

**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  
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 Approval of Asset Purchase Agreement with Canadian Tire  
Corporation, Limited),  
returnable October 4, 2017)**

September 29, 2017

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**TO: SERVICE LIST**

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# TAB 1

**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

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CANADA INC.

Applicants

**NOTICE OF MOTION**

**(Motion for Approval of Asset Purchase Agreement with  
Canadian Tire Corporation, Limited [Viking-brand Trade-Marks])**

The Applicants will make a motion before a judge of the Ontario Superior Court of Justice (Commercial List) on October 4, 2017 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 Asset Purchase Agreement entered into as of September 29, 2017 between Sears Canada Inc. (“**Sears Canada**”) and Canadian Tire Corporation, Limited (“**Canadian Tire**”) (the “**APA**”), and vesting Sears Canada’s right, title and interest in and to the Purchased Assets (as defined in the Approval and Vesting Order) in Canadian Tire; 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 (the “**SISP**”) by which BMO Nesbitt Burns Inc. (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 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. On September 29, 2017, Sears Canada entered into the APA in which Canadian Tire shall purchase all of Sears Canada’s right, title and interest in and to all of Sears Canada’s trademarks exclusively related to the “**Viking**” trademark and brand, including the applications and

registrations set out in Schedule 2.1 of the APA and all documentation exclusively related to such assets (the “**Purchased Assets**”);

5. The consideration to be received in the transaction is fair and reasonable;
6. The process leading to the APA was fair and reasonable in the circumstances and was approved by the Monitor;
7. The APA is in the best interests of the creditors and other stakeholders of the Applicants;
8. The relief sought on this motion is supported by the Monitor and the Sale Advisor;
9. The debtor-in-possession credit agreements (“**DIP Agreements**”) require that the Net Proceeds of any Disposition (both as defined in the DIP Agreements) shall be applied promptly, and in any event no later than three business days after receipt thereof, to prepay the Obligations (as defined in the DIP Agreements) in the priority provided for in the DIP Agreements;
10. Under the Viking Range License Agreement (as defined in the APA), which has since expired, The Middleby Corporation (“**Middleby**”) had a right of first negotiation and a right of first refusal to purchase in respect of the Purchased Assets (the “**ROFR**”). Sears Canada has disclaimed the ROFR, and under the Approval and Vesting Order the Purchased Assets vest in Canadian Tire, free and clear of and from the ROFR.

### **Sealing Order**

11. The Confidential Appendix to the Third Report of the Monitor contains confidential and commercially sensitive information which, if made public, would be materially prejudicial to Sears Canada and detrimental to the SISP if the proposed transaction is not completed and the leases must be the subject of further marketing efforts;
12. There are no reasonable alternative measures to sealing this information from the public record;
13. The salutary effects of sealing this information outweigh the deleterious effects of doing so;

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

15. 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

16. 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 September 28, 2017 and the exhibits attached thereto;

2. The Affidavit of Billy Wong sworn September 29, 2017 and the exhibits attached thereto;

3. The Third Report of the Monitor; and

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

September 29, 2017

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**TO: SERVICE LIST**



IN THE MATTER OF the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended

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

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

Applicants

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*Ontario*  
**SUPERIOR COURT OF JUSTICE**  
**COMMERCIAL LIST**  
Proceeding commenced at Toronto

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**NOTICE OF MOTION**  
(Motion for Approval of Asset Purchase Agreement with Canadian Tire Corporation, Limited [Viking-brand Trade-Marks])

---

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## **TAB 2**

*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

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CANADA INC.

APPLICANTS

**AFFIDAVIT OF BILLY WONG**  
(Sworn September 29, 2017)

**(Motion for Approval of Asset Purchase Agreement with Canadian Tire Corporation,  
Limited)**

I, Billy Wong, of the City of Toronto, in the Province of Ontario, MAKE OATH AND SAY:

1. I am the Executive Vice President and Chief Financial Officer 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 herein. 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 the senior management team of Sears Canada, legal, financial and other advisors of Sears Canada, and representatives of FTI Consulting Canada Inc. (the "**Monitor**").

2. I swear 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 Asset Purchase Agreement dated September 29, 2017 (the “**APA**”) between Sears Canada (the “**Seller**”) and Canadian Tire Corporation, Limited (“**Canadian Tire**”), relating to the Seller’s trademarks exclusively related to the “Viking” trademark and brand (i.e., the “**Purchased Assets**” (as defined in the APA)).

3. The Purchased Assets include: (i) the trade-mark VIKING, Canadian Trade-Mark Registration Number TMDA 47453, (ii) the trade-mark VIKING & DESIGN, Canadian Trade-Mark Registration Number TMA 599901, (iii) the trade-mark application VIKING & Design, Canadian Trade-Mark Application Number 1731943; and (iv) the trade-mark Representation of a Single-Masted Viking Galley, Canadian Trade-Mark Registration Number UCA 41844.

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

5. This Affidavit should be read in conjunction with the Affidavit of Mark Caiger sworn September 28, 2017, which describes in more detail the sales efforts undertaken by Sears Canada and BMO Nesbitt Burns Inc. (the “**Sale Advisor**”) pursuant to the Court-approved Sale and Investment Solicitation Process (the “**SISP**”), which efforts resulted in, among other things, Canadian Tire’s bid and the APA which is the subject of this motion.

6. I understand from the Monitor that the consideration that Sears Canada will receive in this proposed transaction (the “**Purchase Price**”) is included in a Confidential Appendix to the Monitor’s Report 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 that could be materially prejudicial to the Applicants in connection with the SISP generally and in connection with any further marketing of the Purchased Assets in particular if the proposed transaction does not proceed

to close as anticipated. As such, the APA, which is attached as Exhibit "A" to this Affidavit, has been redacted to protect the confidential information and the Applicants are requesting that a sealing order be granted with respect to the Confidential Appendix.

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

8. 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 APA.

### **Right of First Refusal**

9. In 2002, Sears Canada licensed the Purchased Assets in Canada to Viking Range Corp. ("**Viking Range**") pursuant to a license agreement made December 19, 2002 (the "**Viking Range License Agreement**"). The Viking Range License Agreement is attached as Exhibit "B" to this Affidavit. Viking Range was subsequently acquired by The Middleby Corporation ("**Middleby**").

10. Section 10.06 of the License Agreement gave Middleby a right of first negotiation in respect of the Purchased Assets and a right of first refusal to purchase the Purchased Assets (collectively, the "**ROFR**"). The Viking Range License Agreement has since expired. However, pursuant to article 7.04 of the now expired Viking Range License Agreement, certain articles and sections survive the expiration of the Viking Range License Agreement, including Section 10.06 (the "**Surviving Provisions**").

11. On September 27, 2017, with the consent of the Monitor and in consultation with the DIP Lenders, Sears Canada disclaimed the Surviving Provisions of the Viking Range License Agreement pursuant to Section 32 of the CCAA, including the ROFR (the “**Disclaimer**”). The Disclaimer is attached as Exhibit “C”.

### **Background To Canadian Tire’s Bid**

12. On July 13, 2017, the CCAA Court granted the Applicant’s 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 (the “**Special Committee**”).

13. The purpose of the Sale Process was to seek out proposals for the acquisition of the Applicants’ business, property and/or leases, and to implement one or a combination of such proposals with the object of maximizing value for the benefit of the Applicants’ stakeholders.

14. The Caiger Affidavit provides details regarding the steps that were taken to market and solicit interest in Sears Canada’s assets pursuant to the SISP, including the Purchased Assets which are subject to the APA.

15. In accordance with the SISP, on August 31, 2017, Canadian Tire submitted a bid in which Canadian Tire offered to purchase all of Sears Canada’s right, title and interest in respect of the Purchased Assets, on the terms and conditions set out in Canadian Tire’s proposed form of APA.

16. I understand that Canadian Tire is a family of companies that includes Canadian Tire retail stores, PartSource, Gas+, FGL Sports (Sport Check, Hockey Experts, Sports Experts, National Sports, Intersport, Pro Hockey Life and Atmosphere), Mark's, Canadian Tire Financial Services, CT REIT and Canadian Tire Jumpstart.

17. I am advised by Mr. Caiger and believe that negotiations ensued with Canadian Tire in respect of financial and legal aspects of its bid, draft documents were exchanged by the parties, and follow up discussions were held as necessary. As a result of those negotiations, and after considering Canadian Tire's offer and alternatives available, the Sale Advisor recommended to the Special Committee, and the Special Committee subsequently recommended to the Board, that Sears Canada enter into a transaction with Canadian Tire for the Purchased Assets. After carefully considering Canadian Tire's offer, including being satisfied that the Purchase Price being offered is fair and reasonable, the Board determined that Canadian Tire's offer was in the best interests of the Applicants and their stakeholders.

18. In coming to this view, Sears Canada and the Special Committee, in consultation with the Sale Advisor, took into account that Canadian Tire has represented that, as of closing, it will have sufficient cash in immediately available funds to allow it to pay the Purchase Price, and all other costs and expenses in connection with the consummation of the transactions contemplated by the APA.

### **The Asset Purchase Agreement**

19. On September 29, 2017, Sears Canada and Canadian Tire Corporation entered into the APA. The APA provides for, among others things, the following:

- (a) Canadian Tire has paid a deposit of approximately 7 percent of the Purchase Price to the Monitor to be held in trust in an interest-bearing account.
- (b) On Closing, Canadian Tire will pay the Purchase Price, exclusive of all applicable sales and transfer taxes. The Deposit and all earnings thereon will be credited to Sears Canada and applied to the Purchase Price, and Canadian Tire will pay the

balance of the Purchase Price by wire transfer of immediately available funds. The Deposit will be forfeited to Sears Canada, less any applicable withholding tax, if the Closing does not occur by reason of the default of Canadian Tire. The Deposit will be returned to Canadian Tire, less any applicable withholding tax, if the Closing does not occur for any other reason.

- (c) On Closing, Sears Canada will sell, convey, transfer, assign and deliver, or cause to be sold, conveyed, transferred, assigned and delivered, pursuant to the Approval and Vesting Order, and Canadian Tire shall purchase, free and clear of all Encumbrances, all of Sears Canada's right, title and interest, including without limitation, all exploitation rights, licenses, sub-licenses, copyrights, logos, trademarks, trade names, domain names, goodwill, know-how rights associated with social media accounts and other intellectual or industrial rights, in and to all of Sears Canada's trademarks exclusively related to the "Viking" trademark and brand, including the applications and registrations set out in Schedule 2.1 of the APA and all documentation exclusively related to such assets.
- (d) As of Closing, Canadian Tire will assume and pay, discharge and perform, as the case may be, from and after Closing, all obligations, liabilities of Sears Canada with respect to the Purchased Assets to the extent such obligations and liabilities consist of liabilities and obligations that arise in respect of and relate to the period on and after the Closing.
- (e) Sears Canada covenants between the date of the APA and Closing to, among other things, use commercially reasonable efforts to preserve and not abandon the Purchased Assets.



- (f) Closing will take place on a date no later than five (5) business days after the conditions set forth in Article 6 of the APA have been satisfied (or such other date agreed to by the Parties in writing), other than the conditions set forth in Article 6 that by their terms are to be satisfied or waived at the Closing; provided, however, that the Closing Date shall be no later than December 4, 2017 (or such other date agreed to in writing by Canadian Tire and Sears Canada (with the consent of the Lenders and the Monitor, in the case of Sears Canada)).
- (g) Among other conditions to Closing:
- (i) the Approval and Vesting Order shall have been issued and entered and such order shall be Final (i.e., such Order shall not have been stayed, appealed, varied (except with the consent of Canadian Tire and Sears Canada) or vacated, and all time periods within which such order could at law be appealed shall have expired); and
  - (ii) Sears Canada shall have commenced the disclaimer process in respect of the Viking Range License Agreement pursuant to Section 32 of the CCAA and one of the following events shall have occurred: (i) the time period in which the licensee is required to apply to a court for an order that such agreement is not to be disclaimed shall have expired and the licensee shall not have applied for such an order; (ii) in the event that an order of a court providing for the disclaimer of the Viking Range License Agreement is required to disclaim such agreement, then such Disclaimer Order shall be Final; or (iii) the CCAA Court shall have otherwise made an order providing

for the disclaimer of the Viking Range License Agreement and such order shall be Final.

- (h) Canadian Tire agrees that nothing in the APA shall operate to prohibit or diminish in any way the right of Sears Canada to directly or indirectly sell, transfer, liquidate, or otherwise dispose of any existing product bearing the Viking name or related to the Purchased Assets, including any Viking-branded inventory; provided, however, that the aggregate value of the Viking-branded inventory sold, transferred, liquidated or otherwise disposed of shall not exceed the amount set out under Section 5.9(f) of the APA.
- (i) Subject to the terms of the APA, Canadian Tire is purchasing, accepting and assuming the Purchased Assets on an “as is, where is” basis.
- (j) The APA may be mutually terminated by written consent (with the consent of the Lenders and the Monitor, in the case of Sears Canada) or on further order of the CCAA Court, or by either Canadian Tire or Sears Canada (with the consent of the Lenders and the Monitor, in the case of Sears Canada) if Closing has not occurred on or before December 4, 2017 and the Parties have not agreed in writing to its extension, or by either Canadian Tire or Sears Canada upon permanent denial of the Approval and Vesting Order, or if there has been a material breach by Sears Canada or Canadian Tire as laid out in Section 9 of the APA.
- (k) The proposed Approval and Vesting Order provides that the Monitor will distribute any net proceeds from the Transaction (the “**Net Proceeds**”) to repay amounts owing under the DIP ABL Credit Agreement or the DIP Term Credit Agreement after filing the Monitor’s Certificate (a “**Distribution**”). Any Distribution will be

made free and clear of all Claims and Encumbrances. If all amounts owing under the DIP Credit Agreements have been repaid, the Monitor will retain any Net Proceeds remaining on behalf of the Applicants pending further Order of the Court.

- (l) Under the Approval and Vesting Order, all of Sears Canada's right, title and interest in and to the Purchased Assets will absolutely vest in Canadian Tire, free and clear of and from any and all rights of first refusal and any other similar rights, including the ROFR.
  
- (m) Sears Canada has represented that as of Closing the Viking Range License Agreement (including the ROFR) and any other license agreements, sub-license agreements or other similar agreements or arrangements have been terminated, are expired and/or have been disclaimed, (ii) any and all subsequent executed renewal terms are not in effect, and (iii) all such license agreements, sub-license agreements or other similar agreements or arrangements have been terminated, are expired and/or have been disclaimed.

**Conclusion**

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

SWORN BEFORE ME at the City of Toronto, in the Province of Ontario, on September 29, 2017.

Commissioner for Taking Affidavits

*Lia Bruechette*  
LSUC#600410



Billy Wong

# TAB A

THIS IS EXHIBIT "A" REFERRED TO IN  
THE AFFIDAVIT OF BILLY WONG,  
SWORN BEFORE ME ON THIS 29<sup>th</sup> DAY OF SEPTEMBER, 2017.



---

A Commissioner for Taking Affidavits.

Lia Bruechetta  
LSUC # 600410

# **ASSET PURCHASE AGREEMENT**

**SEARS CANADA INC.**

**as Seller**

**- and -**

**CANADIAN TIRE CORPORATION, LIMITED**

**as Buyer**

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## ASSET PURCHASE AGREEMENT

**THIS AGREEMENT** is made as of September 29, 2017

### AMONG:

**Sears Canada Inc.**, a corporation governed by the laws of Canada (“**SCI**” or the “**Seller**”)

- and -

**Canadian Tire Corporation, Limited**, a corporation governed by the laws of the Province of Ontario (the “**Buyer**”)

### RECITALS:

- A. On the Filing Date, SCI 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 of the CCAA Court. Pursuant to the Initial Order, the CCAA Court appointed FTI Consulting Canada Inc. as “**Monitor**” in connection with the CCAA Proceedings.
- B. On the SISP Order Date, the CCAA 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 the Business, Assets and/or Leases (each as defined in the SISP) of the Sears Group.
- C. The Buyer has been selected as a Successful Bidder (as defined in the SISP) in accordance with the SISP.
- D. The Seller wishes to sell to the Buyer, and the Buyer wishes to purchase from the Seller, the Purchased Assets, subject to the terms and conditions of this Agreement.

**NOW THEREFORE** in consideration of the mutual covenants and agreements contained in this Agreement and other good and valuable consideration (the receipt and sufficiency of which are acknowledged), the Parties agree as follows:

## ARTICLE 1 INTERPRETATION

### 1.1 Definitions

In this Agreement,

- (a) “**affiliate**” of any Person means, at the time such determination is being made, any other Person controlling, controlled by or under common control with such first Person, in each case, whether directly or indirectly through one or more intermediaries, and “**control**” and any derivation thereof means the control by one

Person of another Person in accordance with the following: a Person (“A”) controls another Person (“B”) where A has the power to determine the management and policies of B by contract or status (for example, the status of A being the general partner of B) or by virtue of beneficial ownership of a majority of the voting interests in B; and, for certainty and without limitation, if A owns shares to which are attached more than 50% of the votes permitted to be cast in the election of directors (or other Persons performing a similar role) of B, then A controls B for this purpose.

- (b) **“Agreement”** means this Asset Purchase Agreement, in each case as the same may be supplemented, amended, restated or replaced from time to time, and the expressions “hereof”, “herein”, “hereto”, “hereunder”, “hereby” and similar expressions refer to this Asset Purchase Agreement, and unless otherwise indicated, references to Articles and Sections are to Articles and Sections in this Asset Purchase Agreement.
- (c) **“Applicable Law”** means any transnational, domestic or foreign, federal, provincial, territorial, state, local or municipal (or any subdivision of any of them) law (including without limitation the common law), statute, ordinance, rule, regulation, restriction, standard, by-law (zoning or otherwise), judgment, order, direction or any consent, exemption, Governmental Authorizations, or any other legal requirements of, or agreements with, any Governmental Authority, that applies in whole or in part to the transactions contemplated by this Agreement, the Seller, the Buyer or any of the Purchased Assets.
- (d) **“Approval and Vesting Order”** means an order granted by the CCAA Court, in substantially the form attached as Schedule 1.1(d) (with only such changes as the Buyer and the Seller each approve in their reasonable discretion, but in all cases in form and substance acceptable to the Lenders and the Monitor), and served on those Persons identified by the Seller and the Buyer, which will, among other things:
  - (i) authorize and approve this Agreement and the execution and delivery thereof by the Seller;
  - (ii) authorize and direct the Seller to complete the transactions contemplated by this Agreement; and
  - (iii) provide for the vesting of title to the Purchased Assets in and to the Buyer in accordance with the terms and conditions of this Agreement, free and clear of any and all claims against the Purchased Assets of every nature or kind whatsoever and howsoever arising, including all Encumbrances (which shall include any right of first negotiation, right of first refusal and any other similar right), upon the delivery of the Monitor’s Certificate to the Buyer indicating that the conditions precedent to the consummation of the transactions contemplated by this Agreement have been satisfied or waived (where permissible).

- (e) “**Business Day**” means any day, other than a Saturday or Sunday, on which the principal commercial banks in Toronto, Ontario are open for commercial banking business during normal banking hours.
- (f) “**Buyer**” has the meaning given to such term in the preamble to this Agreement.
- (g) “**CCAA**” means the *Companies’ Creditors Arrangement Act* (Canada).
- (h) “**CCAA Court**” means the Ontario Superior Court of Justice (Commercial List).
- (i) “**CCAA Proceedings**” means the proceedings commenced under the CCAA by the Seller pursuant to the Initial Order (Court File No. CV-17-11846-00CL).
- (j) “**Claims**” includes all claims, demands, complaints, grievances, actions, applications, suits, causes of action, Orders, charges, indictments, prosecutions, informations or other similar processes, assessments or reassessments, judgments, debts, liabilities, expenses, costs, damages or losses, contingent or otherwise, whether liquidated or unliquidated, matured or unmatured, disputed or undisputed, contractual, legal or equitable, including loss of value, professional fees, including fees and disbursements of legal counsel on a full indemnity basis, and all costs incurred in investigating or pursuing any of the foregoing or any proceeding relating to any of the foregoing.
- (k) “**Closing**” means the completion of the sale and purchase of the Purchased Assets pursuant to this Agreement at the Closing Time, and all other transactions contemplated by this Agreement that are to occur contemporaneously with the sale and purchase of the Purchased Assets.
- (l) “**Closing Date**” means a date no later than five (5) Business Days after the conditions set forth in ARTICLE 6 have been satisfied (or such other date agreed to by the Parties in writing), other than the conditions set forth in ARTICLE 6 that by their terms are to be satisfied or waived at the Closing; provided, however, that the Closing Date shall be no later than December 4, 2017 (or such other date agreed to in writing by the Buyer and the Seller (with the consent of the Lenders and the Monitor, in the case of the Seller)).
- (m) “**Closing Documents**” means all contracts, agreements and instruments required by this Agreement to be delivered by or on behalf of a Party at or before the Closing.
- (n) “**Closing Time**” means 10:00 a.m. (Toronto time) on the Closing Date or such other time on the Closing Date as the Parties agree in writing that the Closing Time shall take place.
- (o) “**Confidential Information**” means non-public, confidential, personal or proprietary information which is furnished to the Buyer by the Seller or any of the Seller’s representatives or the Monitor, including, without limitation, information about identifiable individuals, any information relating to the Seller and its affiliates, or any customer or supplier of the Seller, but does not include information

that is or becomes generally available to the public other than as a result of disclosure by the Buyer or its representatives in breach of this Agreement or that is received by the Buyer from an independent third party that, to the knowledge of the Buyer, after good faith inquiry, obtained it lawfully and was under no duty of confidentiality (except to the extent that applicable privacy laws do not exclude such information from the definition of personal information) or that is independently developed by the Buyer's employees or representatives without access or reference to any Confidential Information.

