

**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 Asset Purchase Agreement with
Am-Cam Électroménagers Inc. and Distinctive Appliances Inc.
in respect of Corbeil Assets), returnable October 4, 2017)**

October 1, 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

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

Applicants

NOTICE OF MOTION

**(Motion for Approval of Asset Purchase Agreement with Am-Cam Électroménagers Inc.
and Distinctive Appliances Inc. in respect of Corbeil Assets)**

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 October 1, 2017 between Corbeil Électrique Inc. (“**Corbeil**”), Am-Cam Électroménagers Inc. (the “**Buyer**”) and Distinctive Appliances Inc. (“**Distinctive**” or the “**Guarantor**”) and to which intervenes Sears Canada Inc. (“**Sears Canada**”) (the “**APA**”), and vesting Sears Canada’s right, title and interest in and to the Purchased Assets (as defined in the APA) in the Buyer; 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 October 1, 2017, Corbeil entered into the APA, wherein Corbeil has agreed to sell substantially all of its assets to the Buyer. The Corbeil transaction will result in the Corbeil business continuing as a going concern, and will, among other things, result in at least 90% of Corbeil's current employees in the assumed locations receiving offers of employment from the Buyer, as well as the continued operation of the Corbeil franchise network;
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;

Sealing Order

10. 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 Corbeil assets must be the subject of further marketing efforts;
11. There are no reasonable alternative measures to sealing this information from the public record;
12. The salutary effects of sealing this information outweigh the deleterious effects of doing so;

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

14. 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

15. 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 October 1, 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.

October 1, 2017

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Lawyers for the Applicants

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

Ontario
**SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceeding commenced at Toronto

NOTICE OF MOTION
**(MOTION FOR APPROVAL OF ASSET PURCHASE AGREEMENT
WITH AM-CAM ÉLECTROMÉNAGERS INC. AND DISTINCTIVE
APPLIANCES INC. IN RESPECT OF CORBEIL ASSETS)**

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Lawyers for the Applicants

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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APPLICANTS

AFFIDAVIT OF BILLY WONG
(Sworn October 1, 2017)

(Motion for Approval of Asset Purchase Agreement with Am-Cam Électroménagers Inc.)

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

1. This affidavit is being sworn in support of a motion seeking, among other things, an Order, substantially in the form attached to the Motion Record, approving the Asset Purchase Agreement dated October 1, 2017 between Corbeil Électrique Inc. (“**Corbeil**”), Am-Cam Électroménagers Inc. (the “**Buyer**”) and Distinctive Appliances Inc. (“**Distinctive**” or the “**Guarantor**”) and to which intervenes Sears Canada Inc. (“**Sears Canada**”) (the “**APA**”), and vesting in and to the Buyer all right, title and interest of Corbeil in and to the Purchased Assets (as defined in the APA). Corbeil is a specialty retailer of major appliances, carrying on business through corporate and franchised stores.

2. I am the Executive Vice President and Chief Financial Officer of the Applicant Sears Canada. I am also a director of each of the other Applicants, including Corbeil. 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 Sears Canada's senior management team, Corbeil's senior management team, Sears Canada's legal, financial and other advisors, and representatives of FTI Consulting Canada Inc. (the "**Monitor**").

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

4. I understand from the Monitor that the consideration that Sears Canada will receive in this proposed transaction (the "**Purchase Price**") set out in a Confidential Appendix to the Monitor's Report that will be filed separately in connection with this motion. In the view of the Applicants and the Sale Advisor, the Purchase Price is confidential information and general disclosure of such information could be materially prejudicial to the Applicants in connection with the SISP generally and in connection with any further marketing of the Corbeil assets in particular in the event that the proposed transaction does not proceed to close as anticipated. In addition, in the view of the Applicants and the Sale Advisor, the Schedules to the APA also contain confidential information. In particular, the Schedules contain financial and other commercially sensitive information that, if disclosed, could be materially prejudicial to Corbeil and the Buyer. As such, the APA, which is

attached as Exhibit "A" to this Affidavit (excluding Schedules), 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.

5. The Corbeil business is being sold as a going concern. The transaction contemplates that at least 90% of Corbeil's current employees in the fourteen corporate locations that are being assumed as part of the transaction (as well as Corbeil's head office and warehouse employees) will receive offers of employment from the Buyer, with at least 90% of those offers being on terms and conditions that are substantially similar in the aggregate for each individual employee to those that are currently available to them. The transaction is also intended to result in the continued operation of Corbeil's franchise network, and therefore the continued employment of the employees of these franchisees.

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

Background Regarding the Corbeil Business

7. The Applicants, including Corbeil, were granted protection from their creditors under the CCAA pursuant to an initial order of the Ontario Superior Court of Justice (Commercial List) dated June 22, 2017, as amended and restated on July 13, 2017 (the "**Initial Order**"). Further details regarding the background to these proceedings are set out in my affidavit sworn June 22, 2017 (the "**Initial Order Affidavit**"). Except where so stated, capitalized terms not otherwise

defined herein have the meaning ascribed to them in the Initial Order Affidavit, the Initial Order or the APA.

8. As set out in the Initial Order Affidavit, Corbeil is a specialty retailer of major appliances, headquartered in Montreal.

9. Corbeil is a wholly-owned subsidiary of Sears Canada, but operates as an independent business, with a separate management structure, employees, brand-name, merchandise, cash management system and business model from the rest of Sears Canada's retail business.

10. Corbeil carries on business through Corbeil branded corporate and franchised stores, located throughout Quebec, the Greater Toronto Area, and Eastern Ontario. Prior to filing for CCAA protection, there were thirty-two stores in the Corbeil chain, sixteen of which were corporate-owned (including one liquidation centre), and sixteen of which were independently owned and operated through a network of franchisees. The chain also includes one distribution centre located in Montreal.

11. Corbeil adopted a franchise model in 1997, to facilitate the company's expansion. In consideration for the licence to use the "Corbeil Appliances Concept" and the receipt of certain services from Corbeil, Corbeil franchisees (the "**Corbeil Franchisees**") pay Corbeil (i) an initial franchise fee; (ii) a royalty based on gross income; (iii) marketing fees; and (iv) charges for accounting, IT and other corporate services. The services that Corbeil provides to its franchisees include initial and ongoing training, site selection, lease negotiation assistance, layout planning, an operations manual, constructions and furnishings, bid management, supply of display goods, advertising management, and consulting for financial management, marketing and general business operations. All products and services sold at the franchise stores must also be supplied by Corbeil.

12. Fourteen of Corbeil's corporate-owned stores (including its liquidation centre) are leased by Corbeil from third-party landlords. With respect to the franchise stores, nine stores are leased by Corbeil from third-party landlords and then subleased to Corbeil Franchisees, three stores are owned by the Franchisees directly, and four stores are leased by the Franchisees directly from a third-party landlord.

13. Two corporate-owned Corbeil stores – in Whitby and Ancaster, Ontario – are located within Sears Home Stores and occupied by Corbeil with the consent of Sears Canada. In connection with the CCAA filing, the Sears Home Store in Ancaster was closed and its inventory was liquidated. Although the Corbeil store in Ancaster remained open during the CCAA proceedings, Sears Canada has since disclaimed the Ancaster lease and Corbeil will cease all operations at this location and transfer all remaining inventory at this location to its distribution centre by no later than October 18, 2017, where it will be included as part of the inventory to be purchased by the Buyer pursuant to the APA. In connection with the transaction contemplated by the APA, it is also contemplated that the Corbeil store in Whitby will be closed and that any remaining inventory located therein will be transferred to the distribution centre prior to the Closing, where it will also be purchased by the Buyer pursuant to the APA. Accordingly, if the Closing occurs, thirty Corbeil stores will remain in operation.

14. Corbeil has strong relationships with over thirty highly recognized suppliers.

15. Corbeil has approximately 180 employees (approximately 60 head-office and warehouse employees, and another approximately 120 corporate store employees), and an additional 130 people are employed by the Corbeil Franchisees.

16. Sears Canada provides certain shared services to Corbeil, including IT support in the form of dedicated IT assets and five Sears Canada employees who work exclusively on the Corbeil

business, as well as general legal and financial services. Pursuant to the terms of the APA, Corbeil and Sears Canada have undertaken to complete the transfer of these five Sears Canada employees to Corbeil along with all IT systems owned by Sears Canada exclusively for purposes of ensuring IT support to the Corbeil business in advance of Closing, and to cause Corbeil to enter into separate licensing arrangements for any IT assets not exclusively used to support the Corbeil business.

17. Corbeil is a guarantor on a secured basis of Sears Canada's obligations under its revolving credit facility, term loans, and DIP facilities. Given Corbeil's role as a guarantor of Sears Canada's debt, Corbeil filed for CCAA protection alongside other members of the Sears Canada Group on June 22, 2017.

Background Regarding the Sales Process

18. On a stand-alone basis, Corbeil is a profitable business, with positive EBITDA for fiscal years 2014-2017 (year-to-date), and year-over-year growth in revenues. Given the relative strength of the Corbeil business as compared to the overall financial challenges faced by the Sears Canada Group since 2013, which are described more fully in the Initial Order Affidavit, Sears Canada has from time-to-time explored the possibility of divesting the Corbeil business. For example, I understand that in 2013 and 2014, Sears Canada undertook a formal sale process with respect to Corbeil, however that process was ultimately unsuccessful as the consideration offered was deemed insufficient at the time. In more recent years, Sears Canada has received a number of unsolicited offers for the Corbeil business, and entered into negotiations with potential buyers in an effort to conclude a transaction. Prior to filing, however, none of these discussions resulted in a concluded transaction.

19. On July 13, 2017, the CCAA Court granted Sears Canada's request for an order approving the Sale Process, which would be conducted by the Sale Advisor under the supervision of the

Monitor and a Special Committee of Sears Canada's Board of Directors (the "**SISP Approval Order**").

20. The purpose of the Sale Process was to seek out proposals for the acquisition of, or an investment in, Sears Canada's 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 Sears Canada's stakeholders.

21. Accordingly, since the entry of the SISP Approval Order, Sears Canada's efforts to conclude a transaction in respect of Corbeil have been undertaken pursuant to the Sale Process, and were led by the Sale Advisor and Corbeil's senior management, under the supervision of the Monitor and the Special Committee. As described above, details regarding this process are set out in the Caiger Affidavit.

22. I understand from Mr. Caiger and believe that given Sears Canada's pre-filing efforts to conclude a transaction in respect of Corbeil, the Sale Advisor and Corbeil senior management entered the Sales Process with a good understanding of the potential buyers.

23. I am advised by Mr. Caiger and believe that pursuant to the Sale Process, the Sale Advisor contacted twenty-one potentially interested bidders specifically with respect to the Corbeil business, including parties who had previously contacted Sears Canada to express an interest in Corbeil during the pre-filing period. I am advised by Mr. Caiger and believe that eighteen potentially interested bidders signed NDAs and accessed the data room that had been established, which was populated with extensive disclosure regarding Corbeil. I am advised by Mr. Caiger and believe that a standard form asset purchase agreement was prepared by Osler in respect of the Corbeil business, and that Corbeil management, the Sale Advisor and the Monitor met with interested parties and made presentations specifically regarding Corbeil. Mr. Caiger advises me,

and I believe, that as a result of these efforts, Sears Canada received bids for Corbeil by the August 31, 2017 bid deadline, which I understand and believe were then evaluated by the Sale Advisor, the Special Committee and the Monitor, to identify which bids to pursue further.

24. I am advised by Mr. Caiger and Osler and believe that negotiations ensued with the Buyer 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 the Buyer's offer and alternatives available, the Sale Advisor recommended to the Special Committee, and the Special Committee subsequently recommended to the Board, that Corbeil enter into a transaction with the Buyer for the Purchased Assets. After carefully considering the Buyer's offer, including being satisfied that the Purchase Price being offered is fair and reasonable, the Board determined that the Buyer's offer was in the best interests of the Applicants and their stakeholders.

25. The transaction also offers additional benefits, including that:

- (a) it will result in the continued and seamless operation of thirty Corbeil stores, with offers of employment being extended to at least 90% of Corbeil employees; and,
- (b) it will result in the continued and seamless operation of the Corbeil franchise network, including the expected continued employment of Corbeil Franchisee employees.

26. The Buyer has represented that it has the financial ability to close the transaction and is otherwise qualified to perform its obligations in respect of the Purchased Assets.

27. It is my understanding that the Monitor has approved the process leading up to the proposed transaction and the terms of the APA, and supports the Applicants' motion seeking approval of the

Approval and Vesting Order. I also understand that the DIP Lenders support the transaction contemplated by the APA and the Applicants' motion seeking approval of the Approval and Vesting order.

The Asset Purchase Agreement

28. A redacted copy of the APA is attached as Exhibit "A". As described above, the Purchase Price and other confidential terms relating to Purchase Price adjustments are included in the Confidential Appendix to the Monitor's Report that will be filed in connection with this motion.

29. Among other things, the key terms of the APA are as follows:

- (a) The Buyer will pay the Purchase Price in cash and by the assumption of the Accrued Liabilities. The Purchase Price is subject to certain adjustments as set out in the APA. The parties have agreed that, on Closing, the Monitor shall hold back from the Purchase Price a specified amount in escrow, such amount to be held in trust and to be applied to address any Final Negative Adjustment to the Purchase Price, the whole as set forth in the APA;
- (b) The Buyer has paid a Deposit equal to 10% of the Purchase Price to the Monitor to be held in trust in an interest-bearing account in accordance with the terms of the Sale Process. On Closing, the Deposit and all earnings thereon will be paid to Corbeil and applied to the Purchase Price. If the APA is terminated because of any violation or breach by the Buyer of any covenant, representation and warranty which would prevent the satisfaction of certain conditions (set out in sections 6.1 or 6.3 of the APA) by the Sunset Date, and such violation or breach is incapable of being cured or has not been waived or cured within ten business days after written

noticed thereof from Corbeil, then the Deposit will be forfeited to Corbeil for the expenses incurred in connection with the transaction and the delay caused to Corbeil's efforts to sell the Purchased Assets;

- (c) The Buyer and Guarantor have obtained a firm commitment letter from a lender for an amount that is sufficient to permit the Buyer to pay the Purchase Price, and all of the other costs and expenses in connection with the consummation of the transactions contemplated by the APA;
- (d) The Guarantor unconditionally guarantees to Corbeil the due, punctual and complete performance of all obligations of the Buyer under the APA, including the due, punctual and complete payment of the Purchase Price (provided that the maximum amount payable by the Guarantor shall not exceed the Purchase Price);
- (e) On the Closing Date, the Buyer will acquire all of Corbeil's rights, title and interest in and to the Purchased Assets on the terms and conditions set out in the APA. The Purchased Assets are defined as all of the assets, property and undertaking owned or used or held for use by Corbeil in connection with the "Acquired Business," which in-turn is defined as the entire business and operations of Corbeil, whether as operator of retail stores or as franchisor, but for greater certainty does not include the business and operations of the franchisees at the franchise locations;
- (f) The Buyer will not acquire certain Excluded Assets, including assets owned by Corbeil Franchisees, the assets of Sears Canada (with the exclusion of the "SCI IT Assets"), and cash and cash equivalents;

- (g) The Buyer agrees that it will, as and from the Closing Date, pay, discharge, and perform all the obligations and liabilities on the part of Corbeil with respect to the Assumed Liabilities, which include, among other things, obligations under assumed contracts, personal property leases and real property leases arising after Closing, liabilities and obligations relating to the Purchased Assets and the operation of the Acquired Business arising in the period after closing, and liabilities arising out of warranties in relation to products sold by Corbeil (whether prior to or after Closing)¹;
- (h) Subject to the terms of the APA, the Buyer is purchasing, accepting and assuming the Purchased Assets on an “as is, where is” basis;
- (i) The Buyer agrees to provide at least 90% of Corbeil’s current employees in the assumed locations with offers of employment, with at least 90% of those offers being on terms and conditions that are substantially similar in the aggregate for each individual employee to those that are currently available to them;
- (j) The APA and transaction contemplated therein is subject to obtaining relevant Regulatory Approvals (including *Competition Act* approval), and the Court issuing the proposed Approval and Vesting Order, among other things;
- (k) Prior to Closing, the IT assets referred to in paragraph 16 above will be transferred to Corbeil;

¹ But excluding any liabilities in relation to any class action proceedings or legal claims with respect to extended warranties, which liabilities shall remain with Corbeil.

- (l) As a condition of Closing, no event having a Material Adverse Effect shall have occurred;
- (m) The Closing is expected to take place once the conditions precedent to closing have been waived or satisfied as provided in the APA;
- (n) As a condition of closing, Corbeil has agreed to use commercially reasonable efforts to obtain the written consent of:
 - (i) the Landlords, to the assignment of Real Property Leases to the Buyer in respect of each of the Real Property Leases;
 - (ii) any person or counterparty, to the assignment of an Assumed Contract to the Buyer;
 - (iii) any person or counterparty, to the assignment of a Personal Property Lease to the Buyer; and
 - (iv) each Corbeil Franchisee, to the assignment of its franchise agreement to the Buyer.

Corbeil has also undertaken to pay any Cure Costs that may be payable in respect of any assigned contract. The aggregate Cure Costs are not expected to materially affect the proceeds available from this transaction.

- (o) Where Corbeil is unable to obtain the necessary consents, Corbeil has undertaken to make an application for an Assignment Order, assigning all of its rights and obligations under the contract in question to the Buyer.

30. The proposed Approval and Vesting Order provides that the Monitor will distribute any net proceeds from the Transaction (“**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.

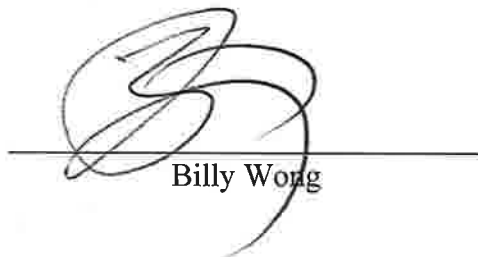
Conclusion

31. 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 October 1, 2017.

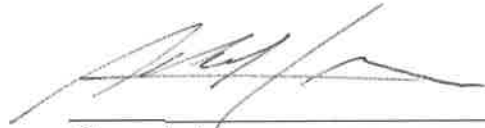

Commissioner for Taking Affidavits

Adam Hirsch


Billy Wong

TAB A

**THIS IS EXHIBIT "A" TO THE AFFIDAVIT
OF BILLY WONG SWORN BEFORE ME ON
THIS 1st DAY OF OCTOBER, 2017**



Commissioner for Taking Affidavits

ASSET PURCHASE AGREEMENT

CORBEIL ÉLECTRIQUE INC.

as Seller

- and -

AM-CAM ÉLECTROMÉNAGERS INC.

as Buyer

- and -

DISTINCTIVE APPLIANCES INC.

as Guarantor

- and to which intervenes -

SEARS CANADA INC.

