

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

**IN THE MATTER OF THE NOTICE OF INTENTION
TO MAKE A PROPOSAL OF SHOP.CA NETWORK
INC.**, a corporation incorporated pursuant to the laws of
the Canada, with a head office in the City of Toronto, in
the Province of Ontario

**MOTION RECORD
(Motion for Approval of the Sale Transaction)
(Returnable July 15, 2016)**

July 11, 2016

STIKEMAN ELLIOTT LLP
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5300 Commerce Court West
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Lawyers for the Applicant

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TAB 1

**ONTARIO
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Ontario

**NOTICE OF MOTION
(Motion for Approval of the Sale Transaction)
(Returnable July 15, 2016)**

SHOP.CA Network Inc. ("**SHOP.CA**") will make a motion to a judge presiding over the Commercial List, on Friday, July 15, 2016, at 10:00 a.m. or as soon after that time as the motion can be heard, at 330 University Avenue, Toronto, Ontario.

PROPOSED METHOD OF HEARING: The motion is to be heard orally.

THE MOTION IS FOR:

1. An Order (the "**Approval and Vesting Order**"), substantially in the form of the draft order located at Tab 3 of SHOP.CA's Motion Record, *inter alia*:
 - (a) Authorizing SHOP.CA to execute the Asset Purchase Agreement (the "**APA**") between SHOP.CA and Transformational Capital Corporation (the "**Purchaser**" or "**TCC**");
 - (b) Approving the APA for the sale of the Purchased Assets (as defined in the APA) and the transactions contemplated thereby (the "**Sale Transaction**");
 - (c) Vesting all of the Purchased Assets in the Purchaser free and clear of any claims and encumbrances;

- (d) Extending the time for SHOP.CA to file a proposal and the corresponding stay of proceedings (the “**Stay Period**”) under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) until July 20, 2016.
2. Such other relief as the Court may deem just and appropriate.

THE GROUNDS FOR THE MOTION ARE:

BACKGROUND

1. SHOP.CA is an e-commerce marketplace providing Canadian retailers with a platform to sell their products online directly to consumers.
2. On June 7, 2016, SHOP.CA filed a Notice of Intention to Make a Proposal (the “**NOI**”) under the BIA and commenced these proposal proceedings.
3. On June 9, 2016, SHOP.CA sought and obtained approval of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) of a sale process (the “**Bid Process**”) for SHOP.CA to be executed by the Proposal Trustee with the assistance of the Company.

BID PROCESS

4. SHOP.CA has been exploring strategic alternatives, including the possibility of a sale of substantially all its assets or share capital since August 2015.
5. The Bid Process was designed as a final attempt to preserve SHOP.CA’s business as a going-concern by exploring sale opportunities within the context of these proposal proceedings.

6. On July 8, 2016 the Proposal Trustee sent marketing materials to 240 strategic potential purchasers and 153 financial potential purchasers. A total of 20 parties executed non-disclosure agreements and six of those potential purchasers expanded their due diligence by engaging in discussions with the Proposal Trustee and SHOP.CA's management.

7. At the bid deadline under the Bid Process, the Proposal Trustee received two offers to purchase substantially all of SHOP.CA's assets. TCC submitted one of the two bids received by the Proposal Trustee.

8. SHOP.CA and the Proposal Trustee subsequently continued to negotiate with TCC and the other bidder in effort to clarify terms of the bids in order to maximize the realization on the Company's assets for the benefit of all stakeholders.

9. After continuing these negotiations one of the bidders informed the Proposal Trustee that it intended to withdraw from the Bid Process.

10. On July 8, 2016, after extensive negotiations, TCC and SHOP.CA agreed upon the APA.

11. The Board of SHOP.CA has approved the Sale Transaction and APA, subject to final Court approval.

ASSET PURCHASE AGREEMENT

12. The APA contemplates the sale of substantially all of the assets of SHOP.CA for a purchase price greater than the liquidation value of SHOP.CA's assets which would be realized in a bankruptcy.

13. The Purchaser has agreed to offer employment to five of SHOP.CA's active employees. No contracts of SHOP.CA are being assumed by the Purchaser under the APA.

14. The APA contains minimal conditions to closing and it is expected that closing may occur on the day or one business day after the Approval and Vesting Order is issued and entered.

15. The market for SHOP.CA has been thoroughly canvassed through the Bid Process and the informal sales process carried on prior to the Proposal Proceeding. The APA represents the highest price available for the assets of SHOP.CA and the only going concern solution that will offer continued employment for some of SHOP.CA's employees.

16. The Proposal Trustee is supportive of the approval of the Sale Transaction.

EXTENSION OF THE STAY PERIOD

17. Leading up to Closing and shortly after Closing, SHOP.CA and the Proposal Trustee will continue to address issues with employees, suppliers, customers and other stakeholder, and otherwise advance the proposal proceedings.

18. Extending the Stay Period to July 20, 2016 will allow Closing to occur while there is a stay of proceedings against SHOP.CA. After the expiry of the Stay Period SHOP.CA will make an assignment into bankruptcy and complete the assessment of claims and distribution of proceeds and available funds through the bankruptcy.

19. SHOP.CA has been acting and continues to act in good faith and with due diligence during these proposal proceedings.

20. No creditor of SHOP.CA will be materially prejudiced by extending the Stay Period as SHOP.CA has sufficient liquidity to continue operating during the proposed extension of the Stay Period.

21. It is just and convenient and in the interest of SHOP.CA and its stakeholders that the Stay Period be extended to July 20, 2016.

SEALING ORDER

22. Certain information contained in the APA is commercially sensitive, including the cash purchase price being paid by the Purchaser. If the Sale Transaction is not completed a competitive process for realizing on the assets of SHOP.CA must be maintained.

23. The unredacted APA and the aggregate purchase price will be made available to the Court by way of a confidential supplement to Proposal Trustee's report.

24. The sealing order will not prejudice SHOP.CA's stakeholders.

GENERAL

25. Sections 50.4(9), 65.13, 183 of the BIA and the other provisions of the BIA;

26. Rules 1.04, 1.05, 2.03, 3.02 and 37 of the *Rules of Civil Procedure*, R.R.O. 1990 Reg. 194, as amended;

27. Section 137(2) of the *Courts of Justice Act*, R.S.O. 1990, c C. 43; and

28. Such further grounds as counsel may advise and this Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. The Affidavit of Anthony Chvala sworn July 12, 2016 and the exhibits thereto;
2. The Second Report of the Proposal Trustee; and
3. Such further and other material as counsel may advise and this Court may permit.

July 11, 2016

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Estate/Court File No. 31-2131992

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

Proceeding commenced at Toronto

**NOTICE OF MOTION
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Lawyers for the Applicant

TAB 2

ONTARIO
SUPERIOR COURT OF JUSTICE
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AFFIDAVIT OF ANTHONY CHVALA
(Sworn July 12, 2016 re Approval of the Sale Transaction)

I, Anthony Chvala, of the City of Chicago, in the State of Illinois, **MAKE OATH AND
SAY:**

1. I am the Chief Executive Officer of SHOP.CA Network Inc. ("**SHOP.CA**" or the "**Company**") and as such have knowledge of the matters to which I hereinafter depose, except where otherwise stated. I have also reviewed the records and filings of the Company and have spoken with certain of the officers and/or employees of the Company, as necessary, and where I have relied upon such information, I verily believe such information to be true.

2. This affidavit is sworn in support of the motion brought by SHOP.CA seeking an Order (the "**Approval and Vesting Order**"), substantially in the form of the draft order located at Tab 3 of SHOP.CA's Motion Record, *inter alia*:

- (a) Authorizing SHOP.CA to execute the Asset Purchase Agreement (the "**APA**") between SHOP.CA and Transformational Capital Corporation (the "**Purchaser**" or "**TCC**");
- (b) Approving the APA for the sale of the Purchased Assets (as defined below) and the transactions contemplated thereby (the "**Sale Transaction**");

- (c) Vesting all of the Purchased Assets in the Purchaser free and clear of any claims and encumbrances; and
- (d) Extending the time for SHOP.CA to file a proposal and the corresponding stay of proceedings (the “**Stay Period**”) under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) until July 20, 2016.

BACKGROUND AND STATUS OF PROPOSAL PROCEEDINGS

3. SHOP.CA is an e-commerce marketplace providing Canadian retailers with a platform to sell their products online directly to consumers. SHOP.CA was incorporated in September, 2009, and at the time of commencing these proceedings had a network of 450 merchants offering over 250,000 products on SHOP.CA’s platform.

4. SHOP.CA experienced rapid growth after its founding, generating 133% annual growth in membership and 190% annual growth in number of visits to its website, www.shop.ca. However, due to competitive factors and significant expenses associated with the growth, SHOP.CA has experienced financial difficulties and has been operating at a loss since its founding.

5. On June 7, 2016, SHOP.CA filed a Notice of Intention to Make a Proposal (the “**NOI**”) under the BIA and commenced these proposal proceedings (the “**Proposal Proceedings**”). Richter Advisory Group Inc. was appointed as proposal trustee of SHOP.CA (the “**Proposal Trustee**”).

6. On June 9, 2016, SHOP.CA sought and obtained approval of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) of a sale process (the “**Bid Process**”) for SHOP.CA to be executed by the Proposal Trustee with the assistance of the Company.

7. In addition to implementing the Bid Process, as further described herein, since commencing these Proposal Proceedings, the Company has been working diligently on a number of issues, while maintaining operations of the Company, including:

- (a) Communicating with our employees, shareholders, merchants and customers regarding the Proposal Proceedings and Bid Process;
- (b) Dealing with our banking partners, Toronto-Dominion Bank (“**TD Bank**”) and credit card providers regarding necessary assistance to ensure ongoing operations;
- (c) Dealing with our merchants to ensure ongoing supply of product on the website;
- (d) Planning for customer returns and credits;
- (e) Implemented weekly merchant payments post-NOI filing;
- (f) Working with TCC on additional due-diligence, including interviews with all employees; and
- (g) Continuing discussions with key vendors and partners (AIMIA) to ensure the continuation of services/relationships.

BID PROCESS

8. As set out in detail of the affidavit of Robert S. Lee sworn June 8, 2016 (the “**CFO Affidavit**”), SHOP.CA started exploring strategic alternatives, including the possibility of a sale of substantially all its assets or share capital since August 2015. Initially Canaccord Genuity Corp. and Scotia Capital Inc. approached approximately 25 potential purchasers in order to develop a sale or financing transaction. Despite interest, no actionable transaction was

developed. In May 2016, I continued the sales process by approaching potential purchasers. SHOP.CA received three non-binding letters of intent during the pre-proposal sale process but a transaction failed to materialize.

9. A copy of the CFO Affidavit (without exhibits) which details SHOP.CA's sales process prior to the commencement of the Proposal Proceedings is attached hereto as Exhibit "A".

10. Due to the Company's liquidity situation, it was unable to continue to the informal sales process outside of an insolvency proceeding. The Bid Process was designed as a final attempt to preserve SHOP.CA's business as a going-concern by exploring sale opportunities within the context of these Proposal Proceedings.

11. As time was of the essence, the Bid Process was initiated on June 8, 2016 immediately after filing the NOI. As will be further detailed in the Proposal Trustee's second report to be filed, the Proposal Trustee sent marketing materials to 240 strategic potential purchasers and 153 financial potential purchasers. The list of potential purchasers was developed in conjunction with SHOP.CA's management and included parties that previously expressed an interest in SHOP.CA as part of its informal sales process prior to the Proposal Proceedings.

12. After the initial solicitation, a total of 20 parties executed non-disclosure agreements provided by the Proposal Trustee and were given access to a data-room set up in order to perform due diligence.

13. Under the Bid Process, interested bidders were required to submit final binding offers on a "as is, where is" basis to the Proposal Trustee by 12PM EST on June 30, 2016. A template asset purchase agreement was placed in the dataroom, against which the bidders were asked to submit their bids, blacklined against the template for any changes they proposed. At the bid deadline, the Proposal Trustee received two offers to purchase substantially all of SHOP.CA's assets. TCC submitted one of the two bids received by the Proposal Trustee. SHOP.CA and the

Proposal Trustee subsequently continued to negotiate with TCC and the other bidder in effort to clarify terms of the bids in order to maximize the realization on the Company's assets for the benefit of all stakeholders.

14. After continuing these negotiations one of the bidders informed the Proposal Trustee that it intended to withdraw from the Bid Process.

15. After evaluating the remaining bid from TCC, the Proposal Trustee and the Company's management recommended the bid from TCC be declared the successful bid under the Bid Process.

