

IN THE MATTER OF THE SECURITIES LEGISLATION OF BRITISH COLUMBIA,  
ALBERTA, SASKATCHEWAN, MANITOBA, ONTARIO, QUEBEC, NEW BRUNSWICK,  
NOVA SCOTIA, NEWFOUNDLAND AND PRINCE EDWARD ISLAND

AND

IN THE MATTER OF THE MUTUAL RELIANCE REVIEW SYSTEM FOR EXEMPTIVE  
RELIEF APPLICATIONS

AND

IN THE MATTER OF FUTURE SHOP LTD.

VARIATION OF MRRS DECISION DOCUMENT

WHEREAS the local securities regulatory authority or regulator (the "Decision Maker") in each of British Columbia, Alberta, Manitoba, Saskatchewan, Ontario, Quebec, New Brunswick, Nova Scotia, Newfoundland and Prince Edward Island (the "Jurisdictions") issued a decision (the "Original Decision") on November 22, 1999 under the securities legislation of the Jurisdictions (the "Legislation") exempting trades in certain securities by Future Shop Ltd. ("Future Shop") and the limited partners (the "Partners") of futureshop.com lp (the "Partnership") from the registration and prospectus requirements and the take-over bid rules in the Legislation;

AND WHEREAS Future Shop has applied to the Decision Makers for a decision under the Legislation varying the Original Decision;

AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the Executive Director of the British Columbia Securities Commission is the principal regulator for this application;

AND WHEREAS Future Shop has represented to the Decision Makers that:

1. the Original Decision related to a proposed offering (the "Offering") of up to 2,000,000 Units to purchasers resident in the Jurisdictions, generating gross proceeds to the Partnership of \$20,000,000;
2. 730,500 Units were distributed in the Offering, generating gross proceeds to the Partnership of \$7,305,000; as a result of the shortfall in the Offering, the Partnership proposes to undertake a second offering (the "Second Offering") of up to 1,500,000 Units, generating gross proceeds to the Partnership of up to \$15,000,000;
3. the Call Options (as defined in the Original Decision) granted as part of the Offering were exercisable, at the sole option of Future Shop, to acquire all, but not less than all, of the Units then outstanding at any time during the period commencing on January 1, 2001 and ending April 15, 2001 (the "First Call Period") or during the period commencing on January 1, 2002 and ending on April 15, 2002 (the "Second Call Period") or in certain other limited circumstances;

the consideration payable on the exercise of the Call Options included a number of Future Shop common shares (the "Exchanged Shares") determined by reference to the "current market price" of Future Shop's common shares, subject to a deemed maximum and minimum price of \$18.00 and \$6.00, respectively;

4. due to market conditions (namely, a substantial increase in the trading price of Future Shop's common shares on The Toronto Stock Exchange), the Call Options to be granted by Partners who purchase under the Second Offering will be on different pricing terms from those granted by the Partners in the Offering; in the Second Offering, Future Shop will be entitled to exercise the Call Option by either, in its sole discretion, a cash payment of \$10 per Unit or issuance of Exchanged Shares determined in accordance with the formula set out in the Original Decision, but with an increase in the deemed maximum current market price of Future Shop's common shares from \$18.00 to \$30.00; as a result of these changes to the Call Option, paragraph 16 of the representations to the Original Decision does not accurately describe the exercise of the Call Options insofar as it applies to the mechanics for exercise of the Call Options to be granted pursuant to the Second Offering;

5. the Original Decision further provided that the first trade in Exchanged Shares acquired by the Partners on the exercise of the Call Options will be deemed to be a distribution or subject to the registration and prospectus requirements of the Legislation unless a twelve month period had elapsed from the date of issue of the Call Options; because the Partnership intends to retain the timing of the First Call Period and Second Call Period in the Second Offering and because the First Call Period is now closer in time, to the extent that Future Shop elects to exercise the Call Options during the First Call Period, Partners who purchase Units under the Second Offering will not be able to rely on the Original Decision to obtain free trading Exchanged Shares upon such exercise;

6. Future Shop has filed an annual information form under Blanket Order #98/7 of the British Columbia Securities Commission entitled "In the Matter of the System for Shorter Hold Periods with an Annual Information Form" and under Alberta Rule 45-501 entitled "System for Shorter Hold Period for Issuers Filing an AIF", each which allows for a four month hold period instead of a twelve month hold period, provided that an issuer distributing the securities is a "qualifying issuer" under, and otherwise complies with the terms of BOR #98/7 and Rule 45-501, as applicable;

AND WHEREAS under the System this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");

