

**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
LaSalle Acquisitions Corp. (Store #1084 – Place Vertu) returnable June 5, 2018)**

May 28, 2018

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TAB 1

Ontario
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IN THE MATTER OF THE *COMPANIES' CREDITORS
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APPLICANTS

NOTICE OF MOTION

**(Motion for Approval of Agreement of Purchase and Sale with
LaSalle Acquisitions Corp. (Store #1084 - Place Vertu))**

The Applicants will make a motion before a judge of the Ontario Superior Court of Justice (Commercial List) on June 5, 2018 at 10:00 a.m., 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**") entered into as of May 17, 2018 between Sears Canada Inc. ("**Sears Canada**") and LaSalle Acquisitions

Corp. (or its permitted assignee, as applicable, 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. (the 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 17, 2018 in which the Purchaser would purchase the Sears store location at the property commonly known as Place Vertu (Store #1082), located in Montreal, 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**”) contained in an operating agreement (the “**Operating Agreement**”) in favour of Place Vertu Nominee Inc./Fiduciaire Place Vertu Inc. (the “**Mall Owner**”), an affiliate of the Purchaser, and the owner of neighboring lands comprising the shopping centre known as Place Vertu, shall have validly

expired in accordance with the terms of the Operating Agreement or as ordered by the Court or have been waived by the Mall Owner in writing.

6. On May 23, 2018, the Mall Owner agreed to waive its ROFR pursuant to the Operating Agreement to permit the purchase of the Property to proceed.

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

1. The Confidential Appendix to the Monitor's Report filed in connection with this motion contains 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;

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

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

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

5. 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

6. 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 May 28, 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.

May 28, 2018

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Applicants

**ONTARIO
SUPERIOR COURT OF JUSTICE
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Proceeding commenced at Toronto

**NOTICE OF MOTION
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TAB 2

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

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APPLICANTS

**AFFIDAVIT OF MARK CAIGER
(Sworn May 28, 2018)**

(Owned Real Property Process Affidavit)

I, Mark Caiger, of the City of Toronto, in the Province of Ontario, MAKE OATH

AND SAY:

1. I am a Managing Director of Mergers and Acquisitions at BMO Nesbitt Burns Inc. operating as BMO Capital Markets (“**BMO CM**” or the “**Sale Advisor**”) and have been with BMO CM for the past 18 years. I have a broad range of mergers and acquisitions and restructuring experience, including the recapitalization/restructuring of Postmedia, MEG Energy, Connacher Oil & Gas, Yellow Media, AbitibiBowater, Bell Canada International, Ivaco Inc., and Lightstream

Resources. I am a Chartered Professional Accountant, a CFA Charterholder, and a member of the Board of Directors of the Insolvency Institute of Canada. I have been directly involved in planning, managing and implementing (together with the rest of the Sale Advisor team) the Applicants' court-approved sale process (the "SISP"). 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 members of my team, members of the senior management team of Sears Canada Inc. ("Sears Canada"), other advisors of the Applicants, and representatives of FTI Consulting Canada Inc. ("FTI" or the "Monitor").

2. I swear this affidavit in support of motions that will be brought by the Applicants seeking Approval and Vesting Orders in respect of the sale of certain real property owned by the Applicants. The Sale Advisor continues to pursue bids and proposals for certain of the properties owned by the Applicants that are not yet subject to binding agreements. Additional affidavits will be filed describing the various individual transactions as they are finalized.

Background

3. The Applicants were granted protection from their creditors under the CCAA pursuant to an initial order of the Ontario Superior Court of Justice (Commercial List) dated June 22, 2017, as amended and restated on July 13, 2017 (the "Initial Order"). FTI was appointed in the Initial Order to act as the Monitor in the CCAA proceedings. Further details regarding these proceedings are set out in the Affidavit of Billy Wong sworn June 22, 2017, the Affidavit of Billy Wong sworn July 5, 2017, the Affidavit of Billy Wong sworn July 12, 2017, my affidavit sworn September 28, 2017 (the "First Caiger Affidavit"), and my second affidavit sworn October 10,

2017. Except where so stated, capitalized terms not otherwise defined herein have the meaning ascribed to them in these affidavits.

The SISP

4. On July 13, 2017, the Court issued an order (the “**SISP Approval Order**”) approving a SISP whereby the Sale Advisor, on behalf of Sears Canada and under the supervision of both the Special Committee of the Board of Directors of Sears Canada (the “**Special Committee**”), and the Monitor, would seek bids and proposals for a broad range of transaction alternatives with respect to the Business, Property, Assets and Leases of the Applicants (each as defined in the SISP). A copy of the SISP Approval Order is attached to this Affidavit as Exhibit “A”.

5. Extensive efforts have been made by the Applicants and the Sale Advisor to implement the court-approved SISP as part of these CCAA proceedings to maximize value for the benefit of all stakeholders. These efforts, together with the results of the SISP as of September 28, 2017, are outlined in detail in the First Caiger Affidavit. A copy of the First Caiger Affidavit (without exhibits) is attached to this Affidavit as Exhibit “B”.

Summary of Initial Results of the SISP – Owned Real Estate

6. On August 31, 2017 (the Binding Bid Deadline), the Sale Advisor received 69 bids and proposals for the Applicants’ assets, including a number of bids for the Applicants’ owned real estate (hereinafter, the “**owned real estate**” or the “**owned properties**”). Specifically, Sears Canada received several multi-property and single-property bids for its owned real estate, including bids from adjacent landowners and counterparties to certain of Sears Canada’s operating

agreements (the “**Property Agreements**”) some of which contain provisions providing for rights of first refusal (“**ROFRs**”) in relation to those properties.

7. The bids and proposal documentation received through the SISP were uploaded to the Bid Results Data Room. The Monitor and its counsel, the DIP Lenders, Restricted Process Observers and the Permitted PBGF Recipients were granted access to the Bid Results Data Room and had the ability to review the documentation that had been uploaded.

8. The Sale Advisor, the Applicants and their counsel, and the Monitor and its counsel, immediately commenced a comprehensive review of the bids and proposals received, including the bids received for Sears Canada’s owned real estate. In accordance with paragraph 11 of the SISP, the Sale Advisor met with both the Special Committee and the Monitor on several occasions in early September to assess the bids received to that point and to determine, among other things, which bids, if any, should be pursued. The Sale Advisor also met with the DIP Lenders and representatives of the PBGF to review the bids.

9. Most of the bids and proposals received by the Sale Advisor for the Applicants’ owned real estate were conditional. For example, many of the bids received were conditional on conducting additional environmental due diligence, including obtaining Phase II and other supplementary environmental reports.

Next Steps for the Owned Real Estate

10. Throughout the months of September and October 2017, the Sale Advisor and the Applicants undertook comprehensive efforts to conclude transactions for the amendment, surrender and/or transfer of the Applicants’ leases (the “**Lease Transactions**”). As part of these

efforts, twelve (12) Lease Transactions were approved by the Court on October 4, 2017 and a further Lease Transaction was approved by the Court on October 13, 2017.

11. The Sale Advisor and the Applicants also undertook efforts to conclude transactions for the sale of two of the Applicants' owned properties (Winnipeg Garden City and Upper Canada Home Store locations) (the "**Initial Owned Property Transactions**").¹ The details of the Initial Owned Property Transactions are set out in the Affidavits of Billy Wong sworn September 28, 2017 and October 23, 2017. The Initial Owned Property Transactions were approved by the Court on October 4, 2017 and October 27, 2017, respectively, and subsequently closed. For the Initial Owned Property Transactions, it was determined by the Sale Advisor and the Applicants, in consultation with the Monitor and the Special Committee, that a sale of those specific owned properties at that time was in the best interest of the Applicants.

12. In parallel and as part of the SISP, the Sale Advisor and the Applicants undertook efforts to solicit and conclude transactions for the sale of the Corbeil and SLH businesses as going concerns to maximize value to the estate, preserve employment and continue the operation of those businesses (the "**Corbeil Transaction**" and "**SLH Transaction**", respectively). These efforts were successful, and the Corbeil Transaction and SLH Transaction were approved by the Court on October 4, 2017 and subsequently closed.

¹ As detailed in the Affidavit of Billy Wong regarding the Winnipeg Garden City property, the Winnipeg Garden City property was previously marketed by Sears Canada pre-filing. Sears Canada moved for court-approval of a proposed APA in early August 2017, which was denied. The Winnipeg Garden City property was placed back into the SISP by Sears Canada, where the ultimate purchaser re-submitted an offer for the property which was higher than all other bids. As detailed in the Upper Canada Home Store Affidavit, the Upper Canada Home Store was subject to a Property Agreement which provided for a ROFR, which ROFR was exercised by the counterparty to that agreement.

13. By October 2017, it had become clear to the Sale Advisor, the Applicants and the Monitor that no executable going-concern transaction existed, and therefore a liquidation of the inventory in the Applicants' remaining stores was the best way to maximize recoveries for the Applicants' creditors. The Court approved the liquidation of the Applicants' remaining retail stores (the "**Phase II Liquidation**") on October 13, 2017.

14. The proceeds generated from the transactions referred to above, together with the initial upfront payment received from the Agent as part of the Phase II Liquidation, enabled the Applicants to satisfy all outstanding obligations to the DIP Lenders. The DIP loans were repaid in full following the closing of the Corbeil Transaction.

15. Although additional expressions of interest were received for several of the owned properties in the fall of 2017, Sears Canada determined, in consultation with the Sale Advisor and the Monitor, as well as certain representatives of the Applicants' primary unsecured creditors (i.e., the Superintendent, Morneau Shepell as replacement Pension Plan Administrator, Employee Representative Counsel and Pension Representative Counsel, together, the "**Owned Real Estate Consultation Parties**"), that better opportunities to monetize the owned real estate would be available only after additional due diligence materials, in the form of certain environmental studies, were completed and were made available to potential purchasers.²

² The Owned Real Estate Consultation Parties were also granted access to the Bid Results Data Room and had the ability to review the bid documentation that had been uploaded to the Bids Results Data Room.

16. As such, the Applicants engaged environmental consultants to complete additional environmental diligence for certain of the owned properties, including Phase II and other supplemental environmental reports.

17. Throughout this period, the Sale Advisor continued to consult regularly with the Owned Real Estate Consultation Parties, including Ernst & Young LLP (“EY”) which had been retained by counsel to the Superintendent as a real estate advisor in respect of the marketing efforts conducted by the Sale Advisor relating to the Applicants’ remaining owned real estate

18. As set out in the Fourteenth Report of the Monitor dated March 1, 2018, I understand that the Owned Real Estate Consultation Parties were identified as appropriate consultation parties by the Applicants and the Monitor as they represent a large portion of the unsecured creditor class. Further, the Applicants and the Monitor determined they would not have conflicting interests as it was unlikely that they would have interest in acquiring any of the remaining owned real estate for their own benefit. All of the Owned Real Estate Consultation Parties have entered into non-disclosure agreements with Sears Canada.

19. In or around November 2017, the Sale Advisor advised the Owned Real Estate Consultation Parties that the Applicants anticipated that the environmental consultants engaged by the Applicants to complete environmental diligence for the owned properties would complete their reports shortly, and that the Sale Advisor would thereafter be in a position to resume the sale process for the remaining owned real estate.

Re-Engagement of the Sale Process

20. At the time that the sale process was temporarily suspended for the remaining owned real estate to pursue environmental diligence, the following owned properties being dealt with by the Sale Advisor (the “**Owned Real Estate Assets**”) remained unsold:

Asset No.	Property	Province	Address	REIT	Option to Purchase	Square Footage
n/a	Belleville Distribution Centre	Ontario	500-531 College Street East, Belleville	N	N	1,804,896
1017	Devonshire Mall	Ontario	3050 Howard Avenue, Windsor	Y	Y	209,330
1031	Georgian Mall	Ontario	521 Bayfield Street, Barrie	Y	Y	121,000
1020	Lansdowne Place	Ontario	637 Lansdowne Street West, Peterborough	N	N	71,000
1085	Les Galeries Chagnon	Quebec	1200 Boulevard Alphonse Desjardins, Levis	Y	N	122,000
1060	Les Rivieres Shopping Centre	Quebec	4025 Boulevard des Forges, Trois Rivieres	Y	N	144,677
1012	Place Fleur de Lys	Quebec	500 Boulevard Wilfrid Hamel, Quebec City	Y	N	210,900
1084	Place Vertu	Quebec	3055 Cote Vertu Boulevard, Montreal	Y	N	200,000
1088	Upper Canada Mall	Ontario	17600 Yonge Street, Newmarket	Y	Y	145,000

21. As of late January 2018, the additional required environmental due diligence information had been obtained and Sears Canada, in consultation with the Sale Advisor, the

Monitor and the Owned Real Estate Consultation Parties, determined that the sale process should be formally re-engaged.

22. As such, the Sale Advisor resumed the sale process for the Owned Real Estate Assets.

23. On February 7, 2018, the Sale Advisor delivered an updated sale process letter (the “**Updated Sale Process Letter**”) to those parties who previously expressed an interest in the Owned Real Estate Assets. EY, on behalf of their clients, provided a list of 33 additional parties that they requested the Sale Advisor contact to solicit interest in the Owned Real Estate Assets. The Sale Advisor delivered the Updated Sale Process Letter to the parties identified by EY. The Updated Sale Process Letter solicited bids for the Owned Real Estate Assets. It provided for a bid deadline of March 7, 2018 (the “**2018 Bid Deadline**”). A copy of the Updated Sale Process Letter, which was reviewed and approved by the Monitor, is attached as Exhibit “C”.

24. As detailed in the First Caiger Affidavit, during the initial phase of the SISP approximately 40 unique and potentially interested parties had contacted or were contacted by the Sale Advisor in relation to the Applicants’ owned real estate. Of those, 24 entered into NDAs with Sears Canada, and 21 accessed the Diligence Data Room.

25. Following the formal re-engagement of the sale process, the Sale Advisor contacted or was contacted by approximately 62 additional unique interested parties. These 62 parties included parties who had been involved in the SISP generally and subsequently expressed interest in owned real estate assets, parties who did not submit a bid for owned real estate prior to the August 31, 2017 bid deadline but subsequently expressed their interest and signed an NDA and

parties identified by EY. Of those, 31 additional interested parties entered into NDAs with Sears Canada and 29 accessed the Diligence Data Room. These parties included additional retailers, institutional real estate investors, and strategic parties identified in the preceding months as being potentially interested in the Applicants' owned real estate. To harmonize the form of bids that would ultimately be submitted by interested parties, an updated draft standard form agreement of purchase and sale was prepared by counsel for the Applicants (in a form acceptable to the Monitor) (the "**Draft Form of Transaction Agreement**"). The Draft Form of Transaction Agreement was finalized and made available to potential bidders.

26. The Sale Advisor had discussions during the solicitation period with potential purchasers regarding the various opportunities, including conducting follow-up calls with interested parties to address questions related to diligence and the sale process.

ROFRs

27. As referred to above, certain Property Agreements in respect of the owned real estate contain language that provide a ROFR to the counterparty to the Property Agreement (in some cases, the adjacent landowner to the property). Seven (7) of the Owned Real Estate Assets referred to in the chart above are subject to a ROFR.

