and delivered in this Agreement; and
- (c) the Vendor shall have received the Closing Documents.

7.3 Conditions of Closing for the Mutual Benefit of the Parties

The obligations of either the Vendor or the Purchaser to complete the purchase and sale of the Subject Assets are subject to the following conditions to be fulfilled or performed, on or before the Closing Date, which conditions are for the mutual benefit of each of the parties and may only be waived, in whole or in part, by agreement of the parties to this Agreement:

- (a) Intentionally Deleted;
- (b) the Approval and Vesting Order, substantially in the form attached hereto as Schedule "D", shall have been issued and entered by the Court and any appeal or motion for leave to appeal related to the Approval and Vesting Order shall have been fully disposed of with no further right of appeal or leave to appeal;

- (c) there shall be no Order against either of the parties or involving any of the Subject Assets enjoining, preventing or restraining the completion of the Transaction; and
- (d) the Monitor shall have delivered the Monitor's Certificate.

7.4 Conditions Not Fulfilled

If any of the conditions contained in Sections 7.1, 7.2. or 7.3 hereof is not fulfilled on or prior to the Closing Date and such non-fulfillment is not directly or indirectly as a result of any action or omission of the applicable party benefitting from such condition, then the party entitled to the benefit of such condition may, in its sole discretion and without limiting its rights or remedies available at law or in equity:

- (a) terminate this Agreement by notice to the other parties and the Monitor, in which event the Purchaser, Vendor and Monitor shall be released from their obligations under this Agreement to complete the Transaction and the Deposit and all interest accrued thereon shall forthwith be returned to the Purchaser without deduction; or
- (b) waive compliance with any such condition without prejudice to the right of termination in respect of the non-fulfillment of any other condition.

7.5 Closing Documents

On or before Closing, subject to the provisions of this Agreement, the Vendor and the Purchaser shall, execute or cause to be executed and shall deliver or cause to be delivered into escrow (in a sufficient number of copies or counterparts for the Purchaser and the Vendor and, where applicable, in registerable form), the following, which shall be in form and substance reasonably satisfactory to the Purchaser and the Vendor and their respective solicitors:

- (a) By the Vendor and the Purchaser:
 - (i) a deed of sale executed by the Vendor and the Purchaser, substantially in the form attached as Schedule "K";
 - (ii) the Assignment and Assumption of Realty Tax Appeals;
 - (iii) the Assignment and Assumption of Assumed Contracts and Permitted Encumbrances; and
 - (iv) such other documents as each Party or each Party's solicitors shall reasonably require in good faith in accordance with this Agreement or as may be required under applicable Laws.
- (b) By the Vendor:
 - (i) the Approval and Vesting Order;
 - (ii) the statement of adjustments evidencing the adjustments made at Closing;

- (iii) a certificate signed by a senior officer of the Vendor confirming that the Vendor is not a non-resident of Canada within the meaning of section 116 of the *Income Tax Act* (Canada);
 - (iv) an assignment of Warranties, to the extent there are any and are in the Vendor's possession and located on the Property and to the further extent that they are assignable without cost or consent;
 - (v) all master keys relating to the Buildings, if any, all security cards and access cards relating to the Buildings, if any, and all combinations and passwords to vaults and combination locks and other security features located in the Buildings, if any, in each case, to the extent in the possession of the Vendor;
 - (vi) such other documents as the Purchaser or the Purchaser's solicitors shall reasonably require in good faith in accordance with this Agreement or as may be required under applicable Laws.
- (c) By the Purchaser:
- (i) the Balance plus all Taxes thereon;
 - (ii) GST/HST and QST Certificate, Undertaking and Indemnity;
 - (iii) an assignment of this Agreement, if applicable, in accordance with Section 8.22;
 - (iv) where applicable, the PE Assumption Agreements along with any deliveries to the Holders required in respect of the Assumed Contracts or Permitted Encumbrances; and
 - (v) such other documents as the Vendor or the Vendor's solicitors shall reasonably require in good faith in accordance with this Agreement or as may be required under applicable Laws.

7.6 Closing Date

- (a) The completion of the Transaction contemplated by this Agreement (the "**Closing**") shall take place at 10:00 a.m. (Toronto time) on the Closing Date at the Toronto office of Osler, Hoskin and Harcourt LLP, or at such other place as may be agreed upon by the Vendor and the Purchaser in writing.
- (b) Subject to satisfaction or waiver by the relevant Party or Parties, as applicable, of the conditions of closing in its favour contained in this Article 7, at Closing, the Purchaser will pay or satisfy the Purchase Price in accordance with Article 3, and the Closing of the Transaction will take effect, pursuant to the Approval and Vesting Order, upon delivery of the Monitor's Certificate.

7.7 Confirmation of Satisfaction of Conditions

On the Closing Date, subject to satisfaction or waiver by the relevant Party or Parties, as applicable, of the conditions of Closing in its favour contained in Article 7, the parties or their respective solicitors shall confirm to the Monitor the satisfaction of all conditions to Closing and upon the Monitor receiving the Balance and any Taxes payable to the Vendor and that are not self-assessed and remitted by the Purchaser, the Monitor shall deliver copies of the Monitor's Certificate to the Parties hereto and release the Deposit and the Balance and any Taxes payable to the Vendor and that are not self-assessed and remitted by the Purchaser to the Vendor and following Closing file the Monitor's Certificate with the Court.

7.8 Closing

- (a) Subject always to Section 3.2 hereof, the Deposit and the Balance and any Taxes payable to the Vendor and that are not self-assessed and remitted by the Purchaser shall be held by the Monitor, in trust in a separate interest bearing account, pending completion of the Transaction or earlier termination of this Agreement. In holding and dealing with the funds paid to the Monitor in trust and any interest earned thereon pursuant to this Agreement, the Monitor is not bound in any way by any agreement other than Section 3.2 and this Section 7.8 and the Monitor shall not assume or be deemed to assume any duty, liability or responsibility other than to hold the trust funds and any interest earned thereon in accordance with the provisions of this Section 7.8 and to pay the funds, and any interest earned thereon, to the Party becoming entitled thereto in accordance with the terms of this Agreement, except in the event of a dispute between the parties as to entitlement to the trust funds, of which the Monitor has been given notice in writing, the Monitor may, in its sole, subjective and unreviewable discretion, or shall, if requested by either of the parties, pay the trust funds and any and all interest earned thereon into court, whereupon the Monitor shall have no further obligations relating to the trust funds or any interest earned thereon or otherwise hereunder.
- (b) The Monitor shall not, under any circumstances, be required to verify or determine the validity of any written notice or other document whatsoever delivered to the Monitor in connection with the trust funds and the Monitor is hereby relieved of any liability or responsibility for any loss or damage, which may arise as a result of the acceptance by the Monitor of any such written notice or other document.
- (c) On or before Closing, the parties' respective solicitors shall exchange the Closing Documents in escrow and the Balance and any Taxes payable to the Vendor and that are not self-assessed and remitted by the Purchaser shall be delivered to or paid to the order of the Monitor, in trust, and the Deposit and the Balance and any Taxes payable to the Vendor and that are not self-assessed and remitted by the Purchaser shall remain in escrow with the Monitor until the Monitor has delivered the Monitor's Certificate to the Vendor and the Purchaser, upon the occurrence of which the escrow shall be lifted, the Closing Documents shall take effect as of the date and time set out in the Monitor's Certificate, the entire amount of the Deposit and the Balance and any Taxes payable to the Vendor and that are not self-assessed and remitted by the Purchaser shall be forthwith released to the Vendor and the Closing shall be deemed to have occurred as of such date and time set out in the

Monitor's Certificate and fully signed Closing Documents shall be released to each of the Vendor and Purchaser.

- (d) The parties acknowledge that, notwithstanding that the Monitor is not a party to this Agreement, the Monitor may rely upon the provisions of Section 3.2 hereof and this Section 7.8.
- (e) This Section 7.8 shall survive the Closing or termination of this Agreement.

7.9 Filings and Authorizations

- (a) Each of the Vendor and the Purchaser, as promptly as practicable after the execution of this Agreement, will make, or cause to be made, all such filings and submissions under all Laws applicable to it, as may be required for it to consummate the purchase and sale of the Subject Assets in accordance with the terms of this Agreement (other than the motion seeking approval of the Transaction and the issuance of the Approval and Vesting Order). The Vendor and the Purchaser shall co-ordinate and cooperate with one another in exchanging such information and supplying such assistance as may be reasonably requested by each in connection with the foregoing including, providing each other with all notices and information supplied to or filed with any Governmental Authority (except for notices and information which the Vendor or the Purchaser, in each case acting reasonably, considers highly confidential and sensitive which may be filed on a confidential basis), and all notices and correspondence received from any Governmental Authority.
- (b) The Parties acknowledge and agree that the Monitor shall be entitled to deliver to the parties and file the Monitor's Certificate with the Court, without independent investigation, upon receiving written confirmation from the Vendor and the Purchaser or their respective solicitors that all conditions of Closing have been satisfied or waived and upon receipt of the Balance and any Taxes payable to the Vendor and that are not self-assessed and remitted by the Purchaser, and the Monitor shall have no liability to the Vendor or the Purchaser or any other Person as a result of filing the Monitor's Certificate.

7.10 Court Matters

- (a) The Vendor shall consult and co-ordinate with the Purchaser and their respective legal advisors regarding the parties upon whom the motion seeking the Approval and Vesting Order will be served.
- (b) The Purchaser shall provide such information and take such actions as may be reasonably requested by the Vendor to assist the Vendor in obtaining the Approval and Vesting Order and any other order of the Court reasonably necessary to consummate the transactions contemplated by this Agreement, including, any Court ordered assignment of the Contracts.
- (c) Notwithstanding anything else contained in this Agreement or elsewhere, the Purchaser acknowledges and agrees that the Vendor cannot guarantee that it will

obtain the Approval and Vesting Order and the Approval and Vesting Order may or may not be granted by the Court.

7.11 Termination

This Agreement may, by notice in writing given at or prior to Closing, be terminated:

- (a) by mutual consent of the Purchaser and the Vendor (in respect of which the Vendor shall require the consent of the Monitor to provide its consent) or on further order of the Court;
- (b) by the Purchaser if any of the conditions in Section 7.1 have not been satisfied on or before the Closing Date and the Purchaser has not waived such condition;
- (c) by the Vendor with the consent of the Monitor if any of the conditions in Section 7.2 have not been satisfied on or before the Closing Date and the Vendor has not waived such condition; or
- (d) by either Party if any of the conditions precedent in Section 7.3 have not been satisfied on or before the Closing Date and the parties have not waived such condition; or
- (e) by the Vendor (with the consent of the Monitor) or the Purchaser if Closing has not occurred on or before the Outside Date, provided that the Vendor or the Purchaser may not terminate this Agreement pursuant to this Section 7.11(e) if it has failed to perform any one or more of its respective obligations or covenants under this Agreement and the Closing has not occurred because of such failure.

ARTICLE 8 OTHER PROVISIONS

8.1 Confidentiality

The Vendor shall be entitled to disclose this Agreement and all information provided by the Purchaser in connection herewith to the Court, the Monitor, Groupe Mach Inc. and parties in interest to the CCAA Proceedings.

8.2 Time of the Essence

Time shall be of the essence of this Agreement.

8.3 Entire Agreement

This Agreement constitutes the entire agreement between the parties with respect to the Transaction and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties with respect to the subject matter of this Agreement. There are no representations, warranties, covenants, conditions or other agreements, legal or conventional, express or implied, collateral, statutory or otherwise, between the parties in connection with the subject matter of this Agreement, except as specifically set forth in this

Agreement. The parties have not relied and are not relying on any other information, discussion or understanding in entering into and completing the Transaction.

8.4 Waiver

- (a) No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision (whether or not similar), nor shall such waiver be binding unless executed in writing by the Party to be bound by the waiver.
- (b) No failure on the part of the Vendor or the Purchaser to exercise, and no delay in exercising any right under this Agreement shall operate as a waiver of such right; nor shall any single or partial exercise of any such right preclude any other or further exercise of such right or the exercise of any other right.

8.5 Further Assurances

Each of the parties covenants and agrees to do such things, to attend such meetings and to execute such further conveyances, transfers, documents and assurances as may be reasonably deemed to be necessary or advisable from time to time in order to effectively transfer the Subject Assets to the Purchaser and carry out the terms and conditions of this Agreement in accordance with their true intent. The provisions of this Section 8.5 shall survive and shall not merge on Closing.

8.6 Severability

If any provision of this Agreement shall be determined by a court of competent jurisdiction to be illegal, invalid or unenforceable, that provision shall be severed from this Agreement and the remaining provisions shall continue in full force and effect.

8.7 Governing Law

This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. Each Party irrevocably and unconditionally waives, to the fullest extent permitted by applicable Laws, any objection that it may now or hereafter have to the venue of any action or proceeding arising out of or relating to this Agreement or the Transaction in any court of the Province of Ontario. Each of the Parties hereby irrevocably waives, to the fullest extent permitted by applicable Laws, the defence of an inconvenient forum to the maintenance of such action or proceeding in any such court.

8.8 English Language

The parties hereto have requested that this Agreement be drafted in English only. *Les parties aux présentes ont demandé à ce que la présente convention soit rédigée en anglais seulement.*

8.9 Statute References

Any reference in this Agreement to any statute or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, restated or re-enacted from time to time.

8.10 Headings

The division of this Agreement into Sections, the insertion of headings is for convenience of reference only and are not to be considered in, and shall not affect, the construction or interpretation of any provision of this Agreement.

8.11 References

Where in this Agreement reference is made to an article or section, the reference is to an article or section in this Agreement unless the context indicates the reference is to some other agreement. The terms “this Agreement”, “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof and include any agreement supplemental hereto. The word “includes” or “including” shall mean “includes without limitation” or “including without limitation”, respectively. The word “or” is not exclusive.

8.12 Number and Gender

Unless the context requires otherwise, words importing the singular include the plural and vice versa and words importing gender include all genders.

8.13 Business Days

If any payment is required to be made or other action is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be made or taken on the next Business Day. All actions to be made or taken by a particular Business Day must be made or taken by no later than 5:00 p.m. (Toronto time) on a Business Day and any action made or taken thereafter shall be deemed to have been made and received on the next Business Day.

8.14 Currency and Payment Obligations

Except as otherwise expressly provided in this Agreement all dollar amounts referred to in this Agreement are stated in Canadian Dollars.

8.15 Notice

Any notice, consent or approval required or permitted to be given in connection with this Agreement (a “**Notice**”) shall be in writing and shall be sufficiently given if delivered (whether in person, by courier service or other personal method of delivery), or if transmitted by facsimile or e-mail:

- (a) in the case of a Notice to the Vendor at:

Sears Canada Inc.
290 Yonge Street, Suite 700
Toronto, ON M5B 2C3

Attn: Philip Mohtadi
Email: pmohtad@sears.ca

With a copy to:

Osler, Hoskin & Harcourt LLP
100 King Street West
1 First Canadian Place
Suite 6200, P.O. Box 50
Toronto, ON M5X 1B8

Attn: Marc Wasserman & Tracy Sandler
Email: mwasserman@osler.com & tsandler@osler.com

With a copy to:

FTI Consulting Canada Inc.
TD South Tower
Suite 2010, P.O. Box 104
Toronto, ON M5K 1G8

Attn: Paul Bishop
Email: paul.bishop@fticonsulting.com

With a copy to:

Norton Rose Fulbright Canada LLP
Suite 3800, Royal Bank Plaza, South Tower
200 Bay Street, P.O. Box 84
Toronto, ON M5J 2Z4

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

(b) in the case of a Notice to the Purchaser at:

Place Fleur De Lys GP Inc.
4400-66 Wellington Street West
Toronto Ontario M5K 1H6

Attn.: ●
Email: ●

With a copy to:

Camelino Galessiere LLP
6 Adelaide Street East
Suite 220
Toronto, ON M5C 1H6

Attn: Linda Galessiere
Email: lgalessiere@cglegal.ca

A Notice is deemed to be given and received (i) if sent by personal delivery or same day courier, on the date of delivery if it is a Business Day and the delivery was made prior to 5:00 p.m. (local time in the place of receipt) and otherwise on the next Business Day, (ii) if sent by overnight courier, on the next Business Day, or (iii) if transmitted by facsimile, on the Business Day following the date of confirmation of transmission by the originating facsimile, or (iv) if sent by email, when the sender receives an email from the recipient acknowledging receipt, provided that an automatic “read receipt” does not constitute acknowledgment of an email for purposes of this section. Any Party may change its address for service from time to time by providing a Notice in accordance with the foregoing. Any subsequent Notice must be sent to the Party at its changed address. Any element of a Party’s address that is not specifically changed in a Notice will be assumed not to be changed. Subject to Section 8.17, sending a copy of a Notice to a Party’s legal counsel as contemplated above is for information purposes only and does not constitute delivery of the Notice to that Party. The failure to send a copy of a Notice to legal counsel does not invalidate delivery of that Notice to a Party.

8.16 Subdivision Control Legislation

This Agreement and the Transaction are subject to compliance with the applicable subdivision control legislation to the extent applicable.

8.17 Solicitors as Agent and Tender

Any Notice, approval, waiver, agreement, instrument, document or communication permitted, required or contemplated in this Agreement (including, without limitation, any agreement to amend this Agreement) may be given or delivered and accepted or received by the Purchaser’s solicitors on behalf of the Purchaser and by the Vendor’s solicitors on behalf of the Vendor and any tender of Closing Documents may be made upon the Vendor’s solicitors and the Purchaser’s solicitors, as the case may be.

8.18 No Registration of Agreement

The Purchaser covenants and agrees not to register or cause or permit to be registered this Agreement or any notice of this Agreement on title to any of the Subject Assets and that no reference to or notice of it or any caution, certificate of pending litigation or other similar court process in respect thereof shall be registered on title to the Subject Assets and/or any part thereof and the Purchaser shall be deemed to be in material default under this Agreement if it makes, or causes or permits, any registration to be made on title to the Subject Assets and/or any part thereof prior to the successful completion of the Transaction contemplated herein on the Closing Date. The Purchaser shall indemnify and save the Vendor harmless from and against any and all Claims whatsoever arising from or with respect to any such registration, including, all the legal fees, on a full indemnity basis, including those incurred by the Vendor with respect to obtaining the removal of such registration. This indemnity shall survive and not merge on the expiration, non-completion and/or termination of this Agreement for any reason.

8.19 Third Party Costs

Each of the Parties hereto shall be responsible for the costs of their own solicitors, respectively, in respect of the Transaction. The Purchaser shall be solely responsible for and shall pay, in addition to the Purchase Price, any land transfer taxes and transfer duties payable on the transfer of the Subject Assets, all registration taxes, fees and other costs payable in respect of registration of any documents to be registered by the Purchaser at Closing and all federal and provincial sales and other taxes payable upon or in connection with the conveyance or transfer of the Subject Assets, including, goods and services tax, harmonized sales tax or other similar value added or multi-staged tax imposed by any applicable provincial or territorial legislation, as the case may be, and any other provincial sales taxes. This Section 8.19 shall survive the Closing or the termination of this Agreement. The Purchaser acknowledges that, subject to the limitations contained in Section 2.2, the Vendor has provided to the Purchaser, solely as a courtesy an updated environmental report prepared by Pinchin in respect of the Lands and an updated building condition report prepared by Pinchin in respect of the Buildings and reliance letters for such reports, and that the costs and expenses incurred by the Vendor in obtaining such reports and reliance letters will be paid by the Purchaser to the Vendor on Closing and will be shown on the statement of adjustments as an additional adjustment in favour of the Vendor. This Section 8.19 shall survive the Closing or the termination of this Agreement.

8.20 Interpretation

The parties hereto acknowledge and agree that: (a) each Party and its counsel reviewed and negotiated the terms and provisions of this Agreement and have contributed to their revision, (b) the rule of construction to the effect that any ambiguities are resolved against the drafting Party shall not be employed in the interpretation of this Agreement, and (c) the terms and provisions of this Agreement shall be construed fairly as to all parties hereto and not in favour of or against any Party, regardless of which Party was generally responsible for the preparation of this Agreement.

8.21 No Third Party Beneficiaries

Each Party hereto intends that this Agreement shall not benefit or create any right or cause of action in or on behalf of any Person, other than the Parties hereto and the Monitor, and no Person, other than the Parties hereto and the Monitor, shall be entitled to rely on the provisions hereof in any Claim, proceeding, hearing or other forum. The Parties acknowledge and agree that the Monitor, acting in its capacity as the Monitor, will have no liability in connection with this Agreement whatsoever, in its capacity as Monitor, in its personal capacity or otherwise.

