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RM PTO-1618A  
Expires 06/30/99  
OMB 0651-0027



12-01-2003

U.S. DEPARTMENT OF COMMERCE  
Patent and Trademark Office  
TRADEMARK



RECO

102610874

TO: The Commissioner of Patents and Trademarks: Please record the attached original document(s) or copy(ies).

**Submission Type** 11.25-03

New

Resubmission (Non-Recordation)  
Document ID #

Correction of PTO Error  
Reel #  Frame #

Corrective Document  
Reel #  Frame #

**Conveyance Type**

Assignment  License

Security Agreement  Nunc Pro Tunc Assignment  
Effective Month Day Year

Merger  Change of Name

Other

**Conveying Party**  Mark if additional names of conveying parties attached

Name  Execution Date Month Day Year

Individual  General Partnership  Limited Partnership  Corporation  Association

Other

Citizenship/State of Incorporation/Organization

**Receiving Party**  Mark if additional name  ties attached

Name

DBA/AKA/TA

Composed of

Address (line 1)

Address (line 2)

Address (line 3)

City State/Country Zip Code

Individual  General Partnership  Limited Partnership  document to be recorded is an assignment and the receiving party is not domiciled in the United States, an appointment of a domestic representative should be attached. (Designation must be a separate document from Assignment.)

Corporation  Association

Other

Citizenship/State of Organization

11/20/2003 6TOM11 0000045-156434

11/20/2003 6TOM11 0010534700

11/20/2003 6TOM11 0010534700

11/20/2003 6TOM11 0010534700

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Mail documents to be recorded with required cover sheet(s) information to:

TRADEMARK  
REEL: 002871 FRAME: 0130

**Domestic Representative Name and Address**

Enter for the first Receiving Party only.

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

**Correspondent Name and Address**

Area Code and Telephone Number

Name

Address (line 1)

Address (line 2)

Address (line 3)

Address (line 4)

Pages Enter the total number of pages of the attached conveyance document including any attachments. #

Trademark Application Number(s) or Registration Number(s)  Mark if additional numbers attached  
Enter either the Trademark Application Number or the Registration Number (DO NOT ENTER BOTH numbers for the same property).

Trademark Application Number(s)

Registration Number(s)

<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="1564634"/>	<input type="text" value="1581621"/>	<input type="text" value="2103638"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="2496608"/>	<input type="text" value="2154744"/>	<input type="text" value="2160714"/>
<input type="text"/>	<input type="text"/>	<input type="text"/>	<input type="text" value="744063"/>	<input type="text" value="228822"/>	<input type="text"/>

Number of P Enter the total number of properties involved. #

Fee Amount Fee Amount for Properties Listed (37 CFR 3.41): \$

Method of Payment: Enclosed  Deposit Account

(Enter for payment by deposit account or if additional fees can be charged to the account.) #

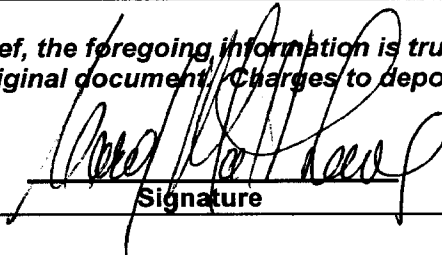
Deposit Account Number:

Authorization to charge additional fees: Yes  No

**Statement and Signature**

To the best of my knowledge and belief, the foregoing information is true and correct and any attached copy is a true copy of the original document. Charges to deposit account are authorized, as indicated herein.

Carol L. B. Matthews  
Name of Person Signing

  
Signature

25 Nov 03  
Date Signed

## BILL OF SALE

THIS AGREEMENT made the 25<sup>th</sup> day of March, 2002.

**BETWEEN:**

**SEARS CANADA MERCHANDISING SERVICES**

(hereinafter referred to as the "Purchaser")

of the first part

- and -

**ARTHUR ANDERSEN INC.**, solely in its capacity as the Receiver  
and Manager of Vogue Brassiere Incorporated,  
with no personal or corporate liability whatsoever.