28. In most cases, the ROFR offers the counterparty to the Property Agreement a right of first refusal to purchase the property on the same price, terms and conditions as any offer to purchase received by Sears Canada, exercisable within a specified number of days following receipt of notice of the offer to purchase. Protections were afforded to the potential beneficiaries

of ROFRs in the SISP Approval Order and in the SISP itself. The First Caiger Affidavit contains a detailed outline of these protections and steps taken in relation thereto.

29. In particular, pursuant to paragraph 6(a) of the SISP Approval Order, on August 4, 2017, I am informed by Tracy Sandler, a partner at Osler, Hoskin & Harcourt LLP, and believe that the Applicants responded to the requests of all holders of Property Agreements (as defined in the SISP Approval Order) who requested such a response and advised them that the Applicants did not intend to take the position that the ROFRs are no longer in force in respect of the properties described in those letters.

Oversight by the Monitor and Special Committee

30. The Sale Advisor was in frequent contact with the Monitor and the Special Committee throughout the owned real estate sale process, including regularly reporting on the progress of the efforts to maximize value for the owned real estate to members of the Special Committee.

31. The Monitor was closely involved in the implementation of the process. Among other things:

- (a) the Monitor reviewed and approved the Updated Sale Process Letter, was granted full access to the data room, approved the form of NDA sent to additional interested parties, commented on and approved the revised template Transaction Agreement provided to bidders and attended update calls with the Owned Real Estate Consultation Parties; and

- (b) during the period leading up to the 2018 Bid Deadline, I understand that the Monitor and its counsel responded to inquiries on the status and progress of the SISP from various stakeholder groups.

Results of the Resumed SISP Conducted by the Sale Advisor

32. On March 7, 2018, the Sale Advisor received bids and proposals for the Owned Real Estate Assets. Bids and proposal documentation were uploaded to the Bid Results Data Room maintained by the Sale Advisor. The Monitor and its counsel and the Owned Real Estate Consultation Parties were granted access to the Bid Results Data Room.

33. The Sale Advisor and counsel for the Applicants immediately commenced a comprehensive review of the bids and proposals that had been submitted to identify different potential combinations of bids and proposals that would maximize value for the Applicants' stakeholders. The Monitor also reviewed the bids and proposals received. The Sale Advisor met with both the Special Committee and the Monitor on several occasions in March and April to assess the bids that had been received and to determine, among other things, which bids and proposals should be pursued.

34. After the 2018 Bid Deadline, during the months of March, April and May, the Sale Advisor and the Applicants continued to consult with the Owned Real Estate Consultation Parties. They held numerous meetings and calls with counsel and/or the financial advisors to the Owned Real Estate Consultation Parties to discuss the status of the remaining owned real estate and next steps. The Sale Advisor also responded to several inquiries from the Owned Real Estate

Consultation Parties. The consultation process remains ongoing, including discussing the status of each owned real estate asset with the Owned Real Estate Consultation Parties where appropriate.

35. The Sale Advisor, on behalf of the Applicants, in consultation with the Monitor, and taking into account the feedback provided by the Owned Real Estate Consultation Parties, subsequently engaged in negotiations with several bidders that submitted bids or proposals, with a view to selecting one or more non-overlapping Successful Bid(s) upon approval of the Board of Directors of Sears Canada.

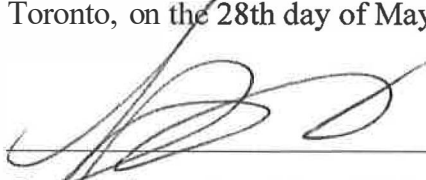
36. The Applicants and their advisors, in consultation with the Monitor, also took steps to settle definitive agreements with bidders. The Monitor was consulted by the Applicants on revisions to the transaction documents provided by bidders. During the negotiation process, revised agreements were posted to the Bid Results Data Room where they could be reviewed by the Owned Real Estate Consultation Parties as they were prepared or received from counterparties.

Conclusion

37. As set out above, the Applicants will be serving several motions seeking approval of proposed transactions for the Owned Real Estate Assets.

38. The Owned Real Estate Assets have been subject to a comprehensive and well-publicized canvassing of the market since July 13, 2017. In recommending that the Applicants consummate certain transactions at this time, the Sale Advisor is of the view that it is in the best interests of the Applicants and their stakeholders that the proposed offer be accepted as opposed to engaging in any further marketing of the assets.

SWORN BEFORE ME at the City of
Toronto, on the 28th day of May, 2018.



Commissioner for taking Affidavits

Lia Bruschetta



Mark Caiger

TAB A

THIS IS EXHIBIT "A" REFERRED TO IN
THE AFFIDAVIT OF MARK CAIGER
SWORN BEFORE ME ON
THIS 28TH DAY OF MAY, 2018



A Commissioner for Taking Affidavits.

Lia Bruschetta

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.)

THURSDAY, THE 13th

JUSTICE HAINEY)

DAY OF JULY, 2017



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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SEARS CANADA INC., CORBEIL ÉLECTRIQUE INC., S.L.H. TRANSPORT INC., THE CUT INC., SEARS CONTACT SERVICES INC., INITIUM LOGISTICS SERVICES INC., INITIUM COMMERCE LABS INC., INITIUM TRADING AND SOURCING CORP., SEARS FLOOR COVERING CENTRES INC., 173470 CANADA INC., 2497089 ONTARIO INC., 6988741 CANADA INC., 10011711 CANADA INC., 1592580 ONTARIO LIMITED, 955041 ALBERTA LTD., 4201531 CANADA INC., 168886 CANADA INC., AND 3339611 CANADA INC.

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

SISP APPROVAL 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 Process (as defined below) 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 Billy Wong sworn July 5, 2017 including the exhibits thereto (the “**Second Wong Affidavit**”), the First 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, counsel to the Monitor, counsel to the Board of Directors and the Special Committee of the Board of Directors of Sears Canada Inc., counsel to Wells Fargo Capital Finance Corporation Canada as administrative agent under the DIP ABL

Credit Agreement, counsel to GACP Finance Co., LLC as administrative agent under the DIP Term Credit Agreement,, and such other counsel as were present, no one else appearing although duly served as appears from the Affidavits of Service of Sonja Pavic sworn July 6, 2017 filed:

SERVICE AND DEFINITIONS

1. THIS COURT ORDERS that the time for service of the Notice of Motion and the Motion Record herein is hereby abridged and validated so that this Motion is properly returnable today and hereby dispenses with further service thereof.
2. THIS COURT ORDERS that any capitalized term used and not defined herein, shall have the meaning ascribed thereto in the Initial Order in these proceedings dated June 22, 2017, as amended (the “**Initial Order**”) or the Sale Process, as applicable.

APPROVAL OF THE SALE PROCESS

3. THIS COURT ORDERS that the Sale Process attached hereto as Schedule “A” (the “**Sale Process**”) is hereby approved. The Applicants, the Monitor and the Financial Advisor are hereby authorized and directed to take any and all actions as may be necessary or desirable to implement and carry out the Sale Process, subject to the milestones contained in the Definitive Documents (as defined in the Initial Order), in order to select one or more Successful Bids which shall be consummated no later than October 25, 2017 or such other later date as agreed to by the Applicants, the Monitor and the DIP Lenders or as otherwise ordered by the Court.
4. THIS COURT ORDERS that the Applicants shall, unless otherwise ordered by the Court or agreed to by the Monitor and the DIP Lenders, by no later than September 27, 2017 seek bids for the liquidation of inventory and FF&E not otherwise included in a Successful Bid(s) (as defined in the Sale Process), if any, with such liquidation(s) to commence no later than November 1, 2017.
5. THIS COURT ORDERS that nothing in this Order or the approval of the Sale Process shall affect the rights and remedies of any party to an agreement with any of the Applicants affecting lands or premises in which Sears Canada has an interest, including without limitation any lease, any operating agreement, any agreement containing an option or right of first refusal (or other similar right) (such right, a “**ROFR**”) (“**Property Agreements**”) and all rights and remedies of the Applicants and counterparties to any Property Agreements are reserved and shall remain

unaffected by this Order or the approval of the Sale Process. For greater certainty, the rights and remedies and protections in favour of counterparties that are reserved and unaffected herein, (whether statutory, contractual or at common-law), if any, including any right to receive full disclosure of information and documentation from the Applicants, the Financial Advisor and the Monitor relating to the Sale Process, including but not limited to the allocation of the purchase price for the property(ies) subject to the ROFR(s) in that particular counterparty's favour, and the allocation for all property that is subject to any *en bloc* offer to which it may form a part, or be related to by way of condition or otherwise.

6. THIS COURT ORDERS that:

- (a) by no later than August 4, 2017, on the request of a holder of a Property Agreement, the Applicants shall advise such holder whether the Applicants intend to take the position that the ROFRs subject to such request are no longer in force; and
- (b) if the Applicants have received a Binding Bid in the Sale Process for an Asset that is the subject of a ROFR under a Property Agreement from a bidder (a "**ROFR Bidder**") and the Applicants take the position that the ROFR will not be triggered by such Binding Bid, then the Applicants will provide written notice to the relevant holder of the applicable Property Agreement as follows:
 - (i) if such holder is not a bidder in the Sale Process for such Asset, by September 8, 2017; and
 - (ii) if such holder is a bidder in the Sale Process for such Asset, then once the Applicants have elected to proceed with the transaction with the ROFR Bidder, and in any event, no later than September 25, 2017. The Applicants shall serve materials in connection with such Asset sale to any party other than such holder by September 26, 2017.

7. THIS COURT ORDERS that each of the Applicants and their respective affiliates, partners, employees, and agents and the Monitor and the Financial Advisor and their respective affiliates, partners, directors, employees, and agents shall have no liability with respect to any and all losses, claims, damages or liability of any nature or kind to any person in connection or as a result of performing their duties under the Sale Process, except to the extent of such losses, claims,

damages or liabilities resulting from gross negligence or willful misconduct of the Applicants, the Monitor or the Financial Advisor, as applicable, as determined by this Court.

8. THIS COURT ORDERS that, in connection with the Sale Process and pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Applicants, the Financial Advisor and the Monitor are authorized and permitted to disclose personal information of identifiable individuals to prospective investors, financiers, purchasers or bidders and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more investment, finance or sale transaction (each, a “**Transaction**”). Each prospective investor, financier, purchaser, or bidder to whom such information is disclosed shall maintain and protect the privacy of such information and shall limit the use of such information to its evaluation of the Transaction, and if it does not complete a Transaction, shall: (i) return all such information to the Applicants or the Monitor; or (ii) destroy all such information that is not electronically stored and, in the case of such information that is electronically stored, destroy all such information to the extent it is reasonably practical to do so. The purchaser in any Transaction shall be entitled to continue to use the personal information provided to it, and related to the property purchased, in a manner which is in all material respects identical to the prior use of such information by the Applicants, and shall return all other personal information to the Applicants or the Monitor, or ensure that all other personal information is destroyed.

9. THIS COURT ORDERS that at any time during the Sale Process, the Monitor, the Applicants or the DIP Lenders may apply to the Court for directions with respect to the Sale Process.

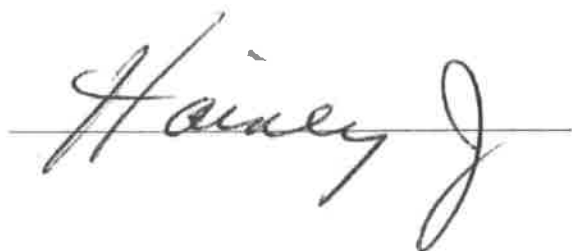
GENERAL

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

11. 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

- 5 -

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.

A handwritten signature in cursive script, appearing to read "Hainey J.", written over a horizontal line.

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

JUL 18 2017

PER / PAR: *a*

SCHEDULE "A"
SALE PROCESS

(See attached)

July 12, 2017

Schedule "A" Sale Process

On June 22, 2017, Sears Canada Inc. and certain of its subsidiaries (collectively, "**Sears Canada**") sought and obtained protection under the *Companies' Creditors Arrangement Act* (the "**CCAA**") pursuant to an initial order (the "**Initial Order**") granted by the Ontario Superior Court of Justice (Commercial List) (the "**Court**"). The Initial Order contemplates Sears Canada pursuing all avenues of refinancing, restructuring, selling and reorganizing their Business and Property (each as therein defined) subject to prior approval of the Court.

Sale and Investment Solicitation Process

1. This sale and investment solicitation process (the "**Sale Process**") sets out the manner in which (i) bids and proposals for a broad range of transaction alternatives including investment proposals involving the Business, Property, assets (the "**Assets**") and/or leases (the "**Leases**") of Sears Canada, whether *en bloc* or any portion(s) thereof, will be solicited from interested parties, (ii) any Binding Bids, Binding Lease Modification Proposals and Binding Lease Surrender Proposals (each as defined below) received will be considered and negotiated with interested parties, (iii) any Binding Bids, Binding Lease Modification Proposals and Binding Lease Surrender Proposals as subsequently negotiated, may be selected as Successful Bid(s) (as defined below), and (iv) the Court's approval of such Successful Bid(s) will be sought, with an anticipated completion date of all transactions by no later than October 25, 2017.
2. The Sale Process shall be conducted by BMO Nesbitt Burns Inc. ("**BMO Capital Markets**", the "**Sale Advisor**") on behalf of Sears Canada and under the supervision, review and approval of both the Special Committee of the Board of Directors of Sears Canada Inc. (the "**Special Committee**") and FTI Consulting Canada Inc. in its capacity as court-appointed monitor of Sears Canada (the "**Monitor**"). References to Sears Canada throughout this Sale Process shall mean the Special Committee in circumstances where the integrity of this Sale Process so requires (as determined by the Special Committee or any of the advisors, the Sale Advisor or the Monitor).
3. Parties who wish to have their bids or proposals considered with respect to the Business, Assets and/or Leases, whether as a whole or any portions thereof, shall participate in this Sale Process in accordance with the procedures set out herein.
4. The sale of the Business, Assets and/or Leases will be on an "as is, where is" basis and without surviving representations or warranties of any kind, nature, or description by Sears Canada, the Sale Advisor, the Monitor or any of their respective agents or estates, except to the extent set forth in a definitive transaction agreement executed by Sears Canada in accordance with this Sale Process.
5. For the purpose of this Sale Process, the term "Landlord" shall include landlords under real property leases and occupancy agreements for any of the Applicants' leased premises.