16. On July 8, 2016, after extensive good faith and arm length negotiations, TCC and SHOP.CA agreed upon the final terms of the APA. The Board of SHOP.CA (the "**Board**") has approved the Sale Transaction and APA, subject to final Court approval.

17. During the Bid Process, the Board was consistently updated on the status of the Bid Process and any material developments. Observers to the Board who represent significant shareholders of SHOP.CA were also kept apprised of the status of the Bid Process and material developments.

THE ASSET PURCHASE AGREEMENT

18. The APA contemplates the sale of substantially all of the assets of SHOP.CA for a purchase price which I understand the Proposal Trustee believes to be greater than the liquidation value of SHOP.CA's assets which would be realized in a bankruptcy. The APA also provides for the continued employment of five of SHOP.CA's employees. A redacted copy of the final version of the APA between SHOP.CA and TCC is attached hereto as Exhibit "**B**". The APA has been redacted to protect certain commercially sensitive and personal information. An unredacted copy of the APA will be filed with the Court.

19. The following is a summary of the material elements of the APA. All capitalized terms in this section of the affidavit and not otherwise defined herein shall have the meanings ascribed to them in the APA.

Purchase Price

20. Due to commercial sensitivity and the need to maintain a competitive process should the Sale Transaction not be completed, the dollar value of the Purchase Price and related information has been redacted. I understand the aggregate Purchase Price will be made available to the Court by way of the filing of the unredacted copy of the APA.

21. The entire cash component of the Purchase Price will be paid by applying the Deposit delivered by the Purchaser to the Company's counsel during negotiation of the APA. At this time, our counsel is holding 100% of the cash Purchase Price in its trust account. In addition to the payment of the cash component of the Purchase Price, the Purchaser will assume all Assumed Liabilities.

Purchased Assets

22. The Purchaser has agreed to purchase all of SHOP.CA's undertakings, property and assets that relate to or are used in connection with the operation of the Business (the "**Purchased Assets**") on an "as is, where is" basis free and clear of all Encumbrances (other than Permitted Encumbrances) as provided in the Approval and Vesting Order, including but not limited to:

- (a) the Intellectual Property used in the Business, including the name "SHOP.CA";
- (b) all movable property and all equipment, fixtures and computer hardware located in or used in connection with the Business;
- (c) all accounts receivable; and

- (d) the goodwill of the Business.

Excluded Assets

23. The APA provides that the Purchased Assets will not include the following, among other things:

- (a) cash on hand;
- (b) any and all amounts that may be due to the Vendor from Canada Revenue Agency or any provincial tax authorities;
- (c) the Real Property Lease; and
- (d) any contracts that are not Assumed Contracts or Additional Contracts.

24. The Company believes that the Real Property Lease may have additional value and the Proposal Trustee, in conjunction with the Company, intend to market the Real Property Lease after Closing of the Sale Transaction.

Assumed and Excluded Liabilities

25. The Purchaser will assume the following liabilities:

- (a) all liabilities and obligations in respect of the Transferred Employees accruing after the Closing Date; and
- (b) any Transfer Taxes payable by the Purchaser.

26. Other than the Assumed Liabilities, the Purchaser will not assume and will not be liable or otherwise responsible for any debts, liabilities or other obligations of SHOP.CA

Contracts

27. The Purchaser is not being assigned any contracts to which SHOP.CA is a party. The APA provides that the Purchaser may request the assignment of Additional Contracts; however, the Additional Contracts will only be assigned with consent of the counterparty (if required). SHOP.CA is not seeking any relief in respect of the Additional Contracts.

28. SHOP.CA understands from discussions with the Purchaser, that the Purchaser intends to negotiate new contracts with the current suppliers of SHOP.CA as the business operated by the Purchaser is expected to operate on a smaller scale in the short term after Closing.

Employees

29. The Purchaser has agreed to offer employment effective as of the Closing Date to five of SHOP.CA's active employees (the "**Transferred Employees**") on terms and conditions which I understand are substantially similar to the terms under which such employees are currently employed.

30. Once the list of Transferred Employees was made known to SHOP.CA, it was necessary that employees not being offered employment by Purchaser be terminated except for a small number of critical employees who will assist in maintaining operations to Closing. SHOP.CA's employees who are not Transferred Employees were terminated on Friday, July 8, 2016. SHOP.CA has used its best efforts to maintain as many of its employees as possible throughout the Proposal Proceedings and Bid Process. We were hopeful that the Bid Process would provide ongoing employment to as many of our employees as possible.

Closing Date and Conditions to Closing

31. The APA provides that the Sale Transaction will close on (i) three (3) Business Days following the day on which the last of the conditions of Closing have been fulfilled, or (ii) such earlier or later date as the parties may agree.

32. The APA contains minimal conditions to closing. The conditions to closing require that, among other things:

- (a) The Approval and Vesting Order shall have been issued and entered by the Court; and
- (b) All employees other than Transferred Employees shall be terminated by SHOP.CA.

33. SHOP.CA expects that if the Approval and Vesting Order is issued, the remaining employees who are not Transferred Employees will be immediately terminated and Closing will occur on that date or the immediately following day.

THE SALE TRANSACTION

34. As described above, SHOP.CA, with assistance from its legal advisors and the Proposal Trustee undertook the Bid Process as approved by the Court. The market for SHOP.CA has been thoroughly canvassed through the Bid Process and the informal sales process carried on prior to the Proposal Proceeding. The APA represents the highest price available for the assets of SHOP.CA and the only going concern solution that will offer continued employment for the Transferred Employees. The Sale Transaction will also permit our merchants an ongoing platform to showcase and sell their products.

35. In the circumstances, especially taking into account SHOP.CA's liquidity situation which would not allow it to run a future sales process while maintaining operations, the APA represents the best possible transaction for the benefit of SHOP.CA and its stakeholders, including its creditors and employees.

36. I understand that the Proposal Trustee also supports the Sale Transaction and will file a report in connection with this motion supporting the Sale Transaction.

37. The Purchaser and SHOP.CA are not related persons as that term is defined in the BIA.

38. I am advised by Lee Nicholson of Stikeman Elliott LLP that, in accordance with section 65.13(8) of the BIA, SHOP.CA can and will make the payments (or satisfactory arrangements therefor) that are required under sections 60(1.3)(a) of the BIA (as applicable) relating to priority wage claims. I am further advised that section 60(1.5) of the BIA is not applicable as SHOP.CA does not maintain a pension plan for its employees.

39. I am further advised by Mr. Nicholson that TD Bank, the only party with a *Personal Property Security Act* (Ontario) registration against SHOP.CA, will be served with notice of this motion and copies of the motion materials.

EXTENSION OF THE STAY PERIOD

40. The Sale Transaction is expected to close on the day of or one day after the Approval and Vesting Order is issued and entered by the Court. Leading up to Closing and shortly after Closing, SHOP.CA and the Proposal Trustee will continue to address issues with employees, suppliers, customers and other stakeholder, and otherwise advance the Proposal Proceedings.

41. Extending the Stay Period to July 20, 2016 will allow Closing to occur while there is a stay of proceedings against SHOP.CA. After the expiry of the Stay Period SHOP.CA will make an assignment into bankruptcy and complete the assessment of claims and distribution of proceeds and available funds through the bankruptcy.

42. The cash flow forecast of the Company demonstrates that SHOP.CA has sufficient cash to continue operating during the extension of the Stay Period through to July 20, 2016. I

understand that the Proposal Trustee will be providing a copy of the cash flow forecast in its second report to be filed.

43. I am not aware of any creditors who would be materially prejudice by the extension of the Stay Period to July 20, 2016. I understand the Proposal Trustee supports the short extension of the Stay Period to assist in completing the Closing of the Sale Transaction.

CONCLUSION

44. SHOP.CA has been operating at a loss since its inception and been unable to develop positive cash flow to supports its business long-term. After completion of an extended informal sales process and the Bid Process, the Sale Transaction represents the highest price realizable for SHOP.CA's assets. The Sale Transaction will allow creditors to recover more than they otherwise would in a liquidation and a number of SHOP.CA's employees to continue their employment with the Purchaser.

45. This affidavit is sworn in support of a motion for the Approval and Vesting Order and for no other or improper purpose.

SWORN BEFORE ME at the City of Chicago,
State of Illinois, on July 12, 2016.

A Notary for the State of Illinois

Anthony Chvala

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Estate/Court File No. 31-2131992

**ONTARIO
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Proceedings commenced at Toronto

**AFFIDAVIT OF ANTHONY CHVALA
(SWORN ON JULY 12, 2016)**

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Lawyers for the Applicant

EXHIBIT “A”

EXHIBIT "A"

referred to in the Affidavit of

ANTHONY CHVALA

Sworn July 12, 2016

A Notary for the State of Illinois

ONTARIO
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AFFIDAVIT OF ROBERT S. LEE
(Sworn June 8, 2016 re Approval of the Bid Process and Administration Order and
Extension of Proposal Period)

I, Robert S. Lee, of the City of Ottawa, in the Province of Ontario, **MAKE OATH AND
SAY:**

1. I am the Chief Financial Officer of SHOP.CA Network Inc. ("SHOP.CA" or the
"Company") and as such have knowledge of the matters to which I hereinafter depose, except
where otherwise stated. I have also reviewed the records and filings of the Company and have
spoken with certain of the officers and/or employees of the Company, as necessary, and where
I have relied upon such information, I verily believe such information to be true.

2. This affidavit is sworn in support of the motion brought by SHOP.CA seeking an Order
(the "Bid Process and Administration Order"), substantially in the form of the draft order
located at Tab 3 of SHOP.CA's Motion Record, *inter alia*:

- (a) Approving the court-supervised sale process for SHOP.CA (the "Bid Process")
set out in paragraphs 29 - 33 of the First Report (the "First Report") of Richter
Advisory Group Inc., in its capacity as proposal trustee of SHOP.CA (the
"Proposal Trustee");

- (b) Ratifying the Key Employee Retention Agreements (the "KERAs" and individually, a "KERA") attached hereto as Confidential Exhibit "A" and authorizing SHOP.CA to pay an amount equal to the Incentive Payments (as defined below) set out in the KERAs to Stikeman Elliott LLP, as counsel for SHOP.CA ("Company's Counsel"), to be held in trust for the beneficiaries of the KERAs pending satisfaction of the conditions contained in the KERAs as determined by the Proposal Trustee or further Order of this Court;
- (c) Sealing the unredacted copies of the KERAs;
- (d) Granting a first ranking charge on all of SHOP.CA's assets, property and undertakings (the "Property") up to a maximum amount of \$200,000, in favour of the Proposal Trustee, counsel to the Proposal Trustee and Company's Counsel (the "Administration Charge"); and
- (e) Extending the time for SHOP.CA to file a proposal (the "Proposal Period") under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") until July 15, 2016.

THE BUSINESS OF SHOP.CA

Overview

3. SHOP.CA is an e-commerce marketplace providing Canadian retailers with a platform to sell their products online directly to consumers. SHOP.CA was incorporated in September, 2009, and currently has a network of 450 merchants offering over 250,000 products on SHOP.CA's platform. The Company's head office is located at 70 Peter Street, Toronto, Ontario.

4. SHOP.CA has experienced rapid growth since its founding, generating 133% annual growth in membership and 190% annual growth in number of visits to its website, www.shop.ca (the "Website"). However, due to competitive factors and significant expenses associated with the growth, SHOP.CA has experienced financial difficulties and has been operating at a loss since its founding.

5. SHOP.CA's business is to act as a multi-merchant, virtual marketplace offering Canadian consumers a one-stop online shopping experience for products from premium and recognizable brands. SHOP.CA currently focuses on four product categories: home products, electronics, fashion and baby and children products. It also carries supporting products to ensure it is a one-stop shopping destination. SHOP.CA's platform is capable of expanding its product offerings based on its current merchant partners' supply and consumer demand.

6. SHOP.CA does not currently maintain an inventory position of the products that are bought and sold on the Website. Rather, retailers list their products on the Website and SHOP.CA purchases the inventory from the merchant only after receiving an order from a customer. The inventory is purchased at a previously agreed upon cost with each merchant. Each merchant is responsible for shipping and fulfillment of orders; however, each retailer's fulfillment technology is connected with SHOP.CA's platform to ensure the consumer has a smooth shopping experience. From the consumer's perspective, their only interaction with respect to their purchases is with SHOP.CA including, communication regarding their order placement, delivery and any returns or refunds that are required.

NOI Proceedings

7. As further described herein, due to current liquidity constraints, SHOP.CA filed a Notice of Intention to Make a Proposal (the "NOI") under the BIA and commenced these proposal proceedings on June 7, 2016.