8.22 Enurement

This Agreement shall become effective when executed by the Vendor and the Purchaser and after that time shall be binding upon and enure to the benefit of the parties and their respective heirs, executors, personal legal representatives, successors and permitted assigns. The Purchaser has and shall have no right to assign, convey and/or transfer its rights and/or obligations hereunder or to direct title to any of the Subject Assets to any other Person or to effect a "change of control" so as to indirectly effect the foregoing, without in each case first obtaining the prior written consent of the Vendor, which consent may be arbitrarily and unreasonably withheld by the Vendor. Notwithstanding the foregoing, the Purchaser shall have the right, upon 5 Business Days' prior written notice to the Vendor and before the Approval and Vesting Order is issued, but in

Purchaser's sole discretion, to assign all of its rights and obligations pursuant to this Agreement, to another Person(s) which is/are controlled directly or indirectly by the Purchaser, provided in the case of such assignment the assignee executes and delivers an agreement in favour of the Vendor (in a form approved by Vendor acting reasonably) agreeing to be bound by all obligations of the Purchaser hereunder and the original Purchaser shall not be relieved of its obligations hereunder, until the occurrence of Closing

8.23 Amendments

This Agreement may only be amended, supplemented or otherwise modified by written agreement signed by the Vendor and the Purchaser, except that the time for doing or completing of any matter provided for herein may be extended or abridged by an agreement in writing signed by the Vendor or the Vendor's solicitors on one hand and the Purchaser or the Purchaser's solicitors on the other.

8.24 Counterparts and Delivery

All Parties agree that this Agreement and any amendments hereto (and any other agreements, Notices, or documents contemplated hereby) may be executed in counterpart and transmitted by facsimile or e-mail (PDF) and that the reproduction of signatures in counterpart by way of facsimile or e-mail (PDF) will be treated as though such reproduction were executed originals.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF the parties have executed this Agreement.

SEARS CANADA INC.

By: _____

Name:

Title:

By: _____

Name:

Title:

PLACE FLEUR DE LYS GP INC.

By: _____

Name:

Title:

**SCHEDULE “A”
LANDS**

An emplacement situated in the City of Québec (Borough of Des Rivières), Province of Québec and composed of lot number ONE MILLION NINE HUNDRED FORTY THOUSAND THIRTY-THREE (1 940 033) of the Cadastre du Québec, Registration Division of Québec.

With all buildings thereon erected and, more particularly, the building bearing civic number 500 Wilfrid Hamel Boulevard, City of Québec (Borough of Des Rivières), Province of Québec, G1M 2S5.

**SCHEDULE “B”
EXCLUDED ASSETS**

1. All intellectual property or proprietary rights, whether registered or not, and any intangible property, owned, used or held by the Vendor.
2. All items, materials and signs bearing the logo, trade-mark, trade-name or business name or other mark or design of the Vendor.
3. All FF&E and Inventory which have been removed from the Property by or on behalf of the Vendor or its agents or their respective representatives prior to the Closing Date.
4. All insurance policies of the Vendor.
5. All rights and interests in trade-marks, trade-names, logos, commercial symbols and business names containing “Sears” or any other proprietary wording or intellectual property rights of the Vendor or any of its affiliates (including, the websites).
6. All rights of the Vendor against the Purchaser pursuant to this Agreement.
7. All (i) computers and related systems and information storage media and other IT equipment, (ii) video cameras and equipment, and (iii) point-of-sales systems and all appurtenances thereto.

SCHEDULE "C"
PURCHASE PRICE ALLOCATION

100% to Lands and Buildings.

**SCHEDULE “D”
FORM OF APPROVAL AND VESTING ORDER**

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.	)	●, THE ● TH
)	
JUSTICE HAINEY	)	DAY OF ●, 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 – ●

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 ●, together with certain ancillary assets (the “**Transaction**”) contemplated by an Agreement of Purchase and Sale between Sears Canada Inc. (“**Sears Canada**”), as vendor, and ● (the “**Purchaser**”) as purchaser dated ●, 2018 (the “**APA**”) 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 ● sworn on ●, 2018 including the exhibits thereto (the “**● Affidavit**”), and the ● 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 ● sworn ●, 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 APA, as applicable.

APPROVAL OF THE APA

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 APA 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 APA 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 (Ontario), the *Civil Code of Quebec* 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 immovable 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 APA.

SEALING

9. THIS COURT ORDERS that Confidential Appendix "●" to the ● 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

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.

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 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**”)

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 between Sears Canada Inc. (“**Sears Canada**”), as vendor, and ● (the “**Purchaser**”) as purchaser dated ●, 2018 (the “**APA**”), a copy of which is attached as Exhibit ● to the Affidavit of ● dated ●, 2018.

B. Pursuant to the Approval and Vesting Order the Court approved the APA 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 APA), 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 APA 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 APA) 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 APA 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"

No .	Location / Address	Provi nce	Land Registr y Office	Legal Description	Encumbr ances to be Expunged/ Deleted
Sect	●	●	●	●	[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 APA.

**SCHEDULE “E”
PURCHASER’S GST/HST AND QST CERTIFICATE, UNDERTAKING AND
INDEMNITY**

TO: Sears Canada Inc. (the “Vendor”)

AND TO: Osler, Hoskin & Harcourt LLP, the Vendor’s solicitors

RE: Agreement of Purchase and Sale dated ●, 2018, made between the Vendor, as Vendor, and ●, as Purchaser, (the “Purchaser”), as amended from time to time (the “Purchase Agreement”), for the purchase and sale of the Property and other Subject Assets (as such terms are defined in the Purchase Agreement)

In consideration of the completion of the transaction set out in the Agreement, the Purchaser hereby certifies and agrees as follows:

- a) the Subject Assets are being purchased by the Purchaser as principal for its own account and not as an agent, nominee, trustee or otherwise on behalf of or for another Person;
- b) the Purchaser is registered under Subdivision (d) of Division V of Part IX of the *Excise Tax Act* (Canada) (the “*Excise Tax Act*”) for the collection and remittance of goods and services tax and harmonized sales tax (“GST/HST”) and under Division I of Chapter VIII of Title I of *An Act respecting the Québec Sales Tax* (the “*Québec Act*”) with respect to the Québec sales tax (“QST”) and its registration numbers are ● and such registrations are in good standing and have not been varied, cancelled or revoked;
- c) the Purchaser shall be liable for, shall self-assess and shall remit to the appropriate governmental authority, all GST/HST which is payable under the *Excise Tax Act* and all QST which is payable under the *Québec Act* in connection with the transfer of the Subject Assets, all in accordance with the *Excise Tax Act* and the *Québec Act* respectively;
- d) the Purchaser shall indemnify and save harmless the Vendor from and against any and all GST/HST, QST, penalties, interest and/or other costs which may become payable by or be assessed against the Vendor as a result of any failure by the Vendor to collect and remit any GST/HST or QST applicable on the sale and conveyance of the Subject Assets by the Vendor to the Purchaser or as a result of any inaccuracy, misstatement or misrepresentation by the Purchaser in this GST/HST and QST Certificate, Undertaking and Indemnity or any failure by the Purchaser to comply with the provisions of this GST/HST and QST Certificate, Undertaking and Indemnity; and
- e) this GST/HST and QST Certificate, Undertaking and Indemnity shall survive and not merge upon closing of the above-noted transaction.

This GST/HST and QST Certificate, Undertaking and Indemnity may be executed in counterpart and transmitted by facsimile or e-mail (PDF) and that the reproduction of signatures in counterpart by way of facsimile or e-mail (PDF) will be treated as though such reproduction were executed originals.

DATED _____, 2018.

[PURCHASER]

By: _____

Name: ●

Title: ●

By: _____

Name: ●

Title: ●

SCHEDULE “F”

**FORM OF ASSIGNMENT AND ASSUMPTION OF ASSUMED CONTRACTS AND
PERMITTED ENCUMBRANCES**

THIS AGREEMENT is made as of the _____ day of _____, 2018 (the “**Effective Date**”)

B E T W E E N:

SEARS CANADA INC.

(the “**Vendor**”)

- and -

●

(the “**Purchaser**”)

RECITALS:

A. The Vendor and certain of its affiliates and subsidiaries applied for and were granted protection from their creditors under the CCAA pursuant to the Initial Order of the Court. Pursuant to the Initial Order, the Court appointed FTI Consulting Canada Inc. as Monitor in connection with the CCAA Proceedings.

B. The Vendor and the Purchaser entered into an agreement of purchase and sale dated ●, 2018 (the “**Purchase Agreement**”), whereby, among other things, the Vendor agreed to assign to the Purchaser all of the Vendor’s right, title and interest in and to the Permitted Encumbrances.

C. The Purchase Agreement was approved by the Court pursuant to the Order dated ● (the “**Approval and Vesting Order**”).

D. The Vendor and the Purchaser are entering into this Agreement to provide for the assignment and assumption of the Assumed Contracts and the Permitted Encumbrances by the Vendor to the Purchaser in accordance with the Purchase Agreement and the Approval and Vesting Order.

E. Unless otherwise expressly provided for herein, all capitalized terms when used in this Agreement have the same meaning given to such terms in the Purchase Agreement.

THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1 ASSIGNMENT

1.1 Assignment by Vendor

The Vendor assigns and transfers to the Purchaser, as of the Effective Date, all of the Vendor's obligations, rights, title and interest, both at law and at equity, in and to the Assumed Contracts and the Permitted Encumbrances and all related rights, benefits and advantages thereto (collectively, the "Assigned Interest").

1.2 Assumption by Purchaser

The Purchaser hereby accepts the assignment of the Assigned Interest provided for in this Agreement and assumes all of the Vendor's obligations, right, title and interest in and to the Assigned Interest from and after the Effective Date.

1.3 Indemnity

The Purchaser hereby covenants with the Vendor, as of and from the Effective Date to indemnify and save the Vendor harmless from any and all Claims arising from, relating to or in connection with any non-payment of amounts payable on the part of the Purchaser to be paid from time to time under the Assumed Contracts and the Permitted Encumbrances, or any non-observance or non-performance of any of the terms, agreements, covenants, obligations and conditions on the part of the Purchaser under the Assumed Contracts and the Permitted Encumbrances to be paid, observed or performed from time to time, in respect of the period on or after the Effective Date, or otherwise arising, incurred or accrued on or after the Effective Date whether in respect of the period before or after the Effective Date, including, without limitation, any default as a consequence of the closing of the Transaction contemplated by the Purchase Agreement.

1.4 Paramourty

The rights and obligations of the parties respectively with respect to the Assumed Contracts and the Permitted Encumbrances and any other Subject Assets shall be governed by the Purchase Agreement. In the event of any conflict, inconsistency, ambiguity or difference between the provisions of this Agreement and of the Purchase Agreement, then the provisions of the Purchase Agreement shall govern and be paramount, and any such provision in this Agreement shall be deemed to be amended, to the extent necessary to eliminate any such conflict, inconsistency, ambiguity or difference.

ARTICLE 2 GENERAL

2.1 Time of the Essence

Time shall be of the essence of this Agreement.

2.2 Enurement

This Agreement shall become effective when executed by the Vendor and the Purchaser and after that time shall be binding upon and enure to the benefit of the parties and their respective heirs,

executors, personal legal representatives, successors and permitted assigns. Neither this Agreement nor any of the rights or obligations under this Agreement shall be assignable or transferable by either party without the consent of the other party.

2.3 Entire Agreement

This Agreement and the Purchase Agreement constitute the entire agreement between the parties with respect to the assignment and assumption of the Assumed Contracts and the Permitted Encumbrances contemplated in the Purchase Agreement and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties with respect to the subject matter of this Agreement. There are no representations, warranties, covenants, conditions or other agreements, legal or conventional, express or implied, collateral, statutory or otherwise, between the parties in connection with the subject matter of this Agreement, except as specifically set forth in this Agreement and the Purchase Agreement. The parties have not relied and are not relying on any other information, discussion or understanding in entering into and completing the transactions contemplated by this Agreement and the Purchase Agreement.

2.4 Waiver

- (a) No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision (whether or not similar), nor shall such waiver be binding unless executed in writing by the party to be bound by the waiver.
- (b) No failure on the part of the Vendor or the Purchaser to exercise, and no delay in exercising any right under this Agreement shall operate as a waiver of such right; nor shall any single or partial exercise of any such right preclude any other or further exercise of such right or the exercise of any other right.

2.5 Further Assurances

Each of the parties covenants and agrees to do such things, to attend such meetings and to execute such further conveyances, transfers, documents and assurances as may be deemed necessary or advisable from time to time in order to effectively transfer the Subject Assets to the Purchaser and carry out the terms and conditions of this Agreement in accordance with their true intent.

2.6 Severability

If any provision of this Agreement shall be determined to be illegal, invalid or unenforceable, that provision shall be severed from this Agreement and the remaining provisions shall continue in full force and effect.

2.7 Governing Law

This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Province in which the Property is located and the federal laws of Canada applicable therein.

2.8 CCAA Proceedings

Each party to this Agreement submits to the exclusive jurisdiction of the Court in any action, application, reference or other proceeding arising out of or related to this Agreement or the

Purchase Agreement and agrees that all claims in respect of any such actions, application, reference or other proceeding shall be heard and determined in the CCAA Proceedings before the Court.

2.9 English Language

The parties hereto have requested that this Agreement be drafted in English only. *Les parties aux présentes ont demandé à ce que la présente convention soit rédigée en anglais seulement.*

2.10 Statute References

Any reference in this Agreement to any statute or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, restated or re-enacted from time to time.

2.11 Headings

The division of this Agreement into Sections, the insertion of headings is for convenience of reference only and are not to be considered in, and shall not affect, the construction or interpretation of any provision of this Agreement.

2.12 References

Where in this Agreement reference is made to an article or section, the reference is to an article or section in this Agreement unless the context indicates the reference is to some other agreement. The terms “this Agreement”, “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof and include any agreement supplemental hereto. The word “includes” or “including” shall mean “includes without limitation” or “including without limitation”, respectively. The word “or” is not exclusive.

2.13 Number and Gender

Unless the context requires otherwise, words importing the singular include the plural and vice versa and words importing gender include all genders.

2.14 Business Days

If any payment is required to be made or other action is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be made or taken on the next Business Day. All actions to be made or taken by a particular Business Day must be made or taken by no later than 4:30 p.m. (Toronto time) on a Business Day and any action made or taken thereafter shall be deemed to have been made and received on the next Business Day.

2.15 Notice

Any notice, consent or approval required or permitted to be given in connection with this Agreement (a “**Notice**”) shall be in writing and shall be sufficiently given if delivered or transmitted in accordance with the Purchase Agreement.

2.16 Counterparts and Delivery

All parties agree that this Agreement may be executed in counterpart and transmitted by facsimile or e-mail (PDF) and that the reproduction of signatures in counterpart by way of facsimile or e-mail (PDF) will be treated as though such reproduction were executed originals.

[Signature pages follow.]

IN WITNESS WHEREOF the Vendor has executed this Agreement.

SEARS CANADA INC.

By: _____

Name:

Title:

By: _____

Name:

Title:

IN WITNESS WHEREOF the Purchaser has executed this Agreement.

●

By: _____

Name: ●

Title: ●

By: _____

Name: ●

Title: ●

**SCHEDULE “G”
FORM OF ASSIGNMENT AND ASSUMPTION OF REALTY TAX APPEALS**

THIS AGREEMENT is made as of the _____ day of _____, 2018 (the “**Effective Date**”)

B E T W E E N:

SEARS CANADA INC.

(the “**Vendor**”)

- and -

●

(the “**Purchaser**”)

RECITALS:

A. The Vendor and certain of its affiliates and subsidiaries applied for and were granted protection from their creditors under the CCAA pursuant to the Initial Order of the Court. Pursuant to the Initial Order, the Court appointed FTI Consulting Canada Inc. as Monitor in connection with the CCAA Proceedings.

B. The Vendor and the Purchaser entered into an agreement of purchase and sale dated ●, 2018 (the “**Purchase Agreement**”), whereby, among other things, the Vendor agreed to assign to the Purchaser all of the Vendor’s right, title and interest in and to the Property.

C. The Purchase Agreement was approved by the Court pursuant to the Order dated ● (the “**Approval and Vesting Order**”).

D. The Vendor and the Purchaser are entering into this Agreement to provide for the assignment of the Realty Tax Refunds by the Vendor to the Purchaser in accordance with the Purchase Agreement and the Approval and Vesting Order.

E. Unless otherwise expressly provided for herein, all capitalized terms when used in this Agreement have the same meaning given to such terms in the Purchase Agreement.

THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE 3 ASSIGNMENT

3.1 Assignment and Assumption

Subject to the terms and conditions contained herein, effective as of the Effective Date, the Vendor hereby assigns, transfers and sets over unto the Purchaser all of the Vendor's right, title and interest, if any, in and to the Realty Tax Appeals and any Realty Tax Refunds which may arise from any of the Realty Tax Appeals for any period that is prior to the Closing Date.

3.2 Carriage of Realty Tax Appeals

From and after the Closing Date, the Purchaser may, at its sole cost and expense but without any obligation to do so, assume or retain the carriage of the Realty Tax Appeals and continue as the appellant in the Realty Tax Appeals.

3.3 Authorization and Direction

This Agreement shall serve as authorization and direction to the municipal and/or provincial taxing authority to pay to the Purchaser, from and after the Effective Date, the Realty Tax Refunds.

3.4 Paramountcy

The rights and obligations of the parties respectively with respect to the Realty Tax Appeals and Realty Tax Refunds shall be governed by the Purchase Agreement. In the event of any conflict, inconsistency, ambiguity or difference between the provisions of this Agreement and of the Purchase Agreement, then the provisions of the Purchase Agreement shall govern and be paramount, and any such provision in this Agreement shall be deemed to be amended, to the extent necessary to eliminate any such conflict, inconsistency, ambiguity or difference.

ARTICLE 4 GENERAL

4.1 Time of the Essence

Time shall be of the essence of this Agreement.

4.2 Enurement

This Agreement shall become effective when executed by the Vendor and the Purchaser and after that time shall be binding upon and enure to the benefit of the parties and their respective heirs, executors, personal legal representatives, successors and permitted assigns. Neither this Agreement nor any of the rights or obligations under this Agreement shall be assignable or transferable by either party without the consent of the other party.

4.3 Entire Agreement

This Agreement and the Purchase Agreement constitute the entire agreement between the parties with respect to the assignment and assumption of the Realty Tax Appeals contemplated in the Purchase Agreement and supersede all prior agreements, understandings, negotiations and

discussions, whether oral or written, of the parties with respect to the subject matter of this Agreement. There are no representations, warranties, covenants, conditions or other agreements, legal or conventional, express or implied, collateral, statutory or otherwise, between the parties in connection with the subject matter of this Agreement, except as specifically set forth in this Agreement and the Purchase Agreement. The parties have not relied and are not relying on any other information, discussion or understanding in entering into and completing the transactions contemplated by this Agreement and the Purchase Agreement.

4.4 Waiver

- (a) No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision (whether or not similar), nor shall such waiver be binding unless executed in writing by the party to be bound by the waiver.
- (b) No failure on the part of the Vendor or the Purchaser to exercise, and no delay in exercising any right under this Agreement shall operate as a waiver of such right; nor shall any single or partial exercise of any such right preclude any other or further exercise of such right or the exercise of any other right.

4.5 Further Assurances

Each of the parties covenants and agrees to do such things, to attend such meetings and to execute such further conveyances, transfers, documents and assurances as may be deemed necessary or advisable from time to time in order to effectively transfer the Subject Assets to the Purchaser and carry out the terms and conditions of this Agreement in accordance with their true intent.

4.6 Severability

If any provision of this Agreement shall be determined to be illegal, invalid or unenforceable, that provision shall be severed from this Agreement and the remaining provisions shall continue in full force and effect.

4.7 Governing Law

This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Province in which the Property is located and the federal laws of Canada applicable therein.

4.8 CCAA Proceedings

Each party to this Agreement submits to the exclusive jurisdiction of the Court in any action, application, reference or other proceeding arising out of or related to this Agreement or the Purchase Agreement and agrees that all claims in respect of any such actions, application, reference or other proceeding shall be heard and determined in the CCAA Proceedings before the Court.

4.9 Statute References

Any reference in this Agreement to any statute or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, restated or re-enacted from time to time.

4.10 Headings

The division of this Agreement into Sections, the insertion of headings is for convenience of reference only and are not to be considered in, and shall not affect, the construction or interpretation of any provision of this Agreement.

4.11 References

Where in this Agreement reference is made to an article or section, the reference is to an article or section in this Agreement unless the context indicates the reference is to some other agreement. The terms “this Agreement”, “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof and include any agreement supplemental hereto. The word “includes” or “including” shall mean “includes without limitation” or “including without limitation”, respectively. The word “or” is not exclusive.

4.12 Number and Gender

Unless the context requires otherwise, words importing the singular include the plural and vice versa and words importing gender include all genders.

4.13 Business Days

If any payment is required to be made or other action is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be made or taken on the next Business Day. All actions to be made or taken by a particular Business Day must be made or taken by no later than 4:30 p.m. (Toronto time) on a Business Day and any action made or taken thereafter shall be deemed to have been made and received on the next Business Day.

4.14 English Language

The parties hereto have requested that this Agreement be drafted in English only. *Les parties aux présentes ont demandé à ce que la présente convention soit rédigée en anglais seulement.*

4.15 Currency and Payment Obligations

Except as otherwise expressly provided in this Agreement all dollar amounts referred to in this Agreement are stated in Canadian Dollars.

4.16 Notice

Any notice, consent or approval required or permitted to be given in connection with this Agreement (a “**Notice**”) shall be in writing and shall be sufficiently given if delivered or transmitted in accordance with the Purchase Agreement.

4.17 Counterparts and Delivery

All parties agree that this Agreement may be executed in counterpart and transmitted by facsimile or e-mail (PDF) and that the reproduction of signatures in counterpart by way of facsimile or e-mail (PDF) will be treated as though such reproduction were executed originals.