- (p) **“Contracts”** means contracts, agreements, obligations, promises, undertakings, understandings, arrangements, documents, commitments, entitlements or engagements to which the Seller is a party or by which the Seller is bound or under which the Seller has, or will have, any right or any liability or contingent right or liability (in each case, whether written or oral, express or implied) relating to the Purchased Assets and includes quotations, orders, proposals or tenders which remain open for acceptance and warranties and guarantees.
- (q) **“Deposit”** means the amount of [REDACTED] delivered by the Buyer to the Monitor in accordance with the SISP.
- (r) **“DIP ABL Credit Agreement”** means the senior secured superpriority debtor-in-possession amended and restated credit agreement among SCI (as borrower), Wells Fargo Capital Finance Corporation Canada (as administrative and collateral agent) and the lenders party thereto dated as of June 22, 2017, and as may be amended, restated, supplemented and/or modified from time to time.
- (s) **“DIP ABL Facility”** means the revolving credit facilities in an aggregate principal amount not to exceed \$300 million under the DIP ABL Credit Agreement.
- (t) **“DIP Credit Agreement”** means collectively, the DIP ABL Credit Agreement and the DIP Term Credit Agreement.
- (u) **“DIP Facility”** means collectively, the DIP ABL Facility and the DIP Term Facility.
- (v) **“DIP Term Credit Agreement”** means the senior secured superpriority debtor-in-possession credit agreement among SCI (as borrower), certain subsidiaries and affiliates of SCI (as guarantors), GACP Finance Co., LLC (as administrative and syndication agent) and the lenders party thereto dated as of June 22, 2017, and as may be amended, restated, supplemented and/or modified from time to time.
- (w) **“DIP Term Facility”** means the term loan facilities in an aggregate principal amount not to exceed \$150 million under the DIP Term Credit Agreement.
- (x) **“Disclaimer Order”** has the meaning given to such term in Section 6.2(d);
- (y) **“Documents”** means all books, records, files and papers exclusively related to the Purchased Assets but not limited to manuals, data, sales and advertising materials,

sales and purchase correspondence, and trade association files, if any, to the extent same is in or will be in the Seller's possession and the Seller is able to find same using commercially reasonable efforts, and all copies and recordings of the foregoing.

- (z) **"Encumbrance"** means any security interest (whether contractual, statutory or otherwise), lien, execution, levy, charge or other financial or monetary claim, hypothec, trust or deemed trust (whether contractual, statutory or otherwise), right of first negotiation, right of first refusal and any other similar right, or mortgage, any and all rights, including without limitation, rights of first negotiation, rights of first refusal or any other similar rights, under the Viking Range License Agreement, and including any and all CCAA Court ordered charges granted in the CCAA Proceedings.
- (aa) **"Filing Date"** means June 22, 2017.
- (bb) **"Final"** with respect to any order of any court of competent jurisdiction, means that such order shall not have been stayed, appealed, varied (except with the consent of the Buyer and the Seller) or vacated, and all time periods within which such order could at law be appealed shall have expired.
- (cc) **"GACP Credit Agreement"** means the term loan credit agreement dated March 20, 2017, as amended by amendment no. 1 to credit agreement dated May 5, 2017, between SCI (as borrower), certain subsidiaries and affiliates of SCI (as guarantors), GACP Finance Co., LLC (as administrative agent and syndication agent), KKR Capital Markets LLC and GACP Finance Co., LLC (as joint lead arrangers), TPG Specialty Lending, Inc. (as documentation agent), and the lenders party thereto, as the same may be amended, restated, supplemented and/or modified from time to time.
- (dd) **"Governmental Authority"** means any applicable transnational, federal, provincial, municipal, state, local, national or other government, regulatory authority, governmental department, agency, commission, board, tribunal, bureau, ministry, court, system operator, judicial body, arbitral body or other law, rule or regulation-making entity, or any entity, officer, inspector, investigator or examiner exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to any government or any court, in each case:
  - (i) having jurisdiction over the Seller, the Buyer or the Purchased Assets on behalf of any country, province, state, locality, or other geographical or political subdivision thereof; or
  - (ii) exercising or entitled to exercise any administrative, judicial, legislative, regulatory or taxing authority or power.
- (ee) **"Governmental Authorizations"** means authorizations, approvals, plans, franchises, orders, certificates, consents, directives, notices, licenses, permits,

variances, registrations or other rights issued to or required by the Seller relating to the Purchased Assets by or from any Governmental Authority.

- (ff) “**GST**” means tax (other than HST) payable under the GST and HST Legislation.
- (gg) “**GST and HST Legislation**” means Part IX of the *Excise Tax Act* (Canada).
- (hh) “**HST**” means tax payable under the GST and HST Legislation in respect of a participating province.
- (ii) “**including**” and “**includes**” shall be interpreted on an inclusive basis and shall be deemed to be followed by the words “without limitation”.
- (jj) “**Initial Order**” means the Initial Order granted by the CCAA Court on June 22, 2017, pursuant to which SCI and certain of its affiliates and subsidiaries were granted protection from their creditors under the CCAA (as amended, restated, supplemented and/or modified from time to time).
- (kk) “**Insolvency Proceedings**” means any action, application, petition, suit or other proceeding under any bankruptcy, arrangement, reorganization, dissolution, liquidation, insolvency, winding-up or similar law of any jurisdiction now or hereafter in effect, for the relief from or otherwise affecting creditors of the Seller, including without limitation under the *Bankruptcy and Insolvency Act* (Canada) (including the filing of a notice of intention to make a proposal), CCAA (including the CCAA Proceedings), the *Winding-Up and Restructuring Act* (Canada), the *Canada Business Corporations Act* or United States Bankruptcy Code by, against or in respect of the Seller.
- (ll) “**IP Assignment and Assumption Agreement**” means the intellectual property assignment and assumption agreement for the Purchased Assets, substantially in the form attached as Schedule 1.1(ll).
- (mm) “**Lender Claims**” means the aggregate amount owing to the Lenders arising from or related to the DIP Credit Agreement, the Wells Fargo Credit Agreement and the GACP Credit Agreement, which shall include to the maximum extent permissible under applicable documentation and law, without limitation, all accrued and unpaid principal, interest, default interest, premiums, fees and reasonable costs, charges and expenses all as may be due and payable under the aforementioned credit facilities and any ancillary documents.
- (nn) “**Lenders**” means the secured lenders under the DIP Credit Agreement, the Wells Fargo Credit Agreement and the GACP Credit Agreement.
- (oo) “**Monitor**” means FTI Consulting Canada Inc., in its capacity as CCAA Court-appointed monitor of the Seller pursuant to the Initial Order and not in its personal capacity.

- (pp) “**Monitor’s Certificate**” means the certificate filed with the CCAA Court by the Monitor certifying that the Monitor has received written confirmation in form and substance satisfactory to the Monitor from the Seller and the Buyer that all conditions to Closing have been satisfied or waived by the applicable Parties and that the Purchase Price and all applicable sales and transfer Taxes payable by the Buyer to the Seller have been received by the Monitor.
- (qq) “**NDA**” means the confidentiality, non-disclosure and non-use agreement between the Buyer and SCI dated August 29, 2017.
- (rr) “**Order**” means any order, directive, judgment, decree, injunction, decision, ruling, award or writ of any Governmental Authority.
- (ss) “**Parties**” means the Seller and the Buyer collectively, and “**Party**” means either the Seller or the Buyer, as the context requires.
- (tt) “**Payment Order**” has the meaning given to such term in Section 3.3(b).
- (uu) “**Person**” means any individual, partnership, limited partnership, limited liability company, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, Governmental Authority or other entity, however designated or constituted.
- (vv) “**Personal Information**” means information about an identifiable individual in the possession or under the control of the Seller.
- (ww) “**Post-Closing Tax Period**” has the meaning given to such term in Section 7.4(c).
- (xx) “**Pre-Closing Tax Period**” has the meaning given to such term in Section 7.4(c).
- (yy) “**Purchase Price**” has the meaning given to such term in Section 3.1.
- (zz) “**Purchased Assets**” has the meaning given to such term in Section 2.1.
- (aaa) “**QST**” means the Québec sales tax payable under the QST Legislation.
- (bbb) “**QST Legislation**” means *An Act Respecting the Québec Sales Tax (Québec)*.
- (ccc) “**SCI**” has the meaning given to such term in the preamble to this Agreement.
- (ddd) “**SCI Viking Inventory**” has the meaning given to such term in Section 5.9(f);
- (eee) “**Sears Group**” has the meaning given to such term in the preamble to this Agreement.
- (fff) “**Seller**” has the meaning given to such term in the preamble to this Agreement.

- (ggg) “**SISP**” means the Sale and Investment Solicitation Process approved by the SISP Order (as amended, restated, supplemented and/or modified from time to time).
- (hhh) “**SISP Order**” means the Order granted by the CCAA Court on the SISP Order Date (as amended, restated, supplemented and/or modified from time to time), which, among other things, approved the SISP.
- (iii) “**SISP Order Date**” means July 13, 2017.
- (jjj) “**Sunset Date**” has the meaning given to such term in Section 9.1(b).
- (kkk) “**Tax**” and “**Taxes**” includes:
- (i) taxes, duties, fees, premiums, assessments, imposts, levies and other charges of any kind whatsoever (including withholding on amounts paid to or by any Person) imposed by any Governmental Authority, 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, sales, goods and services, harmonized sales, use, value-added, excise, stamp, withholding, business, franchising, property, development, occupancy, employer health, payroll, employment, health, disability, severance, unemployment, social services, education and social security taxes, all surtaxes, all customs duties and import and export taxes, countervail and anti-dumping, all license, franchise and registration fees and all employment insurance, health insurance and Canada, Ontario and other government pension plan premiums or contributions; and
  - (ii) any liability in respect of any items described in clause (i) payable by reason of contract, assumption, transferee liability, operation of law or otherwise.
- (lll) “**Viking Range License Agreement**” has the meaning given to such term in Section 4.6.
- (mmm) “**Wells Fargo Credit Agreement**” means the revolving credit agreement dated September 10, 2010, as amended by the first amending agreement dated August 2012, the second amending agreement dated May 28, 2014, the third amending agreement dated May 28, 2014, the fourth amending agreement dated August 31, 2015, the fifth amending agreement dated August 18, 2016 and the sixth amending agreement dated March 30, 2017, between SCI (as borrower), Wells Fargo Capital Finance Corporation Canada (as administrative agent and collateral agent) and the lenders party thereto, as the same may be amended, restated, supplemented and/or modified from time to time.



## **1.2 Statutes**

Unless specified otherwise, reference in this Agreement to a statute refers to that statute and the regulations thereunder as they may be amended, or to any restated or successor legislation of comparable effect.

## **1.3 Headings and Table of Contents**

The inclusion of headings and a table of contents in this Agreement is for convenience of reference only and shall not affect the construction or interpretation hereof.

## **1.4 Gender and Number**

In this Agreement, unless the context otherwise requires, words importing the singular include the plural and *vice versa*, and words importing gender include all genders.

## **1.5 Currency**

Except where otherwise expressly provided, all amounts in this Agreement are stated and shall be paid in Canadian dollars. References to "\$" are to Canadian dollars. References to "US\$" are to United States dollars.

## **1.6 Invalidity of Provisions**

Each of the provisions contained in this Agreement is distinct and severable and a declaration of invalidity or unenforceability of any such provision or part thereof by a court of competent jurisdiction shall not affect the validity or enforceability of any other provision hereof. Upon such a determination of invalidity or unenforceability, the Parties shall negotiate to modify this Agreement in good faith so as to effect the original intent of the Parties as closely as possible in an acceptable manner so that the transactions contemplated by this Agreement be consummated as originally contemplated to the fullest extent possible.

## **1.7 Knowledge**

Where any representation or warranty, or other provision, contained in this Agreement is expressly qualified by reference to, or otherwise refers to, the knowledge of: (a) the Seller, it will be deemed to refer to the actual knowledge of SCI's Chief Financial Officer; and (b) the Buyer, it will be deemed to refer to the actual knowledge of the Buyer's directors and officers.

## **1.8 Entire Agreement**

This Agreement, the schedules to this Agreement, the NDA and the agreements and other documents required to be delivered pursuant to this Agreement, constitute the entire agreement among the Parties, and set out all the covenants, promises, warranties, representations, conditions and agreements among the Parties in connection with the subject matter of this Agreement, and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, pre-contractual or otherwise. There are no covenants, promises, warranties, representations, conditions, understandings or other agreements, whether oral or written, pre-contractual or otherwise, express, implied or collateral among the Parties in connection with

the subject matter of this Agreement, except as specifically set forth in this Agreement and any document required to be delivered pursuant to this Agreement.

### **1.9 Waiver, Amendment**

Except as expressly provided in this Agreement, no amendment or waiver of this Agreement shall be binding unless executed in writing by all Parties hereto. No waiver of any provision of this Agreement shall constitute a waiver of any other provision nor shall any waiver of any provision of this Agreement constitute a continuing waiver unless otherwise expressly provided.

### **1.10 Governing Law; Jurisdiction and Venue**

This Agreement, the rights and obligations of the Parties under this Agreement, and any claim or controversy directly or indirectly based upon or arising out of this Agreement or the transactions contemplated by this Agreement (whether based on contract, tort or any other theory), including all matters of construction, validity and performance, shall in all respects be governed by, and interpreted, construed and determined in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable therein, without regard to the conflicts of law principles thereof. The Parties consent to the exclusive jurisdiction and venue of the CCAA Court prior to a Final Order of the CCAA Court closing the CCAA Proceedings and thereafter to the Courts of Ontario for the resolution of any such disputes arising under this Agreement. Each Party agrees that service of process on such Party as provided in Section 11.7 shall be deemed effective service of process on such Party.

### **1.11 Schedules**

The schedules to this Agreement, listed below, are an integral part of this Agreement:

<b><u>Schedule</u></b>	<b><u>Description</u></b>
Schedule 1.1(d)	Form of Approval and Vesting Order
Schedule 1.1(II)	Form of IP Assignment and Assumption Agreement
Schedule 2.1	Trademark Applications and Registrations
Schedule 2.3	Authorization of Counsel

## **ARTICLE 2 PURCHASE AND SALE**

### **2.1 Agreement to Purchase and Sell Purchased Assets**

Upon and subject to the terms and conditions of this Agreement, at the Closing and effective as of the Closing Time, the Seller shall sell, convey, transfer, assign and deliver, or cause to be sold, conveyed, transferred, assigned and delivered, pursuant to the Approval and Vesting Order, and the Buyer shall purchase, free and clear of all Encumbrances, all of the Seller's right,

title and interest, including, without limitation, all exploitation rights, licenses, sub-licenses, copyrights, logos, trademarks, trade names, domain names, goodwill, know-how, rights associated with social media accounts and other intellectual or industrial rights, in and to all of the Seller's trademarks exclusively related to the "Viking" trademark and brand, including the applications and registrations set out in Schedule 2.1 and all Documents that are in the Seller's possession, if any (collectively referred to herein as the "**Purchased Assets**"). The Purchased Assets include all rights to sue for and collect damages for past, present and future infringements and passing off of rights of the Seller pertaining to the Purchased Assets, and all rights to modify, update, use and exploit the rights of the Seller in the Purchased Assets.

## **2.2 Assumption of Liabilities**

The Buyer shall assume as of the Closing Time and shall pay, discharge and perform, as the case may be, from and after the Closing Time, all obligations and liabilities of the Seller with respect to the Purchased Assets to the extent such obligations and liabilities consist of liabilities and obligations that arise in respect of and relate to the period on and after the Closing Time. The Buyer shall not assume or be deemed to assume or be responsible for any debts, obligations, or liabilities of the Sears Group, including, without limitation, the Seller, in relation to the Purchased Assets or otherwise for periods prior to the Closing Time.

## **2.3 Authorization of Counsel**

The Seller agrees to authorize the Seller's representative for service for the trade-marks included in the Purchased Assets to provide to the Buyer (at the Buyer's cost) documents and records in such counsel(s)' possession or control in connection with the use and evidence of use of the Purchased Assets.

# **ARTICLE 3 PURCHASE PRICE AND RELATED MATTERS**

## **3.1 Purchase Price**

The purchase price payable to the Seller for the Purchased Assets (the "**Purchase Price**"), exclusive of all applicable sales and transfer taxes, shall be the amount of [REDACTED] in cash.

## **3.2 Purchase Price Allocation**

The Purchase Price shall be allocated among the Purchased Assets as agreed by the Parties, acting reasonably. Such allocation shall be binding on the Buyer and the Seller.

## **3.3 Payment of Purchase Price and Treatment of Deposit**

- (a) The Purchase Price will be satisfied as follows:
  - (i) the portion of the Purchase Price equal to the amount of the Deposit and the actual earnings thereon will be satisfied by crediting the Seller, at the Closing Time, with the Buyer's interest in the Deposit (and the actual earnings thereon from the date the Deposit is received by the Monitor in

- accordance with the SISP to but excluding the Closing Date) that is being held by the Monitor; and
- (ii) the balance of the Purchase Price will be satisfied by the payment of such amount by wire transfer of immediately available funds at the Closing Time from the Buyer to an account of the Monitor specified in writing by the Seller not less than two (2) Business Days prior to the Closing Date.
- (b) In the event that, prior to the Closing Date, an order (a “**Payment Order**”) of the CCAA Court is obtained directing the Seller to pay to the Lenders all or any portion of the proceeds of the Purchase Price to pay the Lender Claims in full or in part, then subject to and in accordance with the terms of the Payment Order, the Seller will deliver to the Buyer and the Monitor a notice and direction, signed by the Seller, directing the Buyer to pay all or the portion of the Purchase Price, as specified by the Payment Order, to the appropriate Lender by wire transfer at the Closing Time of immediately available funds to an account or accounts specified in such notice and direction, such amount to be applied by the appropriate Lender on account of the amounts owing by the Seller under the DIP Credit Agreement, the Wells Fargo Credit Agreement and/or the GACP Credit Agreement, as appropriate.
- (c) The Deposit paid to the Monitor by the Buyer will, together with any actual earnings thereon (from the date the Deposit is received by the Monitor in accordance with the SISP to but excluding the Closing Date), be:
- (i) credited to the Seller, as applicable, at the Closing Time in accordance with Section 3.3(a)(i), if the sale and purchase of the Purchased Assets provided for herein is completed in accordance with the terms and conditions hereof;
  - (ii) forfeited to the Seller, less any applicable withholding tax, if the Closing does not occur by reason of the default of the Buyer and the Seller shall have no further recourse against the Buyer; and
  - (i) returned to the Buyer, less any applicable withholding tax, if the Closing does not occur by any reason other than the default of the Buyer and the Buyer shall have no further recourse against the Seller.

#### **ARTICLE 4 REPRESENTATIONS AND WARRANTIES BY THE SELLER**

The Seller represents and warrants to the Buyer as follows, and acknowledge that the Buyer is relying upon the following representations and warranties in connection with its purchase of the Purchased Assets:

##### **4.1 Corporate Existence**

The Seller is a corporation duly formed and validly existing under the laws of Canada.

#### **4.2 Due Authorization and Enforceability of Obligations**

Subject to the issuance of the Approval and Vesting Order:

- (a) the Seller has all necessary corporate power, authority and capacity to:
  - (i) enter into and deliver this Agreement and the Closing Documents; and
  - (ii) carry out its obligations under this Agreement and the Closing Documents;
- (b) the execution, delivery and performance of this Agreement and the Closing Documents, and the consummation of the transactions contemplated by this Agreement and the Closing Documents, have been duly authorized by all necessary corporate action of each Seller; and
- (c) this Agreement does and the Closing Documents when executed by the Seller will constitute valid and binding obligations of each Seller enforceable against it in accordance with its terms.

#### **4.3 Residence of the Seller**

The Seller is not a non-resident of Canada for the purposes of the *Income Tax Act* (Canada).

#### **4.4 Taxes**

The Seller is duly registered under Subdivision (d) of Division V of the GST and HST Legislation with respect to the GST and HST, and under Division I of Chapter VIII of Title I of the QST Legislation with respect to the QST, and will provide their respective registration numbers to the Buyer prior to Closing.

#### **4.5 Inventory**

As at September 27, 2017, the SCI Viking Inventory consisted of [REDACTED] units with an aggregate value of [REDACTED].

#### **4.6 Licenses**

As of the Closing, (i) the License Agreement between SCI and Viking Range Corporation executed on December 19, 2002 (the “**Viking Range License Agreement**”), and any other license agreements, sub-license agreements or other similar agreements or arrangements have been terminated, are expired and/or have been disclaimed; (ii) any and all subsequent executed renewal terms are not in effect; and (iii) all such license agreements, sub-license agreements or other similar agreements or arrangements have been terminated, are expired and/or have been disclaimed.

#### **4.7 No Other Representations, Warranties or Covenants**

Unless and solely to the extent expressly set forth in this Agreement, no representation, warranty or covenant is expressed or implied by the Seller, including any warranties as to title, Encumbrance, description, merchantability or fitness for a particular purpose, environmental

compliance, condition, quantity or quality, or in respect of any other matter or thing whatsoever concerning the Purchased Assets or the right of the Seller to sell or assign the same, as applicable. The disclaimer in this Section 4.7 is made notwithstanding the delivery or disclosure to the Buyer or its directors, officers, employees, agents or representatives of any documentation or other information (including any financial projections, estimates, budgets, offering memoranda, management presentations, due diligence materials or other supplemental data not included in this Agreement). Without limiting the generality of the foregoing, any and all conditions, warranties or representations, express or implied, pursuant to Applicable Law (including under Article 1716 of the *Civil Code of Québec*, the *Sale of Goods Act* (Ontario), the *International Convention on Contracts for the Sale of Goods* (Geneva Convention) and any other applicable sale of goods legislation) do not apply hereto and are hereby expressly waived by the Buyer.

## **ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF THE BUYER**

The Buyer represents and warrants to the Seller as follows, and acknowledges that the Seller is relying upon the following representations and warranties in connection with their sale of the Purchased Assets:

### **5.1 Corporate Existence**

The Buyer is a corporation duly formed, validly existing and in good standing under the laws of Canada.

### **5.2 Residence of the Buyer**

The Buyer is not a non-resident of Canada for the purposes of the *Income Tax Act* (Canada).

### **5.3 Financial Ability**

As of the Closing, the Buyer and its subsidiaries will have sufficient cash in immediately available funds to allow it to pay the Purchase Price, and all other costs and expenses in connection with the consummation of the transactions contemplated by this Agreement. Notwithstanding anything to the contrary contained herein, the Buyer's obligations to consummate the transactions contemplated by this Agreement are not conditioned or contingent in any way upon the receipt of financing from any person or the availability of funds to the Buyer.

### **5.4 Absence of Conflicts**

The Buyer is not a party to, bound or affected by or subject to (and the assets of the Buyer are not affected by): (a) any charter or by-law provision; (b) any Applicable Law or governmental authorizations, approvals, franchises, orders, certificates, consents, directives, notices, licenses, permits, variances, registrations or other rights issued, granted or given by or from any Governmental Authority; or (c) any agreement or other document, in each case, that would be violated, breached by, or under which any default would occur or with notice or the passage of time would, be created as a result of the execution and delivery of, or the performance of obligations under, this Agreement or any other agreement or document to be entered into or delivered under the terms of this Agreement, except in the case of (b) and (c) for any violations,

breaches or defaults or any Applicable Law or any governmental authorizations, approvals, franchises, orders, certificates, consents, directives, notices, licenses, permits, variances, registrations or other rights issued, granted or given by or from any Governmental Authority, that would not have a material effect on or materially delay or impair the ability of the Buyer to consummate the transactions hereunder.