AND WHEREAS each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Makers with the jurisdiction to make the Decision has been met;

THE DECISION of the Decision Makers under the Legislation is that the Original Decision be varied as follows:

1. deleting the number "12" in paragraph 3(a) of the recitals and in paragraph 3(a) of the operative portion of the Original Decision and replacing it with the number "4";
2. inserting the words "and Manitoba" after Quebec in paragraph 3(a) of the recitals and in paragraph 3(a) of the operative portion of the Original Decision;
3. inserting the following new condition (b) in paragraph 3 of the recitals and in paragraph 3 of the operative portion of the Original Decision:

"at the date of the distribution of the Call Option, Future Shop (i) complies with BOR #98/7 and Rule 45-501, except for the condition requiring Future Shop to distribute a security of its own issue and, (ii) signs certificates as required under BOR #98/7 and Rule 45-501, including that Future Shop is a "qualifying issuer" as defined in BOR #98/7 and Rule 45-501, provided that such certificates need not state that the Call Option is a security of Future Shop's own issue;"

4. renumbering (b) to (f) in paragraph 3 of the recitals and paragraph 3 of the operative portion of the Original Decision accordingly; and
5. deleting paragraph 16 of the representations to the Original Decision in its entirety and replacing it with the following:

"16. the purchase price payable for the Units upon the exercise of the Call Option by Future Shop will be as follows:

(a) if the Call Option is exercised during the First Call Period, that number of freely-tradeable common shares of Future Shop (the "Exchanged Shares") determined by dividing \$9.50 by the "current market price" of Future Shop's common shares, with "current market price" being calculated as 95% of the weighted average trading price of Future Shop's common shares on the TSE for the 20 consecutive trading days ending five trading days before the date fixed for completion under the Call Option, subject to certain deemed maximum and minimum values or, at the sole option of Future Shop, a cash payment of \$10.00 and, in either case, together with one Discount Right (as defined below) per Unit;

(b) if the Call Option is exercised during the Second Call Period, the Exchanged Shares or cash payment and Discount Rights as calculated in clause 16(a) together with a cash payment per Unit of the greater of (i) \$49.00 per Unit and (ii) eight times the gross revenues per Unit for the 12 month period ending December 31, 2001, less \$9.50, divided by the number of Units then outstanding; and

(c) if the Call Option is exercised during an Accelerated Call Period which occurs (i) prior to the commencement of the First Call Period, \$12.00 per Unit, or (ii) after the expiry of the First Call Period but before the commencement of the Second Call Period, \$54.00 per Unit, less any unpaid amount on the subscription price for such Units."

with the result that the Original Decision as varied by this Decision will be in the form attached as Schedule "A".

DATED August "16th", 2000.

Brenda Leong  
Acting Director

SCHEDULE "A"

IN THE MATTER OF THE SECURITIES LEGISLATION  
OF BRITISH COLUMBIA, ALBERTA, SASKATCHEWAN, MANITOBA, ONTARIO,  
QUEBEC, NEW BRUNSWICK, NOVA SCOTIA, NEWFOUNDLAND AND PRINCE  
EDWARD ISLAND

AND

IN THE MATTER OF THE MUTUAL RELIANCE REVIEW SYSTEM FOR EXEMPTIVE  
RELIEF APPLICATIONS

AND

IN THE MATTER OF FUTURE SHOP LTD.

MRRS DECISION DOCUMENT

WHEREAS the Canadian securities regulatory authority or regulator (the "Decision Maker") in each of the Provinces of British Columbia, Alberta, Saskatchewan, Manitoba, Ontario, Quebec, New Brunswick, Nova Scotia, Newfoundland and Prince Edward Island (the "Jurisdictions") has received an application from Future Shop Ltd. ("Future Shop") for a decision under the securities legislation of the Jurisdictions (the "Legislation") that:

1. the registration and prospectus requirements contained in the Legislation do not apply to:

- (a) the distribution of the Call Option (as defined below) by the limited partners (the "Partners") of futureshop.com lp (the "Partnership") to Future Shop;
  - (b) the distribution of Exchanged Shares (as defined below) and Discount Rights (as defined below) as consideration or partial consideration for the acquisition of Units (as defined below) on the exercise of the Call Option;
  - (c) the distribution of Units by the Partners to Future Shop on the exercise of the Call Option by Future Shop;
- (collectively, the "Non-Exempt Trades");

2. the requirements contained in the Legislation to comply with the take-over bid rules in the Legislation (the "Take-Over Bid Requirements") do not apply to the acquisition of Units by Future Shop on the exercise of the Call Option; and