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ASSET PURCHASE AGREEMENT

THIS AGREEMENT is made as of September 29, 2017

AMONG:

CORBEIL ÉLECTRIQUE INC., a corporation governed by the laws of Québec (“**Corbeil**” or the “**Seller**”)

- and -

AM-CAM ÉLECTROMÉNAGERS INC., a corporation governed by the laws of Canada (the “**Buyer**”)

- and -

DISTINCTIVE APPLIANCES INC., a corporation governed by the laws of Canada (the “**Guarantor**”)

- and to which intervenes, solely for the purposes of the covenant set forth in Section 8.3 hereof -

SEARS CANADA INC., a corporation governed by the laws of Canada (“**SCI**”)

RECITALS:

- A. On the Filing Date, SCI and certain of its affiliates and subsidiaries, including Corbeil (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, and the Buyer further wishes to assume from the Seller the Assumed Liabilities, subject to the terms and conditions of this Agreement.
- E. The Guarantor has agreed to guarantee the obligations of the Buyer in respect of the payment of the Purchase Price under this Agreement and, solely for that purpose, to become party to this Agreement.
- F. SCI has agreed to complete the transfer to the Seller of the SCI IT Assets and SCI IT

Employees prior to Closing as described in this Agreement and, solely for that purpose, to intervene to 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) **“Accounts Receivable”** means accounts receivable, bills receivable, trade accounts, book debts and insurance proceeds which arise from a loss during the period from the date hereof to the Closing Date relating to the Acquired Business or the Purchased Assets and due or accruing due to the Seller, and other amounts due or deemed to be due to the Seller relating to the Acquired Business or the Purchase Assets including refunds and rebates receivable and any and all royalties and franchise fees relating to the Acquired Business or the Purchased Assets and the Mega Cash Deposit, but excluding amounts due or deemed to be due to the Seller relating to the Acquired Business or the Purchased Assets by Electrolux Canada Corp. or one or more of its affiliates;
- (b) **“Accrued Liabilities”** means liabilities relating to the Acquired Business incurred as of the Closing Time but which are not yet due and payable as of the Closing Time (excluding reserves and contingent amounts) to the extent they are Assumed Liabilities (for example, accounts payable and accrued wages payable);
- (c) **“Acquired Business”** means the entire business and operations of Corbeil, a chain of major appliance specialty stores located throughout Québec, the Greater Toronto Area and Eastern Ontario with 30 stores in the chain (16 of which are franchised), two liquidation centres and one distribution centre in Montreal, whether as operator of retail stores or as franchisor, as well as any other business activity undertaken by Corbeil; but for greater certainty shall not include the business and operations of the franchisees at the franchised locations.
- (d) **“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.

- (e) **“Agreement”** means this Asset Purchase Agreement and all attached Schedules, 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 all attached Schedules, and unless otherwise indicated, references to Articles, Sections and Schedules are to Articles, Sections and Schedules in this Asset Purchase Agreement.
- (f) **“Allocation Statement”** has the meaning given to such term in Section 3.2.
- (g) **“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, the Acquired Business, or any of the Purchased Assets or the Assumed Liabilities.
- (h) **“Approval and Vesting Order”** means an order granted by the CCAA Court, in substantially the form attached as Schedule 1.1(h) (with only such changes as the Buyer and the Seller 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, save for Permitted Encumbrances, 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).
- (i) **“Assignment Order”** means an order or orders of the CCAA Court pursuant to applicable provisions of the CCAA, in form and substance acceptable to the Seller, the Buyer, the Lenders and the Monitor, each acting in a commercially reasonable manner, authorizing and approving the assignment to the Buyer of any Assumed Contract, any Personal Property Lease or Real Property Lease for which a required consent has not been obtained and preventing any counterparty to the Assumed Contract, Personal Property Lease or Real Property Lease from exercising any right or remedy under the Assumed Contract, Personal Property Lease or Real Property Lease by reason of any default(s) arising from the CCAA Proceedings, the insolvency of the Seller, the assignment of the Assumed Contract, Personal Property Lease or Real Property Lease to

the Buyer, or the failure of the Seller to perform a non-monetary obligation under the Assumed Contract, the Personal Property Lease or Real Property Lease and substantially in the form of the assignment order attached as Schedule 1.1(i) hereto (with only such changes as the Buyer and the Seller approve in their reasonable discretion, but in all cases in form and substance acceptable to the Lenders and the Monitor).

- (j) “**Assumed Contract Consents**” has the meaning given to such term in Section 8.5(a).
- (k) “**Assumed Contracts**” has the meaning given to such term in Section 2.1(h).
- (l) “**Assumed Deferred Revenues**” has the meaning given to such term in Section 2.3(c).
- (m) “**Assumed Employees**” has the meaning given to such term in Section 8.9(d).
- (n) “**Assumed Employees Liabilities**” has the meaning given to such term in Section 2.3(e).
- (o) “**Assumed Liabilities**” has the meaning given to such term in Section 2.3.
- (p) “**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.
- (q) “**Buyer**” has the meaning given to such term in the preamble to this Agreement.
- (r) “**Buyer Employee Plans**” means any Plans established or designated by or on behalf of the Buyer with respect to its employees for the benefit of Assumed Employees.
- (s) “**Cash and Cash Equivalents**” means cash, bank balances, moneys in possession of banks and other depositories, term or time deposits, marketable securities, bankers’ acceptance, commercial paper, security entitlements, securities accounts, commodity Contracts, commodity accounts, government securities and any other cash equivalents of, owned or held by or for the account of the Seller (but specifically excluding any cash payable by the Buyer to the Seller pursuant to this Agreement).
- (t) “**CCAA**” means the Companies’ Creditors Arrangement Act (Canada).
- (u) “**CCAA Court**” means the Ontario Superior Court of Justice (Commercial List).
- (v) “**CCAA Proceedings**” means the proceedings commenced under the CCAA by the Seller pursuant to the Initial Order (Court File No. CV-17-11846-00CL).
- (w) “**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.

- (x) “**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.
- (y) “**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 that, the Closing Date shall be no later than the Sunset Date, or such later date as may be agreed to in writing by the Parties with the consent of the Lenders and the Monitor) or as otherwise ordered by the CCAA Court.
- (z) “**Closing Date Statement**” has the meaning given to such term in Section 3.4(b).
- (aa) “**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.
- (bb) “**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.
- (cc) “**Commissioner**” means the Commissioner of Competition appointed under the Competition Act.
- (dd) “**Commitment Letter**” has the meaning given to such term in Section 5.3.
- (ee) “**Competition Act**” means the *Competition Act* (Canada).
- (ff) “**Competition Act Approval**” means any of:
 - (i) the Commissioner shall have issued an advance ruling certificate under Section 102 of the Competition Act with respect to the transactions contemplated by this Agreement;
 - (ii) each of the Parties shall have filed all notices and information required under Part IX of the Competition Act and the applicable waiting periods shall have expired or been terminated; or
 - (iii) the obligation to give the requisite notice has been waived pursuant to subsection 113(c) of the Competition Act;and, in the case of (ii) or (iii), the Commissioner or his delegate shall have advised the Buyer in writing that he does not, at that time, intend to make an application under Section 92 of the Competition Act in respect of the transactions contemplated herein.
- (gg) “**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.

- (hh) “**Contracts**” means contracts, licenses, 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 Acquired Business or the Purchased Assets and includes quotations, orders, proposals or tenders which remain open for acceptance and warranties and guarantees, but excluding the Real Property Leases.
- (ii) “**Contracts Assignment and Assumption Agreements**” means the assignment and assumption agreements for the Assumed Contracts, in a form satisfactory to the Seller and the Buyer acting in a commercially reasonable manner.
- (jj) “**Corbeil**” has the meaning given to such term in the preamble to this Agreement.
- (kk) “**Cure Costs**” means all amounts necessary to cure any monetary defaults as a condition to assuming any Assumed Contract, Personal Property Lease or Real Property Lease other than those monetary defaults arising only by reason of the Seller's insolvency, the commencement of the CCAA Proceedings, or the failure to perform a non-monetary obligation.
- (ll) “**Deposit**” means the amount of \$● delivered by the Buyer to the Monitor in accordance with the SISF.
- (mm) “**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.
- (nn) “**DIP ABL Facility**” means the revolving credit facilities in an aggregate principal amount not to exceed \$300 million under the DIP ABL Credit Agreement.
- (oo) “**DIP Credit Agreement**” means collectively, the DIP ABL Credit Agreement and the DIP Term Credit Agreement.
- (pp) “**DIP Facility**” means collectively, the DIP ABL Facility and the DIP Term Facility.
- (qq) “**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.

- (rr) **“DIP Term Facility”** means the term loan facilities in an aggregate principal amount not to exceed \$150 million under the DIP Term Credit Agreement.
- (ss) **“Draft Closing Date Statement”** has the meaning given to such term in Section 3.4(a).
- (tt) **“Disclosed Documents”** means all documents disclosed by the Seller to the Buyer prior to or on the date hereof, including all material made available to the Buyer in a virtual data room and listed in Schedule 1.1(tt).
- (uu) **“Employee Plans”** means the Plans sponsored or maintained by the Seller for the benefit of the Employees, all of which are listed on Schedule 1.1(uu).
- (vv) **“Employees”** means, in respect of the Acquired Business and Purchased Assets, any and all: (i) Employees of the Seller who are actively at work (including full-time, part-time or temporary employees); and (ii) Employees of the Seller who are on statutory or approved leaves of absence (including maternity leave, parental leave, short-term or long-term disability leave, workers’ compensation and other statutory leaves).
- (ww) **“Employees of the Seller”** means all current or former officers, employees, individual consultants and service providers of the Seller or any predecessors of the Seller.
- (xx) **“Encumbrance”** means any security interest, lien (statutory or otherwise), prior claim, charge, hypothec, reservation of ownership, pledge, encumbrance, liability, mortgage, right-of-way, easement, lease, restriction, development or similar agreement, option or adverse claim or encumbrance of any nature or kind including any and all CCAA Court ordered charges granted in the CCAA Proceedings.
- (yy) **“Environment”** means the environment or natural environment as defined in any Environmental Laws and includes air, surface water, ground water, land surface, soil and subsurface strata.
- (zz) **“Environmental Approvals”** means permits, certificates, licences, authorizations, consents, agreements, instructions, directions, registrations or approvals required by a Governmental Authority pursuant to an Environmental Law relating to the Acquired Business or the Purchased Assets.
- (aaa) **“Environmental Law”** means Applicable Laws relating to the protection of human health and the Environment, and includes Applicable Laws relating to the storage, generation, use, handling, manufacture, processing, transportation, treatment, Release, remediation, management and disposal of Hazardous Substances.
- (bbb) **“Excluded Assets”** has the meaning given to such term in Section 2.2.

- (ccc) “**Excluded Contracts**” has the meaning given to such term in Section 2.2(e).
- (ddd) “**Excluded Liabilities**” has the meaning given to such term in Section 2.4.
- (eee) “**Excluded Real Estate Properties**” means (i) all leases and other agreements to occupy lands and premises entered into by, or assigned in favour of the Seller that are not Real Property Leases, including all purchase options, prepaid rents, security deposits, rights to appurtenances and improvements, licenses and permits relating thereto and all leasehold improvements thereon; (ii) all real or immovable property owned by the Seller, or in which the Seller has a freehold interest and the Seller’s right, title and interest in all plants, buildings, structures, improvements, appurtenances and fixtures (including fixed machinery and fixed equipment) thereon, forming part thereof, or benefiting such real or immovable property; (iii) the Real Property Leases deemed to be included in this definition pursuant to Section 8.5 of this Agreement; and (iv) any other Real Property Leases which may be jointly designated by the Seller and the Buyer prior to the issuance of the Approval and Vesting Order.
- (fff) “**Filing Date**” means June 22, 2017.
- (ggg) “**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 Seller, each acting in a commercially reasonable manner) or vacated, and all time periods within which such order could at law be appealed shall have expired.
- (hhh) “**Final Negative Adjustment**” has the meaning given to such term in Section 3.5(f).
- (iii) “**Final Positive Adjustment**” has the meaning given to such term in Section 3.5(g).
- (jjj) “**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.
- (kkk) “**General Assignments and Bills of Sale**” means the general assignments and bills of sale for the Purchased Assets, in a form reasonably satisfactory to the Seller and the Buyer.
- (lll) “**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, the Acquired Business, the

Purchased Assets or the Assumed Liabilities 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.

(mmm) **“Governmental Authorizations”** means authorizations, approvals (including the Environmental 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 Acquired Business or any of the Purchased Assets by or from any Governmental Authority.

(nnn) **“GST”** means goods and services tax payable under the GST and HST Legislation.

(ooo) **“GST/HST and QST Certificate, Undertaking and Indemnity”** has the meaning given to such term in Section 8.8(j).

(ppp) **“GST and HST Legislation”** means Part IX of the *Excise Tax Act* (Canada).

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

(rrr) **“HST”** means harmonized sales tax payable under the GST and HST Legislation.

(sss) **“including”** and **“includes”** shall be interpreted on an inclusive basis and shall be deemed to be followed by the words “without limitation”.

(ttt) **“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 (including Corbeil) were granted protection from their creditors under the CCAA (as amended, restated, supplemented and/or modified from time to time).

(uuu) **“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.

(vvv) **“Intellectual Property”** means any and all intellectual property or similar proprietary rights used, or held by the Seller for use, in or relating to the Acquired Business, including all patents, patent applications, trademarks, industrial designs, trade names, service marks (and all goodwill associated with any of the foregoing), copyrights, technology, software, data and database rights, trade secrets, proprietary information, domain names, know-how and processes and other intellectual property, whether

registered or not, throughout the world.

(www) “**Investment Canada Act**” means the *Investment Canada Act* (Canada).

(xxx) “**IP Assignment and Assumption Agreements**” means the intellectual property assignment and assumption agreements for Intellectual Property and rights in Intellectual Property owned by the Seller and that is used or held for use in or otherwise relates to the Acquired Business, in a form reasonably satisfactory to the Seller and the Buyer.

(yyy) “**IT Assets**” has the meaning given to such term in Section 2.1(j).

(zzz) “**KERP**” means the key employee retention plan approved by the CCAA Court on June 22, 2017 as part of the Initial Order rendered in the context of the CCAA Proceedings.

(aaaa) “**Key Consents**” means the consents to the assignment of the Key Contracts to the Buyer to be received from the various parties to such Key Contracts.

(bbbb) “**Key Contracts**” means the agreements listed in Schedule 1.1(aaaa).

(cccc) “**Landlord Consent**” has the meaning given to such term in Section 8.5(a).

(dddd) “**Landlords**” means, collectively, the landlords under the Real Property Leases.

(eeee) “**Lease Assignment and Assumption Agreements**” means the lease assignment and assumption agreements for the Personal Property Leases and Real Property Leases, in a form reasonably satisfactory to the Seller and the Buyer.

(ffff) “**Leased Property**” means collectively, the real or immovable property of which the Premises form part for the purposes of the Real Property Leases and includes the Landlords’ freehold or other ownership interest, ground leasehold interest or right of emphyteusis therein.

(gggg) “**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.

(hhhh) “**Lenders**” means the secured lenders under the DIP Credit Agreement, the Wells Fargo Credit Agreement and the GACP Credit Agreement.

(iiii) “**Letters of Credit**” means letters of credit, letters of guarantee, deposits and/or security deposits provided by or on behalf of the Seller in respect of any of the Purchased Assets, including any such letter of credit, letter of guarantee, deposits and/or security deposits provided by or on behalf of the Seller to Mega Group Inc. and/or VIP Distributors Inc, other than the Mega Cash Deposit.

- (jjj) “**Matching Security**” has the meaning given to such term in Section 2.7.
- (kkkk) “**Material Adverse Effect**” means any change, event, occurrence or circumstance, individually or in the aggregate that: (i) has, or would reasonably be expected to have, a material adverse effect on the operations, results of operations or condition (financial or otherwise) of the Acquired Business, (ii) materially and adversely impairs the Purchased Assets or the Acquired Business or materially and adversely increases the Assumed Liabilities, each taken as a whole, or (iii) materially and adversely impedes the consummation of the transactions contemplated by this Agreement, but excluding, in the case of each of clauses (i), (ii) and (iii) any such change, event, occurrence or circumstance that results from or arises out of (A) changes in general economic conditions (B) changes affecting the industries and markets in which the Acquired Business operates, (C) changes in macroeconomic factors, interest rates, currency exchange rates or general financial or credit market conditions, (D) acts of God, war, terrorism, civil unrest or hostilities, (E) any change in law or its interpretation, administration or application or non-application by any Governmental Authority or in generally acceptable accounting principles, (F) any failure to meet any internal or publicly disclosed projections, forecasts, estimates or budgets of, or guidance relating to, revenue, cash flow, earnings or other financial metrics for any period (it being understood that the cause underlying such failure may be taken into account in determining whether a Material Adverse Effect has occurred), (G) any action taken (or omitted to be taken) by the Seller that is permitted under this Agreement or consented to by the Buyer, (H) any announcement of the transactions contemplated by this Agreement, (I) any change or development in respect of any Excluded Asset, Excluded Liability or any matter disclosed pursuant to the terms of this Agreement, or (J) the pendency of the CCAA Proceedings and any action approved by, or motion made before, the CCAA Courts; provided however that with respect to subsection (A) to (E), such matter does not have a materially disproportionate effect on the Purchased Assets, the Assumed Liabilities or the Acquired Business, in each case, taken as a whole, relative to other comparable companies and entities operating in the industries in which the Acquired Business operate.
- (lll) “**Material Contracts**” means, collectively:
- (i) any Contract that is reasonably likely to involve payment to or by the Seller in excess of \$500,000 in any fiscal year; and
 - (ii) any Contract, which if terminated, would have a Material Adverse Effect.
- (mmm) “**Mega Cash Deposit**” means the \$● deposit in cash paid by or on behalf of the Seller to Mega Group Inc. and/or VIP Distributors Inc.
- (nnn) “**Milestones**” means the milestones set forth in the DIP Facility.
- (ooo) “**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.
- (ppp) “**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 cash portion of the Purchase Price and all applicable sales and transfer Taxes payable by the Buyer to the Seller have been received by the Monitor.

- (qqqq) **“Notice”** has the meaning given to such term in Section 12.8.
- (rrrr) **“NDA”** means the confidentiality, non-disclosure and non-use agreement between the Guarantor and SCI dated June 27, 2017.
- (ssss) **“Off-Title Compliance Matters”** means open permits or files, work orders, Orders, deficiency notices, directives, notices of violation, non-compliance and/or complaint and/or other outstanding matters or matters of non-compliance with the zoning and/or other requirements of any Governmental Authorities or any open building permits, excluding accrued penalties and fees in relation thereto.
- (tttt) **“Order”** means any order, directive, judgment, decree, injunction, decision, ruling, award or writ of any Governmental Authority.
- (uuuu) **“Parties”** means the Seller and the Buyer collectively, and **“Party”** means either the Seller or the Buyer, as the context requires.
- (vvvv) **“Payment Order”** has the meaning given to such term in Section 3.3(b).
- (wwww) **“Permitted Encumbrances”** means, except to the extent otherwise provided in the Approval and Vesting Order:
- (i) inchoate statutory liens for Taxes, assessments, governmental or utility charges or levies not due as at the Closing Date (including the Encumbrances of public utilities, workers, suppliers of materials, builders, contractors, architects and unpaid vendors of moveable property);
 - (ii) rights of equipment lessors pursuant to Assumed Contracts and Personal Property Leases;
 - (iii) any privilege in favour of any lessor, licensor or permitter for rent to become due or for other obligations or acts, the performance of which is required under any Assumed Contract;
 - (iv) any rights of expropriation, access or use or any other similar rights conferred or reserved by Applicable Law;
 - (v) any easements, servitudes or rights-of-way in favour of any Governmental Authority, any private or public utility, any railway company or any adjoining owner;
 - (vi) the provisions of all by-laws, regulations, ordinances and similar instruments relating to development and zoning of the Leased Property;

- (vii) all Off-Title Compliance Matters;
 - (viii) the Encumbrances which the Real Property Leases and/or any Leased Property are stated to be subject to or bound by pursuant to the terms of the Real Property Leases;
 - (ix) any ground lease, emphyteutic lease, head lease or other lease which is superior to any Real Property Lease (each a “Head Lease”), any Encumbrances or other rights in favour of the applicable landlord contained in any Head Lease, and any Encumbrances which the Head Leases and/or leasehold interests created thereby are stated to be subject to or bound by pursuant to the terms of the applicable Head Lease;
 - (x) all Encumbrances affecting a Landlord's freehold interest in any Leased Property; and
 - (xi) all Encumbrances listed on Schedule 1.1(vvvv).
- (xxxx) “**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.
- (yyyy) “**Personal Information**” means information about an identifiable individual in the possession or under the control of the Seller.
- (zzzz) “**Personal Property Leases**” has the meaning given to such term in Section 2.1(f).
- (aaaa) “**Personal Property Lease Consents**” has the meaning given to such term in Section 8.5(a).
- (bbbb) “**Plan**” means any plan, arrangement, agreement, program, policy, practice or undertaking, whether oral or written, formal or informal, funded or unfunded, insured or uninsured, registered or unregistered, that provides any employee benefit, fringe benefit, supplemental unemployment benefit, bonus, incentive, profit sharing, termination, change of control, pension, supplemental pension, retirement, stock option, stock purchase, stock appreciation, share unit, phantom stock, deferred compensation, health, welfare, medical, dental, disability, life insurance and any similar plans, programmes, arrangements or practices.
- (cccc) “**Post-Closing Tax Period**” has the meaning given to such term in Section 8.8(b).
- (dddd) “**Pre-Closing Tax Period**” has the meaning given to such term in Section 8.8(b).
- (eeee) “**Premises**” means, collectively, the lands and premises which are leased to Corbeil pursuant to the Real Property Leases.
- (ffff) “**Purchase Price**” has the meaning given to such term in Section 3.1.

