

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

**IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*,  
R.S.O. 1990, C. B-16, S. 182 AS AMENDED**

- and -

**IN THE MATTER OF AN APPLICATION BY THE T. EATON COMPANY  
LIMITED RELATING TO A PROPOSED ARRANGEMENT INVOLVING THE  
T. EATON COMPANY LIMITED AND ITS SECURITY HOLDERS AND  
1381052 ONTARIO INC.**

Applicant

**REPORT OF RSM RICHTER INC.  
IN ITS CAPACITY AS LIQUIDATOR OF DISTRIBUTIONCO INC.  
(TREATMENT OF FUNDS REMAINING  
IN THE CERTIFICATE PAYMENT ACCOUNT)**

**May 1, 2008**

**OVERVIEW**

1. In connection with the restructuring of The T. Eaton Company Limited (“Eaton’s”) and the acquisition of Eaton’s by Sears Canada Inc. (“Sears”), RSM Richter Inc. (formerly Richter & Partners Inc.) (“Richter”) was appointed as liquidator (the “Liquidator”) of Distributionco Inc. (formerly 1381052 Ontario Inc.) (“Distributionco”). At this stage in the proceedings, the Liquidator holds essentially two classes of assets:

- (a) The undistributed funds remaining from cash the portion of the consideration paid by Sears for Eaton's and the realizations from assets that were to be excluded from Eaton's when Sears acquired ownership. These funds are held by the Liquidator for the benefit of the former creditors of Eaton's (the "Class I Creditors") in a segregated interest bearing bank account established by the Liquidator (the "Estate Account"); and
- (b) The funds paid by Sears into escrow in connection with the Sears Variable Note that are now being held for the benefit of the former shareholders of Eaton's who hold participation units (the "Participation Unit Holders") in a segregated interest bearing bank account established by the Liquidator on behalf of Distributionco (the "Certificate Payment Account").

2. In this motion the Liquidator seeks an Order:

- (a) Declaring that no further distributions shall be made by the Liquidator from the Certificate Payment Account to the Participation Unit Holders;
- (b) Declaring that all certificates issued to the Participation Unit Holders pursuant to the terms of the Administration Agreement (as described herein) are of no further force and effect and are deemed to be cancelled;

- (c) Authorizing the Liquidator to transfer all funds remaining in the Certificate Payment Account to the Estate Account for the benefit of the Class I Creditors, and
- (d) Declaring that the Liquidator and Distributionco are released from their respective duties and obligations under the Administration Agreement.

3. Unless otherwise defined herein, capitalized terms in this report have the meanings ascribed to them in the Eaton's Plan (as hereinafter defined). A copy of the Eaton's Plan is attached hereto as Exhibit "A".

#### **BACKGROUND - THE EATON'S RESTRUCTURING AND ACQUISITION**

4. The 1999 restructuring of Eaton's and the acquisition of Eaton's by Sears was effected by a combination of:

- (a) An offer made by Sears to Eaton's dated September 19, 1999, as supplemented or amended by addenda dated September 29, 1999 and October 3, 1999;
- (b) A plan of compromise or arrangement by Eaton's under the *Companies' Creditors Arrangement Act* (the "CCAA Plan"), which was sanctioned by Order of this Honourable Court on November 23, 1999;

- (c) A companion arrangement between Eaton's and Distributionco under the *Business Corporations Act* (Ontario) (the "OBCA Arrangement"), which was sanctioned by Order of this Honourable Court on November 23, 1999 (the "OBCA Sanction Order");
- (d) The appointment of Richter as Liquidator pursuant to the OBCA Sanction Order; and
- (e) The execution and delivery of various agreements, including:
  - (i) The Arrangement Agreement between Eaton's and Distributionco dated November 19, 1999, which sets out the terms of the OBCA Arrangement;
  - (ii) The Sears Variable Note (sometimes also called the "SVN") issued by Sears dated December 30, 1999;
  - (iii) The Escrow Agreement among Distributionco, Sears and the Liquidator dated December 30, 1999, relating to any amount deposited into the Escrow Account (as hereinafter defined) by Sears in accordance with the Sears Variable Note and the Escrow Agreement pending its release to Sears or to Distributionco as agent and nominee for the holders of the Participation Units, or in part to each; and

- (iv) The Administration Agreement between Distributionco and the Liquidator dated December 30, 1999, relating to the issuance and administration of the Participation Units, a copy of which is attached hereto as Exhibit "B".

The CCAA Plan and the OBCA Arrangement are referred to herein collectively as the "Eaton's Plan".

#### **THE ESCROW ARRANGEMENT AND PARTICIPATION UNIT HOLDERS**

5. As part of the OBCA Arrangement, the then-outstanding common shares of Eaton's (the "Existing Shares") were deemed to be exchanged for Participation Units entitling the holders to share *pro rata* in the distribution of any funds in the Certificate Payment Account, on the basis of one Participation Unit for each common share.

6. As a result of Sears obtaining the Existing Shares, as well as additional, new common shares of Eaton's subscribed for by it, Eaton's became a wholly-owned subsidiary of Sears, and was then amalgamated with Sears, allowing Sears to make use of tax losses (the "Eaton's Tax Losses") that were available to Eaton's.

7. The SVN and the Escrow Agreement required Sears to deposit an amount equal to 45% of all Eaton's Tax Losses used by Sears, up to a maximum deposit of \$20 million (equating to the use of \$44.44 million of Eaton's Tax Losses), to a segregated interest-bearing escrow bank account established by the Liquidator (the "Escrow Account").

8. On July 13, 2001, Sears wire transferred \$20 million to the Escrow Account. Those monies, together with interest earned in the Escrow Account, became the “Escrow Funds”.

9. Under the Eaton’s Plan, by a combination of the SVN, the Escrow Agreement, the Administration Agreement and the OBCA Sanction Order:

- (a) The costs of the Liquidator (including its fees) and of Distributionco in administering the SVN, the Escrow Account, the Certificate Payment Account and the Participation Units, which includes any taxes that may become payable by the Liquidator or Distributionco, are chargeable against the Escrow Funds, in priority to any release of such funds either to Sears or for deposit to the Certificate Payment Account;
- (b) If, and to the extent that, upon the expiry of the relevant reassessment period (or, if applicable, upon final disposition of any appeals), Sears was able to use sufficient Eaton’s Tax Losses (i.e., \$44.44 million of the same), the Escrow Funds (net of costs) were to be released by the Liquidator from the Escrow Account to Distributionco, as agent and nominee for the holders of the Participation Units, by deposit to the Certificate Payment Account;

- (c) To the extent not already charged against the Escrow Funds, the costs of administering the SVN, the Escrow Account, the Certificate Payment Account and the Participation Units are chargeable against any funds in the Certificate Payment Account, in priority to any distribution; and
- (d) Any monies deposited to the Certificate Payment Account and any interest earned in that account (net of costs) are to be distributed to the Participation Unit Holders as identified at a record date set by the Liquidator.

10. On or about June 15, 2005, Sears advised the Liquidator that it had utilized the Eaton's Tax Losses. The relevant reassessment period by the Canada Revenue Agency ("CRA") for Sears expired on May 27, 2006. The Escrow Funds therefore were released from the Escrow Account and deposited to the Certificate Payment Account.

#### **DISTRIBUTIONS TO PARTICIPATION UNIT HOLDERS**

11. By Order of the Honourable Justice Mesbur dated June 6, 2006 (a copy of which is attached hereto as Exhibit "C") the Liquidator was authorized to distribute the principal amount in the Certificate Payment Account, namely \$20 million to the Participation Unit Holders (the "Interim Distribution"). The Liquidator did not distribute the interest earned of approximately \$2.5 million (the "Interest Holdback") as it had not received a comfort letter or clearance certificate from CRA with respect to the Interest Holdback.

12. On or about December 21, 2006, the Liquidator and CRA agreed upon the terms of the release of the Interest Holdback.

13. By Order of the Honourable Justice Lederman dated December 22, 2006 (the "Final Distribution Order"), a copy of which is attached hereto as Exhibit "D", the Liquidator was authorized to distribute the Interest Holdback to all Participation Unit Holders entitled to a minimum payment of \$50 (the "Final Distribution"), subject to :

- (a) Providing CRA with the names and addresses of all Participation Unit Holders that were entitled to any portion of the Interest Holdback;
- (b) Providing each Participation Unit Holder with the appropriate T5 or NR4 tax slip in respect of the distribution; and
- (c) Establishing a holdback of \$100,000 to fund the costs associated with the Final Distribution (the "Fee Holdback").

14. The Liquidator made the Final Distribution to the Participation Unit Holders in January, 2007.

#### **UNCLAIMED DISTRIBUTIONS AND UNUSED HOLDBACK**

15. Given the time that has elapsed since the commencement of these proceedings in 1999, many Participation Unit Holders have either moved, passed away or for reasons unknown to the Liquidator refuse to cash their distributions.



16. The Final Distribution Order provided that once the total quantum of unclaimed distributions was known (including any unclaimed amounts from the Interest Holdback) the Liquidator would assess the practicality of issuing a further distribution and would seek advice and direction from this Honourable Court as to how to proceed with any unclaimed funds and, to the extent applicable, any remaining portion of the Fee Holdback.

17. The Liquidator is currently holding approximately \$62,000 of unclaimed funds in the Certificate Payment Account from the Initial Distribution and Final Distribution (the “Unclaimed Distributions”). The Unclaimed Distributions are comprised of approximately 190 unclaimed payments ranging in size from \$17,929 to less than \$1. A list of all Unclaimed Distributions is attached as Exhibit “E”.

18. The Liquidator has reviewed various databases in an effort to contact the Participation Unit Holders entitled to the Unclaimed Distributions but has been unable to locate these parties.

#### **RELIEF SOUGHT WITH RESPECT TO THE REMAINING FUNDS**

19. The Liquidator is currently holding approximately \$165,000 in the Certificate Payment Account (the “Remaining Funds”), which is comprised of the following:

- (a) Approximately \$62,000 from Unclaimed Distributions;
- (b) Approximately \$70,000 in interest earned in between the time that distributions were issued and cheques were cashed; and
- (c) Approximately \$33,000 remaining from the Fee Holdback.

20. The Administration Agreement provides that all amounts deposited into the Certificate Payment Account which are not claimed by and paid to the Participation Unit Holders within six years after the date on which the payment was to be made shall, subject to applicable law, be remitted to Distributionco for its own account. The six year time period set out in the Administration Agreement was most likely chosen because, at the time the Administration Agreement was drafted in 1999, the limitation period for commencing proceedings for the collection of a debt was six years. At the time the Initial Distribution was authorized to be made to the Participation Unit Holders in June, 2006, the *Limitations Act, 2002* (Ontario) was in force and the limitation period for commencing proceedings for the collection of a debt had been reduced to two years. Given the current state of the law of limitation periods, the deadline for which the Participation Unit Holders could commence proceedings for the collection of the funds owing to them from the Initial Distribution is fast approaching. In addition, the issue of what the Liquidator should do with these funds is not addressed in any applicable provincial or federal legislation.

21. The Liquidator is currently in the process of finalizing the administration of the estate of Distributionco and intends to proceed with a motion to this Honourable Court for, among other things, approval of the final distribution to the Class I Creditors, the discharge of the Liquidator and approval to proceed with the dissolution of Distributionco. The cost for the Liquidator to continue the administration of Distributionco in order to deal with the Remaining Funds in the manner contemplated by the Administration Agreement would, at today's rates, likely be a minimum of \$50,000.

22. The Liquidator does not believe that it is cost-effective to continue to administer the estate of Distributionco in order to deal with the Remaining Funds in the manner contemplated by the Administration Agreement. The Liquidator is of the view that it has three options with respect to the Remaining Funds:

- (a) The Liquidator can continue to search for the Participation Unit Holders that are entitled to the Unclaimed Distributions. The Liquidator is of the view that these efforts will be costly and will not yield any substantial positive results.

- (b) The Remaining Funds can be distributed to Eligible Participation Unit Holders<sup>1</sup> who are entitled to distributions in excess of \$50. The cost incurred by the Liquidator in issuing the Final Distribution was approximately \$65,000 which includes the costs of preparing and sending out the distribution cheques and dealing with creditors or Participation Unit Holders which contacted the Liquidator in order to determine if they were eligible to receive the Final Distribution. The Liquidator estimates that the same level of costs would be incurred if the Remaining Funds were released to the Eligible Participation Unit Holders. Accordingly, the Liquidator would have to hold back approximately \$65,000 resulting in a net distribution of approximately \$100,000. The Liquidator believes that even if an additional distribution is made, it will continue to have Remaining Funds in the Certificate Payment Account since a certain amount of the distribution cheques are likely to be returned or not cashed; and
- (c) The Remaining Funds can be transferred from the Certificate Payment Account to the Estate Account for the benefit of the Class I Creditors.

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<sup>1</sup> Eligible Participation Unit Holders are Participation Unit Holders which were entitled to a distribution pursuant to the Final Distribution Order and contacted the Liquidator prior to March 31, 2007 to provide their Social Insurance Number or Business Tax Number.

23. The Liquidator is of the view that transferring the Remaining Funds to the Estate Account is the least costly and most equitable option. The Participation Unit holders have already received the funds that they were entitled to under the Eaton's Plan. It is equitable that the Class I Creditors should receive the monies in the Certificate Payment Account on the basis that the claims of creditors rank in priority to the claims of the shareholders of a company. The Liquidator intends to make another distribution to the Class I Creditors in the near future and, as such, there would be no incremental cost to increasing the amount to be distributed by the amount of the Remaining Funds in the Certificate Payment Account. In addition, the transfer of the Remaining Funds to Distributionco (who would distribute such funds to the Class I Creditors in any event) was contemplated by the Administration Agreement.

#### **TERMINATION OF DUTIES AND OBLIGATIONS**

24. The Administration Agreement provides that upon payment of the Maximum Amount<sup>2</sup> due under each of the certificates (the "Certificates") issued to the Participation Unit Holders, the Certificates shall be deemed to be of no further force or effect and shall be deemed to be cancelled.

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<sup>2</sup> The "Maximum Amount" means the product of \$0.818665575 times the number of Participation Units represented by the Certificates minus the Participation Unit holder's *pro rata* portion of the costs payable to the Liquidator and/or Distributionco.

25. The Administration Agreement also provides that the Liquidator and Distributionco shall be released from their respective obligations and duties under the Administration Agreement and under the Certificates upon indefeasible payment of the Maximum Amount payable under each Certificate or upon receipt of the “Termination Order” and in each case, upon payment or provision of all costs, charges and expenses properly incurred or claimable by the Liquidator or Distributionco under the OBCA Sanction Order, the Escrow Agreement and/or the Administration Agreement. The “Termination Order” means an order of this Honourable Court providing that no further distributions are to be made under or pursuant to the Certificates and that all outstanding Certificates are of no further force and effect and are deemed to be cancelled.

26. In light of the Unclaimed Distributions, the provisions of the Final Distribution Order which limited distribution payments to Eligible Participation Unit Holders entitled to distributions over \$50 and the relief sought by the Liquidator herein, the Maximum Amount has not been or will not be distributed under each Certificate. As such, the Liquidator requires a Termination Order.

27. The Liquidator and/or Distributionco have received payment or made satisfactory provision for all costs, charges and expenses incurred or claimable under the OBCA Sanction Order, the Escrow Agreement and/or the Administration Agreement. If this Honourable Court issues an order declaring that no further payments are to be made under the Certificates and that such Certificates are of no further force and effect and are deemed to be cancelled and authorizes the Liquidator to transfer the Remaining Funds from the Certificate Payment to the Estate Account, the Liquidator and Distributionco should be released from their respective duties and obligations under the Administration Agreement and under the Certificates.

**RECOMMENDATION**

28. The Liquidator respectfully recommends that it be authorized to transfer the Remaining Funds in the Certificate Payment Account to the Estate Account.

All of which is respectively submitted this 22<sup>nd</sup> day of April, 2008.

**RSM RICHTER INC.  
IN ITS CAPACITY AS LIQUIDATOR OF DISTRIBUTIONCO INC.**



EXHIBIT A

THE PLAN

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**PLAN OF COMPROMISE AND ARRANGEMENT**

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**Pursuant to the  
*Companies' Creditors Arrangement Act (Canada)*  
and the *Business Corporations Act (Ontario)*  
concerning, affecting and involving**

**THE T. EATON COMPANY LIMITED**



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THE T. EATON COMPANY LIMITED  
PLAN OF COMPROMISE AND ARRANGEMENT

ARTICLE I  
INTERPRETATION

**1.1 Definitions**

In this Plan, unless otherwise stated or unless the subject matter or context otherwise requires:

**"Abandoned Premises"** means any premises under a Lease in whole or in part with Eaton's, abandoned by Eaton's, or for which Eaton's has delivered or delivers an abandonment notice or a repudiation notice after the Valuation Date.

**"Affiliate"** means affiliate as defined in the OBCA.

**"Agency Agreement"** means the agreement among the Agent, Eaton's and the Interim Receiver dated as of July 29, 1999, as amended from time to time.

**"Agent"** means, collectively, Gordon Brothers Retail Partners, LLC, Schottenstein/Bernstein Capital Group, LLC, Hilco Trading Co., Inc. and Garcel, Inc. and their successors and permitted assigns.

**"Articles of Arrangement"** means the Articles of Arrangement for each of Distributionco and Eaton's contemplated by the Plan.

**"BIA"** means the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3.

**"BIA Orders"** means those Orders made in the BIA Proceedings on August 23, 27, 29 and September 2 and 20, 1999, and **"BIA Order"** means any one of them.

**"BIA Proceedings"** means the proceedings commenced under Part III of the BIA by Eaton's by the filing of a notice of intention to make a proposal on August 20, 1999.

**"Business Day"** means a day, other than Saturday, Sunday or a statutory holiday, on which banks are generally open for business in Toronto, Ontario.

**"Calendar Day"** means a day, including Saturday, Sunday and any statutory holiday.

**"Canadian Dollars"** or **"\$"** means dollars denominated in lawful currency of Canada.

**"CCAA"** means the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36.

**"CCAA Proceedings"** means the proceedings in respect of Eaton's under the CCAA commenced pursuant to the Initial CCAA Order.

**"CCAA Sanction Order"** means the Order to be made in the CCAA Proceedings to sanction this Plan, as such Order may be amended, varied or modified by the Court from time to time.

**"Chair"** means Mr. John Swidler, F.C.A., President of the Monitor, or another official of the Monitor designated by the Monitor, appointed to preside as the chair of the Meetings.

**"Charge"** means a valid mortgage, charge, pledge, assignment by way of security, lien, privilege, hypothec or security interest.

**"Claim"** means any right of any Person against Eaton's in connection with any indebtedness, liability or obligation of any kind of Eaton's, whether in contract, tort, or otherwise, which indebtedness, liability or obligation is in existence prior to the Valuation Date and any interest that may accrue thereon, whether liquidated, reduced to judgment, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, statutory, penal, equitable, secured, unsecured, present, future, known or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including without limitation, any claim relating to the administration or winding up of the Pension Plans or the administration, distribution or investment of the funds relating to the Pension Plans or any employee benefit plans and any claim made or asserted against Eaton's through any affiliate, associate or related person (as such terms are defined in the OBCA), or any right or ability of any Person to advance a claim for subrogation, contribution or indemnity or otherwise with respect to any matter, action, cause or chose in

action, whether existing at present or commenced in the future with respect to any matter, action, cause or chose in action whether existing at present or commenced in the future (including, without limitation, any claims which may exist or arise against Eaton's as assignor of any contract, right, licence or property) based in whole or in part on facts, contracts or arrangements which exist prior to the Valuation Date, together with any other claims that would have been claims provable in bankruptcy had Eaton's become bankrupt on the Valuation Date.

**"Claims Administrator"** means the Person identified in the schedules to the Claims Procedure for purposes of receiving the notices described in those schedules.

**"Claims Officer"** means each of The Honourable W. David Griffiths, Q.C., The Honourable Robert F. Reid, Q.C., The Honourable Robert S. Montgomery, Q.C., The Honourable Joseph W. O'Brien, Q.C., The Honourable John B. Webber, Q.C., The Honourable Hilda M. McKinlay and The Honourable Alvin B. Rosenberg, Q.C. or such other Person or Persons as may be appointed by the Court for the purposes of determining a Claim or an Interim Period Claim for voting and distribution purposes.

**"Claims Procedure"** means the claims procedure and the schedules thereto, attached to this Plan as Schedule "A", for determining Claims and Interim Period Claims for voting and distribution purposes approved in the Initial CCAA Order, as may be amended from time to time.

**"Classes"** means the two classes of Creditors grouped in accordance with their Claims and Interim Period Claims for the purposes of considering and voting upon this Plan in accordance with the provisions of this Plan, and receiving distributions hereunder, such classes being comprised of Unsecured Creditors and Landlord Creditors, and the single class of Shareholders, respectively, and **"Class"** means any one of such classes.

**"Common Shares"** means the authorized, issued and outstanding common shares of Eaton's.

**"Court"** means the Superior Court of Justice for the Province of Ontario, Canada.

**"Creditor"** means any Person having a Claim or an Interim Period Claim and may, where the context requires, include the assignee of a Claim or an Interim Period Claim, or a trustee, liquidator, interim receiver, receiver, receiver and manager or other Person acting on behalf of such Person.

**"Creditor Approval"** means the approval of this Plan by all of the Classes of Creditors voting on this Plan under the CCAA.

**"Distribution Claim"** of a Creditor means the compromised amount of the Claim or Interim Period Claim of such Creditor as finally determined for distribution purposes, in accordance with the provisions of the Claims Procedure, the Plan, the Initial CCAA Order and the CCAA.

**"Distributionco"** means a business corporation incorporated under the OBCA that will assume the Distributionco Assumed Liabilities and the Unsatisfied Unaffected Liabilities in exchange for the Distributionco Transferred Assets and the Eaton's Note (which will be satisfied by Eaton's upon the receipt of the Sears Equity Contribution), that will distribute the net cash proceeds from the Distributionco Transferred Assets and the satisfaction of the Eaton's Note to Creditors pursuant to this Plan and the OBCA Sanction Order, that will receive the Sears Variable Note for distribution to Shareholders pursuant to this Plan and the OBCA Sanction Order and that will act as agent and nominee for the holders of the Participation Units to hold the Sears Variable Note for their benefit.

**"Distributionco Assumed Liabilities"** means all of the obligations, indebtedness and liabilities of Eaton's which are compromised on the Plan Implementation Date.

**"Distributionco Common Share"** means the single common share of Distributionco issued to Eaton's for the subscription price of \$1 (which common share is only entitled to receive \$1 on dissolution of Distributionco), and which common share will be transferred to the Liquidator on the Plan Implementation Date for \$1.

**"Distributionco Transferred Assets"** means all of the assets of Eaton's on the Plan Implementation Date (including the benefit of all insurance policies of Eaton's in effect as of the Plan Implementation Date) other than the Eaton's Remaining Assets, excluding the Sears Equity Contribution.

**"Eaton's"** means The T. Eaton Company Limited and, from and after the Plan Implementation Date, any successor thereof.

**"Eaton's Elected Stores"** means Eaton's leasehold interests in such of the stores listed on schedule B to the Sears Agreement as Sears elects should be retained by Eaton's under the Sears Agreement.

**"Eaton's Note"** means the promissory note in the principal amount of \$60 million (subject to any adjustment of the Sears Equity Contribution which may be required on closing of the Sears Transaction pursuant to the Sears Agreement) to be issued by Eaton's to Distributionco on the Plan Implementation Date in part consideration for the assumption by Distributionco of the Distributionco Assumed Liabilities and the Unsatisfied Unaffected Liabilities.

**"Eaton's Operating Stores"** means those stores under the Sears Agreement which Eaton's will continue to operate under the Sears Operating Agreement.

**"Eaton's Remaining Assets"** means those assets of Eaton's which under the Sears Agreement will remain with Eaton's from and after the Plan Implementation Date, and includes:

- (i) Eaton's leasehold interests in the Eaton's Remaining Stores and the Eaton's Elected Stores;
- (ii) Eaton's freehold and leasehold interests in and pertaining to its Calgary Eaton Centre downtown store location;
- (iii) any inventory of saleable merchandise owned by Eaton's and located at the Eaton's Operating Stores;
- (iv) subject to any valid Charge or other ownership rights of third parties, the furniture, fixtures and equipment in the Eaton's Remaining Stores and the Eaton's Elected Stores, other than those specifically excluded under the Sears Agreement;
- (v) the goodwill, names (including private label brand names), trade-marks, trade names, copyrights, other intellectual property, contractual rights and accrued benefits relating to the assets described above (including the benefit of prepaid expenses) and licenses, sub-leases and contracts relating to the assets described above (except for those which Sears elects not be retained by Eaton's) owned or used by Eaton's, books and records owned or used by Eaton's in connection with Eaton's business, the assets of Eaton's used in connection with the credit card operations owned and operated by NRCS, software and websites, rights to the licensed departments, concession arrangements or subleases designated by Sears in the Eaton's Remaining Stores and the Eaton's Elected Stores and any contracts retained by Eaton's upon election by Sears, customer lists, exclusive rights and all assets of Eaton's relating to the carrying on of Eaton's credit card operations or any other credit services for or in respect of Eaton's (including cardholders' lists, account property, the right to use and operate the Eaton's credit card operations and the right to use Eaton's intellectual property in connection with credit services);
- (vi) the Eaton's Tax Losses; and
- (vii) the interests of any subsidiaries or affiliates of Eaton's in any of the assets described above.

**"Eaton's Remaining Liabilities"** means:

- (i) those liabilities (except in respect of Pension Plans) to those employees of Eaton's selected by Sears currently working at the Eaton's Operating Stores (as indicated in a written notice to be provided by Sears to Eaton's in accordance with the Sears Agreement) and other current employees of Eaton's selected by Sears (as indicated in a written notice to be provided by Sears to Eaton's in accordance with the Sears Agreement) who agree to continue to work for Eaton's upon the completion of the Sears Transaction on terms which are substantially comparable to the terms of employment of employees of Sears in comparable positions and (except in respect of Pension Plans) comparable seniority;
- (ii) after the Plan Implementation Date, Lease liabilities to Landlords in respect of stores included in the Eaton's Remaining Assets; and
- (iii) Eaton's obligations to Sears pursuant to the Sears Agreement, the Sears Operating Agreement and any other agreements entered into by Eaton's and Sears pursuant thereto.

**"Eaton's Remaining Stores"** means the stores listed in Schedule "A" to the Sears Agreement, being (i) Brentwood Mall, Burnaby; (ii) St. Vitale Centre, Winnipeg; (iii) Les Galleries de la Capitale, Quebec; (iv) Westmount Shopping Centre, London; (v) Sherway Gardens, Etobicoke; (vi) Yorkdale Shopping Centre, North York; (vii) Halifax Shopping Centre, Halifax; (viii) Scarborough Town Centre, Scarborough; (ix) Eaton Centre, Victoria; (x) Pacific Centre, Vancouver; (xi) Polo Park, Winnipeg; (xii) Eaton Centre, Toronto; and (xiii) such other stores as may be added to Schedule "A" from time to time under the Sears Agreement.

**"Eaton's Tax Losses"** means all the non-capital loss carryforwards of Eaton's for income tax purposes, including such tax losses of Eaton's amounting to approximately \$294.3 million as of January 30, 1999, additional non-capital loss carryforwards generated since January 30, 1999 estimated at \$100 million, subject to the increase or decrease in such tax losses which may be created by the Sears Transaction, including the Plan, and the transfer of the Distributionco Transferred Assets to Distributionco at fair market value.

**"Eaton's Tax Savings"** means an amount equal to 45% of the Eaton's Tax Losses utilized by Sears from time to time, provided that aggregate Eaton's Tax Savings shall not exceed \$20 million.

**"Employee Representative"** means Carmen Siciliano, as appointed by the BIA Order made August 27, 1999 as such BIA Order was continued by the Initial CCAA Order, or such other Person as the Court may appoint to represent former and present employees of Eaton's or a group or class of them.

**"Initial CCAA Order"** means the Order made in respect of Eaton's on September 28, 1999 under the CCAA, as such Order may be amended or varied from time to time.

**"Initial Director"** means the first director of Distributionco under Subsection 119(1) of the OBCA.

**"Initial OBCA Order"** means the Order made in respect of Eaton's on September 28, 1999 under the OBCA, as such Order may be amended or varied from time to time.

**"Interim Period Claim"** means any right of any Person against Eaton's in connection with any indebtedness, liability or obligation of any kind of Eaton's, whether in contract, tort or otherwise, and any interest that may accrue thereon, whether liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, statutory, penal, equitable, secured, unsecured, present, future, known or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, arising from and after the Valuation Date up to and including the Plan Implementation Date, including any claim made or asserted against Eaton's through any affiliate, associate or related person (as such terms are defined in the OBCA), or any right or ability of any Person to advance a claim for subrogation, contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, whether or not arising from or caused by, directly or indirectly, the implementation of, or any action taken pursuant to, the Plan, including claims arising from the abandonment of any premises or the repudiation or variation of any Lease, lease, licence, or contract, agreement or arrangement, the assignment of any contract, Lease or lease of personal, real, moveable or immoveable property (including any future liability as assignor thereof) or the repudiation or variation of any Lease, lease, licence, contract, agreement or arrangement to take effect up to and including the Plan Implementation Date (including any anticipatory breach thereof), by express notice or by virtue of this Plan, the repudiation or variation of any contract of employment, the termination, administration, distribution or winding up of any of the Pension Plans or the administration or investment of the funds relating to the Pension Plans or employee benefit plans, and any other claim whatsoever arising at law or equity against Eaton's.

**"Interim Period Suppliers"** means those Persons who supply goods and services in the ordinary course of business to Eaton's from and after the Valuation Date up to the Plan Implementation Date including concessionaires and suppliers under consignment arrangements.

**"Interim Receiver"** means Richter & Partners Inc., in its capacity as interim receiver as defined in the BIA Order made on August 23, 1999 and continued under the Initial CCAA Order, and any successor thereof.

**“Known Creditors”** means those Creditors whose Claims are identified in Eaton’s books and records, and **“Known Creditor”** means any one of them.

**“Known Interim Period Creditors”** means those Persons Eaton’s believes may have Interim Period Claims, and **“Known Interim Period Creditor”** means any one of them.

