

**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**”)

**TRANSACTION NOTICE**

NOTICE IS HEREBY GIVEN, pursuant to paragraph 4 of the Order of the Court dated December 8, 2017 (the “**Omnibus Approval and Vesting Order**”), by the Applicants and SearsConnect (collectively, the “**Sears Canada Entities**”), that the Sears Canada Entity listed below as “Seller” has executed definitive documents (the “**Transaction Documents**”) with the Purchaser listed below in respect of the sale of the assets listed below as “Purchased Assets” (the “**Transaction**”):

SELLER	Sears Canada Inc.
PURCHASER	easyfinancial Services Inc.
PURCHASED ASSETS	Certain accounts receivable, assumed contracts, end user information and account documents relating to the loans advanced by the Seller pursuant to the Prime Loan Processing and Servicing Agreement and the related Statement of Work dated March 16, 2016 between the Purchaser and the Seller, as further described in the Transaction Documents attached hereto as Schedule "A".

The Transaction Documents with respect to this Transaction are attached as Schedule "A" to this Transaction Notice.

Upon the closing of this Transaction and in accordance with the Transaction Documents and the Omnibus Approval and Vesting Order, all of the Seller's right, title and interest in and to the Purchased Assets shall vest absolutely in the Purchaser, free and clear of Claims and Encumbrances (as such terms are defined in the Omnibus Approval and Vesting Order), including those listed in Schedule "B" to this Transaction Notice, but excluding the Permitted Encumbrances listed in Schedule "C" to this Transaction Notice, and such Claims and Encumbrances shall be expunged and discharged as against the Purchased Assets.

Should any person wish to object to this Transaction, such person shall notify the Sears Canada Entities and FTI Consulting Canada Inc. (the "**Monitor**") (by service upon counsel to Sears Canada Inc., the Monitor and counsel to the Monitor at the addresses shown on the Service List) of such objection, in writing (such notice being a "**Notice of Objection**"), such that the Notice of Objection is received within seven (7) days of this Transaction Notice being sent to such person. Any Notice of Objection must specify the reasons for such objection.

If no Notice of Objection is received by the applicable parties in accordance with the procedures and the timelines set out above or if all Notices of Objection are subsequently revoked or deemed by the Court to be revoked, the closing of this Transaction will become effective upon delivery

by the Monitor of a Monitor's certificate (the "**Monitor's Certificate**") to the Purchaser under the Transaction Documents and the Sears Canada Entities, certifying that, among other things, all conditions to closing have been satisfied or waived. The Monitor's Certificate filed in respect of the Transaction shall be made available on the Monitor's website at: <http://cfcanada.fticonsulting.com/searscanada/>.

**Schedule "A" to the Transaction Notice**  
**TRANSACTION DOCUMENTS**

Attached.

**ASSET PURCHASE AGREEMENT**

**SEARS CANADA INC.**

**as Seller**

**- and -**

**EASYFINANCIAL SERVICES INC.**

**as Buyer**

# TABLE OF CONTENTS

	<b>Page</b>
ARTICLE 1 INTERPRETATION.....	2
1.1    Definitions.....	2
1.2    Statutes .....	7
1.3    Headings and Table of Contents .....	7
1.4    Gender and Number .....	7
1.5    Currency.....	7
1.6    Invalidity of Provisions.....	7
1.7    Knowledge .....	7
1.8    Entire Agreement .....	7
1.9    Waiver, Amendment .....	8
1.10   Governing Law; Jurisdiction and Venue .....	8
ARTICLE 2 PURCHASE AND SALE .....	8
2.1    Agreement to Purchase and Sell Purchased Assets .....	8
2.2    Excluded Assets .....	9
2.3    Assumption of Liabilities.....	9
2.4    Excluded Liabilities .....	9
ARTICLE 3 PURCHASE PRICE AND RELATED MATTERS .....	10
3.1    Purchase Price .....	10
3.2    Payment of Purchase Price and Treatment of Deposit.....	10
3.3    Adjustments .....	11
ARTICLE 4 REPRESENTATIONS AND WARRANTIES BY THE SELLER.....	13
4.1    Corporate Existence .....	13
4.2    Due Authorization and Enforceability of Obligations .....	13
4.3    Residence of the Seller.....	13
4.4    Taxes .....	13
4.5    No Other Representations, Warranties or Covenants .....	13
4.6    Merger of Representations and Warranties; Exclusive Remedies .....	14
ARTICLE 5 REPRESENTATIONS AND WARRANTIES OF THE BUYER .....	14
5.1    Corporate Existence .....	14
5.2    Residence of the Buyer .....	14
5.3    Absence of Conflicts.....	14
5.4    Due Authorization and Enforceability of Obligations .....	15
5.5    Approvals and Consents .....	15
5.6    GST, HST and QST Registration.....	15
5.7    Litigation.....	15
5.8    Personal Information.....	16
5.9    As Is, Where Is.....	16
5.10   Investment Canada Act.....	18
ARTICLE 6 ADDITIONAL AGREEMENTS OF THE PARTIES.....	18
6.1    Conduct of Business Until Adjustment Date .....	18
6.2    Release; Acknowledgements; Indemnity.....	18
6.3    Tax Matters .....	19

**TABLE OF CONTENTS**

(continued)

	<b>Page</b>
6.4 Bank Account and Certain Payments or Instruments Received from Third Persons .....	20
6.5 Covenants Relating to this Agreement .....	21
ARTICLE 7 COURT ORDERS .....	21
7.1 Court Orders.....	21
7.2 CCAA Process .....	21
ARTICLE 8 CLOSING .....	22
8.1 Location and Time of the Closing .....	22
8.2 Buyer’s Deliveries on the Effective Date .....	22
8.3 Seller’s Deliveries at Closing.....	22
8.4 Buyer’s Deliveries at Closing .....	22
8.5 Further Condition to Closing .....	22
8.6 Monitor .....	23
8.7 Simultaneous Transactions .....	23
ARTICLE 9 GENERAL MATTERS .....	23
9.1 Confidentiality .....	23
9.2 Public Notices .....	23
9.3 Survival .....	24
9.4 Expenses .....	24
9.5 Non-Recourse .....	24
9.6 Assignment; Binding Effect.....	24
9.7 Notices .....	25
9.8 Counterparts; Facsimile Signatures .....	26
9.9 Language.....	26