- (ggggg) “**Purchased Assets**” has the meaning given to such term in Section 2.1.
- (hhhhh) “**Purchased Accounts Receivable**” has the meaning set forth in Section 2.1(a).
- (iiii) “**Purchased Prepaid Expenses**” has the meaning set forth in Section 2.1(b)
- (jjjj) “**Purchased Inventory**” has the meaning set forth in Section 2.1(c).
- (kkkkk) “**QST**” means the Québec sales tax payable under the QST Legislation.
- (llll) “**QST Legislation**” means An Act Respecting the Québec Sales Tax (Québec).
- (mmmmm) “**Real Property Leases**” has the meaning given to such term in Section 2.1(g).
- (nnnnn) “**Regulatory Approvals**” means the Competition Act Approval and such other approvals as may be determined to be required pursuant to Section 8.4(a)(ii).
- (ooooo) “**Release**” has the meaning prescribed in any Environmental Law and includes any release, spill, leak, pumping, pouring, emission, emptying, discharge, injection, escape, leaching, disposal, dumping, deposit, spraying, burial, abandonment, incineration, seepage, placement or introduction.
- (ppppp) “**Restricted Rights**” has the meaning given to such term in Section 2.5.
- (qqqqq) “**SCI**” has the meaning given to such term in the preamble to this Agreement.
- (rrrrr) “**SCI IT Assets**” means all information technology systems listed in Schedule 1.1(rrrrr) which are owned by SCI and used or held for use for purposes of ensuring information technology support to the Acquired Business in relation to equipment, HR, consulting services, telecommunications, commercial insurance and/or employee pension plans and discount programs for Corbeil stores.
- (sssss) “**SCI IT Employees**” means the officers, employees, individual consultants and service providers of SCI listed in Schedule 1.1(rrrrr) which are necessary to ensure information technology support to the Acquired Business in relation to equipment, HR, consulting services, telecommunications, commercial insurance and/or employee pension plans and discount programs for Corbeil stores.
- (ttttt) “**Sears Group**” has the meaning given to such term in the preamble to this Agreement.
- (uuuuu) “**Sears Registered Pension Plan**” means the Sears Canada Inc. Registered Retirement Plan, Registration Number 0360065.
- (vvvvv) “**Seller**” has the meaning given to such term in the preamble to this Agreement.
- (wwwww) “**Settlement Date**” has the meaning given to such term in Section 3.5(f).
- (xxxxx) “**SISP**” means the Sale and Investment Solicitation Process approved by the SISP Order (as amended, restated, supplemented and/or modified from time to time).

(yyyyy) “**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.

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

(aaaaaa) “**Sunset Date**” has the meaning given to such term in Section 10.1(b).

(bbbbbb) “**Target Accounts Receivable**” means \$●.

(ccccc) “**Target Assumed Deferred Revenues**” means \$●.

(dddddd) “**Target Employees Liabilities**” means \$●.

(eeeeee) “**Target Inventory**” means \$●.

(ffffff) “**Target Prepaid Expenses**” means \$●.

(gggggg) “**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 (gggggg) payable by reason of contract, assumption, transferee liability, operation of law or otherwise.

(hhhhhh) “**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 so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any Party. 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 after due inquiry of SCI's Chief Financial Officer; and (b) the Buyer, it will be deemed to refer to the actual knowledge after due enquiry of the Buyer's President and Secretary.

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 12.8 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:

<u>Schedule</u>	<u>Description</u>
Schedule 1.1(h)	Form of Approval and Vesting Order
Schedule 1.1(i)	Form of Assignment Order
Schedule 1.1(tt)	Disclosed Documents
Schedule 1.1(uu)	Employee Plans
Schedule 1.1(aaaa)	Key Contracts
Schedule 1.1(rrrr)	SCI IT Assets and Employees
Schedule 1.1(vvvv)	Permitted Encumbrances
Schedule 2.1(f)	Personal Property Leases
Schedule 2.1(g)	Real Property Leases
Schedule 2.1(i)	Intellectual Property

Schedule 2.1(j)	IT Assets
Schedule 2.1(o)	Actions, etc.
Schedule 2.2(e)	Excluded Contracts
Schedule 3.2	Allocation Statement
Schedule 4.1	Jurisdiction of Incorporation

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 (including the provisions of Section 2.5), 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 other than Permitted Encumbrances, all of the Seller's right, title and interest in, to and under, or relating to, the assets, property and undertaking owned or used or held for use by the Seller in connection with the Acquired Business, as applicable (collectively, and for greater certainty excluding the Excluded Assets, the "**Purchased Assets**"), including without limitation the following properties, assets and rights:

- (a) *Accounts Receivable* – all the Accounts Receivable and the benefit of all security (including cash deposits), guarantees and other collateral held by the Seller relating to the Acquired Business (the "**Purchased Accounts Receivable**");
- (b) *Prepaid Expenses* – all unused portion of deposits and prepaid expenses, including *ad valorem* Taxes, of the Seller relating to the Acquired Business or the Purchased Assets, including all deposits of the Seller with any supplier, public utility, lessor under any Personal Property Lease or Real Property Lease, or Governmental Authority (the "**Purchased Prepaid Expenses**");
- (c) *Inventory* – all inventories owned by the Seller of the Acquired Business, including all items that are owned by the Seller for sale, license, rental, lease or other distribution in the ordinary course of the Acquired Business, or are being produced for sale, or are to be consumed, directly or indirectly, in the production of goods or services to be available for sale, of every kind and nature and wheresoever situated relating to the Acquired Business including inventories of raw materials, spare parts, work in progress, finished goods and by-products, operating supplies and packaging materials and all rights of the Seller under warranties, indemnities, licenses, and all similar rights of the Seller against third Persons with respect thereto (the "**Purchased Inventory**");
- (d) *Fixed Assets and Equipment* – all machinery, equipment, furnishings, furniture, parts, dies, molds, tooling, tools, computer hardware, supplies, accessories, office equipment and other tangible personal and moveable property (other than inventory) owned by the Seller for use in or relating to the Acquired Business, whether located on the Seller's premises or

elsewhere, and all rights of the Seller under warranties, indemnities, licenses, and all similar rights of the Seller against third Persons with respect to the equipment, fixed assets and tangible assets referenced herein;

- (e) *Vehicles* – all motor vehicles, including all trucks, vans, cars and forklifts owned by the Seller for use in or relating to the Acquired Business, and all rights of the Seller under warranties, indemnities, licenses, and all similar rights of the Seller against third Persons with respect to the motor vehicles referenced herein;
- (f) *Personal Property Leases* – all leases of personal or moveable property entered into by, or assigned in favour of the Seller that relate to the Acquired Business, including those listed in Schedule 2.1(f), as such leases and other agreements may have been amended, assigned, restated, supplemented or otherwise modified up to the date hereof and including all benefits, rights and options of the Seller pursuant to such leases and all leasehold improvements forming part thereof (collectively, the “**Personal Property Leases**”);
- (g) *Real Property Leases* – all leases and other agreements to occupy the Premises entered into by, or assigned in favour of the Seller that relate to the Acquired Business, including those listed in Schedule 2.1(g), as such leases and other agreements may have been amended, assigned, restated, supplemented or otherwise modified up to the date hereof and including all purchase options, prepaid rents, security deposits, rights to appurtenances and improvements, licenses and permits relating thereto and all leasehold improvements thereon (but excluding, for greater certainty, the Excluded Real Estate Properties) (collectively, the “**Real Property Leases**”). If the Premises comprise more than one leased location, the Real Property Leases related to any one leased location are referred to as a “**Real Property Lease**”;
- (h) *Assumed Contracts* – all Contracts entered into in connection with the Acquired Business to which the Seller is a party, as such Contracts may have been amended, assigned, restated, supplemented or otherwise modified up to the date hereof and any Contract entered into by the Seller relating to the Acquired Business from the date of this Agreement to the Closing Date, in compliance with this Agreement, including Section 8.2 (but excluding any Excluded Contracts, collectively, the “**Assumed Contracts**”);
- (i) *Intellectual Property* – all Intellectual Property and rights, title and interest in Intellectual Property owned by or licensed to the Seller that is used, or held for use, in the Acquired Business, including:
 - (i) the rights of the Seller under all trade-marks, trade names, business names, websites and domain names, certification marks, service marks, and other source indicators, and the goodwill of any business symbolized thereby, patents, copyrights, code, applications, systems, databases, data, website content, know-how, formulae, processes, inventions, technical expertise, research data, trade secrets, industrial designs and other similar property or proprietary rights used, or held for use, in the Acquired Business, including those listed and described in Schedule 2.1(i);

- (ii) all registrations and applications for registration thereof used, or held for use, in the Acquired Business, including those listed and described in Schedule 2.1(i);
 - (iii) the right to obtain renewals, extensions, substitutions, continuations, continuations-in-part, divisions, re-issues, re-examinations or similar legal protections related thereto used, or held for use, in the Acquired Business, including those listed and described in Schedule 2.1(i); and
 - (iv) the right to bring an action at law or equity for the infringement of the foregoing before the Closing Time, including the right to receive all proceeds and damages therefrom;
- (j) *Information Technology Systems* – all software (including source code and object code form), computer hardware, licenses, and documentation therefor and rights therein owned by or licensed to the Seller and used, or held for use, in the Acquired Business, and any other information technology systems owned by or licensed to the Seller and used in or for and on behalf of the Acquired Business, including all electronic data processing systems, program specifications, source codes, object code, input data, report layouts, formats, algorithms, record file layouts, diagrams, functional specifications, narrative descriptions, flow charts, operating manuals, training manuals and other related material and including, for greater certainty, the SCI IT Assets (collectively, the “IT Assets”), including those listed and described in Schedule 2.1(j);
- (k) *Goodwill* – the goodwill of the Acquired Business and relating to the Purchased Assets, and information and documents of the Seller relevant thereto, including lists of customers and suppliers, credit information, telephone and facsimile numbers, research materials, research and development files, Confidential Information and the exclusive right of the Buyer to represent itself as carrying on the Acquired Business in succession to the Seller;
- (l) *Employee Records* – personnel and employment records relating to the Assumed Employees;
- (m) *Business Records* – all business and financial records and files of the Acquired Business, including the general ledger and accounting records relating to the Acquired Business, marketing materials, market research, all customer lists and lists of suppliers, warranties, information relating to any Tax imposed on the Purchased Assets, all operating manuals, plans and specifications and all of the right, interest and benefit, if any, thereunder and to and in the domain names, telephone numbers and facsimile numbers used by the Seller in the conduct of the Acquired Business, and all records, files and information necessary for the Buyer to conduct or pursue the rights described in Section 2.1(o); provided, however, that the Seller may retain copies of all books and records included in the Purchased Assets to the extent necessary or useful for the administration of the CCAA Proceedings or any Insolvency Proceedings in respect of the Seller or the filing of any Tax return or compliance with any Applicable Law or the terms of this Agreement or related to the Excluded Assets;
- (n) *Insurance* –

- (i) the Contracts of insurance, insurance policies and insurance plans of the Seller relating to the Purchased Assets or the Acquired Business, to the extent transferable;
 - (ii) any insurance proceeds net of any deductibles and retention recovered by the Seller under all other Contracts of insurance, insurance policies (excluding proceeds paid directly by the insurer to or on behalf of directors and officers under director and officer policies) and insurance plans relating to the Purchased Assets or the Acquired Business between the date of this Agreement and the Closing Date; and
 - (iii) the full benefit of the Seller's rights to insurance Claims (excluding proceeds paid directly by the insurer to or on behalf of directors and officers under director and officer policies) relating to the Purchased Assets or the Acquired Business and amounts recoverable in respect thereof net of any deductible;
- (o) *Actions, etc.* – any Claims, refunds, causes of action, rights of recovery, rights of set-off, subrogation and rights of recoupment of the Seller related to the Acquired Business or any of the Purchased Assets or any of the Assumed Liabilities, including those listed on Schedule 2.1(o), and the interest of the Seller in any litigation and in the proceeds of any judgment, order or decree issued or made in respect thereof in respect of occurrences, events, accidents or losses suffered prior to the Closing Time (but excluding any of the foregoing in respect of any of the Excluded Assets or Excluded Liabilities);
- (p) *Loans* – any loans or debts due prior to the Closing Time from any Person to the Seller relating to the Acquired Business or the Purchased Assets;
- (q) *Governmental Authorizations* – All Governmental Authorizations related to the Acquired Business to the extent that they are transferable; and
- (r) *Other Assets* – any other assets owned, used, licensed or held for use by the Seller in connection with the Acquired Business.

2.2 Excluded Assets

Notwithstanding any provision of this Agreement to the contrary, the Purchased Assets shall not include any of the following assets, property, right, benefit or undertaking of the Seller (collectively, the “**Excluded Assets**”):

- (a) *Franchisee Assets* – all assets, properties, rights, benefits and undertakings owned by any franchisee of Corbeil whether located on the Premises or not;
- (b) *SCI Assets* – all assets, properties, rights, benefits and undertakings of SCI other than the SCI IT Assets;
- (c) *Cash and Cash Equivalents* – all Cash and Cash Equivalents, excluding, for greater certainty, the Mega Cash Deposit;

- (d) *Corporate Records* – original Tax records and books and records pertaining thereto, minute books, share ledgers, organizational documents, corporate seals, taxpayer and other identification numbers and other documents, in each case, relating to the organization, maintenance and existence of the Seller as a Person; provided that the Buyer may take copies of all Tax records and books and records pertaining to such records (as redacted, if applicable) to the extent necessary or useful for the carrying on of the Acquired Business after Closing, including the filing of any Tax return to the extent permitted under Applicable Law;
- (e) *Excluded Contracts* – all Contracts of the Seller set forth on Schedule 2.2(e) (collectively, the “**Excluded Contracts**”);
- (f) *Collateral* – all letters of credit, cash or cash equivalents of the Seller granted by the Seller as collateral to secure outstanding letters of credit in respect of any Excluded Liability or Excluded Asset including, for certainty, any Excluded Real Estate Property;
- (g) *Rights under Agreements* – all of the Seller’s rights under this Agreement; the NDA; any confidentiality, non-disclosure or similar agreements entered into in connection with the CCAA Proceedings or the SISP; the DIP Credit Agreement; the Wells Fargo Credit Agreement; the GACP Credit Agreement; the Excluded Contracts; the Closing Documents and the transactions contemplated by hereby and thereby;
- (h) *Excluded Real Estate Properties* – the Excluded Real Estate Properties;
- (i) *Director and Officer Insurance Policies* – all rights of the Seller and the directors and officers of the Seller under any director and officer insurance policies including any proceeds received or receivable by such Persons thereunder;
- (j) *Licenses and Registrations* – extra-provincial, sales, excise or other licenses or registrations issued to or held by the Seller relating to the Acquired Business to the extent not transferable;
- (k) *Tax Refunds* – the benefit of the Seller to any refundable Taxes payable or paid by the Seller, net of any amounts withheld by any Governmental Authority, having jurisdiction over the assessment, determination, collection, or other imposition of any Tax, and the benefit of the Seller to any claim or right of the Seller to any refund, rebate, or credit of Taxes, to the extent that such refundable Taxes, refund, rebate or credit relates to Taxes paid or payable by the Seller in respect of a period ending on or before the Closing Date or a Pre-Closing Tax Period;
- (l) *Avoidance Claims* – all rights and Claims against any Person for any liability of any kind based on or arising out of the occurrence of any fraudulent conveyance, settlement, reviewable transaction, transfer at undervalue, fraudulent preference or similar claim;
- (m) *Employee Plans* – all Employee Plans, and all assets related to all Employee Plans;
- (n) *Ordinary Course Assets* – any asset of the Seller that would otherwise constitute a Purchased Asset but for the fact that it is conveyed, leased or otherwise disposed of in the ordinary course of business in compliance with Section 8.2 or as obsolete during the

period beginning on the date of this Agreement and ending on the Closing Date; and

- (o) *Right to Exclude Assumed Contracts, etc.* – any Assumed Contract, Personal Property Lease or Real Property Lease added to the Excluded Assets by the Buyer after the date hereof in accordance with Section 2.6(b).

2.3 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, the following obligations and liabilities of the Seller with respect to the Acquired Business or the Purchased Assets (collectively, and for greater certainty excluding the Excluded Liabilities, the “**Assumed Liabilities**”), which Assumed Liabilities shall only consist of:

- (a) *Obligations under Assumed Contracts, Personal Property Leases and Real Property Leases, etc.* – all liabilities and obligations arising under the Assumed Contracts, Personal Property Leases and Real Property Leases which are assigned to the Buyer hereunder to the extent first arising after the Closing Time and not related to any defaults existing prior to or as a consequence of Closing including, for greater certainty, (i) any amounts owing under Real Property Leases in respect of any Landlord year-end reconciliations, and (ii) any portion of refunds and rebates receivable from suppliers relating to the Acquired Business or the Assumed Contracts which the Seller has historically shared with its franchisees;
- (b) *Acquired Business and Purchased Assets* – all other liabilities and obligations relating to the Purchased Assets and the operation of the Acquired Business to the extent such liabilities and obligations consist of liabilities and obligations that arise in respect of and relate to the period on and after the Closing Time and are not related to any defaults existing prior to or as a consequence of Closing;
- (c) *Deferred Revenues* – the portion of revenues from services to be performed or products to be delivered by the Acquired Business after the Closing Date that is recognized as a liability by the Seller on the Closing Date on a basis consistent with the Seller’s current accounting practices (the “**Assumed Deferred Revenues**”);
- (d) *Warranties* – all liabilities arising out of warranties in relation to products sold or distributed in connection with the Acquired Business by the Seller or any predecessors or affiliates of the Seller prior to or after the Closing Time, excluding for greater certainty any liabilities in relation to any class action proceedings or legal claims with respect to extended warranties offered in connection with the operations of the Acquired Business prior to the Closing Time;
- (e) *Employee Matters* – all liabilities and obligations (i) of or expressly assumed by the Buyer pursuant to Section 8.9; (ii) relating to the Buyer’s employment or termination of employment (whether or not arising under or in respect of any Buyer Employee Plan) of any Assumed Employees to the extent arising after the Closing Date of such Assumed Employees; (iii) relating to the Buyer’s offer of employment or notice of continued employment to any Employee pursuant to the terms of Section 8.9; (iv) the failure of the Buyer to satisfy its obligations under Section 8.9 with respect to any Employee; (v) under

any Buyer Employee Plan; and (vi) related to the Assumed Employees which arise out of or result from any termination of employment, layoff, or the closing or relocation of worksites or the like of such Assumed Employees by the Buyer after the Closing Date (collectively, the “**Assumed Employees Liabilities**”);

- (f) *Taxes* – real property, personal property, and similar *ad valorem* obligations, in each case, relating to the Purchased Assets for a Tax period (or the portion thereof) beginning after the Closing Date, excluding, for the avoidance of doubt, any amounts described in this paragraph that are (i) income Tax or similar liabilities of the Seller for any Tax period, (ii) any Tax or similar liability related to the Excluded Assets for any Tax period;
- (g) *Other Taxes* – all liabilities for any Tax that the Buyer is required to bear pursuant to Section 8.7;
- (h) *Gift Cards* – all liabilities relating to gift cards purchased by customers of the Acquired Business and store credits which can be redeemed for merchandise; and
- (i) *Permitted Encumbrances* – all liabilities, if any, arising from or after the Closing Time in relation to the Permitted Encumbrances and not related to any defaults existing prior to or as a consequence of Closing.