Solicitation Process

July 12, 2017

6. The Sale Process will be conducted as follows:
- a. The Sale Advisor and Sears Canada with the assistance of its advisors and in consultation with and under the supervision of the Monitor will:
 - (i) prepare a form of non-disclosure agreement acceptable to the Monitor ("**NDA**") to be executed by interested parties;
 - (ii) prepare forms of transaction documents to be used by interested parties in submitting bids and proposals to Sears Canada, the form and substance of such transaction documents to be acceptable to the Monitor after consultation with the DIP ABL Lenders and DIP Term Lenders (as defined in the Initial Order, and together the "**DIP Lenders**") (the "**Transaction Documents**");
 - (iii) solicit interest from parties to enter into NDAs, and begin analyzing the transaction alternatives;
 - (iv) require that all potential bidders that wish to participate in the Sale Process must sign an NDA in form acceptable to Sears Canada and the Monitor prior to participation in the Sale Process, provided however that a Landlord need not sign an NDA to submit a Binding Lease Modification Proposal or a Binding Lease Surrender Proposal; and
 - (v) provide potential bidders who have executed an NDA with access to an electronic data room of due diligence information.
 - b. Landlords may submit to the Sale Advisor Binding Lease Modification Proposals (as defined below) in connection with existing Leases or occupancy agreements to which they are a party. It is recommended that any such proposals be received in binding form on or before 5:00 p.m. Eastern Daylight Time on August 15, 2017 (the "**Binding Lease Modification Proposal Deadline**"), with a contemporaneous copy delivered to the Monitor, but in no event later than August 31, 2017;
 - c. Parties interested in pursuing a transaction must submit binding offers based on the relevant forms of Transaction Documents including the items set out in paragraph 8 below (a "**Binding Bid**") by 5:00 p.m. Eastern Daylight Time on August 31, 2017 (the "**Binding Bid Deadline**") to the attention of the Sale Advisor as set out below, with a contemporaneous copy delivered to the Monitor. Landlords may submit to the Sale Advisor proposals to have Sears Canada surrender existing leases to which they are a party (a "**Binding Lease Surrender Proposal**") provided that all such proposals must be received in binding form on or before the Binding Bid Deadline, with a contemporaneous copy delivered to the Monitor; and
 - d. Subject to the terms set forth herein, following the Binding Bid Deadline and the Binding Lease Modification Proposal Deadline, Sears Canada and its advisors, in consultation with the Monitor and the DIP Lenders, may seek to negotiate final terms with one or more parties, and may select one or more Successful Bid(s) subject to the approval of the Court, all in accordance with the timeline set out in the process letter, which shall be in a form acceptable to the Monitor and the DIP Lenders, to be delivered by the Sale Advisor to interested parties.
 - e. The Sale Advisor shall advise prospective bidders that if a Binding Bid will be submitted for one or more Assets or Leases that are subject to an agreement which may or may not

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contain restrictions in the nature of a right of first refusal, option to purchase or similar right, the beneficiary of such agreement(s) reserves all rights and remedies in respect of such agreement(s). The contents of this paragraph 6(e) shall be placed in the data room for any Asset that is subject to a ROFR.

7. The Sale Advisor may, in consultation with Sears Canada and the Monitor, and subject to the terms of the Definitive Documents (as defined in the Initial Order), engage local market leasing agents or real estate brokers to solicit Binding Bids for discrete Assets or assignments of Leases.

Submission of Binding Offers

8. In order for a bid to be considered a Binding Bid, it shall comply with the following:
- (i) it shall contain:
 - a. duly executed Transaction Documents;
 - b. the identity and contact information of the bidder and the identities of each person or entity that will be sponsoring or participating in such bid, including direct and indirect owners;
 - c. a blackline showing changes to the relevant Transaction Documents provided to the interested party by Sears Canada; and
 - d. evidence of authorization and approval to submit and consummate the bid from the bidder's board of directors (or comparable governing body);
 - (ii) it includes a letter stating that the bid is irrevocable for a period of at least 20 business days after the Binding Bid Deadline;
 - (iii) it provides written evidence of a firm, irrevocable financial commitment for all required funding or financing in connection with the bid;
 - (iv) if applicable, a separate Transaction Document that includes a separate allocation of value to each individual Asset or Lease subject to the bid that is the subject of a valid and enforceable right of first refusal, option to purchase or similar right;
 - (v) it is accompanied by a cash deposit (the "**Deposit**") of 10% of the total cash purchase price contemplated by such bid, which shall be paid to the Monitor by wire transfer (to a bank account specified by the Monitor) and held in trust in accordance with this Sale Process;
 - (vi) it does not include any request for or entitlement to any break fee, expense reimbursement or similar type of payment;
 - (vii) it is not conditional upon:
 - a. the outcome of unperformed due diligence by the bidder, and/or
 - b. obtaining financing; and
 - (viii) it is received by the Binding Bid Deadline.
9. A Binding Lease Modification Proposal and a Binding Lease Surrender Proposal shall comply with the following:
- (i) it shall contain:
 - a. duly executed relevant Transaction Documents;
 - b. the identity and contact information of the Landlord contact person;

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- c. a blackline showing changes to the relevant Transaction Documents provided to the interested party by Sears Canada; and
 - d. evidence of authorization and approval to submit and consummate the proposal from the Landlord's board of directors (or comparable governing body) or confirmation that such authorization and approval is not required for the Binding Lease Modification Proposal or Binding Lease Surrender Proposal, as applicable, to be binding on such Landlord;
- (ii) it includes a letter stating that the proposal is irrevocable for a period of at least 20 business days after the Binding Bid Deadline;
- (iii) in the event that third party financing is required to close the transaction, it provides written evidence of a firm, irrevocable financial commitment for all required funding or financing;
- (iv) it is not conditional upon:
- a. the outcome of unperformed due diligence by the Landlord, and/or
 - b. obtaining financing;
- (v) it is received by the Binding Lease Modification Proposal Deadline or the Binding Bid Deadline, as applicable; and
- (vi) to the extent that a Landlord intends to submit a proposal contemplating a material modification of an existing Lease to which it is party (a "**Binding Lease Modification Proposal**"), such Binding Lease Modification Proposal must, in addition to the foregoing requirements, contain such Landlord's consent that the Sale Advisor and Sears Canada may share such Binding Lease Modification Proposal with other bidders in the Sale Process who have signed NDAs, subject to any restrictions that may be contained in such Binding Lease Modification Proposal.
10. Sears Canada, with the consent of the Monitor, the Sale Advisor and the DIP Lenders, may waive compliance with any one or more of the requirements specified in sections 8 and 9 and deem, with the consent of the bidding party, a non-compliant bid, lease surrender proposal or lease modification proposal to be a Binding Bid, a Binding Lease Surrender Proposal or a Binding Lease Modification Proposal, respectively, with the exception of a bid or a lease surrender proposal that is received after the Binding Bid Deadline or a lease modification proposal that is received after the Binding Lease Modification Proposal Deadline.

Evaluation of Competing Bids and Proposals and Court Approval

11. Following the Binding Bid Deadline and the Binding Lease Modification Proposal Deadline, as applicable, Sears Canada shall consult with the Monitor, the Sale Advisor and the DIP Lenders and decide whether to (i) continue negotiations with a selected number of bidders that have submitted Binding Bids, Binding Lease Modification Proposals and/or Binding Lease Surrender Proposals, with a view to selecting one or more non-overlapping Bindings Bids, Binding Lease Modification Proposals and/or Binding Lease Surrender Proposals (collectively, the "**Successful**

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Bid(s)") upon approval of the Board of Directors of Sears Canada, and (ii) take such steps as are necessary to finalize and consummate the Successful Bid(s). Sears Canada shall have no obligation to conclude a sale arising out of this Sale Process and reserves the right and unfettered discretion to reject any bid or proposal (including any Binding Bid, Binding Lease Modification Proposal and Binding Lease Surrender Proposal), but shall not do so without the approval of the Monitor after consultation with the DIP Lenders. If Sears Canada does select any Successful Bid(s), it shall be under no obligation to accept the highest bid.

12. Following selection of a Successful Bid(s), Sears Canada and its advisors in consultation with the Monitor shall seek to settle any necessary definitive agreement(s) with respect to the Successful Bid(s) in form and substance acceptable to the DIP Lenders and the Board of Directors of Sears Canada. Once all necessary definitive agreement(s) with respect to a Successful Bid have been finalized, Sears Canada will apply to the Court as soon as reasonably practicable for an order in form and substance acceptable to the Monitor and the DIP Lenders (an "**Approval and Vesting Order**") approving such Successful Bid and authorizing Sears Canada to (i) enter into any and all necessary agreements with respect to the Successful Bid, (ii) undertake such other actions as may be necessary to give effect to such Successful Bid, and (iii) implement the transaction(s) contemplated in such Successful Bid.
13. Each Landlord shall be advised by no later than two business days after the selection of a Successful Bid(s) relating to such Landlord's Lease(s), and in any event no later than October 6, 2017, which of its Lease(s) are included in such Successful Bid(s).

Deposits

14. All Deposits shall be retained by the Monitor and invested in an interest bearing trust account. If one or more Successful Bids are selected and an Approval and Vesting Order is granted in connection therewith, the Deposit paid in connection with such Successful Bid(s) (plus applicable interest) will be non-refundable and shall, upon closing of the transaction contemplated by such Successful Bid(s), be applied to the purchase price to be paid in connection with such Successful Bid(s) or be dealt with as otherwise set out in the definitive agreement(s) entered into in connection with such Successful Bid(s). Any Deposit (plus applicable interest) delivered with a Binding Bid that is not selected as a Successful Bid, will be returned to the applicable bidder within ten (10) business days of the date of expiration of such Binding Bid or an earlier date as may be determined by Sears Canada, in consultation with the Monitor and the Sale Advisor.

Consents and Information

15. Any amendments to this Sale Process, including the relevant dates and deadlines set forth herein, may be made with the written consent of the Special Committee, the Monitor and the DIP Lenders, or by further order of the Court.
16. Notwithstanding anything else contained herein, Sears Canada, in its reasonable business judgment and in consultation with the Sale Advisor, the Monitor and the DIP Lenders may, from time to time, withdraw any Leases or Assets from this Sale Process in accordance with the CCAA, and Sears Canada's rights under the Initial Order.

July 12, 2017

17. If any DIP Lender intends to participate as a bidder in this Sale Process, such party must provide written notice of such intention (the "**Participation Notice**") to the Sale Advisor, with a copy to the Monitor, on or before July 17, 2017 (the "**Participation Notice Deadline**"). Any DIP Lender who delivers a Participation Notice shall not be entitled to any Bid Information or Confidential Information (each as defined below), and cannot be a Restricted Process Observer (as defined below), or to participate in the review or drafting of Transaction Documents or the review, consideration, negotiation or selection of Successful Bid(s). The failure of such parties to deliver a Participation Notice by the Participation Deadline shall render such parties unable to participate as a bidder in this Sale Process.
18. Subject to the confidentiality terms hereof, the Sale Advisor shall provide regular updates to the DIP Lenders and their advisors with respect to matters related to the Sale Process. Any information that is provided by the Sale Advisor, Sears Canada, the Monitor or their advisors to any of the DIP Lenders or their advisors, in respect of the Sale Process, including regarding any participants therein, any bids received or terms thereof or otherwise ("**Confidential Information**"), will be provided on a strictly confidential basis only and such parties shall not be permitted to share such Confidential Information with anyone other than any other DIP Lenders or the DIP Lenders' advisors, without the consent of Sears Canada and the Sale Advisor in consultation with the Monitor.

In addition, the following highly-sensitive information will solely be provided on a strictly confidential basis only to the Restricted Process Observers (as defined below), notwithstanding the terms of any bids or proposals received: the identity of the bidders; the particular Assets, Leases and/or Business that are the subject of a particular Binding Bid, Binding Lease Modification Proposal or Binding Lease Surrender Proposal; the proposed purchase price for the Business, Assets and/or Leases identified in a Binding Bid, Binding Lease Modification Proposal or Binding Lease Surrender Proposal; and the number of bidders that are considering or have submitted Binding Bids, Binding Lease Modification Proposals and/or Binding Lease Proposals for a particular Asset, Lease or Business, and copies of all bids or proposals received in the Sale Process (collectively, the "**Bid Information**"). The Monitor will maintain a list of personnel and/or categories of personnel who have a need to know the Bid Information, including personnel and/or categories of personnel of the financial and legal advisors to the DIP Lenders (the "**Restricted Process Observers**"). No Bid Information will be provided to any individual who is not a Restricted Process Observer and, notwithstanding the terms of the DIP Facilities (as defined in the Initial Order), Restricted Process Observers shall only be permitted to share such Bid Information with other Restricted Process Observers unless the prior written consent of the Monitor in consultation with the Sale Advisor is obtained.

19. Subject to the terms hereof, the Special Committee or its designate may participate in the negotiations under the Sale Process and shall give instructions to Sears Canada's advisors in respect of or relating to this Sale Process. Certain members of management of Sears Canada have advised the Special Committee and Sears Canada's advisors that they intend to submit a bid or proposal. Management of Sears Canada involved in any capacity in connection with the submission of any bid or proposal will not be provided with Confidential Information or Bid Information, including information about Binding Bids, Binding Lease Modification Proposals or Binding Lease Surrender Proposals that third parties have made or information about whether any particular party has made a Binding Bid, Binding Lease Modification Proposal or Binding Lease Surrender Proposal, shall not participate in the review or drafting of Transaction

July 12, 2017

Documents or the review, consideration, negotiation or selection of Successful Bid(s), and may be subject to further restrictions as may be determined from time to time by the Special Committee in consultation with Sears Canada's advisors and the Monitor.

20. **Under no circumstances should the management of Sears Canada communicate with any interested party without one of the Sale Advisor, the Monitor or Osler, Hoskin & Harcourt LLP ("Osler"), legal advisor to Sears Canada, present.**
21. All communications relating to a potential bid must be addressed to the Sale Advisor. Interested parties must adhere to the following communication protocol:
 - (i) members of Sears Canada's management team will only be available to prospective bidders at times scheduled and on terms determined by BMO Capital Markets as it determines necessary to advance the Sale Process, provided that such meetings or other communications with management must be supervised by any one of the Sale Advisor, the Monitor or Osler; and
 - (ii) members of Sears Canada's management and outside advisory teams have been instructed to direct any and all inquiries from prospective bidders to BMO Capital Markets.
22. Nothing in this Sale Process shall be construed to (i) permit or require any amendments to the terms of any Lease without the consent of the applicable Landlord, or (ii) obligate any Landlord to negotiate with a party regarding any such amendments.

Failure to adhere to this communication protocol may result in disqualification of the interested party from the Sale Process and/or the rejection of any bid made by such interested party.

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SEARS CANADA INC.,
CORBEIL ÉLECTRIQUE INC., S.L.H. TRANSPORT INC., THE CUT INC., SEARS CONTACT SERVICES
INC., INITIUM LOGISTICS SERVICES INC., INITIUM COMMERCE LABS INC., INITIUM TRADING AND
SOURCING CORP., SEARS FLOOR COVERING CENTRES INC., 173470 CANADA INC., 2497089
ONTARIO INC., 6988741 CANADA INC., 10011711 CANADA INC., 1592580 ONTARIO LIMITED, 955041
ALBERTA LTD., 4201531 CANADA INC., 168886 CANADA INC., AND 3339611 CANADA INC.
(collectively, the "Applicants")

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

Proceeding commenced at Toronto

SISP APPROVAL ORDER

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Lawyers for the Applicants

TAB B

THIS IS EXHIBIT "B" REFERRED TO IN
THE AFFIDAVIT OF MARK CAIGER
SWORN BEFORE ME ON
THIS 28TH DAY OF MAY, 2018



A Commissioner for Taking Affidavits.

Lia Bruchetta

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., CORBEIL
ÉLECTRIQUE INC., S.L.H. TRANSPORT INC., THE CUT INC.,
SEARS CONTACT SERVICES INC., INITIUM LOGISTICS
SERVICES INC., INITIUM COMMERCE LABS INC., INITIUM
TRADING AND SOURCING CORP., SEARS FLOOR
COVERING CENTRES INC., 173470 CANADA INC., 2497089
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INC., 1592580 ONTARIO LIMITED, 955041 ALBERTA LTD.,
4201531 CANADA INC., 168886 CANADA INC., AND 3339611
CANADA INC.