#### **5.5 Due Authorization and Enforceability of Obligations**

The Buyer has all necessary corporate power, authority and capacity to enter into and deliver this Agreement and the Closing Documents, and to carry out its obligations under this Agreement and the Closing Documents. The execution, delivery and performance of this Agreement and the Closing Documents, and the consummation of the transactions contemplated by this Agreement and the Closing Documents, have been duly authorized by all necessary corporate action of the Buyer. This Agreement does and when executed and delivered by the Buyer the Closing Documents will constitute valid and binding obligations of the Buyer enforceable against it in accordance with its terms.

#### **5.6 Approvals and Consents**

Except for the issuance of the Approval and Vesting Order, no authorization, consent or approval of, or filing with or notice to, any Governmental Authority, court or other Person is required in connection with the execution, delivery or performance of this Agreement by the Buyer, and each of the agreements to be executed and delivered by the Buyer hereunder or the purchase of any of the Purchased Assets hereunder, except for any authorizations, consents, approvals, filings or notices of any Governmental Authority, court or Person that would not have a material effect on or materially delay or impair the ability of the Buyer to consummate the transactions hereunder.

#### **5.7 GST, HST and QST Registration**

The Buyer is duly registered under subdivision (d) of Division V of the GST and HST Legislation with respect to the GST and HST, and under Division I of Chapter VIII of Title I of the QST Legislation with respect to the QST, and has provided or will prior to Closing provide its registration numbers to the Seller.

#### **5.8 Personal Information**

The Buyer's use and disclosure of Personal Information after Closing will be carried out in compliance with all Applicable Laws.

#### **5.9 As Is, Where Is**

- (a) The Buyer acknowledges and agrees that it has conducted to its satisfaction an independent investigation and verification of the Purchased Assets (including the state of title thereto and/or the state of any Encumbrances), and, based solely thereon, has determined to proceed with the transactions contemplated by this Agreement. The Buyer has relied solely on the results of its own independent investigation and verification, and the representations and warranties of the Seller

expressly and specifically set forth in ARTICLE 4, and the Buyer understands, acknowledges and agrees that all other representations, warranties and statements of any kind or nature, expressed or implied (including any relating to the future or historical financial condition, results of operations, prospects, assets or liabilities of the Seller, or the quality, quantity or condition of the Purchased Assets) are specifically disclaimed by the Seller. Except for the representations and warranties of the Seller expressly and specifically set forth in ARTICLE 4, the Seller does not make or provide hereunder any warranty or representation, express or implied, as to the quality, merchantability, fitness for a particular purpose, conformity to samples or condition of the Purchased Assets, or any part thereof. THE BUYER SPECIFICALLY ACKNOWLEDGES AND AGREES THAT, EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES OF THE SELLER EXPRESSLY AND SPECIFICALLY SET FORTH IN ARTICLE 4: (A) THE BUYER IS ACQUIRING THE PURCHASED ASSETS ON AN "AS IS, WHERE IS" BASIS; AND (B) NEITHER THE SELLER NOR ANY OTHER PERSON (INCLUDING ANY REPRESENTATIVE OF THE SELLER, WHETHER IN ANY INDIVIDUAL, CORPORATE OR ANY OTHER CAPACITY OR THE MONITOR) IS MAKING, AND THE BUYER IS NOT RELYING ON, ANY REPRESENTATIONS, WARRANTIES OR OTHER STATEMENTS OF ANY KIND WHATSOEVER, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, AS TO ANY MATTER CONCERNING THE SELLER, THE PURCHASED ASSETS, THIS AGREEMENT OR THE TRANSACTIONS, OR THE ACCURACY OR COMPLETENESS OF ANY INFORMATION PROVIDED TO (OR OTHERWISE ACQUIRED BY) THE BUYER OR ANY OF ITS RESPECTIVE REPRESENTATIVES; AND WITHOUT LIMITING THE FOREGOING, ANY AND ALL CONDITIONS OR WARRANTIES EXPRESSED OR IMPLIED PURSUANT TO THE SALE OF GOODS ACT (ONTARIO), THE INTERNATIONAL CONVENTION ON CONTRACTS FOR THE SALE OF GOODS (GENEVA CONVENTION) AND ANY OTHER APPLICABLE SALE OF GOODS LEGISLATION, WILL NOT APPLY AND ARE HEREBY WAIVED BY THE SELLER 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 BUYER IS PURCHASING THE PURCHASED ASSETS AT ITS OWN RISK WITHIN THE MEANING OF ARTICLE 1733 OF THE CIVIL CODE OF QUÉBEC, AND ANY AND ALL CONDITIONS, WARRANTIES OR REPRESENTATIONS, REGARDING MERCHANTABILITY, PHYSICAL OR FINANCIAL CONDITION, DESCRIPTION, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, QUANTITY, ANY NON-INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS, OR REGARDING THE SCOPE, VALIDITY OR ENFORCEABILITY OF ANY PURCHASED ASSET, OR ANY OTHER THING AFFECTING THE PURCHASED ASSETS, OR IN RESPECT OF ANY OTHER MATTER OR THING WHATSOEVER, INCLUDING ANY AND ALL CONDITIONS, WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, PURSUANT TO ANY APPLICABLE LAW IN ANY JURISDICTION, WHICH THE BUYER CONFIRMS DO NOT APPLY TO THIS



AGREEMENT, AND ARE HEREBY WAIVED IN THEIR ENTIRETY BY THE BUYER.

- (b) The Buyer acknowledges and agrees that: (i) the representations and warranties of the Seller set forth in ARTICLE 4 will merge on, and shall not survive, the Closing; and (ii) the Seller will not have or be subject to any liability or indemnification obligation to the Buyer or any other Person resulting from (nor will the Buyer or any other Person have any claim with respect to) the distribution to the Buyer, the Buyer's use of, or reliance on, any information, documents, projections, forecasts or other material made available to the Buyer in certain "data rooms," confidential information memoranda or management presentations in expectation of, or in connection with, the transactions contemplated by this Agreement, regardless of the legal theory under which such liability or obligation may be sought to be imposed, whether sounding in contract or tort, or whether at law or in equity, or otherwise. None of the representatives of the Seller, whether in an individual, corporate or other capacity, will have or be subject to any such liability or indemnification obligations.
- (c) The remedies expressly set forth in this Agreement are the Buyer's sole and exclusive remedies relating to this Agreement, the Closing Documents, the transactions contemplated hereby and thereby, and the Purchased Assets.
- (d) This Section 5.9 will not merge on Closing and is deemed incorporated by reference in all Closing Documents.
- (e) The Buyer acknowledges and agrees that the enforceability of this Agreement against the Seller is subject to entry of the Approval and Vesting Order.
- (f) The Buyer acknowledges and agrees that nothing in this Agreement shall operate to prohibit or diminish in any way the right of the Seller to directly or indirectly sell, transfer, liquidate or otherwise dispose of any existing product bearing the Viking name or related to the Purchased Assets, including any Viking-branded inventory (the "**SCI Viking Inventory**"); provided, however, that the aggregate value of the SCI Viking Inventory sold, transferred, liquidated or otherwise disposed of shall not exceed [REDACTED].

#### **5.10 Investment Canada Act**

The Buyer is a "Canadian" or a "WTO Investor" within the meaning of the Investment Canada Act, and the regulations thereunder.

## ARTICLE 6 CONDITIONS

### 6.1 Conditions for the Benefit of the Buyer and the Seller

The respective obligations of the Buyer and of the Seller to consummate the transactions contemplated by this Agreement are subject to the satisfaction of, or compliance with, at or prior to the Closing Time, each of the following conditions:

- (a) *No Law* – no provision of any Applicable Law and no judgment, injunction, order or decree that prohibits the consummation of the purchase of the Purchased Assets or any of the other transactions pursuant to this Agreement shall be in effect;
- (b) *Court Order* – the Approval and Vesting Order shall have been issued and entered and such order shall be Final.

The Parties acknowledge that the foregoing conditions are for the mutual benefit of the Seller, on the one hand, and the Buyer, on the other hand. Any condition in this Section 6.1 may be waived by the Seller, on the one hand, or by the Buyer, on the other hand, in whole or in part, without prejudice to any of their respective rights of termination in the event of non-fulfillment of any other condition in whole or in part. Any such waiver will be binding on the Seller or the Buyer, as applicable, only if made in writing.

### 6.2 Conditions for the Benefit of the Buyer

The obligation of the Buyer to consummate the transactions contemplated by this Agreement is subject to the satisfaction of, or compliance with, or waiver by the Buyer of, at or prior to the Closing Time, each of the following conditions (each of which is acknowledged to be for the exclusive benefit of the Buyer):

- (a) *Compliance with Covenants* – there shall have been no material breach or non-compliance with any of the covenants, agreements and conditions under this Agreement by the Seller;
- (b) *Truth of Representations and Warranties* – the representations and warranties of the Seller contained in ARTICLE 4 shall be true and correct in all material respects on and as of the Closing Date, as if made on and as of such date (except for representations and warranties made as of specified date, the accuracy of which shall be determined as of such specified date);
- (c) *Officer's Certificate* – the Buyer shall have received a certificate confirming the satisfaction of the conditions contained in Sections 6.2(a) (*Compliance with Covenants*) and 6.2(b) (*Truth of Representations and Warranties*), signed for and on behalf of the Seller without personal liability by an executive officer of the Seller or other Persons acceptable to the Buyer, in each case in form and substance reasonably satisfactory to the Buyer;

- (d) *Disclaimer of Viking Range License Agreement* – at the Seller’s own cost and expense, the Seller shall have commenced the disclaimer process in respect of the Viking Range License Agreement pursuant to Section 32 of the CCAA and one of the following events shall have occurred: (i) the time period in which the licensee is required to apply to a court for an order that such agreement is not to be disclaimed shall have expired and the licensee shall not have applied for such an order; (ii) in the event that an order of a court providing for the disclaimer of the Viking Range License Agreement is required to disclaim such agreement, then such Disclaimer Order shall be Final; or (iii) the CCAA Court shall have otherwise made an order providing for the disclaimer of the Viking Range License Agreement and such order shall be Final (each of the orders described in (ii) and (iii) above, a “**Disclaimer Order**”); and
- (e) *Closing Documents* – each of the deliveries required to be made to the Buyer pursuant to Section 10.2 shall have been so delivered.

### **6.3 Conditions for the Benefit of the Seller**

The obligation of the Seller to consummate the transactions contemplated by this Agreement is subject to the satisfaction of, or compliance with, or waiver where applicable by the Seller of, at or prior to the Closing Time, each of the following conditions (each of which is acknowledged to be for the exclusive benefit of the Seller):

- (a) *Performance of Covenants* – the covenants contained in this Agreement to be performed by the Buyer at or prior to the Closing Time shall have been performed in all material respects as at the Closing Time;
- (b) *Truth of Representations and Warranties* – the representations and warranties of the Buyer contained in ARTICLE 5 shall be true and correct in all material respects on and as of the Closing Date, as if made on and as of such date (except for representations and warranties made as of specified date, the accuracy of which shall be determined as of such specified date); and
- (c) *Officer’s Certificate* – the Seller shall have received a certificate confirming the satisfaction of the conditions contained in Sections 6.3(a) (*Performance of Covenants*) and 6.3(b) (*Truth of Representations and Warranties*) signed for and on behalf of the Buyer without personal liability by an executive officer of the Buyer, in form and substance satisfactory to the Seller, each acting in a commercially reasonable manner.

## **ARTICLE 7 ADDITIONAL AGREEMENTS OF THE PARTIES**

### **7.1 Conduct of Business Until Closing Time**

Except: (1) as contemplated or permitted by this Agreement; (2) as contemplated by the budget delivered in accordance with the DIP Facility; (3) as necessary in connection with the CCAA Proceedings; (4) as otherwise provided in the Initial Order and any other court orders, prior

to the Closing Time; (5) as required by Applicable Law, to the extent reasonably practicable having regard to the CCAA Proceedings; or (6) as consented to by the Buyer, such consent not to be unreasonably withheld, conditioned or delayed, the Seller shall:

- (a) (i) use commercially reasonable efforts to preserve and not abandon the Purchased Assets, and (ii) pay and discharge the debts authorized by the CCAA Court in accordance with the DIP Credit Agreement; and
- (b) not, without the prior written consent of the Buyer (the granting of such consent to be in the Buyer's sole discretion): (i) transfer, lease, license, sell, abandon, create any Encumbrance (other than Encumbrances associated with or permitted by the DIP Credit Agreement) on or otherwise dispose of any of the Purchased Assets (except in the ordinary course of business, in all material respects consistent with past practice); or (ii) agree or make a commitment, whether in writing or otherwise, to do the foregoing.

## 7.2 Covenants Relating to this Agreement

- (a) Each of the Parties shall perform, and shall cause their affiliates to perform, all obligations required to be performed by the applicable Party under this Agreement, co-operate with the other Parties in connection therewith and, subject to the directions of any applicable courts to the Seller, use commercially reasonable efforts to do all such other acts and things as may be necessary or desirable in order to consummate and make effective, as soon as reasonably practicable and in any event prior to the Sunset Date, the transactions contemplated by this Agreement and, without limiting the generality of the foregoing, each Party shall and, where appropriate, shall cause each of its affiliates to:
  - (i) negotiate in good faith and use its commercially reasonable efforts to take or cause to be taken all actions and to do, or cause to be done, all things necessary, proper or advisable to satisfy the conditions precedent to the obligations of such Party hereunder (including, where applicable, negotiating in good faith with the applicable Governmental Authorities and/or third Persons in connection therewith), and to cause the fulfillment at the earliest practicable date of all of the conditions precedent to the other Party's obligations to consummate the transactions contemplated hereby; and
  - (ii) not take any action, or refrain from taking any action, and use commercially reasonable efforts to not permit any action to be taken or not taken, which would reasonably be expected to prevent, materially delay or otherwise impede the consummation of the transactions contemplated by this Agreement.
- (b) The Seller and the Buyer agree to cause each of their representatives to keep the other informed on a reasonably current basis as to their progress in terms of the satisfaction of the conditions precedent contained herein.

- (c) The Seller and the Buyer agree to execute and deliver such other documents, certificates, agreements and other writings, and to take such other actions as may be reasonably required to consummate or implement as soon as reasonably practicable, the transactions contemplated by this Agreement.

### 7.3 Release; Acknowledgements

- (a) Except as otherwise contained herein, effective as of the Closing, the Buyer hereby releases and forever discharges the Seller and its affiliates, and their respective successors and assigns, and all officers, directors, partners, members, shareholders, employees and agents of each of them, from any and all actual or potential Claims which such Person had, has or may have in the future to the extent relating to the Purchased Assets.
- (b) The Buyer shall use its best efforts to assist the Seller and shall co-operate with the Seller, as reasonably requested, to obtain from third parties, effective as of the Closing Time, a full release of the Seller's obligations under the Purchased Assets, 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.

### 7.4 Tax Matters

- (a) The Buyer and the Seller agree to use commercially reasonable efforts to furnish or cause to be furnished to each other, as promptly as practicable, such information and assistance relating to the Purchased Assets as is reasonably necessary for the preparation and filing of any Tax return, claim for refund or other required or optional filings relating to Tax matters, for the preparation for and proof of facts during any Tax audit, for the preparation for any Tax protest, for the prosecution of any suit or other proceedings relating to Tax matters and for the answer to any governmental or regulatory inquiry relating to Tax matters.
- (b) For purposes of any income Tax return related to the transactions contemplated in this Agreement, the Buyer and the Seller agree to report the transactions contemplated in this Agreement in a manner consistent with the Purchase Price allocation determined in accordance with Section 3.2, and the Buyer and the Seller shall not voluntarily take any action inconsistent therewith in any such Tax return, refund claim, litigation or otherwise, unless required by applicable Tax laws. The Buyer and the Seller shall each be responsible for the preparation of their own statements required to be filed under the *Income Tax Act* (Canada) and other similar forms in accordance with applicable Tax laws.
- (c) All Taxes and similar *ad valorem* obligations levied with respect to the Purchased Assets for a taxable period which includes (but does not end on) the Closing Date shall be apportioned between the Seller and the Buyer based on the number of days of such taxable period up to and including the Closing Date (such portion of such taxable period, the “**Pre-Closing Tax Period**”) and the number of days of such

taxable period after the Closing Date (such portion of such taxable period, the “**Post-Closing Tax Period**”). Except as otherwise provided herein, the Seller shall be liable for the proportionate amount of such Taxes that is attributable to the Pre-Closing Tax Period, and the Buyer shall be liable for the proportionate amount of such Taxes that is attributable to the Post-Closing Tax Period.

- (d) In respect of the purchase and sale of the Purchased Assets under this Agreement, to the extent permitted by Applicable Law, the Buyer shall pay direct to the appropriate Governmental Authority all sales and transfer Taxes, registration charges and transfer fees payable by it and, upon the reasonable request of the Seller, the Buyer shall furnish proof of such payment, and the Buyer shall otherwise be liable for and shall pay to the Seller an amount equal to any such Tax payable by the Buyer and collectible by the Seller including under the GST and HST Legislation and the QST Legislation and under any similar provincial or territorial legislation imposing a similar value-added or multi-staged Tax. The Buyer shall deliver to Seller any purchase exemption certificates being relied on by the Buyer in accordance with and in the form and manner as required under Applicable Laws governing provincial sales and transfer Taxes.
- (e) The Buyer hereby waives compliance by the Seller with Section 6 of the *Retail Sales Tax Act* (Ontario) and with any similar provision contained in any other Applicable Law in respect of all sales and transfer Taxes, registration charges and transfer fees payable.

## **7.5 Intellectual Property Matters**

The Seller shall cooperate with and assist the Buyer, at the Buyer’s expense, with the registration of the assignment of the registrable rights relating to the Purchased Assets.

## **7.6 Notice of Certain Events**

The Seller, on the one hand, and the Buyer, on the other hand, shall give prompt written notice to the other Party of: (a) the occurrence or non-occurrence of any fact, change, condition or event, the occurrence or non-occurrence of which would render any representation or warranty of such Party contained in this Agreement or any of the Closing Documents untrue or inaccurate in any material respect; (b) any failure of such Party to comply with or satisfy any covenant or agreement to be complied with or satisfied by such Party hereunder in any material respect or any event or condition that would otherwise reasonably be expected to result in the nonfulfillment of any of the conditions to such Party’s obligations hereunder; (c) any notice (whether written or oral) from any Person (including any counterparty to a Contract) alleging that the consent of such Person is or may be required in connection with, or that any Contract with any such Person is or may be breached or otherwise violated in connection with, the consummation of the Closing or any of the other transactions contemplated by this Agreement or any of the Closing Documents; or (d) any proceeding pending or, to the knowledge of such Party, threatened, against such Party relating to the Agreement and the other transactions contemplated by this Agreement or any of the Closing Documents.

## **7.7 Transition**

Following the Closing Time, the Seller agrees to use commercially reasonable efforts to facilitate introductions between the Buyer and existing suppliers of products sold under the "Viking" trademark and brand that Seller has a continuing relationship as of the Closing Time; provided, however, that the Buyer acknowledges and agrees that nothing in this Section 7.7 shall operate to prohibit or diminish in any way the right of the Seller to dissolve, windup or otherwise cease operations as it may determine in its sole discretion following the Closing Time. Notwithstanding the foregoing, any efforts required of the Seller pursuant to this Section 7.7 shall in no event be required to continue for more than 90 days following Closing.

## **7.8 Risk of Loss**

In the event the Purchased Assets are appropriated, expropriated or seized by any Person, on or prior to the Closing Date and without fault of the Seller, the Buyer may elect to (a) terminate this Agreement, or (b) complete the transactions contemplated by this Agreement without reduction of the Purchase Price. In the event the Buyer elects to complete the transactions pursuant to the preceding clause (b), all proceeds of insurance or compensation for expropriation or seizure in respect thereof will be payable to the Buyer and all right and claim of the Seller to any such amounts not paid by the Closing Date will be assigned to the Buyer. Notwithstanding the foregoing, any obligations of the Seller pursuant to this Section 7.8 shall terminate 90 days following Closing.

# **ARTICLE 8 COURT ORDERS**

## **8.1 Court Orders**

- (a) The Buyer shall cooperate with the Seller acting reasonably, as may be necessary, including by providing such information and taking such actions as may be reasonably requested, in obtaining the Approval and Vesting Order and a Disclaimer Order (if necessary).
- (b) Within the time period provided for in the SISP, the Seller shall use commercially reasonable efforts file a motion with the CCAA Court for the issuance of the Approval and Vesting Order.
- (c) The Seller shall use commercially reasonable efforts to obtain the Approval and Vesting Order and a Disclaimer Order (if necessary).
- (d) The Buyer and its legal counsel shall be given a reasonable opportunity to review and comment on the motion(s) for the issuance of the Approval and Vesting Order and a Disclaimer Order (if necessary).
- (e) Notice of the motion seeking the issuance of the Approval and Vesting Order shall be served by the Seller on all Persons required to receive notice under Applicable Law and the requirements of the CCAA, the CCAA Court, and any other Person determined necessary by the Seller or the Buyer.

## 8.2 CCAA Process

If the Approval and Vesting Order or any other orders of the CCAA Court relating to this Agreement shall be appealed or motion for rehearing or reargument shall be filed with respect thereto, the Seller agrees to take all action as may be commercially reasonable and appropriate to defend against such appeal, petition or motion and the Buyer agrees to use its commercially reasonable efforts to cooperate in such efforts.

## ARTICLE 9 TERMINATION

### 9.1 Termination

This Agreement may be terminated at any time prior to Closing as follows:

- (a) by mutual written consent of the Buyer and the Seller (with the consent of the Lenders and the Monitor, in the case of the Seller) or on further order of the CCAA Court;
- (b) by the Buyer or the Seller (with the consent of the Lenders and the Monitor, in the case of the Seller) if Closing has not occurred on or before the Closing Date (the “**Sunset Date**”); provided, that the Buyer or the Seller, as the case may be, are not in breach of any representation, warranty, covenant or other agreement in this Agreement to cause the conditions in ARTICLE 6 to be satisfied;
- (c) by the Buyer or the Seller upon the dismissal or conversion of the CCAA Proceedings;
- (d) by the Buyer or the Seller upon permanent denial of the Approval and Vesting Order;
- (e) by the Buyer or the Seller if a court of competent jurisdiction or other Governmental Authority has issued an order or taken any other action permanently restraining, enjoining or otherwise prohibiting the consummation of Closing and such order or action has become Final (provided the same was not initiated by the Buyer or the Seller);
- (f) by the Seller, if required under any Order of a court of competent jurisdiction including the CCAA Court;
- (g) by the Seller (with the consent of the Lenders and the Monitor), if there has been a material violation or breach by the Buyer of any covenant, representation or warranty which would prevent the satisfaction of the conditions set forth in Section 6.1 or Section 6.3, as applicable, by the Sunset Date and such violation or breach has not been waived by the Seller or cured within ten (10) Business Days after written notice thereof from the Seller, unless the Seller is in material breach of their obligations under this Agreement;
- (h) by the Buyer pursuant to Section 7.8; or



- (i) by the Buyer, if there has been a material violation or breach by the Seller of any covenant, representation or warranty which would prevent the satisfaction of the conditions set forth in Section 6.1 or Section 6.2, as applicable, by the Sunset Date and such violation or breach has not been waived by the Buyer or cured within ten (10) Business Days after written notice thereof from the Buyer, unless the Buyer is in material breach of its obligations under this Agreement.