2.4 Excluded Liabilities

Except as expressly assumed pursuant to Section 2.3, all pre-Filing Date and post-Filing Date debts, obligations, contracts and liabilities of or relating to the Acquired Business, Purchased Assets, Seller or any predecessors of the Seller, and the Seller’s affiliates, of any kind or nature, shall remain the sole responsibility of the Seller and its affiliates, and the Buyer shall not assume, accept or undertake, any debt, obligation, duty, contract or liability of the Seller and its affiliates of any kind whatsoever, except as expressly assumed pursuant to Section 2.3, whether accrued, contingent, known or unknown, express or implied, primary or secondary, direct or indirect, liquidated, unliquidated, absolute, accrued, contingent or otherwise, and whether due or to become due, and specifically excluding (without limitation) the following liabilities or obligations which shall be retained by, and which shall remain the sole responsibility of, the Seller and its affiliates (collectively, the “**Excluded Liabilities**”):

- (a) *General* – except as expressly included in Assumed Liabilities, all liabilities to the extent arising out of the operation of the Acquired Business or the Purchased Assets for periods prior to the Closing Time (including, for the avoidance of doubt, breaches of contract, infringement, violations of law, tortious conduct, Tax liabilities, indebtedness for borrowed money (except as expressly included in Assumed Liabilities)) and intercompany liabilities;
- (b) *Contract and Real Property Leases Liabilities* – all liabilities of the Seller under the Assumed Contracts, Personal Property Leases and Real Property Leases, excluding other liabilities which, in each case, are Assumed Liabilities, incurred prior to the Closing Time;
- (c) *Excluded Assets* – all liabilities and obligations incurred prior, at or after the Closing Time and relating to the Excluded Assets (including any Excluded Contracts, any

Excluded Real Estate Properties, this Agreement and the DIP Credit Agreement);

- (d) *Cure Costs* – All Cure Costs;
- (e) *Environmental* – any liabilities to the extent arising out of or relating to the Acquired Business’ or the Purchased Assets’ non-compliance with Environmental Law or a Release to the Environment, and in either case, whether in respect of any facts, conditions or circumstances existing or occurring prior to the Closing Time;
- (f) *Employee Matters* –
 - (i) the Employee Plans, and any liabilities or other obligations arising under, relating to or with respect to any Employee Plan; and
 - (ii) except as included in Section 2.3(e), all liabilities related to the Employees of the Seller;
- (g) *Trade Debt* – all trade payables relating to the Acquired Business or the Purchased Assets accrued on or prior to the Closing Time;
- (h) *Intercompany Accounts Payable* – any debts due or accruing due on or prior to the Closing Time or arising from circumstances, events or occurrences existing or arising at or prior to the Closing Time from the Seller to any shareholder, director, officer (except amounts owing to any officer for service to the Acquired Business as an employee) or affiliate of the Seller or to another Seller;
- (i) *Intellectual Property Claims* – any Claims against the Seller for infringement, misappropriation or other violation of any Intellectual Property of any third Person that arise in respect of and relate to the period on and prior to the Closing Time;
- (j) *Pre-Filing Debt* – all liabilities, obligations and related guarantees relating to the Wells Fargo Credit Agreement and the GACP Credit Agreement;
- (k) *Taxes* – all liabilities for Taxes of the Seller; and
- (l) *Other* – Claims arising from or in relation to any facts, circumstances, events or occurrences existing or arising at or prior to the Closing Time, including without limitation Claims and liabilities relating to any breach of law and product liability Claims, any class action proceedings or other legal Claims with respect to extended warranties offered in connection with the operations of the Acquired Business on or prior to the Closing Time.

2.5 Assignment of Purchased Assets

- (a) Notwithstanding anything in this Agreement to the contrary, this Agreement shall not constitute an agreement to assign or transfer any Purchased Asset or any right thereunder if an attempted assignment or transfer (i) without the consent of a third Person would constitute a breach or in any way adversely affect the rights of the Buyer thereunder or (ii) is not permitted or enforceable under Applicable Law (collectively, “**Restricted Rights**”), unless

the assignment is subject to an Assignment Order. The Seller shall use commercially reasonable efforts to take all such action and do or cause to be done all such things as are reasonably necessary or proper following the Closing Time in order that the obligations of the Seller under such Restricted Rights may be performed in such manner that the value of such Restricted Rights is preserved and enures to the benefit of the Buyer and that any amounts due and payable, or which become due and payable, in and under the Restricted Rights are received by the Buyer and the liabilities are satisfied by the Buyer. Subject to payment of all liabilities in respect thereof by the Buyer, the Seller shall reasonably promptly pay to the Buyer all amounts collected by or paid to the Seller in respect of all such Restricted Rights. Subject to Section 8.2, the Seller shall not, without the prior written consent of the Buyer, agree to any modification of any Restricted Rights.

- (b) If a consent to transfer the Restricted Rights to the Buyer is not obtained by the Closing Time or such assignment is not attainable, the Seller and the Buyer will cooperate and use their respective commercially reasonable efforts from and after the Closing Time to implement a mutually agreeable arrangement pursuant to which the Buyer will obtain the benefits and assume the liabilities and obligations related to such Restricted Rights in accordance with this Agreement; provided, however, that the Buyer acknowledges and agrees that nothing in this Section 2.5 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, or require the Seller to take any illegal action or commit fraud on any Person.
- (c) Notwithstanding the foregoing: (i) nothing in this Section 2.5 shall require the Seller to renew any Restricted Rights once they have expired, (ii) any efforts required of the Seller pursuant to this Section 2.5 shall (A) be subject to receipt of adequate compensation in respect of all direct incremental costs and expenses accrued after the Closing Date and incurred in respect of or related to such arrangement which the Seller would not have otherwise incurred had no assignment intervened, (B) be strictly on an interim basis and in no event required to continue for more than 90 days following Closing, and (C) to the extent not prohibited, be of an administrative nature only, without any substantive function. The Buyer shall reimburse the Seller for any direct incremental cost incurred as provided for above and indemnify and hold the Seller harmless from and against all Claims, incurred or asserted, as a result of any actions taken pursuant to this Section 2.5.
- (d) For the avoidance of doubt, the Parties acknowledge that the fact that any Purchased Asset constitutes a Restricted Right shall not (i) constitute a breach of any covenant hereunder; (ii) entitle the Buyer to terminate this Agreement; or (iii) result in any reduction of the Purchase Price payable hereunder. Any non-Restricted Right assigned pursuant to the terms of this Section 2.5 shall, when assigned, constitute an Assumed Contract, Personal Property Lease or a Real Property Lease hereunder from and after such date.
- (e) Subject to the terms and conditions of this Agreement, the Seller hereby agrees to assign to the Buyer on the Closing Date, effective as of the Closing Time, all of the Seller's rights, benefits and interests in, to and under the Purchased Assets in accordance with either this Agreement or an Assignment Order.

2.6 Assumed Contracts, Personal Property Leases and Real Property Leases Schedules

- (a) The Seller shall, as soon as reasonably practicable after the date hereof, use commercially reasonable efforts to provide or make available to the Buyer the Assumed Contracts, Personal Property Leases and Real Property Leases that are not Disclosed Documents, if any, and any Assumed Contracts to be entered into by the Seller relating to the Acquired Business or the Purchased Assets between the date hereof and the Closing Date in accordance with the terms of this Agreement. The Buyer shall, acting reasonably, be entitled to make follow-up requests relating thereto to the Seller which the Seller will use commercially reasonable efforts to respond to in good faith.
- (b) From the date hereof until the date that is ten (10) Business Days before the Closing Date, the Buyer, in its sole discretion, shall have the right at any time and from time to time, upon irrevocable written notice to the Seller, to add to the Excluded Contracts one or more of the Assumed Contracts, Personal Property Leases or Real Property Leases that do not constitute Disclosed Documents; provided that no changes to the Purchase Price shall result from the operation of this Section 2.6(b) and that the Closing shall not be delayed or restricted in any way as a consequence of this Section 2.6(b).

2.7 Letters of Credit

On the Closing Date, the Buyer shall issue replacement letters of credit and/or security deposits for the Letters of Credit and shall use its best efforts to cause the Letters of Credit to be released and returned to the Seller without any further drawings thereunder, as soon as reasonably practicable but in no event later than thirty (30) days after the Closing Date. Provided that to the extent that the Buyer is unable to cause all of the Letters of Credit to be released and returned to the Seller, without any further drawings thereunder, in lieu of issuing the replacement letters of credit and/or security deposits referred to above, the Buyer shall cause matching, unconditional and irrevocable letters of credit and/or security deposits in favour of the Seller to be provided to the Seller on the Closing Date (collectively, the “**Matching Security**”) which Matching Security may be drawn upon by the Seller if and to the extent that the Seller’s Letters of Credit are drawn upon from time to time and the Buyer shall reimburse the Seller for any direct incremental cost incurred and indemnify and hold the Seller harmless from and against all Claims, incurred or asserted, as a result of any Letters of Credit which are not so released and returned to the Seller.

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, subject to adjustment in accordance with Section 3.5, is as follows:

- (a) \$● in cash, plus
- (b) the amount of the Accrued Liabilities.

3.2 Purchase Price Allocation

The Purchase Price, as may be finally adjusted in accordance with Section 3.5 hereof, shall be allocated among the Seller and the Purchased Assets as set forth in Schedule 3.2 (the “**Allocation Statement**”). The Buyer and the Seller shall: (a) report the purchase and sale of the Purchased Assets in any income Tax returns relating to the transactions contemplated in this Agreement in accordance with the Allocation Statement; and (b) act in accordance with the Allocation Statement in the preparation, filing and audit of any Tax return.

3.3 Payment of Purchase Price and Treatment of Deposit

- (a) Subject to Section 3.3(b) hereof, the Purchase Price will be satisfied as follows on the Closing Date:
- (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 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;
 - (ii) an amount equal to \$● minus the Deposit and the actual earnings thereon credited to the Seller in accordance with Section 3.3(a)(i) will be satisfied 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; and
 - (iii) as to the dollar value of the Accrued Liabilities, by the Buyer assuming the Accrued Liabilities.
- (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 this Agreement is terminated by the Seller pursuant to subsection 10.1(i) in order to compensate the Seller for expenses incurred in connection with the transactions contemplated in this Agreement and the delay caused to the Seller's efforts to sell the Purchased Assets. The entitlement of the Seller to the Deposit in such circumstances shall not limit the Seller's right to exercise any other rights which the Seller may have against the Buyer; and
- (i) returned to the Buyer, less any applicable withholding tax, if this Agreement is terminated pursuant to any subsection of Section 10.1 other than subsection 10.1(i).

3.4 Preparation of Closing Date Statement

- (a) The Buyer shall prepare and deliver, or cause to be prepared and delivered, to the Seller within 30 days after the Closing Date a statement (the "**Draft Closing Date Statement**") that sets out:
 - (i) the Purchased Accounts Receivable as at Closing, calculated using the Seller's past accounting practices in a manner consistent with those used by the Seller;
 - (ii) the Purchased Prepaid Expenses as at Closing, calculated using the Seller's past accounting practices in a manner consistent with those used by the Seller;
 - (iii) the Purchased Inventory as at Closing, determined further to a physical inventory count conducted by the Buyer and the Seller at the Seller's expense after the Closing Date and using a methodology consistent with the Seller's past accounting practices;
 - (iv) the Assumed Employees Liabilities as at Closing, calculated using the Seller's past accounting practices in a manner consistent with those used by the Seller;
 - (v) the Assumed Deferred Revenues at as Closing, calculated using the Seller's past accounting practices in a manner consistent with those used by the Seller; and
 - (vi) the Purchase Price at Closing.
- (b) If requested by the Seller, the Buyer will permit the Seller, the Monitor and their auditors or other representatives to review the working papers and other documentation used or prepared in connection with the preparation of, or which otherwise forms the basis of the Draft Closing Date Statement.

- (c) If the Seller gives written notice to the Buyer that they dispute the Draft Closing Date Statement within ten (10) Business Days after delivery of the Draft Closing Date Statement and the Parties cannot reach agreement on the Draft Closing Date Statement within twenty (20) Business Days after such notice of dispute is given, the dispute will be referred for determination by KPMG LLP or PricewaterhouseCoopers LLP (the “**Independent Auditor**”). The Parties will instruct the Independent Auditor to consider only those items and amounts as to which the Parties have not resolved their disagreement and to conduct such hearings as it considers necessary to resolve the disagreement between them. The Parties will furnish, or cause to be furnished, to such Independent Auditor such working papers and other documents and information related to the items and amounts in dispute as the Independent Auditor may request and are available to the relevant Party or its agents. The determination (the “**Determination**”) by such Independent Auditor will be made within twenty (20) Business Days of such referral and will be final and binding on the Parties. The costs of the Independent Auditor will be borne equally between the Seller on the one hand and the Buyer on the other. The Draft Closing Date Statement as may be amended or modified will become the “**Closing Date Statement**” and be final and binding on the Seller and the Buyer on the Business Day that is, as applicable (i) ten (10) Business Days after the delivery of the Draft Closing Date Statement to the Seller if no dispute notice is given, or (ii) the day following the delivery of the Determination by the Independent Auditor in accordance with this Section 3.4(b).

3.5 Adjustment to the Purchase Price

- (a) If the Purchased Accounts Receivable set forth in the Closing Date Statement are (i) less than the Target Accounts Receivable, the Purchase Price will be decreased by the amount of such difference, which will be owed by the Seller to the Buyer; or (ii) greater than the Target Accounts Receivable, the Purchase Price will be increased by the amount of such difference, which will be owed by the Buyer to the Seller.
- (b) If the Purchased Prepaid Expenses set forth in the Closing Date Statement are (i) less than the Target Prepaid Expenses, the Purchase Price will be decreased by the amount of such difference, which will be owed by the Seller to the Buyer; or (ii) greater than the Target Prepaid Expenses, the Purchase Price will be increased by the amount of such difference, which will be owed by the Buyer to the Seller.
- (c) If the Purchased Inventory set forth in the Closing Date Statement is (i) less than the Target Inventory, the Purchase Price will be decreased by the amount of such difference, which will be owed by the Seller to the Buyer; or (ii) greater than the Target Inventory, the Purchase Price will be increased by the amount of such difference, which will be owed by the Buyer to the Seller.
- (d) If the Assumed Employees Liabilities set forth in the Closing Date Statement are (i) less than the Target Employees Liabilities, the Purchase Price will be increased by the amount of such difference, which will be owed by the Buyer to the Seller; or (ii) greater than the Target Employees Liabilities, the Purchase Price will be decreased by the amount of such difference, which will be owed by the Seller to

the Buyer.

- (e) If the Assumed Deferred Revenues set forth in the Closing Statement are (i) less than the Target Deferred Revenues, the Purchase Price will be increased by the amount of such difference, which will be owed by the Buyer to the Seller; or (ii) greater than the Target Deferred Revenues, the Purchase Price will be decreased by the amount of such difference, which will be owed by the Seller to the Buyer.
- (f) If the net amount based on the calculations set forth in Sections 3.5(a) to 3.5(e) is owed by the Seller to the Buyer (the “**Final Negative Adjustment**”) the Seller will pay the amount of the Final Negative Adjustment to the Buyer by wire transfer of immediately available funds to an account specified by the Buyer within two (2) Business Days after the Draft Closing Date Statement becoming the Closing Date Statement (the “**Settlement Date**”) and such amount will be credited to the Buyer on account of the Purchase Price and the Purchase Price will be adjusted accordingly.
- (g) If the net amount based on the calculations set forth in Sections 3.5(a) to 3.5(e) is owed by the Buyer to the Seller (the “**Final Positive Adjustment**”) the Buyer will pay the amount of the Final Positive Adjustment to the Monitor by wire transfer of immediately available funds to an account specified by the Monitor within two Business Days after the Settlement Date, and such amount will be credited to the Seller on account of the Purchase Price and the Purchase Price will be adjusted accordingly.

ARTICLE 4 REPRESENTATIONS AND WARRANTIES BY THE SELLER

The Seller represents and warrants to the Buyer as follows, and acknowledges 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 its jurisdiction of incorporation set out in Schedule 4.1.

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;
 - (ii) carry out its obligations under this Agreement and the Closing Documents;
and
 - (iii) own or lease and to operate and use the Purchased Assets and carry on the
Acquired

Business as now conducted by such Seller;

- (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 the Seller; and
- (c) this Agreement does and the Closing Documents when executed by the Seller will constitute valid and binding obligations of the 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 its registration numbers to the Buyer prior to Closing.

4.5 Litigation

There are no Claims, investigations or other proceedings, including appeals and applications for review, in progress or, to the knowledge of the Seller, pending or threatened against or relating to the Seller which, if determined adversely to the Seller, would

- (a) enjoin, restrict or prohibit the transfer of all or any part of the Purchased Assets as contemplated by this Agreement; or
- (b) prevent the Seller from or delay the Seller in fulfilling any of its obligations set out in this Agreement or arising from this Agreement.

4.6 Title to the Purchased Assets

The Seller owns, and has good and marketable title to, the Purchased Assets, and, subject to the granting of the Approval and Vesting Order, the Purchased Assets will be sold to the Buyer free and clear of any Encumbrances other than Permitted Encumbrances, and other than the Excluded Assets, no other Person owns, leases or licenses any property and assets which are being used in the Acquired Business as currently conducted.

4.7 Real Estate

Except pursuant to the Real Property Leases, the Seller does not own or have any rights, title or interest in any real or immovable property, plants, building, structures, improvements, appurtenances and fixtures (including fixed machinery and equipment) that is being used for the conduct of the operations of the Acquired Business.

4.8 Ordinary Course

From the Filing Date until the date hereof, the Acquired Business has been conducted in a manner generally consistent with the pre-filing practices of the Acquired Business having regards to the CCAA Proceedings and there has not been any event, circumstance or occurrence which has had, or is reasonably likely to give rise to, a Material Adverse Effect.

4.9 Employees

The Employees do not have any entitlements under, and are not eligible to participate in, the defined benefit component of the Sears Registered Pension Plan or any unregistered defined benefit pension plan. There are no labour disputes, grievances, strikes or lockouts currently in existence or threatened with respect to the Acquired Business or any of the Employees. There are no collective agreements in force with respect to the Employees.

4.10 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 Acquired Business, the Purchased Assets, the Assumed Liabilities or the right of the Seller to sell or assign the same, as applicable. The disclaimer in this Section 4.10 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 its 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. The Guarantor is a corporation duly formed, validly existing and in good standing under the laws of Canada.