**“Landlord Creditor”** means:

- (i) a landlord, head landlord or owner of real property, whether or not in direct privity with Eaton’s, who has a Claim or Interim Period Claim in respect of any premises leased by Eaton’s pursuant to a Lease to which such landlord, head landlord or owner is a party or by which such landlord, head landlord or owner is bound, and includes (i) any mortgagee of such premises who has taken possession of such premises or is collecting rent in respect of such premises; (ii) any Person who has taken an assignment of rents or assignment of Lease in respect of such premises, whether as security or otherwise; and (iii) any Person whose Claim or Interim Period Claim would be duplicative of or derivative from the Claim or Interim Period of Claim of such landlord, head landlord or owner; and
- (ii) any Person who has a Claim or Interim Period Claim in such Person’s capacity as a co-owner, partner, shareholder or trust beneficiary of a Person which is the landlord, head landlord or owner of any premises leased by Eaton’s and includes (i) any holder of a Charge against such ownership, partnership, shareholder or beneficial interest who is entitled to receive any dividends or distributions thereon; (ii) any Person who has taken an assignment of such ownership, partnership, shareholder or beneficial interest; and (iii) any Person whose Claim or Interim Period Claim would be duplicative of or derivative from the Claim or Interim Period Claim of such first mentioned Person,

and **“Landlord Creditors”** means all of them.

**“Landlord Interim Period Claim”** means an Interim Period Claim of a Landlord Creditor under Class 2 in connection with Abandoned Premises, which shall be determined for voting and distribution purposes as the amount equal to the lesser of:

- (i) the aggregate of
  - (A) the rent provided for in the Lease in respect of the Abandoned Premises for the first year of such Lease following the date on which the repudiation and/or abandonment becomes effective; and
  - (B) fifteen percent of the rent for the remainder of the Term of such Lease after that year; and
- (ii) three years’ rent.

**“Landlord Pool”** means an amount of \$12 million held by the Liquidator on behalf of Distributionco on and after the Plan Implementation Date, representing a portion of the net cash proceeds from the realization of the Distributionco Transferred Assets and the Sears Equity Contribution.

**“Lease”** means any lease, sublease, licence, sublicense, agreement to lease, offer to lease, or similar agreement, whether written or oral, pursuant to which Eaton’s has or had the right to occupy premises and includes all amendments and supplements thereto and all documents ancillary thereto.

**“Liquidator”** means Richter & Partners Inc. in its capacity as the liquidator of Distributionco, to be appointed by the Court under the OBCA Sanction Order, or any successor thereof.

**“Meetings”** means the special meetings of the Creditors and Shareholders called for the purpose of considering and voting in respect of this Plan pursuant to the CCAA and the OBCA, and **“Meeting”** means any one of them.

**“Merchandising Funds and Discounts”** means merchandise funds including but not limited to volume rebates, co-op advertising, marketing allowances, fixturing allowances, research and development expenses, demonstrator wages and commissions pursuant to agreements with Eaton’s entered into on, prior to or following the Valuation Date and any discounts taken with respect to payments on account of supplier invoices in accordance with Eaton’s standard business practices.

“**Monitor**” means Richter & Partners Inc., in its capacity as the monitor appointed pursuant to the Initial CCAA Order, and any successor thereof.

“**NRCS**” means National Retail Credit Services Company.

“**OBCA**” means the *Business Corporations Act*, R.S.O. 1990, c. B.16.

“**OBCA Proceedings**” means the proceedings instituted by Eaton’s under Section 182 of the OBCA on September 24, 1999.

“**OBCA Sanction Order**” means the Order to be made in the OBCA Proceedings to approve the Plan, as such Order may be amended, varied or modified by the Court from time to time.

“**Omnibus Proof of Claim (Employees)**” means the Proof of Claim to be sent by the Employee Representative to Eaton’s as described in paragraph 6 of the Claims Procedure.

“**Optionholders**” means holders of Options.

“**Options**” means the options issued by Eaton’s for the issue of common shares of Eaton’s and all agreements relating thereto.

“**Order**” means any order of the Court in the CCAA Proceedings, the OBCA Proceedings, or the BIA Proceedings.

“**Participation Unit**” means a unit of participation allocated to a Shareholder on the basis of one unit per each Common Share held by such Shareholder and representing a *pari passu* beneficial ownership interest in the proceeds of the Sears Variable Note and any payment thereof after deducting the costs and expenses of Distributionco as agent and nominee for the holders of Participation Units and the costs, expenses and fees of the Liquidator incurred in administering the Sears Variable Note, including the costs of enforcing the Sears Variable Note.

“**Pension Plans**” means:

- (i) Eaton Retirement Annuity Plan — Registration No. 337238;
- (ii) Eaton Retirement Annuity Plan II — Registration No. 1036102;
- (iii) Eaton Retirement Annuity Plan III — Registration No. 1037035;
- (iv) Eaton Superannuation Plan for Designated Employees — Registration No. 593673;
- (v) Pension Plan of The T. Eaton Company Limited for C. Reginald Hunter — Registration No. 1031780;
- (vi) Pension Plan of The T. Eaton Company Limited for R. A. Hubert — Registration No. 1029321;
- (vii) Pension Plan of The T. Eaton Company Limited for Roy Evans — Registration No. 1031798; and
- (viii) Pension Plan of The T. Eaton Company Limited for Rex P. Prangley — Registration No. 1031806.

“**Person**” means any individual, partnership, joint venture, trust, corporation, unincorporated organization, government or any agency or instrumentality thereof, or any other juridical entity howsoever designated or constituted.

“**Plan**” means this plan of compromise and arrangement filed by Eaton’s pursuant to the Initial CCAA Order, as such Plan may be amended, varied or supplemented by Eaton’s from time to time in accordance with Article 9 hereof.

“**Plan Filing Date**” means October 8, 1999, being the date upon which this Plan is to be filed with the Court in the CCAA Proceedings, or such later date as the Court may set for the filing of the Plan.

“**Plan Implementation Date**” means a Business Day selected by Eaton’s which is on or before December 31, 1999.

“**Proof of Claim**” means a proof of claim referred to in paragraphs 4 and 16 of the Claims Procedure.

“**RFI**” means Retail Funding, Inc.



“Sears” means Sears Canada Inc., and on or following the Plan Implementation Date, any corporation formed by the amalgamation of Sears and Eaton’s as restructured under the Plan, and any successor of either of them.

“Sears Agreement” means the agreement between Sears and Eaton’s dated September 19, 1999, as amended by Addendum No. 1 dated as of September 29, 1999 and Addendum No. 2 dated October 3, 1999, as further amended or supplemented from time to time, pursuant to which Sears will acquire all the issued and outstanding shares of Eaton’s.

“Sears Equity Contribution” means the sum of \$60 million (subject to any adjustment which may be required on closing of the Sears Transaction pursuant to the Sears Agreement) paid to Eaton’s on the Plan Implementation Date pursuant to the Sears Agreement for the issue to Sears of common shares of Eaton’s, which amount is to be transferred to Distributionco in satisfaction of the Eaton’s Note.

“Sears Operating Agreement” means the agreement dated as of October 1, 1999 among Sears, Eaton’s and the Interim Receiver for the continued operation of the Eaton’s Operating Stores, as may be amended or supplemented from time to time.

“Sears Transaction” means the transaction or transactions which are required to be completed pursuant to the Sears Agreement.

“Sears Variable Note” means the promissory note made payable to Distributionco to be issued by Sears on the Plan Implementation Date in the principal amount of up to \$20 million to be paid by Sears only from the use of the Eaton’s Tax Losses in accordance with the Sears Agreement, and which will bear interest at the same rate of interest as earned by the Liquidator on the funds received by Distributionco from Sears under the terms of the Sears Variable Note.

“Secured Creditors” means Persons with Claims or Interim Period Claims secured by a Charge against the property, assets or undertaking of Eaton’s.

“Shareholder Approval” means the approval of this Plan by the Shareholders voting on this Plan under the OBCA.

“Shareholders” means all of the holders of Common Shares, and “Shareholder” means any one of them.

“Stay Period” means the period from and after the Valuation Date up to and including the Stay Termination Date.

“Stay Termination Date” means October 28, 1999, or such later date as may be ordered by the Court.

“Term” means the balance of the then existing term of a Lease assuming that renewal rights are not exercised, and any right of early termination is exercised.

“Trustee” means Richter & Partners Inc., in its capacity as trustee in the BIA Proceedings.

“Unaffected Creditors” means Persons having Claims or Interim Period Claims which are described in Section 3.2 hereof, and “Unaffected Creditor” means any one of such Creditors.

“Unsatisfied Unaffected Liabilities” means all of the Claims and Interim Period Claims of the Unaffected Creditors which are not satisfied by Eaton’s on or before the Plan Implementation Date.

“Unsecured Creditors” means all Persons with Claims and/or Interim Period Claims, other than Landlord Interim Period Claims and Unaffected Creditors (other than as provided in Section 3.3 hereof) and

“Unsecured Creditor” means any one of such Creditors.

“Unsecured Creditors Pool” means all amounts held by the Liquidator on and after the Plan Implementation Date representing proceeds from the realization of the Distributionco Transferred Assets and the satisfaction of the Eaton’s Note with the Sears Equity Contribution, less amounts paid by Distributionco in payment of Unsatisfied Unaffected Liabilities, the Landlord Pool, the costs and expenses of Distributionco (except those in connection with the Sears Variable Note) including any taxes payable by Distributionco and the costs, expenses and remuneration of the Liquidator (except those in connection with the Sears Variable Note).

“Valuation Date” means August 20, 1999.

“Voting Claim” of a Creditor means the amount of the Claim and/or Interim Period Claim of such Creditor determined for voting purposes in accordance with the provisions of the Claims Procedure, the Plan, the Initial CCAA Order and the CCAA.

## 1.2 Certain Rules of Interpretation

In this Plan and any Schedules hereto:

- (a) all accounting terms not otherwise defined herein shall have the meanings ascribed to them, from time to time, in accordance with Canadian generally accepted accounting principles, including those prescribed by the Canadian Institute of Chartered Accountants;
- (b) all references to currency are to Canadian Dollars;
- (c) if, for the purposes of voting or distribution, an amount denominated in a currency other than Canadian Dollars must be converted to Canadian Dollars, such amount shall be regarded as having been converted at the noon spot rate of exchange quoted by the Bank of Canada for exchanging such currency to Canadian Dollars as at the Valuation Date;
- (d) the division of this Plan into Articles and Sections and the insertion of a table of contents are for convenience of reference only and do not affect the construction or interpretation of this Plan, nor are the descriptive headings of Articles and Sections intended as complete or accurate descriptions of the content thereof;
- (e) the use of words in the singular or plural, or with a particular gender, shall not limit the scope or exclude the application of any provision of this Plan or a Schedule hereto to such Person (or Persons) or circumstances as the context otherwise permits;
- (f) the words "includes" and "including" and similar terms of inclusion shall not, unless expressly modified by the words "only" or "solely", be construed as terms of limitation, but rather shall mean "includes but is not limited to" and "including but not limited to", so that references to included matters shall be regarded as illustrative without being either characterizing or exhaustive;
- (g) unless otherwise specified, all references to time herein and in any document issued pursuant hereto mean local time in Toronto, Ontario and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. on such Business Day;
- (h) unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next succeeding Business Day if the last day of the period is not a Business Day;
- (i) whenever any payment to be made or action to be taken under this Plan is required to be made or to be taken on a day other than a Business Day, such payment shall be made or action taken on the next succeeding Business Day;
- (j) unless otherwise provided, any reference to a statute or other enactment of parliament or a legislature includes all regulations made thereunder, all amendments to or re-enactments of such statute or regulations in force from time to time, and, if applicable, any statute or regulation that supplements or supersedes such statute or regulation; and
- (k) references to a specified Article, Section or Schedule shall, unless something in the subject matter or context is inconsistent therewith, be construed as references to that specified Article or Section of, or Schedule to, this Plan, whereas the terms "this Plan", "hereof", "herein", "hereto", "hereunder" and similar expressions shall be deemed to refer generally to this Plan and not to any particular Article, Section, Schedule or other portion of this Plan and include any documents supplemental hereto.

## 1.3 Schedules

The following Schedules annexed hereto are an integral part of this Plan:

Schedule "A" — Claims Procedure for Voting and Distribution Purposes

Schedule "B" — Entities Eligible for Investments by Liquidator

To the extent that any definition in Schedule "A" differs from a definition in the Plan, the Plan definition governs for the purposes of the Plan.

#### **1.4 Successors and Assigns**

This Plan shall be binding upon and shall enure to the benefit of the heirs, administrators, executors, legal personal representatives, successors and assigns of any Person named or referred to in, or subject to, this Plan.

#### **1.5 Governing Law**

This Plan shall be governed by and construed in accordance with the laws of Ontario and the federal laws of Canada applicable therein. All questions as to the interpretation of or application of this Plan and all proceedings taken in connection with this Plan and its provisions shall be subject to the exclusive jurisdiction of the Court.

### **ARTICLE 2**

#### **PURPOSE AND EFFECT OF THE PLAN**

##### **2.1 Purpose**

The purpose of this Plan is to effect a reorganization of the Common Shares and certain of the assets of Eaton's and a compromise of Eaton's liabilities to permit the disposition of Eaton's as a going concern to Sears and the orderly disposition of certain of the assets of Eaton's for the benefit of Creditors. The Plan is an intrinsic part of the Sears Transaction pursuant to which Sears has agreed to acquire Eaton's on a going concern basis. Pursuant to the Plan, the Distributionco Transferred Assets will be transferred from Eaton's to Distributionco, Distributionco will assume the Distributionco Assumed Liabilities and the Unsatisfied Unaffected Liabilities, Sears will acquire the Common Shares and make the Sears Equity Contribution and Distributionco will ultimately receive the benefit of the Sears Equity Contribution as a repayment of the Eaton's Note. The Sears Equity Contribution will then be distributed to Creditors and as soon as practicable in the circumstances the Distributionco Transferred Assets will be realized and the net cash proceeds thereof will be distributed to Creditors. Sears will acquire the Common Shares from Distributionco after Distributionco acquires the Common Shares from the Shareholders in consideration for the issuance to the Shareholders of rights to receive undivided interests in the Sears Variable Note. Eaton's believes that Creditors will derive greater benefit from the continued operation of Eaton's and the orderly disposition of the Distributionco Transferred Assets than they would recover in a bankruptcy. In addition, this Plan provides for a recovery for Shareholders that would not otherwise be available. Accordingly, this Plan is designed to provide a fair recovery to all Creditors and Shareholders and to provide Eaton's with the financial stability necessary to implement a disposition plan for the benefit of all Creditors and to continue its business operations from and after the Plan Implementation Date.

##### **2.2 Overview of Plan**

The restructuring contemplated by this Plan is to be implemented under the CCAA and OBCA. This Plan involves the following essential elements:

- (a) the compromise of the Claims and Interim Period Claims of the Unsecured Creditors and Landlord Creditors;
- (b) the transfer of the Distributionco Transferred Assets to Distributionco for the orderly disposition of the Distributionco Transferred Assets, and the delivery by Eaton's of the Sears Equity Contribution to Distributionco by means of the repayment of the Eaton's Note by Eaton's to Distributionco;
- (c) the assumption by Distributionco of the Distributionco Assumed Liabilities as compromised under this Plan and of the Unsatisfied Unaffected Liabilities and the release of Eaton's from any liability for or arising from the Distributionco Assumed Liabilities and the Unsatisfied Unaffected Liabilities;
- (d) the winding up of Distributionco for the purposes of the distribution of proceeds from the realization of the Distributionco Transferred Assets, and the Sears Equity Contribution, to the Creditors;

- (e) the exchange of all of the Common Shares for the Participation Units;
- (f) the cancellation of the Options; and
- (g) the acquisition by Sears of the Common Shares.

## ARTICLE 3

### CREDITORS AND SHAREHOLDERS

#### 3.1 Classification of Creditors

The classification of Creditors for the purposes of considering and voting on this Plan and receiving distributions hereunder is based upon the commonality of interest of such Creditors, such that Creditors with essentially similar rights against Eaton's and which Creditors are to receive essentially similar treatment have been grouped together in the following Classes for voting and distribution purposes:

(a) *Class 1*

Claims and Interim Period Claims of the Unsecured Creditors shall be designated as Class 1, and shall include the Claims relating to the notes in the aggregate principal amount of \$5 million issued by Eaton's pursuant to the amended and restated plan of compromise or arrangement sanctioned by the Court on September 12, 1997, and all amounts pertaining to arrears of rent or other amounts payable as rent under the Leases, or Claims in respect of tenant inducements, but shall exclude Landlord Interim Period Claims, which amounts shall be included in Class 2.

(b) *Class 2*

Interim Period Claims of the Landlord Creditors, only with respect to or relating to the Leases, shall be designated as Class 2.

#### 3.2 Unaffected Creditors

This Plan does not affect or compromise the Claims or Interim Period Claims of the following Creditors and others, except to the extent provided for in Section 3.3 hereof:

- (a) RFI, which shall be paid by Eaton's on or before the Plan Implementation Date in accordance with Eaton's credit facility arrangements with RFI;
- (b) the Agent, which shall be paid by Eaton's in accordance with the Agency Agreement on or before the Plan Implementation Date;
- (c) the Trustee, the Monitor and the Interim Receiver, including legal and other advisors retained by any of them in accordance with the BIA Orders and the Initial CCAA Order, which shall be paid by Eaton's on or before the Plan Implementation Date;
- (d) Sears;
- (e) those Creditors having Claims or Interim Period Claims which constitute Eaton's Remaining Liabilities, which Claims or Interim Period Claims shall be satisfied by Eaton's in the ordinary course of business prior to, on or after the Plan Implementation Date;
- (f) those Landlord Creditors having Claims in respect of Leases, where such Leases are assigned by Eaton's on or prior to the Plan Implementation Date to Persons other than Distributionco, to the extent such Landlord Creditors deliver a full release to Eaton's;
- (g) Interim Period Suppliers, which shall be paid by Eaton's in the ordinary course prior to, on or after the Plan Implementation Date;
- (h) the legal, accounting and financial advisors and sales agents engaged by Eaton's for the purposes of assisting Eaton's in reorganizing its assets, debt and equity pursuant to this Plan, which shall be paid by Eaton's on or before the Plan Implementation Date;

- (i) Secured Creditors, unless the Claims or Interim Period Claims of such Secured Creditors are otherwise provided for in this Plan, or their Claims or Interim Period Claims are settled by agreement with Eaton's;
- (j) Creditors having claims arising in the ordinary course of business against Eaton's to the extent that such claims are covered by Eaton's insurance policies or are required by law or otherwise to be paid by Eaton's insurers;
- (k) Her Majesty in right of Canada or any province, in respect of any environmental matters, but only to the extent of the Charge granted under Subsection 11.8(8) of the CCAA and, in respect of other matters, only to the extent that such matters or obligations (i) give rise to deemed trusts which are not paid pursuant to Subsection 18.2(1) of the CCAA or are the subject of other deemed trusts protected by Subsection 18.3(2) of the CCAA; or (ii) are secured by a Charge which complies with Subsection 18.5(1) of the CCAA; and
- (l) the members of the Board of Directors of Eaton's in respect of their fees and disbursements up to and including the Plan Implementation Date.

### **3.3 Affected Claims of Unaffected Creditors**

#### **(a) Secured Creditors**

Secured Creditors shall have no Voting Claim or Distribution Claim, except to the extent of any deficiency Claim or deficiency Interim Period Claim to which they may be entitled in respect of the Charge held by them. The Claims and Interim Period Claims of the Secured Creditors (other than the Monitor and Interim Receiver in respect of the Charge granted to them in the BIA Order made on August 23, 1999 and continued under the Initial CCAA Order, Sears, RFI, and the Agent) to the extent compromised by this Plan, and the Unsatisfied Unassumed Liabilities shall be assumed by Distributionco and thereupon all of the obligations of Eaton's to such Secured Creditors, including obligations arising under guarantees, sureties, indemnities and similar covenants and all Charges in favour of the Secured Creditors against the Eaton's Remaining Assets, shall be and shall be deemed to be released and discharged. Distributionco shall satisfy its obligations to the Secured Creditors from the realization of the Distributionco Transferred Assets to the extent of any Charges attaching to any of the Distributionco Transferred Assets, and any deficiency Claims to the extent such Secured Creditors may be entitled thereto from such realization shall constitute such Secured Creditors' Claims or Interim Period Claims to be compromised as Distribution Claims.

#### **(b) Insurance Claims**

To the extent that any Claim or Interim Period Claim of a Creditor is not fully insured under Eaton's insurance policies or at law, the Creditor will be entitled to pursue a Claim or Interim Period Claim in respect of such uninsured portion, in accordance with this Plan and the Claims Procedure.

#### **(c) Claims Against Distributionco**

The Unaffected Creditors shall have no Claims or Interim Period Claims against Distributionco except to the extent of the Unsatisfied Unaffected Liabilities, which shall be assumed and satisfied by Distributionco.

### **3.4 Classification of Shareholders**

The Shareholders shall constitute a single class which shall be designated as Class 3. The Optionholders shall not have the right to vote or receive any distributions under the Plan.

## ARTICLE 4

### TREATMENT OF CREDITORS AND SHAREHOLDERS

For purposes of this Plan, the Creditors shall receive the treatment provided in this Article 4 on account of their Claims and Interim Period Claims and on the Plan Implementation Date, the Claims and Interim Period Claims affected by this Plan will be compromised in accordance with the terms of this Plan.

#### 4.1 Unsecured Creditors

##### (a) *Voting Claims*

###### (i) Voting Claims of Greater than \$500

Subject to Subsection 4.1(a)(ii) hereof, each Unsecured Creditor having a Voting Claim as an Unsecured Creditor shall be entitled to vote in Class 1 to the extent of the amount which is equal to its Voting Claim as an Unsecured Creditor.

###### (ii) Voting Claims of \$500 or Less

An Unsecured Creditor with a Voting Claim as an Unsecured Creditor of \$500 or less, or an Unsecured Creditor with a Voting Claim greater than \$500 which elects to value its Voting Claim at \$500 in accordance with the procedure set out below, shall not be entitled to vote at the Meeting of Creditors for the Class of Unsecured Creditors.

##### (b) *Distribution Claims*

###### (i) Unsecured Creditors Pool

The distribution to the Unsecured Creditors shall not exceed in the aggregate the Unsecured Creditors Pool. For purposes of distribution of the Unsecured Creditors Pool, the Distribution Claims of the Unsecured Creditors shall rank *pari passu*, except to the extent that they receive payments of \$500 or less in full satisfaction of their Distribution Claims.

###### (ii) Distribution Claims of Greater than \$500

After the Plan Implementation Date, each Unsecured Creditor with a Distribution Claim as an Unsecured Creditor which is greater than \$500 and who did not elect to value such Distribution Claim at \$500 shall receive from the Liquidator from time to time, in full satisfaction of such Distribution Claim as an Unsecured Creditor, a *pari passu* cash distribution from the Unsecured Creditors Pool.

###### (iii) Distribution Claims of \$500 or Less

As soon as practicable after the Plan Implementation Date, each Unsecured Creditor with a Distribution Claim as an Unsecured Creditor not exceeding in the aggregate \$500, and each Unsecured Creditor with a Distribution Claim as an Unsecured Creditor which is greater than \$500 which elects to value such Distribution Claim at \$500 shall receive, from the Liquidator in priority to any distributions under Section 4(b)(ii) hereof, in full satisfaction of such Distribution Claim as an Unsecured Creditor, cash in an amount equal to the lesser of \$500 and the amount of such Distribution Claim. Such election must be made in writing and delivered to Eaton's prior to December 1, 1999. For greater certainty, such election must be made in respect of the whole amount of such Distribution Claim.

#### 4.2 Landlord Creditors

##### (a) *Voting Claims*

Each Landlord Creditor shall be entitled to vote in Class 2 to the extent of the amount which is equal to its Voting Claim in respect only of its Landlord Interim Period Claim.

(b) *Distribution Claims*

(i) Landlord Pool

The distributions to the Landlord Creditors of their Distribution Claims in respect of or relating to their Landlord Interim Period Claims shall not exceed in the aggregate the Landlord Pool. For purposes of distribution of the Landlord Pool, the Distribution Claims of the Landlord Creditors in respect of or relating to their Landlord Interim Period Claims shall rank *pari passu*.

(ii) Distribution to Landlord Creditors

After the Plan Implementation Date, each Landlord Creditor with a Distribution Claim in respect of or relating to its Landlord Interim Period Claim shall receive from the Liquidator from time to time, in full satisfaction of such Distribution Claim, a *pari passu* cash distribution from the Landlord Pool.

(c) *Abandonment or Repudiation*

If Eaton's has delivered an abandonment notice or a repudiation notice with respect to Abandoned Premises, the relevant Lease pursuant to which Eaton's occupied or was obligated to occupy such Abandoned Premises and any obligation of Eaton's thereunder shall terminate in accordance with the Initial CCAA Order and the Plan without affecting the relevant Landlord's Distribution Claim.

#### 4.3 Unaffected Creditors

For greater certainty, each Unaffected Creditor shall not be entitled to vote or to receive any distributions under this Plan.

#### 4.4 Guarantees and Similar Covenants

No Person who has a Claim or Interim Period Claim under any guarantee, surety, indemnity or similar covenant (other than the holder of a guarantee, surety, indemnity or similar covenant from Eaton's) in respect of any Claim or Interim Period Claim which is compromised under this Plan or who has any right to claim over in respect of or to be subrogated to the rights of any Person in respect of a Claim or Interim Period Claim which is compromised under this Plan shall be entitled to any greater rights than the Creditor whose Claim or Interim Period Claim was compromised under this Plan.

#### 4.5 Claims Generally

(a) *Assignment of Claims and Interim Period Claims*

If a Creditor who has a Voting Claim transferred or transfers all or part of its Voting Claim and the transferee delivers evidence of its ownership of all or part of such Voting Claim and a written request to Eaton's, no later than five (5) Calendar Days prior to the date of the Meeting of the Creditors of the Class to which such Voting Claim is subject, that such transferee's name be included on the list of Creditors entitled to vote at such Meeting, such transferee shall be entitled to attend and vote the transferred portion of such Voting Claim at such Meeting if and to the extent such Voting Claim may otherwise be voted at such Meeting; provided, however, that for the purposes of determining whether this Plan has been approved by a majority in number of the Creditors of such Class, only the vote of the transferor or the transferee, whichever holds the highest dollar value of such Voting Claim, will be counted, and, if such value shall be equal, only the vote of the transferee will be counted. If a Voting Claim has been transferred to more than one transferee, for purposes of determining whether this Plan has been approved by a majority in number of the Creditors of the Class, to which such Voting Claim is subject, only the vote of the transferee with the highest value of such Voting Claim will be counted unless all of the transferees of such Voting Claim deliver a notice to Eaton's at least five (5) Calendar Days prior to the date of the Meeting of the Creditors of the Class to which such Voting Claim is subject and designate therein the name of the transferee whose vote is to be counted, in which case the vote of such designated transferee will be counted.

(b) *Voting by Landlord Creditors*

For the purpose of determining whether this Plan has been approved by a majority in number of the Landlord Creditors, the vote of the Person which is the landlord of premises leased to Eaton's together with any vote of an Affiliate of such Person which is also a landlord of another leased premises of Eaton's shall be counted only as one vote. Each co-ownership, joint venture or partnership in respect only of a particular leased premises shall be regarded as a separate Person and counted as one vote. For greater certainty, if the same Person is a Landlord Creditor voting under this Plan in respect of more than one leased premises, the vote of such Person shall be counted as only one vote.

(c) *Merchandising Funds and Discounting*

A Distribution Claim of a Creditor shall be net of any amount owing by the Creditor to Eaton's prior to the Valuation Date. For greater certainty, Eaton's shall be entitled to exercise rights of set-off prior to the Valuation Date in respect of Merchandising Funds and Discounts relating to purchases and transactions occurring prior to the Valuation Date on a per diem basis notwithstanding that the relevant contract, agreement or arrangement relating to such Merchandising Funds and Discounts may provide for a calculation of or entitlement to Merchandising Funds and Discounts on a different basis. No amount shall be provable as a Claim by a Creditor in respect of Merchandising Funds and Discounts which have been taken or claimed by Eaton's prior to the Valuation Date.

(d) *Allocation of Distributions*

All distributions made by the Liquidator to Creditors pursuant to this Plan and the OBCA Sanction Order shall be applied first in payment of accrued and unpaid interest, if any, which form part of the Claim or Interim Period Claim, and the balance shall then be applied in payment of the outstanding principal amount of such Claim or Interim Period Claim. Each Creditor shall be responsible for providing for any non-resident withholding tax imposed under Part XIII of the *Income Tax Act* (Canada) as a condition of receiving any amounts under this Plan.

(e) *Interest*

No interest shall accrue from and after the Valuation Date for the purpose of valuing Voting Claims and Distribution Claims.

#### 4.6 Shareholders

(a) *Exchange of Common Shares*

On the Plan Implementation Date, the Shareholders shall exchange and shall be deemed to have exchanged the Common Shares for the right of each of them to receive Participation Units. Each Shareholder shall have the right to receive a Participation Unit on the basis of one Participation Unit for each Common Share held.

(b) *Exercise of Right to Receive Participation Units*

On the Plan Implementation Date, on the receipt by Distributionco of the Sears Variable Note, the Shareholders shall exercise and shall be deemed to have exercised their right to receive Participation Units, and Distributionco, through the Liquidator, shall issue Participation Units to each Shareholder in accordance with its entitlement, on the basis of one Participation Unit for each Common Share.

(c) *Participation Units*

The Liquidator will hold the Sears Variable Note on behalf of Distributionco. The Liquidator will hold the proceeds received on the repayment or maturity of the Sears Variable Note and income earned thereon on behalf of Distributionco, and Distributionco will hold such proceeds and income for the benefit of Persons holding from time to time Participation Units in accordance with their respective entitlements. The Sears Variable Note shall be paid by Sears only from the use of the Eaton's Tax



Losses. There shall be no other recourse against Sears or Eaton's in respect of the Sears Variable Note. Upon the filing of a tax return by Sears in which any of the Eaton's Tax Losses are utilized, a payment will be made by Sears to the Liquidator equal to the Eaton's Tax Savings with the aggregate of all the Eaton's Tax Savings being a maximum of \$20 million. The Liquidator shall invest such funds, plus any interest thereon earned by the Liquidator, until the later of (i) the expiry of the relevant assessment period, and (ii) the resolution of any appeal from an assessment in respect of the use by Sears of such Eaton's Tax Losses. Thereupon, the Eaton's Tax Savings, plus interest earned thereon by the Liquidator, shall reduce the amount payable under the Sears Variable Note and the Liquidator shall distribute such amounts to the holders of Participation Units. To the extent that Sears is not ultimately able to utilize the Eaton's Tax Losses to a maximum amount of \$44.44 million, the difference between the Eaton's Tax Savings paid to the Liquidator and 45% of the Eaton's Tax Losses actually utilized, plus any interest earned thereon, shall be repaid by the Liquidator to Sears upon the expiry of all appeal rights of Sears in respect of any disallowance of such Eaton's Tax Losses and, in that event, Sears shall have no obligation to pay such amounts under the Sears Variable Note. Sears shall claim sufficient of the Eaton's Tax Losses to generate no less than \$20 million in Eaton's Tax Savings prior to claiming any tax losses of Sears.

(d) *No Dissent Rights*

The Shareholders shall not have any rights of dissent under Section 185 of the OBCA in respect of this Plan.