## ASSET PURCHASE AGREEMENT

**THIS AGREEMENT** is made as of January 15, 2018

### AMONG:

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

- and -

**EASYFINANCIAL SERVICES INC.**, a corporation governed by the laws of the Province of Ontario (the “**Buyer**”)

### RECITALS:

- A. Pursuant to the terms of a Prime Loan Processing and Servicing Agreement and the related Statement of Work (collectively, the “**Prime Loan Agreement**”) dated as of March 16, 2016 between the Buyer and the Seller, the Buyer provides certain credit processing services (including customer accreditation, collection and remittance services) to the Seller in connection with loans extended by the Seller to qualifying customers who purchase certain products from the Seller.
- B. On the Filing Date, the Seller and certain of its affiliates and subsidiaries (the “**Sears Group**”) applied for and were granted protection from their creditors under the CCAA pursuant to the Initial Order of the CCAA Court. Pursuant to the Initial Order, the CCAA Court appointed FTI Consulting Canada Inc. as “Monitor” in connection with the CCAA Proceedings.
- D. 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.
- E. The Buyer has been selected as a Successful Bidder (as defined in the SISP) in accordance with the SISP, and wishes to (i) purchase from the Seller the portfolio of outstanding loan receivables in respect of loans advanced by the Seller pursuant to the Prime Loan Agreement (along with certain assets ancillary thereto), and (ii) assume certain liabilities and obligations of the Seller relating to such portfolio of loans; in each case, on and subject to the terms and conditions of this Agreement.

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



## ARTICLE 1 INTERPRETATION

### 1.1 Definitions

In this Agreement,

- (a) **“Accounts Receivable”** means, collectively, all consumer loan receivables (including all amounts receivable by the Seller on account of principal, interest, service fees, registration fees, penalties, finance charges or other similar fees or charges) that remain outstanding on the Effective Date that are owing by a borrower or guarantor under or in connection with loans advanced by the Seller pursuant to the Prime Loan Agreement.
- (b) **“Adjustment Date”** means January 31, 2018.
- (c) **“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.
- (d) **“Agreement”** means this Asset Purchase Agreement, in each case as the same may be supplemented, amended, restated or replaced from time to time, and the expressions “hereof”, “herein”, “hereto”, “hereunder”, “hereby” and similar expressions refer to this Asset Purchase Agreement, and unless otherwise indicated, references to Articles and Sections are to Articles and Sections in this Asset Purchase Agreement.
- (e) **“Applicable Law”** means any transnational, domestic or foreign, federal, provincial, territorial, state, local or municipal (or any subdivision of any of them) law (including without limitation the common law), statute, ordinance, rule, regulation, restriction, standard, by-law (zoning or otherwise), judgment, order, direction or any consent, exemption, Governmental Authorizations, or any other legal requirements of, or agreements with, any Governmental Authority, that applies in whole or in part to the transactions contemplated by this Agreement, the Seller, the Buyer, or any of the Purchased Assets or the Assumed Liabilities.
- (f) **“Approval and Vesting Order”** has the meaning given to such term in Section 7.1.
- (g) **“AR Adjustment”** has the meaning given to such term in Section 3.3(a).

- (h) “**Assumed Contracts**” has the meaning given to such term in Section 2.1(b).
- (i) “**Assumed Liabilities**” has the meaning given to such term in Section 2.3.
- (j) “**Bank Account**” has the meaning given to such term in Section 6.4(b).
- (k) “**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.
- (l) “**Buyer**” has the meaning given to such term in the preamble to this Agreement.
- (m) “**CCAA**” means the *Companies’ Creditors Arrangement Act* (Canada).
- (n) “**CCAA Court**” means the Ontario Superior Court of Justice (Commercial List).
- (o) “**CCAA Proceedings**” means the proceedings commenced under the CCAA by the Seller pursuant to the Initial Order (Court File No. CV-17-11846-00CL).
- (p) “**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.
- (q) “**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, but subject to Sections 7.1 and 8.5.
- (r) “**Closing Date**” means the date on which the Monitor’s Certificate is issued and delivered in accordance with the terms of the Approval and Vesting Order.
- (s) “**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.
- (t) “**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.
- (u) “**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

(other than Personal 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 or that is independently developed by the Buyer's employees or representatives without access or reference to any Confidential Information.