5.2 Residence of the Buyer and the Guarantor

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

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

5.3 Financial Ability

As of the date hereof, the Buyer and the Guarantor have a firm commitment from a lender of approximately \$● pursuant to an executed commitment letter (the “**Commitment Letter**”) (a copy of which has been provided to the Seller), which will be sufficient to allow the Buyer 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.

The Commitment Letter, in the form so delivered, is a valid and legally binding obligation of the Buyer, and to the knowledge of the Buyer, the other parties thereto, and is enforceable by the Buyer in accordance with its terms, and is in full force and effect. The Buyer has fully paid any and all commitment fees or other fees required to be paid by the Buyer prior to the date of this Agreement pursuant to the terms of the Commitment Letter. As of the date of this Agreement, no event has occurred which, with or without notice, lapse of time or both, would constitute a default on the part of the Buyer under the Commitment Letter. As of the date of this Agreement, the Buyer has no reason to believe that it will be unable to satisfy on a timely basis any term or condition of closing to be satisfied by it contained in the Commitment Letter. The Commitment Letter, along with the loan documents referenced therein constitute, as of the date of this Agreement, the entire and complete agreement between the parties thereto with respect to the financing contemplated thereby (other than any fee letter executed in connection therewith), and, except as set forth, described or provided for therein, as of the date of this Agreement, (i) there are no conditions precedent to the respective obligations of any financing provider to provide the financing contemplated under the Commitment Letter, and (ii) there are no contractual contingencies or other provisions under any agreement (including any side letters) relating to the transactions contemplated by this Agreement to which the Buyer or any of its affiliates is a party that would permit the financing provider to reduce the total amount of the financing contemplated under the Commitment Letter below the amount required to enable the Buyer to have sufficient funds available to pay the Purchase Price or impose any additional condition precedent to the availability of the financing under the Commitment Letter.

5.4 Absence of Conflicts

Each of the Buyer and the Guarantor is not a party to, bound or affected by or subject to (and the assets of each of the Buyer and the Guarantor 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 Regulatory Approvals and 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 or the Guarantor to consummate the transactions hereunder.

5.5 Due Authorization and Enforceability of Obligations

Each of the Buyer and the Guarantor 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 and the Guarantor. This Agreement does, and when executed and delivered by the Buyer and the Guarantor, the Closing Documents will, constitute valid and binding obligations of the Buyer and the Guarantor enforceable against each of them in accordance with their terms.

5.6 Approvals and Consents

Except for (a) the issuance of the Approval and Vesting Order, (b) any Regulatory Approvals, and (c) any consent that may be required in connection with the assignment of a Purchased Asset, 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 the Guarantor, and each of the agreements to be executed and delivered by the Buyer and the Guarantor 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 and the Guarantor to consummate the transactions hereunder.

5.7 GST, HST and QST Registration

The Buyer is or will be duly registered under subdivision (d) of Division V of the GST and HST Legislation with respect to the GST and HST, and QST Legislation with respect to the QST, and has provided or will prior to Closing provide its registration number to the Seller in accordance with Section 8.8(j).

5.8 Litigation

There are no Claims, investigations or other proceedings, including appeals and applications for review, in progress or, to the knowledge of the Buyer, pending or threatened against or relating to the Buyer or the Guarantor which, if determined adversely to the Buyer or the Guarantor, would

- (a) prevent the Buyer from paying the Purchase Price to the Seller;
- (b) enjoin, restrict or prohibit the transfer of all or any part of the Purchased Assets as contemplated by

this Agreement; or

- (c) prevent the Buyer or the Guarantor from or delay the Buyer or the Guarantor in fulfilling any of its obligations set out in this Agreement or arising from this Agreement.

5.9 Personal Information

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

5.10 As Is, Where Is

- (a) The Buyer acknowledges and agrees that it has conducted to its satisfaction an independent investigation and verification of the Acquired Business, the Purchased Assets (including the state of title thereto and/or the state of any Encumbrances and Permitted Encumbrances), the Assumed Liabilities, 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 herein, including 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 Acquired Business, 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 herein, including in ARTICLE 4, the Seller does not make or provide 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 HEREIN, INCLUDING IN ARTICLE 4: (A) THE BUYER IS ACQUIRING THE PURCHASED ASSETS ON AN "AS IS, WHERE IS" BASIS; AND (B) 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 NOT 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 BUSINESS, THE PURCHASED ASSETS, THE ASSUMED LIABILITIES, THE EXCLUDED ASSETS, THE EXCLUDED LIABILITIES, THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED BY THIS AGREEMENT, OR THE ACCURACY OR COMPLETENESS OF ANY INFORMATION PROVIDED TO (OR OTHERWISE ACQUIRED BY) THE BUYER OR ANY OF ITS RESPECTIVE REPRESENTATIVES, INCLUDING WITH RESPECT TO, THE REAL PROPERTY LEASES AND THE STATUS OF ANY OF
THE REAL

PROPERTY LEASES, THE PERMITTED ENCUMBRANCES, THE RENTABLE AREA OF THE PREMISES, THE EXISTENCE OF ANY DEFAULT ON THE PART OF THE SELLER OR LANDLORDS, THE USE PERMITTED AT ANY OF THE PREMISES, THE EXISTENCE OF ANY ENCUMBRANCE AND/OR OFF-TITLE COMPLIANCE MATTERS AFFECTING THE PURCHASED ASSETS, OR THE SELLER'S LEASEHOLD INTEREST THEREIN; 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, SUITABILITY FOR DEVELOPMENT, TITLE, DESCRIPTION, USE OR ZONING, ENVIRONMENTAL CONDITION, EXISTENCE OF LATENT DEFECTS, QUALITY, QUANTITY, ANY NON-INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS, OR REGARDING THE SCOPE, VALIDITY OR ENFORCEABILITY OF ANY TRANSFERRED INTELLECTUAL PROPERTY, ACQUIRED COMPANY INTELLECTUAL PROPERTY OR LICENSED INTELLECTUAL PROPERTY RIGHTS, OR ANY OTHER THING AFFECTING THE ACQUIRED BUSINESS, ANY OF THE PURCHASED ASSETS OR THE ASSUMED LIABILITIES, 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 has received a copy of the Real Property Leases and is familiar with the terms, agreements, covenants, obligations and conditions therein.
- (c) The Seller shall not be responsible for making any repairs, replacements, renovations, alterations, improvements or upgrades or undertaking any remediation to address a Release in or to the Premises or any part thereof, and, unless otherwise provided in the applicable Real Property Lease(s), it shall be the sole responsibility of the Buyer, as assignee thereunder, to make, at the Buyer's sole cost and subject to the receipt of any necessary approvals from any Landlord, any repairs, replacements, renovations, alterations, improvements and upgrades in or to the Premises in accordance with the Real Property Leases as may be required by the Buyer to make the Premises suitable for the Acquired Business or any other purposes and to undertake any required, necessary or desired remediation to address a Release at, on, under or migrating from any such Premises or any part thereof.

- (d) Unless otherwise provided in the applicable Real Property Lease(s), there is no rent free period or fixturing period under the Real Property Leases, and, in any event, the Seller shall not have any responsibility to pay any form of tenant inducement, tenant allowance, or other lease-takeover payment to the Buyer.
- (e) The Purchased Assets may be subject to certain Off-Title Compliance Matters, municipal requirements, including building or zoning by-laws and regulations, servitudes, easements for hydro, gas, telephone affecting the Purchased Assets, and like services to the Premises, and restrictions and covenants affecting the Premises, including but not limited to the Permitted Encumbrances. Without limiting the foregoing, the Seller shall not be responsible for rectification of any matters disclosed by any Governmental Authority or quasi-governmental authority having jurisdiction, and the Buyer shall accept the Purchased Assets subject to such matters.
- (f) 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.
- (g) 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, the Acquired Business, the Purchased Assets, the Assumed Liabilities and all related operations of the Seller.
- (h) This Section 5.10 will not merge on Closing and is deemed incorporated by reference in all Closing Documents.
- (i) The Buyer acknowledges and agrees that the enforceability of this Agreement against the Seller is subject to entry of the Approval and Vesting Order.

5.11 Investment Canada Act

Each of the Buyer and the Guarantor is a "Canadian" 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) *Regulatory Approvals* – the Regulatory Approvals shall have been obtained; and
- (c) *Court Orders* – the Approval and Vesting Order and, where required, the Assignment Order shall have been issued and entered and such order shall not have been reversed, modified, amended or stayed.

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* – the covenants contained in this Agreement to be performed or complied by the Seller at or prior to the Closing Time shall have been performed or complied with in all material respects as of the Closing Time;
- (b) *Truth of Representations and Warranties* – the representations and warranties of the Seller contained in ARTICLE 4 were true and correct as of the date of this Agreement and shall be true and correct 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), except where the failure to be so true and correct would not, individually or in the aggregate, have a Material Adverse Effect;
- (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) *No Material Adverse Effect* – no event having a Material Adverse Effect shall have

occurred.

- (e) *Key Consents* – all Key Consents shall have been obtained by the Seller, either through written consents or Assignment Orders; and
- (f) *Deliveries at Closing* – each of the deliveries required to be made to the Buyer pursuant to Section 11.2 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 were true and correct as of the date of this Agreement and 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 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, acting in a commercially reasonable manner; and
- (d) *Deliveries at Closing* – Each of the deliveries required to be made to the Seller pursuant to Section 11.3 shall have been so delivered.

ARTICLE 7 GUARANTEE

7.1 Guarantee

The Guarantor unconditionally guarantees to the Seller the due, punctual and complete performance of all of the obligations of the Buyer under this Agreement, including the due, punctual and complete payment of the Purchase Price by the Buyer in accordance with ARTICLE 3 hereof, on and subject to the terms and conditions set forth herein, provided that the maximum amount payable by the Guarantor hereunder shall not exceed the Purchase Price. The Seller is not bound to proceed against the Buyer or pursue any rights or remedies against the Buyer before being entitled to pursue its rights against the Guarantor.

ARTICLE 8

ADDITIONAL

AGREEMENTS OF THE PARTIES

8.1 Access to Information

Until the Closing Time, the Seller shall give to the Buyer's personnel engaged in the transactions contemplated by this Agreement and their accountants, legal advisers, consultants, financial advisors and representatives during normal business hours reasonable access to its premises and to all of the books and records relating to the Acquired Business, the Purchased Assets and the Assumed Liabilities and to the Employees of the Seller (who are actively at work), and shall furnish them with all such information relating to the Acquired Business, the Purchased Assets and the Assumed Liabilities as the Buyer may reasonably request in connection with the transactions contemplated by this Agreement; provided that any such access shall be conducted at the Buyer's expense, in accordance with Applicable Law, under the supervision of the Seller's personnel and in such a manner as to maintain confidentiality and not to unreasonably interfere with the normal operations of the Acquired Business, and the Seller will not be required to provide access to or copies of any such books and records if (a) the provision thereof would cause the Seller to be in contravention of any Applicable Law or (b) making such information available would (A) result in the loss of any lawyer-client or other legal privilege, or (B) cause the Seller to be found in contravention of any Applicable Law, or contravene any fiduciary duty or agreement (including any confidentiality agreement to which the Seller or any of its affiliates are a party), it being understood that the Seller shall cooperate in any reasonable efforts and requests that would enable otherwise required disclosure to the Buyer to occur without so jeopardizing privilege or contravening such Applicable Law, duty or agreement.

8.2 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 operate the Acquired Business in the ordinary course of business in all material respect consistent with pre-Filing Date past practices of the Acquired Business, and shall, without limiting the generality of the foregoing:

- (a) (i) use commercially reasonable efforts to preserve the Purchased Assets, (ii) use commercially reasonable efforts to retain possession and control (except for the sale of inventory in the normal course of business, in all material respects consistent with pre-Filing Date past practices) of the Purchased Assets; (iii) use commercially reasonable efforts to preserve its business organization, including the services of its officers and employees, and its business relationships and goodwill with customers, suppliers, Landlords and others having business dealings with it; (iv) pay and discharge the debts authorized by the CCAA Court in accordance with the DIP Credit Agreement; (v) use commercially reasonable efforts to maintain in full force and effect all material insurance policies and binders relating to the Acquired Business; and (vi) seek to collect the receivables of the Acquired Business in the ordinary course of business in the same manner as

previously collected; 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 Permitted Encumbrances and Encumbrances associated with or permitted by the DIP Credit Agreement) on or otherwise dispose of any of the Purchased Assets (except for inventory sold in the ordinary course of business, in all material respects consistent with pre-Filing Date past practices); (ii) materially increase the compensation or benefits of any Employee, except as may be required by an employment Contract; (iii) establish, adopt, enter into, amend or terminate any Employee Plan or any plan, agreement, program, policy, trust, fund or other arrangement that would be an Employee Plan if it were in existence as of the date of this Agreement; (iv) waive, release or settle any Claims held by it related to the Acquired Business that are included in the Purchased Assets; (v) waive, release, permit the lapse of, relinquish or assign any material rights of the Acquired Business under any Personal Property Lease, Real Property Lease, Assumed Contract or other Material Contract (vi) amend, terminate or assign any Personal Property Lease, Real Property Lease or other Material Contract, (vi) enter into any lease, Contract, license or other commitment related to the Acquired Business that would constitute a Personal Property Lease, Real Property Lease or other Material Contract; (vii) enter into any Contract which restricts the ability of the Acquired Business to engage in any business in any geographic area or channel of distribution; (viii) accelerate the delivery or sale of services or products, or offer discounts or price protection on the sale of services or products, or premiums on the purchase of raw materials, except in the ordinary course of business, consistent with past practice; (ix) make any changes in the selling, distribution, advertising, promotion, terms of sale or collection practices of the Acquired Business, except in the ordinary course of business; (x) incur any indebtedness other than trade debt incurred in the ordinary course of business; (xi) make or rescind any election related to Taxes which election is relevant or applicable to the Acquired Business; (xii) acquire any businesses or assets outside of the ordinary course of business; or (xiii) or make a commitment, whether in writing or otherwise, to do any of the foregoing.

8.3 IT Transfer

Prior to the Closing Time, the Seller and SCI shall have entered into all agreements and instruments and shall have done all such things as may be necessary to (i) effect the transfer to the Seller of the SCI IT Employees and the SCI IT Assets exclusively used to support the Acquired Business, and to (ii) license to the Buyer the SCI IT Assets not exclusively used to support the Acquired Business.

8.4 Approvals and Consents

- (a) Within ten (10) Business Days of the date of this Agreement,
 - (i) the Buyer shall file a request for an advance ruling certificate under the Competition Act or in the alternative a no action letter if necessary and required, and the Buyer and the Seller shall each file their pre-merger notification filing under the Competition Act unless the Parties mutually agree no such

pre-merger notification filings shall be made or agree to make such pre-merger notification filings at a later date; and

- (ii) to the extent mutually determined to be required, the Seller and the Buyer shall make all filings and submissions necessary under any other applicable competition, merger, antitrust, or other similar law, and the Buyer will request any expedited processing available.
- (b) The Seller and the Buyer shall cooperate and furnish to the other such necessary information and reasonable assistance as the other may request in connection with its preparation of any filing or submission in connection with obtaining the Regulatory Approvals.
- (c) The Seller, on the one hand, and the Buyer, on the other hand, will provide to the other Party copies of all submissions and filings provided to a Governmental Authority pursuant to the Competition Act or any other applicable antitrust or foreign investment regulation, and will provide reasonable opportunity to comment on such filings and submissions prior to submitting same to the Governmental Authority; notwithstanding the foregoing, submissions, filings or other written communications to a Governmental Authority may be redacted as necessary before sharing with the other Party to address reasonable solicitor-client, attorney-client or other privilege or confidentiality concerns, provided that external legal counsel to the Buyer and the Seller shall receive non-redacted versions of drafts or final submissions, filings or other written communications to the Governmental Authority on the basis that the redacted information will not be shared with their respective clients.
- (d) The Seller and the Buyer will promptly inform the other of any material communication received by such Party from any Governmental Authority or proposed to be made to any Governmental Authority, and shall provide the other Party and its counsel an opportunity to attend and participate in any meetings of a substantive nature with a Governmental Authority, with respect to the Competition Act or any other applicable antitrust or foreign investment regulation.
- (e) The Seller and the Buyer will make and use best efforts to obtain the Regulatory Approvals and any other approval of any Governmental Authority required to consummate the transactions contemplated by this Agreement. Without limiting the generality of the foregoing, the Buyer and Seller shall each (i) use its respective best efforts to comply as expeditiously as possible with all requests of any Governmental Authority for additional information and documents, including, without limitation, information or documents requested under the Competition Act or other applicable antitrust regulation; (ii) not (A) extend any waiting period under the Competition Act or any applicable antitrust or foreign investment regulation; or (B) enter into agreement with any Governmental Authority not to consummate the transactions contemplated by this Agreement, except, in each case, with the prior consent of the other Parties hereto; and (iii) cooperate with the other Parties hereto and use best efforts to avoid, contest and resist any action, including legislative, administrative or judicial action, and to have vacated, lifted, reversed or overturned any order (whether temporary, preliminary or permanent) that delays, restricts, prevents or prohibits the consummation of the transactions

contemplated by this Agreement.

- (f) The obligations of the Buyer pursuant to this Section 8.3 will include committing to any and all undertakings, divestitures, licenses or hold separate or similar arrangements with respect to the Purchased Assets, to any and all arrangements for the conduct of any business and/or terminating any and all existing relationships and contractual rights and obligations with respect to the Purchased Assets, and any and all undertakings, divestitures, licences or hold separate or similar arrangements with respect to the business of the Buyer or any of its affiliates which may be required in order to obtain the Regulatory Approvals, as appropriate, on or before the Sunset Date, without any reduction of the Purchase Price. Provided that, notwithstanding the foregoing or any other provision of this Agreement, Buyer shall not be required to take any action, or agree to take any action, including making any proposals, offering any remedies, commitments or undertakings, executing or carrying out any agreements, or submitting to Laws or Orders that would, individually or in the aggregate, have a material and adverse impact on the operation of the business of the Buyer and its subsidiaries or on the operation of the business carried on using the Purchased Assets after Closing, in each case taken as a whole.
- (g) The Buyer shall be responsible for payment of any applicable filing fees under the Competition Act or any other applicable antitrust regulation.
- (h) As soon as reasonably possible following the date hereof, the Seller and the Buyer shall:
 - (i) make all such filings and seek all such consents, approvals, permits and authorizations with any other Governmental Authorities whose consent is required for consummation of the transactions contemplated by this Agreement, and the Buyer will request any expedited processing available; and
 - (ii) use their reasonable best efforts to obtain the issuance of the Approval and Vesting Order on or before the relevant Milestones.
- (i) The Seller shall use its commercially reasonable efforts to obtain all consents, approvals and Governmental Authorizations with respect to, and provide any notices under, any Contracts required in connection with the completion of the transactions contemplated by this Agreement at or before the Closing Time on terms acceptable to the Buyer, acting reasonably. The Buyer shall use its commercially reasonable efforts to cooperate with the Seller in connection with the foregoing.

8.5 Consents under Assumed Contracts, Personal Property Leases and Real Property Leases

- (a) The Seller covenants to use commercially reasonable efforts to obtain (i) the written consent of the Landlords to the assignment of the Real Property Leases by the Seller to the Buyer, to the extent same is required by the terms of the Real Property Leases (collectively, the “**Landlord Consents**” and each a “**Landlord Consent**”), (ii) the written consent of the counterparties or any other Persons to the assignment of the Assumed Contracts by the Seller to the Buyer, to the extent same is required by the terms

of the Assumed Contracts (collectively, the “**Assumed Contract Consents**” and each an “**Assumed Contract Consent**”), and (iii) the written consent of the counterparties or any other Persons to the assignment of the Personal Property Leases by the Seller to the Buyer, to the extent same is required by the terms of the Personal Property Leases (collectively, the “**Personal Property Lease Consents**” and each a “**Personal Property Lease Consent**”), subject to the terms of this Agreement as well as the terms of the Approval and Vesting Order and any Assignment Order.