(hereinafter referred to as the "Vendor")

of the second part

**WHEREAS:**

- (a) Vogue Brassiere Incorporated (the "Company") is indebted to Royal Bank of Canada (the "Bank") pursuant to a commitment letter dated November 18, 1999 granting the Company certain credit facilities (the "Credit Facilities");
- (b) As security for the Company's indebtedness to the Bank, the Company has delivered certain security to the Bank (together, the "Security"), including, *inter alia*, a General Security Agreement (the "GSA"), which grants a security interest over all of the assets, property and undertaking of the Company;
- (c) Pursuant to the terms of the GSA, the Bank is entitled to appoint a Receiver or Receiver and Manager upon the Company's default under the Credit Facilities;
- (d) The Company has defaulted under the terms of the Credit Facilities;
- (e) By letter dated December 7, 2001 the Bank demanded payment from the Company of all amounts owing by the Company to the Bank;

- (f) On December 7, 2001 the Bank delivered a Notice of Intention to Enforce Security to the Company pursuant to Section 244 of the *Bankruptcy and Insolvency Act* (Canada);
- (g) By letter dated February 8, 2002, the Bank, with the consent of the Company, appointed Arthur Andersen Inc. as receiver and manager pursuant to the terms of the Bank's Security. Arthur Andersen Inc., and any other party which Arthur Andersen Inc. may in its sole discretion deem necessary for it to more efficiently carry out its mandate as receiver and manager, including, without limiting the generality of the foregoing, its successors, assigns, agents, employees, and sublicensees shall hereinafter be referred to collectively as the "Receiver";
- (h) On March 1, 2002 the Bank issued a notice in respect of the Company pursuant to and in compliance with Part V of the *Personal Property Security Act* (Ontario) (the "PPSA");
- (i) No party served with the notice described in subparagraph (h) has offered to redeem the Bank's security and each of these parties has consented to an immediate disposition of, *inter alia*, the Purchased Assets and the Trademarks (as defined below);
- (j) The Purchaser has offered to purchase certain of the property, assets and undertaking of the Company from the Vendor and the Vendor has accepted such offer on the terms described herein.

NOW THEREFORE, IN CONSIDERATION of the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties covenant and agree as follows:

## ARTICLE I PURCHASE AND SALE OF ASSETS

### 1.1 Purchase and Sale

- (a) The Vendor hereby sells, assigns, transfers and conveys to the Purchaser and the Purchaser hereby purchases all of the Vendor's right, title and interest, if any, in and to the assets more particularly described in Schedule "A" hereto (the "Purchased Assets").
- (b) The Vendor hereby grants to the Purchaser an exclusive option (the "Option") to purchase, for the price of one dollar (\$1.00), all of the Vendor's right, title and interest, if any, in and to the names and trademarks more particularly described in Schedule "B" hereto (the "Trademarks"), provided that the Option shall not be exercisable by the

Purchaser prior to June 12, 2002 (the "Trademarks Closing Date") or subsequent to August 31, 2002 or such other date as agreed to in writing by the parties.

- (c) The Vendor acknowledges and agrees that it has done no act to encumber the Purchased Assets and or the Trademarks.
- (d) The Purchaser hereby acknowledges to and in favour of the Vendor, save and except as specifically represented and warranted by the Vendor herein:
  - i) that the Purchaser has conducted its own investigations and inspections of the Purchased Assets and all matters and things connected with or in any way related to the Purchased Assets;
  - ii) that the Purchaser has satisfied itself with respect to the Purchased Assets;
  - iii) that the Purchaser has relied entirely upon its own investigation and inspections in entering into this agreement;
  - iv) that the Purchaser is purchasing the Purchased Assets on an "as is, where is" basis as of the Closing Date, as hereafter defined (which date shall be no later than March 25, 2002);
  - v) that the Purchaser accepts the Purchased Assets in their present state, condition and location; and
  - vi) that the Purchaser hereby acknowledges that the Vendor has made no representations, warranties, statements or promises with respect to any matter or thing whatsoever, including, without limitation, as to title, description, fitness for purpose, merchantability, quantity or the condition of any matter or thing whatsoever.
- (e) The Purchaser hereby acknowledges to and in favour of the Vendor, save and except as specifically represented and warranted by the Vendor herein:
  - i) that the Purchaser has conducted, and shall continue to conduct, its own investigations and inspections of the Trademarks and all matters and things connected with or in any way related to the Trademarks;
  - ii) that the Purchaser has satisfied, and shall continue to satisfy, itself with respect to the Trademarks;
  - iii) that the Purchaser shall continue to rely entirely on its own investigations and inspections when deciding, in its sole discretion, whether or not to exercise the Option;