- (v) **“Deposit”** means the amount of \_\_\_\_\_ delivered by the Buyer to the Monitor in accordance with the SISP.
- (w) **“Discount Amount”** has the meaning given to such term in Section 3.1.
- (x) **“Effective Date”** means January 15, 2018.
- (y) **“Encumbrance”** means all charges, security interests or claims evidenced by registrations pursuant to any personal property registry system, including those listed in Schedule “B” to the Transaction Notice (as defined in the Approval and Vesting Order) delivered in connection with the transactions contemplated by this Agreement.
- (z) **“End User Information”** has the meaning given to such term in Section 2.1(c).
- (aa) **“Estimated Purchase Price”** has the meaning given to such term in Section 3.1.
- (bb) **“Excluded Assets”** has the meaning given to such term in Section 2.2.
- (cc) **“Excluded Liabilities”** has the meaning given to such term in Section 2.4.
- (dd) **“Filing Date”** means June 22, 2017.
- (ee) **“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.
- (ff) **“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 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.
- (gg) “**Governmental Authorizations**” means authorizations, approvals, plans, franchises, orders, certificates, consents, directives, notices, licenses, permits, variances, registrations or other rights issued to or required by the Seller relating to any of the Purchased Assets by or from any Governmental Authority.
- (hh) “**GST**” means goods and services tax payable under the GST and HST Legislation.
- (ii) “**GST and HST Legislation**” means Part IX of the *Excise Tax Act* (Canada).
- (jj) “**GST/HST and QST Certificate, Undertaking and Indemnity**” has the meaning given to such term in Section 6.3.
- (kk) “**HST**” means harmonized sales tax payable under the GST and HST Legislation.
- (ll) “**including**” and “**includes**” shall be interpreted on an inclusive basis and shall be deemed to be followed by the words “without limitation”.
- (mm) “**Initial Order**” means the Initial Order granted by the CCAA Court on June 22, 2017 pursuant to which the Seller and certain of its affiliates and subsidiaries were granted protection from their creditors under the CCAA (as amended, restated, supplemented and/or modified from time to time).
- (nn) “**Investment Canada Act**” means the *Investment Canada Act* (Canada).
- (oo) “**Listed Customers**” has the meaning given to such term in Section 3.3(a).
- (pp) “**Missing Product Adjustment**” has the meaning given to such term in Section 3.3(a).
- (qq) “**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.
- (rr) “**Monitor’s Certificate**” has the meaning given thereto in the Approval and Vesting Order.
- (ss) “**Order**” means any order, directive, judgment, decree, injunction, decision, ruling, award or writ of any Governmental Authority.
- (tt) “**Parties**” means the Seller and the Buyer collectively, and “**Party**” means either the Seller or the Buyer, as the context requires.
- (uu) “**Person**” means any individual, partnership, limited partnership, limited liability company, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor,

administrator or other legal personal representative, Governmental Authority or other entity, however designated or constituted.

- (vv) **“Personal Information”** means information about an identifiable individual in the possession or under the control of the Seller that is transferred to the Buyer hereunder.
- (ww) **“Prime Loan Agreement”** has the meaning given to such term in the preamble to this Agreement.
- (xx) **“Purchase Price”** has the meaning given to such term in Section 3.1.
- (yy) **“Purchase Price Confirmation Statement”** has the meaning given to such term in Section 3.1.
- (zz) **“Purchased Assets”** has the meaning given to such term in Section 2.1.
- (aaa) **“QST”** means the Québec sales tax payable under the QST Legislation.
- (bbb) **“QST Legislation”** means *An Act Respecting the Québec Sales Tax (Québec)*.
- (ccc) **“Sears Group”** has the meaning given to such term in the preamble to this Agreement.
- (ddd) **“Seller”** has the meaning given to such term in the preamble to this Agreement.
- (eee) **“Seller Parties”** has the meaning given to such term in Section 6.2(f).
- (fff) **“SISP”** means the Sale and Investment Solicitation Process approved by the SISP Order (as amended, restated, supplemented and/or modified from time to time).
- (ggg) **“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.
- (hhh) **“SISP Order Date”** means July 13, 2017.
- (iii) **“Tax”** and **“Taxes”** includes:
  - (i) taxes, duties, fees, premiums, assessments, imposts, levies and other charges of any kind whatsoever (including withholding on amounts paid to or by any Person) imposed by any Governmental Authority, including all interest, penalties, fines, additions to tax or other additional amounts imposed by any Governmental Authority in respect thereof, and including those levied on, or measured by, or referred to as, income, gross receipts, profits, capital, transfer, land transfer, sales, goods and services, harmonized sales, use, value-added, excise, stamp, withholding, business, franchising, property, development, occupancy, employer health, payroll, employment, health, disability, severance, unemployment, social services,

education and social security taxes, all surtaxes, all customs duties and import and export taxes, countervail and anti-dumping, all license, franchise and registration fees and all employment insurance, health insurance and Canada, Ontario and other government pension plan premiums or contributions; and

- (ii) any liability in respect of any items described in clause (i) payable by reason of contract, assumption, transferee liability, operation of law or otherwise.

## **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.

## **1.6 Invalidity of Provisions**

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

## **1.7 Knowledge**

Where any representation or warranty, or other provision, contained in this Agreement is expressly qualified by reference to, or otherwise refers to, the knowledge of the Buyer, it will be deemed to refer to the actual knowledge of the Buyer's directors and officers.

## **1.8 Entire Agreement**

This Agreement, the surviving provisions of the Prime Loan Agreement set out in Section 6.2(c) of this Agreement, 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 9.7 shall be deemed effective service of process on such Party.

## **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, effective as of the Closing Time, the Seller hereby sells, conveys, transfers, assigns and delivers, or causes to be sold, conveyed, transferred, assigned and delivered, pursuant to the Approval and Vesting Order, and the Buyer hereby purchases, free and clear of all Encumbrances, all of the Seller's right, title and interest in, to and under, or relating to the following property, assets and rights of the Seller:

- (a) *Accounts Receivable* – the Accounts Receivable and the benefit of all security (including cash deposits), guarantees and other collateral, but excluding any fees charged by the Seller to any customers for Non-Sufficient Funds (NSF)

transactions, held by the Seller relating to the loans advanced by the Seller pursuant to the Prime Loan Agreement;

- (b) *Assumed Contracts* – all contracts or agreements in existence on the Effective Date entered into between the Seller and a customer of the Seller pursuant to which the Seller extended, and agreed to underwrite, a personal loan in favour of such customer pursuant to, and in accordance with, the Prime Loan Agreement (collectively, the “**Assumed Contracts**”);
- (c) *End User Information* – any lists (whether in hard copy, or other electronic form) identifying customers of the Seller under the Prime Loan Agreement, including any list of the names, addresses, telephone numbers, and other personally identifiable information of any or all such customers, and all transaction and experience information with respect to such customers, including any data maintained on the information systems operated by or on behalf of the Buyer or its affiliates or agents (collectively, the “**End User Information**”); and
- (d) *Account Documents* – the following as and to the extent exclusively relating to the loans advanced and maintained, possessed or controlled by the Seller or its servicer under the Prime Loan Agreement: the files and information reflected on the data processing system used by the Seller to process and service the loans extended under the Prime Loan Agreement,

(collectively, the “**Purchased Assets**”).