- (b) The Buyer agrees to co-operate with and assist the Seller in pursuing and obtaining the Assumed Contract Consents, the Personal Property Lease Consents and the Landlord Consents, the Approval and Vesting Order and any Assignment Order and such releases which the Seller, may in its reasonable discretion, desire to pursue, as applicable, for the sale of the Purchased Assets including, the assignment and assumption of the Assumed Contracts, the Personal Property Leases and the Real Property Leases, provided however that whether or not the above-mentioned releases are obtained by the Seller shall not affect any of its obligations hereunder. The Buyer’s co-operation includes, but is not limited to, providing any reasonable information requested by a counterparty to an Assumed Contract or a Personal Property Lease, a Landlord or the Court (including reasonable financial information, financing structure and proposed management team for the business), providing certificates of insurance, posting replacement or additional deposits and/or security with a Landlord, and executing and delivering any necessary acknowledgements, indemnities and assumption agreements required by: (i) a counterparty to an Assumed Contract or a Personal Property Lease or a Landlord as a condition to the issuance of its consent and/or release that are commercially reasonable or otherwise contemplated by the applicable Assumed Contract, Personal Property Lease or Real Property Lease; or (ii) the Court as a condition to the issuance of the Approval and Vesting Order or an Assignment Order.
- (c) The Buyer shall be responsible for any and all expenses and fees in connection with obtaining the Landlord Consents, Personal Property Lease Consents and Assumed Contract Consents (excluding the Cure Costs). Any Landlord Consent, Personal Property Lease Consent and Assumed Contract Consent must be on terms which are acceptable to the Seller and the Buyer, each acting reasonably, provided that the Seller shall not have the right to refuse such Landlord Consents, Personal Property Lease Consents or Assumed Contract Consents on the basis that the releases contemplated in Section 8.5(b) of this Agreement are not obtained.
- (d) Without limiting the foregoing, the Buyer agrees to provide to the Seller within five (5) Business Days of the date hereof all such information as is necessary (including reasonable financial information, financing structure and proposed management team for the Buyer’s business) or contemplated in the Assumed Contracts, Personal Property Leases or the Real Property Leases to demonstrate to the counterparties to the Assumed Contracts and Personal Property Leases and the Landlords that the Buyer is capable of performing all of the obligations of the Seller, as counterparty under the Assumed Contracts, Personal Property Leases or tenant under the Real Property Leases and that it would be appropriate to assign all of the rights and obligations of the Seller under the Assumed Contracts, Personal Property Leases or the Real Property Leases to the Buyer. Thereafter, the Buyer agrees to provide to the Seller promptly upon request by the Seller

such additional information as may be requested by any counterparty or Landlord in connection with such counterparty's or Landlord's consideration of the Seller's request for consent to assign the applicable Assumed Contract, Personal Property Lease or the Real Property Lease to the Buyer.

- (e) If the Seller is unable to obtain the written consent of a counterparty or a Landlord to the assignment of the respective Assumed Contract, Personal Property Lease or Real Property Lease to the Buyer on terms acceptable to the Seller and the Buyer, acting reasonably, the Seller covenants to make an application for an Assignment Order assigning all of the rights and obligations of the Seller under such Assumed Contracts, Personal Property Leases or Real Property Leases to the Buyer and compelling or deeming the applicable Assumed Contract Consents, Personal Property Lease Consents or Landlord Consents or the equivalent thereof. The Buyer agrees to accept such assignment of all of the rights and obligations of the Seller under the Assumed Contracts, Personal Property Leases and the Real Property Leases pursuant to the Assignment Order.
- (f) For greater certainty, the Buyer acknowledges and agrees that: (i) it is not entitled to request any amendments of the terms of any Assumed Contract, Personal Property Lease or Real Property Lease in connection with obtaining any Assumed Contract Consent, Personal Property Consent or Landlord Consent or Court approval for the sale of any of the Purchased Assets or the assignment of any of the Assumed Contracts, Personal Property Leases or Real Property Leases; (ii) nothing herein shall prohibit the Seller from seeking and requiring a release from the Landlords or from contractual counterparties in respect of the obligations of the Seller in respect of any or all of the Real Property Leases, Personal Property Leases or other Assumed Contracts, as the case may be, as a term of such consent, provided however that whether or not the above-mentioned releases are obtained by the Seller shall not affect any of its obligations hereunder; (iii) the applicable Assumed Contract Consent, Personal Property Consent or Landlord Consent will not be required if such counterparty's or Landlord's consent is not required to effect the transaction contemplated herein pursuant to the terms of such Assumed Contract, Personal Property Lease or Real Property Lease or is granted, deemed granted or deemed not to be necessary as a result of the Approval and Vesting Order or Assignment Order; and (iv) the Buyer's rights and remedies in respect of the Assumed Contracts, Personal Property Leases and Real Property Leases and the Premises shall also be subject to the provisions of the Initial Order and the SISP Order.
- (g) To the extent that the Cure Costs are payable in respect of any Assumed Contract, Personal Property Lease or Real Property Lease, the Seller shall pay all Cure Costs in respect of such Assumed Contract, Personal Property Lease or Real Property Lease to the Monitor at or prior to Closing. Such Cure Costs received by the Monitor shall be held by the Monitor and disbursed in accordance with the Approval and Vesting Order and the Assignment Order.
- (h) The Parties agree that in the event they are not able to obtain any Landlord Consent, Assumed Contract Consent or Personal Property Lease Consent or an Assignment Order in respect of any Assumed Contracts, Personal Property Leases or Real Property Leases other than Key Contracts on or before the Closing Date, the Parties shall proceed to complete the

transactions contemplated herein on the Closing Date in accordance with the terms of this Agreement with respect to those Assumed Contracts, Personal Property Leases or Real Property Leases for which the Parties have received a Landlord Consent, an Assumed Contract Consent, a Personal Property Lease Consent or an Assignment Order and this Agreement shall be deemed amended to include such Assumed Contract, Personal Property Lease or Real Property Lease for which the Assignment Order or Landlord's Consent has not been obtained in the definition of "Excluded Contract" or "Excluded Real Estate Properties". The Buyer may, on written notice to the Seller at any time prior to the Closing Date, elect not to purchase any of the personal property of the Seller constituting Purchased Assets located in or on the premises leased to the Seller pursuant to the Real Property Leases deemed to be Excluded Real Estate Properties pursuant to this Section 8.5 and this Agreement shall be deemed amended to include such designated personal property in the definition of Excluded Assets. For greater certainty, this Agreement shall continue to apply *mutatis mutandis* to the remaining Purchased Assets in accordance with the terms and conditions hereof.

The Seller agrees to deploy reasonable commercial efforts to assist the Buyer in obtaining such acknowledgement, status certificate or estoppel certificate in respect of any Real Property Lease from any Landlord that may be requested by the Buyer's lenders.

8.6 Covenants Relating to this Agreement

- (a) Each of the Parties shall perform, and, where appropriate, 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 Buyer hereby agrees to cause its representatives to, keep the Seller informed on a reasonably current basis as reasonably requested by the Seller or the Monitor, as to the Buyer's 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.

8.7 Release; Acknowledgements

Except as otherwise set forth herein, effective as of the Closing, the Buyer hereby releases and forever discharges the Seller, the Monitor and their respective affiliates, and each of 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, the Assumed Liabilities, the Excluded Assets or the Excluded Liabilities.

8.8 Tax Matters

- (a) 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 Allocation Statement, 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.
- (b) All real property Taxes, personal property 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.
- (c) 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.

- (d) To the extent permitted under subsection 167(1) of the GST and HST Legislation, Section 75 of the QST Legislation and any equivalent or corresponding provision under any applicable provincial or territorial legislation imposing a similar value added or multi-staged Tax, the Buyer and the Seller shall jointly elect that no Tax be payable with respect to the purchase and sale of the Purchased Assets under this Agreement. The Buyer and the Seller shall make such election(s) in prescribed form containing prescribed information and the Buyer shall file such election(s) in compliance with the requirements of the applicable legislation. Notwithstanding such election(s), in the event it is determined by the Canada Revenue Agency or Revenue Quebec (or another applicable provincial Governmental Authority) that there is a liability of the Buyer to pay, or of the Seller to collect and remit, any Taxes payable under the GST and HST Legislation or the QST Legislation (or any applicable provincial legislation) in respect of the sale and transfer of the Purchased Assets, such Taxes shall be paid by the Buyer.
- (e) If requested by the Buyer and to the extent permitted thereunder, the Seller and the Buyer will jointly execute, and each of them will file promptly following the Closing Date, an election under Section 22 of the *Income Tax Act* (Canada), and any corresponding provisions of any applicable provincial income Tax legislation. For the purposes of such elections, the Buyer and the Seller will designate, as the portion of the Purchase Price allocable to the debts in respect of which such elections are made, an amount in accordance with the Allocation Statement. For greater certainty, the Seller and the Buyer agree to prepare and file their respective Tax returns in a manner consistent with such election(s).
- (f) 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.
- (g) To the extent permitted under Section 221(2) of the GST and HST Legislation and any equivalent or corresponding provision under the QST Legislation and any other applicable provincial or territorial legislation, the Buyer shall self-assess and remit directly to the appropriate Governmental Authority any GST and HST imposed under the GST and HST Legislation and QST and any similar value added or multi-staged Tax imposed by the QST Legislation. The Buyer shall make and file a return(s) in accordance with the requirements of Subsection 228(4) of the GST and HST Legislation and any equivalent or corresponding provision under the QST Legislation and any other applicable provincial or territorial legislation.
- (h) At Closing, the Seller and the Buyer shall collectively execute, acknowledge, deliver and file all such returns and other documents as may be necessary to comply with the Applicable Laws regarding the transfer of the Real Property in Canada and all sales and transfer Taxes, registration charges and transfer fees payable on such transfer.
- (i) If requested by the Buyer and to the extent permitted thereunder, the Seller and the Buyer will jointly

execute an election in the prescribed manner and within the prescribed time limits, to have the rules in subsection 20(24) of the *Income Tax Act* (Canada), and any equivalent or corresponding provision under applicable provincial or territorial tax legislation, apply to the obligations of the Seller in respect of undertakings which arise from the operation of the Acquired Business and to which paragraph 12(1) (a) and 12(1)(e) of the *Income Tax Act* (Canada) apply. For the purposes of such election(s), the Buyer, acting reasonably, shall determine the elected amount and the Buyer and the Seller acknowledges that it is transferring assets to the Buyer which have a value equal to such elected amount as consideration for the assumption by the Buyer of such obligations of the Seller.

- (j) On Closing, the Buyer shall have executed and delivered a certificate, undertaking and indemnity which includes its certification of its registration numbers issued under the GST and HST Legislation and QST Legislation, and incorporates the provisions of the Section 8.8 (the “**GST/HST and QST Certificate, Undertaking and Indemnity**”). The Buyer shall indemnify and save the Seller harmless from and against any and all Taxes including, transfer Taxes and goods and services tax or harmonized sales tax, as the case may be, imposed under the GST and HST Legislation, the QST Legislation and any other value added or multi-staged tax or sales tax, penalties, costs and/or interest which may become payable by or assessed against the Seller as a result of any failure of the Seller to collect and remit any goods and services tax or harmonized sales tax payable under the GST and HST Legislation and the QST Legislation or any similar value added or multi-staged tax or sales tax and applicable on the sale and conveyance of the Purchased Assets by the Seller to the Buyer or as a result of any inaccuracy, misstatement, or misrepresentation made by the Buyer in connection with any matter raised in Section 8.8(g) or in the GST/HST and QST Certificate, Undertaking and Indemnity or any failure by the Buyer to comply with the provisions of Section 8.8(g) or the GST/HST and QST Certificate, Undertaking and Indemnity.

8.9 Employee Matters

- (a) Prior to the Closing Date, the Seller will provide notice to all Employees of the sale of the Purchased Assets and the Acquired Business and such notice shall be at a time and in a form approved by the Parties, each acting reasonably.
- (b) No more than five (5) days after the date of this Agreement, the Seller will deliver a schedule containing a true, correct and complete list of all of the Employees, specifying their positions and material terms of employment including wages/salary, incentive compensation, date of hire, benefits and vacation entitlement and accrual entitlements under applicable Employee Plans, working location, length of service, annual bonus for the current calendar year and their status as active or inactive (and, if inactive, whether long term disability, short term disability, maternity or paternity leave or other reason). Such schedule will be updated no later than fifteen (15) days prior to the Closing Date and immediately prior to the Closing Time as reasonably requested by the Buyer.
- (c) At least seven (7) days prior to the Closing Date, the Buyer shall provide the Seller with a list of the Employees that the Buyer, in its sole discretion, intends to make offers of employment to, conditional on Closing, which shall be comprised of at least 90% of the Employees in

the assumed locations (the “**Assumed Employees**”). At least three (3) Business Days prior to Closing, the Buyer shall offer employment in writing, conditional on Closing, and effective from the Closing Date, to all of the Assumed Employees who are Employees on the Closing Date, and will ensure that at least 90% of such offers of employment will be on terms and conditions of employment which are substantially similar in the aggregate for each individual Assumed Employee to those currently available to each Employee. Assumed Employees’ employment with the Buyer after the Closing Date, shall not include a probationary period and shall not be conditioned upon such Assumed Employees satisfactorily completing a background investigation, drug test or other employment screening processes. Buyer shall notify the Seller of the acceptance and rejections of offers of employment that have been received from each of the Employees upon request of the Seller. Notwithstanding the foregoing, the Buyer shall be under no obligation to make offers of employment to any Employee unless and until a consent for assignment from the other contracting party to the Lease associated with the store that is the primary location for such Employee's employment has been obtained.

- (d) The Buyer shall recognize service of the Assumed Employees with the Seller. The Seller will cooperate with the Buyer in giving notice to the Employees of the Seller concerning such matters referred to in this Section 8.9 as are reasonable under the circumstances. The Seller and the Buyer shall exercise reasonable efforts to persuade the Employees to accept the Buyer’s offers of employment.
- (e) Without limiting the application of Section 2.4(f), the Buyer shall assume and be responsible for all liabilities and obligations with respect to the Assumed Employees following the Closing Date, including, but not limited to, any required notice of termination, termination or severance pay (required under Applicable Law or under any Contract), and any employment insurance, workplace safety and insurance/workers’ compensation, Canada Pension Plan, salary or wages, vacation pay, overtime pay, payroll or employer health Taxes, commissions, bonuses or vacation entitlements and accruals. The Buyer shall also assume and be responsible for any vacation pay or wage liability with respect to the Assumed Employees, whether accruing or arising prior to or following the Closing Date.
- (f) The Buyer and the Buyer Employee Plans shall be responsible for eligible employee benefits claims Incurred by the Assumed Employees (and their respective eligible spouses, beneficiaries and dependents) on and after the Closing Date. The Seller and the Employee Plans shall be responsible for all claims incurred by Assumed Employees prior to the Closing Date. For these purposes, the date a claim is “Incurred” means: (i) with respect to a death or dismemberment claim, the date of the death or dismemberment; (ii) with respect to a short-term or long-term disability claim, the date that the period of short-term or long-term disability commenced; (iii) with respect to an extended health care claim, including, without limitation, dental and medical treatments, the date of the treatment; and (iv) with respect to a prescription drug or vision care claim, the date that the prescription was filled.
- (g) After the date hereof, the Seller and the Buyer shall cooperate promptly and in good faith in preparing the transition of the Assumed Employees as applicable from coverage under the comparable Employee Plan to coverage under the Buyer Employee Plan, if any, effective as of

the Closing Date.

- (h) For purposes of the Buyer Employee Plans in which any Assumed Employees participate, the Buyer shall recognize the service date of each such Assumed Employee, to the same extent that service credit would be given under the analogous Employee Plan, for purposes of eligibility and vesting, and with respect to any severance or vacation plan, the determination of levels of benefits, but not for purposes of benefit accrual. With respect to each Assumed Employee (and their eligible dependents, as applicable), the Buyer shall use commercially reasonable efforts to cause such Buyer Employee Plans to (i) waive any eligibility periods, evidence of insurability or pre-existing condition limitations and (ii) honor any deductibles, co-payments, co-insurance or out-of-pocket expenses paid or incurred by such Assumed Employees, including with respect to their dependents, under comparable Employee Plans.
- (i) For the avoidance of doubt, the Seller shall retain, and the Buyer shall not assume at the Closing, any liabilities or obligations for (i) the Sears Registered Pension Plan, (ii) the Employee Plans, and (iii) Employees of the Seller that are not Assumed Employees. The Buyer will not participate in, adopt, assume or contribute to, or will be required to participate in, adopt, assume or contribute to, any of the Employee Plans or the KERP or incur any liability thereunder.

8.10 Certain Payments or Instruments Received from Third Persons

To the extent that, after the Closing Date: (a) Buyer or any of its affiliates receives any payment or instrument that is for the account of the Seller according to the terms of any Closing Document, Excluded Asset or Excluded Liability, the Buyer shall, and shall cause its affiliates to, promptly deliver such amount or instrument to the Seller; or (b) the Seller or any of its controlled affiliates receives any payment or instrument that is for the account of the Buyer according to the terms of any Closing Document or that relates to the Acquired Business, Purchased Assets or Assumed Liabilities, the Seller shall, and shall cause its controlled affiliates to, promptly deliver such amount or instrument to the Buyer. All amounts due and payable under this Section 8.10 shall be due and payable by the applicable Party in immediately available funds, by wire transfer to the account designated in writing by the relevant Party. Notwithstanding the foregoing, the Seller, on the one hand, and the Buyer, on the other hand, hereby undertakes to, as reasonably requested and at the other's expense, direct or forward all bills, invoices or like instruments to the appropriate Party.

8.11 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 Intellectual Property forming part of the Purchased Assets.

8.12 Change Names

The Seller shall, within ten (10) Business Days after the Closing Date, provide evidence satisfactory to the Buyer that Seller and any of its affiliates, where applicable, has changed its corporate and business name to names that do not contain the name "Corbeil". The Seller and its affiliates will refrain from using any such names following the Closing except to the extent as

may be required in the context of the CCAA Proceedings or in connection with the sale, exhaustion or other disposal of business forms, correspondence and other materials bearing or identifiable by the "Corbeil" name in the possession of the Seller at the Closing Time and not otherwise transferred to the Buyer pursuant to this Agreement.

8.13 Governmental Authorizations

The Seller shall use commercially reasonable efforts to cooperate with and assist the Buyer as reasonably requested to transfer or replace all Governmental Authorizations, and to maintain at the Buyer's expense and comply with all required Governmental Authorizations during any transfer or replacement period after the Closing Time, in each case, with respect to Governmental Authorizations which are Purchased Assets; provided, however, that the Buyer acknowledges and agrees that nothing in this Section 8.13 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.

8.14 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 Governmental Authority or 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.