The Party desiring to terminate this Agreement pursuant to this Section 9.1 (other than pursuant to Section 9.1(a)) shall give written notice of such termination to the other Party or Parties, as applicable, specifying in reasonable detail the basis for such Party's exercise of its termination rights.

## **9.2 Effect of Termination**

In the event of termination of this Agreement pursuant to Section 9.1, this Agreement shall become void and of no further force or effect without liability of any Party to any other Party to this Agreement except that (a) this Section 9.2 and Sections 3.3(c), 11.1, 11.3, 11.4, 11.5, 11.6 and 11.7 shall survive, (b) the confidentiality, non-use and non-disclosure obligations under the NDA shall survive in accordance with the terms of the NDA, and (b) no termination of this Agreement shall relieve any Party of any liability for any wilful breach by it of this Agreement.

## **ARTICLE 10 CLOSING**

### **10.1 Location and Time of the Closing**

The Closing shall take place at the Closing Time on the Closing Date at the Toronto, Ontario offices of Torys LLP, or at such other location as may be agreed upon by the Parties.

### **10.2 Seller's Deliveries at Closing**

At Closing, the Seller shall deliver to the Buyer the following:

- (a) a certified copy of the Approval and Vesting Order;
- (b) either: (i) written confirmation from the Seller that the time period in which the licensee under the Viking Range License Agreement is required to apply to a court for an order that such agreement is not to be disclaimed pursuant to Section 32 of the CCAA has expired and the licensee shall not have applied for such an order or communicated its intention to do so; or (ii) a certified copy of a Disclaimer Order;
- (c) the IP Assignment and Assumption Agreement duly executed by the Seller;
- (d) an authorization of counsel, substantially in the form attached as Schedule 2.3, duly executed by the Seller;
- (e) an executed copy of the Monitor's Certificate;
- (f) the certificates contemplated by Section 6.2(c);

- (g) a duly executed election pursuant to GST and HST Legislation and QST Legislation, and any certificates, elections or other documents required to be delivered pursuant to Section 7.4; and
- (h) all other documents required to be delivered by the Seller on or prior to the Closing Date pursuant to this Agreement or Applicable Law or as reasonably requested by the Buyer in good faith.

### **10.3 Buyer's Deliveries at Closing**

At Closing, the Buyer shall deliver to the Seller:

- (a) the Purchase Price;
- (b) any sales or transfer Taxes payable on Closing by the Buyer to the Seller pursuant to Section 7.4(d) hereof;
- (c) the IP Assignment and Assumption Agreements duly executed by the Buyer;
- (d) the certificate contemplated by Section 6.3(c);
- (e) a duly executed election pursuant to GST and HST Legislation and QST Legislation, and any certificates, elections or other documents required to be delivered pursuant to Section 7.4; and
- (f) all other documents required to be delivered by the Buyer on or prior to the Closing Date pursuant to this Agreement or Applicable Law or as reasonably requested by the Seller in good faith.

### **10.4 Possession of Assets and Cooperation of the Seller with respect to Intellectual Property**

In no event will the Purchased Assets be sold, assigned, transferred or set over to the Buyer until the conditions set out in the Approval and Vesting Order have been satisfied, and the Buyer has satisfied all delivery requirements outlined in Section 10.3. Promptly following Closing, the Seller shall deliver to the Buyer a hard drive or hard drives containing all of the electronic Documents in its possession, if any, and shall make available for retrieval by the Buyer or its agent(s) any and all Documents in the physical possession of the Seller, if any, for a period of thirty (30) days after the Closing Date.

The Seller will, in respect of the applications and registrations of Intellectual Property included in the Purchased Assets, provide such commercially reasonable cooperation, including the execution of confirmatory notice documents for recordation at government intellectual property offices, to record at such offices the Buyer as the assignee and owner of such Intellectual Property; provided, however, that the Buyer acknowledges and agrees that nothing in this Section 10.4 shall operate to prohibit or diminish in any way the right of the Seller to dissolve, windup or otherwise cease operations as it may determine in its sole discretion following the Closing Time.

### **10.5 Monitor**

The Parties hereby acknowledge and agree that the Monitor will be entitled to file the Monitor's Certificate with the CCAA Court without independent investigation upon receiving written confirmation from the Seller and the Buyer that all conditions to Closing have been satisfied or waived and upon receiving the Purchase Price and any sales or transfer Taxes confirmed in writing by the Seller and the Buyer (on which the Monitor shall be entitled to rely without independent investigation) to be payable on Closing by the Buyer to the Seller pursuant to Section 7.4(d) hereof, and the Monitor will have no liability to the Seller or the Buyer or any other Person as a result of filing the Monitor's Certificate or otherwise in connection with this Agreement or the transactions contemplated hereunder (whether based on contract, tort or any other theory).

## **10.6 Simultaneous Transactions**

All actions taken and transactions consummated at the Closing shall be deemed to have occurred simultaneously, and no such transaction shall be considered consummated unless all are consummated.

# **ARTICLE 11 GENERAL MATTERS**

## **11.1 Confidentiality**

The Buyer shall keep confidential all Confidential Information relating to the Seller and the Purchased Assets in accordance with the terms of the NDA.

## **11.2 Public Notices**

No press release or other announcement concerning the transactions contemplated by this Agreement shall be made by the Seller, on the one hand, or by the Buyer, on the other hand, without the prior consent of the other Party (such consent not to be unreasonably withheld, conditioned or delayed); provided, however, that subject to the last sentence of this Section 11.2, any Party may, without such consent, make such disclosure if the same is required by Applicable Law (including the CCAA Proceedings) or by any stock exchange on which any of the securities of such Party or any of its affiliates are listed, or by any insolvency or other court or securities commission, or other similar Governmental Authority having jurisdiction over such Party or any of its affiliates, and, if such disclosure is required, the Party making such disclosure shall use commercially reasonable efforts to give prior oral or written notice to the other Party to the extent legally permissible and reasonably practicable, and if such prior notice is not legally permissible or reasonably practicable, to give such notice reasonably promptly following the making of such disclosure. Notwithstanding the foregoing: (i) this Agreement may be filed by the Seller with the CCAA Court and posted on SEDAR or such other website as may be required pursuant to Applicable Law or the rules of any relevant stock exchange; and (ii) the transactions contemplated in this Agreement may be disclosed by the Seller to the CCAA Court, subject to redacting confidential or sensitive information as permitted by Applicable Law. The Parties further agree that:

- (a) the Monitor may prepare and file reports and other documents with the CCAA Court containing references to the transactions contemplated by this Agreement and the terms of such transactions; and

- (b) the Seller and its professional advisors may prepare and file such reports and other documents with the CCAA Court containing references to the transactions contemplated by this Agreement and the terms of such transactions as may reasonably be necessary to complete the transactions contemplated by this Agreement or to comply with their obligations in connection therewith.

Wherever possible, the Buyer shall be afforded an opportunity to review and comment on such materials prior to their filing. The Parties may issue a joint press release announcing the execution and delivery of this Agreement, in form and substance mutually agreed to by them.

### **11.3 Survival**

None of the representations, warranties, covenants (except the covenants in ARTICLE 2, ARTICLE 3, ARTICLE 11 and Sections 7.3, 7.4, 7.5, 7.7, 11.1 and 11.4 to the extent they are to be performed after the Closing) of any of the Parties set forth in this Agreement, in any Closing Document to be executed and delivered by any of the Parties (except any covenants included in such Closing Documents, which, by their terms, survive Closing) or in any other agreement, document or certificate delivered pursuant to or in connection with this Agreement or the transactions contemplated hereby shall survive the Closing.

### **11.4 Expenses**

Except as otherwise specifically provided herein, the Seller, on the one hand, and the Buyer, on the other hand, shall be responsible for the expenses (including fees and expenses of legal advisers, accountants and other professional advisers) incurred by each of them, respectively, in connection with the negotiation and settlement of this Agreement, and the completion of the transactions contemplated hereby.

### **11.5 Non-Recourse**

No past, present or future director, officer, employee, incorporator, member, partner, securityholder, affiliate, agent, lawyer or representative of the respective Parties, in such capacity, shall have any liability for any obligations or liabilities of the Buyer or the Seller, as applicable, under this Agreement, or for any Claim based on, in respect of or by reason of the transactions contemplated hereby.

### **11.6 Assignment; Binding Effect**

No Party may assign its right or benefits under this Agreement without the consent of each of the other Parties, except that without such consent any Party may, upon prior notice to the other Parties: (a) assign this Agreement, or any or all of its rights and obligations hereunder, to one or more of its subsidiaries or affiliates; or (b) the Buyer may direct that title to all or some of the Purchased Assets be transferred to one or more of its subsidiaries or affiliates; provided, that no such assignment or direction shall relieve such assigning Party of its obligations hereunder. This Agreement shall be binding upon and inure to the benefit of the Parties and their respective permitted successors and permitted assigns. Except as provided in Section 7.3, nothing in this Agreement shall create or be deemed to create any third Person beneficiary rights in any Person not a Party to this Agreement.

## 11.7 Notices

Any notice, consent or approval required or permitted to be given in connection with this Agreement (in this Section referred to as 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 transferred by facsimile or email:.

- (a) in the case of a Notice to the Buyer at:

Canadian Tire Corporation, Limited  
2180 Yonge St.  
Toronto, Ontario  
M4P 2V8

Attention: John Chimienti, Associate General Counsel and Chief Counsel, Retail  
Telephone: 416.480.3680  
Facsimile: 416.480.3107  
Email: john.chimienti@cantire.com

with copies (which shall not in themselves constitute notice) to:

Torys LLP  
Suite 3000,  
79 Wellington Street West  
Box 270, TD Centre  
Toronto, Ontario M5K 1N2

Attention: Adam Slavens  
Telephone: 416.865.7333  
Facsimile: 416.485.7380  
Email: aslavens@torys.com

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

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

Attention: Phil Mohtadi  
Telephone: (416) 941-4419  
Email: pmohtad@sears.ca

with copies (which shall not in themselves constitute notice) to:

Osler, Hoskin & Harcourt LLP  
Suite 6200  
1 First Canadian Place  
Toronto, ON M5X 1B8

Attention: Marc Wasserman and Tracy Sandler  
Telephone: 416-862-4908 / 416-862-5890  
Facsimile: 416-862-6666  
Email: mwasserman@osler.com / tsandler@osler.com

and the Monitor:

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

Attention: Paul Bishop  
Telephone: 416-649-8053  
Facsimile: 416-649-8101  
Email: paul.bishop@fticonsulting.com

and counsel to the Monitor:

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

Attention: Orestes Pasparakis and Virginie Gauthier  
Telephone: 416-216-4815 / 416-216-4853  
Facsimile: 416-216-3930  
Email: orestes.pasparakis@nortonrosefulbright.com /  
virginie.gauthier@nortonrosefulbright.com

Any Notice delivered or transmitted to a Party as provided above shall be deemed to have been given and received on the day it is delivered or transmitted, provided that it is delivered or transmitted on a Business Day prior to 5:00 p.m. local time in the place of delivery or receipt. However, if the Notice is delivered or transmitted after 5:00 p.m. local time or if such day is not a Business Day then the Notice shall be deemed to have been given and received on the next Business Day.

Any Party may, from time to time, change its address by giving Notice to the other Parties in accordance with the provisions of this Section.

### **11.8 Counterparts; Facsimile Signatures**

This Agreement may be signed in counterparts and each of such counterparts shall constitute an original document and such counterparts, taken together, shall constitute one and the same instrument. Execution of this Agreement may be made by facsimile signature or by electronic image scan which, for all purposes, shall be deemed to be an original signature.

### **11.9 Language**

*Les Parties aux présentes ont expressément exigé que le présent convention et tous les documents et avis qui y sont affêrents soient rédigés en anglaise.* The Parties have expressly required that this Agreement and all documents and notices relating hereto be drafted in English.

***[Signature pages follow]***

**IN WITNESS WHEREOF** the Parties have executed this Agreement as of the date first written above.

**SEARS CANADA INC.**

By: P. Mohtadi  
Name: Philip Mohtadi  
Title: Corporate Secretary

**CANADIAN TIRE CORPORATION,  
LIMITED**

By: \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name:  
Title:



IN WITNESS WHEREOF the Parties have executed this Agreement as of the date first written above.

**SEARS CANADA INC.**

By: \_\_\_\_\_  
Name: Philip Mohtadi  
Title: Corporate Secretary

**CANADIAN TIRE CORPORATION,  
LIMITED**

By: \_\_\_\_\_  
Name: DEAN M. CANN  
Title: CHIEF FINANCIAL OFFICER

By: \_\_\_\_\_  
Name: Douglas B. Nathanson  
Title: General Counsel

**SCHEDULE 1.1(E)**

**FORM OF APPROVAL AND VESTING ORDER**

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

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR. ) ●, THE ●<sup>TH</sup>  
 )  
JUSTICE HAINEY ) DAY OF ●, 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**”)

**APPROVAL AND VESTING ORDER  
(VIKING Trade-Marks)**

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 transaction (the “**Transaction**”) contemplated by the asset purchase agreement (the “**APA**”) between Sears Canada Inc. (the “**Seller**”), as vendors, and Canadian Tire Corporation, Limited (the “**Purchaser**”), as purchaser, dated September 29, 2017, and certain related relief, and (ii) vesting in and to the Purchaser all right, title and interest of the Seller in and to the Purchased Assets (as defined in the APA), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion of the Applicants, the Affidavit of ● sworn on ●, 2017 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, the DIP ABL Agent, the DIP Term Agent and such other counsel as were present, no one else appearing although duly served as appears from the Affidavit of Service of ● sworn ●, 2017, filed:

### **SERVICE AND DEFINITIONS**

2. 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.

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

### **APPROVAL OF THE APA**

4. THIS COURT ORDERS AND DECLARES that the entering into of the Transaction by the Seller is hereby approved and ratified and that the execution of the APA by the Seller is hereby authorized, approved and ratified with such minor amendments as the Seller (with the consent of the Monitor after consultation with the DIP Lenders) and the Purchaser may agree upon pursuant to the terms of the APA. The Seller 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 and for the conveyance of the Purchased 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.

5. 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 the Seller’s right, title and interest in and to the Purchased Assets 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 or other financial or monetary claims, rights or first negotiation, rights of first refusal and any other similar rights, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise in respect of the Purchased 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 DIP ABL Lenders’ Charge, the DIP Term Lenders’ 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; and
- (c) those Claims listed on Schedule “B” hereto;

(all of which are collectively referred to as the “**Encumbrances**”), and, for greater certainty, this Court orders that all of the Claims and Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

6. THIS COURT ORDERS 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 Purchased Assets immediately prior to the Closing Date of the Transaction, as if the Transaction had not been completed.

7. THIS COURT ORDERS that, to the extent that obligations remain owing by the Applicants under the DIP ABL Credit Agreement and/or the DIP Term Credit Agreement, the Monitor be and is hereby authorized and directed to distribute, on behalf of the Applicants, on the day of filing the Monitor's Certificate or as soon as practicable thereafter, the Net Proceeds, in partial repayment of amounts then owing by the Applicants under the DIP ABL Credit Agreement or the DIP Term Credit Agreement, as applicable, in such amounts as agreed to by the DIP ABL Agent and DIP Term Agent, as applicable, or if no such applicable agreement can be reached, on further Order of

the Court (a “**Distribution**”).

8. THIS COURT ORDERS that any Distribution made pursuant to this Order shall be and shall be deemed to be made free and clear of all Claims and Encumbrances.

9. 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 distribution permitted by paragraph 7 above 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.

10. THIS COURT ORDERS that, if all obligations of the Applicants under the DIP ABL Credit Agreement or the DIP Term Credit Agreement have been satisfied in full the Monitor shall be entitled to retain the Net Proceeds or any remaining portion thereof on behalf of the Applicants to be dealt with by further Order of the Court.

11. 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.

12. THIS COURT ORDERS that subject to the terms of the APA nothing herein affects:

- (a) the rights and obligations of Sears Canada Inc. (“**Sears Canada**”) and a contractual joint venture comprised of Gordon Brothers Canada ULC, Merchant Retail Solutions ULC, Tiger Capital Group, LLC and GA Retail Canada ULC (the

“Agent”) under the Amended and Restated Agency Agreement between Sears Canada and the Agent dated July 12, 2017 and amended and restated on July 14, 2017;

- (b) the rights and obligations of Sears Canada and the Agent under the Amended and Restated Consulting Agreement between Sears Canada and the Agent dated July 12, 2017 and amended and restated on July 14, 2017; and
- (c) the terms of the Liquidation Sale Approval Order granted July 18, 2017 including the Sale Guidelines attached as Schedule “A” thereto.

### **SEALING**

13. 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**

14. 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 of the Purchased 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.

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

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

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## 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., 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")

### 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 ●, 2017 (the "Approval and Vesting Order") approving the Asset Purchase Agreement between Sears Canada Inc. (the "Seller"), as vendor, and Canadian Tire Corporation, Limited (the "Purchaser"), as purchaser, dated September 29, 2017 (the "APA"), a copy of which is attached as Exhibit ● to the Affidavit of ● dated ●, 2017.

B. Pursuant to the Approval and Vesting Order the Court approved the APA and provided for the vesting in the Purchaser of the Seller's right, title and interest in and to the Purchased Assets (as defined in the APA), which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Monitor to the Purchaser and the Seller of a certificate confirming (i) all conditions to Closing have been satisfied or waived by the Purchaser and the Seller, as applicable;



and (ii) the Purchase Price and all applicable sales and transfer Taxes payable (each as defined in the APA) by the Purchaser to the Seller have been received by the Monitor.

THE MONITOR CERTIFIES the following:

1. All conditions to Closing have been satisfied or waived by the Purchaser and the Seller, as applicable; and
2. The cash portion of the Purchase Price and all applicable sales and transfer Taxes payable by the Purchaser to the Seller 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"**

### **Encumbrances**

Any and all rights, including without limitation, rights of first negotiation, rights of first refusal or any other similar rights, under the License Agreement between Sears Canada Inc. and Viking Range Corporation executed on December 19, 2002.

**SCHEDULE 1.1(J)**

**FORM OF IP ASSIGNMENT AND ASSUMPTION AGREEMENT**

**CONFIRMATORY ASSIGNMENT OF TRADE-MARKS**

**WHEREAS**, Sears Canada Inc. (the “**Assignor**”), the full post office address of whose principal office or place of business is 290 Yonge Street, Suite 700, Toronto, Ontario, M5B 2C3, is the owner of the trade-marks listed in the attached schedule (the “**Trade-marks**”);

**AND WHEREAS** pursuant to an asset purchase agreement made as of September 29, 2017 (the “**Purchase Agreement**”), Canadian Tire Corporation, Limited (the “**Assignee**”), the full post office address of whose principal office or place of business is 2180 Yonge St., Toronto, Ontario, M4P 2V8, acquired from the Assignor all of its right, title and interest in and to the Trade-marks together with the goodwill of the business carried on in association with the Trade-marks;


**NOW THEREFORE** for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Assignor and the Assignee hereby confirm that the Assignor has sold, assigned and transferred to the Assignee, its successors and assigns, effective as of the date of the Purchase Agreement, all of the Assignor’s right, title and interest in and to the Trade-marks, including all its trade-mark rights in respect of all wares and services in association with which the Trade-marks may have been used, and the goodwill of the business carried on in association with the Trade-marks, together with all right of action resulting from any adverse use of the Trade-marks or any confusingly similar trade-marks prior to such effective date, and the right to claim such relief as is appropriate, the same to be held by the Assignee, its successors and assigns as fully and effectually as they would have been held by the Assignor had this sale, assignment and transfer not been made.

EXECUTED at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

**SEARS CANADA INC.**



By: \_\_\_\_\_  
Name:  
Title:

**SCHEDULE**

<b>Trademark</b>
VIKING (Registration No. TMDA47453)
VIKING & DESIGN (Registration No. TMA599901) 
VIKING & Design (Application No. 1731943) 
Representation of a Single-Masted Viking Galley (Registration No. UCA41844)

**SCHEDULE 2.1**

**Trademark Applications and Registrations**

<b>Trademark</b>
VIKING (Registration No. TMDA47453)
VIKING & DESIGN (Registration No. TMA599901) 
VIKING & Design (Application No. 1731943) 
Representation of a Single-Masted Viking Galley (Registration No. UCA41844)

**SCHEDULE 2.3**

**FORM OF AUTHORIZATION OF COUNSEL**

**AUTHORIZATION OF COUNSEL**

**To:** Representative for service for the trade-marks listed in the attached schedule (the “**Trade-marks**”) (such counsel, “**You**” or “**Your**”)

**WHEREAS** Sears Canada Inc. (the “**Assignor**”) has sold, assigned and transferred to the Canadian Tire Corporation, Limited (the “**Assignee**”), its successors and assigns, all of the Assignor’s right, title and interest in and to the Trade-marks, including all its trade-mark rights in respect of all wares and services in association with which the Trade-marks may have been used, and the associated goodwill, together with all right of action resulting from any adverse use of the Trade-marks or any confusingly similar trade-marks prior to such sale, assignment and transfer,



**NOW THEREFORE**, the Assignor hereby authorizes you to provide to the Assignee documents and records in Your possession or control in connection with the use and evidence of use of the Trade-marks. The Assignee shall be solely responsible for all costs incurred in connection with providing such documents and records.

EXECUTED at \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

**SEARS CANADA INC.**

By: \_\_\_\_\_  
Name:  
Title:

**SCHEDULE**

Trademark
VIKING (Registration No. TMDA47453)
VIKING & DESIGN (Registration No. TMA599901) 
VIKING & Design (Application No. 1731943) 
Representation of a Single-Masted Viking Galley (Registration No. UCA41844)

# TAB B



THIS IS EXHIBIT "B" REFERRED TO IN  
THE AFFIDAVIT OF BILLY WONG,  
SWORN BEFORE ME ON THIS 29<sup>th</sup> DAY OF SEPTEMBER, 2017.



---

A Commissioner for Taking Affidavits.  
Lia Bruschetta  
LSVC#600410

20

## LICENSE AGREEMENT

THIS AGREEMENT made the 19<sup>TH</sup> day of ~~October~~<sup>DECEMBER</sup>, 2002.