8. The Company has been attempting to find further financing and/or sell the business as a going concern since August 2015. These efforts have not been successful to date, including a recent attempt to sell the Company to an established Canadian retailer. SHOP.CA wishes to pursue a final attempt to sell the Company as a going concern and believes it is only able to do so with the Court protection provided by the NOI and these proposal proceedings.

Corporate Governance

9. Trevor Newell, Drew Green and Tony Chvala are the only remaining directors of SHOP.CA. Over the last eight weeks, six other directors have resigned from the board of SHOP.CA (the "Board").

10. The requisite shareholder and director approvals have been obtained to authorize the filing of the NOI.

Employees

11. SHOP.CA currently has 40 employees and one person, the Chief Executive Officer, working under a consulting arrangement. The majority of SHOP.CA's employees are full time salaried employees. In October 2015, in order to reduce labour expenses, the Company laid off approximately 28 employees. The Company has also reduced its workforce through attrition. In 2016, 10 employees have left SHOP.CA and the Company has only hired an additional 5 employees.

12. SHOP.CA does not have a union and does not sponsor any pension plans.

Assets

13. SHOP.CA's assets, as reflected in its unaudited quarterly financial statements as at April 30, 2016, had a net book value of approximately \$4.055 million and consisted of the following:

As at April, 2016	
Assets	(\$000s)
<u>Current Assets</u>	
Cash and cash equivalents	2,253
Accounts receivable	213
Inventory	38
Taxes Receivable	78
Prepaid Expenses	
Marketing	32
Technology	141
Rent	21
Insurance/Other	14
	<hr/>
	2,789
<u>Non-current Assets</u>	
Property and equipment	217
Intangible assets	1,050
	<hr/>
	\$4,055

14. SHOP.CA most significant asset at the end of the quarter was cash and cash equivalents. The cash on hand was the result of series of equity financings completed between 2011 and 2015 which raised over \$70 million for the Company. Most recently in May 2015, SHOP.CA raised approximately \$13 million by issuing Series C common shares to existing investors in a private placement.

15. SHOP.CA has been funding its losses from the cash remaining from the equity capital raises. As at June 5, 2016, the Company had approximately \$1.5 million in cash remaining, down from \$2.3 million on April 30, 2016. With the current projected cash expenses, SHOP.CA is forecasted to deplete all its cash reserves by August, 2016.

16. SHOP.CA's intangible assets consist of its goodwill, domain name, technology and intellectual property associated with the development of its unique platform.

Liabilities

17. As at April 30, 2016, SHOP.CA had total liabilities of approximately \$1.99 million consisting of the following:

As at April, 2016	
Liabilities	(\$000s)
<u>Current Liabilities</u>	
Trade payables and accrued liabilities	\$1,478
Taxes Payable	78
Customer Payments (Order to Ship)	250
Returns & Rewards Liability	181
	<u>\$1,988</u>

18. SHOP.CA's trade payables typically have terms of "net 15" meaning SHOP.CA pays its merchants within 15 days of purchasing the inventory after receiving an order from a customer. As at April 30, 2016, SHOP.CA's trade payables and accruals totalled approximately \$1.5 million and as at June 2, 2016, SHOP.CA was current on all trade payables owed to merchants.

19. SHOP.CA accrual liabilities reflected on the balance sheet consist of a provision for returns by customers and accrued vacation for employees.

20. SHOP.CA has contingent liabilities that are not reflected on the balance sheet consisting of potential termination and severance obligations owed to employees and contractual termination liabilities. These contingent liabilities are estimated to total up to \$2 million. If all current, future and contingent liabilities were to crystallize during the upcoming days, the Company would be unable to meet its financial obligations as they become due. The Company is effectively in the vicinity of insolvency and without the stabilization and breathing space provided by the NOI, the Company will continue to deplete all its cash resources preventing any going-concern solution or even an orderly wind-up or dissolution.

21. SHOP.CA does not have any long term liabilities or secured debt. Attached hereto as Exhibit "B" is a *Personal Property Security Act* (Ontario) search result for SHOP.CA as at June 5, 2016. The only registration showing was made by the Toronto-Dominion Bank ("TD Bank"). I am not aware of any indebtedness owed to TD Bank other than in respect the Company's credit card facility. TD Bank provided a letter of credit on behalf of SHOP.CA but the letter of credit was cancelled in the fall of 2015.

Key Contracts and Suppliers

22. A significant source of customer acquisition for SHOP.CA has been its exclusive strategic partnership with AIMIA Canada Inc. ("Aeroplan"). Aeroplan runs a loyalty program allowing consumers to accumulate "Aeroplan Miles" on certain purchases with a variety of retail partners. In 2014, Aeroplan and SHOP.CA developed an agreement whereby customers are able to receive Aeroplan Miles for purchases on the Website and SHOP.CA pays Aeroplan a specific rate for each Aeroplan Mile distributed to consumers. The relationship is important for SHOP.CA as Aeroplan has a developed relation with over 9 million consumers in Canada and a percentage of consumers referred to the Website by Aeroplan are converted into repeat customers of SHOP.CA.

23. As mentioned, SHOP.CA maintains its head office at 70 Peter Street, Toronto Ontario. SHOP.CA leases the premises from Allied Property Management GP Limited (the "Landlord") under a Lease Renewal and Amending Agreement dated August 18, 2015 (the "Lease"). The term under the Lease expires on March 31, 2019 and monthly rent payable to the Landlord under the Lease is \$18,557 plus applicable taxes. The Company is current with its obligations under the Lease.

Financial Difficulties

24. Despite significant revenue growth since founding, SHOP.CA has not been able to generate positive cash flow to sustain the business on a long term basis. SHOP.CA has been financed by a series of equity capital raises which have been funding the Company's losses since inception. Copies of SHOP.CA's audited financial statements for 2014 and unaudited financial statements for 2015 are attached hereto as Exhibits "C" and "D", respectively.

25. In 2014 and 2015, SHOP.CA generated net operating losses of \$21.9 million and \$19.9 million, respectively. Cumulative losses since SHOP.CA's founding are over \$72 million. The losses and Company's inability to raise additional financing have severely constrained SHOP.CA's liquidity recently.

26. In order to stabilize cash flows and implement a final attempt to complete a transaction to maintain the Company as a going-concern, SHOP.CA filed the NOI.

SALES PROCESS

27. In August 2015, due to competitive factors and its financial difficulties, SHOP.CA started exploring strategic alternatives, including the possibility of a sale of substantially all its assets or share capital (the "Sales Process"). SHOP.CA engaged Scotia Capital Inc. ("Scotia") and Canaccord Genuity Corp. ("Canaccord") to assist SHOP.CA in its strategic review and approach potential purchasers and investors for SHOP.CA's business. Though Scotia was initially engaged, its role did not continue as the banker mandated with the engagement resigned from Scotia.

28. Canaccord approached approximately 25 potential purchasers over the duration of the Sales Process. Canaccord also explored the possibility of obtaining additional financing.

29. Numerous parties expressed an interest in acquiring the Company and in April, 2016, SHOP.CA received two non-binding letters of intent to purchase the common shares of the Company. Despite attempts, SHOP.CA and the potential purchasers were unable to develop an actionable transaction. After a transaction failed to materialize with those potential purchasers Canaccord resigned from its role in the Sales Process.

30. Starting May 2016, Tony Chvala, the Chief Executive Officer of SHOP.CA, approached 17 potential purchasers in an effort to develop an actionable transaction outside an insolvency proceeding. Some of the potential purchasers had been approached by Canaccord in the earlier marketing initiative, while others were approached for the first time. I also understand that the Chief Executive Officer canvassed existing investors regarding the possibility of providing additional financing to SHOP.CA. The Proposal Trustee acted as financial advisor to the Company during this initiative in the Sales Process but was not actively involved in soliciting offers or negotiations with potential purchasers.

31. After initial solicitations by management, SHOP.CA did not receive any indications of interest in respect of providing financing to SHOP.CA but did receive three non-binding letters of intent indicating an interest in purchasing SHOP.CA's share capital or assets. Each letter of intent required a period of exclusive negotiations with the potential purchasers. The Board, with input from the Company's legal and financial advisors, evaluated the proposals and subsequently entered into an 11-day exclusivity period with the purchaser offering the highest value and minimal closing conditions relative to the other bids. Again, despite efforts, a transaction failed to materialize.

32. With the Company's current liquidity situation, SHOP.CA cannot afford to continue the current Sales Process of exploring potential sale transactions outside of an insolvency

proceeding. The Bid Process contemplated to be completed in the context of these proposal proceedings is outlined at paragraphs 29 to 33 of the First Report.

33. The Bid Process has the following key features:

- (a) The Proposal Trustee will distribute a teaser letter and a form of non-disclosure agreement to a list of potential purchasers developed in conjunction with the Company.
- (b) Interested bidders wishing to participate in the Bid Process will be given access to an electronic data-room after signing the non-disclosure agreement.
- (c) Interested bidders are required to submit final binding offers on a "as is, where is" basis to the Proposal Trustee by June 30, 2016 at 12pm (the "Bid Deadline") and in addition, interested bidders will be required to pay a 10% deposit to the Proposal Trustee.
- (d) Acceptability of each offer will be determined by the Proposal Trustee, in consultation of the Company.
- (e) The Proposal Trustee will provide its recommendation to the Board with respect to selecting an offer to consummate a transaction.
- (f) If a bid is accepted by the Board and the Proposal Trustee, it will be brought before the Court for approval and closing will occur as soon as practical thereafter.

34. The proposed Bid Process offers the maximum amount of time to consummate a transaction given the Company's current liquidity situation and current inability to access bridge financing because of its lack of tangible assets to offer as security.

35. In the circumstances, the Board and SHOP.CA's management believe the Bid Process in the context of these proposal proceedings constitutes the best option for the realization of the Company's assets and the maximization of their value for the benefit of SHOP.CA's stakeholders.

KEY EMPLOYEE RETENTION AGREEMENTS

36. After the resignation of Canaccord, management was left in charge of the Sales Process significantly increasing their day to day responsibilities. Further, with the Company's current liquidity situation, the Board believed additional incentives were needed to ensure management's continued willingness to assist in the Sales Process.

37. On May 6, 2016, SHOP.CA entered into the KERAs with the Chief Executive Officer, Chief Technology Officer and I. Redacted copies of the KERAs, which contain commercially sensitive and private personal information, are attached hereto as Confidential Exhibit "A".

38. An independent director (who has since resigned), with oversight of the Proposal Trustee, developed the KERAs. All of the KERAs contemplate incentive payments (the "Incentive Payments") of between 3 and 6 months of salary. The aggregate of the Incentive Payments payable under the KERAs is approximately \$210,000, after converting US dollar amounts to Canadian dollars. On my and the Chief Technology Officer's KERAs, the Incentive Payments are payable upon the completion of the earliest of the following events: (a) completion of a Change of Control (as defined in the KERAs) or a liquidation of all or substantially all of the assets of SHOP.CA; or (b) implementation of a proposal under the BIA, approved as required and sanctioned by the Court. Under the Chief Executive Officer's KERA,

the Incentive Payment becomes due upon completion of review and analysis of bids submitted in the Bid Process. The Chief Executive Officer has agreed to remain as a director throughout the proposal proceedings. The amendment was granted in exchange for the Chief Executive Officer's agreement to reduce the quantum of the Incentive Payment and forego any payment on account services rendered for acting as an officer or director of the Company after June 30, 2016 in order to assist the Company's liquidity.

39. In order for the beneficiaries of the KERAs to receive the Incentive Payments, the employee cannot have: (a) disclosed the terms of the KERA (other than to his or her personal representative, legal advisors or as required by law); or (b) at any time on or before the date any portion the Incentive Payments are due and payable as contemplated under the KERA (i) resigned; (ii) been terminated for cause; or (iii) failed to perform his/her duties diligently, faithfully and honestly.

40. The KERAs also contemplated a success payment if a transaction could be completed outside of an insolvency proceeding. Upon the filing of the NOI, the success payments contemplated by the KERAs are no longer applicable.

41. In order to secure the Incentive Payments contemplated by the KERAs, SHOP.CA is seeking to pay funds adequate to satisfy the Incentive Payments (minus deferred amounts) to Company's Counsel to be held in trust for the beneficiaries of the KERAs. Without the Incentive Payments being secured in this manner there is concern that the beneficiaries of the KERAs would leave prior to the completion of the Bid Process which would have a significant negative effect to SHOP.CA and its stakeholders. If the conditions in the KERAs are not satisfied after 10 days subsequent to the Proposal Period, Company's Counsel will remit the funds held in trust to the Proposal Trustee for the benefit of SHOP.CA's general creditors.