APPLICANTS

**AFFIDAVIT OF MARK CAIGER
(Sworn September 28, 2017)**

(General Sale Process Affidavit)

I, Mark Caiger, of the City of Toronto, in the Province of Ontario, MAKE OATH

AND SAY:

1. I am a Managing Director of Mergers and Acquisitions at BMO Nesbitt Burns Inc. operating as BMO Capital Markets (“**BMO CM**” or the “**Sale Advisor**”) and have been with BMO CM for the past 17 years. I have a broad range of mergers and acquisitions and restructuring experience, including the recapitalization/restructuring of Postmedia, MEG Energy, Connacher Oil & Gas, Yellow Media, AbitibiBowater, Bell Canada International, Ivaco Inc., and

Lightstream Resources. I am a Chartered Professional Accountant, a CFA Charterholder, and a member of the Board of Directors of the Insolvency Institute of Canada. I have been directly involved in planning, managing and implementing (together with the rest of the Sale Advisor team) the Applicants' court-approved sale process (the "SISP"). 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 members of my team, members of the senior management team of Sears Canada Inc. ("Sears Canada" or the "Company"), legal, financial and other advisors of the Applicants, and representatives of FTI Consulting Canada Inc. ("FTI" or the "Monitor").

2. I swear this Affidavit in support of various motions to be brought by the Applicants seeking Approval and Vesting Orders in respect of transactions arising from the SISP. Additional affidavits will be filed describing the various individual transactions. The Sale Advisor continues to pursue bids and proposals for other assets of the Applicants in order to generate additional value for the Applicants' stakeholders.

Background

3. The Applicants were granted protection from their creditors under the CCAA pursuant to an initial order of the Ontario Superior Court of Justice (Commercial List) dated June 22, 2017, as amended and restated on July 13, 2017 (the "Initial Order"). FTI was appointed in the Initial Order to act as the Monitor in the CCAA proceedings. Further details regarding the background to these proceedings are set out in the Affidavit of Billy Wong sworn June 22, 2017 (the "Initial Order Affidavit"), the Affidavit of Billy Wong sworn July 5, 2017 and the

Affidavit of Billy Wong, sworn July 12, 2017 (the “**Third Wong Affidavit**”). Except where so stated, capitalized terms not otherwise defined herein have the meaning ascribed to them in these affidavits.

The SISP

4. On July 13, 2017, the Court issued an order (the “**SISP Approval Order**”) approving the SISP whereby BMO CM on behalf of Sears Canada and under the supervision of both the Special Committee of the Board of Directors of Sears Canada (the “**Special Committee**”) and the Monitor would seek bids and proposals for a broad range of transaction alternatives with respect to the Business, Property, Assets and/or Leases of the Applicants (each as defined in the SISP). A copy of the SISP Approval Order is attached to this Affidavit as Exhibit “A”.

5. The SISP was designed to be flexible in order to maximize the realization of the value of the Applicants’ assets for the benefit of their stakeholders. The Applicants and the Sale Advisor, in conjunction with the Monitor, contemplated that the process may result in multiple transactions in a variety of forms, including potentially selling the Sears Canada business as a going concern, selling other ancillary businesses owned by Sears Canada, selling owned real estate and other assets, assigning leases to third parties and surrendering leases to landlords. It also provided for the possibility that certain Leases and/or Assets may be withdrawn from the SISP in certain circumstances.

6. The design of the SISP was informed in part by discussions with Sears Canada’s management regarding previous expressions of interest received from third parties in respect of

all or part of the Applicants' business and assets. In addition, the Sale Advisor spent a significant amount of time familiarizing itself with the real property, leases and other assets of the Company.

7. The following sections of this Affidavit describe the extensive efforts that the Applicants and the members of the Sale Advisor's team have undertaken to implement the court-approved SISP as part of these CCAA proceedings under the supervision of the Monitor and the Special Committee, in order to maximize value for the benefit of all stakeholders.

Implementation of the SISP

8. Following the approval of the SISP on July 13, 2017, the Sale Advisor began soliciting indications of interest to acquire some or all of the Business, Property, Assets and/or Leases of the Applicants from a wide array of prospective parties. The Sale Advisor contacted or was contacted by approximately 145 unique parties and provided interested parties with a form of non-disclosure agreement ("NDA") in accordance with paragraph 6(a)(i) of the SISP. These parties included other major North American retailers, landlords, institutional real estate investors, direct competitors and strategic parties identified as being potentially interested in specific business lines or assets (such as SLH and Corbeil), financial sponsors and brokers. These parties were identified, in part, based on the Sale Advisor's experience in the market as well as prior expressions of interest received by Sears Canada. During the time leading up to the Applicants' CCAA filing, Sears Canada received certain unsolicited offers with respect to various business lines and assets. These expressions of interest were ultimately subsumed by the Court-approved SISP.

9. Sears Canada entered into NDAs with 92 different parties. In accordance with paragraph 6(a)(v) of the SISP, each interested party that executed an NDA received access to due diligence materials in a data room (the “**Diligence Data Room**”) based on its expressed interest in select assets. Of those parties who signed an NDA and were granted access to the Diligence Data Room, 74 entered the Diligence Data Room in order to conduct due diligence. A breakdown of these numbers is as follows:

	# Potentially Interested Parties Contacted	# Signed NDA	# Accessed Diligence Data Room
Going-concern	7	6	3
Corbeil	21	18	18
SLH	25	17	17
Owned Real Estate	40	24	21
Leases	31	16	12
Prime Loan Book	13	6	6
Other	25	21	13
TOTAL UNIQUE¹	145	92	74

10. In accordance with paragraph 6(a)(ii) of the SISP and in an effort to harmonize the form of bids that would ultimately be submitted by interested parties, several standard form draft agreements were prepared by counsel for the Applicants (in a form acceptable to the Monitor and after consultation with the DIP Lenders) (the “**Transaction Agreements**”). The Transaction Agreements included an asset purchase agreement for a full line retail going-concern bid, an asset purchase agreement for other standalone business lines (e.g. Corbeil, SLH, and Sears Canada’s home service businesses), an agreement of purchase and sale for owned

¹ Certain parties were interested in opportunities in multiple asset categories. The “Total Unique” figures refer to the number of unique parties who were contacted, signed NDAs, and accessed the data room without double-counting individual parties who participated in multiple asset categories.

stores/properties, a lease surrender agreement, a lease transfer agreement, and a lease amending agreement. The Transaction Agreements were finalized and made available to bidders from August 3rd and 4th, 2017 onwards.

11. On July 18, 2017, a “Landlord Process Letter” was sent to Sears Canada’s designated contact for 51 unique parties that were, based on information available to Sears Canada, either Sears Canada’s landlord (or its property manager), or an owner (or its property manager) of a property adjacent to a property owned by Sears Canada. The Landlord Process Letter advised these parties of the upcoming August 31st deadline (the “**Binding Bid Deadline**”) set out in the SISP for interested parties to submit a binding proposal for any of the following:

- (a) the purchase of one or more of the Assets of the Applicants (a “**Binding Bid**”);
- (b) the surrender of one or more of the Leases of the Applicants (a “**Binding Lease Surrender Proposal**”); or
- (c) a modification of one or more of the existing Leases of the Company, conditioned on the acquirer of the Company’s Business which operates in such premises continuing to do so on the basis of such modified lease terms (a “**Binding Lease Modification Proposal**” and, together with Binding Lease Surrender Proposals, “**Binding Lease Proposals**”).

A copy of the Landlord Process Letter, which was reviewed and approved by the Monitor and the DIP Lenders, is attached as Exhibit “B”.

12. On or about July 18, 2017, the Sale Advisor sent out a separate “Process Letter” to other interested parties that had fully executed an NDA with Sears Canada. Following this date, additional Process Letters were sent to interested parties, in most cases once an NDA was fully executed. A total of 81 process letters were sent to unique, potentially interested parties advising them of the August 31st deadline for submitting Binding Bids. Of the potentially interested parties who received a process letter, 5 had expressed interest in a potential going-concern transaction, 18 had expressed interest in Corbeil, 17 had expressed interest in SLH, 28 had expressed interest in the owned real estate, 18 were third parties (i.e. non-landlords) who had expressed interest in the Applicants’ leases, and 20 had expressed interest in other business lines or assets.² A copy of the Process Letter, which was reviewed and approved by the Monitor and the DIP Lenders, is attached as Exhibit “C”. An addendum to the Process Letter with respect to the SLH business was also made available in the SLH folder in the Diligence Data Room. A copy of the SLH addendum is attached as Exhibit “D”.

13. The Sale Advisor devoted an extensive amount of time during the solicitation period discussing the various opportunities with potential purchasers, including conducting numerous follow-up calls with interested parties to address questions related to diligence and the sale process.

14. At the inception of the SISP, the Sears Canada management team developed a potential operating plan for the Sears Canada full-line business on a going concern basis. This plan was to form the basis for the Management Bid (as discussed below). Certain materials reflecting the operating plan were prepared and provided to credible parties who were interested

² In certain circumstances, a Process Letter was sent to parties that expressed an interest in the opportunity to submit a bid but did not sign an NDA.

in a potential going-concern bid. These parties were offered the opportunity to have an in-person discussion with the Sale Advisor and/or certain members of Sears Canada management to review the materials and discuss the business opportunity.

15. As Corbeil and SLH are distinct business units with their own management teams, Sears Canada and the Sale Advisor created unique management presentations for these business units. In-person management presentations were made to parties interested in these business units who executed NDAs and requested such presentations.

Communications with ESL and Fairholme

16. As set out in the Initial Order Affidavit, I understand that ESL Partners, L.P., Edward S. Lampert and certain affiliated entities (collectively, “ESL”) form the largest shareholder of Sears Canada, both directly through ownership in Sears Canada, and indirectly through shareholdings in Sears Holdings Corporation (“Sears Holdings”), a U.S. public company. ESL and Sears Holdings collectively own 57% of Sears Canada’s outstanding common shares. Additionally, Fairholme Capital Management LLC (“Fairholme”) held 20% of Sears Canada’s outstanding common shares as of the date of the SISP Approval Order.

17. On July 10, 2017, ESL announced that ESL and Fairholme had retained Canadian legal counsel and were considering a potential negotiated transaction with Sears Canada (including, without limitation, financing transactions, purchase and sale transactions, or restructuring transactions). On July 28, 2017, ESL announced that ESL and Fairholme had terminated their joint engagement of Canadian legal counsel, but that ESL continued to evaluate Sears Canada and consider potential transactions.

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18. Following the approval of the SISP, ESL's legal and financial advisors signed NDAs and sent an information request to the Sale Advisor. The Sale Advisor responded to these requests for due diligence information and also granted ESL access to the Diligence Data Room.

19. On July 13, 2017, I spoke with both ESL and Fairholme to discuss the SISP and provide information regarding how they could participate. The call was attended by the Monitor. I also spoke with counsel for ESL and Fairholme before the joint retainer was terminated. Further, I sent separate follow up emails on August 3, 2017 to both ESL and Fairholme setting out how they could participate in the SISP (including by way of putting forward a transaction proposal or by participating as a potential sponsor of a going concern proposal for the Sears Canada business being developed by others), advising them of the August 31st Binding Bid Deadline, and inviting them to contact me if they were interested in a potential transaction and needed any further information.

20. Based on a subsequent conversation with ESL in mid-August, further information was provided in response to ESL's expressed interest in evaluating opportunities to provide financing. Ultimately, neither ESL nor Fairholme submitted any bids in the process. To the best of my knowledge, ESL is not providing financing in the context of a potential going concern bid.

ROFRs

21. I am informed by Ryan Nielsen, a partner at Osler, Hoskin & Harcourt LLP, and believe that some of Sears Canada's lease agreements and operating agreements (the "**Property Agreements**") contain language that provide a right of first refusal, option to purchase or similar right ("**ROFR**") to the counterparty to the Property Agreement. Protections were accorded to the

potential beneficiaries of such ROFRs in the SISP Approval Order and in the SISP itself, including requirements that certain communications be made (i) to prospective bidders interested in bidding on Property Agreements that may be subject to a ROFR and (ii) to potential ROFR beneficiaries in the event that the Applicants take the position that the ROFR is not in force or is not triggered by a Binding Bid received as part of the SISP.

22. Paragraph 6(e) of the SISP requires that the Sale Advisor advise prospective bidders that the beneficiaries of any agreements containing a ROFR reserve all rights and remedies with respect to such agreements. In accordance with paragraph 6(e) of the SISP, a copy of the SISP was placed in the Diligence Data Room for all assets that are subject to a ROFR.

23. Pursuant to paragraph 6(a) of the SISP Approval Order, on August 4, 2017, I am informed by Tracy Sandler, a partner at Osler, Hoskin & Harcourt LLP, and believe that the Applicants responded to the requests of all holders of Property Agreements (as defined in the SISP Approval Order) who requested such a response and advised them that the Applicants did not intend to take the position that the ROFRs are no longer in force in respect of the properties described in those letters.

24. Paragraph 6(b) of the SISP Order required that, should a Binding Bid (as defined in the SISP) be received for an asset that is the subject of a ROFR under a Property Agreement from a bidder (a “**ROFR Bidder**”) and the Applicants take the position that the ROFR will not be triggered by such Binding Bid, the Applicants must provide written notice of this fact with sufficient particulars to the relevant holder of such a Property Agreement as follows:

- (a) if such holder is not a bidder in the SISP for such Asset, by September 8, 2017; or

- (b) if such holder is a bidder in the SISP for such Asset, then once the Applicants have elected to proceed with the transaction with the ROFR Bidder, and in any event, no later than September 25, 2017.

25. I am informed by Ms. Sandler and believe that the Applicants have not provided any notices to such holders in the SISP pursuant to this provision.

Communications Protocol

26. Pursuant to the terms of the SISP, members of Sears Canada's management team that were involved in connection with the submission of any bid or proposal were not to be provided with Confidential Information or Bid Information (both as defined in the SISP), including information about any Binding Bids or Binding Lease Proposals that third parties made (other than lease modification proposals that were intended to be opportunities available to going concern bidders as prospective counterparties to the modified leases) or information about whether any particular party made a Binding Bid or Binding Lease Proposal.

27. To the best of my knowledge, at all times the communication protocol set out in the SISP was adhered to, no Confidential Information or Bid Information (other than proposed lease terms in lease modification proposals) was provided to any member of management at the time they were involved in connection with the submission of any bid or proposal, and interested parties only communicated with management of Sears Canada when one of the Sale Advisor, the Monitor or Osler was present. After the August 31st bid submission deadline, I understand that certain members of management who had assisted with providing information to facilitate a potential bid were given Confidential Information or Bid Information on an as-needed basis, on

the condition that this information would not be shared with any members of management who submitted a bid. All communications relating to potential bids were required to be addressed to the Sale Advisor, and members of Sears Canada's management and outside advisory teams were instructed to direct any and all inquiries from prospective bidders to the Sale Advisor.

28. In addition, the Monitor, the Sale Advisor and the Applicants developed and implemented a detailed management protocol to preserve the integrity and fairness of the SISP for all participants in view of a potential bid by Management.