[Signature pages follow.]

IN WITNESS WHEREOF the Vendor has executed this Agreement.

SEARS CANADA INC.

By: _____

Name:

Title:

By: _____

Name:

Title:

IN WITNESS WHEREOF the Purchaser has executed this Agreement.

●

By: _____

Name: ●

Title: ●

By: _____

Name: ●

Title: ●

SCHEDULE “H”**PERMITTED ENCUMBRANCES****GENERAL ENCUMBRANCES**

- (a) The reservations, limitations, exceptions, provisos and conditions, if any, expressed in any original grants from the Crown including, without limitation, the reservation of any royalties, mines and minerals in the Crown or in any other person.
- (b) Subdivision agreements, site plan control agreements, development agreements, heritage easements and agreements relating thereto, servicing agreements, utility agreements, permits, licenses, airport zoning regulations and other similar agreements with Governmental Authorities or private or public utilities affecting the development or use of any Property, in each of the foregoing cases, Disclosed to the Purchaser.
- (c) Any easements, servitudes, or rights-of-way in favour of any Governmental Authority, any private or public utility, any railway company or any adjoining owner, in each of the foregoing cases, Disclosed to the Purchaser.
- (d) Any unregistered easements, servitudes, rights-of-way or other unregistered interests or claims not disclosed by registered title in respect of the provision of utilities to the Property, in each of the foregoing cases, Disclosed to the Purchaser.
- (e) Any rights of expropriation, access or use or any other similar rights conferred or reserved by applicable Law (which, if exercised shall be governed by the terms of this Agreement).
- (f) Encumbrances for real or immovable property taxes (which term includes charges, rates and assessments) or charges for electricity, power, gas, water and other services and utilities in connection with the Property that have accrued but are not yet due and owing or, if due and owing, are adjusted for on Closing.
- (g) Minor encroachments by the Property over neighbouring lands and/or permitted under agreements with neighbouring landowners and minor encroachments over the Property by improvements of neighbouring landowners and/or permitted under agreements with neighbouring landowners.
- (h) The provisions of all applicable Laws, including by-laws, regulations, ordinances and similar instruments relating to development and zoning of the Property.
- (i) The exceptions and qualifications contained in Section 44(1) of the *Land Titles Act* (Ontario) (other than paragraphs 4, 6 and 11) or the *Land Titles Act* (Alberta).
- (j) Security given to a public utility or any municipality or governmental or other public authority when required by the operations of the Property in the ordinary course of business, including, without limitation, the right of the municipality to

- 2 -

acquire portions of the Property for road widening or interchange construction and the right of the municipality to complete improvements, landscaping or remedy deficiencies in any pedestrian walkways or traffic control or monitoring to be provided to the Property.

- (k) Any minor title defects, irregularities, easements, servitudes, encroachments, rights of way or other discrepancies in title or possession relating to the Property, in each of the foregoing cases, Disclosed to the Purchaser.
- (l) Permits, licenses, agreements, servitudes, easements, (including, without limitation, heritage easements and agreements relating thereto), restrictions, restrictive covenants, options, rights-of-way, public ways, rights in the nature of an easement or servitude and other similar rights in land granted to or reserved by other persons (including, without in any way limiting the generality of the foregoing, permits, licenses, agreements, easements, rights-of-way, sidewalks, public ways, and rights in the nature of easements or servitudes for sewers, drains, steam, gas and water mains or electric light and power or telephone and telegraph conduits, poles, wires and cables) (other than those described in paragraph (c) and (d) of this Schedule) which do not materially impair the current operation of the Property.
- (m) All Off-Title Compliance Matters.
- (n) Any reference plans or plans registered pursuant to the *Boundaries Act* (Ontario).
- (o) Any unregistered interests in the Property of which the Purchaser has actual notice.
- (p) All instruments which are registered against title to a Property: (i) as of the date that is one (1) Business Days prior to the Execution Date; or (ii) otherwise agreed to by the Purchaser; or (iii) permitted by this Agreement, except for those Encumbrances to be vested off pursuant to the Approval and Vesting Order.

SPECIFIC ENCUMBRANCES

The characterization or descriptions of those items on the balance of this Schedule "H" is prepared for purposes of convenience only and for accurate reference, recourse should be had to the registration itself.

SCHEDULE “J”
ASSUMED CONTRACTS

Nil.

SCHEDULE “K”

FORM OF DEED OF SALE

DEED OF SALE made as of the ● (●) day of ●, two thousand eighteen (2018).

BETWEEN: **SEARS CANADA INC.**, a corporation existing under the *Canada Business Corporations Act*, having its head office at 290 Yonge Street, Suite 700, at the City of Toronto, Province of Ontario, M5B 2C3, herein acting and represented by ●, its ●, duly authorized for the purposes hereof in virtue of a resolution of its Board of Directors adopted on ●, 2018;

(hereinafter referred to as the “**Vendor**”)

AND: **[INSERT NAME OF PURCHASER]**, a [corporation] existing under the laws of ●, having its head office at ●, Province of ●, ●, herein acting and represented by ●, its ●, duly authorized for the purposes hereof [in virtue of a resolution of its Board of Directors adopted on ●, 2018];

(hereinafter referred to as the “**Purchaser**”)

WHEREAS on June 22, 2017, an Initial Order was granted by the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) pursuant to which the Vendor and certain of its affiliates and subsidiaries (collectively, the “**Sears Group**”) were granted protection from their creditors under the *Companies’ Creditors Arrangement Act* (Canada) and FTI Consulting Canada Inc. was appointed as monitor (the “**Monitor**”);

WHEREAS on July 13, 2017, the Court granted an Order approving the Sale and Investment Solicitation Process for soliciting and selecting bids for the sale of, among other things, the Assets (as defined therein) of the Sears Group;

WHEREAS pursuant to an agreement of purchase and sale dated ●, 2018 (the “**Asset Purchase Agreement**”), the Vendor agreed to sell, assign and transfer to the Purchaser, all of the Vendor’s right, title and interest in certain assets being the Subject Assets (as such term is defined in the Asset Purchase Agreement), including the Property (as defined below);

WHEREAS the Asset Purchase Agreement has been approved and the transactions contemplated therein have been authorized by an order of the Court rendered on ●, 2018, in the file of the Court bearing number ● (the “**Approval and Vesting Order**”); and

WHEREAS the Vendor and the Purchaser have agreed to execute this Deed of Sale in furtherance of the terms of the Asset Purchase Agreement and the Approval and Vesting Order and to cause this Deed of Sale to be registered at the land register.

NOW THEREFORE, the parties agree as follows:

SALE

In furtherance of the Approval and Vesting Order, the Vendor hereby sells and transfers to the Purchaser, hereto present and accepting, all of its right, title and interest in and to the following immovable property:

DESCRIPTION

- **[INSERT CADASTRAL DESCRIPTION]**

With the building erected thereon bearing civic address ●, in the City of ●, Province of Québec, ●.

As the Property now subsists, without exception nor reserve of any kind on the part of the Vendor, subject to all servitudes benefiting or affecting the Property.

(herein referred to as the “**Property**”)

NO WARRANTY

Except as otherwise expressly set out in the Asset Purchase Agreement, the Purchaser acknowledges and agrees that it is acquiring the Property on an “as is, where is” basis, without the benefit of any legal warranty as to ownership or quality as referred to in Article 1716 of the *Civil Code of Québec* or any other representation or warranty whatsoever, legal or conventional, and at its own risk within the meaning of Article 1733 of the Civil Code of Quebec and that the Vendor is not a professional seller.

TITLE

- The Property was acquired by the Vendor (or its predecessor) in virtue of the following deed(s) : ●.

POSSESSION

The Purchaser shall become the owner and have possession of the Property as at the date of delivery of the Monitor’s Certificate (as defined in the Asset Purchase Agreement) as contemplated by the terms of the Asset Purchase Agreement.

Notwithstanding paragraph 2 of Article 1456 of the *Civil Code of Québec*, the Purchaser shall assume the risks attached to the Property, in accordance with Article 950 of the *Civil Code of Québec*, as of the date of this Deed of Sale.

ASSET PURCHASE AGREEMENT

The parties hereby acknowledge that this Deed of Sale is being executed pursuant to the Asset Purchase Agreement. The parties acknowledge that the terms and conditions of the Asset Purchase Agreement shall survive the execution and registration of this Deed of Sale and remain in full force and effect for the period set forth in the Asset Purchase Agreement. In the case of any conflict or inconsistency between the terms and conditions of the Asset Purchase Agreement and the provisions of this Deed of Sale, the terms and conditions of the Asset Purchase Agreement shall prevail.

PURCHASE PRICE

The sale of the Property is made for a purchase price of ● DOLLARS (\$●), in lawful money of Canada (the “**Purchase Price**”), and the Vendor hereby acknowledges receipt thereof in full, whereof quit.

ADJUSTMENTS

The parties declare that they have made or provided for all adjustments between them relating to the present sale of the Property, the whole in accordance with the terms of the Asset Purchase Agreement.

DECLARATIONS REGARDING GST AND QST

The Vendor and the Purchaser declare that the present sale of the Property constitutes a “taxable supply” subject to the payment of the tax commonly referred to as the “Goods and Services Tax” (the “**GST**”) under the *Excise Tax Act* (Canada) (the “**ETA**”) and the “Québec Sales Tax” (the “**QST**”) under an *Act respecting the Québec Sales Tax* (the “**QSTA**”). Moreover, the Vendor and the Purchaser declare that the Purchase Price does not include any amount in respect of such taxes.

The Vendor declares that it is registered under subdivision (d) of Division V of Part IX of the ETA, and that its registration number thereunder is ● and that it is registered under Division I of Chapter VIII of Title I of the QSTA and that its registration number thereunder is ●.

The Purchaser declares that it is registered under subdivision (d) of Division V of Part IX of the ETA, and that its registration number thereunder is ●, and that it is registered under Division I of Chapter VIII of Title I of the QSTA and that its registration number thereunder is ●.

The Vendor and Purchaser declare that in accordance with sections 221(2)(b), 228(4) and 228(6) of the ETA and paragraph (2) of sections 423, 428 and 441 of the QSTA, the Purchaser shall not be required to pay to the Vendor and the Vendor is relieved of its obligation to collect from the Purchaser the GST and the QST imposed *inter alia* in respect of the present

sale pursuant to sections 165(1) and 221(1) of the ETA and section 16 of the QSTA respectively, the responsibility for the payment thereof, if any, being exclusively assumed by the Purchaser and, accordingly, the Purchaser does hereby indemnify and agree to hold harmless the Vendor with respect to any liability or recourse with respect thereto.

GOVERNING LAW

This Deed of Sale shall be governed by and construed in accordance with the laws of the Province of Québec and the laws of Canada applicable therein.

LANGUAGE OF AGREEMENT

- The parties hereto declare that they have specifically requested, and do hereby confirm their request, that this Deed of Sale be drafted and executed in the English language. *Les parties aux présentes déclarent qu'elles ont spécifiquement demandé que le présent acte de vente soit rédigé et signé en anglais et par les présentes confirment leur dite demande.*

PARTICULARS REQUIRED IN VIRTUE OF SECTION 9 OF AN ACT RESPECTING DUTIES ON TRANSFERS OF IMMOVABLES (the "Act")

The Vendor and the Purchaser hereby make the following declarations:

- (a) the name and address of each of the transferor (Vendor) and the transferee (Purchaser) are as they are set out on the first page of this Deed of Sale;
- (b) the Property herein transferred is situated in the territory of the City of ●, Province of Québec;
- (c) according to the parties, the amount of the consideration for the transfer of the Property herein transferred is: ● dollars and ● cents (\$●);
- (d) according to the parties, the amount constituting the basis of imposition of the transfer duties is: ● dollars (\$●);
- (e) the amount of transfer duties is: ● dollars and ● cents (\$●); and
- (f) the transfer of the Property does not include, at the same time, a corporeal immovable property and movable property which is permanently attached or joined to the immovable, without losing its individuality and without being incorporated and which, in the immovable, are used for the operation of an enterprise or the pursuit of activities, the whole as provided in section 1.0.1 of the Act.

[Signature pages follow]

EXECUTED by the Vendor in the City of _____, Province of _____ as of the date first hereinabove mentioned on the first page of this Deed of Sale.

SEARS CANADA INC.

Per: _____

Name:

Title:

CERTIFICATE

Re: Deed of Sale executed by SEARS CANADA INC., as vendor (the “Vendor”), in the City of ●, Province of ●, and by ●, as Purchaser, in the City of ●, Province of ●, on the ● (●) day of ●, two thousand and eighteen (2018).

I, the undersigned, ●, Advocate, member of the Barreau du Québec, hereby certify that:

1. I have verified the identity, quality and capacity of the Vendor;
2. this Deed of Sale represents the will expressed by the Vendor; and
3. this Deed of Sale is valid as to its form.

CERTIFIED at Montreal, Province of Quebec, on this _____ (____) day of _____, two thousand and eighteen (2018).

Name: ●
 Quality: Advocate
 Address: 1000 De La Gauchetière Street West
 Suite 2100
 Montreal, Quebec H3B 4W5

 ●, Advocate, Member of the *Barreau du Québec*

EXECUTED by the Purchaser in the City of _____, Province of _____ as of the date first hereinabove mentioned on the first page of this Deed of Sale.

[INSERT NAME OF PURCHASER]

Per: _____
 Name:
 Title:

Per: _____
 Name:
 Title:

CERTIFICATE

Re: Deed of Sale executed by SEARS CANADA INC., as vendor, in the City of ●, Province of ●, and by ●, as purchaser (the “Purchaser”), in the City of ●, Province of ●, on the ● (●) day of ●, two thousand and eighteen (2018).

I, the undersigned, ●, Advocate, member of the Barreau du Québec, hereby certify that:

1. I have verified the identity, quality and capacity of the Purchaser;
2. this Deed of Sale represents the will expressed by the Purchaser; and
3. this Deed of Sale is valid as to its form.

CERTIFIED at Montreal, Province of Quebec, on this _____
 (____) day of _____, two thousand and eighteen (2018).

Name: ●
 Quality: Advocate
 Address: ●

 ●, Advocate, Member of the *Barreau du Québec*

SCHEDULE “C”

(Please see attached.)



AGREEMENT OF PURCHASE AND SALE

SEARS CANADA INC.
as the Vendor

- and -

~~**GROUPE MACH INC.**~~ **PLACE FLEUR DE LYS GP INC.**
as the Purchaser

For the property known as “Fleur de Lys”

TABLE OF CONTENTS

	Page
ARTICLE 1 DEFINITIONS	2
1.1 Definitions	2
ARTICLE 2 SALE TRANSACTION	7
2.1 Offer and Acceptance	7
2.2 As Is, Where Is	7
ARTICLE 3 PURCHASE PRICE	10
3.1 Purchase Price	10
3.2 Deposit	10
3.3 Purchase Price Allocation	12
3.4 Trade-Marks	12
ARTICLE 4 ADJUSTMENTS	12
4.1 Statement of Adjustments and Absence of Post-Closing Adjustments	12
4.2 General Adjustments	13 12
4.3 Realty Tax Appeals	13
4.4 Utilities	13
ARTICLE 5 INTERIM PERIOD	14
5.1 Interim Period	14
5.2 Contracts	15 14
5.3 Permitted Encumbrances	15 14
ARTICLE 6 REPRESENTATIONS, WARRANTIES & COVENANTS	15
6.1 Vendor's Representations and Warranties	15
6.2 Purchaser's Representations and Warranties	15
6.3 Purchaser's Covenants	16
6.4 Vendor's Covenants	17
6.5 Tax Matters	17
6.6 Termination Payment	18 Intentionally Deleted 18
6.7 Survival of Covenants,	19 18
ARTICLE 7 CLOSING	20 18
7.1 Conditions of Closing for the Benefit of the Purchaser	20 18
7.2 Conditions of Closing for the Benefit of the Vendor	20 19
7.3 Conditions of Closing for the Mutual Benefit of the Parties	20 19
7.4 Conditions Not Fulfilled	21 20
7.5 Closing Documents	21 20
7.6 Closing Date	23 21
7.7 Confirmation of Satisfaction of Conditions	23 21
7.8 Closing	23 22
7.9 Filings and Authorizations	24 23

TABLE OF CONTENTS
(continued)

	Page
7.10 Court Matters	25 <u>23</u>
7.11 Termination	25 <u>23</u>
ARTICLE 8 OTHER PROVISIONS	25 <u>24</u>
8.1 Confidentiality	25 <u>24</u>
8.2 Time of the Essence	26 <u>24</u>
8.3 Entire Agreement	26 <u>24</u>
8.4 Waiver	26 <u>24</u>
8.5 Further Assurances	26 <u>25</u>
8.6 Severability	26 <u>25</u>
8.7 Governing Law	26 <u>25</u>
8.8 English Language	27 <u>25</u>
8.9 Statute References	27 <u>25</u>
8.10 Headings	27 <u>25</u>
8.11 References	27 <u>25</u>
8.12 Number and Gender	27 <u>26</u>
8.13 Business Days	27 <u>26</u>
8.14 Currency and Payment Obligations	27 <u>26</u>
8.15 Notice	27 <u>26</u>
8.16 Subdivision Control Legislation	29 <u>28</u>
8.17 Solicitors as Agent and Tender	29 <u>28</u>
8.18 No Registration of Agreement	29 <u>28</u>
8.19 Third Party Costs	30 <u>28</u>
8.20 Interpretation	30 <u>29</u>
8.21 No Third Party Beneficiaries	30 <u>29</u>
8.22 Enurement	30 <u>29</u>
8.23 Amendments	31 <u>30</u>
8.24 Counterparts and Delivery	31 <u>30</u>
SCHEDULE "A" LANDS	1
SCHEDULE "B" EXCLUDED ASSETS	1
SCHEDULE "C" PURCHASE PRICE ALLOCATION	- 1 -
SCHEDULE "E" PURCHASER'S GST/HST AND QST CERTIFICATE, UNDERTAKING AND INDEMNITY	1
SCHEDULE "F" FORM OF ASSIGNMENT AND ASSUMPTION OF ASSUMED CONTRACTS AND PERMITTED ENCUMBRANCES	1
SCHEDULE "G" FORM OF ASSIGNMENT AND ASSUMPTION OF REALTY TAX APPEALS	1
SCHEDULE "H" PERMITTED ENCUMBRANCES	1

TABLE OF CONTENTS
(continued)

Page

SCHEDULE "J" ASSUMED CONTRACTS	1
--------------------------------------	---

THIS AGREEMENT OF PURCHASE AND SALE dated with effect as of ~~May~~
~~29,~~ _____, 2018

BETWEEN:

SEARS CANADA INC.
 (the “Vendor”)

OF THE FIRST PART,

- and -

~~GROUPE MACH~~PLACE FLEUR DE LYS GP INC.
 (the “Purchaser”)

OF THE SECOND PART,

RECITALS:

- A. The Vendor operated a chain of retail department stores throughout Canada under the “Sears” banner.
- B. On the Filing Date, the Vendor and certain of its affiliates and subsidiaries (the “Sears Group”) applied for and were granted protection from their creditors under the CCAA pursuant to the Initial Order. Pursuant to the Initial Order, the Court appointed FTI Consulting Canada Inc. as Monitor in connection with the CCAA Proceedings.
- C. On the SISP Order Date, the Court granted the SISP Order which, among other things, approved the SISP. The SISP Order and the SISP govern the process for soliciting and selecting bids for the sale of, among other things, the Assets (as defined in the SISP) of the Sears Group.
- D. The Purchaser hereby offers to acquire from the Vendor, the Vendor’s right, title and interest in and to the Subject Assets on the terms and conditions set out herein (the “Offer”).
- E. This Agreement is subject to approval by the Court, and the completion of the Transaction is subject to the Court issuing the Approval and Vesting Order and the Monitor releasing the Monitor’s Certificate, all as more particularly described herein.

NOW THEREFORE, in consideration of the mutual covenants and agreements set forth in this Agreement and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Vendor and the Purchaser (individually, a “Party” and collectively, the “Parties”) covenant and agree as follows:

ARTICLE 1 DEFINITIONS

1.1 Definitions

Unless otherwise provided for herein, all capitalized terms set out below when used in this Agreement shall have the meaning ascribed thereto unless the context expressly or by necessary implication otherwise requires:

~~“Adverse Entry” means all Encumbrances other than Permitted Encumbrances.~~

“**Agreement**” means this agreement constituted by the Vendor’s acceptance of the Offer together with all schedules and instruments in written amendment or confirmation of it and the expression “**Section**” followed by a number means and refers to the ascribed thereto Section of this Agreement.

“**Applicable Law**” means, in respect of any Person, assets, transaction, event or circumstance:

- (i) statutes (including all regulations enacted thereunder);
- (ii) judgments, decrees and orders of courts of competent jurisdiction; and
- (iii) regulations, orders, ordinances and directives issued by Governmental Authorities;

which are applicable to such Person, asset, transaction, event or circumstance;

“**Approval and Vesting Order**” means an order issued by the Court approving this Agreement and the transactions contemplated by this Agreement and conveying to the Purchaser all of the Vendor’s right, title and interest in and to the Subject Assets free and clear of all Encumbrances other than the Permitted Encumbrances, which order shall be substantially in the form of Schedule “D” (with only such changes as the Parties shall approve in their reasonable discretion, but in all cases in form and substance acceptable to the Monitor).