**4.7 Optionholders**

On the Plan Implementation Date, the Options shall be cancelled and shall be deemed to be cancelled, and the Optionholders shall have no further rights against Eaton's, Distributionco or the Liquidator nor shall they be entitled to receive any Participation Units.

**4.8 Effect of Plan Generally**

On the Plan Implementation Date, the treatment of Claims and Interim Period Claims under this Plan shall be final and binding on Eaton's and all Creditors affected thereby (and their respective heirs, executors, administrators, legal personal representatives, successors and assigns) and this Plan shall constitute (i) a full, final and absolute settlement of all rights of the holders of all Claims and Interim Period Claims affected hereby; (ii) an absolute release and discharge of all indebtedness, liabilities and obligations of Eaton's of or in respect of the Claims and Interim Period Claims, including, without limitation, the Unsatisfied Unaffected Liabilities, and any Charges against the Eaton's Remaining Assets in respect thereof (whether created by contract, statute or otherwise); and (iii) a termination of all Leases pertaining to Abandoned Premises and all contracts, rights and licenses granted by Eaton's not constituting Eaton's Remaining Assets, Distributionco Transferred Assets or Eaton's existing insurance policies of any kind whatsoever in accordance with the terms and conditions of this Plan.

**4.9 Waiver of Defaults**

From and after the Plan Implementation Date, all Persons shall be deemed to have waived any and all defaults of Eaton's then existing or previously committed by Eaton's or caused by Eaton's, or non-compliance with any covenant, warranty, representation, term, provision, condition or obligation, express or implied, in any contract, credit document, agreement for sale, Lease, lease or other agreement, written or oral, and any and all amendments or supplements thereto, existing between such Person and Eaton's, and any and all notices of default and demands for payment under any instrument, including any guarantee, shall be deemed to have been rescinded and Distributionco and the Liquidator shall be entitled to the benefit of such waiver.

**ARTICLE 5**  
**STEPS OF THE PLAN AND CLOSING PROCEDURES**

**5.1 Implementation of Plan**

Prior to the Plan Implementation Date, Eaton's shall incorporate Distributionco as a wholly owned subsidiary, Eaton's shall hold the Distributionco Common Share and shall cause Distributionco to become subject to the OBCA Proceedings. Subject to the satisfaction or waiver (in accordance with Section 9:1 hereof), of the conditions set forth in Article 6 hereof, the following shall occur, and be deemed to occur, sequentially in the following order on the Plan Implementation Date:

- (a) all of the subsidiaries of Eaton's shall release and be deemed to have released Eaton's from all obligations, indebtedness and liabilities, including, without limitation, all Unsatisfied Unaffected Liabilities, and all Claims and Interim Period Claims which they may have against Eaton's;
- (b) the Initial Director shall resign and be deemed to have resigned without any ongoing liability as a director of Distributionco;
- (c) the appointment of the Liquidator will take effect in accordance with the provisions of the OBCA Sanction Order;
- (d) the compromise of the Claims and Interim Period Claims between the Creditors and Eaton's shall be effected and be deemed to be effected at the amounts which the Creditors are to be entitled to receive from Distributionco;
- (e) Eaton's shall transfer and be deemed to have transferred to Distributionco the Distributionco Transferred Assets and issued the Eaton's Note to Distributionco in exchange for which Distributionco shall assume and be deemed to have assumed the Distributionco Assumed Liabilities, as compromised under paragraph (d) hereof and, the Unsatisfied Unaffected Liabilities;
- (f) Eaton's shall be released and be deemed to be released by all Creditors from all Claims and Interim Period Claims including, without limitation, from the Unsatisfied Unaffected Liabilities, excluding Eaton's Remaining Liabilities;
- (g) the Shareholders shall exchange and be deemed to exchange their Common Shares for the right to receive Participation Units;
- (h) the Options shall be cancelled and shall be deemed to be cancelled and Eaton's shall be released and be deemed to be released from all obligations and liabilities to the Optionholders;
- (i) the Articles of Arrangement shall be filed;
- (j) Sears will acquire the Common Shares held by Distributionco in exchange for the Sears Variable Note to be issued to Distributionco;
- (k) the Liquidator shall hold the Sears Variable Note on behalf of Distributionco, and Distributionco shall in turn hold the Sears Variable Note for the benefit of the holders of Participation Units from time to time in accordance with their respective interests;
- (l) Distributionco shall deliver and be deemed to have delivered Participation Units to the Shareholders in full satisfaction of the Shareholders' right to receive such Participation Units;
- (m) Sears will subscribe for new common shares of Eaton's and will pay to Eaton's the Sears Equity Contribution;
- (n) the Sears Equity Contribution shall be paid by Eaton's to Distributionco in full satisfaction of the Eaton's Note; and
- (o) Eaton's shall transfer the Distributionco Common Share to the Liquidator.

## 5.2 Effect of CCAA Sanction Order

In addition to sanctioning this Plan, the CCAA Sanction Order shall, among other things:

- (a) declare that the compromises effected hereby are approved, binding and effective as herein set out upon all Creditors affected by this Plan;
- (b) declare that agreements (including without limitation, Leases) to which Eaton's is a party and which are not repudiated or not deemed to be repudiated by Eaton's shall be and shall remain in full force and effect, unamended, as at the Plan Implementation Date and no Person party to any such agreements shall, following the Plan Implementation Date, accelerate, terminate, rescind, refuse to perform or otherwise repudiate its obligations thereunder, or enforce or exercise any right (including any right of set-off, dilution, buy-out, divestiture, forced sale, option or other remedy) or make any demand under or in respect of any such obligations or agreements, by reason:
  - (i) of any event(s) which occurred on or prior to the Valuation Date which would have entitled any other Person party thereto to enforce those rights or remedies (including defaults or events of default arising as a result of the financial condition or insolvency of Eaton's);
  - (ii) of the fact that Eaton's has sought or obtained relief under the CCAA Proceedings, BIA Proceedings or the OBCA Proceedings or that the Plan has been implemented;
  - (iii) of the effect on Eaton's of the completion of any of the transactions contemplated by this Plan; or
  - (iv) of any compromises or arrangements effected pursuant to this Plan;
- (c) with respect to those Leases, leases, contracts, licences, agreements or arrangements, or other rights, which do not constitute Eaton's Remaining Assets or Eaton's insurance policies (of any kind whatsoever), all such Leases, leases, contracts, licences, agreements or arrangements, or other rights, shall be deemed to be repudiated and abandoned, as applicable, as of the Plan Implementation Date and the other Persons who are party thereto shall be deemed to be Creditors having Interim Period Claims unless Distributionco expressly agrees to assume any such lease (other than a Lease), contract, licence, agreement, or arrangements, or other rights, by written notice within ten (10) Calendar Days after the Plan Implementation Date;
- (d) declare that a temporary cessation of all or part of store operations at The Eaton Centre (Victoria), Pacific Centre (Vancouver), Polo Park (Winnipeg), The Eaton Centre (Toronto), and the Calgary Eaton Centre, and, if elected by Sears, the additional store added to Schedule "B" in Addendum No. 2 to the Sears Agreement, for the period ending no later than 6 months after the Plan Implementation Date for the purposes of renovating and retrofitting such store locations shall not and shall not be deemed to constitute an event of default under the Leases and operating agreements relating to such stores or under any agreements between other Persons and the owners, operators, managers or landlords of the shopping centres in which such stores are located or of other commercial properties located adjacent to such stores, provided that during such period all amounts constituting rent under the Leases and all amounts payable under the operating agreements for such stores shall be payable in accordance with the provisions of such Leases and operating agreements;
- (e) discharge the Monitor and the Interim Receiver;
- (f) stay any and all steps or proceedings, including, without limitation, administrative orders, declarations or assessments, commenced, taken or proceeded with or that may be commenced, taken or proceeded with against any or all past, present and future directors and officers of Eaton's and the Initial Director in respect of any Claim or Interim Period Claim;
- (g) discharge all past, present and future directors and officers of Eaton's and the Initial Director from any liability with respect to all Claims and Interim Period Claims;
- (h) release and discharge Eaton's from any and all indebtedness, obligations and liabilities (other than in respect of Eaton's Remaining Liabilities) including without limitation, any liability with respect to Claims or Interim Period Claims, including, without limitation, the Unsatisfied Unaffected Liabilities,

or any liability as an assignor of any rights, or as employer under, or administrator of, the Pension Plans;

- (i) to make provision for the creation of adequate reserves to be held by Distributionco, or the Liquidator appointed under the OBCA Sanction Order, to pay Unsatisfied Unaffected Liabilities; and
- (j) provide that the Distributionco Transferred Assets, wherever situate, shall vest in Distributionco free and clear of all Charges, estate, right, title, or interest except as otherwise provided under this Plan.

### **5.3 Effect of OBCA Sanction Order**

In addition to sanctioning this Plan, the OBCA Sanction Order shall provide, among other things, that:

- (a) Distributionco shall be wound up commencing on the Plan Implementation Date;
- (b) the Liquidator shall be appointed effective on the Plan Implementation Date to receive and liquidate all of the Distributionco Transferred Assets and the Sears Equity Contribution for distribution to the Creditors in accordance with the Plan and the Claims Procedure;
- (c) the Liquidator shall have all necessary powers to carry out its duties and obligations as described in this Plan and the OBCA Sanction Order, including the authority to pay any taxes exigible as a result of the transfer of the Distributionco Transferred Assets to Distributionco, and all of the rights, powers, duties and obligations of a court-appointed liquidator under Part XVI of the OBCA, except as may be varied by the OBCA Sanction Order, and Distributionco and the Liquidator shall have all of the rights, privileges, protections and immunities typically afforded to an indenture trustee in connection with the enforcement and administration of the Sears Variable Note;
- (d) from and after the Plan Implementation Date, the Liquidator shall assume the functions of Eaton's (as defined in the Claims Procedure) under the Claims Procedure for the determination of Distribution Claims and shall distribute (including on an interim basis) to the Creditors amounts realized from the Distributionco Transferred Assets and the Sears Equity Contribution, in accordance with the Plan, including the Claims Procedure;
- (e) the Liquidator shall hold the Sears Variable Note and the proceeds thereof received on the maturity of the Sears Variable Note on behalf of Distributionco and distribute on behalf of Distributionco such proceeds and all interest thereon in accordance with the provisions of this Plan and the Sears Variable Note to the holders of Participation Units;
- (f) the Liquidator shall keep any funds received under the Sears Variable Note prior to any repayment thereunder or the maturity thereof segregated from any other funds held by the Liquidator, and shall return such funds (and any interest thereon) to Sears to the extent provided in the Sears Variable Note, and upon such return of funds to Sears, no Person shall have any claim including, without limitation, the holders of Participation Units or Distributionco, in respect of such funds;
- (g) the Liquidator shall invest all funds held or received by Distributionco under the Sears Variable Note, pending distribution as contemplated under the Sears Variable Note, in deposits, bankers acceptances and Treasury Bills with or of the financial institutions and the Canadian or provincial governments and their respective agencies or agents listed or referred to in Schedule "B" attached to this Plan;
- (h) the Liquidator shall keep and maintain a register of holders of Participation Units and of transfers thereof;
- (i) neither Distributionco nor the Liquidator shall have any obligation to take any proceedings or any other steps to enforce the Sears Variable Note or the rights of the Participation Unit holders to receive monies thereunder, unless the Liquidator is provided with funds and the appropriate indemnities from Participation Unit holders;
- (j) the form and terms of the Sears Variable Note shall be approved;

- (k) a committee of Creditors of up to 5 members may be appointed by the Liquidator to assist the Liquidator in reviewing and settling Distribution Claims and establishing reserves to allow the Liquidator to make interim distributions to the Creditors;
- (l) the Initial Director shall be discharged from any liability with respect to the Claims and Interim Period Claims effective on the Plan Implementation Date;
- (m) no further directors shall be appointed for Distributionco;
- (n) no action or other proceeding shall be proceeded with or commenced against Distributionco or the Liquidator and no attachment, sequestration, distress or execution shall be put in force against the estate or effects of Distributionco except by leave of the Court;
- (o) Distributionco shall not assume any liability in respect of any Claims or Interim Period Claims, except those liabilities compromised under this Plan and the Unsatisfied Unaffected Liabilities;
- (p) no Person who is a party to any agreement assigned to Distributionco as part of the Distributionco Transferred Assets shall, from and after the Plan Implementation Date, have any right to accelerate, terminate, rescind, refuse to perform or otherwise repudiate its obligations thereunder, or enforce or exercise any right (including without limitation any charge, right of set-off, dilution, buy-out, reconveyance, divestiture, forced sale, option or other remedy) or make any demand under or in respect of such agreement by reasons of:
  - (i) the fact that Distributionco is the transferee of the Distributionco Transferred Assets;
  - (ii) the fact that Distributionco has sought or obtained relief under the OBCA Proceedings;
  - (iii) the fact that the Plan has been implemented; or
  - (iv) the fact that Distributionco is being wound up and the Liquidator has been appointed; and
- (q) the Liquidator shall only apply for an Order dissolving Distributionco when all funds received under the Sears Variable Note and any income earned thereon have been fully distributed to the holders of the Participation Units and when all proceeds of realization from the Distributionco Transferred Assets have been distributed to the Creditors, in each case in accordance with this Plan and the OBCA Sanction Order.

## ARTICLE 6

### CONDITIONS PRECEDENT

#### 6.1 Application for Sanction Orders

If the Creditor Approval and Shareholder Approval are obtained, Eaton's shall apply for the CCAA Sanction Order and the OBCA Sanction Order on November 23, 1999. The CCAA Sanction Order and the OBCA Sanction Order shall not become effective until the Plan Implementation Date. On the Plan Implementation Date, subject to the satisfaction or waiver of the conditions contained in Section 6.2, the Plan will be implemented by Eaton's, Distributionco and the Liquidator and shall be binding upon all Persons having Claims, Interim Period Claims, and Unsatisfied Unaffected Liabilities against Eaton's or Distributionco or the Liquidator to the extent of their Claims, Interim Period Claims or Unsatisfied Unaffected Liabilities. If the conditions contained in Section 6.2 are not satisfied or waived on or before the Plan Implementation Date, this Plan, the CCAA Sanction Order and the OBCA Sanction Order shall cease to have any further force or effect (other than the provisions therein protecting the Interim Receiver, the Monitor and the Liquidator, including with respect to their fees and disbursements).

Eaton's may apply for an Order extending the Stay Period so that the application for the CCAA Sanction Order may be made before the Stay Period expires and the Stay Period shall not expire until the Plan Implementation Date.

## 6.2 Conditions Precedent to Implementation of Plan

The implementation of this Plan shall be conditional upon the fulfilment or waiver (in accordance with Section 9.1) of the following conditions:

(a) *Expiry of Appeal Period*

The appeal period with respect to the CCAA Sanction Order and OBCA Sanction Order shall have expired without an appeal of such Orders having been commenced or, in the event of an appeal or application for leave to appeal, a final determination shall have been made by the applicable appellate tribunal.

(b) *Sears Agreement*

The satisfaction of all conditions in the Sears Agreement unless waived by Sears.

(c) *Deliveries of Documents*

All relevant Persons shall have executed, delivered and filed all documentation which in the opinion of Eaton's, acting reasonably, are necessary to give effect to all material terms and provisions of this Plan including, without limitation, the Articles of Arrangement.

(d) *Governmental Approvals*

All applicable governmental, regulatory and judicial consents, orders and similar consents and approvals and all filings with all governmental authorities, securities commissions, stock exchanges and other regulatory authorities having jurisdiction, in each case to the extent deemed necessary or desirable by counsel to Eaton's and in form and substance satisfactory to Eaton's for the completion of the transactions contemplated by this Plan or any aspect hereof, shall have been obtained or received.

## ARTICLE 7

### MEETINGS AND PROCEDURAL MATTERS

#### 7.1 Meetings of Creditors

- (a) Meetings of Creditors shall be held in accordance with this Plan, the Initial CCAA Order and any further Order.
- (b) Subject to the Initial CCAA Order, the Chair shall decide all matters relating to the conduct of each Meeting of Creditors and the validity of proxies and the voting of Voting Claims.
- (c) The quorum required at each Meeting of Creditors shall be the lesser of two or the number of Creditors in the Class of Creditors present in person or by proxy.
- (d) The Monitor shall appoint scrutineers for the supervision and tabulation of the attendance at, quorum at and votes cast at each Meeting of Creditors. A Person designated by the Monitor shall act as secretary at the Meeting of Creditors.
- (e) The only Persons entitled to notice of or to attend, speak and vote at each Meeting of Creditors are the Creditors of the Class of Creditors to which the Meeting relates (including, for purposes of attendance and speaking, their proxy holders), representatives of Eaton's, the Monitor, the Employee Representative, and their respective legal and financial advisors. Any other Person may be admitted to a Meeting of Creditors on the invitation of Eaton's representatives or the Chair.
- (f) If the requisite quorum is not present at a Meeting of Creditors, or if a Meeting of Creditors is postponed by the vote of the majority in number of the Creditors present in person or by proxy, then the Meeting of Creditors shall be adjourned by the Chair to a date thereafter and to such time and place as may be appointed by the Chair.

- (g) Any proxy which any Creditor wishes to submit in respect of a Meeting of Creditors (or any adjournment thereof) must be received by Eaton's one Business Day prior to the day on which the Meeting of Creditors (or any adjournment thereof) is to be held, provided that proxies may also be deposited with the Chair at the Meeting of Creditors (or any adjournment thereof) prior to the commencement of such Meeting.
- (h) The Employee Representative shall file an Omnibus Proof of Claim (Employees) (as defined in the Claims Procedure) on behalf of all former and present employees of Eaton's and shall be deemed to hold an omnibus proxy for voting purposes for all former and present employees of Eaton's. The omnibus proxy for voting purposes shall be without prejudice to the ability of any former or present employee to file his or her own Proof of Claim and to appear in person or by proxy held by a Person other than the Employee Representative. In the event that the employee files his or her own Proof of Claim, the Omnibus Proof of Claim (Employees) and omnibus proxy for voting purposes shall be reduced or revised accordingly. The omnibus proxy shall be counted for the total number of individual employees voting and the total value of their Claims and Interim Period Claims.
- (i) In respect of any Meeting of Creditors, the Chair shall direct a vote, by written ballot, with respect to a resolution to approve this Plan and any amendments thereto as Eaton's may consider appropriate.
- (j) For voting purposes, Eaton's shall keep a separate record and tabulation of any votes cast in respect of Claims and Interim Period Claims which have not been allowed in whole or in part by Eaton's by the time of the Meeting.

## **7.2 Creditor Approval**

In order that this Plan be binding on the Creditors in accordance with the CCAA, it must first be accepted by each Class of Creditors as prescribed by this Plan by a majority in number of the Creditors in such Class who actually vote on this Plan (in person or by proxy) at the relevant Meeting, representing two-thirds (66⅔%) in value of the Voting Claims of the Creditors in such Class who actually vote on this Plan (whether in person or by proxy) at the relevant Meeting.

## **7.3 Meeting of Shareholders**

- (a) The Meeting of Shareholders shall be called, held and conducted in accordance with the OBCA, other applicable laws and the articles and by-laws of Eaton's, subject to the terms of the Initial OBCA Order and subject to any further Order.
- (b) Subject to the Initial OBCA Order, the Chair shall decide all matters relating to the conduct of the Meeting of Shareholders and the annual meeting of Shareholders postponed to November 19, 1999 by Order made September 24, 1999 and the validity of proxies and the voting of Common Shares relating to each.
- (c) The only Persons entitled to notice of or to attend the Meeting of Shareholders shall be the Shareholders as at the record date for the Meeting of Shareholders, holders of valid proxies from Shareholders, Eaton's representatives, Eaton's directors, Eaton's auditors, and the Monitor. The only Persons entitled to be represented and to vote at the Meeting of Shareholders shall be the Shareholders as at the record date for the Meeting of Shareholders, subject to the provisions of the OBCA with respect to Persons who become registered Shareholders after that date. Other Persons may attend at the Meeting of Shareholders only on the invitation of Eaton's representatives or the Chair.
- (d) Eaton's, if it deems it advisable, is specifically authorized to adjourn or postpone the Meeting of Shareholders on one or more occasions, without the necessity of first convening the Meeting of Shareholders or first obtaining any vote of any Shareholders respecting the adjournment or postponement.
- (e) The accidental omission to give notice of the Meeting of Shareholders, or the non-receipt of such notice, shall not invalidate any resolution passed or proceedings taken at the Meeting of Shareholders.

- (f) Eaton's is authorized, at its expense, to solicit proxies, directly and through its officers, directors and employees, and through such agents or representatives as it may retain for the purpose, and by mail or such other forms of personal or electronic communication as it may determine.
- (g) Votes shall be taken at the Meeting of Shareholders on the basis of one (1) vote per Common Share.
- (h) Optionholders shall not be entitled to vote at the Meeting of Shareholders.

#### **7.4 Shareholder Approval**

In order that this Plan be binding on the Shareholders in accordance with the OBCA, it must first be accepted by an affirmative vote by not less than two-thirds (66⅔%) of the votes cast (for this purpose any spoiled votes, illegible votes, defective votes and abstentions shall be deemed not to be votes cast) by the Shareholders present in person or represented by proxy at the Meeting of Shareholders.

### **ARTICLE 8**

#### **CLAIMS PROCEDURE**

##### **8.1 Claims Procedure**

- (a) The Claims and Interim Period Claims for voting and distribution purposes are to be determined in accordance with the Claims Procedure.
- (b) All steps to be taken by Eaton's under the Claims Procedure from and after the Plan Implementation Date shall be performed by the Liquidator.

### **ARTICLE 9**

#### **AMENDMENT OF PLAN**

##### **9.1 Plan Amendment**

- (a) Subject to the provisions of the Sears Agreement, Eaton's reserves the right, at any time and from time to time, to amend, modify and/or supplement this Plan, or to waive in whole or in part any condition from time to time set forth in Article 6, provided that any such amendment, modification, supplement or waiver must be contained in a written document which is filed with the Court and (i) if made prior to the Meetings, communicated to the Creditors and/or Shareholders in the manner required by the Court (if so required); and (ii) if made following the Meetings, approved by the Court following notice to the Creditors and/or Shareholders affected thereby.
- (b) Subject to the provisions of the Sears Agreement, any amendment, modification, supplement or waiver may be made unilaterally by the Liquidator following the OBCA Sanction Order and CCAA Sanction Order, provided that it concerns a matter which, in the opinion of the Liquidator, acting reasonably, is of an administrative nature required to better give effect to the implementation of this Plan and to the OBCA Sanction Order and/or CCAA Sanction Order and is not adverse to the financial or economic interests of any Class of Creditors or Shareholders.
- (c) Any supplementary plan or plans of compromise or arrangement filed with the Court and, if required by this Section, approved by the Court, shall, for all purposes, be and be deemed to be a part of and incorporated in this Plan.

### **ARTICLE 10**

#### **GENERAL PROVISIONS**

##### **10.1 Termination**

Subject to the provisions of the Sears Agreement, at any time prior to the Plan Implementation Date, Eaton's may determine not to proceed with this Plan, notwithstanding any prior approvals given at any of the Meetings.



## **10.2 Paramountcy**

From and after the Plan Implementation Date, any conflict between this Plan and the covenants, warranties, representations, terms, conditions, provisions or obligations, express or implied, of any contract, credit document, agreement for sale, by-laws of Eaton's, lease or other agreement, written or oral and any and all amendments or supplements thereto existing between one or more of the Creditors and Eaton's as at the Plan Implementation Date will be deemed to be governed by the terms, conditions and provisions of this Plan and the OBCA Sanction Order and CCAA Sanction Order, which shall take precedence and priority.

## **10.3 Compromise Effective For All Purposes**

The compromise or other satisfaction of any Claim or Interim Period Claim under this Plan, if sanctioned and approved by the Court under the CCAA Sanction Order shall, in the case of any Creditor whose Claim or Interim Period Claim is in a Class voting in favour of this Plan, be binding on the Plan Implementation Date on such Creditor and such Creditor's heirs, executors, administrators, legal personal representatives, successors and assigns, for all purposes.

## **10.4 Consents, Waivers And Agreements**

On the Plan Implementation Date, each Creditor and Shareholder shall be deemed to have consented and agreed to all of the provisions of this Plan in their entirety. In particular, each Creditor and Shareholder shall be deemed:

- (a) to have executed and delivered to Eaton's all consents, releases, assignments and waivers, statutory or otherwise, required to implement and carry out this Plan in its entirety;
- (b) to have waived any non-compliance by Eaton's with any provision, express or implied, in any agreement or other arrangement, written or oral, existing between such Creditor and Eaton's that has occurred on or prior to the Plan Implementation Date and, where provided for in the CCAA Sanction Order, after the Plan Implementation Date; and
- (c) to have agreed that, if there is any conflict between the provisions, express or implied, of any agreement or other arrangement, written or oral, existing between such Creditor and Eaton's at the Plan Implementation Date (other than those entered into by Eaton's on, or with effect from, the Plan Implementation Date) and the provisions of this Plan, the provisions of this Plan take precedence and priority and the provisions of such agreement or other arrangement shall be deemed to be amended accordingly.

## **10.5 Releases**

On the Plan Implementation Date, Eaton's and each and every present and former Shareholder, officer, director, employee, auditor, financial advisor, legal counsel and agent of Eaton's, the Initial Director, the Interim Receiver and the Monitor (individually, a "Released Party") shall be released and discharged from any and all demands, claims, actions, causes of action, counterclaims, suits, debts, sums of money, accounts, covenants, damages, judgments, expenses, executions, liens and other recoveries on account of any liability, obligation, demand or cause of action of whatever nature which any Person may be entitled to assert, including, without limitation, any and all claims in respect of potential statutory liabilities of the former, present and future directors and officers of Eaton's and the Initial Director, whether known or unknown, matured or unmatured, foreseen or unforeseen, existing or hereafter arising, based in whole or in part on any act or omission, transaction, dealing or other occurrence existing or taking place on or prior to the Plan Implementation Date relating to, arising out of or in connection with Claims or Interim Period Claims, the business and affairs of Eaton's, the administration and winding up of the Pension Plans and the administration, distribution, and investment of the funds relating to the Pension Plans, this Plan, the BIA Proceedings, the CCAA Proceedings and the OBCA Proceedings, provided that nothing herein shall release or discharge a Released Party (other than Eaton's) if the Released Party (other than Eaton's) is adjudged by the express terms of a judgment rendered on a final determination on the merits to have committed fraud or wilful misconduct.

## 10.6 Deeming Provisions

In this Plan, the deeming provisions are not rebuttable and are conclusive and irrevocable.

## 10.7 Information Circular

Copies of this Plan will be included with an information circular mailed to Shareholders, Optionholders, Known Creditors, Known Interim Period Creditors, and Creditors who submit Proofs of Claim.

## 10.8 Notices

Any notice or communication to be delivered hereunder shall be in writing and shall reference this Plan and may, subject as hereinafter provided, be made or given by personal delivery or by telecopier addressed to the respective parties as follows:

(a) if to Eaton's:

The T. Eaton Company Limited  
c/o Richter & Partners Inc.  
Court-Appointed Monitor of Eaton's  
90 Eglinton Avenue East, Suite 700  
Toronto, Ontario M4P 2Y3

Attention: Messrs. John J. Swidler, F.C.A. and Robert Harlang, C.A.

Telephone: (416) 932-6261

Telecopier: (416) 932-6262

(b) if to a Creditor:

to the known address (including telecopier number) for such Creditor or the address for such Creditor specified in the Proofs of Claim filed by such Creditor in the CCAA Proceedings;

(c) if to the Monitor:

Richter & Partners Inc.  
Court-Appointed Monitor of Eaton's  
90 Eglinton Avenue East, Suite 700  
Toronto, ON M4P 2Y3

Attention: Messrs. John J. Swidler, F.C.A. and Robert Harlang, C.A.

Telecopier: (416) 932-6200

Telephone: (416) 932-8000

or to such other address as any party may from time to time notify the others in accordance with this Section. All such notices and communications which are delivered shall be deemed to have been received on the date of delivery. All such notices and communications which are telecopied shall be deemed to be received on the date telecopied if sent before 5:00 p.m. on a Business Day and otherwise shall be deemed to be received on the Business Day next following the day upon which such telecopy was sent. Any notice or other communication sent by mail shall be deemed to have been received on the fifth Business Day after the date of mailing. The unintentional failure by Eaton's to give a notice contemplated hereunder shall not invalidate any action taken by any Person pursuant to this Plan.

## 10.9 Different Capacities

Creditors whose Claims and Interim Period Claims are affected by this Plan may be affected in more than one capacity. Unless expressly provided herein to the contrary, each such Creditor shall be entitled to participate hereunder in each such capacity. Any action taken by a Creditor in any one capacity shall not affect the Creditor in any other capacity, unless expressly agreed by the Creditor in writing or unless the Claims or Interim Period Claims overlap or are otherwise duplicative.

#### 10.10 Further Assurances

Notwithstanding that the transactions and events set out in this Plan shall be deemed to occur without any additional act or formality other than as set out herein, each of the Persons affected hereby shall make, do and execute or cause to be made, done or executed all such further acts, deeds, agreements, transfers, assurances, instruments, documents or discharges as may be reasonably required by Eaton's (and after the Plan Implementation Date, by Distributionco or the Liquidator) in order to better implement this Plan.

Dated at Toronto, Ontario this 8<sup>th</sup> day of October, 1999.