## 2.2 Excluded Assets

For greater certainty and notwithstanding any provision of this Agreement to the contrary, the Purchased Assets shall not include any properties, assets or rights of the Seller other than those described in paragraphs (a) to (d) of Section 2.1 (collectively, all property, assets and rights of the Seller other than those described in such paragraphs are referred to herein as the “**Excluded Assets**”).

## 2.3 Assumption of Liabilities

The Buyer hereby assumes as of the Closing Time and hereby agrees to pay, discharge and perform, as the case may be, from and after the Closing Time, the obligations and liabilities of the Seller under or in respect of the Purchased Assets, including the Assumed Contracts, in each case to the extent first arising on or after the Closing Time and not related to any matter, circumstance or default existing at, prior to or as a consequence of Closing (collectively, the “**Assumed Liabilities**”).

## 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 Purchased Assets, the 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 or any of 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 (all such debts, obligations, contracts and liabilities, other than the Assumed Liabilities, being referred to herein as the “**Excluded Liabilities**”).

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

#### **3.1 Purchase Price**

The purchase price payable to the Seller for the Purchased Assets (the “**Purchase Price**”), exclusive of all applicable sales and transfer taxes, shall be an amount equal to (i) (the “**Discount Amount**”) multiplied by (ii) the aggregate amount of Accounts Receivable outstanding as of 11:59 p.m. on the Effective Date, subject to adjustment in accordance with Section 3.3 below. On the Effective Date, the Buyer will provide the Seller with a statement setting out the estimated Purchase Price based on the books and records of the Buyer relating to the Accounts Receivable (the “**Estimated Purchase Price**”), such statement will include supporting information to evidence the basis for the Buyer’s determination of the Estimated Purchase Price. Within five (5) Business Days of the Effective Date, the Buyer shall provide the Seller with a Purchase Price confirmation statement setting out the final Purchase Price based upon the aggregate amount of Accounts Receivable outstanding as of 11:59 p.m. on the Effective Date and (for greater certainty excluding any AR Adjustment or Missing Product Adjustment, as described below) together with supporting documentation relating to the Accounts Receivable (“**Purchase Price Confirmation Statement**”).

The Seller, in consultation with the Monitor, shall have until the Adjustment Date to review the Purchase Price Confirmation Statement and the Buyer shall provide the Seller with such additional supporting documentation and clarification as the Seller may reasonably request. If the Seller, in consultation with the Monitor, raises no objection prior to the Adjustment Date, the final Purchase Price set out in the Purchase Price Confirmation Statement shall be final and binding on the Parties and shall for all purposes constitute a final determination of the Purchase Price, subject to adjustment set out in Section 3.3. If an objection is raised by the Seller, in consultation with the Monitor, within the review period prior to the Adjustment Date, the Buyer and the Seller shall use commercially reasonable efforts, in consultation with the Monitor, to resolve any dispute. Either Party may seek advice and direction from the CCAA Court should a dispute not be resolved to either Party’s satisfaction within a reasonable period of time. The CCAA Court’s determination of such dispute shall be final and binding on the Parties.

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

- (a) The Estimated Purchase Price will be paid and satisfied as follows:
  - (i) the portion of the Purchase Price equal to the amount of the Deposit and the actual earnings thereon will be satisfied by crediting the Seller, on the Effective Date, with the Buyer’s interest in the Deposit (and the actual earnings thereon from the date the Deposit is received by the Monitor in

accordance with the SISP to but excluding the Effective Date) that is being held by the Monitor; and

- (ii) after applying the amount set out in subsection (i) above, the balance of the Estimated Purchase Price will be satisfied by the payment of such amount by wire transfer of immediately available funds on January 16, 2018 from the Buyer to the following account of the Monitor:

Bank of Nova Scotia  
44 King Street West  
Toronto, Ontario M5H 1H1

Swift Code:  
Canadian Routing Code:  
Account Number:

For the account of FTI Consulting Canada Inc., 79 Wellington Street,  
West, Suite 2010, Toronto, Ontario M5K 1G8

- (b) The Deposit paid to the Monitor by the Buyer will, together with any actual earnings thereon, be credited to the Seller on the Effective Date, in accordance with Section 3.2(a)(i).

### 3.3 Adjustments

- (a) Before the Adjustment Date, (i) the Buyer shall provide the Seller with a statement setting out the aggregate amount of any changes to the value of the Accounts Receivable occurring between 12:01 a.m. and 11:59 p.m. on the Effective Date, as calculated based on the books and records of the Buyer relating to the Accounts Receivable (the “**AR Adjustment**”); and (ii) the Seller shall provide to the Buyer a spreadsheet setting out the names of any outstanding customers (the “**Listed Customers**”) who entered into loans with the Seller around the time of the issuance of the Initial Order (as identified by the Seller and the Buyer, together, prior to the Closing Time) but who, after the Effective Date but prior to the Adjustment Date, the Parties determine did not receive products from the Seller and/or subsequently returned products to the Seller and/or, for any other reason, do not have an Account Receivable with the Seller, in respect of those loans and, as such, do not have outstanding obligations to the Seller at the Closing Time and the amounts of the Accounts Receivable attributable to such customers (the “**Missing Product Adjustment**”).
- (b) The final Purchase Price calculated in accordance with Section 3.1 will be further adjusted to add to or remove from the Accounts Receivable purchased by the Buyer those Accounts Receivable included in the AR Adjustment and the Missing Product Adjustment (with supporting documentation indicating that the Accounts Receivable owing by the Listed Customers and purchased by the Buyer are all accounts for which applicable products were received by customers, and such

additional supporting documentation with respect to such Accounts Receivable of Listed Customers as may be reasonably requested by the Buyer or Seller, as applicable).