**BETWEEN**

**SEARS CANADA INC.**, a company incorporated pursuant to the laws of Canada, and having its head office in the City of Toronto, Ontario, M5B 2B8

(hereinafter referred to as "Sears")

**AND**

**VIKING RANGE CORPORATION** a company incorporated pursuant to the laws of the State of Mississippi, United States of America, and having an office at 111 Front Street, Greenwood, Mississippi, USA 38930

(hereinafter referred to as "Viking Range")

**WHEREAS** Sears is the registered owner of Canadian Trade-mark Registration Number TMDA 47453 for the word trade-mark VIKING, the particulars of said Registration are attached hereto as Schedule A;

**AND WHEREAS** Viking Range is the owner of numerous United States and other foreign registrations and applications for the word trade-mark VIKING, the particulars of said registrations and applications are attached as Schedule B;

**AND WHEREAS** Viking Range manufactures and sells various appliances and other products in association with the name and mark VIKING (and variations) in the United States and throughout the world;

**AND WHEREAS** Viking Range wishes to obtain the right to import to, advertise, promote and sell certain of its product line in Canada in association with the Trade-mark (as defined in Article 1) and Sears is willing to grant such right to Viking Range under the terms and conditions set out herein.

**NOW THEREFORE** in consideration of the promises and mutual covenants and agreements contained in this Agreement (as defined in Article 1) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties covenant and agree as follows:

## **ARTICLE 1 - Definitions**

The following words and phrases used in this Agreement shall have the following meaning:

**"Affiliate"** shall be defined as such term is defined in Rule 12b-2 promulgated under the United States Securities Exchange Act of 1934, as amended. Where that definition differs from that found in S.2 (1) of the Canada Business Corporations Act, as amended ("CBCA"), the definition in the CBCA shall prevail in relation to matters pertaining to Sears.

**"Agreement"** means this Agreement including all of the attached Schedules and as it may be amended pursuant to Sections 11.02 and 11.06.

**"Disposal Event"** means any of the following events: (i) Sears elects or intends to sell, assign or otherwise transfer the Trade-mark Assets other than to an Affiliate in connection with a merger, reorganization or sale of substantially all of the assets of Sears; (ii) Sears elects or intends not to renew, maintain or pay any official government fee required for the renewal or maintenance of the Trade-mark Assets for any reason; or (iii) Sears elects or intends to abandon its rights in the Trade-mark Assets for any reason.

**"Marketing Materials"** shall mean labels, plates, packaging, advertisements, devices, signage, marketing and promotional items and materials (including websites) used to advertise and promote the sale of Viking Range products and services.

**"Notice"** shall have the meaning set forth in Section 10.03.

**"Products"** shall mean those products set out at Schedule C. Schedule C may be amended by the parties from time to time as provided in Section 11.06.

**"Royalty"** shall have the meaning set out in Article 6.

**"Subsidiary Products"** shall mean the products set out at Schedule D. Schedule D may be amended from time to time as provided in Section 11.06.

**"Trade-mark"** shall mean the registered word trade-mark VIKING, as used within Canada, reflected on Schedule A.

**"Trade-mark Assets"** shall mean the Trade-mark and/or Canadian Registration No. TMDA 47453 and/or any other Sears-owned trade-mark or trade-mark application or registration which includes the term "VIKING" and/or the goodwill of the business associated with the Trade-mark or such other trade-mark or trade-mark application or registration.

**"Term"** shall have the meaning set forth in Article 5.

## **ARTICLE 2 – The Trade-mark**

Sears represents and warrants that it is the owner of the Trade-mark and is authorized to grant the licenses detailed in Article 3 and to enter into this Agreement. Sears represents and warrants that the registration of the Trade-mark is valid and that the Trade-mark is presently in use in Canada by Sears in connection with the goods identified in Registration No. TMDA 47453. Sears represents and warrants that during the Term, Sears shall maintain any and all Canadian registrations for the Trade-mark, including Registration No. TMDA 47453. During the Term, Sears shall use its best efforts to police and enforce rights in the Trade-mark and prevent the unauthorized use thereof by third parties. Sears agrees promptly, and at its own expense, to take any and all action necessary, during the Term in order to prevent such third parties from infringing the Trade-mark.

## **ARTICLE 3 - License of Trade-mark**

### **3.01 Grant - Products**

- (a) Subject to the terms and conditions contained herein, Sears hereby grants to Viking Range and Viking Range hereby accepts from Sears a limited license to use the Trade-mark in connection with the manufacture, importation, distribution, sale, advertising, promotion and marketing in Canada of the Products.
- (b) Except as provided in Sections 3.01(c), Viking Range may use the Trade-mark on the Products only when accompanied by the Viking Range sub-brand names "Professional" or "Professional Series" or "Designer" or "Designer Series" or another mark or name owned by Viking Range and approved in writing by Sears. Except as provided in Sections 3.01(c), Viking Range agrees that it is not permitted to use the Trade-mark in any manner whatsoever in association with the importation, advertisement, promotion and sale of the Products in Canada without use of an accompanying sub-brand described in this Section.
- (c) Sears acknowledges that Viking Range's current practice is to use the VIKING mark in connection with "Designer" and/or "Designer Series" on all promotional literature and advertisements featuring Viking Range's Designer Series line of Products. However, Viking Range does not use "Designer" or "Designer Series" on the actual Products themselves. Accordingly, Viking Range will place a removable point-of-purchase decal on such Designer Series Products and such decal will prominently feature "VIKING Designer" or "VIKING Designer Series." The decal will be of high quality and intended to be removed by the purchasing consumer. Sears acknowledges that this practice is in full compliance with this Agreement.

### **3.02 Grant - Subsidiary Products**

Subject to the terms and conditions contained herein, Sears hereby grants to Viking Range and Viking Range hereby accepts from Sears a limited license to use the Trade-mark in connection with the manufacture, importation, distribution, sale, advertising, promotion and marketing in Canada of the Subsidiary Products.

3.03 **Grant – Incidental Services**

Subject to the terms and conditions contained herein, Sears hereby agrees that, during the Term, it will not object to the offering of incidental services under the Trade-mark by Viking Range and its Canadian distributors, sales representatives and dealers. For purposes of this Section 3.03, such incidental services shall include cooking demonstrations, repair and warranty services, and the demonstration, instruction and retail sale of Products and Subsidiary Products.

3.04 **Use by Dealers and Distributors**

- (a) Sears acknowledges that, during the Term, Viking Range's independent distributors, sales representatives and dealers may use the Trade-mark in advertising and promoting the sale of the Products and Subsidiary Products. In granting the licenses herein, Sears is agreeing not to object to use of the Trade-mark by Viking Range distributors, representatives and other dealers, including retail dealers, selling Viking Range Products and Subsidiary Products in Canada.
- (b) Notwithstanding the above, and subject to the provisions of Section 3.06 below, Viking Range agrees that the retail sale of the Products and/or Subsidiary Products will be exclusive to Sears versus directly competitive department stores, provided that: (i) Sears complies with and meets all displaying dealer criteria of Viking Range and the Viking Range Canadian sales representative organization; and (ii) the Sears retail outlets permitted to display, market and/or sell the Products and/or Subsidiary Products in association with the Trade-mark will be limited to those outlets set out at Schedule G. Sears acknowledges that only its "Sears Select" and/or "Sears Furniture and Appliance" locations may: (a) be identified on Schedule G; and/or (b) display, market and/or sell Products and/or Subsidiary Products in association with the Trade-mark.

3.05 **Exclusivity as to Price Point and Quality**

The licenses granted in this Article 3 shall be exclusive as to price point and quality, meaning that during the Term, Sears shall not itself use, and shall not grant to any other party the right to use, the Trade-mark on or in connection with products and services of the type set forth on Schedules C and D of the same, similar or higher quality and/or price point of the Products and Subsidiary Products.

3.06 **Sears Potential Purchase of Products and Subsidiary Products**

Viking Range's sales representative organizations in Canada are identified in Schedule E. Schedule E may be amended from time to time as provided in Section 11.06. Sears may contact Viking Range's Canadian sales representative organizations regarding the purchase by Sears of Products and/or Subsidiary Products for resale by Sears at the outlets identified in Schedule G. Any purchase of such Products and/or Subsidiary Products by Sears shall be in accordance with terms negotiated between Sears and the relevant Viking Range Canadian sales representative organization(s) and such terms will not affect, nor be affected by any other terms of this Agreement.

3.07 **Acknowledgements**

- (a) Viking Range hereby acknowledges that the registration of the Trade-mark is valid, the registration and the Trade-mark are enforceable and the exclusive property of Sears and Sears has the right to license the Trade-mark to Viking Range.
- (b) Sears hereby acknowledges that the registrations/applications of the Viking Range marks described in Schedule B are valid and the registrations/applications and the Viking Range marks are enforceable and the exclusive property of Viking Range.
- (c) Viking Range is the owner of the corporate and trade name "Viking Range Corporation" and the domain name "VikingRange.com" and its ownership of and right to use the names is not in any way affected by this Agreement. Viking Range's continued use of its names is not pursuant to this Agreement or to the licenses contained herein. Viking Range is not required to use a sub-brand or any other mark or name in association with its names, but may choose to do so at its preference.
- (d) Viking Range is the owner of the trade-mark ULTRALINE and its ownership and use of this trade-mark, or any registration therefor, is not in any way affected by this Agreement. Viking Range's continued use of its ULTRALINE trade-mark is not pursuant to this Agreement or to the licenses contained herein. Viking Range is not required to use a sub-brand or any other mark or name in association with its ULTRALINE trade-mark, but may choose to do so at its preference.

3.08 **Only Right to Use**

- (a) This Agreement shall not in any way give or be deemed to give to Viking Range any interest in the Trade-mark in Canada except for the right to use the Trade-mark in Canada only in accordance with the terms and conditions of this Agreement.
- (b) This Agreement shall not in any way give or be deemed to give to Sears by Viking Range any interest in any mark or designation, which includes the term "VIKING" outside of Canada.

3.09 **Compliance with Law**

Viking Range will comply with all laws and regulations in Canada relating to trade-marks. Viking Range shall not use the Trade-mark in Canada in association with any merchandise or services other than those permitted under the terms of this Agreement.

### 3.10 Use of Trade-mark

- (a) Subject to the provisions of Section 3.01(b) and 3.01(c), Viking Range may use the Trade-mark in the form and manner in which Viking Range uses the VIKING trade-mark elsewhere in the world.
- (b) Such form and manner may include use in the stylized fonts or logos owned and used by Viking Range as shown in Schedule F. Sears acknowledges that it does not own and will not acquire the right to use or license these stylized fonts or logos. Sears acknowledges that these stylized fonts and logos are and shall remain the exclusive property of Viking Range. Schedule F may be amended from time to time in accordance with Section 11.06.
- (c) Sears acknowledges Viking Range's ownership of the sub-brand names "Professional," "Professional Series," "Designer" and/or "Designer Series" only when used in association with the Trade-mark. Sears acknowledges that Sears has and will acquire no ownership rights with respect to such sub-brand names when used in association with the Trade-mark. Sears will not allow others to use the sub-brand names in connection with the Trade-mark. Sears agrees that unless the Product and/or Subsidiary Product is purchased by Sears pursuant to Section 3.06, it will not use the Trade-mark along with the sub-brand names "Professional," "Professional Series," "Designer" or "Designer Series" in association with products or services, and that Sears will not seek trade-mark protection for any marks which include the terms "Viking Professional" or "Viking Designer."
- (d) All packaged Products and/or Subsidiary Products bearing the Trade-mark sold in Canada will include a notice bearing the following text or something equivalent: "VIKING® is a worldwide registered trade-mark of Viking Range Corporation. In Canada only, Viking Range Corporation uses the VIKING mark under license from Sears Canada, Inc." The notice will be included with other printed materials packaged with the Products and/or Subsidiary Products.
- (e) Sears acknowledges that the Marketing Materials used by Viking Range are of very high quality. During the Term, Viking Range may use in Canada the Marketing Materials it uses elsewhere in the world. Viking Range agrees to supply Sears, with two samples of, and/or access to, all Marketing Materials used by Viking Range in Canada. Sears agrees that it will not unreasonably object to the use of any Marketing Materials in Canada. In the event that Sears has a reasonable objection to the Marketing Materials used in Canada, Sears will act in accordance with the Dispute Resolution procedures set out at Article 12.
- (f) Sears acknowledges that it may use such samples only for purposes of determining whether it objects to such Marketing Materials in connection with Section 3.10(e) above. Sears acknowledges that it does not own any right in the Marketing Materials and has no other right to use the Marketing Materials. Sears acknowledges Viking Range's ownership of the Marketing Materials and the validity of Viking Range's claim of copyright in the Marketing Materials.

3.11 **Independent Distinctiveness**

The Trade-mark shall only be used in accordance with good trade-mark practice and only in such manner as to preserve the independent distinctiveness of the Trade-mark.

3.12 **Right, Title or Interest**

- (a) Viking Range acknowledges that it does not now have nor will it have during the Term, any right, title or interest in the Trade-mark, except those rights granted to Viking Range pursuant to this Agreement. Viking Range hereby assigns to Sears any rights it may have or claim to have, in Canada, in the Trade-mark. During the Term, Viking Range will not challenge the validity of any registration or ownership of, or oppose any application by Sears to register, the Trade-mark, or, subject to Section 3.10(b) and 3.10 (c), any other Trade-mark of Sears incorporating the word "Viking."
- (b) Sears acknowledges that it does not now have nor will it have, either during the Term or thereafter, any right, title or interest in the trade-mark VIKING or any other mark or designation, which includes the term "Viking" anywhere else in the world outside of Canada. Sears hereby assigns to Viking Range any rights it may have or claim to have, outside Canada, in the VIKING trade-mark. During the Term, Sears will not challenge the validity of any application/registration or ownership of, or oppose any application by Viking Range to register, the VIKING trade-mark anywhere outside of Canada.

3.13 **Assignability and Sub-Licensing**

- (a) Viking Range shall have no right to assign or sub-license any of its rights under this Agreement without the prior written approval of Sears, which approval may be given or withheld in the sole discretion of Sears. Without Sears approval, Viking Range may assign this Agreement to a related company, an Affiliate or to a successor as part of a sale of all or substantially all of its assets.
- (b) Sears shall have no right to assign any of its rights under this Agreement without Viking Range's prior written approval, which approval may be given or withheld in the sole discretion of Viking Range. Without Viking Range's approval, Sears may assign this Agreement to a related company, an Affiliate or to a successor as part of a sale of all or substantially all of its assets.

**ARTICLE 4 - QUALITY**

- 4.01 Viking Range undertakes and agrees that the quality of the Products and/or Subsidiary Products sold in Canada in association with the Trade-mark shall meet or exceed the current level of quality of the Products and Subsidiary Products sold by Viking Range under the VIKING trade-mark in the United States.



- 4.02 Sears or its authorized representative may at reasonable intervals (but not more than once every calendar year), and upon Notice to Viking Range and during regular business hours, inspect the Products and/or Subsidiary Products to be sold in association with the Trade-mark in Canada to confirm that the quality conforms with the quality standard set out in Section 4.01. Sears acknowledges that such inspection must be carried out in a manner which does not interrupt or affect Viking Range's business activities. In the event Sears reasonably determines that the Products and/or Subsidiary Products sold in Canada under the Trade-mark do not meet or exceed the quality standard set out in Section 4.01, Sears will follow the Dispute Resolution procedures set out in Article 12.

#### **ARTICLE 5 - Term**

The Term of this Agreement shall include the initial term and any and all renewal terms. The initial term of this Agreement shall be for five (5) years commencing the date of execution of this Agreement, subject to termination as hereinafter provided. Thereafter, this Agreement may be renewed for subsequent five (5) year terms subject to termination as hereinafter provided. In the event either party decides not to renew this Agreement, that party shall provide Notice of the decision not to renew to the other party at least one (1) year in advance of expiration of the then-current term. In the event no such Notice is provided, the Agreement shall automatically renew for a subsequent five (5) year term.

#### **ARTICLE 6 - Consideration and Royalty**

In consideration of the grant by Sears to Viking Range to use the Trade-mark in Canada under the terms, provisions and conditions of this Agreement, Viking Range shall pay to Sears and Sears shall be entitled to receive from Viking Range a royalty ("Royalty"). The Royalty shall be U.S. \$100,000 for the first year of the Term and shall increase by 5% per year, compounded annually, for each year of the Term and subsequent renewal terms. The Royalty shall be payable in United States Dollars. The Royalty for the first year of this Agreement shall be payable by Viking Range to Sears upon receipt by Viking Range of a fully-executed original of this Agreement. Future yearly payments of the Royalty will be made on or about the anniversary of the commencement date of this Agreement as specified in Article 5. Sears shall be responsible for all taxes related to the Royalty.

#### **ARTICLE 7 - Termination**

##### **7.01 Events of Termination**

- (a) Sears shall have the right but not the obligation to terminate this Agreement without prejudice to the enforcement of any other legal right or remedy, immediately upon giving Notice of termination to Viking Range, if Viking Range:
1. becomes bankrupt;
  2. makes an assignment for the benefit of creditors;

3. if all or any part of its business is placed in the hands of a receiver or trustee;
4. seeks the benefit of any statute for the protection of creditors;
5. ceases to import Products and Subsidiary Products to Canada in association with the Trade-mark and advertise, promote and sell Products in Canada in association with the Trade-mark for a period of one year; or.
6. engages in any activity or corporate misconduct which would bring it into public or legislative scrutiny so as to impair the image, reputation or acceptance of the Viking brand in Canada.

(b) Viking Range shall have the right but not the obligation to terminate this Agreement without prejudice to the enforcement of any other legal right or remedy, immediately upon giving Notice of termination to Sears, if Sears:

1. becomes bankrupt;
2. makes an assignment for the benefit of creditors;
3. if all or any part of its business is placed in the hands of a receiver or trustee;
4. seeks the benefit of any statute for the protection of creditors; or
5. abandons its rights in the Trade-mark.

#### 7.02 **Breach**

In the event of a breach of any of the material terms of this Agreement, the parties will follow the procedures set forth in the Dispute Resolution policy set forth in Article 12.

#### 7.03 **Effect of Termination or Expiration**

(a) Upon expiration or termination of this Agreement, Viking Range shall:

1. immediately cease all use and display of the Trade-mark in Canada, or any confusingly similar trade-mark, and for greater certainty, agrees that it will cease all use of the Trade-mark on Marketing Materials in Canada; and
2. Pay to Sears any Royalty due and owing to Sears on a pro-rata basis to the date of termination.

(b) Viking Range recognizes and agrees that the above provisions regarding termination are reasonable and necessary to protect the value and integrity of the Trade-mark, and agrees that Sears may enforce such provisions by injunction, including interlocutory injunction by any court of competent jurisdiction.

- (c) Sears acknowledges that following expiration or termination: (i) Viking Range, its Canadian distributors and sales representatives may fill existing orders for Products and/or Subsidiary Products (existing orders shall mean orders dated and in existence at the time of expiration or termination of the Agreement); (ii) sales representatives, distributors and retail dealers may continue to sell any Products and/or Subsidiary Products in inventory at the time of expiration or termination of the Agreement; and (iii) advertisements placed in third party media prior to expiration or termination of the Agreement may continue to appear in such media until the expiry date of any such media.
- (d) Sears agrees that for a period of five (5) years following expiration or termination of this Agreement, Sears will not: (1) use the Trade-mark, or any trade-mark which includes the term VIKING, on or in connection with products of the same, similar or higher quality and/or at the same, similar or higher price point as Products and Subsidiary Products manufactured by or for Viking Range under the VIKING mark; and/or (2) will not license or permit another to use the Trade-mark, or any trade-mark which includes the term VIKING, on or in connection with products of the type appearing on Schedules C and D of the same, similar or higher quality and/or at the same, similar or higher price point.

#### 7.04 Survival of Covenants

The following Articles or Sections shall survive termination of this Agreement: Article 2, Sections 3.07, 3.08, 3.10(b), 3.10(c), 3.10(f), 3.12, 7.03, Article 8, Article 9 and Sections 10.03 through 10.07.

### ARTICLE 8 - Indemnity

#### 8.01 Indemnification of Sears

Viking Range covenants that it will protect, defend, hold harmless and indemnify Sears, its respective directors, officers, employees, agents and assigns from and against any and all expenses, including reasonable legal fees and disbursements, suits, claims, demands, actions, causes of action, liabilities, damages and losses of any kind whatsoever (including, without limitation, death of or injury to person and damage to property), actually or allegedly resulting from or connected with the Products and/or Subsidiary Products, including without limitation, goods sold, work done, services rendered or products utilized therein, the operation of or defects in any machinery, motor vehicles, or equipment used in connection with the manufacture, importation, advertisement, promotion and sale of the Products and/or Subsidiary Products or from the omission to act or commission of any act, lawful or unlawful by Viking Range or its agents, employees or designees, whether or not such act is within the scope of the employment of such agents, employees, or designees; and notwithstanding anything to the contrary contained in this Agreement, such indemnification in respect of any breach, violation or non-performance, damage to third party property, injury or death occurring during the Term or any renewal term will survive the termination or expiration of this Agreement.

#### 8.02 Indemnification by Sears

Sears covenants that it will protect, defend, hold harmless and indemnify Viking Range, its respective directors, officers, employees, agents, customers, representatives, distributors, dealers and assigns, from and against any and all expenses, including reasonable legal fees and disbursements, suits, claims, demands, actions, causes of action, liabilities, damages and losses of any kind whatsoever actually or allegedly resulting or arising from (1) any claim that the Trade-mark infringes and/or dilutes the rights of a third party or parties; and/or (2) any claim related to a product or service not manufactured and/or provided by Viking Range and manufactured, produced and/or provided by or for Sears, its Affiliates or licensees. Such indemnification will survive the termination or expiration of this Agreement.

#### ARTICLE 9 - Insurance

Viking Range represents and warrants that it currently maintains a comprehensive general liability insurance policy with limits in excess of Two Million (\$2,000,000.00) U.S. Dollars. Viking Range agrees and covenants that it shall, at its sole expense, maintain this policy during the Term and any renewal term. Such policy of insurance shall not be subject to material change or cancellation except upon at least thirty (30) days Notice to Sears.

#### ARTICLE 10 - General Provisions

##### 10.01 Licenses, Laws and Ordinances

Viking Range shall, at its own expense, obtain all permits and licenses which may be required under any applicable federal, provincial, territorial or local law, ordinance, rule or regulation by virtue of any act performed in connection with the importation, advertisement, promotion and sale of the Products and/or Subsidiary Products in Canada.

10.02 Viking Range shall, in the importation, advertisement, promotion and sale of the Products and/or Subsidiary Products in Canada and in the performance of this Agreement, comply fully with all applicable federal, provincial, territorial and local laws, ordinances, rules and regulations including industry rules, standards and guidelines.