## SCHEDULE "A"

### CLAIMS PROCEDURE FOR VOTING AND DISTRIBUTION PURPOSES

#### CLAIMS PROCEDURE FOR VOTING PURPOSES

##### DEFINITIONS

1. The following terms shall have the following meanings ascribed thereto:
  - (a) "Eaton's" means The T. Eaton Company Limited and after the Plan Implementation Date, the Person under the Plan which will be making the distribution under the Plan;
  - (b) "Business Day" means a day, other than Saturday, Sunday or a statutory holiday, on which banks are generally open for business in Toronto, Ontario;
  - (c) "Calendar Day" means a day, including, Saturday, Sunday and any statutory holidays;
  - (d) "CCAA" means the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36;
  - (e) "Claim" means any right of any Person against Eaton's in connection with any indebtedness, liability or obligation of any kind of Eaton's, which indebtedness, liability or obligation is in existence prior to the Valuation Date, and any interest that may accrue thereon, whether liquidated, reduced to judgment, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present, future, known, or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including without limitation, any claim made or asserted against Eaton's through any affiliate, associate or related Person as such terms are defined in the Ontario *Business Corporations Act*, or any right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future with respect to any matter, action, cause or chose in action whether existing at present or commenced in the future based in whole or in part on facts which exist prior to the Valuation Date, together with any other claims that would have been claims provable in bankruptcy had Eaton's become bankrupt on the Valuation Date;
  - (f) "Claims Administrator" means the person identified in the Schedules for purposes of receiving the notices described in those Schedules;
  - (g) "Claims Officer" means the Person or Persons to be designated by this Court;
  - (h) "Claims Procedure" means the claims procedure and schedules set out herein and as approved in the Initial Order, as may be amended from time to time;
  - (i) "Court" means the Superior Court of Justice (Commercial List) in the Province of Ontario;
  - (j) "Creditor" means any Person having a Claim or an Interim Period Claim and may, where the context requires, include the assignee of a Claim or Interim Period Claim or a trustee, interim receiver, receiver, receiver and manager, or other Person acting on behalf of such Person;
  - (k) "Dispute Notice" means the notices referred to in paragraphs 9 and 17 hereof, being Schedule "7" hereto;
  - (l) "Distribution Claim" of a Creditor means the compromised amount of the Claim of such Creditor as finally determined for distribution purposes, in accordance with the provisions of the Claims Procedure described herein, in the Plan and in the CCAA;
  - (m) "Distribution Claims Bar Date" means 11:59 p.m. (Toronto time) on January 25, 2000 or such later date as may be ordered by the Court;
  - (n) "Employee Representative" means Carmen Siciliano, as appointed by the Order of the Court made August 27<sup>th</sup>, 1999 as continued in the Initial Order, or such other Person as the Court may appoint to represent former and present employees of Eaton's or a group or class of them;
  - (o) "Initial Order" means the Order of this Court made in respect of Eaton's on September 28, 1999 under the CCAA, as amended from time to time;

- (p) "Instruction Letter for Distribution Purposes" means the instruction letter to Creditors regarding completion by Creditors of the Dispute Notice described in paragraph 17 hereof;
- (q) "Instruction Letter for Voting Purposes" means the instruction letter to Creditors regarding completion by Creditors of the Proof of Claim and Dispute Notice described in paragraphs 4 and 9 hereof;
- (r) "Interim Period" means the period from and after the Valuation Date to and including the Plan Implementation Date;
- (s) "Interim Period Claim" means any right of any Person against Eaton's in connection with any indebtedness, liability or obligation of any kind of Eaton's, and any interest that may accrue thereon, whether liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present, future, known, or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including without limitation, any claim made or asserted against Eaton's through any affiliate, associate or related Person as such terms are defined in the Ontario *Business Corporations Act*, or any right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, arising from or caused by, directly or indirectly, the implementation of, or any action taken pursuant to, the Plan, including claims arising from the abandonment of any premises or the repudiation or variation of any lease, the assignment of any contract or lease of personal, real, moveable or immovable property (including any future liability as assignor thereof) or the repudiation or variation of any contract to take effect up to and including Plan Implementation Date (including any anticipatory breach thereof), repudiation or variation of any contract of employment, the termination or winding up of any pension or employee benefit plans and any other claim arising at law or equity;
- (t) "Interim Period Creditors" means those Creditors having an Interim Period Claim;
- (u) "Known Creditors" means those Creditors whose Claims are identified in Eaton's books and records;
- (v) "Known Interim Period Creditors" means those Persons Eaton's believes may have Interim Period Claims;
- (w) "Monitor" means the monitor appointed under the Initial Order;
- (x) "Notice to Creditors" means the notice for publication as described in paragraph 4 hereof;
- (y) "Notice of Dispute of Valuation for Voting Purposes" means the Notice of Dispute of Valuation for Voting Purposes referred to in paragraph 3 hereof, delivered by a Known Creditor disputing a Notice of Voting Claim with reasons for its dispute;
- (z) "Notice of Distribution Claim" means the notice referred to in paragraph 16 hereof, advising a Creditor of the value ascribed by Eaton's for such Creditor's Distribution Claim;
- (aa) "Notice of Revision or Disallowance for Voting Purposes" means the notice referred to in paragraph 8 hereof, advising a Creditor that Eaton's has revised or rejected all or part of such Creditor's Claim or Interim Period Claim set out in its Proof of Claim or advising a Known Creditor that Eaton's has revised or rejected all or part of such Creditor's Claim or Interim Period Claim as set out in the Notice of Dispute of Valuation for Voting Purposes;
- (bb) "Notice of Voting Claim" means the notice referred to in paragraph 3 hereof, advising a Creditor of the value ascribed by Eaton's for such Creditor's Voting Claim;
- (cc) "Omnibus Proof of Claim (Employees)" means the Proof of Claim to be sent by the Employee Representative to Eaton's as described in paragraph 6 hereof;
- (dd) "Person" means any and all of Eaton's shareholders and former shareholders, creditors, customers, employees, retirees, pension plans, clients, suppliers, contractors, lenders, factors, customs brokers, purchasing agents, landlords (including, without limitation, equipment lessors and lessors of real property and immovables), sub-landlords, tenants, sub-tenants, licensors, licensees, concessionaires, co-owners, co-tenants, joint venture partners, co-venturers, partners, the Crown (except as provided

under subsections 11.4(2) and (3) of the CCAA), municipalities or any other entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government in Canada or elsewhere and any corporation or other entity owned or controlled by or which is the agent of any of the foregoing, and any other person, firm, corporation or entity wherever situate or domiciled (collectively, "Persons" and, individually, "Person");

- (ee) "Plan" means the plan of compromise or arrangement to be filed by Eaton's pursuant to the Initial Order, which Plan may be amended or supplemented from time to time;
- (ff) "Plan Implementation Date" means the date on which the Plan is to be effective, as provided for in the Plan;
- (gg) "Proof of Claim" means the form of Proof of Claim referred to in paragraph 4 hereof;
- (hh) "Unknown Creditor" means a Creditor whose claim is not recorded or shown in Eaton's books and records;
- (ii) "Unknown Interim Period Creditors" means those Interim Period Creditors of which Eaton's has no knowledge;
- (jj) "Valuation Date" means August 20, 1999;
- (kk) "Voting Claim" of a Creditor means the amount of the Claim and/or Interim Period Claim of such Creditor determined for voting purposes in accordance with the provisions of the Claims Procedure described herein and the CCAA; and
- (ll) "Voting Claims Bar Date" means 11:59 p.m. (Toronto time) on October 25, 1999.

## SCHEDULES

2. The following Schedules form part of this Claims Procedure:
  - (a) Schedule "1" — Notice of Voting Claim
  - (b) Schedule "2" — Notice of Dispute of Valuation for Voting Purposes
  - (c) Schedule "3" — Notice To Creditors
  - (d) Schedule "4" — Proof of Claim
  - (e) Schedule "5" — Instruction Letter for Voting Purposes
  - (f) Schedule "6" — Notice of Revision or Disallowance for Voting Purposes
  - (g) Schedule "7" — Dispute Notice
  - (h) Schedule "8" — Notice of Distribution Claim
  - (i) Schedule "9" — Instruction Letter for Distribution Purposes
3. Eaton's shall send, on or before 11:59 p.m. (Toronto time) on October 4, 1999, by ordinary mail, courier or telecopier to each of the Known Creditors (other than employees represented by the Employee Representative), to each of the Known Interim Period Creditors (other than employees represented by the Employee Representative) and by facsimile transmission to each Person on the service list in Eaton's CCAA proceeding a Notice of Voting Claim substantially in the form attached as Schedule "1". In so doing, Eaton's is not admitting liability to such Persons. The Notice of Voting Claim shall set out, to the extent possible, Eaton's best estimate of the Creditor's Voting Claim, as may be shown in Eaton's books and records. Where not practicable to estimate the Creditor's Interim Period Claim, Eaton's intends to ascribe a value of \$1 to such Creditor's Interim Period Claim. With respect to the Notice of Voting Claim for the landlords of Eaton's, Eaton's shall value each landlord's Interim Period Claim in accordance with the formula set out in subsection 65.2(4) of the *Bankruptcy and Insolvency Act*, irrespective of actual damages suffered, if any. A Creditor shall be deemed to have received the Notice of Voting Claim three Calendar Days after the mailing of the Notice of Voting Claim. If the Creditor disputes the amount of the Voting Claim set out therein, the Creditor shall deliver to Eaton's Claims Administrator a Notice of Dispute of Valuation for Voting Purposes in the form attached as Schedule "2" no later than the Voting Claims Bar

Date. Where the Creditor does not deliver to Eaton's by such date a completed Notice of Dispute of Valuation for Voting Purposes, then the Creditor shall be deemed to have accepted the Creditor's Claim or Interim Period Claim as set out in the Notice of Voting Claim, which Creditor's Claim or Interim Period Claim shall be treated as a Voting Claim for voting purposes under the Plan.

4. Commencing on October 7, 1999, Eaton's shall publish the Notice to Creditors substantially in the form attached as Schedule "3" hereto, for a period of two consecutive Business Days in the Globe & Mail (National Edition), National Post, La Presse, and the Wall Street Journal (National Edition). The Notice to Creditors shall provide that any Creditor of Eaton's who has not received a Notice of Voting Claim, must provide notice of that Creditor's Claim or Interim Period Claim to Eaton's by no later than 11:59 p.m. (Toronto time) on October 13, 1999 which notice shall include particulars as to the Creditor's name, address and facsimile number, in order to be able to vote on the Plan. Eaton's shall send by facsimile or courier to each such Creditor, a Proof of Claim in substantially the form attached as Schedule "4" and the Instruction Letter for Voting Purposes in substantially the form attached as Schedule "5" as soon as practicable. Such Creditor's Proof of Claim must be returned to Eaton's by no later than the Voting Claims Bar Date unless Eaton's otherwise agrees or this Court otherwise orders.
5. A Creditor that does not receive a Notice of Voting Claim and that does not file a Proof of Claim by the Voting Claims Bar Date shall not be entitled to vote at any Creditors' meeting in respect of the Plan unless Eaton's otherwise agrees or this Court otherwise orders.
6. Notwithstanding any other provision in this Claims Procedure, Koskie Minsky as Court-appointed counsel to the Employee Representative, shall, on behalf of the Employee Representative, deliver to Eaton's by the Voting Claims Bar Date an Omnibus Proof of Claim (Employees) for all present and former employees of Eaton's. In addition, the Employee Representative shall be given an omnibus proxy for voting purposes for all former and present employees of Eaton's. The Omnibus Proof of Claim (Employees) and the omnibus proxy for voting purposes shall be without prejudice to the ability of any former or present employee to file his or her own Proof of Claim by the Voting Claims Bar Date and to appear in person or by proxy at a Creditors' meeting to approve the Plan. In the event that an employee files his or her own Proof of Claim, the Omnibus Proof of Claim (Employees) and the omnibus proxy for voting purposes shall be reduced or revised accordingly. The omnibus proxy for voting purposes shall be counted for the total number of individual employees voting and the total value of their Claims and Interim Period Claims.
7. On or about October 12, 1999, Eaton's shall mail its Management Information Circular, in connection with the Plan, to Known Creditors and to Known Interim Period Creditors. Eaton's shall also provide a copy of the Management Information Circular (once mailing of same has commenced) to those Creditors to whom Eaton's provides a Proof of Claim in accordance with paragraph 4 hereof.
8. Eaton's, with the assistance of the Monitor, shall review all Notices of Dispute of Valuation for Voting Purposes and all Proofs of Claim, including the Omnibus Proof of Claim (Employees), received by the Voting Claims Bar Date and shall accept, revise or reject the amount of each Claim and Interim Period Claim set out therein for voting purposes under the Plan. Eaton's shall by no later than 11:59 p.m. (Toronto time) on October 29, 1999, notify each Creditor who has filed a Notice of Dispute of Valuation for Voting Purposes or a Proof of Claim if such Creditor's Claim or Interim Period Claim as set out therein has been revised or rejected, and the reasons therefor, by sending on or before October 29, 1999 by facsimile or courier a Notice of Revision or Disallowance for Voting Purposes substantially in the form attached as Schedule "6" hereto. Where Eaton's does not send by such date a Notice of Revision or Disallowance for Voting Purposes to a Creditor who has submitted a Notice of Dispute of Valuation for Voting Purposes or a Proof of Claim, Eaton's shall be deemed to have accepted such Creditor's Claim or Interim Period Claim for voting purposes only, which shall be deemed to be that Creditor's Voting Claim.
9. Any Creditor who intends to dispute a Notice of Revision or Disallowance for Voting Purposes shall by no later than 11:59 p.m. (Toronto time) on November 5, 1999, deliver by facsimile or courier to the Claims Administrator, a Dispute Notice substantially in the form attached as Schedule "7" hereto in order to have the value of such Creditor's Voting Claim determined by the Claims Officer. Eaton's, with the assistance of the Monitor, shall attempt to resolve any dispute as to the value of the Creditor's Voting Claim as set out in the Dispute Notice by no later than November 9, 1999. In the event that Eaton's is unable to resolve the

dispute with the Creditor by November 9, 1999, Eaton's shall so notify the Claims Officer, the Monitor and the Creditor.

10. Where a Creditor that receives a Notice of Revision or Disallowance for Voting Purposes does not file a Dispute Notice, the value of such Creditor's Voting Claim under the Plan shall be deemed for voting purposes to be as set out in the Notice of Revision or Disallowance for Voting Purposes.
11. Upon receiving notice that Eaton's is unable to resolve a dispute with a Creditor in respect of a Voting Claim, the Claims Officer shall resolve the dispute between Eaton's and such Creditor, and the Claims Officer shall, by no later than 11:59 p.m. (Toronto time) on November 17, 1999, notify Eaton's, such Creditor and the Monitor of the Claims Officer's determination of the value of the Creditor's Voting Claim for voting purposes under the Plan. Such determination of the value of the Voting Claim by the Claims Officer shall be deemed to be the Creditor's Voting Claim for voting purposes under the Plan.
12. Subject to the direction of the Court, the Claims Officer shall determine the manner, if any, in which evidence may be brought before him or her by the parties as well as any other procedural matters which may arise in respect of his or her determination of a Creditor's Voting Claim. The resolution shall be on an expedited basis and the determination of the value by the Claims Officer for voting purposes shall not prohibit a Creditor from a further hearing under paragraph 17 hereof with respect to the value of such Creditor's Distribution Claim.
13. The decision of the Claims Officer in determining the value of the Creditor's Voting Claim shall be final and binding on the Creditor and Eaton's for voting purposes only and not for distribution purposes under the Plan and there shall be no rights of appeal or recourse to the Court from the Claims Officer's final determination for voting purposes only and not for distribution purposes.
14. Where any Creditor applies to have the value of its Voting Claim determined by the Claims Officer, but the Voting Claim has not been finally determined by the Claims Officer prior to the date of the meeting at which the Creditor is to vote, as provided in the Initial Order, Eaton's shall either:
  - (a) accept the Creditor's determination and the value of the Claim only for the purposes of voting on the Plan, and conduct the vote of the particular class(es) of creditors into which such Creditor falls, subject to a final determination of its Distribution Claim;
  - (b) delay the vote of the class(es) into which that Creditor falls until a final determination of the Claim is made; or
  - (c) deal with the matter as the Court may otherwise direct.

#### **CLAIMS PROCEDURE FOR DISTRIBUTION PURPOSES**

15. Eaton's shall publish commencing on January 4, 2000 a notice of the Distribution Claims Bar Date for a period of two consecutive Business Days in *The Globe and Mail* (National Edition), *National Post*, *La Presse*, and *The Wall Street Journal* (National Edition). This notice shall advise Creditors of the Distribution Claims Bar Date.
16. Eaton's shall review and consider all Voting Claims (including the Voting Claim of the Employee Representative) for the purpose of valuing such Voting Claims to determine Distribution Claims. Eaton's shall accept, revise or reject the amount of all Voting Claims for distribution purposes under the Plan. Eaton's shall by no later than the Distribution Claims Bar Date, notify each Creditor as to whether such Creditor's Voting Claim as set out therein has been confirmed, revised or rejected for distribution purposes and the reasons therefor by delivery of a Notice of Distribution Claim together with an Instruction Letter for Distribution Purposes by facsimile or courier in the forms attached as Schedules "8" and "9" respectively. Creditors who did not receive a Notice of Voting Claim and who were not part of the voting process must file a Proof of Claim with the Claims Administrator, which Proof of Claim shall set out such Creditor's Claim and Interim Period Claim, by the Distribution Claims Bar Date. Any such Creditor who fails to file a Proof of Claim by the Distribution Claims Bar Date shall be forever barred from advancing any Claims or Interim Period Claims against Eaton's or from receiving a distribution under the Plan and such Creditor's Claims and Interim Period Claims shall be forever extinguished and barred. Eaton's shall review and consider all Proofs of Claim which it receives in respect of Distribution Claims for distribution purposes



under the Plan to determine if it accepts, revises or rejects the amount set out therein. If Eaton's does not contact a Creditor who has filed a Proof of Claim to advise that it disputes the amount set out in such Creditor's Proof of Claim by February 29, 2000, Eaton's shall be deemed to have accepted the amount set out in such Creditor's Proof of Claim as such Creditor's Distribution Claim for distribution purposes under the Plan. If Eaton's disputes the amount of a Claim or Interim Period Claim set out in a Proof of Claim filed in accordance with this paragraph it shall with the assistance of the Monitor attempt to resolve the dispute with the Creditor by February 29, 2000. In the event that Eaton's is unable to resolve the dispute by such date, it shall so notify the Claims Officer, the Monitor and the Creditor.

17. A Creditor who intends to dispute a Notice of Distribution Claim shall by 11:59 p.m. (Toronto time), on February 15, 2000, notify the Claims Administrator in writing of such intent, by delivery of a Dispute Notice in the form attached as Schedule "7" hereto by facsimile or courier. Eaton's, with the assistance of the Monitor, shall attempt to resolve the dispute with the Creditor by February 29, 2000. In the event that Eaton's is unable to resolve the dispute with the Creditor by February 29, 2000, Eaton's shall so notify the Claims Officer, the Monitor and the Creditor. If a Creditor does not deliver a Dispute Notice by 11:59 p.m. (Toronto time) on February 15, 2000, such Creditor will be deemed to have accepted the value of its Distribution Claim as set out in the Notice of Distribution Claim and will be thereafter barred from otherwise disputing or appealing same.
18. Upon receiving notice that Eaton's is unable to resolve a dispute with a Creditor regarding any Distribution Claim, the Claims Officer shall resolve the dispute between Eaton's and such Creditor, and shall, by no later than 11:59 p.m. (Toronto time) on March 31, 2000, notify Eaton's, such Creditor and the Monitor of the Claims Officer's determination of the value of the Creditor's Distribution Claim.
19. Subject to the direction of the Court, the Claims Officer shall determine the manner, if any, in which evidence may be brought before him or her by the parties, as well as any other procedural matters which may arise in respect of his or her determination of a Creditor's Distribution Claim.
20. If neither party appeals the determination of value of Distribution Claim by the Claims Officer in accordance with paragraph 21 below, the decision of the Claims Officer in determining the value of the Creditor's Distribution Claim shall be final and binding upon Eaton's and the Creditor for distribution purposes under the Plan and there shall be no further right of appeal, review or recourse to the Court from the Claims Officer's final determination.
21. Either a Creditor or Eaton's may, within five (5) Calendar Days of notification of the Claims Officer's determination of the value of a Creditor's Distribution Claim, appeal such determination to the Court, which appeal shall be made returnable within five (5) Calendar Days of the filing of the notice of appeal. The determination of such appeal shall be final and binding upon Eaton's and the Creditor for all purposes under the Plan. There shall be no further rights of appeal, review or recourse to the courts.

#### **GENERAL PROVISIONS**

22. In the event that Eaton's makes interim distribution payments under the Plan, to the extent that it is thereafter determined that the Creditor's Distribution Claim is greater than that for which Eaton's made interim payments, then Eaton's shall forthwith make such further payments contemplated by the Plan to such Creditor so that such Creditor shall receive the aggregate amount of payments which such Creditor would have received if its Distribution Claim had been finally determined prior to the interim distribution under the Plan.
23. In the event that no Plan is approved by the Court, the Voting Claims Bar Date shall be of no effect with respect to any and all claims made by Creditors in any subsequent proceeding or distribution.

SCHEDULE "1"

Court File No. 99-CL-3516

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 THE T. EATON COMPANY LIMITED

Applicant

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NOTICE OF VOTING CLAIM

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*Please read carefully the Instruction Letter for Voting Purposes accompanying this Notice.*

The T. Eaton Company Limited ("Eaton's") proposes to present a plan of arrangement to its Creditors (the "Plan") under the Companies' Creditors Arrangement Act (the "CCAA"). The Order of Mr. Justice Farley made September 28, 1999 in the CCAA proceedings provides for a Claims Procedure for Creditors for voting and distribution under the Plan.

**TAKE NOTICE** that Eaton's has valued your Voting Claim (comprised of your Claim and Interim Period Claim) against Eaton's for voting purposes (and NOT for distribution purposes) as set out in the attached Schedule. Claims in a foreign currency were converted to Canadian Dollars at the Bank of Canada noon spot rate as at August 20, 1999. U.S. exchange rate conversion on such date was \$1.4941.

**If you DISAGREE with the value of your VOTING CLAIM as set out in the Schedule attached to this Notice, please be advised of the following:**

1. If you intend to dispute this Notice of Voting Claim, you must, by no later than 11:59 p.m. (Toronto time) on **October 25, 1999**, deliver to Eaton's (to the attention of the Claims Administrator) a Notice of Dispute of Valuation for Voting Purposes by facsimile, courier or registered mail to the address/fax number indicated thereon. The form of Notice of Dispute of Valuation for Voting Purposes is enclosed.
2. If you do not deliver a Notice of Dispute of Valuation for Voting Purposes to Eaton's (to the attention of the Claims Administrator), the value of your Voting Claim for voting purposes under the Plan shall be deemed to be as set out in this Notice of Voting Claim.

**IF YOU FAIL TO TAKE ACTION WITHIN THE PRESCRIBED TIME PERIOD, THE AMOUNT SET OUT IN THIS NOTICE SHALL BE DEEMED TO BE YOUR VOTING CLAIM FOR VOTING PURPOSES UNDER THE PLAN.**

DATED at Toronto, the            day of            1999.

THE T. EATON COMPANY LIMITED

SCHEDULE "2"

Court File No. 99-CL-3516

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 THE T. EATON COMPANY LIMITED

Applicant

---

NOTICE OF DISPUTE OF VALUATION FOR VOTING PURPOSES

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Please read carefully the Instruction Letter for Voting Purposes accompanying this Notice.

**A. PARTICULARS OF CREDITOR:**

- (1) Full Legal Name of Creditor: \_\_\_\_\_  
*(Full legal name should be the name of the original Creditor of Eaton's, notwithstanding whether an assignment of a claim, or a portion thereof, has occurred. Do not file separate Notices of Dispute of Valuation For Voting Purposes by division or Dun and Bradstreet Number.)*
- (2) Full Mailing Address of Creditor (not the Assignee): \_\_\_\_\_
- (3) Telephone Number of Creditor: \_\_\_\_\_
- (4) Facsimile Number of Creditor: \_\_\_\_\_
- (5) Attention (Contact Person): \_\_\_\_\_
- (6) Has the Claim been sold or assigned by Creditor to another party?  Yes  No

**B. PARTICULARS OF ASSIGNEE(S) (IF ANY):**

- (1) Full Legal Name of Assignee(s): \_\_\_\_\_  
*(If Claim has been assigned, insert full legal name of assignee(s) of Claim (if all or a portion of the Claim has been sold). If there is more than one assignee, please attach separate sheet with the required information).*
- (2) Full Mailing Address of Assignee(s): \_\_\_\_\_
- (3) Telephone Number of Assignee(s): \_\_\_\_\_
- (4) Facsimile Number of Assignee(s): \_\_\_\_\_
- (5) Attention (Contact Person): \_\_\_\_\_

C. NOTICE OF DISPUTE OF VALUATION:

*(Claims in foreign currency are to be converted to Canadian dollars at the Bank of Canada noon spot rate as at August 20, 1999. U.S. exchange rate conversion on such date was \$1.4941.)*

We hereby disagree with the value of our Voting Claim as set out in Eaton's Notice of Voting Claim dated \_\_\_\_\_.

- (1) Creditor's valuation of Claim prior to August 20, 1999:     \$[insert value of claim]     CAD
- (2) Creditor's valuation of Interim Period Claim from and after August 20, 1999:     \$[insert value of claim]     CAD
- (3) Creditor's total valuation of Voting Claim (Total 1 and 2):     \$[total (1) plus (2)]     CAD

D. REASONS FOR DISPUTE:

*(Provide full particulars of the Claim and supporting documentation, including amount, description of transaction(s) or agreement(s) giving rise to the Claim, name of any guarantor which has guaranteed the Claim, any relevant Dun and Bradstreet Numbers and amount of Claim allocated thereto, date and number of all invoices, particulars of all credits, discounts, etc. claimed, description of the security, if any, granted by Eaton's to Creditor and estimated value of such security, particulars of loss attributable to implementation of the Plan including loss from the repudiation or variation of any lease and the abandonment of premises, and any contingent liability of Eaton's as assignor, or the repudiation or variation of any contract, including any contingent liability of Eaton's as assignor).*

**This Notice of Dispute of Valuation For Voting Purposes must be returned to and received by Eaton's by no later than 11:59 p.m. (Toronto Time) on October 25, 1999, at the following address or facsimile:**

Courier Address

Claims Administrator  
The T. Eaton Company Limited  
c/o Richter & Partners Inc.  
Court-appointed Monitor of Eaton's  
90 Eglinton Avenue East, Suite 700  
Toronto, ON M4P 2Y3

Telephone:           (416) 932-6261  
Fax:                 (416) 932-6262

**SCHEDULE "3"**

**NOTICE TO CREDITORS OF THE T. EATON COMPANY LIMITED**

**RE: NOTICE OF VOTING CLAIMS BAR DATE IN COMPANIES' CREDITORS ARRANGEMENT ACT  
("CCAA") PROCEEDINGS**

**PLEASE TAKE NOTICE** that pursuant to an Order of the Superior Court of Justice made September 28, 1999 (the "Order"), any person with any claim whatsoever against The T. Eaton Company Limited ("Eaton's") prior to August 20, 1999, contingent or otherwise, including without limitation any claim made against Eaton's through any affiliate or associate of Eaton's, who has not received a Notice of Voting Claim from Eaton's, must contact Eaton's with notice of its claim by no later than 11:59 p.m. (Toronto time) on **October 13, 1999** in order to obtain a Proof of Claim from Eaton's. Proofs of Claim must be filed with Eaton's **on or before 11:59 p.m. (Toronto time) on October 25, 1999 (the "Voting Claims Bar Date")** for the purpose of voting on the Plan of Arrangement under the CCAA to be presented by Eaton's to its Creditors (the "Plan").

**PLEASE TAKE NOTICE THAT** the Claims Procedure approved by the Order also addresses all Creditor claims which have arisen or may arise **from and after** August 20, 1999 as a result of the implementation of the Plan. Such claims may include losses arising from the repudiation or variation of any lease and the abandonment of premises and any contingent liability of Eaton's as assignor, or the repudiation or variation of any contract or agreement with Eaton's, including any contingent liability of Eaton's as assignor, and, further, including any employment contracts and any contracts in relation to Eaton's pension plans. If you have a contract with Eaton's, and have not been advised that Eaton's or any Purchaser wishes to continue that contract, you should treat the contract as terminated for the purpose of determining your claims against Eaton's.

**HOLDERS OF CLAIMS WHICH ARE NOT FILED BY THE VOTING CLAIMS BAR DATE WILL BE BARRED FROM VOTING ON THE PLAN.**

**PLEASE TAKE NOTICE** that any former or present employees with claims against Eaton's should contact Carmen Siciliano, Employee Representative, c/o Susan Rowland, Koskie Minsky, Box 52, 900-20 Queen Street West, Toronto, Ontario, M5H 3R3, (Telephone: (416) 977-8353; fax (416) 977-3316).

Creditors who have not received a Notice of Voting Claim should contact the Eaton's Claims Administrator, c/o Richter & Partners Inc., Court-Appointed Monitor of Eaton's (Telephone 416-932-6261 and fax 416-932-6262) by no later than 11:59 p.m. (Toronto time) on October 13, 1999 to obtain a Proof of Claim package.

DATED this 7<sup>th</sup> day of October, 1999 at Toronto, Canada.

**RICHTER & PARTNERS INC.**  
in its capacity as Court-appointed Monitor of Eaton's

SCHEDULE "4"

Court File No. 99-CL-3516

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 THE T. EATON COMPANY LIMITED

Applicant

PROOF OF CLAIM

Please read carefully the enclosed Instruction Letter for completing this Proof of Claim.

A. PARTICULARS OF CREDITOR:

- (1) Full Legal Name of Creditor: \_\_\_\_\_  
*(Full legal name should be the name of the original Creditor of Eaton's, notwithstanding whether an assignment of a claim, or a portion thereof, has occurred).*
- (2) Full Mailing Address of Creditor (original Creditor not the Assignee): \_\_\_\_\_
- (3) Telephone Number: \_\_\_\_\_
- (4) Facsimile Number: \_\_\_\_\_
- (5) Attention (Contact Person): \_\_\_\_\_
- (6) Has the Claim been sold or assigned by Creditor to another party?    Yes     No

B. PARTICULARS OF ASSIGNEE(S) (IF ANY):

- (1) Full Legal Name of Assignee(s): \_\_\_\_\_  
*(If Claim has been assigned, insert full legal name of assignee(s) of Claim (if all or a portion of the claim has been sold). If there is more than one assignee, please attach separate sheet with the required information.)*
- (2) Full Mailing Address of Assignee(s): \_\_\_\_\_
- (3) Telephone Number of Assignee(s): \_\_\_\_\_
- (4) Facsimile Number of Assignee(s): \_\_\_\_\_
- (5) Attention (Contact Person): \_\_\_\_\_

C. PROOF OF CLAIM:

I, \_\_\_\_\_ [name of Creditor or Representative of the Creditor], do hereby certify:

- (a) that I am a [Creditor of Eaton's or hold the position of \_\_\_\_\_ of the Creditor of Eaton's], and have knowledge of all the circumstances connected with the Claim described herein; and
- (b) Eaton's is indebted to [Creditor] as follows:
  - (i) CLAIM PRIOR TO AUGUST 20, 1999: \_\_\_\_\_ \$[insert \$ value of claim] CAD

(Claims in a foreign currency are to be converted to Canadian Dollars at the Bank of Canada noon spot rate as at August 20, 1999. U.S. exchange rate conversion on such date was 1.4941.)

(ii) INTERIM PERIOD CLAIM:

\$(insert \$ value of claim) CAD

(Interim Period Claim against Eaton's which has or may have arisen during the period from and after August 20, 1999 to the Plan Implementation Date as a result of the proposed implementation of the Plan. Include loss from the repudiation or variation of any lease and the abandonment of premises and any contingent liability of Eaton's as assignor, or the repudiation or variation of any contract, including any contingent liability of Eaton's as assignor. If Eaton's has not notified you that it wishes to continue your contract, then you should treat the contract as if it has been terminated for the purposes of calculating your Proof of Claim.)