ADMINISTRATION CHARGE

42. SHOP.CA is seeking a first ranking charge on the Property of SHOP.CA in the maximum amount of \$200,000 to secure the fees and disbursements of the Proposal Trustee, counsel for the Proposal Trustee and Company's Counsel incurred in connection with the services rendered to SHOP.CA both before and after the filing of the NOI.

43. I believe that the Administration Charge is necessary in order to complete the Bid Process and close any transaction resulting therefrom.

44. SHOP.CA has worked with the Proposal Trustee to estimate the proposed quantum of the Administration Charge and believes it to be reasonable and appropriate in view of the services to be provided by the beneficiaries of the Administration Charge.

EXTENSION OF THE PROPOSAL PROCEEDINGS

45. The Bid Deadline set out in the Bid Process is currently contemplated to be June 30, 2016 with each bid remaining open for acceptance 10 days after the Bid Deadline. SHOP.CA will require further time after the acceptance of any bid in order to close the transaction.

46. Extending the Proposal Period to July 15, 2016 will allow SHOP.CA to (a) complete the Bid Process; (b) negotiate any transaction resulting from the Bid Process and seek Court-approval of the transaction; and (c) contemplate, in consultation with the Proposal Trustee, the terms of a proposal to be submitted to SHOP.CA's creditors. The extension will also prevent additional motions before the Court, reducing professional fees incurred by SHOP.CA.

47. I am not aware of any creditors who would be materially prejudice by the extension of the Proposal Period to July 15, 2016. The cash flow forecast attached as Appendix "D" to the First Report reflects that the Company has sufficient liquidity to continue operating throughout the proposed extension of the Proposal Period.

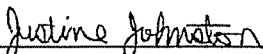
48. I understand that the Proposal Trustee is supportive of the request to extend the Proposal Period.

CONCLUSION

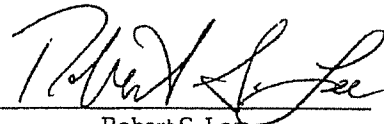
49. SHOP.CA has been operating at a loss since its inception and been unable to develop positive cash flow to supports its business long-term. With the Company's current liquidity situation, SHOP.CA is seeking a final attempt to preserve the business as a going-concern by exploring sale opportunities within the context of these proposal proceedings. With the relief granted in the Bid Process and Administration Order, SHOP.CA will be able to conduct the Bid Process in order to maximize the value of its business and assets for the benefit of its stakeholders.

50. This affidavit is sworn in support of a motion for the Bid Process and Administration Order and for no other or improper purpose.

SWORN BEFORE ME at the City of
Toronto, Province of Ontario, on June
8, 2016.



Commissioner for Taking Affidavits



Robert S. Lee

EXHIBIT “B”

EXHIBIT "B"

referred to in the Affidavit of

ANTHONY CHVALA

Sworn July 12, 2016

A Notary for the State of Illinois

SHOP.CA NETWORK INC.

as Vendor

and

TRANSFORMATIONAL CAPITAL CORP.

as Purchaser

ASSET PURCHASE AGREEMENT

July 8, 2016

STIKEMAN ELLIOTT LLP

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ASSET PURCHASE AGREEMENT dated June 30, 2016 between **SHOP.CA NETWORK INC.** (the "**Vendor**") and **TRANSFORMATIONAL CAPITAL CORP.** (the "**Purchaser**").

WHEREAS ON June 7, 2016, the Vendor filed a notice of intention to make a proposal (the "**NOI**") under the *Bankruptcy and Insolvency Act* (the "**BIA**"); and

WHEREAS the Vendor wishes to sell certain assets and to assign certain liabilities and the Purchaser has agreed to purchase such assets and assume such liabilities upon the terms and conditions contained in this Agreement.

In consideration of the above and for other good and valuable consideration, the parties agree as follows.

ARTICLE 1

INTERPRETATION

- 1.1 Definitions.** As used in this Agreement, the following terms have the following meanings:
- (a) "**Agreement**" means this asset purchase agreement, including all schedules annexed hereto, as the same may be amended, supplemented or otherwise modified from time to time in accordance with the terms hereof;
 - (b) "**Approval and Vesting Order**" means an approval and vesting order of the Court in a form and substance satisfactory to the Vendor and the Purchaser, each acting reasonably, approving this Agreement and vesting in the Purchased Assets, and to the Purchaser free and clear of and from any and all Encumbrances other than Permitted Encumbrances;
 - (c) "**Approval Date**" means July 15, 2016, the date on which the Vendor will seek approval of the Approval and Vesting Order and Assignment Orders;
 - (d) "**Business**" means the business operated by the Vendor, consisting of the operation of a multi-merchant, virtual inventory marketplace allowing customers to purchase from an assortment of merchants in one location;
 - (e) "**Business Day**" means any day of the year, other than a Saturday, Sunday or any day on which Canadian chartered banks are closed for business in Toronto, Ontario;
 - (f) "**Closing Date**" means (i) the date that is three Business Days following the day on which the last of the conditions of Closing set out in Article 8 (other than those conditions that by their nature can only be satisfied as of the Closing Date) have been satisfied or waived by the appropriate party, or (ii) such earlier or later date as the parties may agree in writing;
 - (g) "**Court**" means the Ontario Superior Court of Justice (Commercial List);

- (h) **"Cure Payments"** means the outstanding payment obligations of the Vendor under the Assumed Contracts, if any;
- (i) **"Employee Plans"** means all the employee benefit, fringe benefit, supplemental unemployment benefit, bonus, incentive, profit sharing, termination, change of control, pension, retirement, stock option, stock purchase, stock appreciation, health, welfare, medical, dental, disability, life insurance and similar plans, programmes, arrangements or practices relating to the current or former directors, officers or employees of the Vendor maintained, sponsored or funded by the Vendor, whether written or oral, funded or unfunded, insured or self-insured, registered or unregistered;
- (j) **"Encumbrances"** means any mortgage, charge, pledge, hypothec, security interest, assignment, lien (statutory or otherwise), easement, right of first refusal or first offer, title retention agreement or arrangement, conditional sale, deemed or statutory trust, restrictive covenant or other encumbrance of any nature which, in substance, secures payment or performance of an obligation, and any contract, option, right or privilege (whether by Law, contract or otherwise) capable of becoming any of the foregoing;
- (k) **"Governmental Entity"** means (i) any governmental or public department, central bank, court, minister, governor-in-council, cabinet, commission, tribunal, board, bureau, agency, commissioner or instrumentality, whether international, multinational, national, federal, provincial, state, county, municipal, local, or other; (ii) any subdivision or authority of any of the above; and (iii) any quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of the above;
- (l) **"Intellectual Property"** means domestic and foreign intellectual property rights including: (i) patents, applications for patents and reissues, divisions, continuations, renewals, extensions and continuations-in-part of patents or patent applications; (ii) copyrights, copyright registrations and applications for copyright registration; (iii) mask works, mask work registrations and applications for mask work registrations; (iv) designs, design registrations, design registration applications and integrated circuit topographies and (v) trade names, business names, corporate names, domain names, website names and world wide web addresses, common law trade-marks, trade-mark registrations, trade mark applications, trade dress and logos, and the goodwill associated with any of the foregoing.
- (m) **"Laws"** means any principle of common law and all applicable (i) laws, constitutions, treaties, statutes, codes, ordinances, orders, decrees, rules, regulations and by-laws; (ii) judgments, orders, writs, injunctions, decisions, awards and directives of any Governmental Entity; and (iii) to the extent that they have the force of law, policies, guidelines, notices and protocols of any Governmental Entity;
- (n) **"Ordinary Course"** means, with respect to the Vendor, an action consistent with the past practices of the Vendor prior to the filing of the NOI and taken in the ordinary course of the normal day-to-day business and operations of the Vendor, provided that such action is in compliance, in all material respects, with applicable Laws;

- (o) **"Outside Date"** means July 31, 2016;
- (p) **"Permitted Encumbrances"** means only those Encumbrances that are agreed to by the Purchaser in writing;
- (q) **"Person"** includes an individual, partnership, association, body corporate, trustee, executor, administrator, legal representative, government (including any Governmental Entity) or any other entity, whether or not having legal status;
- (r) **"Proposal Trustee"** means Richter Advisory Group Inc. in its capacity as the proposal trustee of the Vendor pursuant to the BIA;
- (s) **"Real Property Lease"** means the lease entered into by the Vendor in respect of the Business;
- (t) **"Tax" or "Taxes"** means (i) any and all taxes, duties, fees, excises, premiums, assessments, imposts, levies and other charges or assessments of any kind whatsoever imposed by any Governmental Entity, whether computed on a separate, consolidated, unitary, combined or other basis, including those levied on, or measured by, or described with respect to, income, gross receipts, profits, gains, windfalls, capital, capital stock, production, recapture, transfer, land transfer, license, gift, occupation, wealth, environment, net worth, indebtedness, surplus, sales, goods and services, harmonized sales, use, value-added, excise, special assessment, stamp, withholding, business, franchising, real or personal property, health, employee health, payroll, workers' compensation, employment or unemployment, severance, social services, social security, education, utility, surtaxes, customs, import or export, and including all license and registration fees and all employment insurance, health insurance and government pension plan premiums or contributions; (ii) all interest, penalties, fines, additions to tax or other additional amounts imposed by any Governmental Entity on or in respect of amounts of the type described in clause (i) above or this clause (ii); (iii) any liability for the payment of any amounts of the type described in clauses (i) or (ii) as a result of being a member of an affiliated, consolidated, combined or unitary group for any period; and (iv) any liability for the payment of any amounts of the type described in clauses (i) or (ii) as a result of any express or implied obligation to indemnify any other Person or as a result of being a transferee or successor in interest to any party; and
- (u) **"Time of Closing"** means 8:00 a.m. (Toronto time) on the Closing Date.
- (v) **"Transferred Employees"** means those employees who accept the Purchaser's offer of employment pursuant to Section 5.1(a).
- (w) **"Vendor's Solicitors"** means Stikeman Elliott LLP, counsel to the Vendor.

- 1.2 **Other Defined Terms.** In addition to the defined terms in Section 1.1, each of the following capitalized terms shall have the meaning ascribed thereto in the corresponding Section:

TERM	REFERENCE
Assignment Orders.....	Section 2.5(c)
Assumed Contracts	Section 2.1(c)
Assumed Liabilities	Section 2.3
Additional Contracts	Section 2.1(d)
BIA	Recitals
Closing.....	Article 9
CRA.....	Section 2.2(c)
ETA	Section 4.1
NOI	Recitals
Notice.....	Section 13.1
Purchased Assets	Section 2.1
Purchase Price	Section 3.1
Purchaser	Appearances
Transfer Taxes	Section 4.2
Vendor.....	Appearances

- 1.3 **Number and Gender.** In this Agreement, unless the context otherwise requires, words importing the singular shall include the plural and vice versa, words importing the use of either gender shall include both genders and neuter.
- 1.4 **Date for Any Action.** If the date on which any action is required to be taken hereunder by a party is not a Business Day, such action shall be required to be taken on the next succeeding day which is a Business Day.
- 1.5 **Currency.** Unless otherwise stated, all references in this Agreement to sums of money are expressed in lawful money of Canada and "\$" refers to Canadian dollars.
- 1.6 **Sections and 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 interpretation of this Agreement. Unless otherwise indicated, any reference in this Agreement to an Article, Section or Schedule refers to the specified Article, Section or Schedule of or to this Agreement.
- 1.7 **Certain Phrases, etc.** In this Agreement (i) the words "including", "includes" and "include" mean "including (or includes or include) without limitation", and (ii) the phrase "the aggregate of", "the total of", "the sum of", or a phrase of similar meaning means "the aggregate (or total or sum), without duplication, of". In the computation of periods of time from a specified date to a later specified date, unless otherwise expressly stated, the word "from" means "from and including" and the words "to" and "until" each mean "to but excluding".

- 1.8 **Schedules.** The schedules attached to this Agreement form an integral part of this Agreement for all purposes of it.