8.15 Risk of Loss

The Purchased Assets shall be at the risk of the Seller until the Closing Date. If before the Closing Date, all or any material part of the Purchased Assets are lost, damaged or destroyed or are appropriated, expropriated or seized by any Governmental Authority, then the Buyer shall have the option to:

(a) terminate this Agreement forthwith upon written notice to the Seller to such effect; or

(b) complete the transactions contemplated by this Agreement on Closing, and:

(i) reduce the Purchase Price by an amount equal to the cost of repair, or, if destroyed or damaged beyond repair, by an amount equal to the replacement cost of the assets forming part of the Purchased Assets so

damaged or destroyed, provided that any proceeds of insurance paid to the Buyer in respect of such destruction or damage be paid to the Seller immediately upon receipt thereof by the Buyer; or

- (ii) not reduce the Purchase Price and require the Seller to assign to the Buyer the proceeds of any insurance payable as a result of the occurrence of such loss, damage or destruction and to reduce the Purchase Price by the amount of the replacement costs of the Purchased Assets which were lost, damaged or destroyed less the amount of any proceeds of insurance payable as a result of the occurrence.

ARTICLE 9 COURT ORDERS

9.1 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 any Assignment Order.
- (b) 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 and notice of said motion and any accessory proceedings shall be transmitted to the Buyer.
- (c) Notwithstanding any other provision herein, it is expressly acknowledged and agreed that in the event that the CCAA Court declines to grant the Approval and Vesting Order, the Seller (with the consent of the Lenders) or the Buyer may terminate this Agreement.

9.2 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 10 TERMINATION

10.1 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) or on further order of the CCAA Court;
- (b) by the Buyer or the Seller (with the consent of the Lenders and the Monitor) if Closing has not occurred

on or before December 13, 2017 (as such date may be postponed as set forth below, the “**Sunset Date**”); provided that if on such date the condition set forth under 6.1(b) shall not be satisfied but all other conditions set forth in ARTICLE 6 (other than those capable of being satisfied at the Closing Time only) shall have been satisfied, then each of the Seller (with the consent of the Lenders) and the Buyer shall have the right to postpone the Sunset Date to February 28, 2018 and provided, that the terminating Party is 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 Parties pursuant to Section 9.1(c);
- (d) by the Buyer or the Seller upon the involuntary dismissal or conversion of the CCAA Proceedings
- (e) by the Buyer pursuant to Section 8.15 of this Agreement;
- (f) by the Buyer or the Seller upon permanent denial of the Approval and Vesting Order or any of the Regulatory Approvals;
- (g) 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);
- (h) by the Seller, if required under any Order of a court of competent jurisdiction including the CCAA Court;
- (i) by the Seller (with the consent of the Lenders and the Monitor) if there has been a 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 is incapable of being cured or has not been waived by the Seller or cured within ten (10) Business Days after written notice thereof from the Seller, provided that the Seller is not then in breach of this Agreement so as to cause any condition set forth in Section 6.1 or Section 6.2 not to be satisfied; and
- (j) by the Buyer if there has been a 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 is incapable of being cured or has not been waived by the Buyer or cured within ten (10) Business Days after written notice thereof from the Buyer, provided that the Buyer is not then in breach of this Agreement so as to cause any condition set forth in Section 6.1 or Section 6.3 not to be satisfied.

The Party desiring to terminate this Agreement pursuant to this Section 10.1 (other than pursuant to Section 10.1(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.

10.2 Effect of Termination

In the event of termination of this Agreement pursuant to Section 10.1, 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 10.2 and Sections 3.3(c), 12.1, 12.3, 12.4, 12.5, 12.7 and 12.8 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 (c) no termination of this Agreement shall relieve any Party of any liability for any wilful breach by it of this Agreement.

ARTICLE 11 CLOSING

11.1 Location and Time of the Closing

The Closing shall take place at the Closing Time on the Closing Date at the offices of Osler, Hoskin & Harcourt LLP located at Suite 6300, First Canadian Place, 100 King Street West, Toronto, Ontario, or at such other location as or by electronic transmission as may be agreed upon by the Parties.

11.2 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) the General Assignments and Bills of Sale for the Purchased Assets duly executed by the Seller;
- (c) the Lease Assignment and Assumption Agreements for the Personal Property Leases and Real Property Leases duly executed by the Seller;
- (d) the Contracts Assignment and Assumption Agreements for the Assumed Contracts duly executed by the Seller;
- (e) all documents of title and instruments of conveyance (duly executed by the Seller) necessary to transfer record and/or beneficial ownership to the Buyer of all vehicles owned by the Seller which are included in the Purchased Assets;
- (f) the IP Assignment and Assumption Agreements duly executed by the Seller;
- (g) certified copies of any Assignment Order(s) obtained by the Seller pursuant to this Agreement;
- (h) an executed copy of the Monitor's Certificate;
- (i) the certificates contemplated by Section 6.2(c);
- (j) 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 8.8; and

- (k) 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.

11.3 Buyer's Deliveries at Closing

At Closing, the Buyer shall deliver to the Seller:

- (a) the amount of cash to be delivered pursuant to 3.3(a)(ii);
- (b) any sales or transfer Taxes payable on Closing by the Buyer to the Seller pursuant to Section 8.8(c) hereof;
- (c) the General Assignments and Bills of Sale for the Purchased Assets duly executed by the Buyer;
- (d) the Lease Assignment and Assumption Agreements for the Personal Property Leases and Real Property Leases duly executed by the Buyer;
- (e) the Contracts Assignment and Assumption Agreements for the Assumed Contracts duly executed by the Buyer;
- (f) the IP Assignment and Assumption Agreements duly executed by the Buyer;
- (g) an assumption of the Permitted Encumbrances;
- (h) the Matching Security, if applicable;
- (i) the certificate contemplated by Section 6.3(c);
- (j) 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 8.8;
- (k) the GST/HST and QST Certificate, Undertaking and Indemnity; and
- (l) 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.

11.4 Possession of Assets

On Closing, the Buyer will take possession of the Purchased Assets wheresoever situated at Closing. 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 11.3.

11.5 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 cash portion of 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 8.8(c) 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).

11.6 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 12 GENERAL MATTERS

12.1 Confidentiality

The Buyer shall keep confidential all Confidential Information relating to the Seller, the Acquired Business, the Purchased Assets, the Assumed Liabilities, the Excluded Assets and the Excluded Liabilities in accordance with the terms of the NDA. Subject to the provisions of Section 12.2 below and any court proceeding or SISP requirements, from and after the Closing the Seller shall not disclose to anyone or use for any purpose any confidential information concerning the Acquired Business and will hold such information in the strictest confidence, except information which: (i) is part of the public domain; (ii) becomes part of the public domain other than as a result of a breach of these provisions by the Seller; or (iii) was received in good faith after Closing from an independent Person who was lawfully in possession of such information free of any obligations of confidence.

12.2 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 12.2, 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 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 its 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.

12.3 Survival

None of the representations, warranties, covenants (except the covenants in ARTICLE 2, ARTICLE 3, ARTICLE 7, ARTICLE 12 and Sections 7.1, 8.7, 8.8, 8.9, 8.10, 8.12, 12.1 and 12.4 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.

12.4 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.

12.5 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.

12.6 Leasehold Interests

Notwithstanding any provision of this Agreement to the contrary, for purposes of this Agreement and each Closing Document, (i) all references to “Real Property Lease” include any sublease or agreement to sublease by which the Seller (as subtenant) holds its interest in, and/or right to occupy the related Premises, (ii) for the Premises which are subject to a sublease or agreement to sublease (rather than a lease) in favour of the Seller, all references to the Seller’s “leasehold” interest in such Premises shall mean the Seller’s “subleasehold” interest, where applicable (rather than a leasehold interest) in such Premises, any reference to “Landlord” shall mean the sublandlord under the applicable sublease or agreement to sublease pursuant to which the Seller (as subtenant) holds its interest in, and/or right to occupy such Premises, and any reference to “Sublease” shall mean a sub-sublease in such Premises in favour of the Seller, and (iii) all other similar references relating to the Real Property Leases and Premises shall be interpreted and construed in a similar manner.

12.7 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, and the corresponding Assumed Liabilities be assumed by, 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 Sections 8.7 and 8.8(d), 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.

12.8 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 or the Guarantor at:

DISTINCTIVE APPLIANCES INC.
1795 Desserte nord Autoroute Laval O
Laval, Québec H7L3W3

Attention: Anthony Amiel
Telephone: 450-687-6311 x203
Facsimile: 450-682-7943
Email: anthony@amiel.ca

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

and

STIKEMAN ELLIOTT LLP

1155 René-Lévesque Blvd. West, 41st floor
Montreal, Québec, H3B 3V2

Attention: Guy P. Martel
Telephone: 514-397-3163
Facsimile: 514-397-3493
Email: gmartel@stikeman.com

and

MNP CORPORATE FINANCE INC.

1155 René-Lévesque Blvd. West, 23rd floor
Montreal, Québec, H3B 2K2

Attention: Patrick Khouzam
Telephone: 514-228-7874
Facsimile : 514-861-9446
Email: Patrick.Khouzam@mnp.ca

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

c/o

SEARS CANADA INC.

290 Yonge Street, Suite 700
Toronto, Ontario M5B 2C3

Attention: Phil Mohtadi
Telephone: 416-941-4419
Email: phil.mohtadi@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.

12.9 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.

12.10 Language

Les Parties aux présentes ont expressément exigé que la présente convention et tous les documents et avis qui y sont afférents soient rédigés en langue 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.

CORBEIL ÉLECTRIQUE INC.

By: P. MONTAGNI

Name: P. MONTAGNI
Title: Secretary

By: _____

Name:
Title:

AM-CAM ÉLECTROMÉNAGERS INC.

By: _____

Name:
Title:

By: _____

Name:
Title:

DISTINCTIVE APPLIANCES INC.

By: _____

Name:
Title:

By: _____

Name:
Title:

Intervening hereto solely for the purposes of the covenant set forth in Section 8.3

SEARS CANADA INC

By: P. MONTAGNI

Name: P. MONTAGNI
Title: Secretary

By: _____

Name:
Title:


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

CORBEIL ÉLECTRIQUE INC.

By: _____
Name:
Title:


By: _____
Name:
Title:

AM-CAM ÉLECTROMÉNAGERS INC.

By:  _____
Name: Jacques Amiel
Title: President

By: _____
Name:
Title:

DISTINCTIVE APPLIANCES INC.

By:  _____
Name: Jacques Amiel
Title: President

By: _____
Name:
Title:

Intervening hereto solely for the purposes of the covenant set forth in Section 8.3

SEARS CANADA INC

By: _____
Name:
Title:

By: _____
Name:
Title:

SCHEDULE 1.1(h)
FORM OF APPROVAL AND VESTING ORDER

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

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE MR.)	●, THE ● TH
)	
JUSTICE HAINEY)	DAY OF ●, 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
(Corbeil Électrique Inc.)

THIS MOTION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. c-36, as amended (the “**CCAA**”) for an order, *inter alia*, approving: (i) the sale of ●, together with certain ancillary assets (the “**Transaction**”) contemplated by an Asset Purchase Agreement between ● (the “**Seller**”), as vendor, and ● (the “**Buyer**”) as Buyer dated ●, 2017 (the “**APA**”) and certain related relief, and (ii) vesting in and to the Buyer 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, 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 Buyer, 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 Buyer may agree to in writing. 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 Buyer 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 on Closing, the Monitor shall hold back from the Purchase Price an amount of five million dollars (\$5,000,000) (the “**Holdback Amount**”) in escrow, such amount to be held by the Monitor in trust and dealt with as follows: if the net amount based on the calculations set forth in Sections 3.5(a) to 3.5(e) of the APA is owed by the Seller to the Buyer (the “**Final Negative Adjustment**”), as determined by the Seller and

the Buyer, or the Independent Auditor, as the case may be, the Monitor, on behalf of the Seller, will wire transfer the amount from the Holdback Amount that is the lesser of (i) the amount of the Final Negative Adjustment, and (ii) the Holdback Amount, to the Buyer within two (2) Business Days after the Settlement Date.

6. THIS COURT ORDERS AND DECLARES that upon the delivery of a Monitor's certificate to the Buyer 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 Buyer, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise in respect of the Purchased Assets (collectively, the "**Claims**"), including, without limiting the generality of the foregoing:

- (a) any and all encumbrances or charges created by Order of this Court, including 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) any and all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (●), the *Register of Personal and Movable Real Rights* or any other personal property registry system; and

(all of which are collectively referred to as the "**Encumbrances**", which term shall not include the Permitted Encumbrances listed on Schedule "B" hereto), 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.

7. THIS COURT ORDERS that upon the registration in the Canadian Intellectual Property Office of a certified copy of this Order, the applicable Registrar is hereby directed to transfer all of the Seller's right, title and interest in and to the Purchased Assets that consist of the

Intellectual Property applications and registration listed in Schedule “D” hereto, to the Buyer as described in the APA, free and clear of and from any and all Claims.

8. THIS COURT ORDERS that from and after the delivery of the Monitor's Certificate, all Claims and Encumbrances shall attach to the Purchase Price (except for the Holdback Amount as described in paragraph 5 above) (the “**Closing Purchase Price**”), 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. Upon the Settlement Date (as defined in the APA), all Claims and Encumbrances shall attach to any amount of the Holdback Amount retained by the Seller (the “**Remaining Holdback Amount**”, and together with the Closing Purchase Price, 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.

9. 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: (i) on the day of filing the Monitor's Certificate or as soon as practicable thereafter, the Closing Purchase Price, and (ii) on the Settlement Date, the Remaining Holdback Amount, if any, 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 the DIP Term Agent, as applicable, or if no such applicable agreement can be reached, on further Order of the Court (a “**Distribution**”).

10. 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.

11. THIS COURT ORDERS that, notwithstanding:

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

- (c) any assignment in bankruptcy made in respect of any of the Applicants;

any distribution permitted by paragraph 9 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.

12. 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.

13. 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.

GENERAL PROVISIONS

14. THIS COURT ORDERS that, pursuant to clause 7(3) of the Canada Personal Information Protection and Electronic Documents Act, the Seller or the Monitor shall be authorized and permitted to disclose and transfer to the Buyer all human resources and payroll information in the Seller's records pertaining to the Employees (as defined in the APA), including personal information of those Employees. The Buyer shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Seller.

15. 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 the Seller and any bankruptcy order issued pursuant to any such applications; or

- (c) any assignment in bankruptcy made in respect of the Seller;

the vesting of the Purchased Assets in the Buyer pursuant to this Order shall be binding on any trustee in bankruptcy or receiver that may be appointed in respect of the Seller and shall not be void or voidable by creditors of the Seller, 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.

16. THIS COURT ORDERS THAT (i) on or after the Closing Date, Corbeil shall be permitted to execute and file articles of amendments or such other documents or instruments as may be required to change its corporate and business names in accordance with the APA, and such articles, documents or other instruments shall be deemed to have been duly authorized, valid and effective and shall be accepted by the applicable Governmental Authority without the requirement (if any) of obtaining director or shareholder approval pursuant to any federal or provincial legislation.

17. 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.

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

SCHEDULE "A"

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

ONTARIO SUPERIOR COURT OF JUSTICE COMMERCIAL LIST

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SEARS CANADA INC., 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 ● (the "**Seller**"), as vendor, and ● (the "**Buyer**") as Buyer dated ●, 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 Buyer 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 Buyer and the Seller of a certificate confirming (i) all conditions to Closing have been satisfied or waived by the Buyer and the Seller, as applicable;

and (ii) the cash portion of the Purchase Price and all applicable sales and transfer Taxes payable (each as defined in the APA) by the Buyer 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 Buyer and the Seller, as applicable; and
2. The cash portion of the Purchase Price and all applicable sales and transfer Taxes payable by the Buyer 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”
PERMITTED ENCUMBRANCES

“Permitted Encumbrances” means:

- (i) inchoate statutory liens for Taxes, assessments, governmental or utility charges or levies not due as at the Closing Date (including the Encumbrances of public utilities, workers, suppliers of materials, builders, contractors, architects and unpaid vendors of moveable property);
- (ii) rights of equipment lessors pursuant to Assumed Contracts and Personal Property Leases;
- (iii) any privilege in favour of any lessor, licensor or permitter for rent to become due or for other obligations or acts, the performance of which is required under any Assumed Contract;
- (iv) any rights of expropriation, access or use or any other similar rights conferred or reserved by Applicable Law;
- (v) any easements, servitudes or rights-of-way in favour of any Governmental Authority, any private or public utility, any railway company or any adjoining owner;
- (vi) the provisions of all by-laws, regulations, ordinances and similar instruments relating to development and zoning of the Leased Property;
- (vii) all Off-Title Compliance Matters;
- (viii) the Encumbrances which the Real Property Leases and/or any Leased Property are stated to be subject to or bound by pursuant to the terms of the Real Property Leases;
- (ix) any ground lease, emphyteutic lease, head lease or other lease which is superior to any Real Property Lease (each a “Head Lease”), any Encumbrances or other rights in favour of the applicable landlord contained in any Head Lease, and any Encumbrances which the Head Leases and/or leasehold interests created thereby are stated to be subject to or bound by pursuant to the terms of the applicable Head Lease;
- (x) all Encumbrances affecting a Landlord's freehold interest in any Leased Property; and
- (xi) all Encumbrances listed on Schedule 1.1(vvvv) of the APA.

**SCHEDULE “D”
INTELLECTUAL PROPERTY**

(see attached)

**SCHEDULE 1.1(i)
FORM OF ASSIGNMENT ORDER**

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.)
JUSTICE HAINEY)
)
)

●, THE ●TH
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**”)

ORDER APPROVING ASSIGNMENT OF CONTRACTS

THIS MOTION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the “**CCAA**”) for an order, *inter alia*, approving the assignment of certain leases and contracts (the “**Assignment**”) to the Buyer as contemplated by the Asset Purchase Agreement between ● (the “**Seller**”), as vendor, and ● (the “**Buyer**”), as buyer, dated ●, 2017 (the “**APA**”) was heard this day at 330 University Avenue, Toronto, Ontario.

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 ASSIGNMENT OF CONTRACTS

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

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

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

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

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

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

7. THIS COURT ORDERS that all Cure Costs incurred or accrued on or before the Closing Date, shall be paid in accordance with Section 8.5(g) of the APA, the whole as set forth in Schedule C hereto.

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

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

GENERAL

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

or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the Applicants and the Monitor and their respective agents in carrying out the terms of this Order.

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

SCHEDULE A

Contracts

Store No.	Store Name	Shopping Centre	Property Manager/Landlord	Address	City, Province, Postal Code	Date of Lease and Amendments

SCHEDULE B

Monitor's Certificate

(see attached)

SCHEDULE C

Cure costs

(see attached)

**SCHEDULE 1.1(tt)
DISCLOSED DOCUMENTS**



**SCHEDULE 1.1(uu)
EMPLOYEE PLANS**



**SCHEDULE 1.1(aaaa)
KEY CONTRACTS**



**SCHEDULE 1.1(rrrrr)
SCI IT ASSETS AND EMPLOYEES**



**SCHEDULE 1.1(vvvv)
PERMITTED ENCUMBRANCES**



SCHEDULE 2.1(f)
PERSONAL PROPERTY LEASES



SCHEDULE 2.1(g)
REAL PROPERTY LEASES




**SCHEDULE 2.1(i)
INTELLECTUAL PROPERTY**





LEGEND:






P = Pending Mark (not registered yet)


R = Registered Mark

D = Design Feature in mark

Status	Design Feature	TRADEMARK	FRENCH / ENGLISH EQUIVALENT FILED / REGISTERED (if applicable)	REGISTRATION / APPLICATION NUMBER	FILING DATE	REG. DATE	OWNER OF THE MARK	NEXT DUE DATE (M/D/Y)	DESIGN (if Applicable)	WARES AND/OR SERVICES COVERED BY MARK
R		CABINALTO		1,629,747 TMA950,959	6/05/2013	9/30/2016	CORBEIL ELECTRIQUE INC	9/30/2031	-----	GOODS Cl. 20: Kitchen Cabinets
R		CABIVIA		1,629,745 TMA950,962	6/05/2013	9/30/2016	CORBEIL ELECTRIQUE INC	9/30/2031	-----	GOODS Cl. 20: Kitchen Cabinets
R		CORBEIL APPLIANCES		0,813,296 TMA480,117	5/23/1996	8/11/1997	CORBEIL ELECTRIQUE INC.	8/11/2027	-----	SERVICES CL.35: Retail business operation of home appliances, electronic devices and accessories, extended warranty service and after-sales service.
R	D	CORBEIL APPLIANCES & Dessin		0,826,026 TMA488,467	10/16/1996	1/28/1998	CORBEIL ELECTRIQUE INC.	1/28/2028		SERVICES CL.35: Retail business operation of home appliances, electronic devices and accessories, extended warranty service and after-sales service.