(iii) TOTAL VOTING CLAIM:

\$(total (i) plus (ii)) CAD

**D. PARTICULARS OF VOTING CLAIM:**

The Particulars of the undersigned's total Voting Claim are attached.

(Provide full particulars of the Voting Claim and supporting documentation, including amount, description of transaction(s) or agreement(s) giving rise to the Voting Claim, name of any guarantor which has guaranteed the Voting Claim, any relevant Dun and Bradstreet Numbers and amount of Voting Claim allocated thereto, date and number of all invoices, particulars of all credits, discounts, etc. claimed, description of the security, if any, granted by Eaton's to Creditor and estimated value of such security, particulars of loss attributable to implementation of Plan including loss from the repudiation or variation of any lease and the abandonment of premises and any contingent liability of Eaton's as assignor or repudiation or variation of any contract, including any contingent liability of Eaton's as assignor.)

**This Proof of Claim must be returned to Eaton's at the following address or facsimile:**

Mailing Address

Claims Administrator  
The T. Eaton Company Limited  
c/o Richters & Partners Inc.  
Court-appointed Monitor of Eaton's  
90 Eglinton Avenue East  
Toronto, ON M4P 2Y3

Telephone: (416) 932-6261

Fax: (416) 932-6262

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 1999.

• , Creditor

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

SCHEDULE "5"

Court File No. 99-CL-3516

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 THE T. EATON COMPANY LIMITED

Applicant

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INSTRUCTION LETTER  
CLAIMS PROCEDURE FOR VOTING PURPOSES

---

**A. CLAIMS PROCEDURE**

The T. Eaton Company Limited ("Eaton's") proposes to present a Plan of Arrangement to its creditors (the "Plan") under the Companies' Creditors Arrangement Act (the "CCAA"). The Order of Mr. Justice Farley made September 28, 1999 in Eaton's CCAA proceedings provides for a Claims Procedure with respect to voting and distribution under the Plan.

This letter provides instructions for responding to or completing the following forms:

- Notice of Voting Claim
- Proof of Claim
- Notice of Dispute of Valuation for Voting Purposes
- Notice of Revision or Disallowance for Voting Purposes
- Dispute Notice

The Claims Procedure is intended for any Person with any claims whatsoever against Eaton's prior to August 20, 1999 contingent or otherwise, including without limitation any claims made against Eaton's through any affiliate or associate of Eaton's ("Claims").

The Claims Procedure also addresses all claims which have arisen or may arise from and after August 20, 1999, up to and including the Plan Implementation Date as a result of the implementation of the Plan ("Interim Period Claims"). Such Interim Period Claims may include losses arising from the repudiation or variation of any lease or the abandonment of any premises and any contingent liability of Eaton's as assignor, the repudiation or variation of any contract or agreement with Eaton's, including any contingent liability of Eaton's as assignor, and further, including employment contracts and any contracts in relation to Eaton's pension plans.

The value of your claims against Eaton's for the purposes of voting at a meeting of Creditors to approve the Plan is the total of your Claim and Interim Period Claim which is described as your Voting Claim.

If you have a contract with Eaton's and have not been advised that Eaton's or any purchaser wishes to continue your contract, you should treat your contract as terminated for the purposes of assessing your Interim Period Claim under the Claims Procedure.

If you have any questions regarding the Claims Procedure for ensuring that your claim is valued and that you are entitled to vote on the Plan, please contact the Eaton's Claims Administrator at the address provided below.

All notices and enquiries with respect to Eaton's Claims Procedure should be addressed to:

Claims Administrator  
The T. Eaton Company Limited



c/o Richter & Partners Inc.  
Court-appointed Monitor of Eaton's  
90 Eglinton Avenue East, Suite 700  
Toronto, ON M4P 2Y3

Telephone: (416) 932-6261  
Fax: (416) 932-6262

## **B. FOR CREDITORS RECEIVING NOTICE OF VOTING CLAIM**

Eaton's has already mailed to all Known Creditors (apart from former and present employees of Eaton's) a Notice of Voting Claim.

Any former or present employees with claims against Eaton's should contact Carmen Siciliano, Employee Representative, c/o. Susan Rowland, Koskie Minsky, Box 52, 900 - 20 Queen Street West, Toronto, Ontario, M5H 3R3 Telephone: (416) 977-8353; fax: (416) 977-3316. The Claims Procedure provides that the Employee Representative shall file an Omnibus Proof of Claim (Employees) by the Voting Claims Bar Date (**October 25, 1999**) on behalf of all former and present employees of Eaton's and has been given an omnibus proxy for voting purposes for all such former and present employees of Eaton's. Employees retain their right to file their own Proofs of Claim by the Voting Claims Bar Date (**October 25, 1999**) and to appear at the meeting of creditors to consider the Plan in person or by proxy. If you are a former or present employee and wish to file your own Proof of Claim, you must follow the procedure set out in this letter (see section C below for instructions on filing a Proof of Claim).

If you are a Landlord, your Interim Period Claim has been valued according to the formula set out in subsection 65.2(4) of the *Bankruptcy and Insolvency Act*, irrespective of any actual damages you may have suffered.

If you have received a Notice of Voting Claim there is no need to submit a Proof of Claim in order to be entitled to vote on the Plan. Please note, however, that Eaton's does not admit liability to any Creditor by sending a Notice of Voting Claim to such Creditor.

If you have received a Notice of Voting Claim and you wish to dispute the value of your Claim or Interim Period Claim as set out in the Notice of Voting Claim, you should fill out a Notice of Dispute of Valuation for Voting Purposes (enclosed with your Notice of Voting Claim) (see Section D below for instructions).

## **C. FOR CREDITORS SUBMITTING A PROOF OF CLAIM**

If you have not received a Notice of Voting Claim from Eaton's and do not have any claims against Eaton's, there is no need to file a Proof of Claim with the Eaton's Claims Administrator.

If you have not received a Notice of Voting Claim from Eaton's and believe that you have a claim against Eaton's, you should file a Proof of Claim with the Eaton's Claims Administrator. **The Proof of Claim must be filed by OCTOBER 25, 1999, the Voting Claims Bar Date, if you intend to vote in respect of the Plan.** Failure to send the Proof of Claim by this date will disentitle you from voting on the Plan, unless Eaton's agrees or the Court orders that the Proof of Claim be accepted after that date.

Proof of Claim forms can be obtained by contacting the Eaton's Claims Administrator at the phone and fax numbers indicated above by **no later than October 13, 1999** and providing particulars as to your name, address and facsimile number. Once Eaton's has this information, you will receive, as soon as practicable, a Proof of Claim form.

If Eaton's disagrees with the value that you have ascribed to your Claim or Interim Period Claim as set out in your Proof of Claim, you will receive from Eaton's a Notice of Revision or Disallowance for Voting Purposes (see section E below for details).

## **D. FOR CREDITORS SUBMITTING NOTICE OF DISPUTE OF VALUATION FOR VOTING PURPOSES**

If you have received a Notice of Voting Claim, you are entitled to dispute the value of your Claim or Interim Period Claim as set out in such notice by sending a Notice of Dispute of Valuation for Voting Purposes to the

Eaton's Claims Administrator at the address and fax number indicated above (the form for this Notice is enclosed with your Notice of Voting Claim). **The Notice of Dispute of Valuation for Voting Purposes must be delivered to Eaton's no later than the Voting Claims Bar Date, 11:59 p.m. on October 25, 1999. Failure to deliver a Notice of Dispute of Valuation for Voting Purposes to Eaton's by this date will mean that the value of your Claim or Interim Period Claim for the purposes of voting on the Plan will be as set out in the Notice of Voting Claim and you will have no further right to dispute the value of your Voting Claim for the purposes of voting on the Plan.**

If you have sent a Notice of Dispute of Valuation for Voting Purposes to the Eaton's Claims Administrator and Eaton's has rejected or revised your Claim or Interim Period Claim, Eaton's will notify you of such rejection or disallowance by sending to you a Notice of Revision or Disallowance for Voting Purposes (see section E below for details). The last day for Eaton's to have sent out this notice is **no later than 11:59 p.m. on October 29, 1999.**

If you do NOT receive a Notice of Revision or Disallowance for Voting Purposes, the value of your Claim or Interim Period Claim has been accepted by Eaton's for voting purposes as set out in your Notice of Dispute of Valuation for Voting Purposes.

#### **E. FOR CREDITORS RECEIVING NOTICE OF REVISION OR DISALLOWANCE FOR VOTING PURPOSES**

If you have sent a Proof of Claim or a Notice of Dispute of Valuation for Voting Purposes to Eaton's, Eaton's is entitled to challenge the valuation of your claim by sending to you a Notice of Revision or Disallowance for Voting Purposes no later than **11:59 p.m. on October 29, 1999.** If you do not receive such a Notice, Eaton's has accepted the value of your Claim or Interim Period Claim for voting purposes as set out in your Proof of Claim or Notice of Dispute of Valuation for Voting Purposes.

If you have received a Notice of Revision or Disallowance for Voting Purposes, you are entitled to dispute the revision or disallowance of your Claim as set out in the Notice of Revision or Disallowance for Voting Purposes by sending a Dispute Notice to Eaton's (see Section F below for instructions).

#### **F. FOR CREDITORS SUBMITTING DISPUTE NOTICE**

If you have received a Notice of Revision or Disallowance for Voting Purposes, you are entitled to dispute the revision or disallowance of your Claim or Interim Period Claim by delivering by facsimile or courier a Dispute Notice (enclosed with your Notice of Revision or Disallowance for Voting Purposes) to the Eaton's Claims Administrator **no later than 11:59 p.m. on November 5, 1999.** If you do not deliver a Dispute Notice to Eaton's by November 5, 1999, the value of your Claim or Interim Period Claim for the purposes of voting on the Plan will be as set out in your Notice of Revision or Disallowance for Voting Purposes.

Once Eaton's has received your Dispute Notice, you will be contacted by Eaton's, and/or by Richter & Partners Inc., the Monitor assisting Eaton's with its Plan, to see if the dispute can be resolved.

If the dispute has not been resolved by November 9, 1999, you will be notified that your Claim will be determined by the Claims Officer. You may be required to attend a hearing and to present evidence documenting your Claim or Interim Period Claim and its value. The Claims Officer must resolve the dispute by November 17, 1999. You will be notified by that date of the Claims Officer's determination of the value of your Voting Claim. The decision of the Claims Officer will be final and binding on you and Eaton's for the purposes of voting on the Plan at a meeting of Creditors. You will have no right to appeal.

In the event that the Claims Officer cannot resolve the dispute regarding the value of your Voting Claim by November 17, 1999, there are three alternatives:

- you may be permitted to vote on the Plan and the dispute regarding your Voting Claim will be resolved later for the purposes of any distribution under the Plan;
- Eaton's may determine that it is necessary to delay the vote of the class of Creditors to which you belong until your Voting Claim has been finally determined; or
- Eaton's may request that the Court determine how your Voting Claim will be addressed for voting purposes.

SCHEDULE "6"

Court File No. 99-CL-3516

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 THE T. EATON COMPANY LIMITED

Applicant

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NOTICE OF REVISION OR DISALLOWANCE FOR VOTING PURPOSES

---

*Please read carefully the Instruction Letter for Voting Purposes accompanying this Notice.*

TO: [insert name of creditor]

The T. Eaton Company Limited ("Eaton's") hereby gives you notice that it has reviewed your Voting Claim and has revised or rejected your Voting Claim for voting purposes only (and NOT for distribution purposes) as follows:

- A. CLAIM PRIOR TO AUGUST 20, 1999:      \$[insert \$value of claim] CAD
- B. INTERIM PERIOD CLAIM FROM AND      \$[insert \$value of claim] CAD  
AFTER AUGUST 20, 1999:
- C. TOTAL VOTING CLAIM:                      \$[total A plus B] CAD
- D. REASONS FOR DISALLOWANCE OR  
REVISION:

[insert explanation]

If you do not agree with this Notice of Revision or Disallowance for Voting Purposes, please take notice of the following:

1. If you intend to dispute this Notice of Revision or Disallowance for Voting Purposes, you must, no later than 11:59 p.m. (Toronto time) on **November 5, 1999**, notify Eaton's, the Monitor and the Claims Officer of such intent by delivery of a Dispute Notice in accordance with the accompanying Instruction Letter for Voting Purposes. The form of Dispute Notice is enclosed.
2. If you do not deliver a Dispute Notice, the value of your Claim for voting purposes under the Plan shall be deemed to be as set out in this Notice of Revision or Disallowance for Voting Purposes.

**IF YOU FAIL TO TAKE ACTION WITHIN THE PRESCRIBED TIME PERIOD, THIS NOTICE OF REVISION OR DISALLOWANCE FOR VOTING PURPOSES WILL BE BINDING UPON YOU FOR VOTING PURPOSES UNDER THE PLAN.**

DATED at Toronto, this      day of,                      1999.

THE T. EATON COMPANY LIMITED

SCHEDULE "7"

Court File No. 99-CL-3516

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 THE T. EATON COMPANY LIMITED

Applicant

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DISPUTE NOTICE

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TO: The T. Eaton Company Limited ("Eaton's")

We hereby give you notice of our intention to dispute the (*Check one*):

- Notice of Revision or Disallowance for Voting Purposes dated \_\_\_\_\_.
- Notice of Distribution Claim dated \_\_\_\_\_.

issued by Eaton's in respect of our claim as detailed below.

A. Name of Creditor: \_\_\_\_\_

*(For completion of claim amounts in sections B, C, or D, claims in foreign currency are to be converted to Canadian dollars at the Bank of Canada noon spot rate as at August 20, 1999. U.S. exchange rate conversion on such date was \$1.4941.)*

**B. If a Secured Creditor:**

Description of Security held: \_\_\_\_\_ Claim Amount \$ \_\_\_\_\_ CAD

**C. If an Unsecured Creditor:**

Dun and Bradstreet Number: \_\_\_\_\_ Claim Amount \$ \_\_\_\_\_ CAD  
*(If more than one Dun and Bradstreet Number, attach schedule showing numbers and corresponding claims.)*

**D. If a Landlord:**

Location of Premises: \_\_\_\_\_ Claim Amount \$ \_\_\_\_\_ CAD  
*(If more than one location, attach schedule.)*

**E. Reasons for Dispute** (attach additional sheet and copies of all supporting documentation if necessary):

\_\_\_\_\_  
(Signature of Individual completing this Dispute)

\_\_\_\_\_  
Date

\_\_\_\_\_  
(Please print name)

Telephone Number: ( ) \_\_\_\_\_

Facsimile Number: ( ) \_\_\_\_\_

Full Mailing Address:

**THIS FORM IS TO BE RETURNED BY COURIER OR FACSIMILE TO ALL OF THE FOLLOWING:**

**CLAIMS ADMINISTRATOR**

The T. Eaton Company Limited  
c/o Richter & Partners Inc.  
Court-appointed Monitor of Eaton's  
90 Eglinton Avenue East, Suite 700  
Toronto, ON M4P 2Y3

Telephone: (416) 932-6261

Fax: (416) 932-6262

- AND -

Mr. Robert Harlang  
RICHTER & PARTNERS INC.  
in its capacity as Monitor of  
The T. Eaton Company Limited  
90 Eglinton Avenue East, Suite 700  
Toronto, ON M4P 2Y3

Telephone: (416) 932-8000

Fax: (416) 932-6200

- AND -

CLAIMS OFFICER FOR  
THE T. EATON COMPANY LIMITED  
ADR CHAMBERS  
48 Yonge Street, Suite 1100  
Toronto, ON M5W 1G6

Telephone: (416) 362-8555/1-800-856-5154

Fax: (416) 362-8825

SCHEDULE "8"

Court File No. 99-CL-3516

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 THE T. EATON COMPANY LIMITED

Applicant

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NOTICE OF DISTRIBUTION CLAIM

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*Please read carefully the Instruction Letter for Distribution Purposes accompanying this Notice.*

The T. Eaton Company Limited ("Eaton's") proposes to present a plan of arrangement to its Creditors (the "Plan") under the Companies' Creditors Arrangement Act (the "CCAA"). The Order of Mr. Justice Farley made September 28, 1999 in the CCAA proceedings provides for a Claims Procedure for Creditors for voting and distribution under the Plan.

**TAKE NOTICE** that Eaton's has valued your **Distribution Claim** (comprised of your **Claim and Interim Period Claim**) against Eaton's for distribution purposes as set out in the attached Schedule. Claims in a foreign currency were converted to Canadian Dollars at the Bank of Canada noon spot rate as at August 20, 1999. U.S. exchange rate conversion on such date was \$1.4941.

**If you DISAGREE with the value of your DISTRIBUTION CLAIM as set out in the Schedule attached to this Notice, please be advised of the following:**

1. If you intend to dispute this Notice of Distribution Claim, you must, by no later than 11:59 p.m. (Toronto time) on **February 15, 2000**, deliver to Eaton's (to the attention of the Claims Administrator) a Dispute Notice by facsimile, courier or registered mail to the address/fax number indicated thereon. The form of Dispute Notice is enclosed.
2. If you do not deliver a Dispute Notice to Eaton's (to the attention of the Claims Administrator), the value of your claim for distribution purposes under the Plan shall be deemed to be as set out in this Notice of Distribution Claim.

**IF YOU FAIL TO TAKE ACTION WITHIN THE PRESCRIBED TIME PERIOD, THE AMOUNT SET OUT IN THIS NOTICE SHALL BE DEEMED TO BE YOUR DISTRIBUTION CLAIM FOR DISTRIBUTION PURPOSES UNDER THE PLAN.**

DATED at Toronto, the day of , 1999.

THE T. EATON COMPANY LIMITED

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 THE T. EATON COMPANY LIMITED

Applicant

---

INSTRUCTION LETTER  
CLAIMS PROCEDURE FOR DISTRIBUTION PURPOSES

---

**A. CLAIMS PROCEDURE**

The T. Eaton Company Limited ("Eaton's") has presented a Plan of Arrangement to its creditors (the "Plan") under the Companies' Creditors Arrangement Act (the "CCAA") which Plan has been approved by Eaton's creditors and by Order of Mr. Justice Farley made [insert date] in Eaton's CCAA proceedings.

The Order of Mr. Justice Farley made September 28, 1999 in Eaton's CCAA proceedings provided for a Claims Procedure dealing in part with distribution under the Plan.

This letter provides instructions for responding to or completing the following forms:

- Notice of Distribution Claim
- Proof of Claim
- Dispute Notice

The Claims Procedure is intended for any Person with any claims whatsoever against Eaton's prior to August 20, 1999, contingent or otherwise, including without limitation any claims made against Eaton's through any affiliate or associate of Eaton's ("Claims").

The Claims Procedure also addresses all claims which have arisen or may arise from and after August 20, 1999, up to and including the Plan Implementation Date of [insert date] as a result of the implementation of the Plan ("Interim Period Claims"). Such Interim Period Claims may include losses arising from the repudiation or variation of any lease, and the abandonment of premises and any contingent liability of Eaton's as assignor, or the repudiation or variation of any contract or agreement with Eaton's including any contingent liability of Eaton's as assignor, and further, including employment contracts and any contracts in relation to Eaton's pension plans.

The value of your claims against Eaton's for the purposes of receiving a distribution under the Plan is the total of your Claim and Interim Period Claim, which amount is described as your Distribution Claim.

If you have any questions regarding the Claims Procedure for ensuring that your claim is valued and that you are entitled to receive a distribution under the Plan, please contact the Eaton's Claims Administrator at the address provided below.

All notices and enquiries with respect to Eaton's Claims Procedure should be addressed to:

Claims Administrator  
The T. Eaton Company Limited  
c/o Richter & Partners Inc.  
Court-appointed Monitor of Eaton's  
90 Eglinton Avenue East, Suite 700  
Toronto, ON M4P 2Y3

Telephone: (416) 932-6261

Fax: (416) 932-6262

#### **B. FOR CREDITORS RECEIVING NOTICE OF DISTRIBUTION CLAIM**

Eaton's has already mailed to all Known Creditors (apart from former and present employees of Eaton's) a Notice of Voting Claim for the purposes of facilitating the voting on the Plan. Pursuant to the Claims Procedure, Eaton's has reviewed all Voting Claims for the purposes of valuing Distribution Claims of its Creditors, to enable a distribution under the Plan. Accordingly, all Creditors whose Voting Claims were determined for voting purposes have received a Notice of Distribution Claim from Eaton's wherein Eaton's has accepted, revised or rejected such Creditors' Voting Claims for distribution purposes and setting out the reasons therefor.

Any former or present employees with claims against Eaton's should contact Carmen Siciliano, Employee Representative, c/o. Susan Rowland, Koskie Minsky, Box 52, 900 - 20 Queen Street West, Toronto, Ontario, M5H 3R3 phone: (416) 977-8353; fax: (416) 977-3316. The Claims Procedure provides that the Employee Representative was to file an Omnibus Proof of Claim (Employees) by the Voting Claims Bar Date (October 25, 1999) on behalf of all former and present employees of Eaton's and was given an omnibus proxy for voting purposes for all such former and present employees of Eaton's. Employees retained their right to file their own Proofs of Claim by the Voting Claims Bar Date (October 25, 1999) and to appear at the meeting of creditors to consider the Plan in person or by proxy. If you are a former or present employee for the purposes of receiving a distribution under the Plan, there is no need to file a Proof of Claim if your claim is included in the Omnibus Proof of Claim (Employees) filed by the Employee Representative in this regard. In the alternative, if you wish to file your own Proof of Claim, you must follow the procedure set out in this letter (see section D below for instructions on filing a Proof of Claim).

#### **C. FOR CREDITORS RECEIVING NOTICE OF DISTRIBUTION CLAIM**

If you have received a Notice of Distribution Claim and do not agree with the value ascribed by Eaton's to your Distribution Claim, you are entitled to dispute same. To do so, you must deliver a Dispute Notice in the form enclosed by facsimile or courier to the Eaton's Claims Administrator by no later than 11:59 p.m. (Toronto time) on February 15, 2000. If you fail to deliver a Dispute Notice by such date, you will be deemed to have accepted the value of your Distribution Claim as set out in the Notice of Distribution Claim and will be thereafter barred from otherwise disputing or appealing same.

Once Eaton's has received your Dispute Notice, you will be contacted by Eaton's and/or by Richter & Partners Inc., the Monitor assisting Eaton's with its Plan, to see if the dispute can be resolved. A resolution must be achieved on or before February 29, 2000. If the dispute is not resolved by such date, Eaton's shall refer the dispute to the Claims Officer (see Section E for instructions in this regard).

#### **D. FOR CREDITORS SUBMITTING A PROOF OF CLAIM**

If you did not receive a Notice of Voting Claim or Notice of Distribution Claim from Eaton's and were not part of the Voting Process and do not have any claims against Eaton's, there is no need to file a Proof of Claim with the Eaton's Claims Administrator.

If you did not receive a Notice of Voting Claim from Eaton's and were not part of the voting process and believe that you have a claim against Eaton's, you should file a Proof of Claim with the Eaton's Claims Administrator.



**The Proof of Claim must be filed by January 25, 2000, the Distribution Claims Bar Date.** Failure to file the Proof of Claim by the Distribution Claims Bar Date will disentitle you from receiving a distribution under the Plan.

Proof of Claim forms can be obtained by contacting the Eaton's Claims Administrator at the phone and fax numbers indicated above and providing particulars as to your name, address and facsimile number. Once Eaton's has this information, you will receive, as soon as practicable, a Proof of Claim form **which must be filed with Eaton's by no later than January 25, 2000, the Distribution Claims Bar Date.**

If Eaton's disagrees with the value that you have ascribed to your Distribution Claim as set out in your Proof of Claim, you will be contacted by Eaton's and/or by Richter & Partners Inc., the Monitor assisting Eaton's with its Plan, to see if the dispute can be resolved. A resolution must be achieved on or before February 29, 2000. If the dispute is not resolved by such date, Eaton's will refer the dispute to the Claims Officer (see Section E below for instructions on resolution of disputes by Claims Officers).

#### **E. RESOLUTION OF DISPUTES BY CLAIMS OFFICERS**

If the dispute has not been resolved by February 29, 2000, Eaton's will notify you on or before such date that the value of your Distribution Claim will be determined by the Claims Officer appointed by the Court. The Claims Officer must resolve the dispute by March 31, 2000. You will be notified by that date of the Claims Officer's determination of the value of your Distribution Claim.

Either party will have the right to appeal the Claims Officer's determination of value of the Distribution Claim to the Court, within five (5) Calendar Days of notification by Claims Officer's determination of value. The appeal must be made returnable within five (5) Calendar Days of filing the notice of appeal. The determination of such appeal shall be final and binding on Eaton's and the Creditor for all purposes under the Plan. There shall be no further rights of appeal, review or recourse to the Court.

**SCHEDULE "B"**  
**ENTITIES ELIGIBLE FOR INVESTMENTS**  
**BY LIQUIDATOR**

**ENTITIES**

**STANDARD & POOR'S**  
**"ISSUER CREDIT RATING"**

---

**Financial Institutions**

**SCHEDULE I BANKS**

|                                    |     |
|------------------------------------|-----|
| Bank of Montreal                   | AA- |
| The Bank of Nova Scotia            | A+  |
| Royal Bank of Canada               | AA- |
| Canadian Imperial Bank of Commerce | AA- |
| The Toronto-Dominion Bank          | AA- |
| National Bank Canada               | A   |

**DOMINION BOND RATING SERVICES**  
**RATING — Short Term Debt**

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**SCHEDULE II BANKS**

|                                     |     |
|-------------------------------------|-----|
| ABN AMRO Bank Canada                | R1H |
| Banque Nationale de Paris (Canada)  | R1M |
| Credit Suisse First Boston (Canada) | R1M |
| Deutsche Bank Canada                | R1M |
| Dresdner Bank of Canada             | R1M |
| HSBC Bank Canada                    | R1M |
| Société Générale (Canada)           | R1M |

No authorized investment with a Schedule II Bank shall exceed at any time \$5,000,000 in the aggregate.

**STANDARD & POOR'S**  
**"ISSUER CREDIT RATING"**

---

**Public Sector**

|                              |     |
|------------------------------|-----|
| Government of Canada         | AAA |
| Province of Alberta          | AA+ |
| Province of British Columbia | AA- |
| Province of New Brunswick    | AA- |
| Province of Ontario          | AA- |

Any agency or agent of the Government of Canada or the Provinces of Alberta, British Columbia, New Brunswick or Ontario having a credit rating similar to those specifically noted above.

**Other Entities**

All other investments in other entities must be fully guaranteed by one of the public sector entities, agencies or agents described above.

**DISTRIBUTIONCO INC.**

- and -

**RICHTER & PARTNERS INC.,  
in its capacity as Liquidator and not in its personal capacity**

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**ADMINISTRATION AGREEMENT**

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**MADE AS OF DECEMBER 30, 1999  
PROVIDING FOR THE ISSUE OF PARTICIPATION UNITS**

**Osler, Hoskin & Harcourt  
Barristers & Solicitors  
Toronto, Canada**

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THIS ADMINISTRATION AGREEMENT is made as of December 30, 1999,

BETWEEN:

DISTRIBUTIONCO INC., a corporation governed by the  
*Business Corporations Act* (Ontario)

- and -

RICHTER & PARTNERS INC., in its capacity as Liquidator  
(defined below) and not in its personal capacity.

WHEREAS:

- A. Distributionco wishes to create and issue the Participation Units (defined below) and, under the laws relating thereto, has the power and authority to create and issue the Participation Units.
- B. All necessary court orders to issue the Participation Units on or after the Plan Implementation Date (defined below) with the benefits and subject to the terms of this Agreement have been or shall be obtained prior to such issue.

NOW THEREFORE THIS AGREEMENT WITNESSES that, in consideration of the premises and the covenants and agreements herein contained (the receipt and sufficiency of which are hereby acknowledged), the parties hereto agree as follows:

#### **ARTICLE 1** **INTERPRETATION**

##### **1.1 Definitions**

In this Agreement, unless there is something in the subject matter or context inconsistent therewith, the following terms shall have the following meanings respectively:

“Arrangement” means an arrangement under Section 182 of the OBCA on the terms and conditions set out in Exhibit 1 to the Arrangement Agreement, as amended, supplemented or varied from time to time.

“Arrangement Agreement” means the arrangement agreement between Eaton’s and Distributionco dated as of November 19, 1999, as amended, supplemented or varied from time to time.

"Authorized Investments" means investments in deposits, bankers' acceptances and treasury bills with or of the financial institutions and the Canadian or provincial governments and their respective agencies or agents listed or referred to below as long as the respective credit rating is maintained at or above the level referred to below:

Entities

Financial Institutions

Schedule I Banks

Standard & Poor's  
"Issuer Credit Rating"

|                                    |     |
|------------------------------------|-----|
| Bank of Montreal                   | AA- |
| The Bank of Nova Scotia            | A+  |
| Royal Bank of Canada               | AA- |
| Canadian Imperial Bank of Commerce | AA- |
| The Toronto-Dominion Bank          | AA  |
| National Bank of Canada            | A   |

Schedule II Banks

Dominion Bond Rating Services  
Rating for Short Term Debt

|                                     |     |
|-------------------------------------|-----|
| ABN AMRO Bank Canada                | RIH |
| Banque Nationale de Paris (Canada)  | RIM |
| Credit Suisse First Boston (Canada) | RIM |
| Deutsche Bank Canada                | RIM |
| Dresdner Bank of Canada             | RIM |
| HSBC Bank of Canada                 | RIM |
| Société Générale (Canada)           | RIM |

No authorized investment in a Schedule II Bank shall exceed at any time \$5,000,000 in the aggregate.

Public Sector

Standard & Poor's  
"Issuer Credit Rating"

|                              |     |
|------------------------------|-----|
| Government of Canada         | AAA |
| Province of Alberta          | AA+ |
| Province of British Columbia | AA- |
| Province of New Brunswick    | AA- |
| Province of Ontario          | AA- |

Any agency or agent of the Government of Canada or the Provinces of Alberta, British Columbia, New Brunswick or Ontario having a credit rating similar to those specifically noted above.

Other Entities

All other investments in other entities must be fully guaranteed by one of the public sector entities, agencies or agents described above.

"Business Day" means a day, other than a Saturday, Sunday or statutory holiday, on which banks are generally open for business in Toronto, Ontario during normal banking hours.



“**CCAA**” means the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended from time to time.

“**Cancellation Date**”, in respect of a Certificate, means the earlier of (i) the date upon which the Maximum Amount distributable to the Certificateholder has been distributed in full pursuant to Section 3.3, and (ii) the date upon which the Termination Order is issued.

“**Certificate Payment Account**” means the segregated account to be separately identified as the “Distributionco Certificateholder Account” and to be maintained by the Liquidator, on behalf of Distributionco, for the benefit of the Certificateholders and containing, or to contain, all monies comprising any amounts released to the Liquidator or Distributionco from the Escrow Account, which amounts (including any Income thereon), subject to deduction therefrom of any sums payable to the Liquidator or Distributionco pursuant to the OBCA Sanction Order, the Escrow Agreement and/or this Agreement, are to be held for the benefit of the Certificateholders in accordance with, and subject to, the terms of the Plan, the OBCA Sanction Order, the Escrow Agreement and this Administration Agreement.