ARTICLE 2 PURCHASE AND SALE

- 2.1 **Purchased Assets.** Subject to the terms and conditions of this Agreement, the Vendor agrees to sell, assign and transfer to the Purchaser and the Purchaser agrees to purchase from the Vendor on the Closing Date, effective as of the Time of Closing, the following undertakings, property and assets of the Vendor that relate to or are used in connection with the operation of the Business (collectively, the "**Purchased Assets**") free and clear of all Encumbrances (other than Permitted Encumbrances):
- (a) all right, title and interest of the Vendor in and to the Intellectual Property owned by or licensed to the Vendor and used in the Business, including the name "SHOP.CA" and the goodwill associated with any of the foregoing;
 - (b) all movable property and all equipment, fixtures and computer hardware located in or used in connection with the Business;
 - (c) the benefit of the contracts, agreements and understandings that relate to the Business and that are listed in Schedule 2.1(c) (the "**Assumed Contracts**");
 - (d) the option, exercisable at the sole discretion of the Purchaser, to assume the benefit of any other contracts, agreements and understandings that relate to the Business (the "**Additional Contracts**"). A list of such Additional Contracts, if any, shall be provided by the Purchaser to the Vendor no less than five days prior to the Closing Date;
 - (e) all accounts receivable, notes receivable and other debts due or accruing due to the Vendor in connection with the Business;
 - (f) all prepaid expenses in connection with the Assumed Contracts and Additional Contracts;
 - (g) subject to Section 2.2(e), all information in any form relating to, or used in connection with, the Business, including but not limited to, social media accounts including passwords and usernames, google analytics, all databases used in connection with the Business, domains, technology platforms, books of account, financial and accounting information and records, personnel records, sales and purchase records, customer and supplier lists, business reports, operating guides and manuals, plans and projections, marketing and advertising materials and all other documents, files, correspondence and other information (whether in written, printed, electronic or computer printout form, or stored on computer discs or other data and software storage and media devices);
 - (h) all orders, authorizations, approvals, licenses or permits of a Governmental Entity, owned, held or used by the Vendor in connection with the Business to the extent that they are transferable; and

- (i) the goodwill of the Business, including the exclusive right of the Purchaser to (i) represent itself as carrying on the Business in continuation of and in succession to the Vendor, and (ii) use any words indicating that the Business is carried on, together with the rights, if any, to telephone and facsimile numbers used in connection with the Business.

2.2 Excluded Assets. The Purchased Assets shall not include the following undertakings, property and assets of the Vendor:

- (a) all cash on hand, cash equivalents and bank deposits;
- (b) the leasehold interests of the Vendor in and to the Real Property Lease;
- (c) any and all amounts that may be due to the Vendor from Canada Revenue Agency ("CRA") or any provincial tax authorities;
- (d) all contracts, agreements and understandings to which the Vendor is a party other than the Assumed Contracts and the Additional Contracts, if any; and
- (e) the corporate records, minute books, tax records and returns, and other records having to do with the corporate organization of the Vendor; all personnel records that the Vendor is required by applicable Law to retain in its possession; and all other files, data, information and materials of the Vendor not specifically related to or used in connection with the Business.

2.3 Assumed Liabilities. Subject to the terms and conditions of this Agreement, the Purchaser agrees that it will, as and from the Closing Date, effective as of the Time of Closing, assume, discharge, perform, pay and fulfill all of the obligations and liabilities relating to the Purchased Assets (collectively, the "Assumed Liabilities"), including:

- (a) all obligations and liabilities under the Assumed Contracts and the Additional Contracts, if any, subject to Section 2.5(d);
- (b) all liabilities and obligations in respect of the Transferred Employees pursuant to Article 5; and
- (c) any Transfer Taxes payable by the Purchaser pursuant to Section 4.2 in respect of the Purchased Assets.

2.4 Excluded Liabilities.

Other than the Assumed Liabilities and except as provided in this Agreement, the Purchaser shall not assume and shall have no obligation to discharge any liability or obligation of the Vendor or in connection with the Purchased Assets, whether known or unknown, direct, indirect, absolute, contingent, or otherwise arising out of facts, circumstances or events, in existence on or prior to the Time of Closing. Without limiting the generality of the foregoing, the Purchaser shall not assume and shall have no obligation in

respect of (i) any of the Excluded Assets; (ii) liabilities of the Vendor for Taxes other than Transfer Taxes payable by the Purchaser pursuant to Section 4.2; (iii) liabilities of the Vendor in respect of the Real Property Lease; and (vi) liabilities of the Vendor in respect of the termination of the Vendor's employees and any Employee Plans.

2.5 Contracts.

- (a) Nothing in this Agreement shall be construed as an attempt to assign any Assumed Contract or Additional Contract which is not assignable in whole or in part without the consent or approval of the other party or parties thereto, unless such consent or approval has been given or the Court has issued the Assignment Order.
- (b) The Vendor and the Purchaser shall use reasonable commercial efforts to obtain the consents pertaining to the assignment of the Assumed Contracts prior to the Approval Date. For greater certainty, the Vendor is under no obligation to pay any money, incur any obligations, commence any legal proceedings (other than as set forth below with respect to the Assignment Order), or offer or grant any accommodation (financial or otherwise) to any third party in order to obtain any consents. Without limiting the generality of the foregoing, the Purchaser will co-operate in obtaining the consents, approvals and waivers including providing information of the Purchaser as is reasonably requested by a third party in order to grant its consent.
- (c) In the event that the consents relating to any Assumed Contracts are not obtained by the Approval Date, the Vendor shall use commercially reasonable efforts to obtain an order (the "**Assignment Order**") of the Court satisfactory to the Vendor and the Purchaser assigning such Assumed Contracts to the Purchaser. For greater certainty, the Vendor shall be under no obligation to obtain an Assignment Order with respect to any Additional Contract.
- (d) Subject to Closing and to either (i) the consent of the other parties thereto to the assignment thereof, or (ii) in the absence of such consent, the obtaining of an Assignment Order, in addition to its other obligations under this Agreement, the Purchaser shall pay the applicable Cure Payments related to the Assumed Contracts on Closing.

2.6 Wrong Pocket.

- (a) Any amounts that the Purchaser receives after Closing under Assumed Contracts or Additional Contracts that relate to the time period up to and including the Closing Date and any amounts that the Purchaser receives under any Excluded Contracts shall be paid to the Vendor by the Purchaser promptly following receipt and no later than seven (7) days following receipt.
- (b) Any amounts that the Vendor receives after Closing that are received under Assumed Contracts or Additional Contracts that relate to the time period after the Closing Date shall be paid to the Purchaser by the Vendor promptly following receipt and no later than seven (7) days following receipt. For greater certainty, to

the extent that the Purchaser becomes responsible for any payments to merchants in relation to products shipped after the Closing Date but for which the Vendor has received funds prior to the Closing Date, such amounts shall be deemed to relate to the time period after the Closing Date and shall be paid to the Purchaser by the Vendor pursuant to this Section 2.6(b).

ARTICLE 3 PURCHASE PRICE

3.1 Deposit.

- (a) The Vendor acknowledges receipt from the Purchaser of a deposit in the amount of [REDACTED] paid to the Vendor's Solicitors in trust.
- (b) The deposit will be applied on Closing in satisfaction of an equivalent amount of the Purchase Price. If the Closing does not occur for any reason other than a breach by the Purchaser of its representations, warranties or covenants under this Agreement, the full amount of the deposit together with all accrued interest received by the Vendor's Solicitors, if any, shall be immediately returned to the Purchaser.
- (c) If the Closing does not occur because the Purchaser breached any of its representations, warranties or covenants under this Agreement, the Deposit shall become the property of, and may be retained by, the Vendor as liquidated damages (and not as a penalty) to compensate it for the expenses incurred and opportunities foregone as a result of the failure of the transaction to close. In such event, the Vendor may exercise any other rights or remedies that it may have against the Purchaser in respect of any default by the Purchaser.

3.2 Purchase Price. The aggregate consideration (the "**Purchase Price**") payable by the Purchaser to the Vendor in respect of the Purchased Assets is:

- (a) [REDACTED] (less the amount of any Cure Payments); plus
- (b) the assumption by the Purchaser of the Assumed Liabilities, exclusive of all applicable Transfer Taxes.

3.3 Payment of Purchase Price. The Purchase Price shall be satisfied by the Purchaser on the Closing Date:

- (a) as to the amount of the deposit under Section 3.1(a), by application of such amounts;
- (b) as to the dollar value of the Assumed Liabilities, by the Purchaser assuming such Assumed Liabilities; and
- (c) as to the balance, by the Purchaser paying to or to the order of the Vendor such amount by wire transfer of immediately available funds.

3.4 Allocation of Purchase Price. The Vendor and the Purchaser shall report the sale and purchase of the Purchased Assets for all federal, provincial and local Tax

purposes in a manner consistent with an allocation of the Purchase Price among the Purchased Assets to be determined at the discretion of the Purchaser, acting reasonably.

ARTICLE 4 TAX MATTERS

- 4.1 ETA Election.** Provided that such election is available under applicable Law, the Purchaser and the Vendor shall, on each of the Closing Date, elect jointly under subsection 167(1) of the *Excise Tax Act* (Canada) (the "ETA") and under any similar provision of any applicable provincial legislation, in the form prescribed for the purposes of each such provision, in respect of the sale and transfer of the Purchased Assets and the Purchaser shall file such elections with CRA and any other applicable provincial tax authorities within the time and in the manner required by the applicable Law.
- 4.2 Transfer Taxes.** Subject to any available exemptions as contemplated by Sections 4.1, the Purchaser shall be liable for and shall pay all federal and provincial sales taxes (including any Goods and Services Tax and retail sales taxes) and all other similar taxes and duties, fees or other like charges of any jurisdiction ("Transfer Taxes") properly payable in connection with the transfer of the Purchased Assets by the Vendor to the Purchaser.
- 4.3 Indemnity for Transfer Taxes.** The Purchaser shall indemnify and hold the Vendor (and its shareholders, directors, officers and employees) harmless from and against any taxes payable under the ETA or any applicable provincial legislation and in any case any penalty or interest in respect thereof which may be payable by or assessed against the Vendor as a result of or in connection with the Vendor's failure to collect the applicable taxes payable under the ETA or applicable provincial legislation on the sale of the Purchased Assets, including any Transfer Taxes and any taxes arising as a result of any failure or refusal by the responsible tax authority to accept any election or on the basis that such election was inapplicable, invalid or not properly made.

ARTICLE 5 EMPLOYEE MATTERS

- 5.1 Offers to Certain Employees.**
- (a) The Purchaser shall offer new employment agreements effective as of the Closing Date to the employees listed on Schedule 5.1(a), at least three days prior to the Closing Date, on terms and conditions which are substantially similar to the terms under which such employees are currently employed by the Vendor. The Vendor shall co-operate with the Purchaser in the orderly transfer of the employees on Closing. For greater certainty, the Vendor shall, upon request, assist in the Purchaser's efforts to make such offers as contemplated by this Section 5.1(a), provided that for greater certainty, the acceptance of employment by any employee is not a condition of closing hereunder.

- (b) The Vendor shall not attempt in any way to discourage any employees from accepting the offer of employment made by the Purchaser.

5.2 Employee Plan.

- (a) The Purchaser shall not assume any of the Employee Plans or liability for accrued benefits or any other liability under or in respect of any of the Employee Plans. The Transferred Employees shall, as of the Closing Date, cease to accrue further benefits under the Employee Plans. The Purchaser agrees that it shall permit such Employees to participate in benefit plans, substantially similar to such benefit plans currently offered to the Transferred Employees by the Vendor, if any, sponsored by the Purchaser (such plans to be called the “**Replacement Plans**”). The Purchaser shall cause each Replacement Plan to recognize the prior service of each Transferred Employee rendered to the Vendor for purposes of eligibility to participate, vesting and entitlement to benefits under such Replacement Plans but not for the purpose of benefit accrual. The Purchaser shall waive all limitations as to pre-existing conditions, exclusions and waiting periods with respect to participation and coverage requirements applicable to the employees under any Replacement Plans except and only to the extent that any Transferred Employees were subject to such pre-existing conditions, exclusions and waiting periods under the Employee Plans and shall provide each Transferred Employee with credit for any co-payments and deductibles paid prior to the Closing Date (in the calendar year of such start date) in satisfying any applicable deductible or out of pocket requirements under any Replacement Plans.

5.3 Employee Liability.

- (a) Without limiting the Purchaser’s obligations in respect of the Transferred Employees who accept the Purchaser’s offer of employment, the Purchaser shall be responsible for:
 - (i) All liabilities for salary, wages, bonuses, commissions, vacation pay, and other compensation relating to employment of all employees who accept the Purchaser’s offer of employment, for the period prior to, on and after the Closing Date;
 - (ii) All severance payments, damages for wrongful dismissal and all related costs in respect of the termination by the Purchaser of the employment of any Transferred Employee;
 - (iii) All liabilities for claims for injury, disability, death or workers' compensation arising from or related to employment of the employees in the Business arising on or subsequent to the Closing Date;
 - (iv) All employment-related claims, penalties and assessments in respect of the Business arising out of matters which occur on or subsequent to the Closing Date.