3. the first trade in Exchanged Shares acquired by the Partners on the exercise of the Call Option will be a distribution under the Legislation, except in Quebec and Manitoba, where such first trade will be subject to registration and prospectus requirements contained in its Legislation, unless:

(a) Future Shop is a reporting issuer under the Legislation, was a reporting issuer at the time of the grant of the Call Option and a 4 month period has elapsed from the date of the grant of the Call Option;

(b) at the date of the distribution of the Call Option, Future Shop (i) complies with BOR #98/7 and Rule 45-501, except for the condition requiring Future Shop to distribute a security of its own issue and, (ii) signs certificates as required under BOR #98/7 and Rule 45-501, including that Future Shop is a "qualifying issuer" as defined in BOR #98/7 and Rule 45-501, provided that such certificates need not state that the Call Option is a security of Future Shop's own issue;

(c) if the seller is an insider of Future Shop, other than a director or senior officer of Future Shop, the seller has filed all records required to be filed under the insider reporting obligations of the Legislation;

(d) if the seller is a director or senior officer of Future Shop, the seller has filed all records required to be filed under the insider reporting obligations of the Legislation and Future Shop has filed all records required to be filed under the continuous disclosure obligations of the Legislation;

(e) the trade is not a distribution from the holdings of a control person, as defined in the Legislation, if applicable;

(f) no unusual effort is made to prepare the market or create a demand for the Exchanged Shares; and

(g) no extraordinary commission or other consideration is paid in respect of the trade;

AND WHEREAS under the Mutual Reliance Review System for Exemptive Relief Applications (the "System"), the British Columbia Securities Commission is the principal regulator for this application;

AND WHEREAS Future Shop has represented to the Decision Makers that:

1. Future Shop is a corporation incorporated under the laws of British Columbia and continued under the federal laws of Canada; Future Shop's business is the retailing of consumer electronic

products, computer equipment, software, music, videos and appliances; Future Shop currently has 85 retail locations located across Canada;

2. the authorized capital of Future Shop consists of an unlimited number of common shares, preferred shares and employee participation shares, of which 16,170,000 common shares and no preferred shares or employee participation shares are issued and outstanding as at October 27, 1999;

3. Future Shop is a "reporting issuer" (or equivalent) within the meaning of the Legislation in each of the Jurisdictions where such concept exists and is not in default of any of the reporting requirements under the Legislation;

4. the outstanding common shares of Future Shop are listed on The Toronto Stock Exchange (the "TSE"); prior to March 30, 1999, Future Shop's common shares were also listed on the Vancouver Stock Exchange, but were de-listed at the request of the Future Shop effective on that date;

5. the Partnership is a limited partnership created on June 29, 1999 under the laws of Alberta; the business of the Partnership is to sell consumer electronic products, computer equipment, software, music, videos and appliances through an internet website or such other electronic medium of distribution as the General Partner (as defined below) may determine from time to time;

6. as part of its future growth strategy, Future Shop intends to expand its internet-based retailing business, or "e-commerce", presence and activities through the Partnership;

7. futureshop.com ltd. (the "General Partner"), a wholly-owned subsidiary of Future Shop incorporated on May 16, 1999 under the laws of Alberta, is the general partner of the Partnership; the Board of Directors of the General Partner consists of five members, three who were appointed by Future Shop and two who are independent of Future Shop; the General Partner will not engage in any business other than acting as the general partner of the Partnership;

8. the Partnership is authorized to issue an unlimited number of limited partnership units, of which one unit is issued and outstanding; each unit represents an equal interest in the Partnership, and is transferable only with the approval of the General Partner and then only in accordance with applicable securities laws; in certain circumstances, the Partners of the Partnership may, by ordinary resolution, cause the Partnership to be converted into a corporate entity ("Privateco") by the sale of the assets of the Partnership to Privateco in exchange for shares in Privateco and the subsequent distribution to the Partners of those shares on dissolution of the Partnership; the limited partnership units, together with any shares that may be issued in exchange on the conversion of the Partnership to a corporate structure, are referred to as the "Units";

9. Future Shop was the initial Unitholder of the Partnership, and subsequently transferred its Unit to Vycom Advertising Ltd. ("Vycom"), a wholly-owned subsidiary of Future Shop; Vycom is currently the sole Unitholder in the Partnership;