“**Certificateholders**” or “**holders**” means the persons whose names are at any given time entered in the registers hereinafter mentioned as holders of the Certificates and “**Certificateholder**” or “**holder**” means any one of them.

“**Certificates**” means the Common Share Certificates and the Participation Unit Certificates (if any) or all of them, as the context requires, and “**Certificate**” means any one of them.

“**Common Share Certificates**” means the certificates representing the Common Shares and “**Common Share Certificate**” means any one of them.

“**Common Shares**” means the issued and outstanding common shares of Eaton’s immediately prior to the commencement of the Arrangement.

“**Court**” means the Superior Court of Justice for the Province of Ontario, Canada and any successor thereto.

“**Default Interest**” has the meaning given to such term in the Escrow Agreement.

“**Distribution Amount**” and “**Distribution Notice**” have the respective meanings given to those terms in Section 3.3(b).

“**Distribution Date**” means any date upon which the Liquidator has determined it shall pay any amounts under the Certificates, on behalf of Distributionco, pursuant to Section 3.3(b).

“**Distributionco**” means Distributionco Inc. (formerly known as 1381052 Ontario Inc.).

“**Distributionco Assumed Liabilities**” has the meaning given to such term in the Transfer and Assumption Agreement.

**"Distributionco Transferred Assets"** has the meaning given to such term in the Transfer and Assumption Agreement.

**"Eaton's"** means The T. Eaton Company Limited and, from and after the Plan Implementation Date, any successor thereof.

**"Eaton's Direction"** means the direction given by Eaton's to Sears to pay the Sears Equity Contribution to Distributionco in satisfaction of the Eaton's Note.

**"Eaton's Note"** means the promissory note in the principal amount of \$60 million (subject to any adjustment of the Sears Equity Contribution which may be required on closing of the Sears Transaction pursuant to the Sears Agreement) to be issued by Eaton's to Distributionco on the Plan Implementation Date in part consideration for the assumption by Distributionco of the Distributionco Assumed Liabilities and the Unsatisfied Unaffected Liabilities.

**"Eaton's Tax Losses"** means all of the non-capital loss carryforwards of Eaton's for income tax purposes including such tax losses of Eaton's amounting to approximately \$294,300,000 as of January 30, 1999, and additional non-capital loss carryforwards of Eaton's generated from January 30, 1999 to and including the Plan Implementation Date estimated at \$100,000,000, subject to the increase or decrease in such tax losses which may be created by the Sears Transaction, including the Plan, the Arrangement and the transfer of the Distributionco Transferred Assets to Distributionco at fair market value.

**"Escrow Account"** has the meaning specified in the Escrow Agreement.

**"Escrow Agreement"** means the escrow agreement among Sears, Distributionco and the Liquidator, dated as of the Plan Implementation Date, as amended, supplemented or varied from time to time.

**"Escrowed Funds"** has the meaning given to such term in the Escrow Agreement.

**"Extraordinary Resolution"** has the meaning given to such term in Section 11.12.

**"GAAP"** means, at any time, accounting principles then generally accepted in Canada as recommended in the Handbook of the Canadian Institute of Chartered Accountants.

**"Governmental Body"** means any government (including any federal, provincial, state, municipal, district or local government) or political subdivision or any agency, authority, bureau, central bank, monetary authority, commission, department, crown corporation, or instrumentality thereof, or any board, court or tribunal, or other law, rule or regulation-making entity having or purporting to have jurisdiction on behalf of any nation, province, state, municipality, district or other subdivision thereof.

**"including"** shall be deemed to be followed by the phrase "without limitation".

**"Income"** has the meaning given to such term in Section 8.7.

**"Interest"** has the meaning given to such term in the Escrow Agreement.

**"Law"** means any law (including common law and equity), constitution, statute, order, treaty, regulation or rule of any Governmental Body.

**"Liquidator"** means Richter & Partners Inc., in its capacity as the liquidator of the estate and effects of Distributionco, as appointed by the Court under the OBCA Sanction Order, or any successor thereof.

**"Maximum Amount"** in respect of distributions from the Certificate Payment Account to a Certificateholder, means (i) the product of \$0.818665575 multiplied by the number of Participation Units represented by such holder's Certificate(s), minus (ii) each such Certificateholder's share of any sum payable to the Liquidator and/or Distributionco pursuant to the OBCA Sanction Order, the Escrow Agreement and/or this Agreement (pro rata based on the number of Participation Units held by such Certificateholder in relation to the Participation Units held by all Certificateholders).

**"OBCA"** means the *Business Corporations Act*, R.S.O. 1990, c. B.16, as amended from time to time, and includes any regulations made pursuant to such Act.

**"OBCA Proceedings"** means the proceedings instituted by Eaton's under Section 182 of the OBCA on September 28, 1999.

**"OBCA Sanction Order"** means the order of the Court made on November 23, 1999 in the OBCA Proceedings approving the Arrangement, as such order may be amended, varied or modified from time to time.

**"Participation Unit"** means a unit of participation, allocated to a Shareholder on the basis of one unit per Common Share held by such Shareholder and representing a *pari passu* beneficial ownership interest in the proceeds of the Sears Variable Note and any payment thereof after deducting the costs and expenses of Distributionco, as agent and nominee of the holders of Participation Units, and the costs, expenses and fees of the Liquidator, incurred in administering the Sears Variable Note, including the costs of enforcing the Sears Variable Note.

**"Participation Unit Certificates"** means the certificates to be issued to persons entitled to receive Participation Units in connection with transfers, assignments or replacements of Certificates, such Participation Unit Certificates to be in the form set out in Schedule A to this Agreement, and **"Participation Unit Certificate"** means any one of them.

**"person"** means an individual, trust, partnership, government or any department or agency thereof, joint venture, trust, estate, unincorporated organization and the heirs, executors, administrators or other legal representatives of an individual, and pronouns and other words importing persons have a similar extended meaning.

**"Plan"** means the amended and restated plan of compromise and arrangement dated November 19, 1999 and sanctioned by the Court on November 23, 1999 as such Plan may be amended, amended and restated, varied or supplemented from time to time.

**"Plan Implementation Date"** means a Business Day selected by Eaton's which is on or before December 31, 1999.

**"Record Date"** means the tenth Business Day preceding each Distribution Date.

**"Sears"** means Sears Canada Inc. and, on or following the Plan Implementation Date, any corporation formed by the amalgamation of Sears and Eaton's and any successor of either of them.

**"Sears Agreement"** means the agreement between Sears and Eaton's dated September 19, 1999, as amended by Addendum No. 1 dated as of September 29, 1999 and Addendum No. 2 dated October 3, 1999, as further amended and supplemented from time to time, pursuant to which Sears will acquire all the issued and outstanding common shares of Eaton's.

**"Sears Equity Contribution"** means the sum of \$60 million (subject to any adjustment which may be required on the closing of the Sears Transaction pursuant to the Sears Agreement) to be paid to Eaton's on the Plan Implementation Date pursuant to the Sears Agreement for the issue to Sears of common shares of Eaton's, which amount is to be transferred to Distributionco in satisfaction of the Eaton's Note pursuant to the Eaton's Direction.

**"Sears Transaction"** means the transaction or transactions which are required to be completed pursuant to the Sears Agreement.

**"Sears Variable Note"** means the promissory note made payable to Distributionco, or to its order, to be issued by Sears on the Plan Implementation Date in the principal amount of up to \$20,000,000 to be paid by Sears only from the use of the Eaton's Tax Losses in accordance with the Sears Agreement.

**"Shareholders"** means all of the holders of Common Shares as of the date of, and immediately prior to the commencement of the Arrangement and **"Shareholder"** means any one of them.

**"Termination Order"** means an order of the Court obtained by or on behalf of the Liquidator providing that no further distributions are to be made under or pursuant to the Certificates and that, subject to the terms of such order, all outstanding Certificates are of no further force or effect and are deemed to be cancelled.

**"Transfer and Assumption Agreement"** means the transfer and assumption agreement made as of December [30], 1999 between Eaton's and Distributionco evidencing the transfer and assignment by Eaton's, and the purchase and assumption by Distributionco, of certain assets and liabilities of Eaton's, as amended, supplemented or varied from time to time.

**"Unsatisfied Unaffected Liabilities"** has the meaning specified in the Plan.

**"Withholding Taxes"** has the meaning given to such term in Section 2.11.

## 1.2 Meaning of "outstanding" for Certain Purposes

Every Common Share Certificate, and every Participation Unit Certificate certified and delivered by the Liquidator on behalf of Distributionco hereunder, shall be deemed to be

outstanding until it is cancelled, deemed to be cancelled or delivered to the Liquidator on behalf of Distributionco hereunder for cancellation, or until money for the payment of all amounts payable in respect thereof has been indefeasibly paid to the holder in immediately available funds, provided that:

- (a) Certificates in respect of which payments have been made which payments, in the aggregate, are less than the Maximum Amount that may be distributed under such Certificates, shall be deemed to be outstanding only to the extent of the unpaid portion of the Maximum Amount relating thereto; and
- (b) if a new Participation Unit Certificate has been issued in substitution for a Certificate that has been mutilated, lost, stolen or destroyed, only one of them shall be counted for the purpose of determining the aggregate amount payable in respect of such Certificate.

### 1.3 Headings

The division of this Agreement into Articles and Sections and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement. "Administration Agreement", "Agreement", "herein", "hereof", "hereunder" and similar expressions mean or refer to this Agreement and any agreement or instrument supplemental or ancillary hereto. The terms "this Administration Agreement", "this Agreement", "herein", "hereof", "hereunder" and similar expressions refer to this Agreement and not to any particular Article, Section or other portion hereof and include any agreement or instrument supplemental hereto. Unless something in the subject matter or context is inconsistent therewith, references herein to Articles and Sections are to Articles and Sections of this Agreement, respectively.

### 1.4 Extended Meaning

Words importing the singular number only shall include the plural and vice versa, and words importing the masculine gender shall include the feminine and neuter genders and vice versa.

### 1.5 Applicable Law

This Agreement and the Certificates shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein.

### 1.6 Language

The parties hereto expressly request and require that this Agreement and any related documents be drawn up solely in the English language. Les parties aux présentes conviennent et exigent que cette entente et tous les documents qui s'y rattachent soient rédigés seulement en anglais.

### 1.7 Currency

All monetary amounts set forth in this Agreement are expressed in Canadian dollars.

**1.8 Accounting Terms**

All accounting terms not specifically defined in this Agreement shall be construed in accordance with GAAP.

**1.9 Actions to be taken by Distributionco**

Where this Agreement contemplates (i) any action being taken by or against Distributionco or (ii) any matter or obligation to be binding on Distributionco, such shall be read to include the Liquidator to the extent necessary to effect such action or for such matter or obligation to be binding on Distributionco.

**1.10 Date for any Action**

In the event that any day (other than a day the date of which is specifically set out in this Agreement) on which any action is required or permitted to be taken or payment to be made hereunder is not a Business Day, such action shall be required or permitted to be taken or such payment shall be made on the next succeeding Business Day. Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends and by extending the period to the next succeeding Business Day if the last day of the period is not a Business Day.

**1.11 Schedules**

The following Schedule is annexed hereto and incorporated by reference and deemed to be part hereof:

Schedule A - Form of Participation Unit Certificate and  
Form of Liquidator's Certificate

**ARTICLE 2  
THE CERTIFICATES**

**2.1 Limitation of Issue**

The aggregate number of Participation Units in respect of which Certificates may be issued hereunder is limited by the provisions of the Plan and the provisions of Article 3. Certificates may be issued only on and subject to the conditions and limitations herein set forth.

**2.2 Form of Certificates**

On or after the Plan Implementation Date, Common Share Certificates shall represent and shall be deemed to represent Participation Units on the basis that each Common Share represents one Participation Unit.

Participation Unit Certificates may be issued hereunder on or after the Plan Implementation Date in accordance with the provisions and conditions hereof. The Participation Unit Certificates shall be in the form attached as Schedule A to this Agreement, and shall have indicated thereon the date of issue thereof, the place of distributions thereunder, the name of the

payee thereof and shall refer to the provisions hereof concerning the distribution of any amounts thereunder. The forms of all Participation Unit Certificates may contain such appropriate insertions, omissions, substitutions and other variations as may be approved by the Liquidator may have such letters, numbers or other marks of identification and such legends or endorsements placed thereon as the Liquidator may approve or as may be required to comply with applicable securities laws, or as may, consistently herewith, be determined by the person or persons executing such Participation Unit Certificates, as evidenced by its or their execution of the Participation Unit Certificates. Any portion of the text of any Participation Unit Certificate may be set forth on the reverse thereof, with an appropriate reference thereto on the face of the Participation Unit Certificate.

Participation Unit Certificates shall be typewritten, printed, lithographed or engraved or otherwise produced, all as determined by the person or persons executing such Participation Unit Certificates, as evidenced by its or their execution of such Participation Unit Certificates.

### **2.3 Characterization and Denomination of Certificates**

The Common Share Certificates, and the Participation Unit Certificates issued from time to time hereunder, shall be in registered form and shall entitle the holder thereof to participate in amounts on deposit, if any, in the Certificate Payment Account and distributable to the Certificateholders, in accordance with, and subject to, the terms of the Plan, the OBCA Sanction Order, the Escrow Agreement and this Agreement. The initial register for the Certificates shall be identical to the register of Shareholders as of the date of, and immediately prior to, the Arrangement, as provided by CIBC Mellon Trust Company to the Liquidator on the Plan Implementation Date. Each Participation Unit Certificate shall be issuable in a minimum denomination of one Participation Unit.

### **2.4 Cancellation Date; No Interest; Certificates**

Each Common Share Certificate shall be deemed to be issued on and dated the Plan Implementation Date and each Participation Unit Certificate shall be dated the date of issue. Certificates shall be deemed to be cancelled on the Cancellation Date. Interest shall not accrue or be payable in respect of amounts, if any, distributed under a Certificate. No person other than Distributionco shall have any obligations or liability to the Certificateholders in respect of the Certificates or amounts payable thereunder; provided, however, that the Liquidator shall be obligated to distribute to the Certificateholders, on behalf of Distributionco, such monies as are released to Distributionco from the Escrow Account pursuant to the Escrow Agreement and which are distributable to the Certificateholders under the terms of the Plan, the OBCA Sanction Order, the Escrow Agreement and this Agreement. The Certificates shall not constitute debt obligations of Distributionco.

### **2.5 Ranking of Certificates**

The Common Share Certificates as of the Plan Implementation Date, and the Participation Unit Certificates issued hereunder as soon as such Participation Units are issued and certified by the Liquidator in accordance with this Agreement, shall rank *pari passu* with each other as if all such Certificates had been issued and, if applicable, certified simultaneously.

**2.6 Signing of Participation Unit Certificates**

Participation Unit Certificates shall be signed by the Liquidator on behalf of Distributionco (either manually or by facsimile signature).

**2.7 Certification by Liquidator**

- (a) The Liquidator shall certify the Participation Unit Certificates to be issued pursuant to this Agreement.
- (b) No Participation Unit Certificate shall be issued or, if issued, shall be obligatory or entitle the holder to the benefit hereof until it has been certified by the Liquidator substantially in the form of the certificate set out in Schedule A hereto or in some other form approved by the Liquidator. Such certification by the Liquidator on any Participation Unit Certificate shall be conclusive evidence that the Participation Unit Certificate so certified has been duly issued hereunder and that the holder is entitled to the benefit hereof and thereof.
- (c) The certificate of the Liquidator on the Participation Unit Certificates shall not be construed as a representation or warranty by the Liquidator as to the validity of this Agreement or of the Participation Unit Certificates (except the due certification thereof and any other warranties imposed by Law) and the Liquidator shall in no respect be liable or answerable for the use made of the Participation Unit Certificates or any of them or of the proceeds thereof.

**2.8 Replacement of Certificates**

- (a) In case any Certificate is mutilated or lost, destroyed or stolen, and in the absence of notice to the Liquidator that such Certificate has been acquired by a *bona fide* purchaser (as defined in the OBCA), subject to Section 2.8(b), the Liquidator shall issue, on behalf of Distributionco, and upon payment of the amounts specified in Section 4.3, certify and deliver, a new Participation Unit Certificate, in the case of a Common Share Certificate on the basis that each Common Share represents one Participation Unit, and in the case of Certificates generally of like tenor as the one mutilated, lost, destroyed or stolen in exchange for and upon surrender and cancellation of such mutilated Certificate or in lieu of and in substitution for such lost, destroyed or stolen Certificate, and the new Participation Unit Certificate shall be entitled to the benefit hereof and rank equally in accordance with its terms with all other Certificates. The new Participation Unit Certificate shall be dated the date of the mutilated, lost, destroyed or stolen Certificate.
- (b) The applicant for the issue of a new Participation Unit Certificate pursuant to this Section 2.8 in case of mutilation, loss, destruction or theft shall, as a condition precedent to the issue thereof, furnish to the Liquidator such evidence of ownership and of the mutilation, loss, destruction or theft of the Certificate so lost, destroyed or stolen as is satisfactory to the Liquidator in its discretion and such applicant shall also furnish an indemnity and/or surety bond, in amount and



form, and issued by such surety bonding company, as is reasonably satisfactory to the Liquidator in its discretion.

- (c) For each new Participation Unit Certificate delivered to a Certificateholder pursuant to this Section, the Certificateholder shall pay the Liquidator an administration fee of \$50 per Certificate.

## 2.9 Distributions

- (a) Except as otherwise provided in Section 2.10(a) and Section 2.11, as amounts become available for distribution under each Certificate, the Liquidator, on behalf of Distributionco, will on the Distribution Date relating thereto send or cause to be sent, by prepaid ordinary mail, a cheque for such amount payable to the holder of each Certificate and addressed to the holder at the holder's last address appearing on the register as of the Record Date in respect of all other Certificates, unless otherwise directed in writing by the holder of a Certificate.
- (b) The forwarding of such cheque will satisfy and discharge the obligation of Distributionco or the Liquidator to make such distribution under such Certificate to the extent of the sum represented thereby unless such cheque is not paid or honoured on presentation at any place where such amount is payable. Notwithstanding the foregoing, in the event of the non-receipt of any such cheque by the holder of such Certificate or the loss, theft or destruction thereof, the Liquidator, upon being furnished with reasonable evidence of such non-receipt, loss, theft or destruction and an indemnity and/or surety bond, in an amount and form, and made by such surety or bonding company as is reasonably satisfactory to the Liquidator, in its discretion, will issue to such holder a replacement cheque for the amount of such cheque.

## 2.10 Payment Based on Register

- (a) Where Certificates are registered in more than one name, any amount from time to time payable in respect thereof may be paid by cheque payable to the order of all such holders and addressed to the holder named first in the register at such holder's last address appearing on the register for such Certificates on the Record Date for such payment, failing written instructions from them to the contrary, and such payment will be a valid discharge to Distributionco and to the Liquidator, except to the extent any such cheque is not paid or honoured on presentation at any of the places where such amounts are payable.
- (b) The registered holder for the time being of any Certificate shall be entitled to all amounts paid thereunder, free from all equities or rights of set off or counterclaim between Distributionco and the original or any intermediate holder thereof (except any equities of which Distributionco is required to take notice by Law, by statute or by order of a court of competent jurisdiction) and all persons may act accordingly, and the payment to any such holder of any such amount will satisfy and discharge the liability of Distributionco and the Liquidator for the same, and neither Distributionco nor the Liquidator will be bound to enquire into the title of any such holder.

**2.11 Withholding Taxes**

- (a) In the event that any withholding or deduction from any payment to be made or deemed to be made under the Certificates by Distributionco or the Liquidator to a Certificateholder who is not a resident of Canada is required in respect of any present or future taxes, levies, imposts, deductions, charges or withholdings, and liabilities with respect thereto imposed by Canada or any other jurisdiction (or any other political subdivision or taxing authority thereof or therein) ("Withholding Taxes") pursuant to any applicable Law, rule or regulation or the interpretation thereof by the relevant Governmental Body, then the Liquidator will:
  - (i) withhold or deduct, as applicable, such amount from such payment;
  - (ii) pay or cause to be paid directly to the relevant Governmental Body and within the time required the full amount withheld or deducted; and
  - (iii) promptly when due forward or cause to be forwarded to the Certificateholder an official receipt or other documentation evidencing such payment to such authority.
- (b) In addition to the rights of the Liquidator described in Section 2.11(a) above, the Liquidator is entitled to withhold from any payments made by it to or for the account of a Certificateholder who is not a resident of Canada an amount equal to any Withholding Taxes which the Liquidator was required by Law to withhold from any payments previously made to such Certificateholder (plus any statutory interest and penalties payable by the Liquidator in connection with such Withholding Taxes) to the extent that such withholding was not made by it from such previous payments. The Liquidator will pay or cause to be paid all such withholdings to the relevant Governmental Body and forward or cause to be forwarded to the Certificateholder an official receipt evidencing such payment.
- (c) For greater certainty, the aggregate payments required to be made pursuant to this Agreement to a Certificateholder who is not a resident of Canada shall be net of the withholdings or deductions referred to in this Section.
- (d) The Liquidator will prepare all necessary filings and information returns in respect of interest income on the Sears Variable Note (including Interest thereon, Default Interest, if any, and Income) earned by Certificateholders as well as all other filings and information returns required in respect of the Participation Units.
- (e) Without prejudice to the survival of any other agreement contained herein, the agreements and obligations contained in this Section shall survive the payment of any amounts distributable hereunder and the termination of this Agreement.

**ARTICLE 3**  
**CERTIFICATES**

**3.1 Designation, Terms and Form of Certificates**

The Certificates governed by this Agreement shall:

- (a) be comprised of a maximum of 24,430,000 Participation Units in the aggregate; and
- (b) be deemed to be cancelled and of no further force or effect as of the Cancellation Date.

**3.2 Issue of Certificates**

On or after the Plan Implementation Date, Common Share Certificates shall represent and be deemed to represent Participation Units on the basis that each Common Share represents one Participation Unit with the result that it will not be necessary for Distributionco to issue certificates representing Participation Units to persons entitled to receive Participation Units.

**3.3 Deposits to and Distributions from Certificate Payment Account**

- (a) Distributionco shall cause any Escrowed Funds released to it, as agent and nominee of the Certificateholders, from the Escrow Account pursuant to the Escrow Agreement, to be directly received by the Liquidator for deposit in the Certificate Payment Account and investment in accordance with Section 8.7; provided that if any such amounts are directly received by Distributionco, Distributionco shall, forthwith upon receipt of same, remit such amounts to the Liquidator for deposit as aforesaid.
- (b) The Liquidator, on behalf of Distributionco, shall cause any amount (a "Distribution Amount") credited or required to be credited to the Certificate Payment Account, together with Income thereon, to be distributed as follows:
  - (i) Firstly, to the Liquidator to pay any amounts for which the Liquidator is entitled to be reimbursed pursuant to the OBCA Sanction Order in respect of this Agreement, including those amounts specified in Section 8.2 and Section 9.1, which have not been deducted previously from the Certificate Payment Account or a Distribution Amount.
  - (ii) Secondly, to Distributionco to pay any amounts for which Distributionco is entitled to be reimbursed pursuant to the OBCA Sanction Order in respect of this Agreement, including those amounts specified in Section 8.2 and Section 9.1, which have not been deducted previously from the Certificate Payment Account or a Distribution Amount; and
  - (iii) Thirdly, after giving effect to paragraphs (i) and (ii) above, to the Certificateholders under the Certificates up to the Maximum Amount distributable under each such Certificate as follows:

- (A) Forthwith and in any event within ten Business Days of the release of any Escrowed Funds to Distributionco, as agent and nominee of the Certificate holders, from the Escrow Account pursuant to the Escrow Agreement, the Liquidator shall cause a notice (a "Distribution Notice") to be sent by facsimile or by any other method provided in Section 10.2 hereof to the Certificateholders indicating the intention of the Liquidator to distribute the remainder of the Distribution Amount. The Distribution Notice shall specify the Record Date and the date, which shall be no more than 15 Business Days following receipt of the Distribution Amount (the "Distribution Date"), on which the Liquidator, on behalf of Distributionco, will cause the remainder of the Distribution Amount to be paid to the Certificateholders.
  - (B) On the Distribution Date, the Liquidator, on behalf of Distributionco, shall cause payment to be made to each Certificateholder of its share, if any, of the remainder of the Distribution Amount up to a maximum of the Maximum Amount payable in respect of each Certificate (pro-rata based on the number of Participation Units held by such Certificateholder in relation to the Participation Units held by all Certificateholders if such amount is insufficient to pay each Certificateholder such amount in full).
  - (C) Until such time as the Certificateholders have been paid an amount equal to the Maximum Amount payable in respect of each Certificate or the amounts credited and required to be credited to the Certificate Payment Account have been applied to the payment of amounts under the Certificates in accordance with the provisions of Section 3.3(a) and Section 3.3(b), such amounts shall be, and shall be deemed to be, held by the Liquidator, separate and apart from the other property of Distributionco for the benefit of the Certificateholders in accordance with the priorities set forth herein.
- (c) All amounts (including any Income thereon) deposited to the Certificate Payment Account and not claimed by and paid or payable as provided in this Agreement to the holders of Certificates within six years after the date on which the payment, if any, was to be made shall, subject to applicable Law, be remitted to Distributionco for its own account. Upon such remittance, the Liquidator and Distributionco shall be released from any further obligation to the Certificateholders in respect of such funds and thereafter the Certificateholders in respect of which such funds were allocated, if any, shall have no rights in respect thereof and the relevant Certificates shall be of no further force or effect and deemed to be cancelled.

**ARTICLE 4**  
**REGISTRATION, TRANSFER, EXCHANGE AND OWNERSHIP**

**4.1 Fully Registered Certificates**

- (a) The Liquidator shall cause to be kept a central register at its principal office in Toronto, or at such other place or places as the Liquidator may designate. The register shall contain all particulars required by Law, including the names and latest known addresses of the holders of Certificates and particulars of the Certificates held by them, of all transfers of such Certificates and of all cancellations or deemed cancellation of such Certificates. The initial register for the Certificates shall be identical to the register of Shareholders as of the date of, and immediately prior to, the Arrangement, as provided by CIBC Mellon Trust Company to the Liquidator on the Plan Implementation Date. The registration of any Participation Unit Certificate shall be certified on such Participation Unit Certificate by the Liquidator.
- (b) No transfer of a Certificate shall be recognized by Distributionco or the Liquidator unless and until made on the register herein provided for by the registered holder or such holder's executors, administrators or other legal representatives or his or their attorney duly appointed by an instrument in writing in form and execution satisfactory to the Liquidator, in its discretion, and upon compliance with such reasonable requirements as the Liquidator may prescribe, and unless the name of the transferee shall have been certified on the Certificate by the Liquidator.

**4.2 Exchange of Certificates**

- (a) Subject to Section 4.4, Certificates representing any number of Participation Units may be exchanged upon reasonable notice for Certificates of the same aggregate number of Participation Units in any other authorized number.
- (b) Certificates may be exchanged at the principal office of the Liquidator in Toronto or at such other place or places as the Liquidator may designate. Any Certificate tendered for exchange shall be surrendered and cancelled. The Liquidator, on behalf of Distributionco, shall execute and the Liquidator shall certify all Certificates necessary to carry out such exchanges as aforesaid.

**4.3 Charges for Transfer and Exchange**

For each Certificate exchanged or transferred and subject to any limitation prescribed by Law, the Liquidator may require the payment of any transfer or stamp tax or other governmental charge required to be paid by the party requesting such exchange or transfer as a condition precedent thereto. In addition, the holder requesting such exchange or transfer shall pay the Liquidator an administration fee equal to \$50 per Certificate submitted for exchange or transfer.

**4.4 Closing of Registers**

Neither Distributionco nor the Liquidator shall be required:

- (a) to make transfers or exchanges of any Certificate on any day from a Record Date to the related Distribution Date (inclusive);
- (b) to make transfers or exchanges of any Certificate in respect of which the Maximum Amount payable has been paid; or
- (c) to make transfers or exchanges of any Certificate on and after the date of the Termination Order.

#### 4.5 Ownership of Certificates

- (a) Unless otherwise required by Law, the person(s) in whose name(s) any Certificate is registered shall for all purposes of this Agreement be deemed to be the owner(s) thereof and payment under such Certificate shall be made only to or upon the order in writing of such registered holder(s) as provided herein.
- (b) Neither Distributionco nor the Liquidator shall be bound to take notice of or see to the performance or observance of any duty owed to a third person, whether under a trust, express, implied, resulting or constructive, in respect of any Certificate or otherwise, by the registered holder or any person whom Distributionco or the Liquidator treats, as permitted or required by Law, as the owner or the registered holder of such Certificate, but shall transfer the same on the direction of the person so treated or registered as the holder thereof, whether named as trustee or otherwise, as though that person were the beneficial owner thereof.
- (c) Distributionco and the Liquidator may treat the registered holder of any Certificate as the owner thereof without actual production of such Certificate for the purpose of any requisition, direction, consent, instrument or other document.

### **ARTICLE 5**

#### **COVENANTS AND REPRESENTATIONS AND WARRANTIES**

#### 5.1 Covenants of Distributionco

On or after the Plan Implementation Date, the Liquidator, on behalf of Distributionco, shall perform and observe each of the following covenants:

- (a) **Certificate Payment Account.** The Liquidator, on behalf of Distributionco, shall establish the Certificate Payment Account.
- (b) **Enforcement of the Sears Variable Note and Escrow Agreement.** Subject to the OBCA, the OBCA Sanction Order and Article 8, the Liquidator, on behalf of Distributionco, shall take all actions necessary and available to it to enforce its and Distributionco's rights under the Sears Variable Note and/or the Escrow Agreement.

#### 5.2 Waiver of Certain Covenants

The Liquidator may omit in any particular instance to comply with any term, provision or condition to which the Liquidator is subject with respect to the Certificates if before the time for

such compliance the Liquidator shall have obtained the consent in writing of the Certificateholders by Extraordinary Resolution, but no such consent shall have the effect of amending the Plan or the Sanction Order nor shall it extend to or affect such term, provision or condition except to the extent expressly so consented to, and, until such consent becomes effective, the obligations of the Liquidator and the duties of the Liquidator in respect of any such term, provision or condition shall remain in full force and effect.

## **ARTICLE 6** **SATISFACTION AND DISCHARGE**

### **6.1 Cancellation and Destruction**

Each Certificate in respect of which the Maximum Amount has been paid shall, forthwith upon the final payment, be deemed to be of no further force or effect and shall be deemed to have been cancelled with no other action on the part of the Certificateholder, Distributionco or the Liquidator except that the Liquidator shall note, or cause the notation of, the cancellation of such Certificate on the register. Upon the issuance of the Termination Order, all outstanding Certificates shall, forthwith upon the final payment thereunder, if any, pursuant to Section 3.3, be deemed to be of no further force or effect and shall be deemed to have been cancelled with no other action on the part of the Certificateholders, Distributionco or the Liquidator except that the Liquidator shall note, or cause the notation of, the cancellation of all Certificates on the register. Failure of the Liquidator to note, or cause the notation of, the cancellation of the Certificates as required pursuant to this Section 6.1 shall not affect the cancellation of such Certificates.