- (b) For purposes of Section 5.3(a)(iii), the date on which a benefit claim, if any, is incurred will be:
 - (i) in the case of a death claim, the date of death;
 - (ii) in the case of a short term disability claim, long term disability claim or a life insurance premium waiver claim, the date of the first incidence of disability, illness, injury or disease that first qualifies an individual for benefits or to commence a qualifying period for benefits;
 - (iii) in the case of extended health care benefits, including, without limitation, dental and medical treatments, the date of treatment or the date of purchase of eligible medical or dental supplies; and
 - (iv) in the case of a claim for drug or vision benefits, the date the prescription was filled.

ARTICLE 6 REPRESENTATIONS AND WARRANTIES

- 6.1 **Vendor's Representations and Warranties.** The Vendor represents and warrants as follows to the Purchaser at the date of this Agreement and at the Closing Date and acknowledges and confirms that the Purchaser is relying upon such representations and warranties in connection with the purchase of the Purchased Assets and the assumption of the Assumed Liabilities:
- (a) **Incorporation and Qualification.** The Vendor is a corporation incorporated and existing under the laws of Canada and has the corporate power to enter into and perform its obligations under this Agreement;
 - (b) **Authorization.** The execution and delivery of and performance by the Vendor of this Agreement and the consummation of the transactions contemplated by it have been authorized by all necessary corporate action on the part of the Vendor;
 - (c) **Execution and Binding Obligation.** This Agreement has been duly executed and delivered by the Vendor and constitutes a legal, valid and binding agreement of the Vendor, enforceable against it in accordance with its terms subject only to (A) as of the date hereof, any limitation under applicable laws relating to (i) bankruptcy, winding-up, insolvency, arrangement, fraudulent preference and conveyance, assignment and preference and other similar laws of general application affecting the enforcement of creditors' rights, and (ii) the discretion that a court may exercise in the granting of equitable remedies such as specific performance and injunction and (B) as of the Closing Date, the issuance of the Approval and Vesting Order;
 - (d) **No Options, etc.** Except for the Purchaser's right under this Agreement, no person has any written or oral agreement, option, understanding or commitment, or any right or privilege capable of becoming such for the purchase from the Vendor of any of the Purchased Assets;

- (e) **Residence.** The Vendor is not a non-resident of Canada for the purposes of the *Income Tax Act* (Canada); and
- (f) **Registration.** The Vendor is a registrant within the meaning of Part IX of the ETA and its registration number is 84774 8464 RT0001.

6.2 Purchaser's Representations and Warranties. The Purchaser represents and warrants as follows to the Vendor at the date of this Agreement and at the Closing Date and acknowledges and confirms that the Vendor is relying on such representations and warranties in connection with the sale by the Vendor of the Purchased Assets:

- (a) **Incorporation and Qualification.** The Purchaser is a corporation incorporated and existing under the laws of British Columbia and has the corporate power to enter into and perform its obligations under this Agreement;
- (b) **Corporate Authority.** The execution and delivery of and performance by the Purchaser of this Agreement and the consummation of the transactions contemplated by it have been authorized by all necessary corporate action on the part of the Purchaser;
- (c) **No Violation or Breach.** The execution and delivery of and performance by the Purchaser of this Agreement:
 - (i) do not and will not (or would not with the giving of notice, the lapse of time or the happening of any other event or condition) constitute or result in a breach or violation of, or a conflict with, or allow any Person to exercise any rights under, any of the terms or provisions of its constating documents or by-laws;
 - (ii) do not and will not (or would not with the giving of notice, the lapse of time or the happening of any other event or condition) constitute or result in a breach or violation of, or a conflict with, or allow any other Person to exercise any rights under, any agreements, contracts or instruments to which the Purchaser is a party; and
 - (iii) do not and will not result in the violation of any applicable Law;
- (d) **Execution and Binding Obligation.** This Agreement has been duly executed and delivered by the Purchaser and constitutes a legal, valid and binding agreement of the Purchaser enforceable against it in accordance with its terms subject only to any limitation under applicable laws relating to (i) bankruptcy, winding-up, insolvency, arrangement, fraudulent preference and conveyance, assignment and preference and other similar laws of general application affecting the enforcement of creditors' rights, and (ii) the discretion that a court may exercise in the granting of equitable remedies such as specific performance and injunction; and

- (e) **Registration.** The Purchaser is a registrant within the meaning of Part IX of the ETA and its registration number is _____.

ARTICLE 7 COVENANTS

- 7.1 Actions to Satisfy Closing Conditions.** The Vendor and the Purchaser agree to take all such actions as are within their control and shall use their commercially reasonable efforts to take, or cause to be taken, all other actions and make all such other filings and submissions, and obtain such authorizations, which are necessary or advisable in order to fulfil their obligations under this Agreement, it being understood that all matters dealing with consents to the Assumed Contracts are dealt with in Section 2.5.
- 7.2 Access.** Subject to applicable Laws, as of the date hereof and until the Closing Date, the Vendor shall (i) upon reasonable notice, permit the Purchaser and its employees, agents, counsel, accountants or other representatives, to have reasonable access during normal business hours to (A) the Purchased Assets, including all books and records whether retained by the Vendor or otherwise, (B) all contracts and leases to which the Vendor is a party, and (C) the senior personnel of the Vendor, in all cases so long as the access does not unduly interfere with the ordinary conduct of the Business and so long as a representative of the Proposal Trustee or the Vendor is present; and (ii) furnish to the Purchaser or its employees, agents, counsel, accountants or other such representatives such financial and operating data and other information with respect to the Purchased Assets as the Purchaser from time to time reasonably requests.
- 7.3 Access to Books and Records.** For a period of 6 years from the Closing Date or for such longer period as may be required by Law, the Purchaser will retain all original books and records relating to the Purchased Assets that are transferred to the Purchaser under this Agreement. So long as any such books and records are retained by the Purchaser pursuant to this Agreement, the Vendor, the Proposal Trustee, any receiver or bankruptcy trustee appointed in respect of Vendor and their respective representatives shall have the right to inspect and to make copies (at its own expense) of them at any time upon reasonable request during normal business hours and upon reasonable notice for any proper purpose and without undue interference to the business operations of the Purchaser. The Purchaser has the right to have its representatives present during any such inspection.

ARTICLE 8 CONDITIONS OF CLOSING

- 8.1 Conditions for the Benefit of both Parties.**

The purchase and sale of the Purchased Assets is subject to the following conditions to be fulfilled or performed on or before the Closing Date:

- (a) **No Court Orders.** No provision of any applicable Law and no judgment, injunction, order or decree that prohibits the consummation of the purchase of the Purchased Assets pursuant to this Agreement shall be in effect;
- (b) **Approval and Vesting Order.** The Approval and Vesting Order shall have been issued and entered and not be the object of any appeal or motion seeking permission to appeal and the operation and effect of such order shall not have been stayed, amended, modified, reversed or dismissed at the Closing Date; and
- (c) **Consents.** The counterparties to the Assumed Contracts, if any, shall have consented to their assignment to the Purchaser in accordance with the terms thereof or Assignment Orders in respect thereof shall have been obtained. For greater certainty, no consent to the assignment of any Additional Contract shall be a condition hereunder.

8.2 Conditions for the Benefit of the Purchaser.

The purchase and sale of the Purchased Assets is subject to the following conditions to be fulfilled or performed on or before the Closing Date, which conditions are for the exclusive benefit of the Purchaser and may be waived, in whole or in part, by the Purchaser in its sole discretion:

- (a) **Representations and Warranties.** The representations and warranties of the Vendor contained in this Agreement shall be true and correct as of the Closing Date in all material respects, with the same force and effect as if such representations and warranties had been made on and as of such date;
- (b) **Covenants.** The Vendor shall have fulfilled or complied with all covenants contained in this Agreement required to be fulfilled or complied with by it in all material respects at or prior to the Closing Date; and
- (c) **Employees.** On or before the Closing Date, the Vendor shall terminate all employees other than the Transferred Employees who have accepted employment with the Purchaser. The Purchaser shall not assume any liabilities in respect of employees who are not Transferred Employees, all such liabilities remaining with the Vendor.

8.3 Conditions for the Benefit of the Vendor.

The purchase and sale of the Purchased Assets is subject to the following conditions to be fulfilled or performed on or before the Closing Date, which are for the exclusive benefit of the Vendor and which may be waived, in whole or in part, by the Vendor in its sole discretion:

- (a) **Representations and Warranties.** The representations and warranties of the Purchaser contained in this Agreement shall be true and correct as of the Closing Date in all material respects, with the same force and effect as if such representations and warranties had been made on and as of such date; and

- (b) **Covenants.** The Purchaser shall have fulfilled or complied with all covenants contained in this Agreement required to be fulfilled or complied with by it in all material respects at or prior to the Closing Date.

ARTICLE 9 CLOSING

- 9.1 **General.** The completion of the transactions of purchase, sale and assumption contemplated by this Agreement (the "**Closing**") shall take place on the Closing Date, at the Time of Closing at such place as agreed upon in writing by the parties.

ARTICLE 10 AS IS, WHERE IS

- 10.1 **No other representation and warranty.** The representations and warranties given by the Vendor in Article 6 are the sole and exclusive representations and warranties of the Vendor in connection with this Agreement and the transactions contemplated by it. Except for the representations and warranties given by the Vendor in Article 6, the Purchaser did not rely upon any statements, representations, promises, warranties, conditions or guarantees whatsoever, whether express or implied (by operation of law or otherwise), oral or written, legal, equitable, conventional, collateral or otherwise, regarding the assets to be acquired or liabilities to be assumed or the completeness of any information provided in connection therewith.
- 10.2 **"AS IS, WHERE IS".** Except for the representations and warranties given by the Vendor in Article 6, the Purchaser takes the Purchased Assets in an "as is" condition and a "where is" basis. The Purchaser has relied solely upon its own independent review, investigation and/or inspection of any documents and/or assets and liabilities to be assumed in connection with the purchase of the Purchased Assets and the assumption of the Assumed Liabilities and is a sophisticated party capable of making its own assessments in respect to the subject matter forming part of this Agreement.

ARTICLE 11 RISK OF LOSS

- 11.1 **General.** If, prior to the Closing all or any material part of the Purchased Assets are destroyed or damaged by fire or any other casualty or are appropriated, expropriated or seized by any Governmental Entity, the Purchaser shall have the option, exercisable by notice in writing given within four Business Days of the Purchaser receiving notice in writing from the Vendor of such destruction, damage, expropriation or seizure:
- (a) to reduce the Purchase Price by an amount equal to the cost of repair, or, if destroyed or damaged beyond repair, by an amount equal to the book value of the assets forming part of the Purchased Assets so damaged or destroyed and to complete the purchase, provided that all proceeds of insurance are paid to the Vendor immediately upon receipt;

- (b) to complete the transaction contemplated in this Agreement without reduction of the Purchase Price, in which event all proceeds of any insurance or compensation for expropriation or seizure will be payable to the Purchaser and all right and claim of the Vendor to any such amounts not paid by the Closing Date will be assigned to the Purchaser; or
- (c) to terminate this Agreement and not complete the transactions contemplated by this Agreement, in which case all obligations of the parties will terminate immediately upon the Purchaser giving notice as required herein.

ARTICLE 12 TERMINATION

12.1 Termination of Agreement. This Agreement may, by notice in writing given prior to or on the Closing Date be terminated:

- (a) by mutual consent of the Vendor and the Purchaser;
- (b) by the Purchaser if:
 - (i) the Vendor is petitioned into bankruptcy under the BIA;
 - (ii) the Approval and Vesting Order shall fail, once granted, to be in full force and effect or shall have been amended, modified, reversed or dismissed without the prior written consent of the Purchaser;
 - (iii) a breach of any representation or warranty or failure to perform any covenant or agreement on the part of the Vendor set forth in this Agreement shall have occurred that would cause any of the conditions set forth in Sections 8.1 and 8.2 not to be satisfied, and such conditions are incapable of being satisfied by the Outside Date, as reasonably determined by the Purchaser; or
 - (iv) an event has occurred as a result of which the conditions in Section 8.2 are not capable of being satisfied by the Outside Date, as reasonably determined by the Purchaser;
- (c) by the Vendor if a breach of any representation or warranty or failure to perform any covenant or agreement on the part of the Purchaser set forth in this Agreement shall have occurred that would cause any of the conditions set forth in Sections 8.1 and 8.3 not to be satisfied, and such conditions are incapable of being satisfied by the Outside Date, as reasonably determined by the Vendor; or
- (d) by either party if the Closing or has not occurred by the end of the day on the Outside Date, provided that a party may not terminate this Agreement under this Section 12.1(d) if the failure to perform any one or more of its obligations or covenants under this Agreement to be performed, or the breach of any of its representations and warranties under this Agreement, has been the cause of, or resulted in, the Closing not occurring by the Outside Date.