10. under an agreement dated June 30, 1999 between Future Shop and the General Partner, Future Shop transferred substantially all of its assets relating to its e-commerce business to the General Partner, all of which were subsequently transferred to the Partnership; Future Shop and the General Partner also entered into various supplemental agreements to license and lease certain intellectual property used in the e-commerce business to the General Partner and to provide the General Partner with administrative, management, marketing and fulfillment support for the purpose of carrying on the e-commerce business; the General Partner assigned its interest in these agreements with Future Shop to the Partnership; Future Shop and the Partnership also entered into a credit facility agreement and a non-competition agreement prohibiting Future Shop from directly or indirectly offering or advertising for sale any of its products or services through an internet website, subject to certain exceptions; as a result of these transactions and agreements, the Partnership has acquired the e-commerce assets of Future Shop, the exclusive right to carry out Future Shop's e-commerce business without competition from Future Shop and an exclusive license to carry on such business under the internet domain names futureshop.com, futureshop.ca, futurshop.com, computercity.ca and any derivations thereof;

11. it is expected that Partners will be able to realize certain income tax deductions resulting from their holding of Units as a result of operating losses expected to be incurred by the Partnership during the development of the Partnership's e-commerce business; the Partnership has been registered as a tax shelter investment under the Canada *Income Tax Act*;

12. the Partnership is not, and has no current intention to become, a reporting issuer under the Legislation in any of the Jurisdictions where such concept exists;

13. the Partnership intends to offer 2,000,000 Units (the "Offering") at a price of \$10.00 per Unit pursuant to registration and prospectus requirements under the Legislation in each of the Jurisdictions, generating gross proceeds to the Partnership of \$20,000,000; the proceeds of the Offering will be used to develop and operate the Partnership's e-commerce business; immediately on the completion of the Offering, the Partnership will redeem the sole outstanding Unit held by Vycom;

14. all subscribers for Units will purchase under the registration and prospectus exemptions contained in the Legislation applicable to sophisticated investors or purchases of securities with an aggregate acquisition cost of not less than a minimum amount and, prior to the purchase of Units, will receive a confidential offering memorandum containing prospectus-level disclosure regarding the Partnership and its business;

15. in connection with each subscription agreement for Units and as confirmed under the partnership agreement establishing the Partnership, each Partner will grant to Future Shop an option (the "Call Option") to purchase all, but not less than all, of the Units of the Partners who are not also affiliates of Future Shop; Future Shop will have the right, but not the obligation, to exercise the Call Option at any time during the period commencing on January 1, 2001 and

ending April 15, 2001 (the "First Call Period") or during the period commencing on January 1, 2002 and ending April 15, 2002 (the "Second Call Period"); in the event Future Shop undergoes a "change of control" prior to the commencement of the First Call Period or after the expiry of the First Call Period but prior to the commencement of the Second Call Period, Future Shop may exercise the Call Option during the period commencing on the occurrence of such change of control and ending 45 days thereafter (an "Accelerated Call Period"); for the purposes of the Call Option, a "change of control" is defined to include the completion of any take-over bid, amalgamation, plan of arrangement, merger or other transaction under which less than 35 percent or greater than 90 percent of the voting securities of Future Shop or any successor thereto are beneficially owned by Inwest Investments Ltd. or any affiliate of Inwest Investments Ltd.;

16. the purchase price payable for the Units upon the exercise of the Call Option by Future Shop will be as follows:

(a) if the Call Option is exercised during the First Call Period, that number of freely-tradeable common shares of Future Shop (the "Exchanged Shares") determined by dividing \$9.50 by the "current market price" of Future Shop's common shares, with "current market price" being calculated as 95% of the weighted average trading price of Future Shop's common shares on the TSE for the 20 consecutive trading days ending five trading days before the date fixed for completion under the Call Option, subject to certain deemed maximum and minimum values or, at the sole option of Future Shop, a cash payment of \$10.00 and, in either case, together with one Discount Right (as defined below) per Unit;

(b) if the Call Option is exercised during the Second Call Period, the Exchanged Shares or cash payment and Discount Rights as calculated in clause 16(a) together with a cash payment per Unit of the greater of (i) \$49.00 per Unit and (ii) eight times the gross revenues per Unit for the 12 month period ending December 31, 2001, less \$9.50, divided by the number of Units then outstanding; and

(c) if the Call Option is exercised during an Accelerated Call Period which occurs (i) prior to the commencement of the First Call Period, \$12.00 per Unit, or (ii) after the expiry of the First Call Period but before the commencement of the Second Call Period, \$54.00 per Unit, less any unpaid amount on the subscription price for such Units;