Consultation with DIP Lenders, PBGF, Employee and Pension Representative Counsel

29. Paragraph 18 of the SISP requires that the Sale Advisor provide regular updates to the DIP Lenders and their advisors with respect to matters related to the SISP. Additionally, confidential Bid Information would be shared with Restricted Process Observers (as defined in the SISP), including specific personnel of the financial and legal advisors to the DIP Lenders. In accordance with these requirements, the Sale Advisor attended update calls with the DIP Lenders and provided the Restricted Process Observers with access to a data room containing Bid Information (the "**Bid Results Data Room**") following the receipt of the bids on August 31, 2017.

30. I understand that on July 5, 2017, the Applicants served a motion returnable July 13, 2017 seeking, among other things, an order authorizing the suspension of (i) special payments with respect to the defined benefit portion of the Sears Pension Plan; (ii) payments with respect to the Supplemental Plan; and (iii) payments with respect to other post-retirement benefits under the PRB Plan. The Pension Benefits Guarantee Fund (the "**PBGF**"), Pension

Representative Counsel, and Employee Representative Counsel raised certain objections to this motion, which were ultimately resolved with the assistance of the Monitor and in consultation with the DIP Lenders. The resolution of these objections was reflected in a term sheet attached to the Supplement to the First Report of the Monitor dated July 12, 2017 as Appendix “A” (the “**Term Sheet**”).

31. Pursuant to the Term Sheet, the PBGF’s legal counsel and financial advisor, as well as specified individual representatives of the PBGF (collectively the “**Permitted PBGF Recipients**”), were to be provided with the same updates with respect to the SISP as those updates provided to representatives of the DIP Lenders who have been designated as Restricted Process Observers. As such, the Sale Advisor attended update calls with the Permitted PBGF Recipients and provided the Permitted PBGF Recipients with access to the Bid Results Data Room following the receipt of the bids on August 31, 2017.

32. Additionally, in accordance with the Term Sheet and their respective NDAs, Pension and Employee Representative Counsel attended update calls with the Sale Advisor with respect to the implementation of the SISP. Further information on the results of the SISP was provided to Pension and Employee Representative Counsel through their Financial Advisor.

Oversight by the Monitor and Special Committee

33. The Sale Advisor was in frequent contact with the Monitor and the Special Committee throughout the sale process, including regularly reporting on the progress of the SISP to members of the Special Committee.

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34. The Monitor was closely involved in the SISP implementation. Among other things:

- (a) the Monitor reviewed and approved the Landlord Process Letter and the Process Letter, was granted full access to the data room, approved the form of NDA sent to the interested parties, commented on and approved the template Transaction Agreements used in the SISP, attended SISP update calls with the DIP Lenders, the representatives of the PBGF, and Representative Counsel and attended management presentations;
- (b) the Monitor was also actively involved and consulted in the development of the detailed management protocol referred to above;
- (c) during the period leading up to the Binding Bid Deadline, I understand that the Monitor and its counsel responded to inquiries on the status and progress of the SISP from various stakeholder groups including landlords; and
- (d) in accordance with the SISP, I understand the Monitor maintained and updated a list of Restricted Process Observers.

Results of the SISP

35. On August 31, 2017, the Sale Advisor received 69 bids and proposals, including bids for the acquisition of the full-line business as a going-concern, for the Corbeil and SLH business lines, for the home services business, for the prime loan book, for various trademarks and licenses, and for various owned and leased properties. Bids and proposal documentation

were uploaded to the Bid Results Data Room maintained by the Sale Advisor. The Monitor and its counsel, the Restricted Process Observers and the Permitted PBGF Recipients were granted access to the Bid Results Data Room.

36. The Sale Advisor and counsel for the Applicants immediately commenced a comprehensive review of the bids and proposals that had been submitted to identify different potential combinations of bids and proposals that would maximize value for all of the Applicants' stakeholders. The Monitor also reviewed the bids and proposals received. In accordance with paragraph 11 of the SISP, the Sale Advisor met with both the Special Committee and the Monitor on several occasions in early September to assess the bids that had been received and to determine, among other things, which bids and proposals should be pursued. The Sale Advisor also met with the DIP Lenders and representatives of the PBGF.

37. The Sale Advisor, on behalf of the Applicants and in consultation with the Monitor and the DIP Lenders, engaged in negotiations with a number of bidders that submitted bids or proposals, with a view to selecting one or more non-overlapping Successful Bid(s) (as defined in the SISP) upon approval of the Board of Directors of Sears Canada.

38. The Applicants and their advisors, in consultation with the Monitor and the DIP Lenders, also took steps to settle definitive agreements with bidders. The Monitor and the DIP Lenders were consulted by the Applicants on revisions to the transaction documents provided by bidders. During the negotiation process, revised agreements were posted to the Bid Results Data Room as they were prepared or received from counterparties.

Potential Going Concern Bids

39. As noted above, the SISP contemplated a potential bid from certain members of Sears Canada's management with respect to the Applicants' business. On August 31, 2017, the Sale Advisor and the Monitor received a potential going concern bid (the "**Initial Management Bid**") put forward by Brandon Stranzl, Sears Canada's executive chairman (the "**Stranzl Group**"). The Initial Management Bid was a going concern bid for Sears Canada's full-line business that could, if successfully implemented, preserve several thousand jobs and result in the assumption of significant liabilities. It did not include the Corbeil or SLH business lines. The Initial Management Bid had numerous conditions, including financing and due diligence conditions, and was therefore not SISP compliant.

40. After consultation with the Sale Advisor and the Monitor, the Special Committee determined that it would continue to pursue the Initial Management Bid, recognizing the potential benefits of a going-concern bid and that the SISP provides flexibility to accept a bid that was initially non-compliant with the consent of the Monitor and the DIP Lenders. At the same time, the Sale Advisor continued to pursue other non-overlapping transactions for different business lines as well as real estate transactions that would potentially overlap with a going-concern bid.

41. Throughout the month of September, the Stranzl Group participated in several calls as well as email exchanges with the Sale Advisor and the Monitor in relation to, among other things:

- (a) the potential need to remove certain assets from the going concern bid in order to maximize recovery for the Applicants' stakeholders;

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- (b) the due diligence requests of the Stranzl Group in order to remove any conditions (including financing conditions) in the Initial Management Bid; and
- (c) the timeframe in which the Initial Management Bid would have to be revised in view of timing and liquidity constraints affecting the Company.

42. On September 25, 2017, the Sale Advisor and the Monitor received an amended management bid from the Stranzl Group (the “**Amended Management Bid**”) which addressed certain but not all of the issues presented by the Initial Management Bid. On September 26, 2017, the Stranzl Group provided financing terms sheets in support of the Amended Management Bid. The financing term sheets are subject to the fulfillment of certain conditions.

43. In light of the receipt of the Amended Management Bid, the Applicants’ advisors continue to engage in discussions with, and provide information to, the Stranzl Group. The goal of these discussions is to enhance the value and reduce the conditionality of the proposed transaction.

Conclusion

44. As set out above, the Applicants will be serving a number of motions seeking approval of certain proposed transactions. In recommending that Sears Canada consummate other transactions at this time, the Sale Advisor has, where applicable, weighed the Applicants’ need to realize cash value from assets in the near term against the potential impact of removing these assets from the Amended Management Bid.

45. In addition to ongoing discussions regarding the Amended Management Bid, the Sale Advisor is continuing to pursue other bids and proposals with the goal of realizing value for the Applicants' estate, including liquidation bids and bids with respect to certain owned property. In order to maximize value for the Applicants' stakeholders, the Applicants will require an extension of the current stay period.

SWORN BEFORE ME at the City of
Toronto, on the 28th day of September,
2017.



Commissioner for taking Affidavits

Karen Sachar



Mark Caiger

TAB C

THIS IS EXHIBIT "C" REFERRED TO IN
THE AFFIDAVIT OF MARK CAIGER
SWORN BEFORE ME ON
THIS 28TH DAY OF MAY, 2018



A Commissioner for Taking Affidavits.
Lia Bmechetta

February 7, 2018

Private and Confidential

On behalf of Sears Canada Inc. (together with certain of its subsidiaries, the “**Company**”), BMO Nesbitt Burns Inc. (“**BMO Capital Markets**”) thanks you for your continued interest in a potential transaction involving the Company and would like to invite you to submit a binding offer together with a proposed markup of transaction documents (a “**Binding Bid**”) with respect to the purchase of one or more of the following real estate assets (each, an “**Asset**”) of the Company (each a “**Transaction**”):

- i. Upper Canada Mall full-line store (Newmarket, ON)
- ii. Distribution center (Belleville, ON)
- iii. Fleur de Lys full-line store (Quebec City, QC)
- iv. Windsor full-line store (Windsor, ON)
- v. Peterborough full-line store (Peterborough, ON)
- vi. Barrie full-line store (Barrie, ON)
- vii. Trois-Rivières full-line store (Trois-Rivières, QC)
- viii. Place Vertu liquidation store (Montréal, QC)
- ix. Lévis full-line store (Lévis, QC)

The Company owns 3 additional assets (land in Edmonton, AB and Chicoutimi, QC and a former Sears store in Charlottetown, PEI) which it will be selling under a separate process. If you have interest in these properties, please let us know if you have not already done so, and we can share your contact information with the team managing that process.

Since entering into a Non-Disclosure Agreement with the Company (the “**NDA**”), you should have received access to a virtual data room (the “**VDR**”) which provides information to further analyze Transaction opportunities. Environmental reports are also available through the VDR upon execution of a non-reliance letter. If you have any questions on the information provided by the Company, or wish to schedule a site visit at any of the above-mentioned locations, please contact Constance de Grosbois and Ryan Kellar at BMO Capital Markets (constance.degrosbois@bmo.com; ryan.kellar@bmo.com).

Binding Bid Deadline

Binding Bids must be received no later than 5:00 pm Eastern Time on Thursday, March 7, 2018 (the “**Binding Bid Deadline**”). Binding Bids must be submitted in writing on your letterhead,

addressed to the Company, accompanied by a copy of the proposed Transaction Documents (as discussed below) and delivered by email to:

Constance de Grosbois

Director

BMO Capital Markets

W: (416) 359-4504

Email: constance.degrosbois@bmo.com

Greg Watson

Senior Managing Director

FTI Consulting as Court-Appointed Monitor

W: (416) 647-8077

Email: greg.watson@fticonsulting.com

BMO Capital Markets will be available to consult with you or your representatives to clarify or provide guidance with respect to the contents of your Binding Bid prior to such date.

Contents of the Binding Bid

Your Binding Bid should be submitted in conformity with the following instructions and set out the following:

1. **Purchaser/Investor:** The name of the purchaser (the “**Purchaser**”) and if the Purchaser is not a public company, the name(s) of the ultimate beneficial owners of the Purchaser and applicable contact information.
2. **Form of Binding Bid:** For EACH Asset you propose to acquire, please specify:
 - a description of the Asset you propose to acquire;
 - the nature of the business you intend to conduct on the premises in sufficient detail to permit us to evaluate compliance with any potential restrictive covenants in existing agreements with respect to such Asset which may or may not apply;
 - the amount (in Canadian dollars) you propose to pay for the Asset (the “**Asset Purchase Price**”);
 - a detailed and specific description of the nature of any adjustments to the Asset Purchase Price or any amounts that may result in the net proceeds remitted pursuant to the Transaction differing from the Asset Purchase Price;
 - the form of consideration (cash or a combination of cash and securities) and to the extent part of the consideration is in the form of securities, a detailed description of such securities including all relevant terms and conditions which should be considered in evaluating your Binding Bid.
 - Any other contracts or arrangements that would be a part of your Binding Bid.
 - Any other relevant feature of the Transaction structure contemplated by your Binding Bid that is not identified above.

BE ADVISED that if a Binding Bid is being submitted for one or more Assets that are subject to an agreement which may or may not contain restrictions in the nature of a right of first refusal, option to purchase or similar right, the beneficiary of such agreement(s) and the Company reserve all rights and remedies in respect of such agreement(s).

3. **Financing:** Your Binding Bid should include written evidence of a firm, irrevocable

financial commitment for all required funding or financing, if applicable, and should not be conditional on obtaining financing. If you will be relying on internally generated funds, provide evidence of the sufficiency of such funds to complete the transaction. If you intend to access external financing, provide contact information for each source of financing and provide authorization for the Monitor to have discussions with such contacts.

4. **Transaction Documents:** Your Binding Bid must contain duly executed Transaction Documents and a blackline to the template asset purchase agreement which will be provided to you.

NOTE: If your Binding Bid is a bid for multiple Assets and includes an Asset that is subject to a right of first refusal, option to purchase or similar right, you must include a separate Transaction Document for each such Asset and, for greater certainty, such Transaction Document must include a separate allocation of value to such Asset.

5. **Internal Approvals:** Your Binding Bid should include evidence of authorization and approval to submit and consummate the bid from your Board of Directors (or comparable governing body).
6. **Expiry:** Your Binding Bid should include a letter confirming that the Binding Bid is an irrevocable offer to enter into the Transaction on the terms of the Binding Bid and is open for acceptance by the Company until April 13, 2018.
7. **Conditions and Approvals:** Your Binding Bid should include a detailed description of any necessary government and regulatory approvals or consents to closing the Transaction and the expected timing and process for obtaining such approvals or consents. In evaluating Binding Bids, the Company will give great weight to certainty and the relative ability of prospective Purchasers or Investors to close the Transaction in an expeditious manner. Your Binding Bid should not include any request for or entitlement to any break fee, expense reimbursement or similar type of payment.
8. **Closing Timeline:** The proposed closing date for the Transaction (which shall be no later than April 5, 2018) assuming the Transaction is approved by the Court no later than April 4, 2018.
9. **Due Diligence:** Your Binding Bid should not be conditional upon the outcome of unperformed due diligence.
10. **Deposit:** Your Binding Bid should be accompanied by a cash deposit of 10% of the total cash purchase price contemplated by such bid, which shall be paid to the Monitor, FTI Consulting Canada Inc., by wire transfer to the account listed below and held in trust in accordance with the Court-approved Sale Process. Please indicate the name of the Purchaser and the name of the Assets associated with your Binding Bid (if you are providing separate deposits for multiple Assets) in the wire transfer description to facilitate identification of your deposit upon receipt by the Monitor. If you have already made a deposit as part of this process, please provide instructions so that your deposit can

be identified and credited towards your Binding Bid.

FTI Consulting Canada Inc., in its capacity as Monitor
79 Wellington St., Suite 2010, P.O. Box 104
Toronto, Ontario, M5K 1G8

Beneficiary Bank: The Bank of Nova Scotia
44 King Street West
Toronto, Ontario, M5H 1H1
Account No: 47696 06087 18
Transit No: 47696
Bank No: 002
Swift Code: NOSCCATT
Reference: Sears Canada SISP

11. **Contacts Details:** Your Binding Bid should include contact information for the persons with whom we can discuss your Binding Bid, including any financial, legal or other advisors.
12. **Other:** Your Binding Bid should also indicate any other facts, circumstances or important matters which you believe are relevant to the evaluation of your Binding Bid.

Questions Regarding the Process

All inquiries or communications, including any requests for additional information, should be directed to:

Constance de Grosbois
Director
BMO Capital Markets
W: (416) 359-4504
Email: constance.degrosbois@bmo.com

Any request for additional information will be considered on a case-by-case basis.

Qualifications Regarding the Process

Subject to the terms of the SISP Approval Order, the Company and BMO Capital Markets expressly reserve the right at any time, with or without providing notice or reasons, to (i) amend or terminate the Sale Process; (ii) decline to permit any interested party to participate or continue in the Sale Process; (iii) terminate discussions with any or all interested parties; (iv) reject any or all Binding Bids; or (v) negotiate with any party with respect to the Transaction or any other transaction involving the Company without liability to the Company or BMO Capital Markets.