“**Assignment and Assumption of Assumed Contracts and Permitted Encumbrances**” means an assignment by the Vendor and an assumption by the Purchaser of the Vendor’s right, title and interest and all liability, covenants and obligations in, to and under the Assumed Contracts and any Permitted Encumbrances. The agreement evidencing same shall include an indemnity given by the Purchaser in favour of the Vendor from and against any Claims arising pursuant to or in connection with any of the Assumed Contracts and Permitted Encumbrances, and shall be in substantially the form attached as Schedule “F”.

“**Assignment and Assumption of Realty Tax Appeals**” means an assignment by the Vendor and an assumption by the Purchaser of the Vendor’s right, title and interest and all liability, covenants and obligations, in respect of the Realty Tax Appeals to be delivered on Closing. The agreement shall be in substantially the form attached as Schedule “G”.

“**Assumed Contracts**” means the Contracts listed on Schedule “I”.

“**Authorization**” means, with respect to any Person, any order, permit, approval, waiver, licence or similar authorization of any Governmental Authority having jurisdiction over the Person.

“**Balance**” has the meaning ascribed thereto in Section 3.1(b).

“**Buildings**” means, individually or collectively, as the context requires, all of the buildings and structures, improvements, appurtenances and fixtures, located on, in or under the Lands, but, for greater certainty, excluding the Excluded Assets.

“**Business Day**” means any day of the year, other than a Saturday, Sunday or any day on which major banks are closed for business in Toronto, Ontario.

“**CCAA**” means the *Companies’ Creditors Arrangement Act* (Canada).

“**CCAA Proceedings**” means the proceedings commenced under the CCAA by the Sears Group pursuant to the Initial Order (Court File No. CV-17-11846-00CL).

“**Claims**” means any and all claims, demands, complaints, grievances, actions, applications, suits, causes of action, Orders, charges, indictments, prosecutions, informations or other similar processes, assessments or reassessments, equitable interests, options, preferential arrangements of any kind or nature, assignments, restrictions, financing statements, deposit arrangements, rights of others, leases, sub-leases, licences, rights of first refusal or similar restrictions, judgments, debts, liabilities, expenses, costs, damages or losses, contingent or otherwise, including loss of value, reasonable professional fees, including fees and disbursements of legal counsel on a full indemnity basis, and all actual and documented costs incurred in investigating or pursuing any of the foregoing or any proceeding relating to any of the foregoing.

“**Closing**” has the meaning ascribed thereto in Section 7.6(a).

“**Closing Date**” means the Business Day that is three (3) Business Days following the issuance of the Approval and Vesting Order or such later date as the Vendor (with the consent of the Monitor) may advise the Purchaser in writing, or as otherwise ordered by the Court.

“**Closing Documents**” means those documents and deliveries to be delivered in connection with the Closing as contemplated in this Agreement including those set out in Section [7.47.5](#).

~~“**Contract and/or PE Assumption Agreements**” has the meaning ascribed thereto in Section [5.3](#).~~

“**Contracts**” means, collectively, all of the Vendor’s contracts and agreements to enter into contracts with respect to the operation, fire protection, servicing, maintenance, repair and cleaning of the Subject Assets (and no other properties), or the furnishing of supplies or services to the Subject Assets, any property management or asset management contracts, any employment contracts and any insurance contracts entered into by the Vendor or any manager or agent on behalf of the Vendor, in each case solely with respect to the Subject Assets.

“**Court**” means the Ontario Superior Court of Justice (Commercial List).

“**Data Site**” means the electronic data site with respect to information and material regarding the Subject Assets.

“**Deposit**” has the meaning ascribed thereto in Section 3.1(a).

“Disclosed to the Purchaser” means any information which no later than the date which is one (1) Business Day immediately before the Execution Date, is either: (a) delivered or made available to the Purchaser on the Data Site; (b) a Permitted Encumbrance that is registered (and/or notice of which is registered) against title to the Property; or (c) delivered to the Purchaser or the Purchaser’s solicitors.

“Encumbrance” means any 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.

“Environment” means the environment or natural environment as defined in any Environmental Laws and includes air, surface water, ground water, land surface, soil and subsurface strata.

“Environmental Laws” means Laws relating to the protection of human health and the Environment, and includes Laws relating to the storage, generation, use, handling, manufacture, processing, transportation, treatment, Release, remediation, management and disposal of Hazardous Substances.

“Excise Tax Act” means the *Excise Tax Act*, R.S.C., 1985, c. E-15, as amended, restated, supplemented or substituted from time to time.

“Excluded Assets” means those assets (in each case, as of the Closing Date) described in Schedule “B”.

“Execution Date” means the date of this Agreement as set out on the top of page 1 hereof.

“FF&E” means all tools, signs, furniture, machinery, equipment, personal or moveable property, chattels, furnishings and fixtures including shelves, counters, video cameras and equipment, security systems, point-of-sales systems and related appurtenances, telecommunications systems and related appurtenances, electric light fixtures, elevating devices and equipment, in each case to the extent owned, leased or licensed by the Vendor, if any.

“Filing Date” means June 22, 2017.

“Financial Advisor” means BMO Nesbitt Burns Inc.

“Governmental Authorities” means governments, regulatory authorities, governmental departments, agencies, agents, commissions, bureaus, officials, ministers, Crown corporations, courts, bodies, boards, tribunals or dispute settlement panels or other law or regulation-making organizations or entities: (a) having or purporting to have jurisdiction on behalf of any nation, province, territory or state or any other geographic or political subdivision of any of them; or (b) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power.

“GST/HST and QST Certificate, Undertaking and Indemnity” mean the Purchaser’s certificate to be in substantially the form set out in Schedule “E”.

“**Hazardous Substances**” means pollutants, contaminants, wastes of any nature, hazardous substances, hazardous materials, toxic substances, prohibited substances, dangerous substances or dangerous goods regulated by or under Environmental Laws.

“**Holders**” has the meaning ascribed thereto in Section ~~5.3~~5.3.

“**Initial Order**” means the Initial Order granted by the Court on June 22, 2017 pursuant to which the Sears Group were granted protection from their creditors under the CCAA (as amended, restated, supplemented and/or modified from time to time).

“**Interim Period**” means the period between the close of business on the Execution Date and the Closing on the Closing Date.

“**Inventory**” includes all inventory, stock, supplies and all other items owned by the Vendor and located at the Property.

“**Joint Direction**” has the meaning ascribed thereto in Section 3.2(e).

“**Lands**” means the lands and premises legally described in Schedule “A”.

“**Laws**” means any and all Applicable Laws, including all statutes, codes, ordinances, decrees, rules, regulations, municipal by-laws, judicial or arbitral or administrative or ministerial or departmental or regulatory judgments, orders, decisions, ruling or awards, and general principles of common and civil law and equity, binding on or affecting the Person referred to in the context in which the word is used.

“**Monitor**” means FTI Consulting Canada Inc., in its capacity as Court-appointed monitor of the Sears Group pursuant to the Initial Order and not in its personal capacity.

“**Monitor’s Certificate**” means the certificate to be filed with the Court by the Monitor certifying receipt of (i) confirmation from the Purchaser and the Vendor that all conditions of Closing in Sections 7.1, 7.2 and 7.3 of this Agreement have been satisfied or waived and (ii) the Purchase Price and any Taxes payable to the Vendor and that are not self-assessed and remitted by the Purchaser.

~~“**NDA**” means the confidentiality, non-disclosure and non-use agreement between the Vendor and the Purchaser dated July 12, 2017, as amended or supplemented in writing from time to time.~~

“**Notice**” has the meaning ascribed thereto in Section ~~8.14~~8.15.

“**Off-Title Compliance Matters**” means open permits or files, work orders, deficiency notices, directives, notices of violation, non-compliance and/or complaint and/or other outstanding matters or matters of non-compliance with the zoning and/or other requirements of any Governmental Authorities or any open building permits and Orders relating to any of the foregoing.

“**Offer**” has the meaning ascribed thereto in Recital D.

“**Orders**” means orders, injunctions, judgments, administrative complaints, decrees, rulings, awards, assessments, directions, instructions, penalties or sanctions issued, filed or imposed by any Governmental Authority or arbitrator.

“**Outside Date**” means July 24, 2018.

“**PE Assumption Agreements**” has the meaning ascribed thereto in Section 5.3.

“**Permitted Encumbrances**” means, collectively: (a) any Encumbrances resulting from the Purchaser’s actions; and (b) the items identified in Schedule “H” hereto.

“**Person**” means an individual, partnership, corporation, trust, unincorporated organization, company, government, or any department or agency thereof, and the successors and assigns thereof or the heirs, executors, administrators or other legal representatives of an individual.

“**Plans**” means all documentation in the Vendor’s possession and located on the Property on the Closing Date or located on the Execution Date in the electronic data room and monitored by the Financial Advisor relevant to the construction of the Buildings including, working drawings, detail drawings, shop drawings, approved municipal plans, structural, mechanical, electrical and engineering plans, site plans, surveys, reference or topographical plans, other documentation prepared to illustrate or define a particular aspect of the Buildings, consultants' contracts, construction contracts, and plans submitted with all building permits issued for the Property.

“**Property**” means, collectively, the Lands and the Buildings.

“**Purchase Price**” has the meaning ascribed thereto in Section 3.1.

“**Purchaser**” has the meaning ascribed thereto on page 1 hereof.

“**QST**” means the Québec Sales Tax exigible pursuant to *An Act respecting the Québec Sales Tax*.

“**Realty Tax Appeals**” has the meaning ascribed thereto in Section 4.3(a).

“**Realty Tax Refunds**” has the meaning ascribed thereto in Section 4.3(b).

“**Release**” has the meaning prescribed in any Environmental Laws and includes any release, spill, leak, pumping, pouring, emission, emptying, discharge, injection, escape, leaching, disposal, dumping, deposit, spraying, burial, abandonment, incineration, seepage, placement or introduction.

~~“**ROFR**” means the right of first refusal contained in the Amendment of Servitude dated May 25, 2004 between Place Fleur de Lys and the Vendor, as amended, restated, supplemented and/or modified from time to time.~~

~~“**ROFR Beneficiary**” means Place Fleur de Lys GP Inc., or its successor or assign, as beneficiary of the ROFR.~~

“**SISP**” means the Sale and Investment Solicitation Process approved by the SISP Order (as amended, restated, supplemented and/or modified from time to time).

“**SISP Order**” means the Order granted by the Court on the SISP Order Date (as amended, restated, supplemented and/or modified from time to time), which, among other things, approved the SISP.

“**SISP Order Date**” means July 13, 2017.

“**Subject Assets**” means all of the right, title and interest of the Vendor, if any, in and to: (a) the Property; (b) the Realty Tax Appeals; (c) the Assumed Contracts; (d) the Warranties; and (e) all Inventory, FF&E and Excluded Assets left on the Property on the Closing Date, but excludes, the Vendor’s right, title and interest in and to each of the other Excluded Assets and any and all other assets of the Vendor relating to the Property not included in the foregoing.

“**Taxes**” means taxes, duties, fees, premiums, assessments, imposts, levies and other similar charges imposed by any Governmental Authority under applicable Laws, including all interest, penalties, fines, additions to tax or other additional amounts imposed by any Governmental Authority in respect thereof, and including those levied on, or measured by, or referred to as, income, gross receipts, profits, capital, transfer, land transfer, registration, sales, goods and services, harmonized sales, use, value-added, excise, stamp, withholding, business, franchising, property, development, occupancy, all surtaxes, all customs duties and import and export taxes, countervail and anti-dumping, and all licence, franchise and registration fees.

“**Transaction**” means collectively the transactions contemplated in this Agreement.

“**Vendor**” has the meaning ascribed thereto on page 1 hereof.

“**Warranties**” means any existing warranties and guarantees in favour of the Vendor in connection with the construction, condition or operation of the Buildings or any component thereof or any improvements made to the Buildings or any component thereof (other than the Excluded Assets) which are assignable without the consent of the counterparty thereto.

ARTICLE 2 SALE TRANSACTION

2.1 Offer and Acceptance

- (a) Subject to the terms of this Agreement, the Initial Order and the SISP Order, the Vendor hereby agrees to sell, assign and transfer to the Purchaser, and the Purchaser hereby agrees to purchase and assume from the Vendor, the Subject Assets on the Closing Date in accordance with the terms and conditions of this Agreement.
- (b) The Offer shall be irrevocable by the Purchaser until 5:00 p.m. (Toronto time) on ~~May 31,~~ , 2018.
- (c) Upon acceptance of this Offer by the Vendor, this Offer shall constitute a binding agreement to acquire the Subject Assets, on the terms of this Agreement.

2.2 As Is, Where Is

Notwithstanding the foregoing or anything else contained herein or elsewhere, the Purchaser acknowledges and agrees in favour of the Vendor that as of the Execution Date and the Closing Date:

- (a) the Purchaser is purchasing the Subject Assets (including the state of title thereto and/or the state of any Encumbrances and Permitted Encumbrances) and accepting and assuming the Subject Assets on an “as is, where is” basis, without any written or oral statements, representations, warranties, promises or guaranties of any nature or kind whatsoever, either legal or conventional, express or implied (by operation of law or otherwise), as to the condition of any of the Subject Assets, the Permitted Encumbrances, the rentable area of the Buildings, the existence of any default on the part of the Vendor, the physical, environmental or other condition of, in, on, under or in the vicinity of the Property, the use permitted at the Property, the existence of any Encumbrance and/or Off-Title Compliance Matters affecting the Subject Assets, or any other aspects of any of the Subject Assets and the Permitted Encumbrances, the structural integrity or any other aspect of the physical condition of any Subject Assets, the conformity of any Building to any Plans or specifications (including, but not limited to, any Plans and specifications that may have been or which may be provided to the Purchaser), compliance with Environmental Laws, the conformity of the Property to past, current or future applicable zoning or building code requirements or other applicable Laws, the existence of soil instability, past soil repairs, soil additions or conditions of soil fill or any other matter affecting the stability or integrity of the Lands, or any Building situated on or as part of the Property, the sufficiency of any drainage, whether the Property is located wholly or partially in a flood plain or a flood hazard boundary or similar area, the existence or non-existence of underground and/or above ground storage tanks, the availability of public utilities, access, parking and/or services for the Property, the fitness or suitability of the Property for occupancy or any intended use (including matters relating to health and safety), the potential for further development of the Property, the existence of land use, zoning or building entitlements affecting the Property, the presence, release or use of wastes of any nature, Hazardous Substances, pollutants, contaminants or other regulated substances in, under, on or about the Property or any neighbouring lands; and without limiting the foregoing, any and all conditions or warranties expressed or implied pursuant to the *Sale of Goods Act* (Ontario) or similar legislation in other jurisdictions will not apply and are hereby waived by the Purchaser and the Parties agree to exclude the effect of the legal warranty provided for by Article 1716 of the Civil Code of Québec and that the Purchaser is purchasing the Subject Assets at its own risk within the meaning of Article 1733 of the Civil Code of Québec;
- (b) on Closing, the Subject Assets shall be subject to, without limitation, the Permitted Encumbrances;
- (c) any disclosure in respect of any of the Subject Assets was made available to the Purchaser solely as a courtesy but the Purchaser is not entitled to rely on such

disclosure, and it is expressly acknowledged by the Purchaser that no written or oral statement, representation, warranty, promise or guarantee of any nature or kind whatsoever, either legal or conventional, express or implied (by operation of law or otherwise), is made by the Vendor and/or the Monitor and/or their respective legal counsel, the Financial Advisor or other advisors or representatives as to the accuracy, currency or completeness of any such disclosure, and each of them expressly disclaims any and all liabilities with respect to such disclosure and any and all errors therein or omissions therefrom;

- (d) the Purchaser hereby unconditionally and irrevocably waives any and all actual or potential rights or Claims the Purchaser might have against the Vendor pursuant to any warranty, legal or conventional, express or implied, of any kind or type relating to the Subject Assets or any other assets or any other aspect of the Transaction. Such waiver is absolute, unlimited and includes, but is not limited to, waiver of express warranties, implied warranties, any warranties at law and/or in equity, warranties of fitness for a particular use, warranties of merchantability, warranties of occupancy, strict liability and Claims of every kind and type, including, but not limited to, Claims regarding defects, whether or not discoverable, product liability Claims, or similar Claims, and to all other extent or later created or conceived of strict liability or strict liability type Claims and rights;
- (e) the Purchaser conducted its own independent review, inspection, diligence and investigations and forming its own independent opinions and conclusions in respect of the Subject Assets. The Purchaser's decision to make this Offer and enter into this Agreement was made of its own accord without reference to or reliance upon any disclosure in respect of any of the Subject Assets. The Purchaser acknowledges having been given a reasonable and adequate opportunity to conduct its own independent diligence prior to entering in this Agreement;
- (f) the Vendor shall not be responsible for making any repairs, replacements, renovations, alterations, improvements or upgrades or undertaking any remediation to address a Release in or to the Property or any part thereof, and it shall be the sole responsibility of the Purchaser to make, at the Purchaser's sole cost, any repairs, replacements, renovations, alterations, improvements and upgrades in or to the Property following Closing as may be required by the Purchaser to make the Property suitable for its purposes and to undertake any required, necessary, or desired remediation to address a Release at, on, under or migrating from the Property or any part thereof;
- (g) the Subject Assets may be subject to certain Off-Title Compliance Matters, municipal requirements, including building or zoning by-laws and regulations, easements or servitudes for hydro, gas, telephone affecting the Subject Assets, and like services to the Property, and restrictions and covenants which run with the land, including but not limited to the Permitted Encumbrances. Without limiting the foregoing, the Vendor shall not be responsible for rectification of any matters disclosed by any Governmental Authority or quasi-governmental authority having

jurisdiction and the Purchaser shall accept the Subject Assets subject to such matters;

- (h) the Purchaser shall accept full responsibility for all conditions related to the Property, and the Purchaser shall comply with all orders relating to the condition of the Property issued by any competent Governmental Authority, including any order issued against the Vendor including without limitation, any non-compliance with Environmental Laws or relating to the existence of any Hazardous Substance; and
- (i) if any statement, error or omission shall be found in the particulars of the legal and/or the Subject Assets' description, the same shall not annul the sale or entitle the Purchaser to be relieved of any obligation hereunder, nor shall any compensation be allowed to the Purchaser in respect thereof.

The Vendor has no and shall have no obligations or responsibility to the Purchaser after Closing with respect to any matter relating to the Subject Assets or the condition thereof save and only to the extent expressly provided in this Agreement. The Purchaser shall be responsible for and hereby indemnifies and saves harmless the Vendor and its employees, directors, officers, appointees and agents from any costs, including legal and witness costs, claims, demands, civil actions, prosecutions, or administrative hearings, fines, judgments, awards, including awards of costs, that may arise as a result of the condition of the Property, any order issued by any competent Governmental Authority in connection with the condition of the Property, or any loss, damage, or injury caused either directly or indirectly as a result of the condition of the Property including, without limitation, non-compliance with Environmental Laws or the existence of any Hazardous Substances. This Section 2.2 shall survive and not merge on Closing and all Closing Documents shall incorporate this Section 2.2 by reference.

ARTICLE 3 PURCHASE PRICE

3.1 Purchase Price

The Purchase Price for the Subject Assets shall be [REDACTED] [REDACTED] (the "**Purchase Price**") exclusive of HST/GST and QST. Subject only to adjustment in accordance with this Agreement, the Purchase Price shall be paid to the Vendor as follows:

- (a) as to the sum of [REDACTED] [REDACTED] (the "**Deposit**"), by wire transfer of immediately available funds payable to or to the order of the Monitor, in trust, or as it may otherwise direct in writing, on or prior to 5:00 p.m. (Toronto time) within twenty-four (24) hours of the signature of this Offer by the Vendor, to be held in trust as a deposit and invested in accordance with the provisions of Section 3.2 below pending the completion or other termination of this Agreement; provided that if the Deposit is not delivered to the Monitor, in trust, on or prior to 5:00 p.m. (Toronto time) within twenty-four (24) hours of the signature of this Offer by the Vendor, the Vendor may terminate this Agreement by notice to the Purchaser; and

- (b) as to the balance of the Purchase Price (the “**Balance**”), subject only to the adjustments made in accordance with this Agreement, by wire transfer of immediately available funds payable to the Monitor or as it may direct on the Closing Date.