- (c) The Buyer and the Seller, in consultation with the Monitor, shall have fifteen (15) Business Days to review the AR Adjustment and the Missing Product Adjustment and to raise any objections, in consultation with the Monitor.
- (d) If an objection is raised, the Buyer and the Seller shall use commercially reasonable efforts to resolve (in the case of the Seller, with the consent of the Monitor) any dispute regarding the AR Adjustment or the Missing Product Adjustment. Either Party may seek advice and direction from the CCAA Court should a dispute not be resolved to either Party's satisfaction within a reasonable period of time. The CCAA Court's determination of such dispute shall be final and binding on the Parties.
- (e) If no objection is raised to the AR Adjustment or the Missing Product Adjustment within the fifteen (15) Business Day review period, the Buyer and the Seller shall be deemed to have agreed to the AR Adjustment or the Missing Product Adjustment, as applicable.
- (f) Upon final determination of the Purchase Price in accordance with Section 3.1 and final determination of any AR Adjustment or Missing Product Adjustment, in each case, whether by agreement of the Parties or by determination of the CCAA Court, the Buyer shall be entitled to deduct (or recover, if previously paid to the Monitor) or be required to pay to the Seller any amounts required to reflect the adjustments as finally determined by such resolution or determination, and the Buyer and the Seller shall jointly direct the Monitor to release the amounts it holds pursuant to Section 3.2 hereof accordingly in full and final satisfaction of the Purchase Price as finally determined in accordance with Section 3.1 and 3.3 hereof.
- (g) The Monitor shall not, under any circumstances, be required to verify or determine the validity of any joint direction or any written confirmation or notice received under this Agreement and the Monitor is hereby relieved of any liability or responsibility for any loss or damage which may arise as the result of acceptance by the Monitor of such joint direction or any written confirmation or notice received under this Agreement, or the holding of, release of, or payment into the CCAA Court of all or any portion of the Purchase Price. In the case of an unresolved dispute between the parties as set out in this Section 3.1 and 3.3, the Monitor may, in its sole, unfettered and unreviewable discretion, pay the portion of the Purchase Price it has received, and interest earned thereon into the CCAA Court, whereupon the Monitor shall have no further obligations in respect of such portion of the Purchase Price.

## **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 federal laws of Canada.

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

- (a) Subject to the terms of the Approval and Vesting Order, the Seller has all necessary corporate power, authority and capacity to:
  - (i) enter into and deliver this Agreement and the Closing Documents; and
  - (ii) carry out its obligations under this Agreement and the Closing Documents.
- (b) The execution, delivery and performance of this Agreement and the Closing Documents, and the consummation of the transactions contemplated by this Agreement and the Closing Documents, have been duly authorized by all necessary corporate action of the Seller.
- (c) Subject to the terms of the Approval and Vesting Order and assuming the accuracy of the representations and warranties of the Buyer in Article 5, 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 their respective registration numbers to the Buyer prior to Closing.

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

Unless and solely to the extent expressly set forth in this Agreement, no representation, warranty or covenant is expressed or implied by the Seller, including any warranties as to title, Encumbrance, description, merchantability or fitness for a particular purpose, environmental compliance, condition, quantity or quality, or in respect of any other matter or thing whatsoever

concerning the Purchased Assets, the Assumed Liabilities or the right of the Seller to sell or assign the same, as applicable, or the rights of the Buyer to use or disclose the End User Information. The disclaimer in this Section 4.5 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.

#### **4.6 Merger of Representations and Warranties; Exclusive Remedies**

- (a) The Seller acknowledges and agrees that the representations and warranties of the Buyer set forth in Article 5 will merge on, and shall not survive, the Closing.
- (b) The remedies expressly set forth in this Agreement are the Seller's sole and exclusive remedies relating to this Agreement, the Closing Documents, the transactions contemplated hereby and thereby, the Purchased Assets and the Assumed Liabilities.

### **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 the Province of Ontario.

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

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

#### **5.3 Absence of Conflicts**

The Buyer is not a party to, bound or affected by or subject to (and the assets of the Buyer are not affected by): (a) any charter or by-law provision; (b) any Applicable Law or governmental authorizations, approvals, franchises, orders, certificates, consents, directives, notices, licenses, permits, variances, registrations or other rights issued, granted or given by or from any Governmental Authority; or (c) any agreement or other document, in each case, that would be

violated, breached by, or under which any default would occur or with notice or the passage of time would, be created as a result of the execution and delivery of, or the performance of obligations under, this Agreement or any other agreement or document to be entered into or delivered under the terms of this Agreement, except in the case of (b) and (c) for any violations, breaches or defaults or any Applicable Law or any governmental authorizations, approvals, franchises, orders, certificates, consents, directives, notices, licenses, permits, variances, registrations or other rights issued, granted or given by or from any Governmental Authority, that would not have a material effect on or materially delay or impair the ability of the Buyer to consummate the transactions hereunder.

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

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

#### **5.5 Approvals and Consents**

Except for 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 each of the agreements to be executed and delivered by the Buyer hereunder or the purchase of any of the Purchased Assets hereunder, except for any authorizations, consents, approvals, filings or notices of any Governmental Authority, court or Person that would not have a material effect on or materially delay or impair the ability of the Buyer to consummate the transactions hereunder.

#### **5.6 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 6.3(c).

#### **5.7 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 which, if determined adversely to the Buyer, 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 from or delay the Buyer in fulfilling any of its obligations set out in this Agreement or arising from this Agreement.

## **5.8 Personal Information**

The Buyer's use and disclosure of Personal Information (including End User Information, as applicable) in connection with the conduct of its business after Closing will be carried out in accordance with the Approval and Vesting Order (as defined in Section 7.1 herein) and all applicable privacy legislation, Canada's Anti-Spam Legislation and all other Applicable Laws.