10.03 **Notice**

All Notice provided for in this Agreement shall be in writing and forwarded by overnight courier and facsimile transmission addressed as follows:

If to Sears:

SEARS CANADA INC.  
222 Jarvis Street  
Toronto, Ontario  
M5B 2B8  
Canada  
Attention: Richard Brown, Sr. V.P. Strategic Initiatives  
Fax: 416-941-4204

with copy to: The Secretary, D/766  
Fax: (416) 941-2321

If to Viking Range:

VIKING RANGE CORPORATION  
111 Front Street  
Greenwood, Mississippi  
United States of America  
38930  
Attention: Vice President, Marketing  
Fax: 662-453-7939

Notice shall be effective upon receipt.

10.04 **Confidentiality**

The terms of this Agreement and all merchandising know-how, specifications, plans, patterns, reports, audits, statements and the information contained therein, outlines, designs, creations, documents, materials and other data and information of any kind obtained by either party from the other in connection with this Agreement shall be kept confidential and shall not be disclosed or used for the benefit of either party or any third party.

10.05 **Relationship Of The Parties**

This Agreement does not constitute either party the agent of the other, or create a partnership, joint venture or similar relationship between the parties, and neither party shall have the power to obligate or bind the other party in any manner whatsoever.

## 10.06 Rights of First Negotiation and First Refusal

### (a) Right of First Negotiation

1. Subject to the terms and conditions of this Section 10.6, Sears agrees to grant to Viking Range, and hereby grants to Viking Range, and Viking Range hereby accepts from Sears, a right of first negotiation to purchase from Sears all right, title and interest in and to the Trade-mark Assets upon Viking Range's receipt of Notice from Sears of a Disposal Event. The Notice shall identify the relevant Trade-mark Assets.
2. Within thirty (30) days following the occurrence of any Disposal Event, but in no event less than ninety (90) days prior to the expiration of any applicable statutory renewal or maintenance deadline for the Trade-mark Assets or any express or implied abandonment of the Trade-mark Assets by Sears, as the case may be, Sears shall give Viking Range Notice of such Disposal Event, whereupon Viking Range shall have thirty (30) days in which to exercise its Right of First Negotiation by giving Sears Notice of such exercise. During the sixty (60) days immediately following Sears receipt of such Notice of exercise of Viking Range's Right of First Negotiation, the parties shall negotiate in good faith the terms and conditions under which Sears shall sell to Viking Range and Viking Range shall purchase from Sears all right, title and interest in and to the relevant Trade-mark Assets.
3. If, for any reason, Viking Range expressly declines to exercise the Right of First Negotiation or fails to exercise the Right of First Negotiation within the applicable (30) day period or, following the timely exercise of such Right of First Negotiation by Viking Range, the parties fail to reach a mutually acceptable agreement for Viking Range's purchase of the relevant Trade-mark Assets within the applicable sixty (60) day negotiation period, then, in any such event, Sears shall be free: (i) to sell, assign or otherwise transfer all right, title and interest in and to the relevant Trade-mark Assets to a third party, subject to Viking Range's Right of First Refusal (as defined in Section 10.06(b)(1)); (ii) not to renew, maintain or pay such official government fee required for the renewal or maintenance of the relevant Trade-mark Assets; or (iii) to abandon its rights in the relevant Trade-mark Assets.

### (b) Right of First Refusal

1. Subject to the terms and conditions of this Section 10.06, Sears agrees to grant to Viking Range, and hereby grants to Viking Range, and Viking Range hereby accepts from Sears, a right of first refusal to purchase from Sears all right, title and interest in and to the relevant Trade-mark Assets (the "Right of First Refusal") upon the same terms and conditions of any bona fide offer received by Sears from a third party other than an Affiliate in connection with a merger, reorganization or sale of substantially all of the assets of Sears.
2. If, during the Term, Sears receives a bona fide offer (an "Offer") from a third party other than an Affiliate in connection with a merger,

reorganization or sale of substantially all of the assets of Sears to purchase or otherwise acquire the Trade-mark Assets, and Sears, in its sole discretion, determines its wishes to entertain such Offer, then Sears shall promptly (but in no event more than thirty (30) days following Sears receipt of such Offer) give Viking Range Notice of such Offer and of all terms relating thereto and identify the relevant Trade-mark Assets. Viking Range shall have thirty (30) days from the date Viking Range receives such Notice in which to elect to purchase all right, title and interest in and to the relevant Trade-mark Assets under the same terms as set forth in the Offer. In the event Viking Range expressly declines or fails to exercise its Right of First Refusal to enter into such an agreement within the above-described thirty (30) day period, Sears will be free to enter into an agreement with the third party that submitted the Offer, provided such agreement contains no additional or different terms from those set forth in the Offer. If such agreement contains any additional or different terms from those set forth in the original Offer, Sears shall give Viking Range Notice of such additional or different terms and Viking Range shall have another thirty (30) days within which to elect to enter into an agreement with Sears under the terms set forth in such revised Offer.

3. **Free of Liens, Etc.**

Any sale of the Trade-mark Assets by Sears to Viking Range pursuant to this Section 10.06 shall be free and clear of any and all liens, licenses or other encumbrances.

4. **Binding on Affiliated Transferees**

The provisions of this Section 10.06 shall be binding upon the parties hereto and their respective successors and permitted assigns. Without limiting the generality of the preceding sentence, in the event of any sale, assignment or other transfer of the Trade-mark Assets to an Affiliate of Sears in connection with a merger, reorganization or sale of substantially all of the assets of Sears, the Trade-mark Assets shall be subject to the terms and conditions of this Article.

10.07 **Scope of the Agreement.** The geographic scope of this Agreement is expressly limited to Canada.

**ARTICLE 11 - Miscellaneous**

11.01 In the event that either party shall, at any time, waive any of its rights under this Agreement, or the performance by the other party of any of its obligations hereunder, such waiver shall not be construed as a continuing waiver of the same rights or obligations or a waiver of any other rights or obligations.

11.02 This Agreement and its Schedules constitutes the entire agreement between the parties hereto and, except as provided in Section 11.06, no modifications or revisions thereof shall be of any force or effect unless the same are in writing and executed by the parties.



- 11.03 Any provision of this Agreement which is or shall be determined to be invalid shall be ineffective, but such invalidity shall not affect the remaining provisions hereof. The titles to the sections herein are for convenience only and have no substantive effect.
- 11.04 This Agreement is binding upon the parties hereto, their Affiliates and any parent or subsidiary companies and their successors and assigns.
- 11.05 This Agreement shall be construed in accordance with and governed by the laws of the Province of Ontario and the laws of Canada applicable therein.
- 11.06 In the event there is a change to Trade-mark Registration No. TMDA 47453, Sears will amend Schedule A by providing an amended Schedule A to Viking Range pursuant to the Notice provisions of Section 10.03. Schedules B, E and F may be amended by Viking Range providing an amended schedule to Sears pursuant to the Notice provisions of Section 10.03. Should Viking Range wish to amend Schedules C and/or D, Viking Range will submit a list of such additional products to Sears and such products will be added to the then current Schedules C and D upon written approval of Sears, such approval not to be unreasonably withheld. Subject to the limitations of Section 3.04(b), Schedule G may be amended by Sears by providing an amended Schedule G to Viking Range pursuant to the Notice provisions of Section 10.03.

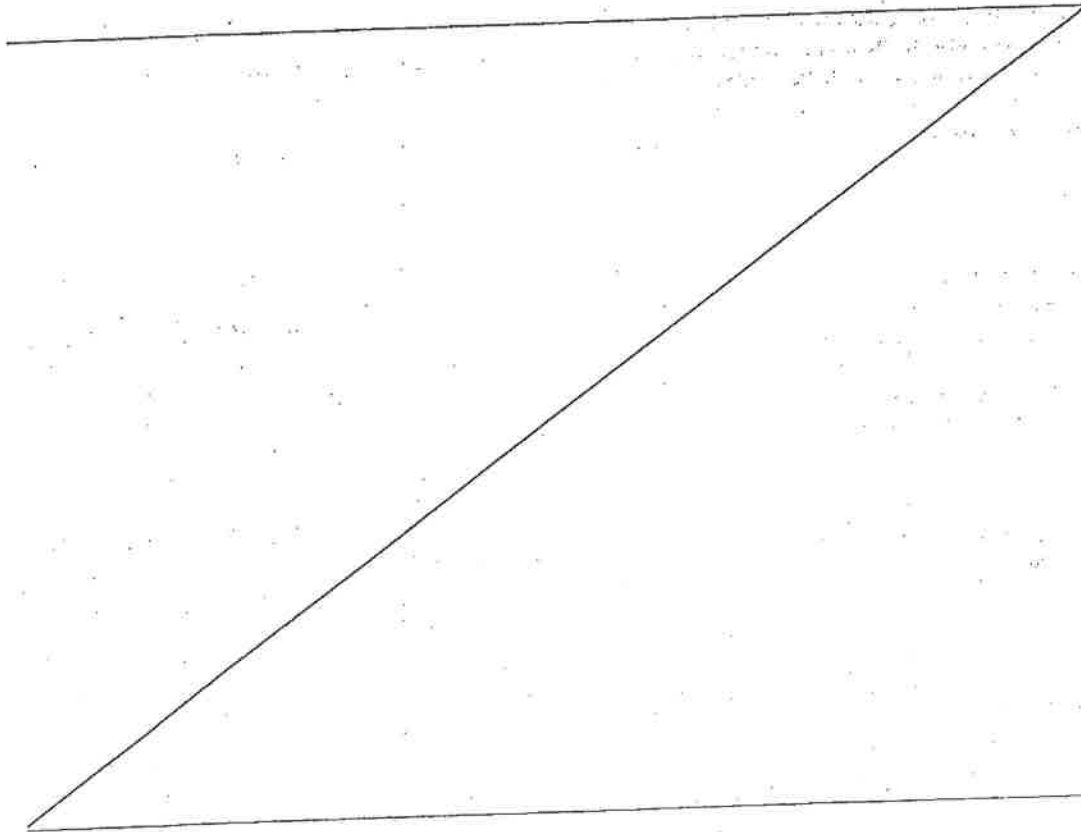
#### **Article 12 - Dispute Resolution**

Pursuant to Sections 3.10(e), 4.02 and 7.02 of this Agreement, or in the event of any dispute arising under this Agreement or any alleged breach of the terms of this Agreement, the parties shall observe the following practices.

1. The parties will make only reasonable and material objections.
2. The objecting party shall provide Notice to the other party of the nature of the objection.
3. The Notice shall contain a detailed description of the objection, alleged breach and/or perceived problem and shall identify all Products, Subsidiary Products and Marketing Materials at issue.
4. The Notice shall reference the relevant provisions of this Agreement, which are involved in the objection.
5. The objecting party must make reasonably available a knowledgeable business representative to personally discuss the objection or problem with the other party. The representative designated by the objecting party will not be an attorney or legal advisor.
6. The party receiving the Notice will contact the designated representative within ten (10) business days of receipt of the Notice described herein.
7. The parties agree to work in good faith for a period of three (3) weeks to resolve the problem, breach or objection.





8. If a resolution is reached by the close of this three (3) week period, the objecting party will withdraw its objection and parties will consider the dispute concluded.
9. If the objection is not so withdrawn, the parties agree to refer the matter to a panel of three independent arbitrators to determine whether the objection is reasonable and well-supported. The parties shall jointly choose the members of the panel. In the event the parties cannot agree as to a panel of mediators, the parties shall each designate an independent arbitrator and the two independent mediators designated by the parties shall then jointly choose a third mediator to complete the panel.
10. The parties agree to cooperate with the panel and be bound by its determination which determination shall not be appealed by either party.
11. If the panel determines a party is in breach, the breaching party will cure the breach within fourteen (14) days of the panel's determination and will provide the non-breaching party of Notice of the cure. If the breaching party does not cure the breach within fourteen (14) days, the non-breaching party may immediately terminate the Agreement by providing Notice to the breaching party.



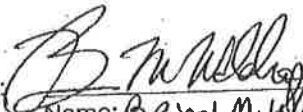
IN WITNESS WHEREOF the parties have caused this instrument to be executed as of the 19<sup>TH</sup> day of DECEMBER, 2002.

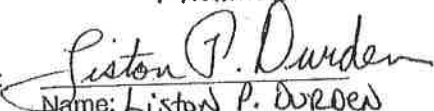
**SEARS CANADA INC.**

Per:   
Name: Rudolph Vezér  
Title: Secretary

Per:   
Name: Richard Brown  
Title: Senior Vice-President  
Strategic Initiative

**VIKING RANGE CORPORATION**

Per:   
Name: Brian M. Waldrop  
Title: CFO / Senior Vice President -  
FINANCE

Per:   
Name: Liston P. DARDEN  
Title: Senior Vice President -  
MARKETING

## SCHEDULE A

<u>Mark</u>	<u>Reg. No.</u>	<u>Registered</u>	<u>Country</u>
VIKING	TMDA 47453	September 10, 1929	Canada

### CURRENT LISTING OF GOODS

Electric and gas kitchen stoves; refrigerators, washing machines (electrical and otherwise), vacuum cleaners; electric home laundry equipment, namely, washers, dryers, electric food freezers; domestic automatic electric dishwashers – dryers and domestic electric and gas built-in ovens and surface cooking units; portable dishwashers, built-in dishwashers, convertible mobile dishwashers; outdoor, indoor and table-top barbecues; portable humidifiers and portable dehumidifiers.

## SCHEDULE B

### SCHEDULE OF VIKING RANGE TRADE-MARKS / SERVICE MARKS

COUNTRY	MARK	CLASS	GOODSERV	SERIAL NO	FILE DATE	REG NO	REG DATE
ARGENTINA	VIKING	11	ELECTRIC AND GAS OVENS, STOVES, COOKTOPS, COOKING EXHAUST HOODS, KITCHEN ACCESSORIES FOR COOKING; APPARATUS AND EQUIPMENT FOR R	2026865	3/25/96	1632934	5/19/97
ARGENTINA	VIKING	7	APPARATUS FOR CLEANING KITCHENS, INCLUDING DISHWASHERS, GARBAGE DISPOSALS AND TRASH COMPACTORS	2026864	3/25/96	1632935	5/19/97
AUSTRALIA	VIKING	11	GAS AND ELECTRIC OVENS, RANGES, COOKTOPS, COOKING EXHAUST HOODS, DISHWASHERS, GARBAGE DISPOSERS AND ACCESSORY APPLIANCES, REFFRI	679713	12/1/95	679713	12/7/98
AUSTRALIA	VIKING	7, 8, 9, 11, 21	CLASS (7) SMALL KITCHEN APPLIANCES, NAMELY ELECTRIC KNIVES, CAN OPENERS, PASTA MAKERS, FOOD PROCESSORS, BLENDERS, MIXERS, FOOD	793955	5/13/99	793955	1/8/99
AUSTRALIA	VIKING CULINARY ARTS CENTRE	35, 41	CLASS 35: RETAIL STORES OF COOKWARE, KITCHENWARE, SMALL KITCHEN APPLIANCES; DEMONSTRATION COOKING CLASSES, COOKING TECHNIQUES,	793957	5/13/99	793957	1/8/99
AUSTRIA	VIKING	37448	CLASS 7: KITCHEN CLEAN-UP APPLIANCES, NAMELY DISHWASHERS, COMPACTORS, AND FOOD WASTE DISPOSERS CLASS 11: ELECTRIC AND GAS OUTD	AM 390/2001	1/18/01	195795	5/31/01

Schedule "B" continued

COUNTRY	MARK	CLASS	GOODSERV	SERIAL NO	FILE DATE	REG NO	REG DATE
BANGLADESH	VIKING	37448	CLASS 7: KITCHEN CLEAN-UP APPLIANCES, NAMELY DISHWASHERS, COMPACTORS, AND FOOD WASTE DISPOSERS	N/A	4/27/02	N/A	
BENELUX	VIKING	37448	DISHWASHERS; GARBAGE DISPOSERS FOR KITCHEN USE; WASTE GRINDERS FOR KITCHEN USE, REFUSE COMPACTORS FOR KITCHEN USE; PARTS AND A	855419	9/12/95	580422	8/1/96
BRAZIL	VIKING	7	ELECTRIC COOKING DEVICES, GAS COOKING DEVICES, VENTILATION DEVICES, KITCHEN CLEANING DEVICES SUCH AS DISHWASHERS, GARBAGE DISPO	8.2E+08	6/13/97	N/A	
BRAZIL	VIKING	11	ELECTRIC COOKING DEVICES, GAS COOKING DEVICES, VENTILATION DEVICES, KITCHEN CLEANING DEVICES SUCH AS DISHWASHERS, GARBAGE DISPO	8.21E+08	6/13/97	N/A	
CHILE	VIKING	11	GAS AND ELECTRIC OVENS, STOVES, COOKTOPS, COOKING EXHAUST HOODS, COOKING APPARATUS, UTENSILS AND APPLIANCES; DISHWASHERS, GARBA	312864	7/10/95	464331	7/16/96
CHILE	VIKING	11	REFRIGERATORS APPLIANCES AND EQUIPMENT	336440	3/8/96	478547	1/30/97
CHILE	VIKING	7	CLEANING APPLIANCES SUCH AS DISHWASHERS AND COMPACTORS AND FOOD WASTE DISPOSERS	563150	3/20/02	639.587	8/20/02
CHINA	VIKING	37448	CLASS 7: KITCHEN CLEAN-UP APPLIANCES, NAMELY DISHWASHERS, COMPACTORS, AND FOOD WASTE DISPOSERS	3083323 3083322	1/29/02	N/A	

Schedule "B" Continued

COUNTRY	MARK	CLASS	GOODSERV	SERIAL NO	FILE DATE	REG NO	REG DATE
COLOMBIA	VIKING	37448	CLASS 7: KITCHEN CLEAN-UP APPLIANCES, NAMELY DISHWASHERS, COMPACTORS, AND FOOD WASTE DISPOSERS	N/A		N/A	
COSTA RICA	VIKING	11	CLASS 11: ELECTRIC AND GAS OUTDOOR COOKING GRILLS; ELECTRIC AND GAS RANGE EXHAUST HOODS; ELECTRIC AND GAS COOKING APPLIANCES, N	2000-000866 (IC 11)	11/10/00	4794-7978	10/4/01
COSTA RICA	VIKING	7	CLASS 11: ELECTRIC AND GAS OUTDOOR COOKING GRILLS; ELECTRIC AND GAS RANGE EXHAUST HOODS; ELECTRIC AND GAS COOKING APPLIANCES, N	2000-008667 (IC 7)	11/10/00	N/A	
CROATIA	VIKING	37448	CLASS 7: KITCHEN CLEAN-UP APPLIANCES, NAMELY DISHWASHERS, COMPACTORS, AND FOOD WASTE DISPOSERS CLASS 11: ELECTRIC AND GAS OUTD	Z2001013 6A	2/2/01	Z200101 36	10/22/01
CTM	VIKING	7, 8, 9, 11, 21	CLASS 7: SMALL KITCHEN APPLIANCES, NAMELY ELECTRIC KNIVES, CAN OPENERS, PASTA MAKERS, FOOD PROCESSORS, BLENDERS, MIXERS, FOOD G	1122266	3/30/99	1122266	8/30/99
CTM	VIKING CULINARY ARTS CENTER	35, 41	CLASS 35: RETAIL STORES OF COOKWARE, KITCHENWARE, SMALL KITCHEN APPLIANCES; PROVISION OF INFORMATION, ADVICE AND OF ASSISTANCE	1150689	4/23/99	N/A	

Schedule "B" Continued

COUNTRY	MARK	CLASS	GOODSERV	SERIAL NO	FILE DATE	REG NO	REG DATE
CTM (OHIM)	VIKING	11	ELECTRIC AND GAS OUTDOOR GRILLS	560797	6/18/97	N/A	
CYPRUS	VIKING	37448	CLASS 7: KITCHEN CLEAN-UP APPLIANCES, NAMELY DISHWASHERS, COMPACTORS, AND FOOD WASTE DISPOSERS	N/A		N/A	
CZECH REPUBLIC	VIKING	37448	CLASS 7: KITCHEN CLEAN-UP APPLIANCES, NAMELY DISHWASHERS, COMPACTORS, AND FOOD WASTE DISPOSERS CLASS 11: ELECTRIC AND GAS OUTD	163916	2/2/01	N/A	
DENMARK	VIKING	37448	CLASS 7: KITCHEN CLEAN-UP APPLIANCES, NAMELY DISHWASHERS, COMPACTORS, AND FOOD WASTE DISPOSERS CLASS 11: ELECTRIC AND GAS OUTD	VA- 2001 00068	1/9/01	VR 2001 01791	4/24/01
DOMINICAN REPUBLIC	VIKING	LOCAL CLASS 20	GAS AND ELECTRIC STOVES, OVENS, DISHWASHERS, GARBAGE DISPOSALS, TRASH COMPACTING MACHINES, REFRIGERATING APPLIANCES AND ITS ACC	94.151	8/2/97	94.151	12/15/97
DOMINICAN REPUBLIC	VIKING	LOCAL CLASS 34	EXHAUST AND VENTILATOR APPARATUS	101479	7/23/98	101479	10/15/98
DOMINICAN REPUBLIC	VIKING	LOCAL CLASS 38	GAS OVENS AND RANGES	95.232	10/30/97	95.232	2/15/98
ECUADOR	VIKING	37448	CLASS 7: KITCHEN CLEAN-UP APPLIANCES, NAMELY DISHWASHERS, COMPACTORS, AND FOOD WASTE DISPOSERS	N/A		N/A	

Schedule "B" Continued

COUNTRY	MARK	CLASS	GOODSERV	SERIAL NO	FILE DATE	REG NO	REG DATE
EGYPT	VIKING	37448	CLASS 7: KITCHEN CLEAN-UP APPLIANCES, NAMELY DISHWASHERS, COMPACTORS, AND FOOD WASTE DISPOSERS	149627 149628	3/16/02	N/A	
EL SALVADOR	VIKING	37448	CLASS 7: KITCHEN CLEAN-UP APPLIANCES, NAMELY DISHWASHERS, COMPACTORS, AND FOOD WASTE DISPOSERS	E-22207-2002 E-22208-2002	2/12/02	N/A	
ESTONIA	VIKING	37448	CLASS 7: KITCHEN CLEAN-UP APPLIANCES, NAMELY DISHWASHERS, COMPACTORS, AND FOOD WASTE DISPOSERS CLASS 11: ELECTRIC AND GAS OUTD	EE M 200100223	2/1/01	N/A	
FINLAND	VIKING	37448	CLASS 7: KITCHEN CLEAN-UP APPLIANCES, NAMELY DISHWASHERS, COMPACTORS, AND FOOD WASTE DISPOSERS CLASS 11: ELECTRIC AND GAS OUTD	T200100238	1/19/01	N/A	
FRANCE	VIKING	44388	ELECTRICAL DEVICES AND APPLIANCES FOR COOKING, CLEANING AND DESTROYING FOOD ALL SUCH CLEANING DEVICES AND APPLIANCES FOR USE IN	95/588174	9/15/95	95588174	11/22/96
GERMANY	VIKING	11	ELECTRIC AND GAS OVENS, STOVES, COOKTOPS; COOKING EXHAUST HOODS, EQUIPMENT FOR REFRIGERATION	39537378	9/12/95	395 37 377	6/7/96
GERMANY	VIKING	11	GARBAGE OR TRASH CANS, WASH BASINS, FAUCETS, TOILETS, I.E. ALL APPLIANCES BEING USED IN THE KITCHEN AND IN THE BATHROOM AND BEI	39537378	9/12/95	395 37 377	6/7/96
GERMANY	VIKING	7, 8, 91, 11, 21		302 00 913.2/11.	1/2/02	302 00 913	2/5/02