- iv) that the Purchaser, should it elect in its sole discretion to exercise the Option, shall purchase the Trademarks on an "as is, where is" basis as of the Trademarks Closing Date;
  - v) that the Purchaser may exercise the Option only if the Purchaser accepts the Trademarks in their state, condition and location as of the Trademarks Closing Date; and
  - vi) that the Vendor has not made, and the Purchaser shall not rely on, any representations, warranties, statements or promises with respect to any matter or thing whatsoever, including, without limitation, as to title, description, fitness for purpose, merchantability, quantity or the condition of any matter or thing whatsoever, save and except as are contained herein.
- (f) The Purchaser shall ensure that, in addition to payment of the Purchase Price, the Trade Accounts Receivable, as described in Schedule "C" hereto, shall be paid in full to the Vendor on the Closing Date by cash, certified cheque or bank draft.
  - (g) The Purchaser acknowledges that it shall be the Purchaser's sole responsibility to obtain, at its own expense, any consents or any further documentation or assurances which the Purchaser may require to carry out the terms of this Agreement.
  - (h) The Purchaser shall assume, at its own cost, complete responsibility for compliance with all laws and regulations, whether municipal, provincial, federal, international or otherwise to the extent such laws apply to the Purchased Assets and/or the Trademarks or the use thereof by the Purchaser.
  - (i) The Purchaser and the Vendor acknowledge and agree that the transaction contemplated herein is confidential. The Purchaser agrees and undertakes to and in favour of the Vendor that, unless compelled by legal proceeding, it shall not disclose the existence of this agreement, the occurrence or the terms of this transaction to any party until June 7, 2002 unless such disclosure is expressly authorized in writing by the Vendor.
  - (j) The Vendor hereby authorizes the Purchaser to disclose the fact of its purchase of the Purchased Assets only to the extent such disclosure is reasonably necessary to enforce its legal rights hereunder in respect of the Purchased Assets. For greater certainty, the foregoing authorization is limited solely to the Purchased Assets and does not extend to the Trademarks.

**1.2 Purchase Price**

The purchase price for the Purchased Assets and the granting of the Option is the sum of two million seven hundred ten thousand dollars (\$2,710,000.00) Cdn. plus Goods and Services Tax in the amount of one hundred eighty nine thousand seven hundred dollars (\$189,700) Cdn., for a total amount of two million eight hundred ninety nine thousand seven hundred dollars (\$2,899,700.00) Cdn. (the "Purchase Price"), which amount has been paid concurrently herewith by the Purchaser to Thornton Grout Finnigan LLP "In Trust" on behalf of the Vendor by way of cash, certified cheque or bank draft.

**1.3 Taxes**

The Purchaser has, concurrently herewith, delivered a Purchase Exemption Certificate to the Vendor in respect of Retail Sales Tax.

**1.4 Surrender of the Assets**

- (a) The Purchased Assets are located at the premises of the Company at 625 Millway Avenue, Concord, Ontario (the "Premises") and shall be surrendered to the possession of the Purchaser at the Premises on March 25, 2002 (the "Closing Date").
- (b) The Purchaser shall remove the Purchased Assets from the Premises no later than April 19, 2002. The Purchaser acknowledges from and after the earliest of the removal of the Purchased Assets from the Premises or April 19, 2002, it shall be the sole responsibility of the Purchaser to maintain, insure and secure the Purchased Assets, and the Vendor shall not be responsible for any loss or damage thereto. Prior to April 19, 2002 and the removal of the Purchased Assets from the Premises, the Vendor shall maintain insurance in respect of the Purchased Assets substantially similar to that maintained by the Company prior to the appointment of the Receiver. For greater certainty, at no time after the earlier of April 19, 2002 or the removal of the Purchased Assets from the Premises will the Vendor maintain such insurance.
- (c) Until the Purchaser's removal from the Premises of the Purchased Assets, the Vendor shall grant the Purchaser reasonable access thereto at any time during regular business hours required by the Purchaser. The Purchaser will provide the Vendor with 24 hours notice prior of the request for access. The Vendor will not unreasonably interfere with the access of the Purchaser to the Premises.