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

- (a) The Buyer acknowledges and agrees that it has conducted to its satisfaction an independent investigation and verification of the Purchased Assets (including the state of title thereto and/or the state of any Encumbrances), the Assumed Liabilities and all related operations of the Seller, and, based solely thereon, has determined to proceed with the transactions contemplated by this Agreement. The Buyer has relied solely on the results of its own independent investigation and verification, and the representations and warranties of the Seller expressly and specifically set forth in Article 4, and the Buyer understands, acknowledges and agrees that all other representations, warranties and statements of any kind or nature, expressed or implied (including any relating to the future or historical financial condition, results of operations, prospects, assets or liabilities of the Seller, or the quality, quantity or condition of the Purchased Assets, or the use and disclosure of Personal Information are specifically disclaimed by the Seller. Except for the representations and warranties of the Seller expressly and specifically set forth in Article 4, the Seller does not make or provide any warranty or representation, express or implied, as to the quality, merchantability, fitness for a particular purpose, conformity to samples or condition of the Purchased Assets, or any part thereof. THE BUYER SPECIFICALLY ACKNOWLEDGES AND AGREES THAT, EXCEPT FOR THE REPRESENTATIONS AND WARRANTIES OF THE SELLER EXPRESSLY AND SPECIFICALLY SET FORTH IN ARTICLE 4: (A) THE BUYER IS ACQUIRING THE PURCHASED ASSETS ON AN "AS IS, WHERE IS" BASIS; AND (B) NEITHER THE SELLER, NOR ANY OTHER PERSON (INCLUDING ANY REPRESENTATIVE OF THE SELLER, WHETHER IN ANY INDIVIDUAL, CORPORATE OR ANY OTHER CAPACITY OR THE MONITOR) IS MAKING, AND THE BUYER IS NOT RELYING ON, ANY REPRESENTATIONS, WARRANTIES OR OTHER STATEMENTS OF ANY KIND WHATSOEVER, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED, STATUTORY OR OTHERWISE, AS TO ANY MATTER CONCERNING THE SELLER, THE PURCHASED ASSETS, THE ASSUMED LIABILITIES, THE EXCLUDED ASSETS, THE EXCLUDED LIABILITIES, THIS AGREEMENT OR THE TRANSACTIONS, OR THE ACCURACY OR COMPLETENESS OF ANY INFORMATION PROVIDED TO (OR OTHERWISE ACQUIRED BY) THE BUYER OR ANY OF ITS RESPECTIVE REPRESENTATIVES, THE EXISTENCE OF ANY ENCUMBRANCE AFFECTING THE PURCHASED ASSETS; 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 BUYER AND THE PARTIES AGREE TO EXCLUDE THE EFFECT OF THE LEGAL WARRANTY PROVIDED FOR BY ARTICLE 1716 OF THE CIVIL CODE OF QUÉBEC AND THAT THE BUYER IS PURCHASING THE PURCHASED ASSETS AT ITS OWN RISK WITHIN THE MEANING OF ARTICLE 1733 OF THE CIVIL CODE OF QUÉBEC, AND ANY AND ALL CONDITIONS, WARRANTIES OR REPRESENTATIONS, REGARDING MERCHANTABILITY, PHYSICAL OR FINANCIAL CONDITION, DESCRIPTION, FITNESS FOR A PARTICULAR PURPOSE, QUALITY, QUANTITY, ANY NON-INFRINGEMENT OF INTELLECTUAL PROPERTY RIGHTS, OR REGARDING THE SCOPE, VALIDITY OR ENFORCEABILITY OF ANY TRANSFERRED INTELLECTUAL PROPERTY, OR ANY OTHER THING AFFECTING 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 acknowledges and agrees that: (i) the representations and warranties of the Seller set forth in Article 4 will merge on, and shall not survive, the Closing; and (ii) the Seller will not have or be subject to any liability or indemnification obligation to the Buyer or any other Person resulting from (nor will the Buyer or any other Person have any claim with respect to) the distribution to the Buyer, the Buyer's use of, or reliance on, any information, documents, projections, forecasts or other material made available to the Buyer in certain "data rooms," confidential information memoranda or management presentations in expectation of, or in connection with, the transactions contemplated by this Agreement, regardless of the legal theory under which such liability or obligation may be sought to be imposed, whether sounding in contract or tort, or whether at law or in equity, or otherwise. None of the representatives of the Seller, whether in an individual, corporate or other capacity, will have or be subject to any such liability or indemnification obligations.
- (c) The remedies expressly set forth in this Agreement are the Buyer's sole and exclusive remedies relating to this Agreement, the Closing Documents, the transactions contemplated hereby and thereby, the Purchased Assets, the Assumed Liabilities and all related operations of the Seller.
- (d) This Section 5.9 will not merge on Closing and is deemed incorporated by reference in all Closing Documents.



## **5.10 Investment Canada Act**

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

## **ARTICLE 6 ADDITIONAL AGREEMENTS OF THE PARTIES**

### **6.1 Conduct of Business Until Adjustment Date**

Prior to and until the Adjustment Date, the Seller shall continue to accommodate those employees of the Buyer who, immediately prior to the Effective Date, provide services to the Seller under the Prime Loan Agreement at the Seller’s corporate head office located at 290 Yonge Street, Suite 700, Toronto, ON M5B 2C3. On or prior to the Adjustment Date, the Buyer shall, at its sole cost and expense, relocate such employees and do all such things as may be necessary or desirable in order to consummate and make effective the completion of all transitional procedures required in order to give effect to the transactions contemplated by this Agreement. The Seller will allow the Buyer access to the Seller’s corporate head office up to the Adjustment Date in order for the Buyer to remove any and all equipment and technology it has brought on to the Seller’s premises for the implementation of the Prime Loan Agreement and remains, at all times, the property of the Buyer. Any remaining equipment not removed by the Buyer from the Seller’s premises by the Adjustment Date shall be deemed abandoned by the Buyer to the Seller and may be dealt with by the Seller in its sole discretion and for the Seller’s own benefit.