3.2 Deposit

- (a) Following receipt, the Deposit shall be invested by the Monitor, in trust, in an interest bearing account or term deposit or guaranteed investment certificate pending completion of the Transaction or earlier termination or non-completion of this Agreement. In holding and dealing with the Deposit and any interest earned thereon pursuant to this Agreement, the Monitor is not bound in any way by any agreement other than this Section ~~3.2~~, 3.2, and the Monitor shall not and shall not be considered to assume any duty, liability or responsibility other than to hold the Deposit, and any interest earned thereon, in accordance with the provisions of this Section ~~3.2~~, 3.2, and to pay the Deposit, and any interest earned thereon, to the Person becoming entitled thereto in accordance with the terms of this Agreement, except in the event of a dispute between the Parties as to entitlement to the Deposit. In the case of such dispute, the Monitor may, in its sole, subjective and unreviewable discretion, or shall, if requested by any of the Parties, pay the Deposit and any and all interest earned thereon into Court, whereupon the Monitor shall have no further obligations relating to the Deposit or any interest earned thereon. The Monitor shall not, under any circumstances, be required to verify or determine the validity of any notice or other document whatsoever delivered to the Monitor and the Monitor is hereby relieved of any liability or responsibility for any Claims which may arise as a result of the acceptance by the Monitor of any such notice or other document.
- (b) If the Transaction is completed, the Deposit shall be paid to the Vendor forthwith on Closing and applied to the Purchase Price. Interest on the Deposit shall accrue from the date of deposit with the Monitor until the Closing or other termination or non-completion of this Agreement. If the Transaction is successfully completed, all interest earned on the Deposit until Closing shall be paid to the Purchaser following Closing or applied to the Purchase Price.
- (c) If the Transaction is not completed by reason of a default of the Purchaser, the full amount of the Deposit together with all accrued interest earned thereon shall be paid to the Vendor as liquidated damages (and not as a penalty) to compensate the Vendor for the expenses incurred and the delay caused and opportunities foregone as a result of the failure of the Transaction to close. The entitlement of the Vendor to receive and retain the Deposit together with all accrued interest earned thereon, if any, in such circumstances shall not limit the Vendor’s right to exercise any other rights or remedies, which the Vendor may have against the Purchaser in respect of such breach or default.
- (d) If the Transaction is not completed by any reason other than the default of the Purchaser, the full amount of the Deposit together with all accrued interest earned thereon shall be paid to the Purchaser as full and final settlement and the Purchaser shall have no further recourse against the Vendor.

- (e) In holding and dealing with the Deposit and any interest earned thereon pursuant to this Agreement, the Monitor shall release the Deposit and any interest earned thereon to the Persons becoming entitled thereto in accordance with the provisions of (i) Section ~~7.7.7.8~~(c); or (ii) this Section 3.2 as evidenced by a joint direction in writing executed by the Vendor and the Purchaser (the “**Joint Direction**”) except in the event of a dispute between the Parties as to entitlement to the Deposit and any interest earned thereon in which event the Monitor may, in its sole, unfettered and unreviewable discretion, pay the Deposit and any interest earned thereon into Court, whereupon the Monitor shall have no further obligations relating to the Deposit and any interest earned thereon or otherwise hereunder.
- (f) The Monitor shall not, under any circumstances, be required to verify or determine the validity of the Joint Direction or any written confirmation received pursuant to Section 7.8(b) and the Monitor is hereby relieved of any liability or responsibility for any loss or damage which may arise as the result of the acceptance by the Monitor of the Joint Direction.
- (g) Notwithstanding the foregoing or anything else contained herein or elsewhere, each of the Vendor and the Purchaser acknowledges and agrees that: (i) the Monitor’s obligations hereunder are and shall remain limited to those specifically set out in this ~~Section~~Article 3; and (ii) FTI Consulting Canada Inc. is acting solely in its capacity as the Court-appointed Monitor of the Vendor in the CCAA Proceedings and not in its personal or corporate capacity, and the Monitor has no liability in connection with this Agreement whatsoever, in its personal or corporate capacity or otherwise.
- (h) The Parties acknowledge that the Monitor may rely upon the provisions of this Section 3.2 notwithstanding that the Monitor is not a party to this Agreement. The provisions of this Section 3.2 shall survive the termination or non-completion of the Transaction.

3.3 Purchase Price Allocation

The allocation of the Purchase Price as between the Subject Assets is as set out on Schedule “C”. The Vendor and the Purchaser shall adopt such allocations for the purposes of all tax returns, elections and filings respectively made by them or on their behalf. The Vendor and the Purchaser shall each use reasonable commercial efforts to agree, by the Closing Date, upon the allocation of the Purchase Price between the Lands and the Buildings for the Property. If no such agreement is reached by Closing, each of the Vendor and the Purchaser shall be free to make its own allocation.

3.4 Trade-Marks

Notwithstanding the foregoing or anything else contained herein or elsewhere, the Purchaser acknowledges and agrees that: (a) no signs, trade-marks, trade-names, logos, commercial symbols, business names or other intellectual property rights identifying “Sears” are conveyed or intended to be conveyed to the Purchaser as part of the Subject Assets; and (b) all right, title and interest of the Vendor in and to all of its existing signs, trade-marks, trade-names, logos, commercial symbols, business names or other intellectual property rights identifying “Sears” or

containing the words “Sears” are hereby specifically reserved and excluded from the Subject Assets. Notwithstanding the foregoing or anything to the contrary, the Vendor shall not be obligated to remove any interior or exterior signs located at the Property, including those identifying “Sears” and the Vendor shall have no liability for any removal or destruction costs relating thereto and any such signs left on the Property on the Closing Date shall become the property of the Purchaser without a bill of sale, representation, warranty or other title documentation. This Section shall survive and not merge on Closing.

ARTICLE 4 ADJUSTMENTS

4.1 Statement of Adjustments and Absence of Post-Closing Adjustments

The Vendor shall prepare a statement of adjustments and deliver same with supporting documentation to the Purchaser no later than two (2) Business Days prior to the Closing Date. If the amount of any adjustments required to be made pursuant to this Agreement cannot be reasonably determined as of the Closing Date, an estimate shall be made by the Vendor as of the Closing Date based upon the best information available to the Parties at such time, each Party acting reasonably and such estimate shall serve as a final determination. The final form of statement of adjustments shall be satisfactory to the Monitor, acting reasonably. There shall be no further adjustments or readjustments after Closing of any amounts adjusted or intended to be adjusted on the statement of adjustments pursuant to this Agreement and the amounts set out on the statement of adjustments shall be final.

4.2 General Adjustments

- (a) The adjustments shall include realty taxes, local improvement rates and charges and, except as set out in this Agreement, other adjustments established by usual practice in the municipality in which the Property is located for the purchase and sale of similar properties. In addition, the adjustments shall include the other matters referred to in this Agreement which are stated to be the subject of adjustment and shall exclude the other matters in this Agreement which are stated not to be the subject of adjustment.
- (b) From and after the Closing Date, the Purchaser shall be responsible for all expenses and shall be entitled to all revenue from the Subject Assets. The Vendor shall be responsible for all expenses and entitled to all revenue from the Subject Assets for that period prior to the Closing Date.
- (c) The Purchaser shall be responsible for and pay all applicable Taxes payable in connection with the transfer of any of the Subject Assets by the Vendor to the Purchaser.

4.3 Realty Tax Appeals

- (a) The Vendor and the Purchaser acknowledge that with respect to the Property the Vendor may have instituted certain appeals and/or claims in respect of realty taxes or assessments for certain periods prior to the Closing Date and possibly including the tax year in which the Closing Date occurs (all such appeals and any

associated reassessments are hereinafter collectively referred to as the “**Realty Tax Appeals**”).

- (b) On Closing and provided all municipal taxes due are paid, in consideration of an additional adjustment in favour of the Vendor in the amount equal to 100% of any expected credit, refund and/or rebate which may arise from any of the Realty Tax Appeals (collectively, the “**Realty Tax Refunds**”) for any period that is prior to the Closing Date, the Vendor shall assign to the Purchaser all of its right, title and interest, if any, in and to such Realty Tax Refunds.

4.4 Utilities

- (a) The Purchaser shall not assume any contracts or agreements entered into by or on behalf of the Vendor for the supply of any utilities (including electricity, gas, water, fuel, telephone service, internet services, security and surveillance services or otherwise) at the Property. On or before the Closing Date, the Vendor shall terminate all of its contracts and agreements for the supply of any utilities to the Property. For the avoidance of doubt, there shall be no adjustment at Closing in respect of the payment of any utilities provided that there are no outstanding amounts owing by the Vendor in connection with such accounts for which the Purchaser would be liable. The provisions of this Section 4.4(a) shall survive and not merge on Closing.
- (b) From and after the Closing Date, any and all utility charges and other related fees payable for any of the Property, pursuant to any invoice or statement issued on or after the Closing Date, shall be the sole responsibility of the Purchaser, and there shall be no adjustments between the Vendor and the Purchaser of any utility charges or related fees paid by the Purchaser pursuant to any such invoice or statement issued on or after the Closing Date, with the exception of any costs for utilities that were incurred before the Closing Date which shall be the responsibility of the Vendor.

ARTICLE 5 INTERIM PERIOD

5.1 Interim Period

- (a) The Vendor shall not be obligated to (i) remove any Inventory, FF&E or Excluded Assets and the Vendor shall have no liability for any removal or destruction costs relating thereto, or (ii) repair, renovate, alter, improve or upgrade the Property in any manner. Any Inventory, FF&E or Excluded Assets left on the Property on the Closing Date shall become the property of the Purchaser without a bill of sale, representation, warranty or other title documentation. This Section shall survive and not merge on Closing.
- (b) From and after the Execution Date, the Vendor will not agree to enter into any new Permitted Encumbrance without the consent of the Purchaser.

- (c) In the event that prior to the Closing Date all or a part of the Lands is expropriated or notice of expropriation or intent to expropriate all or a part of the Lands is issued by any Governmental Authority, the Vendor shall immediately advise the Purchaser thereof by Notice in writing. Notwithstanding the occurrence of any of the foregoing, the Purchaser shall complete the Transaction contemplated herein in accordance with the terms hereof without reduction of the Purchase Price and all compensation for expropriation shall be payable to the Purchaser and all right, title and interest of the Vendor to such amounts, if any, shall be assigned to the Purchaser on a without recourse basis.
- (d) The Subject Assets shall be and remain until Closing at the risk of the Vendor. In the event of material damage by fire or other hazard to the Subject Assets or any part thereof occurring before the Closing Date, the Vendor shall immediately advise the Purchaser thereof by Notice in writing. Notwithstanding the occurrence of any of the foregoing, the Purchaser shall complete the Transaction contemplated herein in accordance with the terms hereof without the reduction of the Purchase Price and the proceeds of any insurance actually paid or payable to the Vendor to a maximum of that portion of the Purchase Price allocated in Schedule "C" for the Subject Assets which are so damaged, shall be paid and/or assigned to the Purchaser.

5.2 Contracts

The Vendor covenants to terminate effective as of the Closing Date, at its sole cost and expense, all Contracts other than the Assumed Contracts and Permitted Encumbrances.

5.3 Permitted Encumbrances

The Purchaser shall provide such reasonable financial, business, organizational, managerial and other information and enter into such assumption agreements or deeds of re-hypothecation as the relevant party to a Permitted Encumbrance (the relevant party being a "**Holder**") shall require to effect the assumption of the Permitted Encumbrances, as applicable, by the Purchaser (collectively, the "**PE Assumption Agreements**"). The Purchaser shall use reasonable efforts to assist the Vendor and shall co-operate with the Vendor (but at no additional cost to the Purchaser), as reasonably requested, to obtain from third parties a full release of the Vendor's obligations under the Permitted Encumbrances, and shall provide such financial and other information and enter into such assumption agreements as such third parties may reasonably require, in form and substance acceptable to each of the parties thereto acting reasonably and without delay.

ARTICLE 6 REPRESENTATIONS, WARRANTIES & COVENANTS

6.1 Vendor's Representations and Warranties

The Vendor represents and warrants to and in favour of the Purchaser that as of the Execution Date and as of Closing as to the following and acknowledges and confirms that the Purchaser is

relying upon such representations and warranties in connection with the entering into of this Agreement:

- (a) the execution, delivery and performance by the Vendor of this Agreement has been duly authorized by all necessary corporate action on the part of the Vendor subject to the Approval and Vesting Order and authorization as is required by the Court;
- (b) the Vendor is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada); and
- (c) the Vendor is a registrant for the purposes of the tax imposed under Part IX of the *Excise Tax Act*.

6.2 Purchaser's Representations and Warranties

The Purchaser represents and warrants to and in favour of the Vendor that as of the Execution Date and as of Closing as to the following and acknowledges and confirms that the Vendor is relying upon such representations and warranties in connection with the entering into of this Agreement:

- (a) the Purchaser has been duly formed or incorporated and is validly subsisting under the Laws of the jurisdiction of its formation or incorporation, and has all requisite corporate or other capacity, power and authority to carry on its business as now conducted by it and to own its properties and assets and is qualified to carry on business under the Laws of the jurisdictions where it carries on a material portion of its business;
- (b) the Purchaser is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada);
- (c) the Purchaser is a registrant for the purposes of the tax imposed under Part IX of the *Excise Tax Act*;
- (d) the execution, delivery and performance by the Purchaser of this Agreement:
 - (i) has been duly authorized by all necessary corporate or other action on the part of the Purchaser;
 - (ii) does not (or would not with the giving of notice, the lapse of time or the happening of any other event or condition) require any consent or approval under, result in a breach or a violation of, or conflict with, any of the terms or provisions of its constating documents or by-laws or any contracts or instruments to which it is a party or pursuant to which any of its assets or property may be affected; and
 - (iii) will not result in the violation of any Laws;
- (e) this Agreement has been duly executed and delivered by the Purchaser and constitutes legal, valid and binding obligations of the Purchaser, enforceable against it in accordance with their respective terms subject only to any limitation

under applicable Laws relating to (i) bankruptcy, winding-up, insolvency, arrangement and other similar Laws of general application affecting the enforcement of creditors' rights, and (ii) the discretion that a court may exercise in the granting of equitable remedies such as specific performance and injunction; and

- (f) the Purchaser has, and will have at Closing, all funds on hand necessary to pay the Purchase Price and any Taxes payable and that are not self-assessed and remitted by the Purchaser.

The Purchaser's representations and warranties shall survive Closing for a period of one (1) year thereafter.

6.3 Purchaser's Covenants

- (a) The Purchaser shall use commercially reasonable efforts to take all such actions as are within its power or control, and to use commercially reasonable efforts to cause other actions to be taken which are not within its power or control, so as to ensure compliance with each of the conditions and covenants set forth in Article 7 which are for the benefit of any other Party.
- (b) The Purchaser shall take any and all commercially reasonable steps in order to avoid the filing of an application for, or the issuance of any interim Order or other Order which would have the effect of delaying or preventing the Closing, and if any such interim Order or other Order is issued, the Purchaser shall take any and all steps to have it rescinded, revoked or set aside as soon as possible. For greater certainty, "any and all steps" shall include, committing to or effecting undertakings, a consent agreement, a hold separate arrangement, a consent Order, a hold separate Order, a sale, a divestiture, a disposition or other action, in any such case without any reduction of the Purchase Price.
- (c) The Purchaser will promptly notify the Vendor and the Vendor will promptly notify the Purchaser upon:
 - (i) becoming aware of any Order or any complaint requesting an Order restraining or enjoining the execution of this Agreement or the consummation of the Transactions; or
 - (ii) receiving any notice from any Governmental Authority of its intention:
 - (A) to institute a suit or proceeding to restrain or enjoin the execution of this Agreement or the consummation of the Transaction; or
 - (B) to nullify or render ineffective this Agreement or such Transaction.

6.4 Vendor's Covenants

The Vendor agrees, that subject to the Initial Order, the SISP Order and the Approval and Vesting Order, to thereafter take all commercially reasonable actions as are within its power to control, and to use its commercially reasonable efforts to cause other actions to be taken which

are not within its power to control, so as to fulfill the conditions set forth in Article 7 which are for the benefit of the Vendor or the mutual benefit of the Parties.

6.5 Tax Matters

In addition to the representations and warranties set forth in Section 6.2, the Purchaser further warrants, represents and covenants to the Vendor, and acknowledges and confirms that the Vendor is relying on such representations and warranties, indemnities and covenants in connection with the entering into of this Agreement, that:

- (a) the Purchaser is duly registered under Subdivision (d) of Division V of Part IX of the *Excise Tax Act* with respect to the goods and services tax and harmonized sales tax and under Division I of Chapter VIII of Title I of *An Act respecting the Québec Sales Tax* with respect to the Québec sales tax which registrations shall be in full force and effect and shall not have been cancelled or revoked on the Closing Date;
- (b) the Purchaser has entered into this Agreement and is purchasing the Subject Assets on the Closing Date, as principal for its own account and not as an agent, nominee, trustee or otherwise on behalf of another Person;
- (c) to the extent permitted under subsection 221(2) of the *Excise Tax Act* and any equivalent or corresponding provision under any applicable provincial or territorial legislation, the Purchaser shall self-assess and remit directly to the appropriate Governmental Authority any Taxes including goods and services tax or harmonized sales tax, as the case may be, imposed under the *Excise Tax Act* and any similar value added or multi-staged tax or sales tax imposed by any applicable provincial or territorial legislation payable in connection with the purchase and sale transaction of the Subject Assets, including the transfer of the Vendor's real or immovable property interests in the corresponding Subject Assets;
- (d) on Closing, the Purchaser will pay, in addition to the Purchase Price, and the Vendor will collect, any Taxes including transfer taxes as well as goods and services tax or harmonized sales tax, as the case may be, imposed under the *Excise Tax Act* and any similar value added or multi-staged tax or sales tax exigible on the purchase and sale transaction of the Subject Assets, except to the extent that the Purchaser is permitted under subsection 221(2) of the *Excise Tax Act* and any equivalent or corresponding provision under any applicable provincial or territorial legislation to self-assess and remit such Taxes directly to the appropriate Governmental Authority, and the Purchaser shall have executed and delivered a certificate, undertaking and indemnity which includes its certification of its registration numbers issued under the *Excise Tax Act* and *An Act respecting the Québec Sales Tax*, and incorporates the provisions of this Section 6.5 (the “**GST/HST and QST Certificate, Undertaking and Indemnity**”);
- (e) the Purchaser shall make and file all required return(s) in accordance with the requirements of subsection 228(4) of the *Excise Tax Act* and any equivalent or

corresponding provision under any applicable provincial or territorial legislation; and

- (f) the Purchaser shall indemnify and save the Vendor harmless from and against any and all Taxes including, transfer taxes and goods and services tax or harmonized sales tax, as the case may be, imposed under the *Excise Tax Act* and any similar value added or multi-staged tax or sales tax, penalties, costs and/or interest which may become payable by or assessed against the Vendor as a result of any failure by the Vendor to collect and remit any goods and services tax or harmonized sales tax payable under the *Excise Tax Act* or any similar value added or multi-staged tax or sales tax and applicable on the sale and conveyance of the Subject Assets by the Vendor to the Purchaser or as a result of any inaccuracy, misstatement, or misrepresentation made by the Purchaser in connection with any matter raised in this Section 6.5 or in the GST/HST and QST Certificate, Undertaking and Indemnity or any failure by the Purchaser to comply with the provisions of this Section 6.5 or the GST/HST and QST Certificate, Undertaking and Indemnity.

The provisions of this Section 6.5 shall survive and not merge on Closing.

6.6 ~~Termination Payment~~ Intentionally Deleted

- (a) ~~If this Agreement is terminated as a result of (i) the condition in Section 7.3(a) not being satisfied, whereby the ROFR Beneficiary has exercised the ROFR to purchase the Property as a result of the Transaction; or (ii) a default of the Vendor under this Agreement and at any time during the period commencing on the Execution Date and ending four (4) months after the termination of this Agreement, an agreement or other arrangement is entered into with the ROFR Beneficiary whereby the ROFR Beneficiary (other than a result of the ROFR Beneficiary exercising the ROFR) acquires the Property (each a "Trigger Event"), then the Vendor hereby covenants and agrees to pay the Purchaser a termination fee of [REDACTED] of the Purchase Price (the "Termination Payment"), in consideration of the lost opportunity to the Purchaser. Such Termination Payment is to be paid by the Vendor within two (2) Business Days of the termination of this Agreement pursuant to the Triggering Event.~~
- (b) ~~The Vendor shall wire transfer the amount equal to the Termination Payment (the "Termination Deposit") of immediately available funds payable to or to the order of the Monitor, in trust, on or prior to 3 p.m. (Toronto time) one Business Day following the acceptance of this Agreement by the Vendor, to be held in trust as a deposit in accordance with this Section 6.6 and invested in accordance with the provisions of Section 3.2.~~
- (c) ~~The full amount of the Termination Deposit together with all accrued interest earned thereon shall be paid to the Vendor: (i) on Closing, if the Transaction is completed; (ii) following the day of termination of this Agreement other than as a result of the default of the Vendor; or (iii) on the Business Day following the expiration of the four (4) month period starting on the termination of this Agreement as a result of the default of the Vendor, if the Trigger Event has not occurred by such date.~~

- ~~(d) — If the Trigger Event has occurred, the full amount of the Termination Deposit together with all accrued interest earned thereon shall be paid to the Purchaser forthwith upon the occurrence of such Trigger Event in the full satisfaction of the Vendor's obligations in Section 6.6(a). For greater certainty, the Monitor shall release the Termination Deposit and any interest accrued thereon to the person becoming entitled thereto in accordance with the provisions of this Section 6.6 as evidenced by a Joint Direction, except in the event of a dispute between the Parties as to entitlement to the Termination Deposit and any such interest, in which event the Monitor may, in its sole unfettered and unreviewable discretion, pay the Termination Deposit and any interest accrued thereon into Court, whereupon the Monitor shall have no further obligations relating to the Deposit and any interest earned thereon or otherwise hereunder.~~
- ~~(e) — Sections 3.2(e) to (g) inclusive shall apply *mutatis mutandis* to the Termination Deposit, except where in conflict with this Section 6.6.~~
- ~~(f) — The provisions of this Section 6.6 shall survive the termination or non-completion of the Transaction.~~

6.7 Survival of Covenants,

Except as otherwise expressly provided in this Agreement to the contrary, no representations, warranties, covenants or agreements of the Vendor or the Purchaser in this Agreement shall survive the Closing.