**1.5 Refund for Unavailable Purchased Assets**

If the Vendor is unable to surrender any of the Purchased Assets, or any portion thereof, to the Purchaser (the "Unavailable Assets") in accordance with this Agreement, the Vendor will refund to the Purchaser an amount of the Purchase Price which amount is equal to the value of the Unavailable Assets. Such value will be calculated strictly in accordance with the values ascribed to each category of Purchased Asset as set out in Schedule "A" hereto.

**ARTICLE II****REPRESENTATIONS AND WARRANTIES****2.1 Purchaser's Representations and Warranties**

The Purchaser represents and warrants to the Vendor as follows and acknowledges that the Vendor is relying on such representations and warranties in entering into this Agreement:

- (a) the Purchaser is a partnership duly organized and subsisting under the *Partnerships Act* (Ontario);
- (b) the transaction contemplated herein is not a reviewable transaction within the meaning of the *Investment Canada Act* (Canada);
- (c) the Purchaser is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada);
- (d) the Purchaser has the requisite power and authority to enter into and complete the transaction of purchase and sale contemplated hereby and all necessary action has been taken to authorize the execution and delivery of this Agreement and all documents contemplated hereby.

**2.2 Vendor's Representations and Warranties**

The Vendor represents and warrants to the Purchaser as follows, and acknowledges that the Purchaser is relying on such representations and warranties in entering into this Agreement:

- (a) The Recitals in this Agreement are true and correct;
- (b) the Vendor is not a non-resident of Canada within the meaning of the *Income Tax Act* (Canada); and
- (c) the Vendor has the right to sell, assign, or otherwise transfer its right, title and interest, if any, in the Purchased Assets and the Trademarks to the



Purchaser and the individual signing this Agreement on behalf of the Vendor has the requisite corporate authority to do so.

### ARTICLE III

#### RIGHT OF FIRST REFUSAL FOR FINISHED GOODS ONLY

- 3.1 The Purchaser acknowledges that the Vendor, acting in its sole discretion, shall continue to market for sale certain of the Company's remaining inventory which does not form part of the Purchased Assets (collectively, the "Units", and each item of which is a "Unit").
- 3.2 Where the Vendor receives an offer to purchase ten thousand or more Units in a single transaction (each such offer being a "Bulk Offer") from a prospective purchaser and the Vendor, in its sole discretion, considers such Bulk Offer to be reasonable, appropriate and acceptable in the circumstances, the Vendor shall give to the Purchaser notice ("Notice") of the Bulk Offer and its terms. The Vendor shall not accept a Bulk Offer for a period of forty-eight (48) hours following the issuance of the Notice to the Purchaser, without the prior written consent of the Purchaser. The Purchaser shall have, for a period of forty eight (48) hours following delivery of the Notice, the right to purchase (the "Right of First Refusal") from the Vendor the Units subject to such Bulk Offer on terms which are, in the sole discretion of the Vendor, equal to, or better than the terms of the Bulk Offer.
- 3.3 Where the Vendor receives an offer to purchase less than ten thousand Units in a single transaction (each such offer being an "Ordinary Offer") from a prospective purchaser, the Purchaser acknowledges and agrees that the Vendor may sell such Units in its sole discretion without issuing a Notice to the Purchaser. The Purchaser further acknowledges and agrees that it shall not have any Right of First Refusal with respect to any sale of Units other than pursuant to a Bulk Offer, as described herein.