### **6.2 Release from Covenants**

Upon indefeasible payment of the Maximum Amount payable under each Certificate, or upon receipt of the Termination Order by the Liquidator, and, in each case, upon payment of all costs, charges and expenses properly incurred or claimable by the Liquidator or Distributionco under the OBCA Sanction Order, the Escrow Agreement and/or this Agreement or upon provision satisfactory to the Liquidator and Distributionco being made therefor, each of the Liquidator and Distributionco shall be deemed to be released from its respective obligations and duties hereunder and under the Certificates.

## **ARTICLE 7** **SUPPLEMENTAL ADMINISTRATION AGREEMENTS**

### **7.1 Supplemental Administration Agreements Without Consent of Holders**

For so long as there is a Liquidator, Distributionco and the Liquidator may, at any time and from time to time, without the consent of any Certificateholders, enter into one or more administration agreements supplemental hereto, in form satisfactory to the Liquidator, for any of the following purposes:

- (a) to make any additions to, deletions from or alterations of the provisions of this Agreement or the Certificates that are necessary in order to comply with applicable Law provided, however, that such additions, deletions or alterations shall not adversely affect the interests of the holders of Certificates to any greater

extent than required to comply with applicable Law or have the effect of amending the Plan or the OBCA Sanction Order;

- (b) to cure any ambiguity, error or omission, or to correct or supplement any provision herein which may be defective or inconsistent with any other provision herein, provided, however, that such action shall not adversely affect the interests of any holder of Certificates or have the effect of amending the Plan or the OBCA Sanction Order; or
- (c) to add to or alter the provisions hereof in respect of the registration and transfer of Certificates solely for the purpose of making provision for the issue of Certificates in forms or denominations other than those herein provided for and for the exchange of Certificates of different forms and denominations or making any modification in the form of the Certificates which does not affect the substance thereof or have the effect of amending the Plan or the OBCA Sanction Order.

Distributionco and the Liquidator may correct any typographical, mathematical or other manifest error in this Administration Agreement, if in the opinion of the Liquidator such corrections will not adversely affect the rights of the Liquidator or the interests of any holder of Certificates or have the effect of amending the Plan or the OBCA Sanction Order, and Distributionco and the Liquidator may execute all such documents, including administration agreements supplemental hereto, as may be necessary to correct such errors.

#### **7.2 No Other Supplemental Administration Agreements**

Neither Distributionco nor the Liquidator shall enter into any supplemental administration agreement except for the purposes described in Section 7.1.

#### **7.3 Execution of Supplemental Administration Agreements**

In executing any supplemental administration agreement permitted by this Article, the Liquidator shall be entitled to receive, and shall be fully protected in relying upon, an opinion of its legal advisors stating that the execution of such supplemental administration agreement is authorized or permitted by this Agreement. The Liquidator may, but shall not be obligated to, enter into any such supplemental administration agreement which affects the Liquidator's own rights, duties or immunities under this Agreement or otherwise.

#### **7.4 Effect of Supplemental Administration Agreements**

Upon the execution of any supplemental administration agreement under this Article, this Agreement shall be modified in accordance therewith, and such supplemental administration agreement shall form a part of this Agreement for all purposes; and every holder of Certificates theretofore or thereafter, in the case of Participation Unit Certificates certified and issued hereunder, and in the case of Common Share Certificates deemed to be issued hereunder, shall be bound thereby.



**ARTICLE 8**  
**ADMINISTRATION**

**8.1 Liquidator and Distributionco May Require Indemnity**

Neither the Liquidator nor Distributionco will be obliged to take any measures to enforce this Agreement or any covenant herein contained, including the commencement or continuance of any suit or proceeding to enforce payment of the Sears Variable Note or the Escrow Agreement or the rights of the holders of Participation Units to receive monies thereunder, unless the Liquidator has been provided by or on behalf of one or more of the Certificateholders with (a) funds for that purpose that are considered by the Liquidator to be sufficient and supplied on terms and conditions acceptable to the Liquidator and (b) indemnities acceptable to the Liquidator. In no circumstances shall the Liquidator or Distributionco be required to expend or risk its funds or other assets.

**8.2 Liquidator May Employ Assistants**

The Liquidator, on its own behalf and on behalf of Distributionco, may employ or retain such agents, legal counsel and other assistants as it may reasonably require for the proper discharge of its duties and determination of its rights hereunder and may pay reasonable remuneration and disbursements for all services performed for the Liquidator or Distributionco, which remuneration and disbursements may be reimbursed from any Distribution Amounts, to the extent of available funds, in the Certificate Payment Account, in accordance with Section 3.3(b).

**8.3 Liquidator May Act on Opinions or Advice**

Except as otherwise provided herein, the Liquidator, on its own behalf and on behalf of Distributionco may, in relation to this Agreement, act and rely on the opinion or advice of or on information obtained from any legal counsel, notary, valuer, surveyor, engineer, broker, auctioneer, accountant or other expert, whether obtained by the Liquidator or otherwise.

**8.4 Liquidator May Rely upon Declarations**

In the exercise of its rights and duties, the Liquidator may, if it is acting in good faith, act and rely, as to the truth of the statements and accuracy of the opinions expressed therein, upon a statutory declaration, opinion, report, request, direction, instruction, certificate or other document furnished to the Liquidator in connection with this Agreement where the Liquidator examines the same and determines that it complies with the applicable requirement, if any, of this Agreement.

**8.5 Liquidator May Act on Instruments Believed Genuine**

The Liquidator will not be bound to act in accordance with any resolution of the Certificateholders until an executed copy of the resolution has been delivered to the Liquidator, and the Liquidator will be empowered to act upon any such instrument purporting to be authenticated and believed by the Liquidator to be genuine.

**8.6 No Person Dealing with Liquidator Need Enquire**

No person dealing with the Liquidator need be concerned to enquire whether the powers that the Liquidator is purporting to exercise have become exercisable, or whether any money

remains due upon the Certificates, or to see to the application of any money paid to the Liquidator.

**8.7 Investment of Monies**

Any monies to be held by the Liquidator in the Certificate Payment Account pending the distribution or withdrawal thereof under any provisions of this Agreement shall be invested in Authorized Investments by the Liquidator in the name of Distributionco for the benefit of the Certificateholders. Unless otherwise specifically provided herein, all interest, income, accretions and proceeds accrued or realized and retained by the Liquidator in respect of such deposits and investments ("Income") shall be held for the benefit of the Certificateholders, in accordance with, and subject to, the terms of the Plan, the OBCA Sanction Order, the Escrow Agreement and this Agreement, until distribution thereof. Any securities, documents of title or other instruments that may at any time be held by the Liquidator subject to the provisions hereof may be placed in the deposit vaults of any Canadian chartered bank listed in Schedule I of the *Bank Act* (Canada) or deposited for safekeeping with any such bank.

**ARTICLE 9**  
**THE LIQUIDATOR AND DISTRIBUTIONCO**

**9.1 Liquidator's and Distributionco's Remuneration and Expenses**

- (a) With respect to each distribution to the Certificateholders pursuant to Section 3.3, the Liquidator shall be entitled to be paid from the Certificate Payment Account, \$25 in respect to each cheque issued and mailed (inclusive of cheque reconciliation services and exclusive of out-of-pocket expenses) with a minimum fee of \$500 per distribution.
- (b) Distributionco and, in addition to the foregoing, the Liquidator shall be entitled to payment or reimbursement pursuant to the terms hereof, upon its request, for all reasonable expenses and disbursements incurred by the Liquidator or Distributionco, as the case may be, in the administration or execution of this Agreement (including the reasonable fees and disbursements of its counsel and all other advisers and assistants not regularly in its employ) until all duties of the Liquidator or Distributionco, as the case may be, under this Agreement are finally and fully performed, except any such expense, disbursement or advance that arises from negligence or bad faith on the part of the Liquidator or Distributionco, as the case may be.
- (c) Each of Distributionco and the Liquidator shall be entitled to be reimbursed from any Distribution Amounts and, to the extent of available funds, from the Certificate Payment Account, for any amounts relating to expenses and disbursements for which the Liquidator or Distributionco, as the case may be, is entitled to be reimbursed under this Section 9.1, in accordance with Section 3.3(b).

**9.2 Liquidator Not Required to Give Security**

The Liquidator is not required to give security for its conduct or administration hereunder.

**9.3 Protection of Liquidator**

It is expressly declared and agreed as follows:

- (a) the Liquidator will not be liable for or by reason of any statements of facts or recitals in this Agreement or in the Certificates (except the representation contained in the certificate of the Liquidator on the Certificates) or be required to verify the same, but all such statements or recitals are deemed to be made by Distributionco;
- (b) nothing herein contained will impose any obligation on the Liquidator to see to or to require evidence of registration or filing (or renewals thereof) of this Agreement or any instrument ancillary or supplemental hereto; and
- (c) the Liquidator will not be bound to give any notice of the execution hereof.

**9.4 Disclaimer of Liability**

Neither the Liquidator nor Distributionco, nor any of their respective directors, officers, employees or agents, makes or shall be required to make any representation or gives or shall be required to give any warranty with respect to the issuance or ability to transfer the Certificates or as to the existence of a secondary market or the value of the Certificates or the amount, if any, to be paid with respect thereto or the compliance with applicable Law, if any, in the creation, issuance and/or transfer of the Certificates. The Certificateholders shall have no rights of recourse to, and waive any claims they may now or hereafter have against, and this Section 9.4 may be relied upon by, the Liquidator and Distributionco, or any of their respective directors, officers, employees or agents, by way of statute, common law, equity or otherwise, other than to or in respect of payments, if any, paid under the Certificates.

**9.5 This Agreement; OBCA; OBCA Sanction Order**

Nothing contained in this Agreement shall in any manner limit any of the powers, privileges, rights, remedies, authorities, immunities or protections granted or afforded to the Liquidator under the OBCA, the OBCA Sanction Order or any other order of the Court.

**ARTICLE 10  
NOTICES**

**10.1 Notice to Distributionco or the Liquidator**

Any notice to Distributionco or the Liquidator under the provisions hereof will be valid and effective if in writing and (i) delivered at 90 Eglinton Avenue East, Suite 700, Toronto, Ontario, M4P 2Y3 to the attention of Robert Harlang, or (ii) sent by facsimile at (416) 932-6200 to the attention of Robert Harlang, and, subject as provided in this Section 10.1, will be deemed to have been given at the time of delivery or sending by facsimile. Any delivery made or

facsimile sent on a day other than a Business Day, or after 4:30 p.m. (Toronto time) on a Business Day, will be deemed to have been given on the next following Business Day.

#### **10.2 Notice to Certificateholders**

Any notice under the provisions hereof to the Certificateholders will be valid and effective if delivered in accordance with such instructions as are provided in writing to the Liquidator and where no such instructions are provided, if in writing and delivered, by overnight courier, or sent by facsimile communication, in each case addressed to the Certificateholders at their addresses or facsimile communication numbers, if any, appearing in the register hereinbefore mentioned and, subject as provided in this Section 10.2, will be deemed to have been given at the time of delivery or sending by facsimile. Any notices to joint holders of any definitive Certificate may be given to whichever one of the holders thereof is named first in the register hereinbefore mentioned, and any notice so given shall be sufficient notice to all holders of such Certificate.

### **ARTICLE 11 MEETINGS OF CERTIFICATEHOLDERS**

#### **11.1 Right to Convene Meeting**

The Liquidator shall on receipt of a Certificateholders' Request and upon receipt of sufficient funds or being indemnified to its reasonable satisfaction by the Certificateholders signing such Certificateholders' Request, as the case may be, against the costs that may be incurred in connection with the calling and holding of such meeting, convene a meeting of the Certificateholders. Every such meeting will be held in the City of Toronto or at such other place as may be approved or determined by the Liquidator.

#### **11.2 Notice**

At least five Business Days' notice of any meeting must be given to the Certificateholders in the manner provided in Article 10. Such notice must state the time when and the place where the meeting is to be held and set out the general nature of the business to be transacted thereat. It is not necessary for any such notice to set out the terms of any resolution to be proposed or any of the provisions of this Article 11.

#### **11.3 Chair**

An individual, who need not be a Certificateholder, nominated in writing by the Liquidator, will chair the meeting. If no individual is so nominated, or if the individual so nominated is not present within 15 minutes after the time fixed for the holding of the meeting, the Certificateholders present in person or by proxy may choose an individual present to chair the meeting.

#### **11.4 Quorum**

Subject to the provisions of Section 11.12:

- (a) at any meeting of Certificateholders, a quorum will consist of at least two Certificateholders present in person or by proxy and representing at least 25% of the Participation Units represented by all outstanding Certificates; and
- (b) if a quorum of the Certificateholders is not present within 30 minutes after the time fixed for holding the meeting, such meeting, if convened by the Certificateholders or on a Certificateholders' Request, must be dissolved. If otherwise convened, the meeting will be adjourned without notice to the same day in the next week (unless such day is not a Business Day in which case it shall stand adjourned to the next following Business Day thereafter) at the same time and place, unless the chair appoints some other place, day or time, of which not less than five Business Days' notice must be given in the manner provided in Article 10. At the adjourned meeting, the Certificateholders present in person or by proxy will constitute a quorum and may transact the business for which the meeting was originally convened notwithstanding that they may not represent 25% of the Participation Units represented by all outstanding Certificates.

#### **11.5 Power to Adjourn**

The chair of any meeting at which a quorum of the Certificateholders is present may, with the consent of the holders of a majority of the Participation Units represented by the Certificates represented thereat, adjourn any such meeting and no notice of such adjourned meeting need be given except such notice, if any, as the meeting so adjourned may prescribe.

#### **11.6 Show of Hands**

Every question submitted to a meeting will be decided in the first place by a majority of the votes given on a show of hands except that votes on Extraordinary Resolutions must be given in the manner hereinafter provided. At any such meeting, unless a poll is duly demanded as herein provided, a declaration by the chair that a resolution has been carried or carried unanimously or by a particular majority or lost or not carried by a particular majority will be conclusive evidence of the fact.

#### **11.7 Poll**

On every Extraordinary Resolution, and on any other question submitted to a meeting when demanded after a vote by show of hands by the chair or by any Certificateholders acting in person or by proxy, a poll must be taken in such manner as the chair directs. Questions other than Extraordinary Resolutions will, if a poll is taken, be decided by the votes of the holders of a majority of the Participation Units represented by the Certificates represented at the meeting and voted on the poll.

#### **11.8 Voting**

On a show of hands every person who is present and entitled to vote, whether as a Certificateholder or as proxy for one or more absent Certificateholders or both, will have one vote. On a poll each Certificateholder present in person or represented by a proxy duly appointed by an instrument in writing will be entitled to one vote in respect of each Participation Unit of which it is then the holder. A proxy need not be a Certificateholder. In the case of joint

registered holders of a Certificates, any one of them present in person or by proxy at the meeting may vote in the absence of the other or others; but if more than one of them is present in person or by proxy, they must vote together in respect of the Certificates of which they are joint registered holders.

### **11.9 Regulations**

The Liquidator may from time to time make or vary such regulations as it thinks fit:

- (a) providing for the form of the instrument of proxy and the manner in which the same is to be executed and the production of the authority of any person signing on behalf of a Certificateholder;
- (b) for the deposit of instruments appointing proxies at such place as the Liquidator may in the notice convening the meeting direct, and the time before the holding of the meeting, or adjourned meeting, when the same must be deposited; and
- (c) enabling particulars of such instruments appointing proxies to be mailed, cabled or sent by any other means of electronic communication before the meeting to the Liquidator at the place where the same is to be held and for the voting of proxies so deposited as though the instruments themselves were produced at the meeting.

Any regulations so made will be binding and effective and the votes given in accordance therewith will be valid and counted. Except as otherwise provided by such regulations, the only persons who will be recognized at any meeting as the holders of any Certificates, or as entitled to vote or be present at the meeting in respect thereof, will be the registered holders of Certificates and persons duly appointed as proxy holders.

### **11.10 Representation at Meetings**

The Liquidator, by its officers, employees and directors, and its legal and financial advisors, and the Certificateholders and their respective legal and financial advisors, may attend any meeting of the Certificateholders.

### **11.11 Powers Exercisable by Extraordinary Resolution**

In addition to all other powers conferred upon them by the provisions of this Agreement or by Law, a meeting of the Certificateholders shall have the following powers, exercisable from time to time by Extraordinary Resolution only:

- (a) subject to Article 8, power to direct or authorize the Liquidator to exercise or refrain from exercising any power, right, remedy or authority given to it by this Agreement or the Certificates delivered pursuant hereto in any manner specified in such Extraordinary Resolution, other than the rights of remuneration, funding, reimbursement and indemnity of the Liquidator hereunder and, provided that any such directions or authorizations shall not have the effect of amending or limiting any of the powers, privileges, rights, remedies, authorities, immunities or

protections granted or afforded to the Liquidator under the OBCA Sanction Order; and

- (b) power to repeal, modify or amend any Extraordinary Resolution previously passed by the Certificateholders;

provided that (i) any proposal to modify the terms of the Certificates respecting any payments to be made thereunder or the meaning of Extraordinary Resolution shall require the unanimous approval of all holders of the Certificates, and (ii) any of the foregoing actions which constitutes an amendment to the Plan must be taken in accordance with the amendment provisions of the Plan.

#### **11.12 Meaning of "Extraordinary Resolution"**

- (a) The expression "Extraordinary Resolution" means, subject as hereinafter in this Section 11.12 and in Section 11.15 provided, a resolution passed at a meeting of Certificateholders duly convened for the purpose and held in accordance with the provisions hereof at which the majority of holders in number are present in person or by proxy and the Certificates of such holders represent 66 2/3% of the aggregate number of Participation Units represented by all outstanding Certificates and passed by the affirmative vote of the holders of not less than 50% of the Participation Units represented by the Certificates represented at the meeting and voted thereon.
- (b) If at any such meeting the quorum specified in paragraph (a) above is not present in person or by proxy within 30 minutes after the time appointed for the meeting, then the meeting, if convened by Certificateholders or on a Certificateholders' Request, will be dissolved; but, if otherwise convened, the meeting shall stand adjourned to such date being not less than five Business Days later, and to such place and time as may be appointed by the chair. Not less than five days' notice must be given of such adjourned meeting in the manner provided in Article 10. Such notice shall state that at the adjourned meeting the Certificateholders present in person or by proxy will constitute a quorum but it is not necessary to set forth the purposes for which the meeting was originally called. At the adjourned meeting, the Certificateholders present in person or by proxy shall constitute a quorum and may transact the business for which the meeting was originally convened and a resolution passed at such adjourned meeting and passed by the affirmative vote of the holders of not less than 50% of the Participation Units represented by the Certificates represented at the meeting and voted thereon is an Extraordinary Resolution within the meaning of this Agreement.

#### **11.13 Powers Cumulative**

Any one or more of the powers and any combination of the powers in this Agreement stated to be exercisable by the Certificateholders by Extraordinary Resolution or otherwise may be exercised from time to time and the exercise of any one or more of such powers from time to time will not be deemed to exhaust the right of the Certificateholders to exercise such powers thereafter from time to time.

**11.14 Minutes**

Minutes of all resolutions and proceedings at every meeting of the Certificateholders shall be made and duly entered in books to be from time to time provided for that purpose by the Liquidator at the expense of the Certificateholders, and any such minutes, if signed by the chair of the meeting at which such resolutions were passed or proceedings had, or by the chair of the next succeeding meeting of the Certificateholders, shall be *prima facie* evidence of the matters therein stated and, until the contrary is proved, every such meeting in respect of the proceedings of which minutes shall have been made, shall be deemed to have been duly held and convened, and all resolutions passed thereat or proceedings had, to have been duly passed and had.

**11.15 Instruments in Writing**

All actions that may be taken and all powers that may be exercised by the Certificateholders at a meeting held as herein provided may also be taken and exercised by the holders of 50% of the Participation Units represented by such Certificates by an instrument in writing signed in one or more counterparts and the expression "Extraordinary Resolution" when used in this Agreement includes an instrument so signed.

**11.16 Binding Effect of Resolutions**

Every resolution and every Extraordinary Resolution passed in accordance with the provisions hereof at a meeting of Certificateholders or by an instrument in writing in lieu of a meeting of Certificateholders will be binding upon all Certificateholders entitled to vote at such meeting, and each Certificateholder and the Liquidator (subject to the provisions for its indemnity herein contained) shall be bound to give effect accordingly to every such resolution, Extraordinary Resolution and instrument in writing.



**ARTICLE 12**  
**EXECUTION**

**12.1 Counterparts and Formal Date and Effective Date**

This Agreement may be executed in counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument and notwithstanding their date of execution shall be deemed to be effective from and after the Plan Implementation Date if approved by the Court pursuant to the OBCA Sanction Order. If this Agreement is not approved as aforesaid, it shall be of no force or effect and shall be deemed to be terminated without any further action on the part of any person as of the date of the OBCA Sanction Order.

IN WITNESS WHEREOF the parties hereto have executed this Agreement.

**DISTRIBUTIONCO INC., by RICHTER &  
PARTNERS INC., in its capacity as  
Liquidator of Distributionco Inc. and not in  
its personal capacity**

By: 

Name:

Title:

**RICHTER & PARTNERS INC., in its  
capacity as Liquidator of Distributionco Inc.  
and not in its personal capacity**

By: 

Name:

Title:

**SCHEDULE A to the Administration Agreement dated  
December 30, 1999 between Distributionco Inc. and Richter & Partners Inc., in its capacity  
as Liquidator and not in its personal capacity**

**(FORM OF PARTICIPATION UNIT CERTIFICATE)**

ANY TRANSFER OF THIS CERTIFICATE IS SUBJECT TO THE PROVISIONS OF THE ADMINISTRATION AGREEMENT, AS HEREAFTER DEFINED.

PARTICIPATION UNIT CERTIFICATES ISSUED TO RESIDENTS OF CANADA ARE BEING ISSUED IN RELIANCE UPON EXEMPTIONS FROM THE PROSPECTUS AND REGISTRATION REQUIREMENTS OF APPLICABLE CANADIAN SECURITIES LAWS. AS A RESULT, PARTICIPATION UNIT CERTIFICATES ISSUED TO RESIDENTS OF CANADA MAY NOT BE RESOLD TO PURCHASERS IN CANADA EXCEPT IN RELIANCE UPON AVAILABLE STATUTORY EXEMPTIONS FROM THE APPLICABLE PROSPECTUS AND REGISTRATION REQUIREMENTS.

PARTICIPATION UNIT CERTIFICATES ISSUED TO RESIDENTS OF THE UNITED STATES WILL NOT BE REGISTERED UNDER THE U.S. SECURITIES ACT OF 1933, AS AMENDED (THE "U.S. SECURITIES ACT"), AND ARE BEING ISSUED IN RELIANCE UPON THE EXEMPTION FROM REGISTRATION PROVIDED BY SECTION 3(a)(10) OF THE U.S. SECURITIES ACT. PARTICIPATION UNIT CERTIFICATES ISSUED TO A RESIDENT OF THE UNITED STATES WHO IS NEITHER AN AFFILIATE, FOR PURPOSES OF THE U.S. SECURITIES ACT, OF EATON'S PRIOR TO THE IMPLEMENTATION OF THE PLAN NOR AN AFFILIATE OF DISTRIBUTIONCO AFTER THE IMPLEMENTATION OF THE PLAN (A "RELEVANT AFFILIATE") MAY BE RESOLD WITHOUT RESTRICTION UNDER THE U.S. SECURITIES ACT SO LONG AS SUCH PERSON IS NOT AN AFFILIATE OF DISTRIBUTIONCO AT THE TIME OF SUCH RESALE. ANY RESALE OF PARTICIPATION UNIT CERTIFICATES TO A PERSON WHO IS A RELEVANT AFFILIATE WILL BE SUBJECT TO RESALE RESTRICTIONS UNDER THE U.S. SECURITIES ACT.

PARTICIPATION UNIT CERTIFICATES ISSUED TO RESIDENTS OF JURISDICTIONS OTHER THAN CANADA AND THE UNITED STATES MAY BE SUBJECT TO RESALE RESTRICTIONS.

No. ●

Participation Units: ●

**DISTRIBUTIONCO INC.  
PARTICIPATION UNIT CERTIFICATE**

Distributionco Inc. (formerly known as 1381052 Ontario Inc.) ("Distributionco") hereby agrees to distribute to \_\_\_\_\_, its share, if any, of any Distribution Amount on the Distribution Date therefor, if any, together with Income thereon, in accordance with the provisions of the Administration Agreement (as hereinafter defined), in lawful money of Canada, in the manner provided in the Administration Agreement (unless this Participation Unit Certificate has been previously cancelled or deemed to have been cancelled or to be of no further force and effect in accordance with the provisions of the Administration Agreement) without the necessity of notation of such payments hereon. Interest shall not accrue or be payable in respect of any amount distributed under this Participation Unit Certificate. Distributions hereunder shall be made by the Liquidator, on behalf of Distributionco, sending or causing to be sent a cheque to the holder of this Participation Unit Certificate by prepaid ordinary mail addressed to such holder's last address appearing on the register as of the Record Date, all in accordance with the Administration Agreement.

This Participation Unit Certificate is one of the Certificates designated as Participation Unit Certificates (the "Participation Unit Certificates") issued or to be issued under an administration agreement dated as of December 30, 1999 between Distributionco and Richter & Partners Inc. (the "Liquidator"), as amended, supplemented or varied from time to time (such administration agreement, as so amended, supplemented or varied, is herein referred to as the "Administration Agreement"), to which Administration Agreement and all administration agreements and all instruments supplemental thereto reference is made for a description of the terms and conditions upon which the Participation Unit Certificates are issued and held and the rights of the holders of the Participation Unit Certificates, Distributionco and the Liquidator, all to the same effect as if the provisions of the Administration Agreement and all instruments supplemental thereto were herein set forth, to all of which the holder, by acceptance hereof, assents.

Each Participation Unit represents a unit of Participation allocated a Shareholder on the basis of one unit per Common Share held by such Shareholder and representing a *pari passu* beneficial ownership interest in the proceeds of the Sears Variable Note and any payment thereof after deducting any payment payable to the Liquidator and Distributionco pursuant to the OBCA Sanction Order, the Escrow Agreement and the Administration Agreement.

Capitalized terms and expressions defined in the Administration Agreement and not otherwise defined herein shall, when used in this Participation Unit Certificate, have the same meanings as are ascribed thereto in the Administration Agreement.

This Participation Unit Certificate shall rank *pari passu* with the Common Share Certificates and with each Participation Unit Certificate issued and certified in accordance with the Administration Agreement, as if all such Certificates had been issued and, if applicable, certified simultaneously. The Participation Unit Certificates and the Common Share Certificates are direct obligations of Distributionco. The Participation Unit Certificates and the Common Share Certificates do not constitute debt obligations of Distributionco.

Upon presentment at the principal office of the Liquidator in the City of Toronto, Ontario, and payment of the Liquidator's administration fee (as prescribed by the Administration Agreement), subject to the provisions of the Administration Agreement and upon compliance with the reasonable requirements of the Liquidator, (i) Participation Unit Certificates representing any number of Participation Units may be exchanged for Participation Unit Certificates representing any other authorized denomination of Participation Units in the same aggregate number of Participation Units represented by the Participation Unit Certificates submitted for exchange, and (ii) a Participation Unit Certificate may be transferred by the registered holder thereof or its executors, administrators or other legal representatives or its attorney duly appointed in writing, but no such transfer of a Participation Unit Certificate shall be valid as against Distributionco unless it has been duly certified on one of the registers maintained for that purpose.

This Participation Unit Certificate will not become obligatory for any purpose until it is certified by the Liquidator for the time being under the Administration Agreement.

IN WITNESS WHEREOF Distributionco has caused this Participation Unit Certificate to be signed as of \_\_\_\_\_ which date shall be deemed to be the date of issue hereof.

**DISTRIBUTIONCO INC., by Richter & Partners Inc., in its capacity as Liquidator of Distributionco Inc. and not in its personal capacity**

By: \_\_\_\_\_

Name:

Title:

**(FORM OF LIQUIDATOR'S CERTIFICATE)**

This Certificate is one of the Participation Unit Certificates referred to in the Administration Agreement within mentioned.

**RICHTER & PARTNERS INC., in its  
capacity as Liquidator of Distributionco Inc.  
and not in its personal capacity**

By: \_\_\_\_\_

Name:

Title: *i*

File No. 99-CL-3514

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

THE HONOURABLE ) TUESDAY, THE 6<sup>th</sup> DAY  
JUSTICE MESBUR ) OF JUNE, 2006



**IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*,  
R.S.O. 1990, c. B-16, s. 182 AS AMENDED**

- and -

**IN THE MATTER OF AN APPLICATION BY THE T. EATON  
COMPANY LIMITED RELATING TO A PROPOSED ARRANGEMENT  
INVOLVING THE T. EATON COMPANY LIMITED AND ITS  
SECURITYHOLDERS AND 1381052 ONTARIO INC.**

Applicant

**ORDER**

**THIS MOTION**, made by RSM Richter Inc. (formerly Richter & Partners Inc.), in its capacity as liquidator (the "Liquidator") of the estate and effects of Distributionco Inc. (formerly 1381052 Ontario Inc.) ("Distributionco") for an Order, *inter alia*, authorizing and directing the Liquidator to establish a holdback from the distribution to be made on June 30, 2006 in accordance with the Administration Agreement between Distributionco and the Liquidator dated as of December 30, 1999 (the "Administration Agreement") was heard this day at 393 University Avenue, Toronto, Ontario;

**ON READING** the Notice of Motion and the Report of the Liquidator dated May 31, 2006 (the "Liquidator's Report"), filed, and on hearing the submissions of

counsel for the Liquidator, no one else appearing, although duly served as appears from the Affidavit of Service of Sacha Bonekamp sworn May 31, 2006, filed,

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record herein be and is hereby abridged, that the Motion is properly returnable today.

2. **THIS COURT ORDERS** that any capitalized terms not defined herein shall have the meaning ascribed to them in the Liquidator's Report.

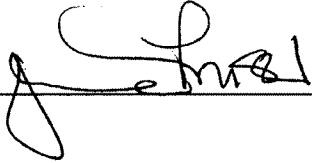
3. **THIS COURT ORDERS** that the Liquidator be and is hereby authorized and directed to cause Distributionco to distribute the amount of \$20,000,0000 from the Certificate Payment Account on June 30, 2006, as set out in the Administration Agreement (the "Initial Distribution"), attached as Exhibit "A".