ARTICLE 7 CLOSING

7.1 Conditions of Closing for the Benefit of the Purchaser

The Purchaser's obligation to complete the purchase and sale of the Subject Assets is subject to the following conditions to be fulfilled or performed, on or before the Closing Date, which conditions are for the exclusive benefit of the Purchaser and may be waived, in whole or in part, by the Purchaser:

- (a) the representations and warranties of the Vendor in Section 6.1 shall be true and correct as of the Closing Date with the same force and effect as if such representations and warranties were made on and as of such date;
- (b) the Vendor shall have performed and complied with all of the other terms and conditions in this Agreement on its part to be performed or complied with at or before Closing in all material respects and shall have executed and delivered or caused to have been executed and delivered to the Purchaser at Closing all the Closing Documents contemplated or required to be so executed and delivered in this Agreement;
- (c) vacant possession of the Property shall have been given to the Purchaser subject to the Assumed Contracts and Permitted Encumbrances; and

- (d) the Purchaser shall have received the Closing Documents.

7.2 Conditions of Closing for the Benefit of the Vendor

The Vendor's obligation to complete the purchase and sale of the Subject Assets is subject to the following conditions to be fulfilled or performed, on or before the Closing Date, which conditions are for the exclusive benefit of the Vendor and may be waived, in whole or in part, by the Vendor:

- (a) the representations and warranties of the Purchaser in Section 6.2 shall be true and correct as of the Closing Date with the same force and effect as if such representations and warranties were made on and as of such date;
- (b) the Purchaser shall have paid the Balance in its entirety to the Monitor and shall have performed and complied with all of the terms and conditions in this Agreement on its part to be performed or complied with at or before Closing in all material respects and shall have executed and delivered or caused to have been executed and delivered to the Vendor at Closing all the documents contemplated required to be so executed and delivered in this Agreement; and
- (c) the Vendor shall have received the Closing Documents.

7.3 Conditions of Closing for the Mutual Benefit of the Parties

The obligations of either the Vendor or the Purchaser to complete the purchase and sale of the Subject Assets are subject to the following conditions to be fulfilled or performed, on or before the Closing Date, which conditions are for the mutual benefit of each of the parties and may only be waived, in whole or in part, by agreement of the parties to this Agreement:

- (a) ~~the ROFR shall have validly expired in accordance with the terms of the ROFR or as ordered by the Court or been waived by the ROFR Beneficiary in writing and the Vendor has provided commercially reasonable evidence to the Purchaser substantiating the foregoing;~~ Intentionally Deleted;
- (b) the Approval and Vesting Order, substantially in the form attached hereto as Schedule "D", shall have been issued and entered by the Court and any appeal or motion for leave to appeal related to the Approval and Vesting Order shall have been fully disposed of with no further right of appeal or leave to appeal;
- (c) there shall be no Order against either of the parties or involving any of the Subject Assets enjoining, preventing or restraining the completion of the Transaction; and
- (d) the Monitor shall have delivered the Monitor's Certificate.

7.4 Conditions Not Fulfilled

If any of the conditions contained in Sections ~~7.1, 7.2, 7.1, 7.2,~~ or 7.3 hereof is not fulfilled on or prior to the Closing Date and such non-fulfillment is not directly or indirectly as a result of any action or omission of the applicable party benefitting from such condition, then the party entitled

to the benefit of such condition may, in its sole discretion and without limiting its rights or remedies available at law or in equity:

- (a) terminate this Agreement by notice to the other parties and the Monitor, in which event the Purchaser, Vendor and Monitor shall be released from their obligations under this Agreement to complete the Transaction and the Deposit and all interest accrued thereon shall forthwith be returned to the Purchaser without deduction; or
- (b) waive compliance with any such condition without prejudice to the right of termination in respect of the non-fulfillment of any other condition.

7.5 Closing Documents

On or before Closing, subject to the provisions of this Agreement, the Vendor and the Purchaser shall, execute or cause to be executed and shall deliver or cause to be delivered into escrow (in a sufficient number of copies or counterparts for the Purchaser and the Vendor and, where applicable, in registerable form), the following, which shall be in form and substance reasonably satisfactory to the Purchaser and the Vendor and their respective solicitors:

- (a) By the Vendor and the Purchaser:
 - (i) a deed of sale executed by the Vendor and the Purchaser, substantially in the form attached as Schedule “K”;
 - (ii) the Assignment and Assumption of Realty Tax Appeals;
 - (iii) the Assignment and Assumption of Assumed Contracts and Permitted Encumbrances; and
 - (iv) such other documents as each Party or each Party’s solicitors shall reasonably require in good faith in accordance with this Agreement or as may be required under applicable Laws.
- (b) By the Vendor:
 - (i) the Approval and Vesting Order;
 - (ii) the statement of adjustments evidencing the adjustments made at Closing;
 - (iii) a certificate signed by a senior officer of the Vendor confirming that the Vendor is not a non-resident of Canada within the meaning of section 116 of the *Income Tax Act* (Canada);
 - (iv) an assignment of Warranties, to the extent there are any and are in the Vendor’s possession and located on the Property and to the further extent that they are assignable without cost or consent;
 - (v) all master keys relating to the Buildings, if any, all security cards and access cards relating to the Buildings, if any, and all combinations and passwords to vaults and combination locks and other security features

located in the Buildings, if any, in each case, to the extent in the possession of the Vendor;

- (vi) such other documents as the Purchaser or the Purchaser's solicitors shall reasonably require in good faith in accordance with this Agreement or as may be required under applicable Laws.

(c) By the Purchaser:

- (i) the Balance plus all Taxes thereon;
- (ii) GST/HST and QST Certificate, Undertaking and Indemnity;
- (iii) an assignment of this Agreement, if applicable, in accordance with Section 8.22;
- (iv) where applicable, the ~~Contract and/or~~ PE Assumption Agreements along with any deliveries to the Holders required in respect of the Assumed Contracts or Permitted Encumbrances; and
- (v) such other documents as the Vendor or the Vendor's solicitors shall reasonably require in good faith in accordance with this Agreement or as may be required under applicable Laws.

7.6 Closing Date

- (a) The completion of the Transaction contemplated by this Agreement (the "Closing") shall take place at 10:00 a.m. (Toronto time) on the Closing Date at the Toronto office of Osler, Hoskin and Harcourt LLP, or at such other place as may be agreed upon by the Vendor and the Purchaser in writing.
- (b) Subject to satisfaction or waiver by the relevant Party or Parties, as applicable, of the conditions of closing in its favour contained in this Article 7, at Closing, the Purchaser will pay or satisfy the Purchase Price in accordance with Article 3, and the Closing of the Transaction will take effect, pursuant to the Approval and Vesting Order, upon delivery of the Monitor's Certificate.

7.7 Confirmation of Satisfaction of Conditions

On the Closing Date, subject to satisfaction or waiver by the relevant Party or Parties, as applicable, of the conditions of Closing in its favour contained in Article 7, the parties or their respective solicitors shall confirm to the Monitor the satisfaction of all conditions to Closing and upon the Monitor receiving the Balance and any Taxes payable to the Vendor and that are not self-assessed and remitted by the Purchaser, the Monitor shall deliver copies of the Monitor's Certificate to the Parties hereto and release the Deposit and the Balance and any Taxes payable to the Vendor and that are not self-assessed and remitted by the Purchaser to the Vendor and following Closing file the Monitor's Certificate with the Court.

7.8 Closing

- (a) Subject always to Section 3.2 hereof, the Deposit and the Balance and any Taxes payable to the Vendor and that are not self-assessed and remitted by the Purchaser shall be held by the Monitor, in trust in a separate interest bearing account, pending completion of the Transaction or earlier termination of this Agreement. In holding and dealing with the funds paid to the Monitor in trust and any interest earned thereon pursuant to this Agreement, the Monitor is not bound in any way by any agreement other than Section 3.2 and this Section 7.8 and the Monitor shall not assume or be deemed to assume any duty, liability or responsibility other than to hold the trust funds and any interest earned thereon in accordance with the provisions of this Section 7.8 and to pay the funds, and any interest earned thereon, to the Party becoming entitled thereto in accordance with the terms of this Agreement, except in the event of a dispute between the parties as to entitlement to the trust funds, of which the Monitor has been given notice in writing, the Monitor may, in its sole, subjective and unreviewable discretion, or shall, if requested by either of the parties, pay the trust funds and any and all interest earned thereon into court, whereupon the Monitor shall have no further obligations relating to the trust funds or any interest earned thereon or otherwise hereunder.
- (b) The Monitor shall not, under any circumstances, be required to verify or determine the validity of any written notice or other document whatsoever delivered to the Monitor in connection with the trust funds and the Monitor is hereby relieved of any liability or responsibility for any loss or damage, which may arise as a result of the acceptance by the Monitor of any such written notice or other document.
- (c) On or before Closing, the parties' respective solicitors shall exchange the Closing Documents in escrow and the Balance and any Taxes payable to the Vendor and that are not self-assessed and remitted by the Purchaser shall be delivered to or paid to the order of the Monitor, in trust, and the Deposit and the Balance and any Taxes payable to the Vendor and that are not self-assessed and remitted by the Purchaser shall remain in escrow with the Monitor until the Monitor has delivered the Monitor's Certificate to the Vendor and the Purchaser, upon the occurrence of which the escrow shall be lifted, the Closing Documents shall take effect as of the date and time set out in the Monitor's Certificate, the entire amount of the Deposit and the Balance and any Taxes payable to the Vendor and that are not self-assessed and remitted by the Purchaser shall be forthwith released to the Vendor and the Closing shall be deemed to have occurred as of such date and time set out in the Monitor's Certificate and fully signed Closing Documents shall be released to each of the Vendor and Purchaser.
- (d) The parties acknowledge that, notwithstanding that the Monitor is not a party to this Agreement, the Monitor may rely upon the provisions of Section 3.2 hereof and this Section 7.8.
- (e) This Section 7.8 shall survive the Closing or termination of this Agreement.

7.9 Filings and Authorizations

- (a) Each of the Vendor and the Purchaser, as promptly as practicable after the execution of this Agreement, will make, or cause to be made, all such filings and submissions under all Laws applicable to it, as may be required for it to consummate the purchase and sale of the Subject Assets in accordance with the terms of this Agreement (other than the motion seeking approval of the Transaction and the issuance of the Approval and Vesting Order). The Vendor and the Purchaser shall co-ordinate and cooperate with one another in exchanging such information and supplying such assistance as may be reasonably requested by each in connection with the foregoing including, providing each other with all notices and information supplied to or filed with any Governmental Authority (except for notices and information which the Vendor or the Purchaser, in each case acting reasonably, considers highly confidential and sensitive which may be filed on a confidential basis), and all notices and correspondence received from any Governmental Authority.
- (b) The Parties acknowledge and agree that the Monitor shall be entitled to deliver to the parties and file the Monitor's Certificate with the Court, without independent investigation, upon receiving written confirmation from the Vendor and the Purchaser or their respective solicitors that all conditions of Closing have been satisfied or waived and upon receipt of the Balance and any Taxes payable to the Vendor and that are not self-assessed and remitted by the Purchaser, and the Monitor shall have no liability to the Vendor or the Purchaser or any other Person as a result of filing the Monitor's Certificate.

7.10 Court Matters

- (a) The Vendor shall consult and co-ordinate with the Purchaser and their respective legal advisors regarding the parties upon whom the motion seeking the Approval and Vesting Order will be served.
- (b) The Purchaser shall provide such information and take such actions as may be reasonably requested by the Vendor to assist the Vendor in obtaining the Approval and Vesting Order and any other order of the Court reasonably necessary to consummate the transactions contemplated by this Agreement, including, any Court ordered assignment of the Contracts.
- (c) Notwithstanding anything else contained in this Agreement or elsewhere, the Purchaser acknowledges and agrees that the Vendor cannot guarantee that it will obtain the Approval and Vesting Order and the Approval and Vesting Order may or may not be granted by the Court.

7.11 Termination

This Agreement may, by notice in writing given at or prior to Closing, be terminated:

- (a) by mutual consent of the Purchaser and the Vendor (in respect of which the Vendor shall require the consent of the Monitor to provide its consent) or on further order of the Court;
- (b) by the Purchaser if any of the conditions in Section 7.1 have not been satisfied on or before the Closing Date and the Purchaser has not waived such condition;
- (c) by the Vendor with the consent of the Monitor if any of the conditions in Section 7.2 have not been satisfied on or before the Closing Date and the Vendor has not waived such condition; or
- (d) by either Party if any of the conditions precedent in Section 7.3 have not been satisfied on or before the Closing Date and the parties have not waived such condition; or
- (e) by the Vendor (with the consent of the Monitor) or the Purchaser if Closing has not occurred on or before the Outside Date, provided that the Vendor or the Purchaser may not terminate this Agreement pursuant to this Section ~~7.10~~7.11(e) if it has failed to perform any one or more of its respective obligations or covenants under this Agreement and the Closing has not occurred because of such failure.

ARTICLE 8 OTHER PROVISIONS

8.1 Confidentiality

The Vendor shall be entitled to disclose this Agreement and all information provided by the Purchaser in connection herewith to the Court, the Monitor, [Groupe Mach Inc.](#) and parties in interest to the CCAA Proceedings. ~~The NDA shall survive and not merge on Closing.~~

8.2 Time of the Essence

Time shall be of the essence of this Agreement.

8.3 Entire Agreement

This Agreement ~~and the NDA constitute~~constitutes the entire agreement between the parties with respect to the Transaction and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties with respect to the subject matter of this Agreement. There are no representations, warranties, covenants, conditions or other agreements, legal or conventional, express or implied, collateral, statutory or otherwise, between the parties in connection with the subject matter of this Agreement, except as specifically set forth in this Agreement. The parties have not relied and are not relying on any other information, discussion or understanding in entering into and completing the Transaction.

8.4 Waiver

- (a) No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision (whether or not similar), nor shall such

waiver be binding unless executed in writing by the Party to be bound by the waiver.

- (b) No failure on the part of the Vendor or the Purchaser to exercise, and no delay in exercising any right under this Agreement shall operate as a waiver of such right; nor shall any single or partial exercise of any such right preclude any other or further exercise of such right or the exercise of any other right.

8.5 Further Assurances

Each of the parties covenants and agrees to do such things, to attend such meetings and to execute such further conveyances, transfers, documents and assurances as may be reasonably deemed to be necessary or advisable from time to time in order to effectively transfer the Subject Assets to the Purchaser and carry out the terms and conditions of this Agreement in accordance with their true intent. The provisions of this Section 8.5 shall survive and shall not merge on Closing.

8.6 Severability

If any provision of this Agreement shall be determined by a court of competent jurisdiction to be illegal, invalid or unenforceable, that provision shall be severed from this Agreement and the remaining provisions shall continue in full force and effect.

8.7 Governing Law

This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein. Each Party irrevocably and unconditionally waives, to the fullest extent permitted by applicable Laws, any objection that it may now or hereafter have to the venue of any action or proceeding arising out of or relating to this Agreement or the Transaction in any court of the Province of Ontario. Each of the Parties hereby irrevocably waives, to the fullest extent permitted by applicable Laws, the defence of an inconvenient forum to the maintenance of such action or proceeding in any such court.

8.8 English Language

The parties hereto have requested that this Agreement be drafted in English only. *Les parties aux présentes ont demandé à ce que la présente convention soit rédigée en anglais seulement.*

8.9 Statute References

Any reference in this Agreement to any statute or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, restated or re-enacted from time to time.

8.10 Headings

The division of this Agreement into Sections, the insertion of headings is for convenience of reference only and are not to be considered in, and shall not affect, the construction or interpretation of any provision of this Agreement.

8.11 References

Where in this Agreement reference is made to an article or section, the reference is to an article or section in this Agreement unless the context indicates the reference is to some other agreement. The terms “this Agreement”, “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof and include any agreement supplemental hereto. The word “includes” or “including” shall mean “includes without limitation” or “including without limitation”, respectively. The word “or” is not exclusive.

8.12 Number and Gender

Unless the context requires otherwise, words importing the singular include the plural and vice versa and words importing gender include all genders.

8.13 Business Days

If any payment is required to be made or other action is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be made or taken on the next Business Day. All actions to be made or taken by a particular Business Day must be made or taken by no later than 5:00 p.m. (Toronto time) on a Business Day and any action made or taken thereafter shall be deemed to have been made and received on the next Business Day.

8.14 Currency and Payment Obligations

Except as otherwise expressly provided in this Agreement all dollar amounts referred to in this Agreement are stated in Canadian Dollars.

8.15 Notice

Any notice, consent or approval required or permitted to be given in connection with this Agreement (a “**Notice**”) shall be in writing and shall be sufficiently given if delivered (whether in person, by courier service or other personal method of delivery), or if transmitted by facsimile or e-mail:

- (a) in the case of a Notice to the Vendor at:

Sears Canada Inc.
290 Yonge Street, Suite 700
Toronto, ON M5B 2C3

Attn: Philip Mohtadi
Email: pmohtad@sears.ca

With a copy to:

Osler, Hoskin & Harcourt LLP

100 King Street West
 1 First Canadian Place
 Suite 6200, P.O. Box 50
 Toronto, ON M5X 1B8

Attn: Marc Wasserman & Tracy Sandler
 Email: mwasserman@osler.com & tsandler@osler.com

With a copy to:

FTI Consulting Canada Inc.
 TD South Tower
 Suite 2010, P.O. Box 104
 Toronto, ON M5K 1G8

Attn: Paul Bishop
 Email: paul.bishop@fticonsulting.com

With a copy to:

Norton Rose Fulbright Canada LLP
 Suite 3800, Royal Bank Plaza, South Tower
 200 Bay Street, P.O. Box 84
 Toronto, ON M5J 2Z4

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

(b) in the case of a Notice to the Purchaser at:

~~[Groupe Mach Inc. Place Fleur De Lys GP Inc.](#)~~
~~[407 McGill Street, Suite 710](#)~~
~~[Montreal, Quebec H2Y 2G3](#)~~
~~[4400-66 Wellington Street West](#)~~
~~[Toronto Ontario M5K 1H6](#)~~

Attn.: ~~[Vincent Chiara](#)~~
 Email: ~~[●](#)~~

~~Email~~
~~[With a copy to: \[vehiara@groupemach.com\]\(mailto:vehiara@groupemach.com\),](#)~~

~~[ldlegendre@groupemach.com,](#)~~
~~[bmartin@groupemach.com and](#)~~
~~[jsoliman@groupemach.com](#)~~
~~[Camelino Galessiere LLP](#)~~

[6 Adelaide Street East](#)
[Suite 220](#)
[Toronto, ON M5C 1H6](#)

[Attn: Linda Galessiere](#)
[Email: lgalessiere@cglegal.ca](#)

A Notice is deemed to be given and received (i) if sent by personal delivery or same day courier, on the date of delivery if it is a Business Day and the delivery was made prior to 5:00 p.m. (local time in the place of receipt) and otherwise on the next Business Day, (ii) if sent by overnight courier, on the next Business Day, or (iii) if transmitted by facsimile, on the Business Day following the date of confirmation of transmission by the originating facsimile, or (iv) if sent by email, when the sender receives an email from the recipient acknowledging receipt, provided that an automatic “read receipt” does not constitute acknowledgment of an email for purposes of this section. Any Party may change its address for service from time to time by providing a Notice in accordance with the foregoing. Any subsequent Notice must be sent to the Party at its changed address. Any element of a Party’s address that is not specifically changed in a Notice will be assumed not to be changed. Subject to Section ~~8.17~~,[8.17](#), sending a copy of a Notice to a Party’s legal counsel as contemplated above is for information purposes only and does not constitute delivery of the Notice to that Party. The failure to send a copy of a Notice to legal counsel does not invalidate delivery of that Notice to a Party.

8.16 Subdivision Control Legislation

This Agreement and the Transaction are subject to compliance with the applicable subdivision control legislation to the extent applicable.

8.17 Solicitors as Agent and Tender

Any Notice, approval, waiver, agreement, instrument, document or communication permitted, required or contemplated in this Agreement (including, without limitation, any agreement to amend this Agreement) may be given or delivered and accepted or received by the Purchaser’s solicitors on behalf of the Purchaser and by the Vendor’s solicitors on behalf of the Vendor and any tender of Closing Documents may be made upon the Vendor’s solicitors and the Purchaser’s solicitors, as the case may be.

8.18 No Registration of Agreement

The Purchaser covenants and agrees not to register or cause or permit to be registered this Agreement or any notice of this Agreement on title to any of the Subject Assets and that no reference to or notice of it or any caution, certificate of pending litigation or other similar court process in respect thereof shall be registered on title to the Subject Assets and/or any part thereof and the Purchaser shall be deemed to be in material default under this Agreement if it makes, or causes or permits, any registration to be made on title to the Subject Assets and/or any part thereof prior to the successful completion of the Transaction contemplated herein on the Closing Date. The Purchaser shall indemnify and save the Vendor harmless from and against any and all Claims whatsoever arising from or with respect to any such registration, including, all the legal fees, on a full indemnity basis, including those incurred by the Vendor with respect to obtaining

the removal of such registration. This indemnity shall survive and not merge on the expiration, non-completion and/or termination of this Agreement for any reason.