R	D	CORBEIL APPLIANCES THE ONLY TRUE APPLIANCE SPECIALIST! 1 AND DESIGN	Corbeil Electroménagers Le Seul Vrai Spécialiste De L'électroménager & Design	1,218,866 TMA694,137	6/2/20-04	8/15/2007	CORBEIL ELECTRIQUE INC.	8/15/2022		SERVICES CL.35 ET CL.36 : Operation of a retail business selling household electrical appliances, electronic appliances and accessories, extended warranty plans and customer service.
R		CORBEIL ÉLECTRIQUE		0,807,404 TMA476,453	3/19/1996	5/20/1997	CORBEIL ELECTRIQUE INC.	5/20/2027	-----	SERVICES CL.35: Retail business operation of home appliances, electronic devices and accessories, extended warranty service and after-sales service.
R		CORBEIL ÉLECTROMÉNAGERS		0,813,295 TMA480,039	5/23/1996	8/11/1997	CORBEIL ELECTRIQUE INC.	8/11/2027	-----	SERVICES CL.35: Retail business operation of home appliances, electronic devices and accessories, extended warranty service and after-sales service.
R	D	CORBEIL ÉLECTROMÉNAGERS & DESSIN		0,826,025 TMA488,468	10/16/1996	1/28/1998	CORBEIL ELECTRIQUE INC.	1/28/2028		SERVICES CL.35: Retail business operation of home appliances, electronic devices and accessories, extended warranty service and after-sales service.
R	D	CORBEIL ÉLECTROMÉNAGERS LE SEUL VRAI SPÉCIALISTE DE L'ÉLECTROMÉNAGER & DESIGN	Corbeil Appliances The Only True Appliance Specialist & Design	1,218,990 TMA696,621	6/2/2004	9/17/2007	CORBEIL ELECTRIQUE INC.	9/17/2022		SERVICES CL.35 ET CL.36: Operation of a retail business selling household electrical appliances, electronic appliances and accessories, extended warranty plans and customer service.
R	D	CORBEIL ÉLECTROMÉNAGERS LE SPÉCIALISTE DE L'ELECTROMENAGER! & DESIGN		1,093,722 TMA592,376	2/27/2001	10/16/2003	CORBEIL ELECTRIQUE INC.	10/16/2018		SERVICES CL.35: Commercial operation of retail sales of appliances, electronic devices and accessories; extended warranty service and customer service.

R	D	CORBEIL PROTECTION PLAN & DESIGN	Plan Protection Corbeil & Design	1,205,650 TMA702,230	2/3/2004	12/4/2007	CORBEIL ELECTRIQUE INC.	12/4/2022		SERVICES CL.36 : Extended warranty plans for appliances.
R		CUCINORA		1.629.746 TMA950,961	6/05/2013	09/30/2016	CORBEIL ELECTRIQUE INC.	03/13/2032		GOODS CL.20: Kitchen Cabinets
R	D	ELLIPSE CORBEIL & DESIGN		1,733,698 TMA965,555	06/19/2015	03/13/2017	CORBEIL ELECTRIQUE INC.	09/30/2031		GOODS CL.11: refrigerators, freezers, range hoods
R	D	LE SEUL VRAI SPÉCIALISTE DE L'ÉLECTROMÉNAGER & DESIGN	The Only True Appliance Specialist & Design	1,205,649 TMA654,397	2/3/2004	12/6/2005	CORBEIL ELECTRIQUE INC.	12/6/2020		SERVICES CL.35 ET CL.36 : Operation of a retail business selling household electrical appliances, electronic appliances and accessories, extended warranty plans and customer service
R	D	PLAN PROTECTION CORBEIL & DESIGN	Corbeil Protection Plan & Design	1,205,651 TMA706,588	2/3/2004	2/5/2008	CORBEIL ELECTRIQUE INC.	2/5/2023		SERVICES CL.36 : Extended warranty plans for appliances.

R	D	THE ONLY TRUE APPLIANCE SPECIALIST & DESIGN	Le Seul Vrai Spécialiste De L'électroménager & Design	1,205648 TMA670,580	2/3/2004	8/21/2006	CORBEIL ELECTRIQUE INC.	8/21/2021		SERVICES CL.35 ET CL.36 : Operation of a retail business selling household electrical appliances, electronic appliances and accessories, extended warranty plans and customer service in connection with the aforementioned services
		BOUTIQUE CORBEIL H2O		1,207,951 TMA688667	02/24/2004	05/31/2007	CORBEIL ELECTRIQUE INC.	05/31/2022		SERVICES CL.35 ET CL.42: Retail store services specializing in the sale of water coolers, water filtration systems and filters.

SCHEDULE 2.1(j)
IT ASSETS



**SCHEDULE 2.1(o)
ACTIONS, ETC.**

Nil.

SCHEDULE 2.2(e)
EXCLUDED CONTRACTS

Nil.

**SCHEDULE 3.2
ALLOCATION STATEMENT**



**SCHEDULE 4.1
JURISDICTION OF INCORPORATION**

CORBEIL ÉLECTRIQUE :

NEQ : 1140521528

Address of Elected Domicile: Sears Canada Inc., 700-290 Yonge Street, Toronto (ON)

Incorporation Date: 1994-06-01

Jurisdiction of Incorporation: Quebec (*Companies Act*, part 1A and *Business Corporations Act*)

TAB 3

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.) WEDNESDAY, THE 4TH
)
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
(Corbeil Électrique Inc.)**

THIS MOTION, made by the Applicants, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. c-36, as amended (the “**CCAA**”) for an order, *inter alia*, approving: (i) the sale transaction (the “**Transaction**”) contemplated by an Asset Purchase Agreement between Corbeil Électrique Inc. (the “**Seller**”) as Seller, Am-Cam Électroménagers Inc. (the “**Buyer**”) as Buyer, Distinctive Appliances Inc. (the “**Guarantor**”) as Guarantor and Sears Canada Inc. (“**Sears Canada**”) as intervenor, dated October 1, 2017 (the “**APA**”) and certain related relief, and (ii) vesting in and to the Buyer 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 October 1, 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 Buyer, 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 and Sears Canada (as intervenor) is hereby approved and ratified and that the execution of the APA by the Seller and Sears Canada (as intervenor), 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 Buyer may agree to in writing. 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 Buyer 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 on Closing, the Monitor shall hold back from the Purchase Price an amount of five million dollars (\$5,000,000) (the “**Holdback Amount**”) in escrow, such amount to be held by the Monitor in trust and dealt with as follows: if the net amount based on the calculations set forth in Sections 3.5(a) to 3.5(e) of the APA is owed by the Seller to the Buyer (the “**Final Negative Adjustment**”), as determined by the Seller and the Buyer,

or the Independent Auditor, as the case may be, the Monitor, on behalf of the Seller, will wire transfer the amount from the Holdback Amount that is the lesser of (i) the amount of the Final Negative Adjustment, and (ii) the Holdback Amount, to the Buyer within two (2) Business Days after the Settlement Date.

5. THIS COURT ORDERS AND DECLARES that upon the delivery of a Monitor's certificate to the Buyer 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 Buyer, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise in respect of the Purchased Assets (collectively, the "**Claims**"), including, without limiting the generality of the foregoing:

- (a) any and all encumbrances or charges created by Order of this Court, including 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) any and all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario), the *Register of Personal and Movable Real Rights* or any other personal property registry system; and

(all of which are collectively referred to as the "**Encumbrances**", which term shall not include the Permitted Encumbrances listed on Schedule "B" hereto), 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 upon the registration in the Canadian Intellectual Property Office of a certified copy of this Order, the applicable Registrar is hereby directed to transfer all of the Seller's right, title and interest in and to the Purchased Assets that consist of the Intellectual

Property applications and registration listed in Schedule “D” hereto, to the Buyer as described in the APA, free and clear of and from any and all Claims.

7. THIS COURT ORDERS that from and after the delivery of the Monitor's Certificate, all Claims and Encumbrances shall attach to the Purchase Price (except for the Holdback Amount as described in paragraph 5 above) (the “**Closing Purchase Price**”), 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. Upon the Settlement Date (as defined in the APA), all Claims and Encumbrances shall attach to any amount of the Holdback Amount retained by the Seller (the “**Remaining Holdback Amount**”, and together with the Closing Purchase Price, 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.

8. 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: (i) on the day of filing the Monitor's Certificate or as soon as practicable thereafter, the Closing Purchase Price, and (ii) on the Settlement Date, the Remaining Holdback Amount, if any, 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 the DIP Term Agent, as applicable, or if no such applicable agreement can be reached, on further Order of the Court (a “**Distribution**”).

9. 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.

10. THIS COURT ORDERS that, notwithstanding:

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

- (c) any assignment in bankruptcy made in respect of any of the Applicants;

any distribution permitted by paragraph 9 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.

11. 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.

12. 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.

GENERAL PROVISIONS

13. THIS COURT ORDERS that, pursuant to clause 7(3) of the Canada Personal Information Protection and Electronic Documents Act, the Seller or the Monitor shall be authorized and permitted to disclose and transfer to the Buyer all human resources and payroll information in the Seller's records pertaining to the Employees (as defined in the APA), including personal information of those Employees. The Buyer shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Seller.

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 the Seller and any bankruptcy order issued pursuant to any such applications; or

(c) any assignment in bankruptcy made in respect of the Seller;

the vesting of the Purchased Assets in the Buyer pursuant to this Order shall be binding on any trustee in bankruptcy or receiver that may be appointed in respect of the Seller and shall not be void or voidable by creditors of the Seller, 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 (i) on or after the Closing Date, Corbeil shall be permitted to execute and file articles of amendments or such other documents or instruments as may be required to change its corporate and business names in accordance with the APA, and such articles, documents or other instruments shall be deemed to have been duly authorized, valid and effective and shall be accepted by the applicable Governmental Authority without the requirement (if any) of obtaining director or shareholder approval pursuant to any federal or provincial legislation.

16. 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.

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

SCHEDULE “A”

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

ONTARIO SUPERIOR COURT OF JUSTICE COMMERCIAL LIST

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF SEARS CANADA INC., 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 October 4, 2017 (the “**Approval and Vesting Order**”) approving the Asset Purchase Agreement between Corbeil Électrique Inc. (the “**Seller**”) as Seller, Am-Cam Électroménagers Inc. (the “**Buyer**”) as Buyer, Distinctive Appliances Inc. (the “**Guarantor**”) as Guarantor and Sears Canada Inc. (“**Sears Canada**”) as intervenor, a copy of which is attached as Exhibit “A” to the Affidavit of Billy Wong dated October 1, 2017.

B. Pursuant to the Approval and Vesting Order the Court approved the APA and provided for the vesting in the Buyer 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 Buyer and the Seller of a certificate confirming (i) all conditions

to Closing have been satisfied or waived by the Buyer and the Seller, as applicable; and (ii) the cash portion of the Purchase Price and all applicable sales and transfer Taxes payable (each as defined in the APA) by the Buyer 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 Buyer and the Seller, as applicable; and
2. The cash portion of the Purchase Price and all applicable sales and transfer Taxes payable by the Buyer 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”
PERMITTED ENCUMBRANCES**

“Permitted Encumbrances” means:

- (i) inchoate statutory liens for Taxes, assessments, governmental or utility charges or levies not due as at the Closing Date (including the Encumbrances of public utilities, workers, suppliers of materials, builders, contractors, architects and unpaid vendors of moveable property);
- (ii) rights of equipment lessors pursuant to Assumed Contracts and Personal Property Leases;
- (iii) any privilege in favour of any lessor, licensor or permitter for rent to become due or for other obligations or acts, the performance of which is required under any Assumed Contract;
- (iv) any rights of expropriation, access or use or any other similar rights conferred or reserved by Applicable Law;
- (v) any easements, servitudes or rights-of-way in favour of any Governmental Authority, any private or public utility, any railway company or any adjoining owner;
- (vi) the provisions of all by-laws, regulations, ordinances and similar instruments relating to development and zoning of the Leased Property;
- (vii) all Off-Title Compliance Matters;
- (viii) the Encumbrances which the Real Property Leases and/or any Leased Property are stated to be subject to or bound by pursuant to the terms of the Real Property Leases;
- (ix) any ground lease, emphyteutic lease, head lease or other lease which is superior to any Real Property Lease (each a “Head Lease”), any Encumbrances or other rights in favour of the applicable landlord contained in any Head Lease, and any Encumbrances which the Head Leases and/or leasehold interests created thereby are stated to be subject to or bound by pursuant to the terms of the applicable Head Lease;
- (x) all Encumbrances affecting a Landlord's freehold interest in any Leased Property; and
- (xi) all Encumbrances listed on Schedule Error! Reference source not found. of the APA.


SCHEDULE "D"
INTELLECTUAL PROPERTY




LEGEND:

P = Pending Mark (not registered yet)


R = Registered Mark

D = Design Feature in mark

Status	Design Feature	TRADEMARK	FRENCH / ENGLISH EQUIVALENT FILED / REGISTERED (if applicable)	REGISTRATION / APPLICATION NUMBER	FILING DATE	REG. DATE	OWNER OF THE MARK	NEXT DUE DATE (M/D/Y)	DESIGN (if Applicable)	WARES AND/OR SERVICES COVERED BY MARK
R		CABINALTO		1,629,747 TMA950,959	6/05/2013	9/30/2016	CORBEIL ELECTRIQUE INC	9/30/2031	-----	GOODS Cl. 20: Kitchen Cabinets
R		CABIVIA		1,629,745 TMA950,962	6/05/2013	9/30/2016	CORBEIL ELECTRIQUE INC	9/30/2031	-----	GOODS Cl. 20: Kitchen Cabinets
R		CORBEIL APPLIANCES		0,813,296 TMA480,117	5/23/1996	8/11/1997	CORBEIL ELECTRIQUE INC.	8/11/2027	-----	SERVICES CL.35: Retail business operation of home appliances, electronic devices and accessories, extended warranty service and after-sales service.
R	D	CORBEIL APPLIANCES & Dessin		0,826,026 TMA488,467	10/16/1996	1/28/1998	CORBEIL ELECTRIQUE INC.	1/28/2028		SERVICES CL.35: Retail business operation of home appliances, electronic devices and accessories, extended warranty service and after-sales service.

R	D	CORBEIL APPLIANCES THE ONLY TRUE APPLIANCE SPECIALIST! 1 AND DESIGN	Corbeil Electroménagers Le Seul Vrai Spécialiste De L'électroménager & Design	1,218,866 TMA694,137	6/2/20-04	8/15/2007	CORBEIL ELECTRIQUE INC.	8/15/2022		SERVICES CL.35 ET CL.36 : Operation of a retail business selling household electrical appliances, electronic appliances and accessories, extended warranty plans and customer service.
R		CORBEIL ÉLECTRIQUE		0,807,404 TMA476,453	3/19/1996	5/20/1997	CORBEIL ELECTRIQUE INC.	5/20/2027	-----	SERVICES CL.35: Retail business operation of home appliances, electronic devices and accessories, extended warranty service and after-sales service.
R		CORBEIL ÉLECTROMÉNAGERS		0,813,295 TMA480,039	5/23/1996	8/11/1997	CORBEIL ELECTRIQUE INC.	8/11/2027	-----	SERVICES CL.35: Retail business operation of home appliances, electronic devices and accessories, extended warranty service and after-sales service.
R	D	CORBEIL ÉLECTROMÉNAGERS & DESSIN		0,826,025 TMA488,468	10/16/1996	1/28/1998	CORBEIL ELECTRIQUE INC.	1/28/2028		SERVICES CL.35: Retail business operation of home appliances, electronic devices and accessories, extended warranty service and after-sales service.
R	D	CORBEIL ÉLECTROMÉNAGERS LE SEUL VRAI SPÉCIALISTE DE L'ÉLECTROMÉNAGER & DESIGN	Corbeil Appliances The Only True Appliance Specialist & Design	1,218,990 TMA696,621	6/2/2004	9/17/2007	CORBEIL ELECTRIQUE INC.	9/17/2022		SERVICES CL.35 ET CL.36: Operation of a retail business selling household electrical appliances, electronic appliances and accessories, extended warranty plans and customer service.

R	D	CORBEIL ÉLECTROMÉNAGERS LE SPÉCIALISTE DE L'ELECTROMENAGER! & DESIGN		1,093722 TMA592,376	2/27/2001	10/16/2003	CORBEIL ELECTRIQUE INC.	10/16/2018		SERVICES CL.35: Commercial operation of retail sales of appliances, electronic devices and accessories; extended warranty service and customer service.
R	D	CORBEIL PROTECTION PLAN & DESIGN	Plan Protection Corbeil & Design	1,205,650 TMA702,230	2/3/2004	12/4/2007	CORBEIL ELECTRIQUE INC.	12/4/2022		SERVICES CL.36 : Extended warranty plans for appliances.
R		CUCINORA		1.629.746 TMA950,961	6/05/2013	09/30/2016	CORBEIL ELECTRIQUE INC.	03/13/2032	-----	GOODS CL.20: Kitchen Cabinets
R	D	ELLIPSE CORBEIL & DESIGN		1,733,698 TMA965,555	06/19/2015	03/13/2017	CORBEIL ELECTRIQUE INC.	09/30/2031		GOODS CL.11: refrigerators, freezers, range hoods
R	D	LE SEUL VRAI SPÉCIALISTE DE L'ÉLECTROMÉNAGER & DESIGN	The Only True Appliance Specialist & Design	1,205,649 TMA654,397	2/3/2004	12/6/2005	CORBEIL ELECTRIQUE INC.	12/6/2020		SERVICES CL.35 ET CL.36 : Operation of a retail business selling household electrical appliances, electronic appliances and accessories, extended warranty plans and customer service
R	D	PLAN PROTECTION CORBEIL & DESIGN	Corbeil Protection Plan & Design	1,205651 TMA706,588	2/3/2004	2/5/2008	CORBEIL ELECTRIQUE INC.	2/5/2023		SERVICES CL.36 : Extended warranty plans for appliances.

R	D	THE ONLY TRUE APPLIANCE SPECIALIST & DESIGN	Le Seul Vrai Spécialiste De L'électroménager & Design	1,205,648 TMA670,580	2/3/2004	8/21/2006	CORBEIL ELECTRIQUE INC.	8/21/2021		SERVICES CL.35 ET CL.36 : Operation of a retail business selling household electrical appliances, electronic appliances and accessories, extended warranty plans and customer service in connection with the aforementioned services
		BOUTIQUE CORBEIL H2O		1,207,951 TMA688667	02/24/2004	05/31/2007	CORBEIL ELECTRIQUE INC.	05/31/2022		SERVICES CL.35 ET CL.42: Retail store services specializing in the sale of water coolers, water filtration systems and filters.

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

Ontario
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
Proceeding commenced at Toronto

MOTION RECORD OF THE APPLICANTS
(Motion for Approval of Asset Purchase Agreement with Am-Cam
Électroménagers Inc. and Distinctive Appliances Inc.
in respect of Corbeil Assets, returnable October 4, 2017)

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