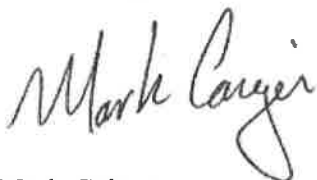
Following the selection of a Binding Bid and finalization of all necessary Transaction Documents, the Company will apply to the Court as soon as reasonably practicable for an order

(an “**Approval and Vesting Order**”) approving and authorizing such bid. The Approval and Vesting Order is a necessary condition precedent to the finalization of any Transaction.

In submitting a Binding Bid, an interested party acknowledges that it is relying solely on its own investigation and evaluation of the Assets. The Company and BMO Capital Markets expressly disclaim any and all liability for representations, warranties or statements contained in this letter or in any other written material furnished or information orally transmitted to a potential purchaser, except only those particular representations and warranties (if any) made by the Company in the Transaction Documents if, as and when such Transaction Documents are ultimately executed by the Company, and subject to such limitations and restrictions as may be contained therein. Until Transaction Documents are executed by the Company, the Company will not have any obligations whatsoever to any potential purchaser. BMO Capital Markets will have no obligations whatsoever to any potential purchaser.

In addition, the Company and BMO Capital Markets reserve the right in their sole discretion to amend any information which has been made available to interested parties either by way of addition, deletion, or amendment. It is understood that you will bear your own costs and expenses including the costs and expenses of all your financial advisors, brokers, finders, agents, lawyers, accountants and other advisors. No finder’s fees, commissions, expenses or other compensation will be paid by the Company or BMO Capital Markets to your intermediaries.

Yours truly,

A handwritten signature in cursive script that reads "Mark Caiger". The signature is written in dark ink and is positioned above the typed name and title.

Mark Caiger
Managing Director
BMO Capital Markets

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

**AFFIDAVIT OF MARK CAIGER
(Motion for Approval of Agreement of Purchase and Sale
with LaSalle Acquisitions Corp. (Place Vertu))**

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

Marc Wasserman LSUC# 44066M
Tel: 416.862.4908

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Tel: 416.862.4923

Karin Sachar LSUC# 59944E
Tel: 416.862.5949
Fax: 416.862.6666

Lawyers for the Applicants

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 May 28, 2018)**

**(Motion for Approval of Agreement of Purchase and Sale with
LaSalle Acquisitions Corp. (Store #1084 - Place Vertu))**

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 17, 2018 (the “**APS**”) between Sears Canada and LaSalle Acquisitions Corp., (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 Sears Canada location at the property commonly known as Place Vertu (the “**Property**”), located in Montreal, Quebec, the details of which are summarized in the following chart:

Store No.	Property	Province	Address	Legal Description/Square Footage
1084	Place Vertu	Quebec	3055 De La Côte Vertu Boulevard, City of Montreal (Borough of Saint-Laurent), Province of Quebec	An immovable known and designated as being lot number ONE MILLION ONE HUNDRED SIXTY-FOUR THOUSAND THREE HUNDRED AND SIXTY-FOUR (1 164 364) of the Cadastre du Québec, Registration Division of Montréal. With all the buildings thereon erected and, more particularly, the building bearing civic number 3055 De La Côte-Vertu Boulevard, City of Montréal (Borough of Saint-Laurent), Province of Québec. 200,000 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 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.

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, which agreement was based on the form of agreement provided to the Purchaser pursuant to the SISP.

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 \$96,000 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 17, 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. For greater certainty, all building services (including but not limited to HVAC, mechanical, electrical and plumbing), electric light fixtures, elevating devices and all related fixtures, equipment and appurtenances located on the Property as of February 26, 2018 shall be included in the Subject Assets, and Sears Canada shall not be permitted to remove same from the Building (other than the Excluded Assets listed in number 7 on Schedule "B" of the APS).

- (b) The Purchaser will pay Purchase Price, plus all applicable taxes. The Purchaser will pay the Deposit, which is 10% of the Purchase Price, by wire transfer of immediately available funds to the Monitor, in trust, on the Business Day following the Execution Date. I am advised by the Monitor that the Deposit has been received. If the Transaction is not completed solely 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 reason other than by a default of the Purchaser, the full amount of the Deposit and all accrued interest earned thereof shall be paid 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 date on which the last of the conditions set out in Sections 7.1, 7.2 and 7.3(a) have been satisfied or waived by notice in writing given by the applicable party having the benefit of such condition, or such later date as Sears Canada (with the consent of the Monitor) may advise the Purchaser in writing, or as otherwise directed by the Court, provided that 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.
- (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. Sears Canada covenants and agrees that all

building services (including but not limited to HVAC, mechanical, electrical and plumbing), electric light fixtures, elevating devices and all related fixtures, equipment and appurtenances located on the Property as of February 26, 2018 shall not be removed from the Building by Sears Canada and shall be included in the Subject Assets being conveyed to the Purchaser. 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.

- (i) The Purchaser has the right to assign the APS to an Assignee provided that the conditions set out in section 8.22 of the APS are met.

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 is party to one such operating agreement (the "**Operating Agreement**") dated June 1, 1975, as amended, with Place Vertu Nominee Inc./Fiduciaire Place Vertu Inc. (or its successor or assign) (the "**Mall Owner**"), an affiliate of the Purchaser, and the owner of neighboring lands comprising the shopping centre known as Place Vertu. Pursuant to the Operating Agreement, the Mall Owner retains a ROFR to purchase the Property at the price and upon the terms and conditions contained in any offer received by Sears Canada, by written notice to Sears Canada, within 15 days of the receipt of notice of any offer.

18. It is a condition of closing under section 7.3(a) of the APS that the ROFR contained in the Operating Agreement in favour of the Mall Owner shall have validly expired in accordance with the terms of the Operating Agreement or as ordered by the Court or have been waived by the Mall Owned in writing.

19. 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, in compliance with the Operating Agreement, disclose and deliver a copy of the APS to the Mall Owner, including the Purchase Price and the Deposit, in providing the Mall Owner the right to exercise its ROFR contained in the Operating Agreement.

20. Furthermore, pursuant to section 7.4(c) of the APS, it is a condition of Closing that the Purchaser deliver to Sears Canada (i) a release of Sears Canada from the Mall Owner from all of Sears Canada's obligations under the Operating Agreement in form and substance acceptable to Sears Canada, and (ii) an assumption agreement in a form satisfactory to Sears Canada in respect of the Operating Agreement.¹

21. On May 23, 2018 the Mall Owner agreed to waive its ROFR pursuant to the Operating Agreement in connection with the Transaction or in connection with any other transaction to the extent that the APS does not close solely as a result of a default by the Purchaser under the APS. Attached to this affidavit as Exhibit "B" is an executed copy of the Mall Owner's Waiver of Right of First Refusal.

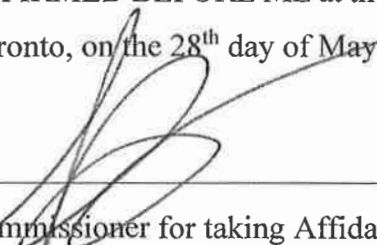
¹ The Mall Owner does not release Sears Canada of any claims, obligations or liability set out in the Mall Owner's Proofs of Claim.

Distribution of Proceeds


22. 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.

23. 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 28th day of May 2018.



Commissioner for taking Affidavits
Lia Brucedetta



Philip Mohtadi

TAB A

THIS IS EXHIBIT "A" REFERRED TO IN
THE AFFIDAVIT OF PHILIP MOHTADI
AFFIRMED BEFORE ME ON
THIS 28TH DAY OF MAY, 2018

A Commissioner for Taking Affidavits.

Ua Bnechetta

AGREEMENT OF PURCHASE AND SALE

SEARS CANADA INC.
as the Vendor

- and -

LaSALLE ACQUISITIONS CORP.
as the Purchaser

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THIS AGREEMENT OF PURCHASE AND SALE dated with effect as of May 17, 2018

BETWEEN:

SEARS CANADA INC.
(the “Vendor”)

OF THE FIRST PART,

- and -

LaSALLE ACQUISITIONS CORP.
(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:

“**Affiliate**” has the meaning ascribed thereto in the *Canada Business Corporations Act*.

“**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.

“**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 Claims and 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 Parties and 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 7.5(a).

“**Closing Date**” means the Business Day that is three (3) Business Days following the date on which the last of the conditions set out in Sections 7.1, 7.2 and 7.3(a) have been satisfied or waived by notice in writing given by the applicable party having the benefit of such condition 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).

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

“**Encumbrance**” means any security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, pledges, prior claims, 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, published 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.

“Final Order” means, in respect of any order of the Court or any other court, the operation and effect of such order shall not have been stayed, amended, modified, reversed, dismissed or appealed (or any motion or other proceeding to stay, amend, modify, reverse or dismiss such order or any such appeal shall have been dismissed with no further appeal therefrom) and the applicable appeal periods shall have expired.

“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).

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“**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(f).

“**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.

“**Mall Owner**” means Place Vertu Nominee Inc./Fiduciaire Place Vertu Inc., or its successor or assign, the owner of the neighbouring lands comprising the shopping centre known as Place Vertu located in Saint-Laurent, Québec, in its capacity as counterparty to the Operating Agreement.

“**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 August 3, 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.

“**Operating Agreement**” means the Operating Agreement dated June 1, 1975 between Place Vertu Enrg., Simpson-Sears Properties Limited and Simpsons-Sears Limited, as amended by an Agreement Amending Operating Agreement dated October 20, 1983 between Cambridge Leaseholds Limited, Kerrybrooke Development Limited, Hudson’s Bay Company Developments Limited, Simpson-Sears Properties Limited and Simpsons-Sears Limited, by an Agreement Amending the Place Vertu Operating Agreement dated March 7, 2007 between Place Vertu

S.E.N.C. and the Vendor and by an Extension and Amending Agreement dated December 15, 2011 between Place Vertu Holdings Inc. and the Vendor, as further amended, assigned, restated, supplemented and/or modified from time to time.

“**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 or omissions; 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, 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.

“**Proofs of Claim**” has the meaning ascribed thereto in Section 7.4(c)(iii).

“**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. For greater certainty, all building services (including but not limited to HVAC, mechanical, electrical and plumbing), electric light fixtures, elevating devices and all related fixtures, equipment and appurtenances located on the Property as of February 26, 2018 shall be included in the Subject Assets and the Vendor shall not be permitted to remove same from the Building (other than the Excluded Assets listed in number 7 in Schedule “B”).

“**Successful Bid**” has the meaning ascribed thereto in the SISP Order.

“**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.

1.2 Existing Agreements

Notwithstanding anything contained in this Agreement to the contrary and for greater certainty, nothing contained in this Agreement shall, nor shall be construed so as to, nullify, terminate, amend, waive, limit or affect in any way, any agreement, right, servitude or obligation existing between the Purchaser or any of its affiliates and the Vendor and/or any member of the Sears Group on or prior to the date of this Agreement (“**Existing Agreements**”), including without limiting the foregoing, any operating agreement, any right of first refusal contained therein and any servitudes, which Existing Agreements shall continue in full force and effect and unamended to the extent provided for in the Existing Agreements. For certainty, the Vendor acknowledges that subject to the provisions of Section 7.3(a), the right of first refusal in favour of the Mall

Owner contained in the Operating Agreement is and shall remain in full force and effect and shall not be affected by the provisions of Section 3.2(d).

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 23, 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 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

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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;

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- (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) subject to the provisions of the Approval and Vesting Order, 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] (the "Purchase Price") exclusive of all Taxes. 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] (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 3:00 p.m. (Toronto time) on the Business Day following the Execution Date, 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; 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

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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.

- (c) If the Transaction is not completed solely 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 reason of the default of the Vendor, 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) If the Transaction is not completed for any other reason, the full amount of the Deposit together with all accrued interest earned thereon shall be paid to the Purchaser.
- (f) 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.
- (g) 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.
- (h) 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 3.2; 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.

- (i) 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.

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

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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, 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. 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.

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. The Vendor covenants and agrees that all building services (including but not limited to HVAC, mechanical, electrical and plumbing), electric light fixtures, elevating devices and all related fixtures, equipment and appurtenances located on the Property as of February 26, 2018 shall not be removed from the Building by the Vendor and shall be included in the Subject Assets being conveyed to the Purchaser. 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) 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.
- (c) 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 reduction of the Purchase Price and the proceeds of any insurance available or actually paid or payable to the Vendor 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 and Assumed Contracts

The Purchaser shall provide such financial, business, organizational, managerial and other information and enter into such assumption agreements or deeds of re-hypothecation as the relevant party to an Assumed Contract or Permitted Encumbrance (the relevant party being a "Holder") shall require to effect the assumption of the Assumed Contracts or the Permitted Encumbrances, as applicable, by the Purchaser (collectively, the "Contract and/or PE

Assumption Agreements”). The Purchaser shall use reasonable efforts to assist the Vendor and shall co-operate with the Vendor, as reasonably requested, to obtain from third parties a full release of the Vendor’s obligations under the Assumed Contracts and 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.

5.4 Employees

The Vendor and the Purchaser agree that the Purchaser is not assuming or continuing the employment of any of the Vendor’s or its affiliate’s employees and that the Vendor shall remain solely responsible for same, to the complete exoneration of the Purchaser. This Section 5.4 shall survive and not merge on Closing.

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* and for the purposes of *An Act respecting the Québec Sales Tax*.

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;

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- (b) the Purchaser is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada);
- (c) 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;
- (d) 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
- (e) 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 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 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

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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, on or before the Closing Date, will be 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) 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;

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- (c) 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 number 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**”);
- (d) 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
- (e) 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 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; and
- (c) 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 time period for the exercise by the Mall Owner of the right of first refusal contained in the Operating Agreement in favour of the Mall Owner shall have validly expired without the right of first refusal having been exercised in accordance with the terms of the Operating Agreement or as ordered by the Court, or the said right of first refusal shall have been waived by the Mall Owner in writing;

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- (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 shall be a Final Order; and
- (c) the Monitor shall have delivered the Monitor's Certificate.

7.4 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 with respect to the transfer of the Property, substantially in the form attached as Schedule "J";
 - (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) 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;
 - (iv) 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; and
 - (v) 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:

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- (i) the Balance plus all Taxes thereon;
- (ii) GST/HST and QST Certificate, Undertaking and Indemnity;
- (iii) an assumption agreement in favour of the Vendor and the Mall Owner in accordance with the terms of the Existing Agreements (including the Operating Agreement) in form and substance satisfactory to the Vendor, including the Purchaser's assumption of any amounts owing under the Operating Agreement and other Existing Agreements other than amounts claimed by the Mall Owner under proofs of claim filed pursuant to the claims procedure order issued by the Court in the CCAA Proceedings ("**Proofs of Claim**");
- (iv) a release of the Vendor from the Mall Owner from all of the Vendor's obligations under the Operating Agreement, such release to be effective from and after Closing, in form and substance acceptable to the Vendor acting reasonably, it being agreed, however, that the foregoing shall not release the Vendor from its liability, if any, pursuant to the Proofs of Claim;
- (v) 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
- (vi) 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.

7.5 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.

7.6 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.