8.19 Third Party Costs

Each of the Parties hereto shall be responsible for the costs of their own solicitors, respectively, in respect of the Transaction. The Purchaser shall be solely responsible for and shall pay, in addition to the Purchase Price, any land transfer taxes and transfer duties payable on the transfer of the Subject Assets, all registration taxes, fees and other costs payable in respect of registration of any documents to be registered by the Purchaser at Closing and all federal and provincial sales and other taxes payable upon or in connection with the conveyance or transfer of the Subject Assets, including, goods and services tax, harmonized sales tax or other similar value added or multi-staged tax imposed by any applicable provincial or territorial legislation, as the case may be, and any other provincial sales taxes. This Section ~~9.19~~8.19 shall survive the Closing or the termination of this Agreement. The Purchaser acknowledges that, subject to the limitations contained in Section ~~2.3~~2.2, the Vendor has provided to the Purchaser, solely as a courtesy an updated environmental report prepared by Pinchin in respect of the Lands and an updated building condition report prepared by Pinchin in respect of the Buildings and reliance letters for such reports, and that the costs and expenses incurred by the Vendor in obtaining such reports and reliance letters will be paid by the Purchaser to the Vendor on Closing and will be shown on the statement of adjustments as an additional adjustment in favour of the Vendor. This Section ~~9.19~~8.19 shall survive the Closing or the termination of this Agreement.

8.20 Interpretation

The parties hereto acknowledge and agree that: (a) each Party and its counsel reviewed and negotiated the terms and provisions of this Agreement and have contributed to their revision, (b) the rule of construction to the effect that any ambiguities are resolved against the drafting Party shall not be employed in the interpretation of this Agreement, and (c) the terms and provisions of this Agreement shall be construed fairly as to all parties hereto and not in favour of or against any Party, regardless of which Party was generally responsible for the preparation of this Agreement.

8.21 No Third Party Beneficiaries

Each Party hereto intends that this Agreement shall not benefit or create any right or cause of action in or on behalf of any Person, other than the Parties hereto and the Monitor, and no Person, other than the Parties hereto and the Monitor, shall be entitled to rely on the provisions hereof in any Claim, proceeding, hearing or other forum. The Parties acknowledge and agree that the Monitor, acting in its capacity as the Monitor, will have no liability in connection with this Agreement whatsoever, in its capacity as Monitor, in its personal capacity or otherwise.

8.22 Enurement

This Agreement shall become effective when executed by the Vendor and the Purchaser and after that time shall be binding upon and enure to the benefit of the parties and their respective heirs, executors, personal legal representatives, successors and permitted assigns. The Purchaser has and shall have no right to assign, convey and/or transfer its rights and/or obligations hereunder or to direct title to any of the Subject Assets to any other Person or to effect a “change of control” so as to indirectly effect the foregoing, without in each case first obtaining the prior written consent

of the Vendor, which consent may be arbitrarily and unreasonably withheld by the Vendor. Notwithstanding the foregoing, the Purchaser shall have the right, upon 5 Business Days' prior written notice to the Vendor and before the Approval and Vesting Order is issued, but in Purchaser's sole discretion, to assign all of its rights and obligations pursuant to this Agreement, to another Person(s) which is/are controlled directly or indirectly by the Purchaser, provided in the case of such assignment the assignee executes and delivers an agreement in favour of the Vendor (in a form approved by Vendor acting reasonably) agreeing to be bound by all obligations of the Purchaser hereunder and the original Purchaser shall not be relieved of its obligations hereunder, until the occurrence of Closing

8.23 Amendments

This Agreement may only be amended, supplemented or otherwise modified by written agreement signed by the Vendor and the Purchaser, except that the time for doing or completing of any matter provided for herein may be extended or abridged by an agreement in writing signed by the Vendor or the Vendor's solicitors on one hand and the Purchaser or the Purchaser's solicitors on the other.

8.24 Counterparts and Delivery

All Parties agree that this Agreement and any amendments hereto (and any other agreements, Notices, or documents contemplated hereby) may be executed in counterpart and transmitted by facsimile or e-mail (PDF) and that the reproduction of signatures in counterpart by way of facsimile or e-mail (PDF) will be treated as though such reproduction were executed originals.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF the parties have executed this Agreement.

SEARS CANADA INC.

By: _____

Name:

Title:

By: _____

Name:

Title:

~~**GROUPE MACH**~~ **PLACE FLEUR DE LYS**
GP INC.

By: _____

Name: ~~Vincent Chiara~~

Title: ~~President~~

**SCHEDULE “A”
LANDS**

An emplacement situated in the City of Québec (Borough of Des Rivières), Province of Québec and composed of lot number ONE MILLION NINE HUNDRED FORTY THOUSAND THIRTY-THREE (1 940 033) of the Cadastre du Québec, Registration Division of Québec.

With all buildings thereon erected and, more particularly, the building bearing civic number 500 Wilfrid Hamel Boulevard, City of Québec (Borough of Des Rivières), Province of Québec, G1M 2S5.

**SCHEDULE “B”
EXCLUDED ASSETS**

1. All intellectual property or proprietary rights, whether registered or not, and any intangible property, owned, used or held by the Vendor.
2. All items, materials and signs bearing the logo, trade-mark, trade-name or business name or other mark or design of the Vendor.
3. All FF&E and Inventory which have been removed from the Property by or on behalf of the Vendor or its agents or their respective representatives prior to the Closing Date.
4. All insurance policies of the Vendor.
5. All rights and interests in trade-marks, trade-names, logos, commercial symbols and business names containing “Sears” or any other proprietary wording or intellectual property rights of the Vendor or any of its affiliates (including, the websites).
6. All rights of the Vendor against the Purchaser pursuant to this Agreement.
7. All (i) computers and related systems and information storage media and other IT equipment, (ii) video cameras and equipment, and (iii) point-of-sales systems and all appurtenances thereto.

**SCHEDULE “D”
FORM OF APPROVAL AND VESTING ORDER**

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.	)	●, THE ● TH
)	
JUSTICE HAINEY	)	DAY OF ●, 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 – ●

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 ●, together with certain ancillary assets (the “**Transaction**”) contemplated by an Agreement of Purchase and Sale between Sears Canada Inc. (“**Sears Canada**”), as vendor, and ● (the “**Purchaser**”) as purchaser dated ●, 2018 (the “**APA**”) 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 ● sworn on ●, 2018 including the exhibits thereto (the “● Affidavit”), and the ● 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 ● sworn ●, 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 APA, as applicable.

APPROVAL OF THE APA

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 APA 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 APA 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 (Ontario), the *Civil Code of Quebec* 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 immovable 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 APA.

SEALING

9. THIS COURT ORDERS that Confidential Appendix "●" to the ● 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

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.

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 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**”)

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 between Sears Canada Inc. (“**Sears Canada**”), as vendor, and ● (the “**Purchaser**”) as purchaser dated ●, 2018 (the “**APA**”), a copy of which is attached as Exhibit ● to the Affidavit of ● dated ●, 2018.

B. Pursuant to the Approval and Vesting Order the Court approved the APA 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 APA), 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, 7.1~~, 7.2 and 7.3 of the APA 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 APA) 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~~, 7.1, 7.2 and 7.3 of the APA 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"

No.	Location / Address	Provi nce	Land Registry Office	Legal Description	Encumbr ances to be Expunged/ Deleted
Section 1.	●	●	●	●	[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 APA.

SCHEDULE “E”
PURCHASER’S GST/HST AND QST CERTIFICATE, UNDERTAKING AND
INDEMNITY

TO: Sears Canada Inc. (the “Vendor”)

AND TO: Osler, Hoskin & Harcourt LLP, the Vendor’s solicitors

RE: Agreement of Purchase and Sale dated ●, 2018, made between the Vendor, as Vendor, and ●, as Purchaser, (the “Purchaser”), as amended from time to time (the “Purchase Agreement”), for the purchase and sale of the Property and other Subject Assets (as such terms are defined in the Purchase Agreement)

In consideration of the completion of the transaction set out in the Agreement, the Purchaser hereby certifies and agrees as follows:

- a) the Subject Assets are being purchased by the Purchaser as principal for its own account and not as an agent, nominee, trustee or otherwise on behalf of or for another Person;
- b) the Purchaser is registered under Subdivision (d) of Division V of Part IX of the *Excise Tax Act* (Canada) (the “*Excise Tax Act*”) for the collection and remittance of goods and services tax and harmonized sales tax (“GST/HST”) and under Division I of Chapter VIII of Title I of *An Act respecting the Québec Sales Tax* (the “*Québec Act*”) with respect to the Québec sales tax (“QST”) and its registration numbers are ● and such registrations are in good standing and have not been varied, cancelled or revoked;
- c) the Purchaser shall be liable for, shall self-assess and shall remit to the appropriate governmental authority, all GST/HST which is payable under the *Excise Tax Act* and all QST which is payable under the *Québec Act* in connection with the transfer of the Subject Assets, all in accordance with the *Excise Tax Act* and the *Québec Act* respectively;
- d) the Purchaser shall indemnify and save harmless the Vendor from and against any and all GST/HST, QST, penalties, interest and/or other costs which may become payable by or be assessed against the Vendor as a result of any failure by the Vendor to collect and remit any GST/HST or QST applicable on the sale and conveyance of the Subject Assets by the Vendor to the Purchaser or as a result of any inaccuracy, misstatement or misrepresentation by the Purchaser in this GST/HST and QST Certificate, Undertaking and Indemnity or any failure by the Purchaser to comply with the provisions of this GST/HST and QST Certificate, Undertaking and Indemnity; and
- e) this GST/HST and QST Certificate, Undertaking and Indemnity shall survive and not merge upon closing of the above-noted transaction.

This GST/HST and QST Certificate, Undertaking and Indemnity may be executed in counterpart and transmitted by facsimile or e-mail (PDF) and that the reproduction of signatures in counterpart by way of facsimile or e-mail (PDF) will be treated as though such reproduction were executed originals.

DATED _____, 2018.

[PURCHASER]

By: _____

Name: ●

Title: ●

By: _____

Name: ●

Title: ●

SCHEDULE “F”

**FORM OF ASSIGNMENT AND ASSUMPTION OF ASSUMED CONTRACTS AND
PERMITTED ENCUMBRANCES**

THIS AGREEMENT is made as of the _____ day of _____, 2018 (the “**Effective Date**”)

B E T W E E N:

SEARS CANADA INC.

(the “**Vendor**”)

- and -

●

(the “**Purchaser**”)

RECITALS:

A. The Vendor and certain of its affiliates and subsidiaries applied for and were granted protection from their creditors under the CCAA pursuant to the Initial Order of the Court. Pursuant to the Initial Order, the Court appointed FTI Consulting Canada Inc. as Monitor in connection with the CCAA Proceedings.

B. The Vendor and the Purchaser entered into an agreement of purchase and sale dated ●, 2018 (the “**Purchase Agreement**”), whereby, among other things, the Vendor agreed to assign to the Purchaser all of the Vendor’s right, title and interest in and to the Permitted Encumbrances.

C. The Purchase Agreement was approved by the Court pursuant to the Order dated ● (the “**Approval and Vesting Order**”).

D. The Vendor and the Purchaser are entering into this Agreement to provide for the assignment and assumption of the Assumed Contracts and the Permitted Encumbrances by the Vendor to the Purchaser in accordance with the Purchase Agreement and the Approval and Vesting Order.

E. Unless otherwise expressly provided for herein, all capitalized terms when used in this Agreement have the same meaning given to such terms in the Purchase Agreement.

THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1 ASSIGNMENT

1.1 Assignment by Vendor

The Vendor assigns and transfers to the Purchaser, as of the Effective Date, all of the Vendor's obligations, rights, title and interest, both at law and at equity, in and to the Assumed Contracts and the Permitted Encumbrances and all related rights, benefits and advantages thereto (collectively, the "Assigned Interest").

1.2 Assumption by Purchaser

The Purchaser hereby accepts the assignment of the Assigned Interest provided for in this Agreement and assumes all of the Vendor's obligations, right, title and interest in and to the Assigned Interest from and after the Effective Date.

1.3 Indemnity

The Purchaser hereby covenants with the Vendor, as of and from the Effective Date to indemnify and save the Vendor harmless from any and all Claims arising from, relating to or in connection with any non-payment of amounts payable on the part of the Purchaser to be paid from time to time under the Assumed Contracts and the Permitted Encumbrances, or any non-observance or non-performance of any of the terms, agreements, covenants, obligations and conditions on the part of the Purchaser under the Assumed Contracts and the Permitted Encumbrances to be paid, observed or performed from time to time, in respect of the period on or after the Effective Date, or otherwise arising, incurred or accrued on or after the Effective Date whether in respect of the period before or after the Effective Date, including, without limitation, any default as a consequence of the closing of the Transaction contemplated by the Purchase Agreement.

1.4 Paramountcy

The rights and obligations of the parties respectively with respect to the Assumed Contracts and the Permitted Encumbrances and any other Subject Assets shall be governed by the Purchase Agreement. In the event of any conflict, inconsistency, ambiguity or difference between the provisions of this Agreement and of the Purchase Agreement, then the provisions of the Purchase Agreement shall govern and be paramount, and any such provision in this Agreement shall be deemed to be amended, to the extent necessary to eliminate any such conflict, inconsistency, ambiguity or difference.

ARTICLE 2 GENERAL

2.1 Time of the Essence

Time shall be of the essence of this Agreement.

2.2 Enurement

This Agreement shall become effective when executed by the Vendor and the Purchaser and after that time shall be binding upon and enure to the benefit of the parties and their respective heirs,

executors, personal legal representatives, successors and permitted assigns. Neither this Agreement nor any of the rights or obligations under this Agreement shall be assignable or transferable by either party without the consent of the other party.

2.3 Entire Agreement

This Agreement and the Purchase Agreement constitute the entire agreement between the parties with respect to the assignment and assumption of the Assumed Contracts and the Permitted Encumbrances contemplated in the Purchase Agreement and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties with respect to the subject matter of this Agreement. There are no representations, warranties, covenants, conditions or other agreements, legal or conventional, express or implied, collateral, statutory or otherwise, between the parties in connection with the subject matter of this Agreement, except as specifically set forth in this Agreement and the Purchase Agreement. The parties have not relied and are not relying on any other information, discussion or understanding in entering into and completing the transactions contemplated by this Agreement and the Purchase Agreement.

2.4 Waiver

- (a) No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision (whether or not similar), nor shall such waiver be binding unless executed in writing by the party to be bound by the waiver.
- (b) No failure on the part of the Vendor or the Purchaser to exercise, and no delay in exercising any right under this Agreement shall operate as a waiver of such right; nor shall any single or partial exercise of any such right preclude any other or further exercise of such right or the exercise of any other right.

2.5 Further Assurances

Each of the parties covenants and agrees to do such things, to attend such meetings and to execute such further conveyances, transfers, documents and assurances as may be deemed necessary or advisable from time to time in order to effectively transfer the Subject Assets to the Purchaser and carry out the terms and conditions of this Agreement in accordance with their true intent.

2.6 Severability

If any provision of this Agreement shall be determined to be illegal, invalid or unenforceable, that provision shall be severed from this Agreement and the remaining provisions shall continue in full force and effect.

2.7 Governing Law

This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Province in which the Property is located and the federal laws of Canada applicable therein.

2.8 CCAA Proceedings

Each party to this Agreement submits to the exclusive jurisdiction of the Court in any action, application, reference or other proceeding arising out of or related to this Agreement or the Purchase Agreement and agrees that all claims in respect of any such actions, application, reference or other proceeding shall be heard and determined in the CCAA Proceedings before the Court.

2.9 English Language

The parties hereto have requested that this Agreement be drafted in English only. *Les parties aux présentes ont demandé à ce que la présente convention soit rédigée en anglais seulement.*

2.10 Statute References

Any reference in this Agreement to any statute or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, restated or re-enacted from time to time.

2.11 Headings

The division of this Agreement into Sections, the insertion of headings is for convenience of reference only and are not to be considered in, and shall not affect, the construction or interpretation of any provision of this Agreement.

2.12 References

Where in this Agreement reference is made to an article or section, the reference is to an article or section in this Agreement unless the context indicates the reference is to some other agreement. The terms “this Agreement”, “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof and include any agreement supplemental hereto. The word “includes” or “including” shall mean “includes without limitation” or “including without limitation”, respectively. The word “or” is not exclusive.

2.13 Number and Gender

Unless the context requires otherwise, words importing the singular include the plural and vice versa and words importing gender include all genders.

2.14 Business Days

If any payment is required to be made or other action is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be made or taken on the next Business Day. All actions to be made or taken by a particular Business Day must be made or taken by no later than 4:30 p.m. (Toronto time) on a Business Day and any action made or taken thereafter shall be deemed to have been made and received on the next Business Day.

2.15 Notice

Any notice, consent or approval required or permitted to be given in connection with this Agreement (a “**Notice**”) shall be in writing and shall be sufficiently given if delivered or transmitted in accordance with the Purchase Agreement.

2.16 Counterparts and Delivery

All parties agree that this Agreement may be executed in counterpart and transmitted by facsimile or e-mail (PDF) and that the reproduction of signatures in counterpart by way of facsimile or e-mail (PDF) will be treated as though such reproduction were executed originals.

[Signature pages follow.]

IN WITNESS WHEREOF the Vendor has executed this Agreement.

SEARS CANADA INC.

By: _____

Name:

Title:

By: _____

Name:

Title:

IN WITNESS WHEREOF the Purchaser has executed this Agreement.

●

By: _____

Name: ●

Title: ●

By: _____

Name: ●

Title: ●

**SCHEDULE “G”
FORM OF ASSIGNMENT AND ASSUMPTION OF REALTY TAX APPEALS**

THIS AGREEMENT is made as of the _____ day of _____, 2018 (the “**Effective Date**”)

B E T W E E N:

SEARS CANADA INC.

(the “**Vendor**”)

- and -

●

(the “**Purchaser**”)

RECITALS:

A. The Vendor and certain of its affiliates and subsidiaries applied for and were granted protection from their creditors under the CCAA pursuant to the Initial Order of the Court. Pursuant to the Initial Order, the Court appointed FTI Consulting Canada Inc. as Monitor in connection with the CCAA Proceedings.

B. The Vendor and the Purchaser entered into an agreement of purchase and sale dated ●, 2018 (the “**Purchase Agreement**”), whereby, among other things, the Vendor agreed to assign to the Purchaser all of the Vendor’s right, title and interest in and to the Property.

C. The Purchase Agreement was approved by the Court pursuant to the Order dated ● (the “**Approval and Vesting Order**”).

D. The Vendor and the Purchaser are entering into this Agreement to provide for the assignment of the Realty Tax Refunds by the Vendor to the Purchaser in accordance with the Purchase Agreement and the Approval and Vesting Order.

E. Unless otherwise expressly provided for herein, all capitalized terms when used in this Agreement have the same meaning given to such terms in the Purchase Agreement.

THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE 3 ASSIGNMENT

3.1 Assignment and Assumption

Subject to the terms and conditions contained herein, effective as of the Effective Date, the Vendor hereby assigns, transfers and sets over unto the Purchaser all of the Vendor's right, title and interest, if any, in and to the Realty Tax Appeals and any Realty Tax Refunds which may arise from any of the Realty Tax Appeals for any period that is prior to the Closing Date.

3.2 Carriage of Realty Tax Appeals

From and after the Closing Date, the Purchaser may, at its sole cost and expense but without any obligation to do so, assume or retain the carriage of the Realty Tax Appeals and continue as the appellant in the Realty Tax Appeals.

3.3 Authorization and Direction

This Agreement shall serve as authorization and direction to the municipal and/or provincial taxing authority to pay to the Purchaser, from and after the Effective Date, the Realty Tax Refunds.

3.4 Paramountcy

The rights and obligations of the parties respectively with respect to the Realty Tax Appeals and Realty Tax Refunds shall be governed by the Purchase Agreement. In the event of any conflict, inconsistency, ambiguity or difference between the provisions of this Agreement and of the Purchase Agreement, then the provisions of the Purchase Agreement shall govern and be paramount, and any such provision in this Agreement shall be deemed to be amended, to the extent necessary to eliminate any such conflict, inconsistency, ambiguity or difference.

ARTICLE 4 GENERAL

4.1 Time of the Essence

Time shall be of the essence of this Agreement.

4.2 Enurement

This Agreement shall become effective when executed by the Vendor and the Purchaser and after that time shall be binding upon and enure to the benefit of the parties and their respective heirs, executors, personal legal representatives, successors and permitted assigns. Neither this Agreement nor any of the rights or obligations under this Agreement shall be assignable or transferable by either party without the consent of the other party.

4.3 Entire Agreement

This Agreement and the Purchase Agreement constitute the entire agreement between the parties with respect to the assignment and assumption of the Realty Tax Appeals contemplated in the

Purchase Agreement and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties with respect to the subject matter of this Agreement. There are no representations, warranties, covenants, conditions or other agreements, legal or conventional, express or implied, collateral, statutory or otherwise, between the parties in connection with the subject matter of this Agreement, except as specifically set forth in this Agreement and the Purchase Agreement. The parties have not relied and are not relying on any other information, discussion or understanding in entering into and completing the transactions contemplated by this Agreement and the Purchase Agreement.