Schedule "B" Continued

COUNTRY	MARK	CLASS	GOODSERV	SERIAL NO	FILE DATE	REG NO	REG DATE
GREECE	VIKING	37448	CLASS 7: KITCHEN CLEAN-UP APPLIANCES, NAMELY DISHWASHERS, COMPACTORS, AND FOOD WASTE DISPOSERS CLASS 11: ELECTRIC AND GAS OUTD	146270	2/4/01	10446101	2/4/01
GUATEMALA	VIKING	7	CLASS 7: KITCHEN CLEAN-UP APPLIANCES, NAMELY DISHWASHERS, COMPACTORS, AND FOOD WASTE DISPOSERS	20001-1506	3/7/01	N/A	
GUATEMALA	VIKING	11	CLASS 11: ELECTRIC AND GAS OUTDOOR COOKING GRILLS; ELECTRIC AND GAS RANGE EXHAUST HOODS; ELECTRIC AND GAS COOKING APPLIANCES, N	20001-1507	3/7/01	111887	7/26/01
HONDURAS	VIKING	11	SMALL ELECTRICAL KITCHEN APPLIANCES, NAMELY WAFFLE IRONS, TOASTERS, ELECTRIC WOKS, STEAMERS, BREAD-MAKING MACHINES, AND ELECTRI	4.939/2000	3/23/00	N/A	
HONDURAS	VIKING	21	HOUSEHOLD UTENSILS AND ACCESSORIES FOR COOKING, CLEANING AND PREPARING FOOD, NAMELY POTS AND PANS, GRILLS, SPOONS FOR MIXING, S	4.937/2000	3/23/00	N/A	
HONDURAS	VIKING	8	TABLEWARE, NAMELY STERLING SILVER KNIVES, FORKS, AND SPOONS; CULINARY HAND TOOLS AND INSTRUMENTS, NAMELY KNIVES AND OTHER FOOD	4.936/2000	3/23/00	N/A	

Schedule "B" Continued

COUNTRY	MARK	CLASS	GOODSERV	SERIAL NO	FILE DATE	REG NO	REG DATE
HONDURAS	VIKING	7	SMALL KITCHEN APPLIANCES, NAMELY ELECTRIC KNIVES, CAN OPENERS, PASTA MAKERS, FOOD PROCESSORS, BLENDERS, MIXERS, FOOD GRINDERS,	4.934/2000	3/23/00	N/A	
HONDURAS	VIKING	9	MEASURING INSTRUMENTS FOR USE IN THE KITCHEN, NAMELY MEASURING SPOONS AND MEASURING CUPS; EGG TIMERS; CANDY AND MEAT THERMOMETE	4.938/2000	3/23/00	N/A	
HONG KONG	VIKING	37448	CLASS 7: KITCHEN CLEAN-UP APPLIANCES, NAMELY DISHWASHERS, COMPACTORS, AND FOOD WASTE DISPOSERS	07206/2002 07205/2002	5/18/02	N/A	
HUNGARY	VIKING	37448	CLASS 7: KITCHEN CLEAN-UP APPLIANCES, NAMELY DISHWASHERS, COMPACTORS, AND FOOD WASTE DISPOSERS CLASS 11: ELECTRIC AND GAS OUTD	M 01 00648	2/1/01	N/A	
ICELAND	VIKING	37448	CLASS 7: KITCHEN CLEAN-UP APPLIANCES, NAMELY DISHWASHERS, COMPACTORS; AND FOOD WASTE DISPOSERS CLASS 11: ELECTRIC AND GAS OUTD	400/2001	2/2/01	506/2001	5/3/01
INDIA	VIKING	37448	CLASS 7: KITCHEN CLEAN-UP APPLIANCES, NAMELY DISHWASHERS, COMPACTORS, AND FOOD WASTE DISPOSERS	N/A		N/A	
INDONESIA	VIKING	37448	CLASS 7: KITCHEN CLEAN-UP APPLIANCES, NAMELY DISHWASHERS, COMPACTORS, AND FOOD WASTE DISPOSERS	N/A		N/A	

Schedule "B" Continued

COUNTRY	MARK	CLASS	GOODSERV	SERIAL NO	FILE DATE	REG NO	REG DATE
IRELAND	VIKING	11	REFRIGERATION APPLIANCES AND EQUIPMENT AND PARTS AND FITTINGS FOR SUCH APPLIANCES AND EQUIPMENT	1404/96	2/23/96	174277	2/23/96
IRELAND	VIKING	11	GAS AND ELECTRIC OVENS, RANGES, COOKTOPS, COOKING EXHAUST HOODS; AND COOKING APPARATUS, UTENSILS AND APPLIANCES	7946/94	12/30/94	173196	12/30/94
IRELAND	VIKING	7	DOMESTIC CLEANING APPLIANCES INCLUDED IN CLASS 7; DISHWASHERS; COMPACTORS AND APPLIANCES FOR USE IN WASTE AND FOOD DISPOSAL, AL	174457	8/18/95	174457	8/18/95
ISRAEL	VIKING	37448	CLASS 7: KITCHEN CLEAN-UP APPLIANCES, NAMELY DISHWASHERS, COMPACTORS, AND FOOD WASTE DISPOSERS CLASS 11: ELECTRIC AND GAS OUTD	146307 146309	2/1/01	N/A	
ITALY	VIKING	37448	APPARATUS FOR CLEANING THE KITCHEN INCLUDING DISHWASHERS, GARBAGE DISPOSERS, AND TRASH COMPACTORS; GAS AND ELECTRIC OVENS, STOV	RM96C 001474	3/27/96	756276	8/26/98
JAPAN	VIKING	19	ALL GOODS IN OLD CLASS 19 FOR KITCHEN UTENSILS AND DAILY USE ARTICLES	4-41920	3/31/92	2649899	4/28/94
JORDAN	VIKING	37448	CLASS 7: KITCHEN CLEAN-UP APPLIANCES, NAMELY DISHWASHERS, COMPACTORS, AND FOOD WASTE DISPOSERS	66039 66040	3/10/02	N/A	

Schedule "B" Continued

COUNTRY	MARK	CLASS	GOODSERV	SERIAL NO	FILE DATE	REG NO	REG DATE
LATVIA	VIKING	37448	CLASS 7: KITCHEN CLEAN-UP APPLIANCES, NAMELY DISHWASHERS, COMPACTORS, AND FOOD WASTE DISPOSERS CLASS 11: ELECTRIC AND GAS OUTD	LV M-01/155	2/1/01	LV M 49311	4/20/02
LEBANON	VIKING	37448	CLASS 7: SMALL KITCHEN APPLIANCES, NAMELY ELECTRIC KNIVES, CAN OPENERS, PASTA MAKERS, FOOD PROCESSORS, BLENDERS, MIXERS, FOOD G	82921	3/21/00	82921	3/21/00
LITHUANIA	VIKING	37448	CLASS 7: KITCHEN CLEAN-UP APPLIANCES, NAMELY DISHWASHERS, COMPACTORS, AND FOOD WASTE DISPOSERS CLASS 11: ELECTRIC AND GAS OUTD	LT 20010252	2/13/01	N/A	
MALAYSIA	VIKING	11	GAS AND ELECTRIC OVENS, RANGES, COOKTOPS, COOKING EXHAUST HOODS, DISHWASHERS, GARBAGE DISPOSERS AND ACCESSORY APPLIANCES FOR KI	95/11265	10/20/95	N/A	
MALAYSIA	VIKING	11	REFRIGERATION APPLIANCES AND EQUIPMENT FOR KITCHEN USE	96/03520	4/5/96	N/A	
MEXICO	VIKING	11	GAS AND ELECTRIC OVENS, RANGES, COOKTOPS, COOKING EXHAUST HOODS, AND COOKING APPARATUS, UTENSILS AND APPLIANCES INCLUDED IN CLA	202333	6/16/94	500068	8/1/95
NEW ZEALAND	VIKING	11	GAS AND ELECTRIC OVENS, RANGES, COOKTOPS, EXHAUST HOODS; DISHWASHERS, GARBAGE DISPOSERS, AND ACCESSORY APPLIANCES RELATING TO C	253456	9/12/95	253456	9/12/95

Schedule "B" Continued

COUNTRY	MARK	CLASS	GOODSERV	SERIAL NO	FILE DATE	REG NO	REG DATE
NEW ZEALAND	VIKING	7	CLASS 7: SMALL KITCHEN APPLIANCES, NAMELY ELECTRIC KNIVES, CAN OPENERS, PASTA MAKERS, FOOD PROCESSORS, BLENDERS, MIXERS, FOOD G	305855-CL. 7	2/26/99	N/A	
NEW ZEALAND	VIKING	7, 8, 9, 11, 21	CLASS 8: TABLEWARE, NAMELY STERLING SILVER KNIVES, FORKS, AND SPOONS; CULINARY HAND TOOLS AND INSTRUMENTS, NAMELY KNIVES AND OT	305856-CL. 8 305857-CL. 9 305858- CL.11 305859- CL.21	2/26/99	305856-CL. 8 305857-CL. 9 305858- CL.11 305859- CL.21	2/26/06
NEW ZEALAND	VIKING	6	REFRIGERATORS, WASHING MACHINES, PETROL PUMPS AND MOTORS	38899			7/25/41
NEW ZEALAND	VIKING CULINARY ARTS CENTER	35, 41	CLASS 35: RETAIL STORES OF COOKWARE, KITCHENWARE, SMALL KITCHEN APPLIANCES; CLASS 41: TRAINING AND DEMONSTRATION IN THE USE OF	305860- CL.35 305861- CL.42	2/26/99	305860- CL.35 305861- CL.42	2/26/00
NICARAGUA	VIKING	37448	CLASS 7: KITCHEN CLEAN-UP APPLIANCES, NAMELY DISHWASHERS, COMPACTORS, AND FOOD WASTE DISPOSERS	2002/000499	3/5/02	N/A	
NORWAY	VIKING	37448	CLASS 7: KITCHEN CLEAN-UP APPLIANCES, NAMELY DISHWASHERS, COMPACTORS, AND FOOD WASTE DISPOSERS CLASS 11: ELECTRIC AND GAS OUTD	2001 01169	1/24/01	N/A	
PANAMA	VIKING	37448	CLASS 7: KITCHEN CLEAN-UP APPLIANCES, NAMELY DISHWASHERS, COMPACTORS, AND FOOD WASTE DISPOSERS	120339-01 120340-01	4/2/02	N/A	

Schedule "B" Continued

COUNTRY	MARK	CLASS	GOODSERV	SERIAL NO	FILE DATE	REG NO	REG DATE
PERU	VIKING	37448	CLASS 7: KITCHEN CLEAN-UP APPLIANCES, NAMELY DISHWASHERS, COMPACTORS, AND FOOD WASTE DISPOSERS	N/A		N/A	
PHILIPPINES	VIKING	11	DISHWASHERS, GARBAGE DISPOSERS, OVENS, COOKTOPS, RANGES, THEIR PARTS AND ACCESSORIES NOT INCLUDED IN OTHER CLASSES, COOKING EXH	118355	2/27/97	N/A	
PHILIPPINES	VIKING	7	DISHWASHERS, GARBAGE DISPOSERS, OVENS, COOKTOPS, RANGES, THEIR PARTS AND ACCESSORIES NOT INCLUDED IN OTHER CLASSES, COOKING EXH	118354	2/27/97	N/A	
POLAND	VIKING	37448	DISHWASHERS, GARBAGE DISPOSERS, TRASH GRINDERS, REFRIGERATION APPLIANCES THEREFOR, GAS AND ELECTRIC OVENS, RANGES, EXHAUST AND	Z175931	7/18/97	N/A	
PORTUGAL	VIKING	37448	GAS AND ELECTRIC OVENS, STOVES, COOKTOPS, COOKING EXHAUST HOODS, PARTS AND ACCESSORIES NOT INCLUDED IN OTHER CLASSES, REFRIGERA	316360	3/2/96	316360	5/6/98
RUSSIAN FEDERATION	VIKING	37448	DISHWASHERS, GARBAGE DISPOSALS, TRASH GRINDERS, REFRIGERATION APPLIANCES THEREFOR, GAS AND ELECTRIC OVENS, RANGES, EXHAUST AND	97710850	7/23/97	188904	7/23/97

Schedule "B" Continued

COUNTRY	MARK	CLASS	GOODSERV	SERIAL NO	FILE DATE	REG NO	REG DATE
SAUDI ARABIA	VIKING	11	GAS AND ELECTRIC OVENS, RANGES COOKTOPS, COOKING EXHAUST HOODS, REFRIGERATION EQUIPMENT SUCH AS REFRIGERATORS, FREEZERS AND ACC	28882	3/26/95	365/67	12/6/04
SAUDI ARABIA	VIKING	7	GAS AND ELECTRIC OVENS, RANGES COOKTOPS, COOKING EXHAUST HOODS, REFRIGERATION EQUIPMENT SUCH AS REFRIGERATORS, FREEZERS AND ACC	30564	8/21/95	382/17	5/2/96
SAUDI ARABIA	VIKING	7	REFRIGERATION EQUIPMENT SUCH AS REFRIGERATORS & FREEZERS, AND ACCESSORY APPLIANCES	305/64	8/21/95	382/17	8/21/95
SINGAPORE	VIKING	11	GAS AND ELECTRIC OVENS, RANGES, COOKTOPS, COOKER HOODS; PARTS AND FITTINGS FOR THE AFORESAID GOODS; ALL FOR KITCHEN USE AND/OR	8816/95	9/15/95	T 95/08816I	9/15/95
SINGAPORE	VIKING	11	GAS AND ELECTRIC OVENS, RANGES, COOKTOPS, COOKING EXHAUST HOODS, DISHWASHERS, GARBAGE DISPOSERS, AND ACCESSORY APPLIANCES	2056.96	3/2/96	T 96/02056H	3/5/96
SLOVAK REPUBLIC	VIKING	37448	CLASS 7: KITCHEN CLEAN-UP APPLIANCES, NAMELY DISHWASHERS, COMPACTORS, AND FOOD WASTE DISPOSERS CLASS 11: ELECTRIC AND GAS OUTD	0252-2001	2/2/01	N/A	
SLOVENIA	VIKING	37448	CLASS 7: KITCHEN CLEAN-UP APPLIANCES, NAMELY DISHWASHERS, COMPACTORS, AND FOOD WASTE DISPOSERS CLASS 11: ELECTRIC AND GAS OUTD	Z-2001 70167	2/1/01	2001 70167	2/1/01

Schedule "B" Continued

COUNTRY	MARK	CLASS	GOODSERV	SERIAL NO	FILE DATE	REG NO	REG DATE
SOUTH AFRICA	VIKING	7	CLASS 7: KITCHEN CLEAN-UP APPLIANCES, NAMELY DISHWASHERS, COMPACTORS, AND FOOD WASTE DISPOSERS	2001/1786	2/2/01	N/A	
SOUTH AFRICA	VIKING	37448	CLASS 11: ELECTRIC AND GAS OUTDOOR COOKING GRILLS; ELECTRIC AND GAS RANGE EXHAUST HOODS; ELECTRIC AND GAS COOKING APPLIANCES, N	2001/1787	2/2/01	N/A	
SOUTH KOREA	VIKING	37448	CLASS 7: KITCHEN CLEAN-UP APPLIANCES, NAMELY DISHWASHERS, COMPACTORS, AND FOOD WASTE DISPOSERS	40-2002-3866	1/24/02	N/A	
SPAIN	VIKING	7	ELECTRIC KITCHEN CLEAN-UP APPLIANCES, INCLUDING DISHWASHERS, GARBAGE DISPOSERS AND TRASH COMPACTORS	2.023.264	4/12/96	N/A	
SPAIN	VIKING	11	GAS AND ELECTRIC OVENS, RANGES AND COOKTOPS, COOKING EXHAUST HOODS, COMPONENTS OF THE AFORESAID GOODS NOT INCLUDED IN OTHER CLA	2430142	10/11/01	N/A	
SPAIN	VIKING	7	ELECTRIC KITCHEN CLEAN-UP APPLIANCES, INCLUDING DISHWASHERS, GARBAGE DISPOSERS AND TRASH COMPACTORS	2430141	10/11/01	N/A	
SPAIN	VIKING	11	GAS AND ELECTRIC OVENS, RANGES AND COOKTOPS, COOKING EXHAUST HOODS, COMPONENTS OF THE AFORESAID GOODS NOT INCLUDED IN OTHER CLA	2.023.265	4/12/96	N/A	



Schedule "B" Continued

COUNTRY	MARK	CLASS	GOODSERV	SERIAL NO	FILE DATE	REG NO	REG DATE
SWEDEN	VIKING	7, 8, 9, 11, 21	ELECTRICAL DEVICES AND APPLIANCES FOR COOKING, CLEANING AND DESTROYING FOOD, ALL SUCH CLEANING DEVICES AND APPLIANCES FOR USE 1	99-3889	5/20/99	N/A	
SWITZER-LAND	VIKING	37448	CLASS 7: KITCHEN CLEAN-UP APPLIANCES, NAMELY DISHWASHERS, COMPACTORS, AND FOOD WASTE DISPOSERS CLASS 11: ELECTRIC AND GAS OUTD	00571/2001	1/19/01	486860	1/19/01
TAIWAN	VIKING	37448	CLASS 7: KITCHEN CLEAN-UP APPLIANCES, NAMELY DISHWASHERS, COMPACTORS, AND FOOD WASTE DISPOSERS	N/A		N/A	
THAILAND	VIKING	37448	CLASS 7: KITCHEN CLEAN-UP APPLIANCES, NAMELY DISHWASHERS, COMPACTORS, AND FOOD WASTE DISPOSERS	485754 485753	4/23/02	N/A	
TURKEY	VIKING	37448	CLASS 7: KITCHEN CLEAN-UP APPLIANCES, NAMELY DISHWASHERS, COMPACTORS, AND FOOD WASTE DISPOSERS	N/A		N/A	
U.K.	VIKING	11	CLASS 11: ELECTRIC AND GAS OUTDOOR COOKING GRILLS; ELECTRIC AND GAS RANGE EXHAUST HOODS; ELECTRIC AND GAS COOKING APPLIANCES, N	1530694	3/24/93	1530694	6/10/94
U.K.	VIKING	37448	KITCHEN CLEANING MACHINES; DISHWASHERS, GARBAGE DISPOSERS, TRASH COMPACTORS; PARTS AND FITTINGS; REFRIGERATING; HEATING AND COO	2058646	3/1/96	2058646	3/1/96

Schedule "B" Continued

COUNTRY	MARK	CLASS	GOODSERV	SERIAL NO	FILE DATE	REG NO	REG DATE
U.S.	VIKING	11	GAS AND ELECTRIC RANGE EXHAUST HOODS	790543	4/3/89	1565774	11/14/89
U.S.	VIKING	7, 9 and 11	CLASS 7: SMALL KITCHEN APPLIANCES, NAMELY ELECTRIC KNIVES, ELECTRIC CAN OPENERS, ELECTRIC PASTA MAKERS, ELECTRIC FOOD PROCESSOR	75/617,573	1/8/99	N/A	
U.S.	VIKING	11	GAS COOKING APPLIANCES; NAMELY RANGES, OVENS AND COOKTOPS	73/835,009	10/30/89	1598452	5/29/90
U.S.	VIKING	11	ELECTRIC AND GAS OUTDOOR COOKING GRILLS	75/214,926	12/18/96	2196439	10/13/98
U.S.	VIKING	7	KITCHEN CLEAN-UP APPLIANCES	74/801,390	6/4/92	1805114	11/16/93
U.S.	VIKING	11	ELECTRIC AND GAS OUTDOOR COOKING GRILLS	75/214,926	12/18/96	2196439	10/13/98
U.S.	VIKING	11	GAS RANGES	73/614351	8/12/86	1437211	4/21/87
U.S.	VIKING	37489	CLASS 8: TABLEWARE, NAMELY STERLING SILVER KNIVES, FORKS, AND SPOONS; CULINARY HAND TOOLS AND INSTRUMENTS, NAMELY KNIVES, HAND	75/981,142	1/8/99	N/A	
U.S.	VIKING	11	REFRIGERATORS	75/139,648	7/25/96	2196291	10/13/98
U.S.	VIKING	7	KITCHEN CLEAN-UP APPLIANCES; NAMELY COMPACTORS AND FOOD WASTE DISPOSERS	74/524,731	5/16/94	1885831	3/28/95
U.S.	VIKING	N/A	N/A	74/281,329	6/4/92	N/A	
U.S.	VIKING	11	ELECTRIC COOKING APPLIANCES; NAMELY, RANGES, OVENS AND COOKTOPS	74/281,330	6/4/92	1798615	10/12/93

Schedule "B" Continued

COUNTRY	MARK	CLASS	GOODSERV	SERIAL NO	FILE DATE	REG NO	REG DATE
U.S.	VIKING	11	REFRIGERATORS	75/139,648	7/25/96	2196291	10/13/98
U.S.	VIKING CULINARY ARTS CENTER	35, 41	CLASS 35: RETAIL STORES SERVICES IN THE FIELDS OF COOKWARE, KITCHENWARE, AND SMALL KITCHEN APPLIANCES; CLASS 41: TRAINING AND D	75/617,574	1/8/99	2373938	8/1/00
UKRAINE	VIKING	37448	CLASS 7: KITCHEN CLEAN-UP APPLIANCES, NAMELY DISHWASHERS, COMPACTORS, AND FOOD WASTE DISPOSERS	UA 2002 020 772	2/6/02	N/A	
UNITED ARAB EMIRATES	VIKING	37448	CLASS 7: KITCHEN CLEAN-UP APPLIANCES, NAMELY DISHWASHERS, COMPACTORS, AND FOOD WASTE DISPOSERS	46475 (Class 7) 46476 (Class 11)	3/4/02	N/A	
VENEZUELA	VIKING	11	OVENS, COOKTOPS, RANGES, PARTS AND ACCESSORIES NOT INCLUDED IN OTHER CLASSES, COOKING EXHAUST HOODS	94-017267	12/27/94	P204817	5/8/98
VENEZUELA	VIKING	7	DISHWASHERS AND GARBAGE DISPOSALS	95-000432	1/17/96	P204822	5/8/98
VIETNAM	VIKING	37448	CLASS 7: KITCHEN CLEAN-UP APPLIANCES, NAMELY DISHWASHERS, COMPACTORS, AND FOOD WASTE DISPOSERS	4-2002- 02296	4/26/02	N/A	

## **SCHEDULE C**

### **PRODUCTS**

Electric and gas outdoor cooking grills; electric and gas range exhaust hoods; electric and gas cooking appliances, namely ranges, ovens and cooktops; refrigerators; dishwashers and cleaning appliances; compactors and food waste disposers

## **SCHEDULE D**

### **SUBSIDIARY PRODUCTS**

Small kitchen appliances, namely electric can openers, coffee makers and toaster ovens, electric pastamakers, electric food processors, blenders, electric mixers, electric food grinders, and electric slicers. Tableware, namely knives, forks, and spoons; culinary hand tools and instruments, namely knives.