### ARTICLE IV

#### VENDOR'S RIGHT TO USE OF TRADEMARKS

- 4.1 The Purchaser acknowledges and agrees that, notwithstanding the Option regarding the Trademarks, the Vendor shall have the right, both prior to and subsequent to any exercise of the Option by the Purchaser, to use the Trademarks to carry out its mandate as Receiver, as determined by the Vendor in its sole discretion, acting reasonably. The Purchaser further acknowledges and agrees that the right of the Vendor to use the Trademarks is limited to the execution of the Receiver's mandate as

Receiver and shall terminate upon the discharge of the Receiver. Such right shall be without charge. Subsequent to the discharge of the Receiver, the Receiver shall have the right to use of the Trademarks only with the approval of the Purchaser. As long as the Option is outstanding the Vendor shall not dispose of or encumber the Trademark.

- 4.2 The Purchaser acknowledges and agrees that, notwithstanding the Option regarding the Trademarks, any person or entity that has purchased Units from the Vendor (the "Customer") shall have the right, both prior to and subsequent to any exercise of the Option by the Purchaser, to use the Trademarks in connection with the re-sale of such Units by such Customer. The Purchaser further acknowledges and agrees that the right of the Customer to use the Trademarks shall be without charge and for an unlimited period of time, but shall be limited to the resale of the Units only.

## ARTICLE V

### MISCELLANEOUS

- 5.1 Each of the Vendor and the Purchaser shall, from time to time, execute and deliver all such further documents and instruments and do all acts and things as the other party may, either before or after the Closing Date and the Trademark's Closing Date, request or may be reasonably required in order to more effectively carry out or better evidence or perfect the full intent and meaning of this Agreement, at the cost of the requesting party.
- 5.2 The Vendor shall deliver to the Purchaser at the time of closing on the Closing Date copies of the documents referred to in the Recitals, excluding those documents referred to in Recital (a).
- 5.3 Time shall be of the essence of this Agreement.
- 5.4 This Agreement shall enure to the benefit of and be binding upon the respective heirs, executors, administrators, successors and permitted assigns of the parties hereto.
- 5.5 This Agreement constitutes the entire Agreement between the parties with respect to the subject matter hereof and cancels and supersedes any prior understandings or letters between the parties hereto. There are no representations, warranties, terms, conditions, undertakings or collateral Agreements, express, implied or statutory between the parties other than is expressly set forth in this Agreement.
- 5.6 No modification of or amendment to this Agreement shall be valid or binding unless set forth in writing and duly executed by both of the parties

hereto and no waiver of any breach of any term or provision of this Agreement shall be effective or binding unless made in writing and signed by the party purporting to give same and, unless otherwise provided, shall be limited to the specific breach so waived.

5.7 This Agreement may not be assigned by the Vendor or the Purchaser without the prior written consent of the other.

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

5.9 This Agreement may be executed in counterparts and/or by facsimile.

5.10 Any notice to the Purchaser hereunder shall be issued by facsimile transmission to the attention of Claudette Groody at (514) 335-4048 and shall be deemed to have been received at the time of transmission by the Vendor.

5.11 Any notice to the Vendor hereunder shall be issued by facsimile transmission to the attention of Jennifer Logan-Klassen at (416) 947-7788 and shall be deemed to have been received at the time of transmission by the Purchaser.

5.12 The Purchaser is not assuming any liabilities or obligations of the Company or the Vendor including without limitation any liabilities or obligations to employees of the Company or the Vendor.

5.13 The respective representations and warranties of each of the Purchaser and Vendor herein and all of the covenants contained herein shall not merge on closing but shall survive closing.

IN WITNESS WHEREOF the parties have executed this Agreement at Toronto, Ontario this 25<sup>th</sup> day of March, 2002.

**SEARS CANADA MERCHANDISING SERVICES**

Per: \_\_\_\_\_  
Name:  
Title

Per: \_\_\_\_\_  
Name:  
Title

(We have authority to bind the partnership)

**ARTHUR ANDERSEN INC.,**  
solely in its capacity as Receiver and Manager  
of Vogue Brassiere Incorporated, with no  
personal or corporate liability whatsoever

Per: J Logan Klassen  
Name: J Logan Klassen  
Title: Vice President

hereto and no waiver of any breach of any term or provision of this Agreement shall be effective or binding unless made in writing and signed by the party purporting to give same and, unless otherwise provided, shall be limited to the specific breach so waived.