7.7 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 7.7 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 7.7 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 7.7.

- (e) This Section 7.7 shall survive the Closing or termination of this Agreement.

7.8 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.

7.9 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 and the manner and timing of service, provided that best efforts will be made to have the motion seeking the Approval and Vesting Order served upon such parties not less than seven (7) Business Days prior to the scheduled date for hearing of the motion.
- (b) The Vendor shall make best efforts to provide to the Purchaser: (i) not less than two (2) Business Days before service thereof, a draft of all affidavits and other materials to be served by them in connection with the motion seeking the Approval and Vesting Order, and (ii) promptly upon receipt, a copy of all materials received by them in response or opposition to the motion seeking the Approval and Vesting Order.
- (c) 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 Transaction including, any Court ordered assignment of the Contracts provided the Vendor and Monitor shall redact from

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court materials served or filed by them such sensitive information pertaining to the Purchaser as the Purchaser may reasonably request, it being understood by the Purchaser that the Court may require that an unredacted copy of such materials be filed in which case the Vendor shall use commercially reasonable efforts to obtain on order from the Court sealing such unredacted copy on terms reasonably acceptable to the Purchaser.

- (d) The Vendor shall make commercially reasonable efforts to obtain the Approval and Vesting Order. 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.

7.10 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

In addition to the obligations under the NDA, each of the Purchaser and Vendor covenants and agrees that neither it nor its respective affiliates or representatives will disclose the existence or terms of this Agreement or the fact of its execution and delivery to any third party without the prior consent of the other Party, which consent shall not be unreasonably withheld or delayed, except (a) as and to the extent required by Law, (b) to its directors, officers, employees, agents, managers, consultants, advisors and their representatives and affiliates, (c) in the case of Vendor,

(i) as may be required under the CCAA and the SISP Order, (ii) in connection with seeking and obtaining the Approval and Vesting Order, and (iii) in connection with the compliance with any Existing Agreement, including the Operating Agreement (including delivering a copy of this Agreement to the Mall Owner in providing the Mall Owner the right to exercise its right of first refusal contained in the Operating Agreement), or (d) as otherwise may be required by the Court. The Parties will cooperate and consult with one another, to the extent reasonably practical, with respect to the issuance of any press release or other public statement regarding this Agreement and the Transaction. 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 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. 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 in which the Property is located 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, save and except where such objection is based upon the requirement of applicable Laws in respect of matters relating to real or immovable property or publication or registration of real rights relating thereto in the Province in which the Property is located. 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

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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

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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:

c/o LaSalle Investment Management
22 Adelaide Street West
26th Floor
Bay Adelaide East Tower
Toronto, ON M5H 4E3
Attn: Stephen Robertson / Chris Lawrence
Email: stephen.robertson@lasalle.com/
chris.lawrence@lasalle.com

With a copy to:

Fasken Martineau DuMoulin LLP
333 Bay Street, Suite 2400
Bay Adelaide Centre, Box 20
Toronto, ON M5H 2T6
Attn: Allyson Roy
Email: aroy@fasken.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 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 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. The Vendor acknowledges and agrees that, notwithstanding the foregoing, the Purchaser shall have the right to assign this Agreement to any corporation, fund or limited partnership (i) owned by investors of LaSalle Investment Management and (ii) managed by the Purchaser, LaSalle Investment Management or Affiliates thereof, provided that any such assignment may include 10338788 Canada Inc. or an Affiliate of 10338788 Canada Inc. as to an approximately ten percent (10%) interest (the "Assignee") without the prior written consent of the Vendor, provided that: (i) the Purchaser gives the Vendor a copy of such assignment; and (ii) the Assignee enters into an assumption agreement (in a form approved by Vendor acting reasonably) in favour of the Purchaser and the Vendor whereby the Assignee assumes all of the Purchaser's obligations and liabilities under this Agreement, provided that the original Purchaser shall not be relieved of its obligations hereunder, until the occurrence of Closing. The Purchaser, or any Assignee of the Purchaser, may direct the Vendor to have the Approval and Vesting Order issued in the name of a nominee of the Purchaser or such Assignee for the purpose of taking legal title to the Subject Assets in trust for the Purchaser or its Assignee as beneficial owner.

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. MONTON

Name: P. MONTON

Title: Secretary

By: _____

Name:

Title:

LaSALLE ACQUISITIONS CORP.

By: _____

Name:

Title:

By: _____

Name:

Title:

IN WITNESS WHEREOF the parties have executed this Agreement.

SEARS CANADA INC.

By: _____

Name:

Title:

By: _____

Name:

Title:

LaSALLE ACQUISITIONS CORP.

By: _____

Name:

Title:

John McKinlay
Authorized Signing Officer

By: _____

Name:

Title:

Chris Lawrence
Authorized Signing Officer

SCHEDULE "A"
LANDS

An immovable known and designated as being lot number ONE MILLION ONE HUNDRED SIXTY-FOUR THOUSAND THREE HUNDRED AND SIXTY-FOUR (1 164 364) of the Cadastre du Québec, Registration Division of Montréal.

With all the buildings thereon erected and, more particularly, the building bearing civic number 3055 De La Côte-Vertu Boulevard, City of Montréal (Borough of Saint-Laurent), Province of Québec.

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, save and except for all building services (including but not limited to HVAC, mechanical, electrical and plumbing), electric light fixtures, elevating devices and all related fixtures, equipment and appurtenances located on the Property as of February 26, 2018 which shall not be removed from the Building by the Vendor.
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



**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 (including the Schedules attached hereto) 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 real or immovable property included in and forming part of 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 and shall vest absolutely in 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, levies, charges, 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) or any other personal property registry system including the Quebec Register of Personal and Movable Real Right; and
- (c) those Claims listed on Schedule “C” hereto;

(all of which are collectively referred to as the “**Encumbrances**”, which term shall not include the Permitted Encumbrances listed on Schedule “D” hereto), and, for greater certainty, this Court orders that all of the Claims and Encumbrances affecting or relating to the Subject Assets are hereby expunged and discharged as against the Subject Assets including the real or immovable property identified in Schedule “B” hereto (the “**Immovable Property**”).

5. THIS COURT ORDERS the Land Registrar in the Land Registry Office for the Registration Division of Montréal, upon presentation of the Monitor’s Certificate substantially in the form appended as Schedule “A” hereto and a certified copy of this Order accompanied by the required application for registration and upon payment of the prescribed fees, to publish this Order and (i) to make an entry on the Land Register showing the Purchaser as the owner of the Immovable Property, and (ii) to totally cancel and discharge any and all Claims and Encumbrances, including the Claims and Encumbrances listed in Schedule “C” hereto, on the said Immovable Property (other than the Permitted Encumbrances listed in Schedule “D”

hereto), and to cause such Claims and Encumbrances to appear as totally discharged on the index of immovables for the said Immovable Property.

6. THIS COURT ORDERS the Quebec Personal and Movable Real Rights Registrar, upon presentation of the required form with a true copy of this Order and the Monitor's Certificate, to reduce the scope of and/or strike the Claims and Encumbrances, including the Claims and Encumbrances listed in Schedule "C" hereto, in connection with the Subject Assets in order to allow the transfer to the Purchaser of the Subject Assets free and clear of such registrations.

7. 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.

8. 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.

9. 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

10. 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

11. THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings;

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

the vesting, 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.

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

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

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 and the vesting in the Purchaser of Sears Canada's right, title and interest in and to the Subject Assets (as defined in the APA), which vesting, 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(a) 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

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(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(a) 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"
LEGAL DESCRIPTION

An immovable known and designated as being lot number ONE MILLION ONE HUNDRED SIXTY-FOUR THOUSAND THREE HUNDRED AND SIXTY-FOUR (1 164 364) of the Cadastre du Québec, Registration Division of Montréal.

With all the buildings thereon erected and, more particularly, the building bearing civic number 3055 De La Côte-Vertu Boulevard, City of Montréal (Borough of Saint-Laurent), Province of Québec.

SCHEDULE "C"
ENCUMBRANCES

1. All outstanding municipal and school taxes, and arrears, fines, interest and penalties related thereto.

SCHEDULE "D"
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.
- (c) Rail siding agreements or facility, cost sharing, servicing, reciprocal use or other similar agreements.
- (d) 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.
- (e) 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.
- (f) Any rights of expropriation, access or use or any other similar rights conferred or reserved by applicable Law.
- (g) 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.
- (h) Restrictive covenants, private deed restrictions and other similar land use control agreements.
- (i) 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.
- (j) The provisions of all applicable Laws, including by-laws, regulations, ordinances and similar instruments relating to development and zoning of the Property.
- (k) 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).

- (l) 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 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.
- (m) Any minor title defects, irregularities, easements, servitudes, encroachments, rights-of-way or other discrepancies in title or possession relating to the Property which would be disclosed by an up-to-date plan of survey, real property report, certificate of location, or technical description.
- (n) 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 (d) and (e) of this Schedule) which do not materially impair the current use, operation or marketability of the Property.
- (o) Undetermined or inchoate liens incidental to construction, renovations or current operations, a claim for which shall not at the time have been registered against the Property or of which notice in writing shall not at the time have been given to the Vendor pursuant to the Construction Lien Act (Ontario) or similar legislation, and in respect of any of the foregoing cases, the Vendor has, where applicable, complied with the holdback or other similar provisions or requirements of the relevant construction contracts.
- (p) Any reference plans or plans registered pursuant to the Boundaries Act (Ontario).
- (q) All Off-Title Compliance Matters.
- (r) Any unregistered interests in the Property of which the Purchaser has actual notice.
- (s) All rights of first refusal, option to purchase or similar rights relating to the Property.
- (t) 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.
- (u) Any Encumbrances resulting from the Purchaser's actions or omissions.

SPECIFIC ENCUMBRANCES

The characterization or descriptions of those items below is prepared for purposes of convenience only and for accurate reference, recourse should be had to the registration itself.

1. Deed of servitude registered at the Registry Office of Montréal January 16, 1976 under number 2 661 926, by which Cambridge Leaseholds Limited, Kerrybrooke Development Limited and Hudson's Bay Company Properties (Québec) Limited, as owners of the Place Vertu property and Simpson's Sears Properties Limited, as owner of the Sears property established a number of servitudes, as amended under the terms of a first amendment to servitude registered under number 2 816 027 and under the terms of a second amendment to servitude registered under number 3 411 400 and the third amendment registered under number 19 336 714.
2. Deed of servitude registered at the Registry Office of Montréal on April 25, 1977 under number 2 774 688, under the terms of which The City of Saint-Laurent, owner of the servient land, granted Simpson-Sears Properties Limited, owner of the dominant land, the exclusive right to construct, install, maintain and repair in and upon the servient land a concrete duct bank with conduits therein for electricity, telephone and telegraph and for security public address and fire alarm signal cables, together with rights of access over the servient land for the said purposes. Paragraph number 8 of the deed stipulates that the acquirer of the dominant land shall be bound to all of the obligation of Simpson-Sears Properties Limited.
3. A servitude in favour of Hydro-Québec registered under number 1 132 030; and
4. A servitude for drainage in favour of the Ministre de la Voirie registered under number 1 903 188.
5. The Operating Agreement.

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: Purchase of the lands and buildings municipally known as 3055 De La Côte-Vertu Boulevard, City of Montréal (Borough of Saint-Laurent), Province of Québec, being legally described as an immovable known and designated as being lot number ONE MILLION ONE HUNDRED SIXTY-FOUR THOUSAND THREE HUNDRED AND SIXTY-FOUR (1 164 364) of the Cadastre du Québec, Registration Division of Montréal by <@> (the "Nominee") pursuant to an Agreement of Purchase and Sale between the Vendor and LaSalle Acquisitions Corp. dated <@>, 2018 (as may be amended from time to time, the "Purchase Agreement") and which the Nominee will hold the Subject Assets (as defined in the Purchase Agreement) as nominee and as prête-nom for and on behalf of <@> (the "Beneficial Owner" and collectively, with the Nominee, the "Purchaser")

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

- a) the Subject Assets are being purchased by the Beneficial Owner as principal for its own account and not as an agent, trustee or otherwise on behalf of or for another Person, the Beneficial Owner 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 its registration number is <@> and such registration is in good standing and has not been varied, cancelled or revoked;
- b) the Beneficial Owner is registered under Division I of Chapter VIII of Title I of *An Act respecting the Québec Sales Tax* (the "*Québec Act*") for the collection and remittance of Québec sales tax ("QST") and its registration number is <@> and such registration is in good standing and has not been varied, cancelled or revoked;
- c) the Beneficial Owner 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*;
- d) the Beneficial Owner and the Nominee shall each 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 and/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 Beneficial Owner in this GST/HST

and QST Certificate, Undertaking and Indemnity or any failure by the Beneficial Owner 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.

[BENEFICIAL OWNER]

By: _____

Name:

Title:

By: _____

Name:

Title:

<@>

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 1 ASSIGNMENT

1.1 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.

1.2 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.

1.3 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.

1.4 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 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 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.

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 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.

2.10 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.

2.11 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.

2.12 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.

2.13 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.

2.14 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.*

2.15 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.

2.16 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.

2.17 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.
- (c) Rail siding agreements or facility, cost sharing, servicing, reciprocal use or other similar agreements.
- (d) 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.
- (e) 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.
- (f) Any rights of expropriation, access or use or any other similar rights conferred or reserved by applicable Law.
- (g) 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.
- (h) Restrictive covenants, private deed restrictions and other similar land use control agreements.
- (i) 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.
- (j) The provisions of all applicable Laws, including by-laws, regulations, ordinances and similar instruments relating to development and zoning of the Property.

- 2 -

- (k) 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).
- (l) 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 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.
- (m) Any minor title defects, irregularities, easements, servitudes, encroachments, rights-of-way or other discrepancies in title or possession relating to the Property which would be disclosed by an up-to-date plan of survey, real property report, certificate of location, or technical description.
- (n) 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 (d) and (e) of this Schedule) which do not materially impair the current use, operation or marketability of the Property.
- (o) Undetermined or inchoate liens incidental to construction, renovations or current operations, a claim for which shall not at the time have been registered against the Property or of which notice in writing shall not at the time have been given to the Vendor pursuant to the *Construction Lien Act* (Ontario) or similar legislation, and in respect of any of the foregoing cases, the Vendor has, where applicable, complied with the holdback or other similar provisions or requirements of the relevant construction contracts.
- (p) Any reference plans or plans registered pursuant to the *Boundaries Act* (Ontario).
- (q) All Off-Title Compliance Matters.
- (r) Any unregistered interests in the Property of which the Purchaser has actual notice.
- (s) All rights of first refusal, option to purchase or similar rights relating to the Property.
- (t) 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

- 3 -

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.

1. Deed of servitude registered at the Registry Office of Montréal January 16, 1976 under number 2 661 926, by which Cambridge Leaseholds Limited, Kerrybrooke Development Limited and Hudson's Bay Company Properties (Québec) Limited, as owners of the Place Vertu property and Simpson's Sears Properties Limited, as owner of the Sears property established a number of servitudes, as amended under the terms of a first amendment to servitude registered under number 2 816 027 and under the terms of a second amendment to servitude registered under number 19 336 714.
2. Deed of servitude registered at the Registry Office of Montréal on April 25, 1977 under number 2 774 688, under the terms of which The City of Saint-Laurent, owner of the servient land, granted Simpson-Sears Properties Limited, owner of the dominant land, the exclusive right to construct, install, maintain and repair in and upon the servient land a concrete duct bank with conduits therein for electricity, telephone and telegraph and for security public address and fire alarm signal cables, together with rights of access over the servient land for the said purposes. Paragraph number 8 of the deed stipulates that the acquirer of the dominant land shall be bound to all of the obligation of Simpson-Sears Properties Limited.
3. The Operating Agreement.
4. A servitude in favour of Hydro-Québec registered under number 1 132 030.
5. A servitude for drainage in favour of the Ministre de la Voirie registered under number 1 903 188.