### **6.2 Release; Acknowledgements; Indemnity**

- (a) Except as otherwise contained herein, effective as of the Closing, the Buyer hereby releases and forever discharges the Seller and its affiliates, and their respective successors and assigns, and all officers, directors, partners, members, shareholders, employees and agents of each of them, from any and all actual or potential Claims which such Person 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.
- (b) The Buyer shall, within sixty (60) days following the Closing Date through its first billing or a specific mailing, notify customers that, effective as of the Closing Time, the Buyer has assumed in place of the Seller all of the Seller’s obligations under the Assumed Contracts.
- (c) The Parties agree that, effective as at Closing, the Prime Loan Agreement shall be terminated and of no force or effect, other than the confidentiality, non-use and non-disclosure obligations under the Prime Loan Agreement which shall survive in accordance with the terms of the Prime Loan Agreement. In addition, the Parties agree that the Buyer’s right to use the Seller’s full corporate name in accordance with the Prime Loan Agreement shall survive the terms of the Prime Loan Agreement, to the extent that it is required for the Buyer to provide notice under Section 6.2(b) of this Agreement and, subject to the Buyer’s compliance with Section 6.2(b), any subsequent account payment issues for which the Seller’s name

is required to be used to identify the account, to enforce payment obligations or when providing updates to the customer's credit report. The Buyer hereby releases and forever discharges the Seller and its affiliates, and their respective successors and assigns, and all officers, directors, partners, members, shareholders, employees and agents of each of them, from any and all actual or potential Claims which Buyer has or may have in the future under the Prime Loan Agreement, to the extent such Claim does not relate to the surviving provisions set out in this Section 6.2(c) or to the Claims expressly preserved in Section 6.2(e). Notwithstanding Section 10.5 of the Prime Loan Agreement, except as otherwise contained in this Agreement, none of the provisions of the Prime Loan Agreement shall survive its termination.

- (d) The Parties agree that effective as at Closing, the subprime loan agreement dated May 4, 2016 between the Seller and the Buyer shall be terminated and of no force or effect and the Buyer hereby releases and forever discharges the Seller and its affiliates, and their respective successors and assigns, and all officers, directors, partners, members, shareholders, employees and agents of each of them from any and all actual or potential Claims which Buyer had, has or may have in the future under such agreement.
- (e) The Seller hereby agrees that nothing herein shall prevent the Buyer from filing a Proof of Claim in respect of any pre-Filing Date Claim they may have under the Prime Loan Agreement pursuant to the Claims Procedure Order granted by the CCAA Court on December 8, 2017. For certainty, the Purchase Price shall be paid in full in accordance with the terms of this Agreement and will not be reduced or set-off against for any pre-Filing Date Claims.
- (f) The Buyer hereby agrees to indemnify the Seller, the Monitor, their affiliates and their respective trustees, officers, directors, employees, agents and shareholders (the "**Seller Parties**"), and save each of them fully harmless from and against, and will reimburse or compensate each of them on demand for, all losses and Claims arising from, in connection with or related in any manner whatsoever to the Buyer's failure to perform and discharge the Assumed Liabilities.

### **6.3 Tax Matters**

- (a) In respect of the purchase and sale of the Purchased Assets under this Agreement, 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. The Seller acknowledges that the Buyer takes the position that no such Taxes are payable in

respect of the purchase and sale of the Purchased Assets under this Agreement and, accordingly (and without limiting the obligations of the Buyer under Section 6.3(c) hereof or pursuant to the GST/HST and QST Certificate, Undertaking and Indemnity), no amounts on account of such Taxes will be paid by the Buyer to the Seller on Closing.

- (b) 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.
- (c) 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 this Section 6.3 (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 by the Seller to collect and remit any Taxes, including any transfer Taxes or 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 this Section 6.3 or in the GST/HST and QST Certificate, Undertaking and Indemnity or any failure by the Buyer to comply with the provisions of this Section 6.3 or the GST/HST and QST Certificate, Undertaking and Indemnity.

#### **6.4 Bank Account and Certain Payments or Instruments Received from Third Persons**

- (a) To the extent that, after the Effective 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 or relates to any 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 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 6.4 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, each of 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, including, but not limited to, Non-Sufficient Funds and/or chargebacks

relating to transactions initiated by the Seller prior to the Effective Date, to the appropriate Party.

- (b) Seller agrees that from the Effective Date, Seller will not access or change the authorization structure of the CIBC bank account held in the name of \_\_\_\_\_ for the purpose of receiving funds from customers (the “**Bank Account**”) without the express and prior written approval of the Buyer.
- (c) Buyer agrees that from the Effective Date until the Closing Date, Buyer will not change the authorization structure of, initiate a transfer from or withdraw funds from the Bank Account without the express and prior written approval of the Seller.
- (d) After Closing Date, the Buyer, in its sole and absolute discretion, has the authority from the Seller to transact on the Bank Account, including but not limited to the following actions: receiving funds from customers and transferring such funds from the Bank Account to Buyer’s account.

## **6.5 Covenants Relating to this Agreement**

For certainty, notwithstanding anything else contained herein, the Buyer acknowledges and agrees that the Seller and the Monitor shall be entitled to take all steps as they determine are necessary to carry out the administration of the CCAA Proceedings and any subsequent similar proceedings; to satisfy any audit, accounting, investigation or similar requirements; to cease any and all remaining operations and to settle any outstanding claims in respect of the Seller or distribute any assets.