- 12.2 Effect of Termination.** In the event that the Agreement is terminated in accordance with Section 12.1, then each of the parties shall be relieved of its duties and obligations arising under this Agreement effective as of the date of such termination and such termination shall be without liability to the Purchaser and the Vendor; provided however that in no event shall any termination of this Agreement relieve any party hereto of any liability for any willful or intentional breach of this Agreement by such party.

ARTICLE 13 MISCELLANEOUS

- 13.1 Notices.** Any notice, direction or other communication given regarding the matters contemplated by this Agreement (each a "Notice") must be in writing, sent by personal delivery, courier or facsimile (but not by electronic mail) and addressed:

- (i) to the Vendor at:

Attention:

Facsimile:

with a copy to

Stikeman Elliott LLP
Suite 5300, Commerce Court West
199 Bay Street
Toronto, ON, M5L 1B9

Attention: Martin Langlois

Facsimile: 416 947-0866

with a copy to the Proposal Trustee:

Richter Advisory Group Inc.
181 Bay Street, Suite 3320
Bay Wellington Tower
Toronto, ON M5J 2T3

Attention: Pritesh Patel

Facsimile: 416 488-3765

- (ii) to the Purchaser at:

Transformation Capital Corp.
1500 West Georgia Street, Suite 1300
Vancouver, BC V6G 2Z6
Attention: Kia Besharat

Email: kia.besharat@gmail.com

with a copy to:

Dumoulin Black LLP
595 Howe Street, Floor 10
Vancouver, BC V6C 2T5
Attention: Justin Kates
Email: jkates@dumoulinblack.com

A Notice is deemed to be given and received (i) if sent by personal delivery or courier, on the date of delivery if it is a Business Day and the delivery was made prior to 4:00 p.m. (local time in place of receipt) and otherwise on the next Business Day, or (ii) if sent by facsimile, on the Business Day following the date of confirmation of transmission by the originating facsimile. A party may change its address for service from time to time by providing a Notice in accordance with the foregoing. Any subsequent Notice must be sent to the party at its changed address. Any element of a party's address that is not specifically changed in a Notice will be assumed not to be changed. Sending a copy of a Notice to a party's legal counsel as contemplated above is for information purposes only and does not constitute delivery of the Notice to that party. The failure to send a copy of a Notice to legal counsel does not invalidate delivery of that Notice to a party.

13.2 Survival of Representations and Warranties. The representations and warranties contained in this Agreement shall not survive the Closing.

13.3 Time of the Essence. Time is of the essence in this Agreement.

13.4 Enurement. This Agreement becomes effective when executed by the Vendor and the Purchaser. After that time, it will be binding upon and enure to the benefit of the parties and their respective successors, legal representatives and permitted assigns. Neither this Agreement nor any of the rights or obligations under this Agreement, including any right to payment, may be assigned or transferred, in whole or in part, by either party without the prior written consent of the other party. Notwithstanding the foregoing, the Purchaser may assign or transfer all or any part of its rights and obligations under this Agreement to a wholly owned subsidiary of the Purchaser without written consent, provided that no such assignment or transfer shall relieve the Purchaser of its obligations under this Agreement.

13.5 Entire Agreement. This Agreement and the other documents executed in connection herewith constitutes the entire agreement between the parties with respect to the transactions contemplated in this Agreement and supersedes all prior agreements, understandings, negotiations and discussions, whether oral or written, of the parties with respect to such transactions. There are no representations, warranties, covenants, conditions or other agreements, express or implied, collateral, statutory or otherwise, between the parties in connection with the subject matter of this Agreement, except as specifically set forth in this Agreement. The parties have

not relied and are not relying on any other information, discussion or understanding in entering into and completing the transactions contemplated by this Agreement.

- 13.6 **Waiver.** No waiver of any of the provisions of this Agreement will constitute a waiver of any other provision (whether or not similar). No waiver will be binding unless executed in writing by the party to be bound by the waiver. A party's failure or delay in exercising any right under this Agreement will not operate as a waiver of that right. A single or partial exercise of any right will not preclude a party from any other or further exercise of that right or the exercise of any other right it may have.
- 13.7 **Amendments.** This Agreement may only be amended, supplemented or otherwise modified by written agreement signed by the Vendor and the Purchaser.
- 13.8 **Further Assurances.** From and after the Closing Date, each of the parties covenants and agrees to do such things, to attend such meetings and to execute such further conveyances, transfers, documents and assurances as may be deemed necessary or advisable from time to time in order to effectively transfer the Purchased Assets and the Assumed Liabilities to the Purchaser and carry out the terms and conditions of this Agreement in accordance with their true intent.
- 13.9 **Severability.** If any provision of this Agreement is determined to be illegal, invalid or unenforceable, by any court of competent jurisdiction from which no appeal exists or is taken, that provision will be severed from this Agreement and the remaining provisions will remain in full force and effect.
- 13.10 **Governing Law.** This Agreement is governed by, and will be interpreted and construed in accordance with, the laws of the Province of Ontario and the federal laws of Canada applicable therein.
- 13.11 **Counterparts.** This Agreement may be executed in any number of counterparts, each of which is deemed to be an original, and such counterparts together constitute one and the same instrument. Transmission of an executed signature page by facsimile, email or other electronic means is as effective as a manually executed counterpart of this Agreement.

[signature page follows]

IN WITNESS WHEREOF, the parties have executed this Asset Purchase Agreement
as of the date first written above.

SHOP.CA NETWORK INC.

By: 

Name: Trevor Newell

Title: president

TRANSFORMATIONAL CAPITAL
CORP.

By: 

Name:

Title: Kiu Besharat

Director

Schedule 2.1(c)
ASSUMED CONTRACTS

Nil.

Schedule 5.1(a)
OFFERS OF EMPLOYMENT

[REDACTED]

TAB 3

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE)	FRIDAY, THE 15 th
)	
JUSTICE)	DAY OF JULY, 2016

IN THE MATTER OF THE NOTICE OF INTENTION TO
MAKE A PROPOSAL OF SHOP.CA NETWORK INC., a
corporation incorporated pursuant to the laws of the Canada,
with a head office in the City of Toronto, in the Province of
Ontario

Applicant

APPROVAL AND VESTING ORDER

THIS MOTION, made by SHOP.CA Network Inc. (the "**SHOP.CA**") for an order approving the sale transaction (the "**Sale Transaction**") contemplated by an asset purchase agreement (the "**APA**") between the SFHOP.CA and Transformational Capital Corporation (the "**Purchaser**") dated July 8, 2016 and appended as Exhibit "B" to the affidavit of Anthony Chvala sworn July 12, 2016 (the "**Chvala Affidavit**"), and vesting in the Purchaser all of SHOP.CA's right, title and interest in and to the Purchased Assets (as defined in the APA), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Chvala Affidavit and the exhibits thereto and the Second Report of Richter Advisory Group Inc. in its capacity as proposal trustee (the "**Proposal Trustee**") dated July ●, 2016 and the exhibits thereto (the "**Second Report**") and on hearing the submissions of counsel for SHOP.CA, the Proposal Trustee, the Purchaser, no one appearing for any other person on the service list, although properly served as appears from the affidavit of Lee Nicholson sworn July ●, 2016, filed:

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service and filing of the notice of motion and the motion record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that capitalized terms used herein but not otherwise defined shall have the meaning attributed to them in the APA.

STAY EXTENSION

3. **THIS COURT ORDERS** that the time for SHOP.CA's filing a proposal, and the stay of proceedings herein (the "**Stay Period**"), is hereby extended in accordance with subsection 50.4(9) of the *Bankruptcy and Insolvency Act* R.S.C. 1985 c. B-3, as amended (the "**BIA**"), to and including July 20, 2016.

APPROVAL OF SALE TRANSACTION

4. **THIS COURT ORDERS AND DECLARES** that the Sale Transaction is hereby approved, and the execution of the APA by SHOP.CA is hereby authorized and approved *nunc pro tunc*, with such minor amendments as SHOP.CA and the Purchaser, with the approval of the Proposal Trustee, may agree. SHOP.CA and the Proposal Trustee are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Sale Transaction and for the conveyance of the Purchased Assets to the Purchaser.

VESTING OF THE PURCHASED ASSETS

5. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a certificate by the Proposal Trustee to the Purchaser substantially in the form attached as Schedule "A" hereto (the "**Proposal Trustee's Certificate**"), all of SHOP.CA's right, title and interest in and to the Purchased Assets shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**")

including, without limiting the generality of the foregoing: (i) any charges that may be granted by this Court in these proceedings, including the Administration Charge (as that term is defined in the Bid Process and Administration Order of this Court dated June 9, 2016); (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and all of which are collectively referred to as the “**Encumbrances**” and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

6. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Proposal Trustee’s Certificate, all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale. Upon the expiry of the Stay Period, the net proceeds from the sale of the Purchased Assets shall be transferred to the Proposal Trustee in its capacity as trustee in bankruptcy of SHOP.CA.

7. **THIS COURT ORDERS AND DIRECTS** the Proposal Trustee to file with the Court a copy of the Proposal Trustee’s Certificate, forthwith after delivery thereof.

8. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, SHOP.CA and the Proposal Trustee is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to SHOP.CA’s past and current employees, including personal information of those employees listed on Schedule “5.1(a)” to the APA. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by SHOP.CA.

9. **THIS COURT ORDERS** that, notwithstanding:

(a) the pendency of these proceedings;

- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the BIA in respect of SHOP.CA and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of SHOP.CA;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of SHOP.CA and shall not be void or voidable by creditors of the SHOP.CA, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

10. **THIS COURT ORDERS AND DECLARES** that the Sale Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

11. **THIS COURT ORDERS** that SHOP.CA is authorized, following the completion of the Sale Transaction, to execute, deliver and file any document, including without limitation, any articles of reorganization, required in order to effect a change of its corporate name, and this Court waives any third party requirement or required consent pursuant to any Canadian federal or provincial legislation relating to same.

SEALING

12. **THIS COURT ORDERS** that the unredacted APA and Confidential Exhibits ● to the Second Report are hereby sealed and shall not form part of the public record until filing of the Proposal Trustee's Certificate with the Court or further order of the Court.

GENERAL

13. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this

Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

Schedule A – Proposal Trustee’s Certificate

Estate/Court File No. 31-2131992

ONTARIO SUPERIOR COURT OF JUSTICE (COMMERCIAL LIST)

IN THE MATTER OF THE NOTICE OF INTENTION TO
MAKE A PROPOSAL OF SHOP.CA NETWORK INC., a
corporation incorporated pursuant to the laws of the Canada,
with a head office in the City of Toronto, in the Province of
Ontario

PROPOAL TRUSTEE’S CERTIFICATE

RECITALS

- A. On June 8, 2016 SHOP.CA Network Inc. (“**SHOP.CA**”) filed a Notice of Intention to Make a Proposal pursuant to section 50.4 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended. Richter Advisory Group Inc. was appointed as SHOP.CA’s proposal trustee (the “**Proposal Trustee**”).
- B. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the asset purchase agreement (the “**APA**”) between the SHOP.CA and Transformational Capital Corporation (the “**Purchaser**”) dated July 8, 2016
- C. Pursuant to an Order of the Court dated [**DATE**], the Court approved the APA between and provided for the vesting in the Purchaser of the SHOP.CA’s right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Proposal Trustee to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in Article 8 of the APA have been satisfied or waived by SHOP.CA and/or

the Purchaser, as applicable; and (iii) the Sale Transaction has been completed to the satisfaction of the Proposal Trustee.

THE PROPOSAL TRUSTEE CERTIFIES the following:

1. The Purchaser has paid and SHOP.CA has received the Purchase Price for the Purchased Assets payable on the Closing pursuant to the APA;
2. The conditions to Closing as set out in Article 8 of the APA have been satisfied or waived by SHOP.CA and/or the Purchaser, as applicable; and
3. The Sale Transaction has been completed to the satisfaction of the Proposal Trustee.
4. This Certificate was delivered by the Proposal Trustee at _____ [TIME] on _____ [DATE].