SCHEDULE "I"
ASSUMED CONTRACTS

None.

**SCHEDULE “J”
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

- 3 -

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:

Section 1. 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

An immovable known and designated as being lot number ONE MILLION ONE HUNDRED SIXTY-FOUR THOUSAND THREE HUNDRED AND SIXTY-FOUR (1 164 364) of the Cadastre du Québec, Registration Division of Montréal.

With all the buildings thereon erected and, more particularly, the building bearing civic number 3055 De La Côte-Vertu Boulevard, City of Montréal (Borough of Saint-Laurent), 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**”)

Section 2. 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.

Section 3. TITLE

The Vendor’s right, title and interest in the Property was acquired by the Vendor (or its predecessor) in virtue of the following deed(s) : ●.

Section 4. POSSESSION

- (a) The Purchaser shall become the owner and have possession of the Vendor’s right, title and interest in and to 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.

- 4 -

- (b) 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.

Section 5. 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.

Section 6. 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.

Section 7. 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.

Section 8. DECLARATIONS REGARDING GST AND QST

- (c) 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.
- (d) 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 ●.
- (e) 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 ●.
- (f) 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,

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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.

Section 9. 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.

Section 10. 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.*

Section 11. 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:

- (g) 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;
- (h) the Property herein transferred is situated in the territory of the City of ●, Province of Québec;
- (i) according to the parties, the amount of the consideration for the transfer of the Property herein transferred is: ● dollars and ● cents (\$●);
- (j) according to the parties, the amount constituting the basis of imposition of the transfer duties is: ● dollars (\$●);
- (k) the amount of transfer duties is: ● dollars and ● cents (\$●); and
- (l) 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.

Section 12. PARAMOUNTCY

Save and except for Section 1 hereof, in the event of any conflict, inconsistency, ambiguity or difference between the provisions of this Agreement and of the Asset Purchase Agreement, then the provisions of the Asset 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.

[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 28TH DAY OF MAY, 2018



A Commissioner for Taking Affidavits.

Lia Bmedetta

WAIVER OF RIGHT OF FIRST REFUSAL

TO: Sears Canada Inc. ("**Sears**")

AND TO: Osler, Hoskin & Harcourt LLP, as counsel to Sears

AND TO: FTI Consulting Canada Inc., in its capacity as Court-appointed Monitor of Sears (the "**Monitor**")

AND TO: Norton Rose Fulbright Canada LLP, as counsel to the Monitor

AND TO: LaSalle Acquisition Corp. ("**LaSalle**")

AND TO: Fasken Martineau DuMoulin LLP, as counsel to LaSalle

RE: The property legally described as lot number ONE MILLION ONE HUNDRED SIXTY-FOUR THOUSAND THREE HUNDRED AND SIXTY-FOUR (1 164 364) of the Cadastre du Québec, Registration Division of Montréal and municipally known as 3055 De La Côte-Vertu Boulevard, City of Montréal (Borough of Saint-Laurent) Province of Québec (the "**Sears Property**")

WHEREAS Sears is the owner of the Sears Property;

AND WHEREAS Place Vertu Nominee Inc./Fiduciaire Place Vertu Inc. (the "**Mall Owner**") is the registered owner of the property legally described as lot number ONE MILLION ONE HUNDRED SIXTY-FOUR THOUSAND THREE HUNDRED AND FIFTY-TWO (1 164 352) of the Cadastre of Québec, Registration Division of Montréal and municipally known as 3105 to 3333, Côte Vertu Boulevard and 11200, Cavendish Boulevard and 3100, Thimens Boulevard, in the municipality of Montréal (Borough of Saint-Laurent) Province of Québec (the "**Place Vertu Property**")

AND WHEREAS the Mall Owner has the benefit of a right of first refusal (the "**Right of First Refusal**") to purchase the Sears Property pursuant to Section 20.01 of the Operating Agreement dated June 1, 1975 between Place Vertu Enrg., Simpson-Sears Properties Limited and Simpsons-Sears Limited, as amended by an Agreement Amending Operating Agreement dated October 20, 1983 between Cambridge Leaseholds Limited, Kerrybrooke Development Limited, Hudson's Bay Company Developments Limited, Simpson-Sears Properties Limited and Simpsons-Sears Limited, by an Agreement Amending the Place Vertu Operating Agreement dated March 7, 2007 between Place Vertu S.E.N.C. and Sears and by an Extension and Amending Agreement dated December 15, 2011 between Place Vertu Holdings Inc. and Sears, as assigned by Place Vertu Holdings Inc. to the Mall Owner pursuant to an Assignment and Assumption of Sears Operating Agreement dated August 25, 2017, as further amended, assigned, restated, supplemented and/or modified from time to time (collectively, the "**Operating Agreement**");

AND WHEREAS LaSalle, as purchaser, and Sears, as vendor, have entered into an Agreement of Purchase and Sale dated May 17, 2018, as such Agreement of Purchase and Sale may be assigned, amended, supplemented, restated or otherwise modified from time to time in respect of the sale by Sears and purchase by LaSalle, or its permitted assignee (the "**Purchaser**") of the Sears Property (the "**Proposed Transaction**") on the terms set out therein;

AND WHEREAS LaSalle is an affiliate of, or related party to, the Mall Owner;

AND WHEREAS the Mall Owner has agreed to waive its Right of First Refusal to purchase the Sears Property in respect of the Proposed Transaction;

NOW THEREFORE THIS WAIVER WITNESSES THAT in consideration of the respective covenants and agreements herein contained and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Mall Owner acknowledges and agrees that:

1. The Mall Owner hereby waives its Right of First Refusal to purchase the Sears Property under the terms and conditions of the Proposed Transaction and the transactions contemplated thereby, which, for greater certainty, may be assigned, amended, supplemented, restated or otherwise modified from time to time.
2. The addressees hereof may rely on the Mall Owner's waiver in completing the Proposed Transaction and the transactions contemplated thereby.
3. The Mall Owner's waiver shall only apply in respect of the Proposed Transaction and the transactions contemplated thereby and such waiver shall not be deemed to be a waiver of the Mall Owner's Right of First Refusal to purchase the Sears Property with respect to any future or subsequent offers to purchase received by Sears and its successors and assigns and successors in title of all or any part or parts of the Sears Property, unless the Proposed Transaction does not close solely as a result of the default of the Purchaser in which case the Right of First Refusal shall automatically terminate and be of no force and effect on termination of the Proposed Transaction as a result of a default of the Purchaser.
4. The Mall Owner shall execute such documents and instruments as the addressees hereof may reasonably require to effect the transactions contemplated by the Proposed Transaction and the transactions contemplated hereby.
5. This Waiver is binding upon the Mall Owner and its successors and assigns and any successors in title of all or any part or parts of the Place Vertu Property.
6. This Waiver may be executed in counterparts and the counterparts may be executed and delivered by electronic means.

[The remainder of the page is intentionally left blank. The signature page follows.]

DATED as of the 23rd day of May, 2018

**PLACE VERTU NOMINEE INC/
FIDUCIAIRE PLACE VERTU INC.**

Per: 
Name: **Stephen Robertson**
Title: **Authorized Signing Officer**

Per: 
Name: **Chris Lawrence**
Title: **Authorized Signing Officer**

I have authority to bind the Corporation

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

**AFFIDAVIT OF PHILIP MOHTADI
(Motion for Approval of Agreement of Purchase and Sale
with LaSalle Acquisitions Corp. (Place Vertu))**

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

Marc Wasserman LSUC# 44066M
Tel: 416.862.4908

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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 4

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.)	TUESDAY, THE 5 TH
)	
JUSTICE HAINEY)	DAY OF JUNE, 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

(Place Vertu)

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 3055 De La Côte-Vertu Boulevard, City of Montréal (Borough of Saint-Laurent), Province of Québec, together with certain ancillary assets (the “**Transaction**”) contemplated by an Agreement of Purchase and Sale between Sears Canada Inc. (“**Sears Canada**”), as vendor, and LaSalle Acquisitions Corp. (or its permitted assignee, as applicable, the “**Purchaser**”) as purchaser dated May 17, 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 May 28, 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 (including the Schedules attached hereto) shall have the meaning ascribed thereto in the Amended and Restated Initial Order in these proceedings dated June 22, 2017 (the “**Initial Order**”), as amended, 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 real or immovable property included in and forming part of 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 and shall vest absolutely in 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, levies, charges, assessments or reassessments, equitable interests, options, preferential arrangements, rights of others, leases, notices of lease, sub-leases, licenses, restrictions, rights of retention, judgments, debts, liabilities, rights of offer, rights of first refusal or similar restrictions, 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) or any other personal property registry system including the Quebec Register of Personal and Movable Real Rights; and
- (c) those Claims listed on Schedule “C” hereto;

(all of which are collectively referred to as the “**Encumbrances**”, which term shall not include the Permitted Encumbrances listed on Schedule “D” hereto), and, for greater certainty, this Court orders that all of the Claims and Encumbrances affecting or relating to the Subject Assets are hereby expunged and discharged as against the Subject Assets including the real or immovable property identified in Schedule “B” hereto (the “**Immovable Property**”).

5. THIS COURT ORDERS the Land Registrar in the Land Registry Office for the Registration Division of Montréal, upon presentation of the Monitor’s Certificate substantially in the form appended as Schedule “A” hereto and a certified copy of this Order accompanied by the required application for registration and upon payment of the prescribed fees, to publish this Order and any other documents, as may be required (i) to make an entry on the Land Register showing the Purchaser or its designated nominee as the owner of the Immovable Property, and (ii) to totally cancel and discharge any and all Claims and Encumbrances, including the Claims and Encumbrances listed in Schedule “C” hereto, on the said Immovable Property (other than the

Permitted Encumbrances listed in Schedule “D” hereto), and to cause such Claims and Encumbrances to appear as totally discharged on the index of immovables for the said Immovable Property.

6. THIS COURT ORDERS the Quebec Personal and Movable Real Rights Registrar, upon presentation of the required form with a true copy of this Order and the Monitor’s Certificate, as may be required, to reduce the scope of and/or strike the Claims and Encumbrances, including the Claims and Encumbrances listed in Schedule “C” hereto, in connection with the Subject Assets in order to allow the transfer to the Purchaser of the Subject Assets free and clear of such registrations.

7. 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.

8. 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.

9. 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

10. 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

11. THIS COURT ORDERS that, notwithstanding:

- (a) the pendency of these proceedings;

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

the vesting, 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.

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

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

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 LaSalle Acquisitions Corp. (or its permitted assignee, as applicable, the "**Purchaser**") as purchaser dated May 17, 2018 (the "**APS**"), a copy of which is attached as Exhibit ● to the Affidavit of Philip Mohtadi affirmed May 28, 2018.

B. Pursuant to the Approval and Vesting Order the Court approved the APS and provided for the sale, assignment and transfer to and the vesting in the Purchaser of Sears Canada's right, title and interest in and to the Subject Assets (as defined in the APS), which vesting, 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(1) 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(1) 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"
LEGAL DESCRIPTION

An immovable known and designated as being lot number ONE MILLION ONE HUNDRED SIXTY-FOUR THOUSAND THREE HUNDRED AND SIXTY-FOUR (1 164 364) of the Cadastre du Québec, Registration Division of Montréal.

With all the buildings thereon erected and, more particularly, the building bearing civic number 3055 De La Côte-Vertu Boulevard, City of Montréal (Borough of Saint-Laurent), Province of Québec.

SCHEDULE "C"
ENCUMBRANCES

1. All outstanding municipal and school taxes, and arrears, fines, interest and penalties related thereto.

SCHEDULE "D"
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.
- (c) Rail siding agreements or facility, cost sharing, servicing, reciprocal use or other similar agreements.
- (d) 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.
- (e) 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.
- (f) Any rights of expropriation, access or use or any other similar rights conferred or reserved by applicable Law.
- (g) 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.
- (h) Restrictive covenants, private deed restrictions and other similar land use control agreements.
- (i) 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.
- (j) The provisions of all applicable Laws, including by-laws, regulations, ordinances and similar instruments relating to development and zoning of the Property.
- (k) 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).
- (l) 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 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.

- (m) Any minor title defects, irregularities, easements, servitudes, encroachments, rights-of-way or other discrepancies in title or possession relating to the Property which would be disclosed by an up-to-date plan of survey, real property report, certificate of location, or technical description.
- (n) 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 (d) and (e) of this Schedule) which do not materially impair the current use, operation or marketability of the Property.
- (o) Undetermined or inchoate liens incidental to construction, renovations or current operations, a claim for which shall not at the time have been registered against the Property or of which notice in writing shall not at the time have been given to the Vendor pursuant to the Construction Lien Act (Ontario) or similar legislation, and in respect of any of the foregoing cases, the Vendor has, where applicable, complied with the holdback or other similar provisions or requirements of the relevant construction contracts.
- (p) Any reference plans or plans registered pursuant to the Boundaries Act (Ontario).
- (q) All Off-Title Compliance Matters.
- (r) Any unregistered interests in the Property of which the Purchaser has actual notice.
- (s) All rights of first refusal, option to purchase or similar rights relating to the Property.
- (t) 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.
- (u) Any Encumbrances resulting from the Purchaser's actions or omissions.

SPECIFIC ENCUMBRANCES

The characterization or descriptions of those items below is prepared for purposes of convenience only and for accurate reference, recourse should be had to the registration itself.

1. Deed of servitude registered at the Registry Office of Montréal January 16, 1976 under number 2 661 926, by which Cambridge Leaseholds Limited, Kerrybrooke Development Limited and Hudson's Bay Company Properties (Québec) Limited, as owners of the Place Vertu property and Simpson's Sears Properties Limited, as owner of the Sears property established a number of servitudes, as amended under the terms of a first amendment to servitude registered under number 2 816 027 and under the terms of a second amendment to servitude registered under number 3 411 400 and the third amendment registered under number 19 336 714.
2. Deed of servitude registered at the Registry Office of Montréal on April 25, 1977 under number 2 774 688, under the terms of which The City of Saint-Laurent, owner of the servient land, granted Simpson-Sears Properties Limited, owner of the dominant land, the exclusive right to construct, install, maintain and repair in and upon the servient land a concrete duct bank with conduits therein for electricity, telephone and telegraph and for security public address and fire alarm signal cables, together with rights of access over the servient land for the said purposes. Paragraph number 8 of the deed stipulates that the acquirer of the dominant land shall be bound to all of the obligation of Simpson-Sears Properties Limited.
3. A servitude in favour of Hydro-Québec registered under number 1 132 030; and
4. A servitude for drainage in favour of the Ministre de la Voirie registered under number 1 903 188.
5. The Operating Agreement.

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
LaSalle Acquisitions Corp. (Store #1084 – Place Vertu)
returnable June 5, 2018)

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