## **ARTICLE 7 COURT ORDERS**

### **7.1 Court Orders**

The Seller has obtained an Omnibus Approval and Vesting Order dated December 8, 2017 regarding the sale of residual assets (the “**Approval and Vesting Order**”), which is available online \_\_\_\_\_ at: [http://cfcanada.fticonsulting.com/Searscanada/docs/Order%20of%20Justice%20Hailey%20dated%20December%208,%202017%20\(Omnibus%20Approval%20and%20Ves....pdf](http://cfcanada.fticonsulting.com/Searscanada/docs/Order%20of%20Justice%20Hailey%20dated%20December%208,%202017%20(Omnibus%20Approval%20and%20Ves....pdf). The Buyer and the Seller agree to carry out the transactions contemplated in this Agreement in accordance with the procedures set out in the Approval and Vesting Order, and agree that no other approval and vesting order must be obtained in connection with the transactions contemplated hereunder.

If the transactions contemplated by this Agreement cannot be completed in accordance with the Approval and Vesting Order on or before February 28, 2018 solely due to the existence of an unresolved Notice of Objection, this Agreement shall be terminated and shall be of no further force or effect without liability of either Party to the other Party and the Parties will direct the Monitor to repay amounts being held by it under this Agreement to the Buyer.

### **7.2 CCAA Process**

If a Notice of Objection (as defined in the Approval and Vesting Order) is received in connection with the transactions contemplated in this Agreement, the Seller agrees to take all action as may be commercially reasonable and appropriate to resolve such Notice of Objection and the Buyer agrees to use its commercially reasonable efforts to cooperate in such efforts.

## **ARTICLE 8 CLOSING**

### **8.1 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 may be agreed upon by the Parties.

### **8.2 Buyer's Deliveries on the Effective Date**

On the Effective Date, the Buyer shall deliver to the Seller the Estimated Purchase Price less the Deposit, pursuant to Section 3.2.

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

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

- (a) an executed copy of the Monitor's Certificate;
- (b) any certificates, elections or other documents required to be delivered pursuant to Section 6.3; and
- (c) all other documents required to be delivered by the Seller on the Closing Date pursuant to this Agreement or Applicable Law or as reasonably requested by the Buyer in good faith.

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

At Closing, the Buyer shall deliver to the Seller:

- (a) any certificates, elections or other documents required to be delivered pursuant to Section 6.3;
- (b) the GST/HST and QST Certificate, Undertaking and Indemnity; and
- (c) all other documents required to be delivered by the Buyer on the Closing Date pursuant to this Agreement or Applicable Law or as reasonably requested by the Seller in good faith.

### **8.5 Further Condition to Closing**

The Parties acknowledge that completion of the transactions contemplated by this Agreement is subject to Section 7.1.

## **8.6 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 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 6.3(a) 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).

## **8.7 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 9 GENERAL MATTERS**

## **9.1 Confidentiality**

The Buyer shall keep confidential all Confidential Information relating to the Seller, the Purchased Assets, the Assumed Liabilities, the Excluded Assets and the Excluded Liabilities in accordance with the terms of Article 6 of the Prime Loan Agreement.

## **9.2 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 9.2, any Party may, without such consent, make such disclosure if the same is required by Applicable Law (including the CCAA Proceedings and the Approval and Vesting Order and the Transaction Notice) or by any stock exchange on which any of the securities of such Party or any of its affiliates are listed, or by any insolvency or other court or securities commission, or other similar Governmental Authority having jurisdiction over such Party or any of its affiliates, and, if such disclosure is required, the Party making such disclosure shall use commercially reasonable efforts to give prior oral or written notice to the other Party to the extent legally permissible and reasonably practicable, and if such prior notice is not legally permissible or reasonably practicable, to give such notice reasonably promptly following the making of such disclosure. Notwithstanding the foregoing: (i) this Agreement may be filed by the Seller with the CCAA Court and posted on SEDAR or such other website as may be required pursuant to Applicable Law or the rules of any relevant stock exchange; and (ii) the transactions contemplated in this Agreement may be disclosed by the Seller or the Monitor to the CCAA Court, subject to redacting confidential or sensitive information as permitted by Applicable Law. The Parties further agree that:

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

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

### **9.3 Survival**

None of the representations, warranties, covenants (except the covenants in Article 2, Article 3, Article 9 and Sections 6.2, 6.3 and 6.4, 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.

### **9.4 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.

### **9.5 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.

### **9.6 Assignment; Binding Effect**

No Party may assign its right or benefits under this Agreement without the consent of each of the other Parties, except that without such consent any Party may, upon prior notice to the other Parties: (a) assign this Agreement, or any or all of its rights and obligations hereunder, to one or more of its subsidiaries or affiliates; or (b) the Buyer may direct that title to all or some of the Purchased Assets be transferred to, 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 Section 6.2 and Section 6.3(c), 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.

## 9.7 Notices

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

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

easyfinancial Services Inc.  
33 City Centre Drive, Suite 510  
Mississauga, ON L5B 2N5

Attention: Jason Mullins, Executive Vice President and Chief Operating Officer  
and Sabrina Anzini, Vice President Legal

Telephone:

Email:

- (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:

Telephone:

Email:

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.

## **9.8 Counterparts; Facsimile Signatures**

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

## **9.9 Language**

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

*[Signature pages follow]*

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

**SEARS CANADA INC.**

By: P. MOHTADI  
Name: Philip Mohtadi  
Title: General Counsel and Corporate Secretary

**EASYFINANCIAL SERVICES INC.**

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

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

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

**SEARS CANADA INC.**

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

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

**EASYFINANCIAL SERVICES INC.**

By: Steve Goetz  
Name: Steve Goetz  
Title: EVP & CFO

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

**Schedule "B" to the Transaction Notice**  
**ENCUMBRANCES TO BE VESTED**

None.

**Schedule "C" to the Transaction Notice**  
**PERMITTED ENCUMBRANCES**

None.

**Schedule "D" to the Transaction Notice**  
**PARTIES TO RECEIVE NOTICE OF TRANSACTION**

[jmullins@goeasy.com](mailto:jmullins@goeasy.com) / [sanzini@goeasy.com](mailto:sanzini@goeasy.com)