4.4 Waiver

- (a) No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision (whether or not similar), nor shall such waiver be binding unless executed in writing by the party to be bound by the waiver.
- (b) No failure on the part of the Vendor or the Purchaser to exercise, and no delay in exercising any right under this Agreement shall operate as a waiver of such right; nor shall any single or partial exercise of any such right preclude any other or further exercise of such right or the exercise of any other right.

4.5 Further Assurances

Each of the parties covenants and agrees to do such things, to attend such meetings and to execute such further conveyances, transfers, documents and assurances as may be deemed necessary or advisable from time to time in order to effectively transfer the Subject Assets to the Purchaser and carry out the terms and conditions of this Agreement in accordance with their true intent.

4.6 Severability

If any provision of this Agreement shall be determined to be illegal, invalid or unenforceable, that provision shall be severed from this Agreement and the remaining provisions shall continue in full force and effect.

4.7 Governing Law

This Agreement shall be governed by and interpreted and enforced in accordance with the laws of the Province in which the Property is located and the federal laws of Canada applicable therein.

4.8 CCAA Proceedings

Each party to this Agreement submits to the exclusive jurisdiction of the Court in any action, application, reference or other proceeding arising out of or related to this Agreement or the Purchase Agreement and agrees that all claims in respect of any such actions, application, reference or other proceeding shall be heard and determined in the CCAA Proceedings before the Court.

4.9 Statute References

Any reference in this Agreement to any statute or any section thereof shall, unless otherwise expressly stated, be deemed to be a reference to such statute or section as amended, restated or re-enacted from time to time.

4.10 Headings

The division of this Agreement into Sections, the insertion of headings is for convenience of reference only and are not to be considered in, and shall not affect, the construction or interpretation of any provision of this Agreement.

4.11 References

Where in this Agreement reference is made to an article or section, the reference is to an article or section in this Agreement unless the context indicates the reference is to some other agreement. The terms “this Agreement”, “hereof”, “hereunder” and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof and include any agreement supplemental hereto. The word “includes” or “including” shall mean “includes without limitation” or “including without limitation”, respectively. The word “or” is not exclusive.

4.12 Number and Gender

Unless the context requires otherwise, words importing the singular include the plural and vice versa and words importing gender include all genders.

4.13 Business Days

If any payment is required to be made or other action is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be made or taken on the next Business Day. All actions to be made or taken by a particular Business Day must be made or taken by no later than 4:30 p.m. (Toronto time) on a Business Day and any action made or taken thereafter shall be deemed to have been made and received on the next Business Day.

4.14 English Language

The parties hereto have requested that this Agreement be drafted in English only. *Les parties aux présentes ont demandé à ce que la présente convention soit rédigée en anglais seulement.*

4.15 Currency and Payment Obligations

Except as otherwise expressly provided in this Agreement all dollar amounts referred to in this Agreement are stated in Canadian Dollars.

4.16 Notice

Any notice, consent or approval required or permitted to be given in connection with this Agreement (a “Notice”) shall be in writing and shall be sufficiently given if delivered or

transmitted in accordance with the Purchase Agreement.

4.17 Counterparts and Delivery

All parties agree that this Agreement may be executed in counterpart and transmitted by facsimile or e-mail (PDF) and that the reproduction of signatures in counterpart by way of facsimile or e-mail (PDF) will be treated as though such reproduction were executed originals.

[Signature pages follow.]

IN WITNESS WHEREOF the Vendor has executed this Agreement.

SEARS CANADA INC.

By: _____

Name:

Title:

By: _____

Name:

Title:

IN WITNESS WHEREOF the Purchaser has executed this Agreement.

●

By: _____

Name: ●

Title: ●

By: _____

Name: ●

Title: ●

SCHEDULE “H”**PERMITTED ENCUMBRANCES****GENERAL ENCUMBRANCES**

- (a) The reservations, limitations, exceptions, provisos and conditions, if any, expressed in any original grants from the Crown including, without limitation, the reservation of any royalties, mines and minerals in the Crown or in any other person.
- (b) Subdivision agreements, site plan control agreements, development agreements, heritage easements and agreements relating thereto, servicing agreements, utility agreements, permits, licenses, airport zoning regulations and other similar agreements with Governmental Authorities or private or public utilities affecting the development or use of any Property, in each of the foregoing cases, Disclosed to the Purchaser.
- (c) Any easements, servitudes, or rights-of-way in favour of any Governmental Authority, any private or public utility, any railway company or any adjoining owner, in each of the foregoing cases, Disclosed to the Purchaser.
- (d) Any unregistered easements, servitudes, rights-of-way or other unregistered interests or claims not disclosed by registered title in respect of the provision of utilities to the Property, in each of the foregoing cases, Disclosed to the Purchaser.
- (e) Any rights of expropriation, access or use or any other similar rights conferred or reserved by applicable Law (which, if exercised shall be governed by the terms of this Agreement).
- (f) Encumbrances for real or immovable property taxes (which term includes charges, rates and assessments) or charges for electricity, power, gas, water and other services and utilities in connection with the Property that have accrued but are not yet due and owing or, if due and owing, are adjusted for on Closing.
- (g) Minor encroachments by the Property over neighbouring lands and/or permitted under agreements with neighbouring landowners and minor encroachments over the Property by improvements of neighbouring landowners and/or permitted under agreements with neighbouring landowners.
- (h) The provisions of all applicable Laws, including by-laws, regulations, ordinances and similar instruments relating to development and zoning of the Property.
- (i) The exceptions and qualifications contained in Section 44(1) of the *Land Titles Act* (Ontario) (other than paragraphs 4, 6 and 11) or the *Land Titles Act* (Alberta).
- (j) Security given to a public utility or any municipality or governmental or other public authority when required by the operations of the Property in the ordinary

- 2 -

course of business, including, without limitation, the right of the municipality to acquire portions of the Property for road widening or interchange construction and the right of the municipality to complete improvements, landscaping or remedy deficiencies in any pedestrian walkways or traffic control or monitoring to be provided to the Property.

- (k) Any minor title defects, irregularities, easements, servitudes, encroachments, rights of way or other discrepancies in title or possession relating to the Property, in each of the foregoing cases, Disclosed to the Purchaser.
- (l) Permits, licenses, agreements, servitudes, easements, (including, without limitation, heritage easements and agreements relating thereto), restrictions, restrictive covenants, options, rights-of-way, public ways, rights in the nature of an easement or servitude and other similar rights in land granted to or reserved by other persons (including, without in any way limiting the generality of the foregoing, permits, licenses, agreements, easements, rights-of-way, sidewalks, public ways, and rights in the nature of easements or servitudes for sewers, drains, steam, gas and water mains or electric light and power or telephone and telegraph conduits, poles, wires and cables) (other than those described in paragraph (c) and (d) of this Schedule) which do not materially impair the current operation of the Property.
- (m) All Off-Title Compliance Matters.
- (n) Any reference plans or plans registered pursuant to the *Boundaries Act* (Ontario).
- (o) Any unregistered interests in the Property of which the Purchaser has actual notice.
- (p) All instruments which are registered against title to a Property: (i) as of the date that is one (1) Business Days prior to the Execution Date; or (ii) otherwise agreed to by the Purchaser; or (iii) permitted by this Agreement, except for those Encumbrances to be vested off pursuant to the Approval and Vesting Order.

SPECIFIC ENCUMBRANCES

The characterization or descriptions of those items on the balance of this Schedule "H" is prepared for purposes of convenience only and for accurate reference, recourse should be had to the registration itself.

~~(q) The ROFR.~~

SCHEDULE "J"
ASSUMED CONTRACTS

Nil.

SCHEDULE “K”

FORM OF DEED OF SALE

DEED OF SALE made as of the ● (●) day of ●, two thousand eighteen (2018).

BETWEEN: **SEARS CANADA INC.**, a corporation existing under the *Canada Business Corporations Act*, having its head office at 290 Yonge Street, Suite 700, at the City of Toronto, Province of Ontario, M5B 2C3, herein acting and represented by ●, its ●, duly authorized for the purposes hereof in virtue of a resolution of its Board of Directors adopted on ●, 2018;

(hereinafter referred to as the “**Vendor**”)

AND: **[INSERT NAME OF PURCHASER]**, a [corporation] existing under the laws of ●, having its head office at ●, Province of ●, ●, herein acting and represented by ●, its ●, duly authorized for the purposes hereof [in virtue of a resolution of its Board of Directors adopted on ●, 2018];

(hereinafter referred to as the “**Purchaser**”)

WHEREAS on June 22, 2017, an Initial Order was granted by the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) pursuant to which the Vendor and certain of its affiliates and subsidiaries (collectively, the “**Sears Group**”) were granted protection from their creditors under the *Companies’ Creditors Arrangement Act* (Canada) and FTI Consulting Canada Inc. was appointed as monitor (the “**Monitor**”);

WHEREAS on July 13, 2017, the Court granted an Order approving the Sale and Investment Solicitation Process for soliciting and selecting bids for the sale of, among other things, the Assets (as defined therein) of the Sears Group;

WHEREAS pursuant to an agreement of purchase and sale dated ●, 2018 (the “**Asset Purchase Agreement**”), the Vendor agreed to sell, assign and transfer to the Purchaser, all of the Vendor’s right, title and interest in certain assets being the Subject Assets (as such term is defined in the Asset Purchase Agreement), including the Property (as defined below);

WHEREAS the Asset Purchase Agreement has been approved and the transactions contemplated therein have been authorized by an order of the Court rendered on ●, 2018, in the file of the Court bearing number ● (the “**Approval and Vesting Order**”); and

WHEREAS the Vendor and the Purchaser have agreed to execute this Deed of Sale in furtherance of the terms of the Asset Purchase Agreement and the Approval and Vesting Order and to cause this Deed of Sale to be registered at the land register.

NOW THEREFORE, the parties agree as follows:

SALE

In furtherance of the Approval and Vesting Order, the Vendor hereby sells and transfers to the Purchaser, hereto present and accepting, all of its right, title and interest in and to the following immovable property:

DESCRIPTION

- **[INSERT CADASTRAL DESCRIPTION]**

With the building erected thereon bearing civic address ●, in the City of ●, Province of Québec, ●.

As the Property now subsists, without exception nor reserve of any kind on the part of the Vendor, subject to all servitudes benefiting or affecting the Property.

(herein referred to as the “**Property**”)

NO WARRANTY

Except as otherwise expressly set out in the Asset Purchase Agreement, the Purchaser acknowledges and agrees that it is acquiring the Property on an “as is, where is” basis, without the benefit of any legal warranty as to ownership or quality as referred to in Article 1716 of the *Civil Code of Québec* or any other representation or warranty whatsoever, legal or conventional, and at its own risk within the meaning of Article 1733 of the Civil Code of Quebec and that the Vendor is not a professional seller.

TITLE

- The Property was acquired by the Vendor (or its predecessor) in virtue of the following deed(s) : ●.

POSSESSION

The Purchaser shall become the owner and have possession of the Property as at the date of delivery of the Monitor’s Certificate (as defined in the Asset Purchase Agreement) as contemplated by the terms of the Asset Purchase Agreement.

Notwithstanding paragraph 2 of Article 1456 of the *Civil Code of Québec*, the Purchaser shall assume the risks attached to the Property, in accordance with Article 950 of the *Civil Code of Québec*, as of the date of this Deed of Sale.

ASSET PURCHASE AGREEMENT

The parties hereby acknowledge that this Deed of Sale is being executed pursuant to the Asset Purchase Agreement. The parties acknowledge that the terms and conditions of the Asset Purchase Agreement shall survive the execution and registration of this Deed of Sale and remain in full force and effect for the period set forth in the Asset Purchase Agreement. In the case of any conflict or inconsistency between the terms and conditions of the Asset Purchase Agreement and the provisions of this Deed of Sale, the terms and conditions of the Asset Purchase Agreement shall prevail.

PURCHASE PRICE

The sale of the Property is made for a purchase price of ● DOLLARS (\$●), in lawful money of Canada (the “**Purchase Price**”), and the Vendor hereby acknowledges receipt thereof in full, whereof quit.

ADJUSTMENTS

The parties declare that they have made or provided for all adjustments between them relating to the present sale of the Property, the whole in accordance with the terms of the Asset Purchase Agreement.

DECLARATIONS REGARDING GST AND QST

The Vendor and the Purchaser declare that the present sale of the Property constitutes a “taxable supply” subject to the payment of the tax commonly referred to as the “Goods and Services Tax” (the “**GST**”) under the *Excise Tax Act* (Canada) (the “**ETA**”) and the “Québec Sales Tax” (the “**QST**”) under an *Act respecting the Québec Sales Tax* (the “**QSTA**”). Moreover, the Vendor and the Purchaser declare that the Purchase Price does not include any amount in respect of such taxes.

The Vendor declares that it is registered under subdivision (d) of Division V of Part IX of the ETA, and that its registration number thereunder is ● and that it is registered under Division I of Chapter VIII of Title I of the QSTA and that its registration number thereunder is ●.

The Purchaser declares that it is registered under subdivision (d) of Division V of Part IX of the ETA, and that its registration number thereunder is ●, and that it is registered under Division I of Chapter VIII of Title I of the QSTA and that its registration number thereunder is ●.

The Vendor and Purchaser declare that in accordance with sections 221(2)(b), 228(4) and 228(6) of the ETA and paragraph (2) of sections 423, 428 and 441 of the QSTA, the Purchaser shall not be required to pay to the Vendor and the Vendor is relieved of its obligation to

collect from the Purchaser the GST and the QST imposed *inter alia* in respect of the present sale pursuant to sections 165(1) and 221(1) of the ETA and section 16 of the QSTA respectively, the responsibility for the payment thereof, if any, being exclusively assumed by the Purchaser and, accordingly, the Purchaser does hereby indemnify and agree to hold harmless the Vendor with respect to any liability or recourse with respect thereto.

GOVERNING LAW

This Deed of Sale shall be governed by and construed in accordance with the laws of the Province of Québec and the laws of Canada applicable therein.

LANGUAGE OF AGREEMENT

- The parties hereto declare that they have specifically requested, and do hereby confirm their request, that this Deed of Sale be drafted and executed in the English language. *Les parties aux présentes déclarent qu'elles ont spécifiquement demandé que le présent acte de vente soit rédigé et signé en anglais et par les présentes confirment leur dite demande.*

PARTICULARS REQUIRED IN VIRTUE OF SECTION 9 OF AN ACT RESPECTING DUTIES ON TRANSFERS OF IMMOVABLES (the "Act")

The Vendor and the Purchaser hereby make the following declarations:

- (a) the name and address of each of the transferor (Vendor) and the transferee (Purchaser) are as they are set out on the first page of this Deed of Sale;
- (b) the Property herein transferred is situated in the territory of the City of ●, Province of Québec;
- (c) according to the parties, the amount of the consideration for the transfer of the Property herein transferred is: ● dollars and ● cents (\$●);
- (d) according to the parties, the amount constituting the basis of imposition of the transfer duties is: ● dollars (\$●);
- (e) the amount of transfer duties is: ● dollars and ● cents (\$●); and
- (f) the transfer of the Property does not include, at the same time, a corporeal immovable property and movable property which is permanently attached or joined to the immovable, without losing its individuality and without being incorporated and which, in the immovable, are used for the operation of an enterprise or the pursuit of activities, the whole as provided in section 1.0.1 of the Act.

[Signature pages follow]

EXECUTED by the Vendor in the City of _____, Province of _____ as of the date first hereinabove mentioned on the first page of this Deed of Sale.

SEARS CANADA INC.

Per: _____
 Name:
 Title:

CERTIFICATE

Re: Deed of Sale executed by SEARS CANADA INC., as vendor (the “Vendor”), in the City of ●, Province of ●, and by ●, as Purchaser, in the City of ●, Province of ●, on the ● (●) day of ●, two thousand and eighteen (2018).

I, the undersigned, ●, Advocate, member of the Barreau du Québec, hereby certify that:

1. I have verified the identity, quality and capacity of the Vendor;
2. this Deed of Sale represents the will expressed by the Vendor; and
3. this Deed of Sale is valid as to its form.

CERTIFIED at Montreal, Province of Quebec, on this _____
 (____) day of _____, two thousand and eighteen (2018).

Name: ●
 Quality: Advocate
 Address: 1000 De La Gauchetière Street West
 Suite 2100
 Montreal, Quebec H3B 4W5

 ●, Advocate, Member of the *Barreau du Québec*

EXECUTED by the Purchaser in the City of _____, Province of _____ as of the date first hereinabove mentioned on the first page of this Deed of Sale.

[INSERT NAME OF PURCHASER]

Per: _____
 Name:
 Title:

Per: _____
 Name:
 Title:

CERTIFICATE

Re: Deed of Sale executed by SEARS CANADA INC., as vendor, in the City of ●, Province of ●, and by ●, as purchaser (the “Purchaser”), in the City of ●, Province of ●, on the ● (●) day of ●, two thousand and eighteen (2018).

I, the undersigned, ●, Advocate, member of the Barreau du Québec, hereby certify that:

1. I have verified the identity, quality and capacity of the Purchaser;
2. this Deed of Sale represents the will expressed by the Purchaser; and
3. this Deed of Sale is valid as to its form.

CERTIFIED at Montreal, Province of Quebec, on this _____
 (____) day of _____, two thousand and eighteen (2018).

Name: ●
 Quality: Advocate
 Address: ●

 ●, Advocate, Member of the *Barreau du Québec*

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SEARS CANADA INC., CORBELL ELECTRIQUE 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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

AFFIDAVIT OF PHILIP MOHTADI
(Motion for Approval of Agreement of Purchase and Sale with
Group Mach Inc. (Store #1012 - Place Fleur de Lys))

OSLER, HOSKIN & HARCOURT, LLP
P.O. Box 50, 1 First Canadian Place
Toronto, ON M5X 1B8

Marc Wasserman LSUC# 44066M
Tel: 416.862.4908

Tracy Sandler LSUC# 32443N
Tel: 416.862.5890

Jeremy Dacks LSUC# 41851R
Tel: 416.862.4923

Karin Sachar LSUC# 59944E
Tel: 416.862.5949
Fax: 416.862.6666

Lawyers for the Applicants

TAB 3

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.	)	●, THE ● TH
)	
JUSTICE HAINEY	)	DAY OF ●, 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
(Fleur de Lys)**

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 Wilfrid Hamel Boulevard, City of Québec (Borough of Des Rivières), Province of Québec, G1M 2S5, together with certain ancillary assets (the “**Transaction**”) contemplated by an Agreement of Purchase and Sale between Sears Canada Inc. (“**Sears Canada**”), as vendor, and Groupe Mach Inc. (or its permitted assignee, as applicable, the “**Purchaser**”) as purchaser dated with effect as of May 29, 2018 (the “**APS**”) 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 June 4, 2018 including the exhibits thereto (the “**Mohtadi Affidavit**”), the Affidavit of Mark Caiger sworn on May 28, 2018 including the exhibits thereto (the “**Caiger Affidavit**”),

and the ● 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 ● sworn ●, 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 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 (Ontario), the *Civil Code of Quebec* 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 immovable 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 Appendix "●" to the ● 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

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.

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
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**”)

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 between Sears Canada Inc. (“**Sears Canada**”), as vendor, and Groupe Mach Inc. (or its permitted assignee, as applicable, the “**Purchaser**”) as purchaser dated with effect as of May 29, 2018 (the “**APS**”), a copy of which is attached as Exhibit ● to the Affidavit of Philip Mohtadi affirmed June 4, 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"

No .	Location / Address	Province	Land Registry Office	Legal Description	Encumbrances to be Expunged/ Deleted
1.	500 Wilfrid Hamel Boulevard, Québec City, Québec, G1M 2S5	QC	Land Registry Office for the Registration Division of Québec	<p>An emplacement situated in the City of Québec (Borough of Des Rivières), Province of Québec and composed of lot number ONE MILLION NINE HUNDRED FORTY THOUSAND THIRTY-THREE (1 940 033) of the Cadastre du Québec, Registration Division of Québec.</p> <p>With all buildings thereon erected and, more particularly, the building bearing civic number 500 Wilfrid Hamel Boulevard, City of Québec (Borough of Des Rivières), Province of Québec, G1M 2S5.</p>	<p>Hypothecs created under the Supplemental Trust Deed executed on August 10, 1965 and registered at the Land Registry Office for the Registration Division of Québec under number 572 613 in favour of Montreal Trust Company.</p>

**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

MOTION RECORD OF THE APPLICANTS

(Motion for Approval of Agreement of Purchase and Sale with
Groupe Mach Inc. (Store #1012 – Place Fleur de Lys))

OSLER, HOSKIN & HARCOURT LLP

P.O. Box 50, 1 First Canadian Place
Toronto, ON M5X 1B8

Marc Wasserman LSUC# 44066M

Tel: 416.862.4908

Email: mwasserman@osler.com

Jeremy Dacks LSUC# 41851R

Tel: 416.862.4923

Email: jdacks@osler.com

Tracy Sandler LSUC# 32443N

Tel: 416.862.5890

Email: tsandler@osler.com

Karin Sachar LSUC# 59944E

Tel: 416.862.5949

Email: ksachar@osler.com

Fax: 416.862.6666

Lawyers for the Applicants