Small electrical kitchen appliances, namely toasters, woks, and steamers.

Household utensils and accessories for cooking, cleaning and preparing food, namely pots and pans, grills, and chopping blocks.

## SCHEDULE E

### VIKING RANGE REPRESENTATIVES IN CANADA

#### \*Western Canada

(includes Alberta, British Columbia, Manitoba, Northwest Territories, Nunavut, Saskatchewan, Yukon and three counties in Ontario - Kenora, Rainy River and Thunder Bay)

Northern Pacific Appliance Distributing  
7595 Lowland Drive  
Burnaby, British Columbia  
V5J 5L1  
Canada

Phone: 604-291-6577  
Fax: 604-291-9572

email: [mkipp@northernpacificdist.com](mailto:mkipp@northernpacificdist.com)

\*Eastern Canada - same company with different names for Quebec/Eastern Canada and Ontario  
(remainder of Canada not covered by Northern Pacific)

Montreal Office      Amiel, Ltd. (Les Distributions Amiel Ltee)  
1645, Autoroute Laval (440 Ouest)  
Chomedey, Laval, Quebec  
H7L 3W3  
Canada

Phone: 450-687-6311  
Fax: 450-682-7943

email: [amiel.commandes@sympatico.com](mailto:amiel.commandes@sympatico.com)

Toronto Office      Distinctive Appliances Inc.  
6358 Viscount Road  
Mississauga, Ontario  
L4V 1H3  
Canada

Phone: 905-565-0800  
Fax: 905-565-0777

email: [m1benoit@hotmail.com](mailto:m1benoit@hotmail.com)

**SCHEDULE F**  
**SCHEDULE OF VIKING RANGE LOGOS AND FONTS**

*See Attached*

SCHEDULE F

LIST OF VIKING RANGE LOGOS AND FONTS





## SCHEDULE G

### SEARS OUTLETS IN CANADA PERMITTED TO DISPLAY, MARKET AND SELL PRODUCTS AND SUBSIDIARY PRODUCTS

#### "SELECT" STORES

	<u>UNIT</u>	<u>NAME</u>	<u>CLUSTER</u>
1.	ST1011	OTTAWA-CARLINGWOOD	SELECT
2.	ST1014	ST. CATHARINES	SELECT
3.	ST1015	OTTAWA-ST. LAURENT	SELECT
4.	ST1017	WINDSOR	SELECT
5.	ST1018	PLACE LAURIER	SELECT
6.	ST1081	MISSISSAUGA	SELECT
7.	ST1087	ANJOU	SELECT
8.	ST1088	TORONTO-NEWMARKET	SELECT
9.	ST1093	HAMILTON-LIMERIDGE	SELECT
10.	ST1094	LAVAL	SELECT
11.	ST1110	TEC (ex Eatons)	SELECT
12.	ST1111	YORKDALE (ex-Eatons)	SELECT
13.	ST1112	POLO PARK (ex-Eatons)	SELECT
14.	ST1113	RIDEAU CENTRE (ex-Eatons)	SELECT
15.	ST1114	CALGARY Downtown (ex Eatons)	SELECT
16.	ST1115	PACIFIC CENTRE (ex-Eatons)	SELECT
17.	ST1305	POINTE CLAIRE	SELECT
18.	ST1308	SCARBOROUGH	SELECT
19.	ST1322	FAIRVIEW	SELECT
20.	ST1323	ERIN MILLS	SELECT
21.	ST1329	SHERWAY	SELECT
22.	ST1410	EDMONTON - KINGSWAY	SELECT
23.	ST1425	SOUTHCENTRE	SELECT
24.	ST1429	SOUTHGATE	SELECT
25.	ST1818	VICTORIA	SELECT

Schedule G (Continued)

**SEARS FURNITURE & APPLIANCES STORE LISTING**

<b>ONTARIO</b>						
<b>STORE #</b>	<b>STORE</b>	<b>PHONE</b>	<b>FAX #</b>	<b>TOLL FREE #</b>	<b>STORE ADDRESS</b>	<b>PC</b>
1338	Burlington	(905) 631-9655	(905) 631-0527	1-800-350-5440	1035 Plains Rd. East	L7T 4K1
1343	Barrie	(705) 727-9287	(705) 733-8007	1-877-727-9287	42 Caplan Ave., Unit A	L4M 4S7
1353	London	(519) 649-2796	(519) 649-5414		784 Wharncliffe Rd.	N6J 2N4
1336	Ancaster	(905) 304-1440	(905) 304-0181	1-800-358-5537	45 Legend Court	L9K 1J3
1364	Kingston	(613) 634-9203	(613) 634-2659		646 Gardiner's Road, Unit #1	K7M 3X9
1361	Ottawa (Pinecrest)	(613) 820-5551 Before 10:00 a.m. call (613) 820-5108	(613) 820-2994		2685 Iris Street	K2C 3S4
1367	Kitchener	(519) 650-3993	(519) 650-1361	1-800-379-4479	130 Gateway Park Drive	N2P 2J4
1369	Belleville	(613) 961-1233	(613) 961-1235		110 Bell Blvd.	K8P 3E1
1395	Windsor	(519) 967-0121	(519) 250-9787		3051 Legacy Park Drive	N8W 5S6
1365	Ottawa (East)	(613)741-8383	(613)741-6865		1491 Innes Road	K1B 1C5

<b>TORONTO</b>						
<b>STORE #</b>	<b>STORE</b>	<b>PHONE</b>	<b>FAX #</b>	<b>TOLL FREE #</b>	<b>STORE ADDRESS</b>	<b>PC</b>
1393	Whitby	(905) 579-4048	(905) 728-6799	1-800-336-8073	1629 Victoria St. East	L1N 9W4
1335	Brampton	(905) 455-1255	(905) 455-6584		535 Steeles Ave. E.	L6W 4S2
1342	Woodbridge	(905) 850-6406	(905) 850-3390		2 Chrislea Rd.	L4L 8V1
1345	Newmarket	(905) 830-0049	(905) 953-9643		17700 Yonge St., Unit # 1	L3Y 8A8
1340	Markham	(905) 881-6600	(905) 881-9166		2900 Steeles Ave E.	L3T 4X1
1358	Allen Road	(416) 398-9947	(416) 398-6331		1100 Sheppard Ave. W.	M3K 2B3
1354	Scarborough	(416) 332-8577	(416) 332-9708		27 William Kitchen Rd.	M1P 5B7
1366	Mississauga	(905) 820-6801	(905) 607-9781		3050 Vega Blvd., Unit #8	L5L 5X8
1341	Richmond Hill	(905) 762-0870	(905) 762-0884		45 Red Maple Street	L4B 4M6
1362	Sherway/ Etobicoke	(416) 695-3888	(416) 626-8242	(647) 227-1362 (cell)	30 Boncer Drive	M9C 5L4

Schedule G (Continued)

**SEARS FURNITURE & APPLIANCES STORE LISTING**

<b>QUEBEC</b>						
<b>STORE #</b>	<b>STORE</b>	<b>PHONE</b>	<b>FAX #</b>	<b>TOLL FREE #</b>	<b>STORE ADDRESS</b>	<b>PC</b>
1349	Pointe Claire	(514) 694-3984	(514) 428-4121		2325-2365 Route Transcanadienne	H9R 5Z5
1348	Laval	(450) 682-0495	(450) 682-1156		4000 Autoroute 440 Ouest	H7T 2H6
1347	Anjou	(514) 254-4213	(514) 254-7540		6875-75 Jean-Talon Street E.	H1S 1N2
1352	Quebec City	(418) 260-9084	(418) 260-9097		1700 Rue Bouvier	G2K 1N8
1346	St Bruno	(450) 653-4064	(450) 441-6177		1155 des Promenade	J3V 5V8
1351	Brossard	(450) 678-9066	(450) 678-4527		8505 Taschereau Blvd.	J4Y 1A4
1360	Sherbrooke	(819) 564-3010	(819) 564-4426		3350 Portland Blvd.	J1L 2A6
1359	Trois Rivieres	(819) 379-0992	(819)-379-1353		2950 Boulevard des Recollets	G9A 6J2
1356	La Salle	(514) 365-5070	(514) 365-7598		7101 Boulevard Newman	H8N 1X1
1350	LaChenale	(450)654-9966	(450)654-6451		830 Montee Des Pionniers	J6V 1N9

<b>BRITISH COLUMBIA</b>						
<b>STORE #</b>	<b>STORE</b>	<b>PHONE</b>	<b>FAX #</b>	<b>TOLL FREE #</b>	<b>STORE ADDRESS</b>	<b>PC</b>
1355	Langley	(604) 533-0788	(604) 533-2368		20015 Langley Bypass # 130	V3A 8R6
1344	Richmond	(604) 279-5532	(604) 279-1519		2633 Sweden Way, Unit # 110	V6V 2Z6
1376	Kelowna	(250) 763-7179	(250) 763-4247		2271 Harvey Avenue, Unit 1405	V1Y 6H2
1375	Victoria	(250) 380-7100	(250) 380-7180		Island Home Centre - 800 Tolmie Ave.	V8X 3W4
1372	Abbotsford	(604) 852-9222	(604) 852-9202		1425 Sumas Way	V2S 8M9

<b>ALBERTA</b>						
<b>STORE #</b>	<b>STORE</b>	<b>PHONE</b>	<b>FAX #</b>	<b>TOLL FREE #</b>	<b>STORE ADDRESS</b>	<b>PC</b>
1357	Calgary South	(403) 212-8910	(403) 212-1220		70 Glendeer Circle S.E.	T2H 2Z7
1370	Calgary North	(403) 220-9109	(403) 220-1729		3630 Brentwood Road N.W., Suite 500	T2L 1K8
1373	Calgary Sunridge	(403)219-0320	(403)-219-0391		3350 Sunridge Way N.E.	T1Y 7K9

<b>MANITOBA</b>						
<b>STORE #</b>	<b>STORE</b>	<b>PHONE</b>	<b>FAX #</b>	<b>TOLL FREE #</b>	<b>STORE ADDRESS</b>	<b>PC</b>
1398	Winnipeg	(204) 779-1999	(204) 779-2180		1450 Ellice Avenue	R3G 0G4

**SEARS FURNITURE & APPLIANCES STORE LISTING**

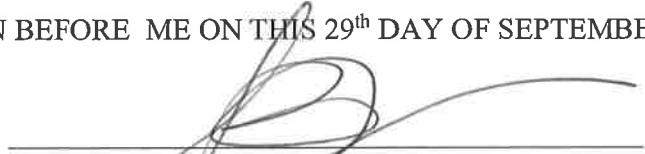
<b>SASKATCHEWAN</b>						
<b>STORE #</b>	<b>STORE</b>	<b>PHONE</b>	<b>FAX #</b>	<b>TOLL FREE #</b>	<b>STORE ADDRESS</b>	<b>PC</b>
1378	Saskatoon	306-955-8530	306-955-8528		810 Circle Drive East	S7K 3T8

<b>NOVA SCOTIA</b>						
<b>STORE #</b>	<b>STORE</b>	<b>PHONE</b>	<b>FAX #</b>	<b>TOLL FREE #</b>	<b>STORE ADDRESS</b>	<b>PC</b>
1380	Halifax	(902) 450-2700 Before 9:00 am call (902) 450-2709	(902) 450-2712		192 Chain Lake Drive	B3S 1C5

<b>NEW BRUNSWICK</b>						
<b>STORE #</b>	<b>STORE</b>	<b>PHONE</b>	<b>FAX #</b>	<b>TOLL FREE #</b>	<b>STORE ADDRESS</b>	<b>PC</b>
1368	Moncton	(506) 388-0200	(506) 388-0211		75 Trinity Drive	E1G 2J7

# TAB C

THIS IS EXHIBIT "C" REFERRED TO IN  
THE AFFIDAVIT OF BILLY WONG,  
SWORN BEFORE ME ON THIS 29<sup>th</sup> DAY OF SEPTEMBER, 2017.



---

A Commissioner for Taking Affidavits.  
Lia Bruechetto  
LSUC #600410

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

OSLER

Toronto  
Montréal  
Calgary  
Ottawa  
Vancouver  
New York

September 27, 2017

Michael S. Shakra  
Direct Dial: 416.862-6643  
mshakra@osler.com  
Our Matter Number: 1179649

**Sent By Overnight Courier**

The Middleby Corporation  
1400 Toastmaster Drive  
Elgin, Illinois 60120  
USA

Viking Range Corporation  
111 Front Street  
Greenwood, Mississippi 38930  
USA

**Attention: Tim FitzGerald (CFO)**

**Attention: Vice President, Marketing**

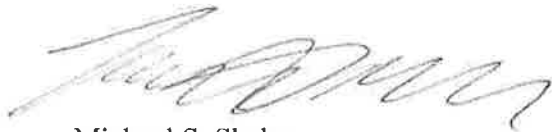
Dear Sirs:

**Re: CCAA Proceedings of Sears Canada Inc. et al (Court File No. CV-17-11846-00CL)**

As you may be aware, Sears Canada Inc. and certain of its subsidiaries and affiliates (collectively, the “**Sears Canada Group**”) filed for and were granted protection from creditors under the *Companies’ Creditors Arrangement Act* (Canada) (the “**CCAA**”) pursuant to an Initial Order issued by the Ontario Superior Court of Justice (Commercial List) on June 22, 2017. We act for the Sears Canada Group in connection with these CCAA proceedings (the “**CCAA Proceedings**”).

Please find enclosed a Notice by Debtor Company to Disclaim or Resiliate an Agreement which is being delivered to you in connection with the CCAA Proceedings pursuant to section 32 of the CCAA.

Yours very truly,



Michael S. Shakra

Enclosure

c. Jim Robinson, *FTI Consulting Canada Inc.*  
Virginie Gauthier, *Norton Rose Fulbright Canada LLP*

**FORM 4**  
**NOTICE BY DEBTOR COMPANY TO DISCLAIM OR RESILIAE AN**  
**AGREEMENT**

**To: The Middleby Corporation / Viking Range Corporation**

**And to: FTI Consulting Canada Inc., in its capacity as court-appointed Monitor**

Take notice that

1. Proceedings under the *Companies' Creditors Arrangement Act* ("the Act") in respect of **Sears Canada Inc.** and certain of its affiliates and subsidiaries were commenced on the 22<sup>nd</sup> day of June, 2017.

2. In accordance with subsection 32(1) of the Act, the debtor company gives you notice of its intention to disclaim or resiliate the surviving Articles and Sections (being Article 2, Sections 3.07, 3.08, 3.10(b), 3.10(c), 3.10(f), 3.12, 7.03, Article 8, Article 9, Sections 10.03, 10.04, 10.05, 10.06 and 10.07) of the following agreement (collectively, the "**Surviving Agreement**"):

*License Agreement made December 19, 2002, between Sears  
Canada Inc. and Viking Range Corporation*

3. In accordance with subsection 32(2) of the Act, any party to the Surviving Agreement may, within 15 days after the day on which this notice is given and with notice to the other parties to the agreement and to the monitor, apply to court for an order that the Surviving Agreement is not to be disclaimed or resiliated.

4. In accordance with paragraph 32(5)(a) of the Act, if no application for an order is made in accordance with subsection 32(2) of the Act, the Surviving Agreement is disclaimed or resiliated on the 27<sup>th</sup> day of October, 2017, being 30 days after the day on which this notice has been given.

Dated at Toronto, Ontario, on September 27, 2017:

**Sears Canada Inc.**

Per: \_\_\_\_\_




Billy Wong  
Chief Financial Officer



The Monitor approves the proposed disclaimer or resiliation.

Dated at Toronto, Ontario, on September 27, 2017.

**FTI Consulting Canada Inc.**  
**In its capacity as Court-Appointed Monitor**  
**of Sears Canada Inc. and not in its personal or corporate capacity**

Per:   
Jim Robinson  
Managing Director

## **TAB 3**

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE MR. ) WEDNESDAY, THE 4<sup>TH</sup>  
 )  
JUSTICE HAINEY ) DAY OF OCTOBER, 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**”)

**APPROVAL AND VESTING ORDER  
(VIKING Trade-Marks)**

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 transaction (the “**Transaction**”) contemplated by the asset purchase agreement (the “**APA**”) between Sears Canada Inc. (the “**Seller**”), as vendors, and Canadian Tire Corporation, Limited (the “**Purchaser**”), as purchaser, dated September 29, 2017, and certain related relief, and (ii) vesting in and to the Purchaser all right, title and interest of the Seller in and to the Purchased Assets (as defined in the APA), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Notice of Motion of the Applicants, the Affidavit of Billy Wong sworn on September 29, 2017 including the exhibits thereto, 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, the DIP ABL Agent, the DIP Term Agent and such other counsel as were present, no one else appearing although duly served as appears from the Affidavit of Service of ● sworn ●, 2017, filed:

### **SERVICE AND DEFINITIONS**

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

### **APPROVAL OF THE APA**

3. THIS COURT ORDERS AND DECLARES that the entering into of the Transaction by the Seller is hereby approved and ratified and that the execution of the APA by the Seller is hereby authorized, approved and ratified with such minor amendments as the Seller (with the consent of the Monitor after consultation with the DIP Lenders) and the Purchaser may agree upon pursuant to the terms of the APA. The Seller 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 and for the conveyance of the Purchased 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.
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 the Seller’s right, title and interest in and to the Purchased Assets 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 or other financial or monetary claims, rights or first negotiation, rights of first refusal and any other similar rights, whether or not they have attached or been perfected, registered or filed and whether secured,

unsecured or otherwise in respect of the Purchased 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 DIP ABL Lenders’ Charge, the DIP Term Lenders’ 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; and
- (c) those Claims listed on Schedule “B” hereto;

(all of which are collectively referred to as the “**Encumbrances**”), and, for greater certainty, this Court orders that all of the Claims and Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

5. THIS COURT ORDERS 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 Purchased Assets immediately prior to the Closing Date of the Transaction, as if the Transaction had not been completed.

6. THIS COURT ORDERS that, to the extent that obligations remain owing by the Applicants under the DIP ABL Credit Agreement and/or the DIP Term Credit Agreement, the Monitor be and is hereby authorized and directed to distribute, on behalf of the Applicants, on the day of filing the Monitor's Certificate or as soon as practicable thereafter, the Net Proceeds, in partial repayment of amounts then owing by the Applicants under the DIP ABL Credit Agreement or the DIP Term Credit Agreement, as applicable, in such amounts as agreed to by the DIP ABL Agent and DIP Term Agent, as applicable, or if no such applicable agreement can be reached, on further Order of the Court (a “**Distribution**”).

7. THIS COURT ORDERS that any Distribution made pursuant to this Order shall be and shall be deemed to be made free and clear of all Claims and Encumbrances.

8. 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 distribution permitted by paragraph 6 above 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.

9. THIS COURT ORDERS that, if all obligations of the Applicants under the DIP ABL Credit Agreement or the DIP Term Credit Agreement have been satisfied in full the Monitor shall be entitled to retain the Net Proceeds or any remaining portion thereof on behalf of the Applicants to be dealt with by further Order of the Court.

10. 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.

11. THIS COURT ORDERS that subject to the terms of the APA nothing herein affects:

- (a) the rights and obligations of Sears Canada Inc. ("**Sears Canada**") and a contractual joint venture comprised of Gordon Brothers Canada ULC, Merchant Retail Solutions ULC, Tiger Capital Group, LLC and GA Retail Canada ULC (the "**Agent**") under the Amended and Restated Agency Agreement between Sears Canada and the Agent dated July 12, 2017 and amended and restated on July 14, 2017;

- (b) the rights and obligations of Sears Canada and the Agent under the Amended and Restated Consulting Agreement between Sears Canada and the Agent dated July 12, 2017 and amended and restated on July 14, 2017; and
- (c) the terms of the Liquidation Sale Approval Order granted July 18, 2017 including the Sale Guidelines attached as Schedule “A” thereto.

### **SEALING**

12. 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**

13. 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 of the Purchased 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.

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

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

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**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., 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**")

**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 ●, 2017 (the "**Approval and Vesting Order**") approving the Asset Purchase Agreement between Sears Canada Inc. (the "**Seller**"), as vendor, and Canadian Tire Corporation, Limited (the "**Purchaser**"), as purchaser, dated September 29, 2017 (the "**APA**"), a copy of which is attached as Exhibit "A" to the Affidavit of Billy Wong dated September 29, 2017.

B. Pursuant to the Approval and Vesting Order the Court approved the APA and provided for the vesting in the Purchaser of the Seller's right, title and interest in and to the Purchased Assets (as defined in the APA), which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Monitor to the Purchaser and the Seller of a certificate confirming (i) all conditions to Closing have been satisfied or waived by the Purchaser and the Seller, as applicable;

and (ii) the Purchase Price and all applicable sales and transfer Taxes payable (each as defined in the APA) by the Purchaser to the Seller have been received by the Monitor.

THE MONITOR CERTIFIES the following:

1. All conditions to Closing have been satisfied or waived by the Purchaser and the Seller, as applicable; and
2. The cash portion of the Purchase Price and all applicable sales and transfer Taxes payable by the Purchaser to the Seller 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"**

### **Encumbrances**

Any and all rights, including without limitation, rights of first negotiation, rights of first refusal or any other similar rights, under the License Agreement between Sears Canada Inc. and Viking Range Corporation executed on December 19, 2002.

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.

Applicants

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*Ontario*  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST  
Proceeding commenced at Toronto

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**MOTION RECORD OF THE APPLICANTS**  
(Motion for Approval of Asset Purchase Agreement with Canadian Tire Corporation, Limited), returnable October 4, 2017)

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**OSLER, HOSKIN & HARCOURT LLP**

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