**Richter Advisory Group Inc., in its capacity as
Proposal Trustee of SHOP.CA, and not in its
personal capacity**

Per: _____
Name:
Title:

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL OF
SHOP.CA NETWORK INC.,** a corporation incorporated pursuant to the laws of the
Canada, with a head office in the City of Toronto, in the Province of Ontario

Estate/Court File No. 31-2131992

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

Proceeding commenced at Toronto

APPROVAL AND VESTING ORDER

STIKEMAN ELLIOTT LLP
5300 Commerce Court West
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Toronto, ON M5L 1B9

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Email: leenicholson@stikeman.com

Lawyers for the Applicant

TAB 4

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

THE HONOURABLE _____) ~~WEEKDAY~~ FRIDAY, THE #15th
JUSTICE _____)
DAY OF ~~MONTH~~ JULY, ~~20YR~~ 2016

~~BETWEEN:~~

~~PLAINTIFF~~

~~Plaintiff~~

~~-and-~~

~~DEFENDANT~~

~~Defendant~~

IN THE MATTER OF THE NOTICE OF INTENTION TO
MAKE A PROPOSAL OF SHOP.CA NETWORK INC., a
corporation incorporated pursuant to the laws of the Canada,
with a head office in the City of Toronto, in the Province of
Ontario

Applicant

APPROVAL AND VESTING ORDER

THIS MOTION, made by ~~[RECEIVER'S NAME] in its capacity as the Court appointed receiver (the "Receiver") of the undertaking, property and assets of [DEBTOR] (the "Debtor")~~ SHOP.CA Network Inc. (the "SHOP.CA") for an order approving the sale transaction (the "Sale Transaction") contemplated by an ~~agreement of asset purchase and sale agreement~~ (the "Sale Agreement" "APA") between the ~~Receiver and [NAME OF PURCHASER] (the "SFHOP.CA and Transformational Capital Corporation (the "Purchaser")~~ dated ~~[DATE]~~ July 8,

2016 and appended as Exhibit "B" to the ~~Report of the Receiver dated [DATE] (the "Report"~~ affidavit of Anthony Chvala sworn July 12, 2016 (the "Chvala Affidavit"), and vesting in the Purchaser ~~the Debtor~~ all of SHOP.CA's right, title and interest in and to the ~~assets described in the Sale Agreement (the "Purchased Assets"~~ (as defined in the APA), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Chvala Affidavit and the exhibits thereto and the Second Report of Richter Advisory Group Inc. in its capacity as proposal trustee (the "Proposal Trustee") dated July ●, 2016 and the exhibits thereto (the "Second Report") and on hearing the submissions of counsel for ~~the Receiver, [NAMES OF OTHER PARTIES APPEARING]~~ SHOP.CA, the Proposal Trustee, the Purchaser, no one appearing for any other person on the service list, although properly served as appears from the affidavit of ~~[NAME]~~ Lee Nicholson sworn ~~[DATE]~~ July ●, 2016, filed¹:

SERVICE AND DEFINITIONS

1. THIS COURT ORDERS that the time for service and filing of the notice of motion and the motion record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

2. THIS COURT ORDERS that capitalized terms used herein but not otherwise defined shall have the meaning attributed to them in the APA.

STAY EXTENSION

3. THIS COURT ORDERS that the time for SHOP.CA's filing a proposal, and the stay of proceedings herein (the "Stay Period"), is hereby extended in accordance with subsection 50.4(9) of the Bankruptcy and Insolvency Act R.S.C. 1985 c. B-3, as amended (the "BIA"), to and including July 20, 2016.

APPROVAL OF SALE TRANSACTION

¹ ~~This model order assumes that the time for service does not need to be abridged. The motion seeking a vesting order should be served on all persons having an economic interest in the Purchased Assets, unless circumstances warrant a different approach. Counsel should consider attaching the affidavit of service to this Order.~~

4. ~~1.~~ THIS COURT ORDERS AND DECLARES that the Sale Transaction is hereby approved,² and the execution of the ~~Sale Agreement~~APA by ~~the Receiver~~³SHOP.CA is hereby authorized and approved nunc pro tunc, with such minor amendments as ~~the Receiver may deem necessary. The Receiver is~~SHOP.CA and the Purchaser, with the approval of the Proposal Trustee, may agree. SHOP.CA and the Proposal Trustee are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Sale Transaction and for the conveyance of the Purchased Assets to the Purchaser.

VESTING OF THE PURCHASED ASSETS

5. ~~2.~~ THIS COURT ORDERS AND DECLARES that upon the delivery of a ~~Receiver's~~ certificate by the Proposal Trustee to the Purchaser substantially in the form attached as Schedule "A" hereto (the ~~"Receiver"~~"Proposal Trustee's Certificate"), all of ~~the Debtor~~SHOP.CA's right, title and interest in and to the Purchased Assets ~~described in the Sale Agreement [and listed on Schedule B hereto]~~⁴ shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the ~~"Claims"~~⁵) including, without limiting the generality of the foregoing: (i) any ~~encumbrances or charges created by the Order of the Honourable Justice [NAME] dated~~

² ~~In some cases, notably where this Order may be relied upon for proceedings in the United States, a finding that the Transaction is commercially reasonable and in the best interests of the Debtor and its stakeholders may be necessary. Evidence should be filed to support such a finding, which finding may then be included in the Court's endorsement.~~

³ ~~In some cases, the Debtor will be the vendor under the Sale Agreement, or otherwise actively involved in the Transaction. In those cases, care should be taken to ensure that this Order authorizes either or both of the Debtor and the Receiver to execute and deliver documents, and take other steps.~~

⁴ ~~To allow this Order to be free-standing (and not require reference to the Court record and/or the Sale Agreement), it may be preferable that the Purchased Assets be specifically described in a Schedule.~~

⁵ ~~The "Claims" being vested out may, in some cases, include ownership claims, where ownership is disputed and the dispute is brought to the attention of the Court. Such ownership claims would, in that case, still continue as against the net proceeds from the sale of the claimed asset. Similarly, other rights, titles or interests could also be vested out, if the Court is advised what rights are being affected, and the appropriate persons are served. It is the Subcommittee's view that a non-specific vesting out of "rights, titles and interests" is vague and therefore undesirable.~~

~~[DATE] charges that may be granted by this Court in these proceedings, including the Administration Charge (as that term is defined in the Bid Process and Administration Order of this Court dated June 9, 2016); (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on Schedule C hereto~~ (all of which are collectively referred to as the ~~"Encumbrances", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D)~~ "Encumbrances" and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

~~3. THIS COURT ORDERS that upon the registration in the Land Registry Office for the [Registry Division of {LOCATION}] of a Transfer/Deed of Land in the form prescribed by the Land Registration Reform Act duly executed by the Receiver][Land Titles Division of {LOCATION}] of an Application for Vesting Order in the form prescribed by the Land Titles Act and/or the Land Registration Reform Act]⁶, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule B hereto (the "Real Property") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.~~

6. ~~4.~~ **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds⁷ from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the ~~Receiver'~~Proposal Trustee' Certificate, all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale⁸, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the

⁶ ~~Elect the language appropriate to the land registry system (Registry vs. Land Titles).~~

⁷ ~~The Report should identify the disposition costs and any other costs which should be paid from the gross sale proceeds, to arrive at "net proceeds".~~

⁸ ~~This provision crystallizes the date as of which the Claims will be determined. If a sale occurs early in the insolvency process, or potentially secured claimants may not have had the time or the ability to register or perfect proper claims prior to the sale, this provision may not be appropriate, and should be amended to remove this crystallization concept.~~

sale. Upon the expiry of the Stay Period, the net proceeds from the sale of the Purchased Assets shall be transferred to the Proposal Trustee in its capacity as trustee in bankruptcy of SHOP.CA.

7. ~~5.~~ **THIS COURT ORDERS AND DIRECTS** the ~~Receiver~~Proposal Trustee to file with the Court a copy of the ~~Receiver~~Proposal Trustee's Certificate, forthwith after delivery thereof.

8. ~~6.~~ **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, SHOP.CA and the ReceiverProposal Trustee is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Company's records pertaining to ~~the Debtor~~SHOP.CA's past and current employees, including personal information of those employees listed on Schedule "•"5.1(a) to the ~~Sale Agreement.~~APA. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by ~~the Debtor~~SHOP.CA.

9. ~~7.~~ **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the ~~Bankruptcy and Insolvency Act (Canada)~~BIA in respect of ~~the Debtor~~SHOP.CA and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of ~~the Debtor~~SHOP.CA;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of ~~the Debtor~~SHOP.CA and shall not be void or voidable by creditors of the ~~Debtor~~SHOP.CA, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the ~~Bankruptcy and Insolvency Act (Canada)~~BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

10. ~~8.~~ **THIS COURT ORDERS AND DECLARES** that the Sale Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

11. **THIS COURT ORDERS** that SHOP.CA is authorized, following the completion of the Sale Transaction, to execute, deliver and file any document, including without limitation, any articles of reorganization, required in order to effect a change of its corporate name, and this Court waives any third party requirement or required consent pursuant to any Canadian federal or provincial legislation relating to same.

SEALING

12. **THIS COURT ORDERS** that the unredacted APA and Confidential Exhibits ● to the Second Report are hereby sealed and shall not form part of the public record until filing of the Proposal Trustee's Certificate with the Court or further order of the Court.

GENERAL

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

Schedule A - ~~Form of Receiver~~Proposal Trustee's Certificate

Estate/Court File No. 31-2131992

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

IN THE MATTER OF THE NOTICE OF INTENTION TO
MAKE A PROPOSAL OF SHOP.CA NETWORK INC., a
corporation incorporated pursuant to the laws of the Canada,
with a head office in the City of Toronto, in the Province of
Ontario

~~BETWEEN:~~

~~PLAINTIFF~~

Plaintiff

~~—and—~~

~~DEFENDANT~~

Defendant

~~RECEIVER~~PROPOAL TRUSTEE'S CERTIFICATE

RECITALS

~~A. Pursuant to an Order of the Honourable [NAME OF JUDGE] of the Ontario Superior Court of Justice (the "Court") dated [DATE OF ORDER], [NAME OF RECEIVER] was appointed as the receiver (the "Receiver") of the undertaking, property and assets of [DEBTOR] (the "Debtor").~~

A. On June 8, 2016 SHOP.CA Network Inc. ("SHOP.CA") filed a Notice of Intention to Make a Proposal pursuant to section 50.4 of the Bankruptcy and Insolvency Act, R.S.C. 1985, c. B-3,

as amended. Richter Advisory Group Inc. was appointed as SHOP.CA's proposal trustee (the "Proposal Trustee").

B. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the asset purchase agreement (the "APA") between the SHOP.CA and Transformational Capital Corporation (the "Purchaser") dated July 8, 2016

C. B.—Pursuant to an Order of the Court dated [DATE], the Court approved the ~~agreement of purchase and sale made as of [DATE OF AGREEMENT] (the "Sale Agreement") between the Receiver [Debtor] and [NAME OF PURCHASER] (the "Purchaser")~~APA between and provided for the vesting in the Purchaser of the ~~Debtor~~SHOP.CA's right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the ~~Receiver~~Proposal Trustee to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in ~~section • Article 8 of the Sale Agreement~~APA have been satisfied or waived by ~~the Receiver~~SHOP.CA and /or the Purchaser, as applicable; and (iii) the Sale Transaction has been completed to the satisfaction of the ~~Receiver~~. C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.Proposal Trustee.

THE ~~RECEIVER~~PROPOSAL TRUSTEE CERTIFIES the following:

1. The Purchaser has paid and ~~the Receiver~~SHOP.CA has received the Purchase Price for the Purchased Assets payable on the Closing ~~Date~~ pursuant to the ~~Sale Agreement~~APA;
2. The conditions to Closing as set out in ~~section • Article 8 of the Sale Agreement~~APA have been satisfied or waived by ~~the Receiver~~SHOP.CA and /or the Purchaser, as applicable; and
3. The Sale Transaction has been completed to the satisfaction of the ~~Receiver~~Proposal Trustee.
4. This Certificate was delivered by the ~~Receiver~~Proposal Trustee at _____ [TIME] on _____ [DATE].

~~{NAME OF RECEIVER}~~Richter Advisory
Group Inc., in its capacity as ~~Receiver of the~~
~~undertaking, property and assets of~~
~~{DEBTOR}~~Proposal Trustee of SHOP.CA, and
not in its personal capacity

Per: _____

Name:

Title:

**IN THE MATTER OF THE NOTICE OF INTENTION TO MAKE A PROPOSAL
OF SHOP.CA NETWORK INC.**, a corporation incorporated pursuant to the laws of
the Canada, with a head office in the City of Toronto, in the Province of Ontario

Estate/Court File No. 31-2131992

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

Proceeding commenced at Toronto

**MOTION RECORD
(Motion for Approval of the Sale Transaction)
(Returnable on July 15, 2016)**

STIKEMAN ELLIOTT LLP
5300 Commerce Court West
199 Bay Street
Toronto, ON M5L 1B9

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Lawyers for the Applicant