4. **THIS COURT ORDERS** that the Liquidator be and is hereby authorized and directed to cause Distributionco to make a second distribution (the "Final Distribution") when the Liquidator has obtained clearance certificates and any other confirmations that the Liquidator considers necessary or desirable from the Canada Revenue Agency ("CRA") and its provincial equivalents.

5. **THIS COURT ORDERS** that the Liquidator be and is hereby authorized to cause Distributionco to hold back the balance of the funds in the Certificate Payment Account being approximately \$2.65 million from the Initial Distribution to address any potential tax or tax-related liability of the Liquidator or Distributionco and for the

estimated costs of the Liquidator or Distributionco to be incurred from June 30, 2006 to the date on which the Final Distribution is made.

6. **THIS COURT ORDERS** that the Liquidator be and is hereby authorized and directed to require any Unitholder who requests a replacement of a distribution cheque that is lost or destroyed or becomes stale-dated to pay a fee of \$50.00 to the Liquidator to cover its costs of processing the request.



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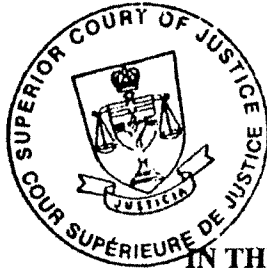
PER/PAR: 



File No. 99-CL-3514

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

THE HONOURABLE )  
JUSTICE LEDERMAN )  
FRIDAY THE 22<sup>ND</sup> DAY  
OF DECEMBER, 2006



**IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*,  
R.S.O. 1990, C. B-16, S. 182 AS AMENDED**

- and -

**IN THE MATTER OF AN APPLICATION BY THE T. EATON COMPANY  
LIMITED RELATING TO A PROPOSED ARRANGEMENT INVOLVING THE  
T. EATON COMPANY LIMITED AND ITS SECURITY HOLDERS AND  
1381052 ONTARIO INC.**

Applicant

**ORDER**

**(APPROVAL OF THE EIGHTH INTERIM DIVIDEND AND DISTRIBUTION OF  
BALANCE OF FUNDS OWING TO PARTICIPATION UNIT HOLDERS)**

THIS MOTION by RSM Richter Inc. in its capacity as liquidator (the "Liquidator") of the estate and effects of Distributionco Inc. (formerly 1381052 Ontario Inc.) ("Distributionco") for an Order, *inter alia*, approving a final distribution to holders of Participation Units and an eighth interim distribution to creditors of Distributionco ("Class I Creditors") and ancillary relief including the establishment of a process for obtaining Social Insurance Numbers ("SIN") and Business Tax Numbers ("BTN") from Canadian Participation Unit holders and a process for obtaining current mailing addresses

from Class I Creditors who have failed to cash one or more previous distribution cheques (“Unresponsive Class I Creditors”), was heard this day at the Courthouse, 330 University Avenue, Toronto, Ontario.

ON READING the Eighth Report to Court of RSM Richter Inc. in its capacity as liquidator of Distributionco dated December 18, 2006 (the “Eighth Report”) and on hearing the submissions of counsel for the Liquidator and counsel for the employee representative of The T. Eaton Company Limited, no one else appearing although duly served as appears from the Affidavit of Service of Kimberly Sellers sworn December 20, 2006, filed,

1. THIS COURT ORDERS that the time for service of the Notice of Motion and Motion Record herein be and is hereby abridged such that the motion is properly returnable today and hereby dispenses with service of the aforesaid materials on interested parties not served.
2. THIS COURT ORDERS that any capitalized term used but not defined in this Order shall have the meaning ascribed to it in the Eighth Report.
3. THIS COURT ORDERS that, subject to the provisions of Paragraph 4 of this Order, the Liquidator be and is hereby authorized and directed to issue an eighth interim distribution to the Class I Creditors in the amount of two cents on the dollar on account of their Class I Distribution Claims (the “Eighth Distribution”).

4. THIS COURT ORDERS that the Liquidator be and is hereby authorized and directed to implement the following process in respect of Unresponsive Class I Creditors:

- (a) the Liquidator shall place an advertisement in *The Globe and Mail* (National Edition) and *La Presse* newspapers, substantially in the form attached hereto as Exhibit "A" (the "Notice") on two occasions, the first on or before January 22, 2007 and the second during the month of February, 2007 directing all Unresponsive Class I Creditors to provide a current mailing address to the Liquidator in writing or by either (A) inputting such information into a web page established for that purpose on the Liquidator's website (the "Web Page"), or (B) providing such information to an attendant answering a dedicated telephone hotline established for that purpose by the Liquidator (the "Hotline");
- (b) all Unresponsive Class I Creditors who do not provide the Liquidator with a current mailing address in the manner set out in the Notice on or before 5:00 p.m. (Toronto time) on July 13, 2007 (the "Mailing Address Deadline") shall forfeit and are hereby deemed to have forfeited their right to receive:
  - (i) their share of the Eighth Distribution; and
  - (ii) any amount being held by the Liquidator in respect of previous distributions to those Unresponsive Class I Creditors,

and all amounts so forfeited shall be shared among the Responsive Class I Creditors and the Unresponsive Class I Creditors who provide a current mailing address on or before the Mailing Address Deadline in accordance with the Notice, *pro rata*. In calculating the *pro rata* share of each Responsive Class I Creditor and Unresponsive Class I Creditor who provides a current mailing address on or before the Mailing Address Deadline for the purpose of this subparagraph, the numerator shall be the amount of each such Class I Creditor's claim and the denominator shall be the total claims of all Responsive Class I Creditors and Unresponsive Class I Creditors who provide a current mailing address on or before the Mailing Address Deadline in accordance with the Notice;

- (c) the Liquidator shall maintain the Web Page and Hotline until such time as a final distribution is made to Class I Creditors so that Class I Creditors may provide the Liquidator with updated mailing addresses from time to time; provided, however that the Liquidator shall not be required to issue any further Notice or advertisement to solicit current mailing addresses from Class I Creditors; and
- (d) any Unresponsive Class I Creditor who fails to provide a current mailing address on or before the Mailing Address Deadline in accordance with the Notice but who subsequently provides a current mailing address to the Liquidator shall be entitled to its *pro rata* share of any distributions that take place after such information is received by the Liquidator.

5. THIS COURT ORDERS THAT the Liquidator be and is hereby authorized and directed to issue a final distribution to holders of Participation Units (the "PUH Final Distribution") distributing the balance remaining in the Certificate Payment Account in accordance with the Order of the Honourable Justice Mesbur dated June 6, 2006, subject to the following:

- (a) the Liquidator shall hold back \$100,000 (the "PUH Holdback") from the PUH Final Distribution to fund its fees and disbursements and the fees and disbursements of its legal counsel, and other costs associated with the PUH Final Distribution;
- (b) the Liquidator shall send a communication to all holders entitled to participate in the PUH Final Distribution with Canadian addresses, as reflected in the books and records of the Liquidator (the "Canadian Holders") (not including Canadian Holders who would receive \$50 or less from the PUH Final Distribution but for this Order) requesting that the Canadian Holders provide to the Liquidator, in writing, their SINs, in the case of individuals, or their BTNs, in the case of corporations, by no later than 5:00 pm (Toronto time) on March 31, 2007 (the "SIN/BTN Deadline");
- (c) Canadian Holders that do not provide a SIN or BTN to the Liquidator on or before the SIN/BTN Deadline shall forfeit and are hereby deemed to have forfeited their entitlement to participate in the PUH Final Distribution;

- (d) prior to making a PUH Final Distribution to a Participation Unit holder the Liquidator shall provide the Canada Revenue Agency (“CRA”) with the name and address of the Participation Unit holder to whom a distribution is proposed to be made, and the amount to be received by such Participation Unit holder from the PUH Final Distribution;
- (e) the Liquidator shall not make a PUH Final Distribution to Participation Unit holders who would receive \$50 or less from the PUH Final Distribution and all such Participation Unit holders shall forfeit and are hereby deemed to have forfeited their right to receive a share of the PUH Final Distribution;
- (f) as soon as reasonably possible following receipt of a SIN or BTN from a Canadian Holder, the Liquidator shall distribute the Participation Unit holder’s *pro rata* share of the PUH Final Distribution to the Canadian Holder, along with a T5 tax slip indicating the amount paid. In calculating the *pro rata* share of a Canadian Holder under this subparagraph (f), the numerator shall be the number of Participation Units held by the Canadian Holder and the denominator shall be the total number of Participation Units outstanding;
- (g) in the case of Participation Unit holders without Canadian addresses, as soon as reasonably possible following the issuance and entry of this Order, the Liquidator shall distribute the Participation Unit holder’s *pro rata* share of the PUH Final Distribution to the Participation Unit holder along

with an NR4 tax slip indicating the amount paid and the tax withheld therefrom. In calculating the *pro rata* share of a Participation Unit holder without a Canadian address under this paragraph (g), the numerator shall be the number of Participation Units held by the Participation Unit holder and the denominator shall be the total number of Participation Units outstanding;

- (h) the Liquidator shall complete the PUH Final Distribution on or before May 1, 2007 or such later date as the Court may order;

6. THIS COURT ORDERS that pursuant to section 7 of the *Personal Information Protection and Electronic Documents Act* (Canada) and notwithstanding the provisions of any similar provincial legislation or provincial or federal legislation dealing with the protection of personal information, the Liquidator be and is hereby authorized and directed to collect, use and disclose personal information of Participation Unit holders and Class I Creditors including, without limitation, addresses, SINS and BTNs and such personal information as the Liquidator might reasonably require in its sole discretion to verify information provided to the Liquidator pursuant to this Order, to the extent necessary or desirable to comply with the provisions of this Order and the Liquidator shall bear no liability for doing so under any such legislation.

7. THIS COURT ORDERS that the activities of the Liquidator to date, as set out in the Eighth Report be and are hereby approved.

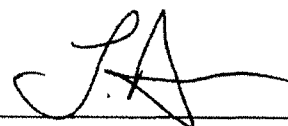
8. THIS COURT ORDERS that any information required to be provided to the Liquidator pursuant to this Order shall be provided via the Web Page or the Hotline

(in the case only of current mailing addresses of Unresponsive Class I creditors) or in writing by courier, personal delivery or facsimile transmission addressed to:

The Liquidator  
c/o RSM Richter Inc., Liquidator of Distributionco Inc.  
200 King Street West  
Suite 1100, P.O. Box 48  
Toronto, Ontario M5H 3T4

Attention: Gus Tertigas  
Email: [gtertigas@rsmrichter.com](mailto:gtertigas@rsmrichter.com)  
Fax: 416.932.6200

Any information so provided shall be deemed received only upon actual receipt thereof during normal business hours on any day on which banks are generally open for business in Toronto, Ontario other than a Saturday or a Sunday (a "Business Day") and information received after normal business hours on any day shall be deemed received on the next Business Day.



Joseph Doria  
Registrar, Superior Court of Justice

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

DEC 22 2006

PER/PAR:





Exhibit "A"

THE T. EATON COMPANY LIMITED ("EATON")

TO ALL FORMER EMPLOYEES AND CREDITORS OF EATON  
("Class 1 Creditors")

To date, RSM Richter Inc. in its capacity as Liquidator of certain assets of Eaton's (the "Liquidator"), has issued seven dividends (the "Previous Dividends") totaling approximately \$115 million and representing 50% of Class 1 Creditor claims. By Order of the Ontario Superior Court of Justice dated December 22, 2006 (the "Order"), the Liquidator has been authorized to issue an eighth dividend (the "Eighth Dividend") to Class 1 Creditors in the amount of two cents on the dollar.

A number of uncashed dividend cheques have been returned to the Liquidator apparently because the Creditors have failed to provide their current mailing addresses. In order to deal with this situation, the Order provides that Class 1 Creditors who have not received one or more of the Previous Dividends who do not provide the Liquidator with a current mailing address on or before 5:00 p.m. (Toronto time) on July 13, 2007, will forfeit their rights to all Previous Dividends and to the Eighth Dividend.

Class 1 Creditors may provide their current mailing address to the Liquidator by:

- Website: [Insert URL];

or

- Telephone hotline: (514) 934-8670 or 1-800-246-1125

or

- Courier, personal delivery or facsimile addressed to:

The Liquidator  
c/o RSM Richter Inc., Liquidator of Distributionco Inc.  
200 King Street West  
Suite 1100, P.O. Box 48  
Toronto, Ontario M5H 3T4  
Attention: Gus Tertigas  
Fax: 416.932.6200

A copy of the Order may be viewed on the Liquidator's website at [www.rsmrichter.com/\[insert remainder of URL\]](http://www.rsmrichter.com/[insert remainder of URL]).

**RSM RICHTER INC.**

**IN THE MATTER OF THE *BUSINESS CORPORATIONS ACT*, R.S.O. 1990, c. B-16, s. 182, AS AMENDED**

**AND IN THE MATTER OF AN APPLICATION BY THE T. EATON COMPANY LIMITED RELATING TO A PROPOSED ARRANGEMENT INVOLVING THE T. EATON COMPANY LIMITED AND ITS SECURITYHOLDERS AND 1381052 ONTARIO INC.**

Applicant

Court File No. 99-CL-3514

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

**Proceeding commenced at TORONTO**

**ORDER**

**FASKEN MARTINEAU DuMOULIN LLP**  
Suite 4200, TD Bank Tower  
Box 20, Toronto-Dominion Centre  
Toronto, Ontario  
M5K 1N6

Edmond F.B. Lamek [LSUC No. 33338U]  
Stuart Brotman [LSUC No. 43430D]  
Tel: (416) 366 8381  
Fax: (416) 364 7813

Solicitors for RSM Richter Inc., in its capacity as  
Liquidator of Distributionco Inc.

RSM Richter Inc.

Exhibit "E"

Administrator of Certificate Payments Account

TD Canada Trust #17042-0584-5225187

Cleared and Outstanding cheques as of April 15, 2008

| CHQ NO: | DATE          | AMOUNT    | PAYEE                        |
|---------|---------------|-----------|------------------------------|
| 019     | June 30, 2006 | 17,928.78 | 1283837 Ontario Ltd.         |
| 025     | June 30, 2006 | 4,093.33  | Richard Butterfield          |
| 028     | June 30, 2006 | 3,274.66  | Fred Morton Holdings Ltd.    |
| 033     | June 30, 2006 | 1,842.00  | Dean Witter Reynolds Inc.    |
| 039     | June 30, 2006 | 1,637.33  | Research Capital Corporation |
| 524     | Nov 30, 2006  | 1,280.68  | PIPE DOUGLAS                 |
| 046     | June 30, 2006 | 1,023.33  | Ruth Grant                   |
| 050     | June 30, 2006 | 900.53    | Gertrud Steyer               |
| 051     | June 30, 2006 | 818.67    | Pierre Archambault           |
| 061     | June 30, 2006 | 818.67    | Mrs. Lori Latchman           |
| 054     | June 30, 2006 | 818.67    | June A. Butcher              |
| 060     | June 30, 2006 | 818.67    | Charles Latva                |
| 400     | Nov 30, 2006  | 802.97    | CYR PIERRE                   |
| 047     | June 30, 2006 | 736.80    | BHC Securities Inc.          |
| 067     | June 30, 2006 | 736.80    | Aubrey Crawford              |
| 351     | Nov 30, 2006  | 728.91    | ANDERSON PAULA               |
| 069     | June 30, 2006 | 614.00    | Svetlana Martinovic          |
| 364     | Nov 30, 2006  | 613.93    | BECK BRUCE                   |
| 464     | Nov 30, 2006  | 603.11    | KYLAU JURGEN                 |
| 521     | Nov 30, 2006  | 526.49    | PENTZ DONALD                 |
| 375     | Nov 30, 2006  | 511.83    | BREZDEN CATHERINE            |
| 484     | Nov 30, 2006  | 490.89    | MCRAE TERESA                 |
| 494     | Nov 30, 2006  | 459.70    | OCHOA AMALIA                 |
| 498     | Nov 30, 2006  | 443.33    | PARE HEATHER                 |
| 451     | Nov 30, 2006  | 435.65    | JAHOUR MIKE                  |
| 531     | Nov 30, 2006  | 421.29    | RICHARDS LIVEEN              |
| 078     | June 30, 2006 | 409.33    | Robin M. Matheson            |
| 542     | Nov 30, 2006  | 374.37    | SARRAZIN MARIO               |
| 547     | Nov 30, 2006  | 367.50    | SMITH ALAN A                 |
| 420     | Nov 30, 2006  | 358.30    | FAULKNER DONNA               |
| 481     | Nov 30, 2006  | 356.20    | MCDOWELL D.T.                |
| 350     | Nov 30, 2006  | 354.59    | ANDERSON JERRA               |
| 459     | Nov 30, 2006  | 348.22    | KEATS STELLA                 |
| 410     | Nov 30, 2006  | 345.67    | DUFFY CHARLOTTE              |
| 380     | Nov 30, 2006  | 340.71    | BUTLER SUSAN                 |
| 377     | Nov 30, 2006  | 333.64    | BROYDELL GRACE               |
| 567     | Nov 30, 2006  | 332.20    | VAN DOORN RITA               |
| 092     | June 30, 2006 | 327.47    | Shanan Sonachansingh         |
| 089     | June 30, 2006 | 327.47    | Brian Charles Hamil          |
| 452     | Nov 30, 2006  | 294.48    | JANSEN NAOMI                 |
| 487     | Nov 30, 2006  | 274.46    | MONTESANO VIC                |
| 349     | Nov 30, 2006  | 270.90    | ANDERSON DINAH               |
| 097     | June 30, 2006 | 266.07    | Shaffaqat H. Raja            |
| 447     | Nov 30, 2006  | 258.88    | HORDATT-REECE TRACEY         |
| 098     | June 30, 2006 | 252.15    | Arden A. Cocco               |
| 106     | June 30, 2006 | 245.60    | Samuel Rode                  |
| 473     | Nov 30, 2006  | 245.34    | LIGHTFOOT PETER              |
| 446     | Nov 30, 2006  | 239.87    | HOPMANS MAIRA                |
| 489     | Nov 30, 2006  | 237.97    | MOORE BRUCE                  |
| 448     | Nov 30, 2006  | 223.95    | HOSEIN MOLLY                 |
| 428     | Nov 30, 2006  | 220.69    | GIBBS ANNA                   |
| 108     | June 30, 2006 | 220.22    | Susan Campbell               |
| 406     | Nov 30, 2006  | 217.35    | DHIR ALKA                    |
| 536     | Nov 30, 2006  | 214.95    | ROBINSON CARRIE              |
| 552     | Nov 30, 2006  | 209.63    | SOUSA SANDRA                 |
| 409     | Nov 30, 2006  | 208.95    | DOWKER JUDITH                |
| 113     | June 30, 2006 | 202.21    | Audrey A. Alexander          |
| 404     | Nov 30, 2006  | 189.70    | DESCHENES RICHARD            |
| 534     | Nov 30, 2006  | 184.50    | ROBERTS DAWN                 |
| 499     | Nov 30, 2006  | 180.25    | PARKER HALINA                |

**RSM Richter Inc.****Administrator of Certificate Payments Account****TD Canada Trust #17042-0584-5225187****Cleared and Outstanding cheques as of April 15, 2008**

| <b>CHQ NO:</b> | <b>DATE</b>   | <b>AMOUNT</b> | <b>PAYEE</b>                          |
|----------------|---------------|---------------|---------------------------------------|
| 378            | Nov 30, 2006  | 177.58        | BURT KATHY                            |
| 483            | Nov 30, 2006  | 177.42        | MCKNIGHT ANGELA                       |
| 124            | June 30, 2006 | 163.73        | William Krumajs                       |
| 121            | June 30, 2006 | 163.73        | Sandy Gillespie                       |
| 115            | June 30, 2006 | 163.73        | Miss Ruth Alexander                   |
| 116            | June 30, 2006 | 163.73        | Eric A. B. Brock                      |
| 122            | June 30, 2006 | 163.73        | Avrum Grader                          |
| 523            | Nov 30, 2006  | 162.73        | PETERS PETER                          |
| 576            | Nov 30, 2006  | 162.16        | WILLIAMSON MARION                     |
| 658            | Jan 05, 2007  | 154.98        | PIPE DOUGLAS                          |
| 573            | Nov 30, 2006  | 154.11        | WALLACE TRACEY                        |
| 383            | Nov 30, 2006  | 150.45        | CAMERON MAURA                         |
| 571            | Nov 30, 2006  | 150.39        | VYSE VANESSA                          |
| 493            | Nov 30, 2006  | 146.40        | NIJJAR SUKHJIT                        |
| 374            | Nov 30, 2006  | 145.04        | BOYES JUNE                            |
| 455            | Nov 30, 2006  | 143.80        | JENSEN SALLY                          |
| 136            | June 30, 2006 | 143.27        | Eric Yule                             |
| 639            | Jan 05, 2007  | 138.05        | FOTI ANTONIETTA                       |
| 357            | Nov 30, 2006  | 130.83        | BAKER KEN                             |
| 402            | Nov 30, 2006  | 129.26        | DEMERS FREDERICK                      |
| 543            | Nov 30, 2006  | 123.13        | SENEY ANGELA                          |
| 120            | June 30, 2006 | 122.80        | Ted Fleischaker                       |
| 127            | June 30, 2006 | 122.80        | National Financial Services Corp.     |
| 139            | June 30, 2006 | 119.53        | Grace Dikken                          |
| 346            | Nov 30, 2006  | 104.17        | ADAIR ANITA                           |
| 585            | Nov 30, 2006  | 103.92        | YITZHAKY LIOR                         |
| 414            | Nov 30, 2006  | 99.24         | EHMAN ODARKA                          |
| 462            | Nov 30, 2006  | 97.47         | KINGSTON WANDA                        |
| 637            | Jan 05, 2007  | 97.17         | CYR PIERRE                            |
| 485            | Nov 30, 2006  | 95.61         | MILLS WAYNE                           |
| 145            | June 30, 2006 | 90.87         | Grace G. Rosso                        |
| 405            | Nov 30, 2006  | 89.45         | DEYOUNG ROBERT                        |
| 627            | Jan 05, 2007  | 88.21         | ANDERSON PAULA                        |
| 565            | Nov 30, 2006  | 87.84         | TRESCAK DANIEL                        |
| 223            | June 30, 2006 | 81.87         | Vanda Scandivano                      |
| 230            | June 30, 2006 | 81.87         | Scott Vali                            |
| 206            | June 30, 2006 | 81.87         | Robert N. McLean                      |
| 189            | June 30, 2006 | 81.87         | Peter Hickey                          |
| 211            | June 30, 2006 | 81.87         | Nesbitt Burns Inc.                    |
| 179            | June 30, 2006 | 81.87         | Murray G. Galloway                    |
| 163            | June 30, 2006 | 81.87         | Mrs. Susan Yeats Cowan                |
| 183            | June 30, 2006 | 81.87         | Mrs. Irene Gies                       |
| 175            | June 30, 2006 | 81.87         | Miss Dora Irene Ellis                 |
| 168            | June 30, 2006 | 81.87         | Miguel Donawa                         |
| 166            | June 30, 2006 | 81.87         | Michael Dunlop                        |
| 181            | June 30, 2006 | 81.87         | Maureen C. Galloway                   |
| 148            | June 30, 2006 | 81.87         | Mark Angus                            |
| 151            | June 30, 2006 | 81.87         | Keith M. Bekker                       |
| 229            | June 30, 2006 | 81.87         | Kathleen Timmins c/o Peter A. Timmins |
| 169            | June 30, 2006 | 81.87         | John Eadie                            |
| 185            | June 30, 2006 | 81.87         | Grafton Fraser Inc.                   |
| 222            | June 30, 2006 | 81.87         | Glenn O. Rui                          |
| 219            | June 30, 2006 | 81.87         | Glen Pichanick                        |
| 174            | June 30, 2006 | 81.87         | Fraser Corporation                    |
| 154            | June 30, 2006 | 81.87         | Derrick Booth                         |
| 152            | June 30, 2006 | 81.87         | Brawley Cathers Limited               |
| 226            | June 30, 2006 | 81.87         | Brad Taylor                           |
| 172            | June 30, 2006 | 81.87         | Berthe C. Forest                      |
| 232            | June 30, 2006 | 81.87         | Anthony Volpini                       |
| 193            | June 30, 2006 | 81.87         | Ann E. Harris                         |
| 150            | June 30, 2006 | 81.87         | Allan L. Beattie                      |

**RSM Richter Inc.****Administrator of Certificate Payments Account****TD Canada Trust #17042-0584-5225187****Cleared and Outstanding cheques as of April 15, 2008**

| <b>CHQ NO:</b> | <b>DATE</b>   | <b>AMOUNT</b> | <b>PAYEE</b>                               |
|----------------|---------------|---------------|--|
| 419            | Nov 30, 2006  | 77.83         | FARNOOSH ZOHREH                            |
| 477            | Nov 30, 2006  | 75.85         | MAGUIRE DEBRA                              |
| 669            | Jan 05, 2007  | 75.60         | WOODWARD ERIC                              |
| 373            | Nov 30, 2006  | 75.58         | BOYDA-HADZIPETROS DIANNE                   |
| 632            | Jan 05, 2007  | 74.29         | BECK BRUCE                                 |
| 144            | June 30, 2006 | 73.68         | Dean Witter Reynolds Inc.                  |
| 645            | Jan 05, 2007  | 72.98         | KYLAU JURGEN                               |
| 379            | Nov 30, 2006  | 68.97         | BURTON MICHAEL                             |
| 363            | Nov 30, 2006  | 64.95         | BEAUDOIN NANCIE                            |
| 657            | Jan 05, 2007  | 63.71         | PENTZ DONALD                               |
| 418            | Nov 30, 2006  | 63.17         | ETCHER ELAINE                              |
| 633            | Jan 05, 2007  | 61.94         | BREZDEN CATHERINE                          |
| 171            | June 30, 2006 | 61.40         | Everen Clearing Corp.                      |
| 651            | Jan 05, 2007  | 59.40         | MCRAE TERESA                               |
| 434            | Nov 30, 2006  | 57.81         | GRANT JOCELYN                              |
| 411            | Nov 30, 2006  | 57.45         | DURAN JENNY                                |
| 472            | Nov 30, 2006  | 56.31         | LEPINE GINETTE                             |
| 235            | June 30, 2006 | 55.67         | Theresa T. Forti                           |
| 654            | Jan 05, 2007  | 55.63         | OCHOA AMALIA                               |
| 655            | Jan 05, 2007  | 53.65         | PARE HEATHER                               |
| 643            | Jan 05, 2007  | 52.72         | JAHOUR MIKE                                |
| 586            | Nov 30, 2006  | 50.17         | YORK DONNA                                 |
| 460            | Nov 30, 2006  | 48.80         | KELLER JULIE                               |
| 367            | Nov 30, 2006  | 46.94         | BENNETT BEVERLEY                           |
| 240            | June 30, 2006 | 43.39         | Jo Ann J. Matthews                         |
| 254            | June 30, 2006 | 40.93         | Tim Matheson                               |
| 258            | June 30, 2006 | 40.93         | S.P. McGillivray                           |
| 248            | June 30, 2006 | 40.93         | Ross I. Galloway                           |
| 253            | June 30, 2006 | 40.93         | Nancy L. Matheson                          |
| 246            | June 30, 2006 | 40.93         | Elizabeth Marshall Galloway                |
| 250            | June 30, 2006 | 40.93         | David Harrison                             |
| 261            | June 30, 2006 | 38.48         | Chanpreet Lall                             |
| 568            | Nov 30, 2006  | 37.72         | VANDERGUGTEN JACQUELINE                    |
| 443            | Nov 30, 2006  | 32.02         | HESTERMAN DARREN                           |
| 490            | Nov 30, 2006  | 31.11         | NADEAU MICHEL                              |
| 376            | Nov 30, 2006  | 29.90         | BROWN JAIME                                |
| 395            | Nov 30, 2006  | 27.30         | COURCHESNE DANNY                           |
| 529            | Nov 30, 2006  | 23.36         | RAMDAYAL TULSIE                            |
| 266            | June 30, 2006 | 20.47         | Serita Chase                               |
| 269            | June 30, 2006 | 20.47         | Patricia I. Lammerding                     |
| 267            | June 30, 2006 | 20.47         | Kenneth R. Donner                          |
| 276            | June 30, 2006 | 16.37         | Sharon Risso                               |
| 278            | June 30, 2006 | 16.37         | Jennifer Margaret Torunski                 |
| 265            | June 30, 2006 | 15.35         | Enrique Elmo Bonaparte                     |
| 271            | June 30, 2006 | 12.28         | Robert Brown                               |
| 297            | June 30, 2006 | 8.19          | Thomas Edward Poppitt                      |
| 295            | June 30, 2006 | 8.19          | Rex Prangley                               |
| 287            | June 30, 2006 | 8.19          | Mr. Robb W. Hindson                        |
| 292            | June 30, 2006 | 8.19          | Michele S. Mickel                          |
| 284            | June 30, 2006 | 8.19          | Lyle Michael Doering                       |
| 282            | June 30, 2006 | 8.19          | Joyce Clark                                |
| 293            | June 30, 2006 | 8.19          | John Mole                                  |
| 290            | June 30, 2006 | 8.19          | Jason Maitland & Joanne Dimond             |
| 289            | June 30, 2006 | 8.19          | David Lemieux                              |
| 283            | June 30, 2006 | 8.19          | Dana J. Crang & Sarah E. Crang JT Ten Wros |
| 291            | June 30, 2006 | 6.14          | Norm E. Matthew                            |
| 301            | June 30, 2006 | 4.09          | Mrs. Philomene Salvatore                   |
| 302            | June 30, 2006 | 4.09          | Monica Sauve                               |
| 304            | June 30, 2006 | 4.09          | Lydia Zajc                                 |
| 303            | June 30, 2006 | 4.09          | Eric Walsh                                 |
| 305            | June 30, 2006 | 1.64          | Sophie Gronkowski                          |

**RSM Richter Inc.**  
**Administrator of Certificate Payments Account**  
**TD Canada Trust #17042-0584-5225187**  
**Cleared and Outstanding cheques as of April 15, 2008**

| <b>CHQ NO:</b> | <b>DATE</b>   | <b>AMOUNT</b> | <b>PAYEE</b>                                     |
|----------------|---------------|---------------|--|
| 319            | June 30, 2006 | 0.82          | Mark W. Lillie                                   |
| 310            | June 30, 2006 | 0.82          | Jose A. Bairos                                   |
| 318            | June 30, 2006 | 0.82          | Colin Mathers                                    |
| 313            | June 30, 2006 | 0.82          | Catherine L. Clark                               |
| 309            | June 30, 2006 | 0.82          | 1274527 Ontario Inc. & White Raven Capital Corp. |
| 391            | Nov 30, 2006  | 0.53          | COCCO ARDEN                                      |

61,798.30

|                     |                     |
|---------------------|---------------------|
| Total cheque cashed | -                   |
| Total outstanding   | <u>61,798.30</u>    |
|                     | <u>\$ 61,798.30</u> |