- 5.7 This Agreement may not be assigned by the Vendor or the Purchaser without the prior written consent of the other.
- 5.8 This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.
- 5.9 This Agreement may be executed in counterparts and/or by facsimile.
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- 5.11 Any notice to the Vendor hereunder shall be issued by facsimile transmission to the attention of Jennifer Logan-Klassen at (416) 947-7788 and shall be deemed to have been received at the time of transmission by the Purchaser.
- 5.12 The Purchaser is not assuming any liabilities or obligations of the Company or the Vendor including without limitation any liabilities or obligations to employees of the Company or the Vendor.
- 5.13 The respective representations and warranties of each of the Purchaser and Vendor herein and all of the covenants contained herein shall not merge on closing but shall survive closing.

IN WITNESS WHEREOF the parties have executed this Agreement at Toronto, Ontario this 25<sup>th</sup> day of March, 2002.

**SEARS CANADA MERCHANDISING  
SERVICES**

Per: J. B. G.  
Name:  
Title

Per: A. M. S.  
Name:  
Title

(We have authority to bind the partnership)

**BILL OF SALE**

**March 25, 2002**

**SCHEDULE "A" – Purchased Assets**

- a. The 331,578 finished goods inventory units listed in the attached schedule A-1;
- b. Design, bill of material, construction information to the extent that same are available on site;
- c. Boxed packaging material that is on the premises;
- d. Any marketing materials related to the purchased brands that are available on the premises and are property of the Company.

**SCHEDULE A-1**

<b>Type of Inventory</b>	<b>Number of Units to be Surrendered by Vendor</b>	<b>Refund Amount Per Unit Not Surrendered by Vendor</b>
Clearance Boxed 1760	6254	\$6.00
Clearance Boxed 1736	1266	\$6.00
Boxed Clearance	53809	\$4.92
Boxed Ongoing	139256	\$9.18
<b>GRAND TOTAL BOXED</b>	<b>200585</b>	
Dessous	39251	\$8.51
Vie	17199	\$6.85
New Styles	26697	\$6.14
Clearance Hanging (VD)	2524	\$4.81
Vanity Fair	43699	\$3.90
<b>GRAND TOTAL (HANGING)</b>	<b>129370</b>	
PO on floor	1623	
<b>GRAND TOTAL</b>	<b>331578</b>	

BILL OF SALE

March 25, 2002

SCHEDULE "B" – Trademarks

Trade name	Registration #	Country
Boutique Bra	161,760	Canada
Vogue Bra Intimates	286,596	Canada
Vogue Bra	245,656	Canada
Mondiva	354,154	Canada
Vogue Dessous	358,156	Canada
V Design	639,100	Canada
Vogue Bra Supersmooth	605,188	Canada
A Feeling For Your Body	494,6575	Canada
Parti Pris Pour Votre Corps	494,693	Canada
Vogue Dessous	2154744	U.S.
Mondiva	744063	U.S.
Vogue Dessous II	2160714	U.S.
A Feeling for Your Body	228822	U.S.
Mondiva	1564634	U.S.
Vogue Dessous	1581621	U.S.
A Feeling for Your Body	2103638	U.S.
VIE Design	2496608	U.S.

# 1383867\_v1



BILL OF SALE  
SCHEDULE C

Sears Accounts Receivable

		<u>Per Sears</u>	<u>Per Vogue</u>
Outstanding invoices at March 15, 2002		94,213.87	523,733.09
Less: Sears payments after March 15th			<u>(429,414.37)</u>
		<u>94,213.87</u>	<u>94,318.72</u>
Add: Chargebacks to be reversed by Sears		339,087.70	339,059.55
Less: 2% cash discount to be taken on outstanding invoices		(1,884.86)	(1,886.37)
Less: PO to be credited by Receiver		(21,859.11)	(21,859.11)
Less: PA for March 2002	\$ 1,908,160.09 x 2% <i>estimated</i>	(17,650.39)	(17,650.39)
Less: Volume Rebate for March 2002	\$ 1,908,160.09 x 2% <i>estimated</i>	(17,650.39)	(17,650.39)
<b>Total</b>		<u><u>374,256.82</u></u>	<u><u>374,332.01</u></u>
Amount Payable by Sears Canada to Arthur Andersen Inc. Receiver of Vogue Brassiere	\$	374,256.82	