17. each Discount Right will entitle the holder to purchase, at 90% of the initial public offering price, one equity security of Newco (Newco being any entity that carries on the e-commerce operations developed by the Partnership and conducts an initial public offering of its securities) at any time during the period commencing on the completion of the purchase of the Units by Future Shop pursuant to the exercise of the Call Option and expiring on the earlier of the first anniversary of such completion and 30 days after a receipt is issued for a final prospectus or a registration statement is declared effective relating to such initial public offering;



18. until the Call Options are exercised or expire, Future Shop will send each Partner all disclosure material furnished to holders of Future Shop common shares, including but not limited to, copies of its annual report, interim financial statements and all proxy solicitation materials;

19. the registration and prospectus exemptions contained in the Legislation relating to trades in securities issued by "private issuers" or "private companies" cannot be relied on in relation to the grant of the Call Options by the Partners to Future Shop because in order to rely on such exemptions Future Shop would be required to undertake a significant review of the business and affairs of each subscriber for Units sufficient to satisfy itself that such subscriber in fact meets the definition of "private issuer" or "private company" under the Legislation;

20. the registration and prospectus exemptions contained in the Legislation relating to the issuance of securities on the exercise of a right to purchase or otherwise acquire securities in accordance with the terms and conditions of a previously issued security of the issuer are not available for the issuance of the Exchanged Shares or the Discount Rights to the Partners on the exercise of the Call Option because none of the Units, the Call Option or the Discount Rights are securities of Future Shop's own issue;

21. if the Partnership or Privateco, as the case may be, is not a reporting issuer and has not been a reporting issuer for the 12 months preceding such date, the trade by the Partners of the Units to Future Shop on the exercise of the Call Option will be a distribution under the Legislation without the benefit of an exemption from the registration and prospectus requirements of the Legislation; and

22. in the event that Future Shop exercises the Call Option and offers to acquire at least 20% of the outstanding Units or where the number of Units to be acquired by Future Shop on the exercise of the Call Option when combined with the number of Units then held by Future Shop would represent at least 20% of the outstanding Units, such exercise of the Call Option would constitute a take-over bid for the Units for the purposes of the Legislation requiring compliance with the Take-Over Bid Requirements;

AND WHEREAS under the System this MRRS Decision Document evidences the decision of each Decision Maker (collectively, the "Decision");

AND WHEREAS each of the Decision Makers is satisfied that the test contained in the Legislation that provides the Decision Makers with the jurisdiction to make the decision has been met;

THE DECISION of the Decision Makers under the Legislation is that:

1. the registration and prospectus requirements contained in the Legislation do not apply to the Non-Exempt Trades;

2. the Take-Over Bid Requirements do not apply to the acquisition of Units by Future Shop on the exercise of the Call Option; and

3. the first trade in Exchanged Shares acquired by the Partners on the exercise of the Call Option will be a distribution under the Legislation, except in Quebec and Manitoba, where such first trade will be subject to registration and prospectus requirements contained in its Legislation, unless:

(a) Future Shop is a reporting issuer under the Legislation in the Jurisdictions where the trade takes place, was a reporting issuer at the time of the grant of the Call Option by the Partners and a 4 month period has elapsed from the date of the grant of the Call Option by the Partners;

(b) at the date of the distribution of the Call Option, Future Shop (i) complies with BOR #98/7 and Rule 45-501, except for the condition requiring Future Shop to distribute a security of its own issue and, (ii) signs certificates as required under BOR #98/7 and Rule 45-501, including that Future Shop is a "qualifying issuer" as defined in BOR #98/7 and Rule 45-501, provided that such certificates need not state that the Call Option is a security of Future Shop's own issue;

(c) if the seller is an insider of Future Shop, other than a director or senior officer of Future Shop, the seller has filed all records required to be filed under the insider reporting obligations of the Legislation;

(d) if the seller is a director or senior officer of Future Shop, the seller has filed all records required to be filed under the insider reporting obligations of the Legislation and Future Shop has filed all records required to be filed under the continuous disclosure obligations of the Legislation;

(e) the trade is not a distribution from the holdings of a control person, as defined in the Legislation, if applicable;

(f) no unusual effort is made to prepare the market or create a demand for the Exchanged Shares; and

(g) no extraordinary commission or other consideration is paid in respect of the trade.

PROVIDED THAT until the Call Options are exercised or expire, Future Shop will send each Partner all disclosure material furnished to holders of Future Shop common shares, including but not limited to, copies of its annual report, interim financial statements and all proxy solicitation materials.

#### Headnote

Mutual Reliance Review System for Exemptive Relief Applications - variation of original decision document to provide relief from registration and prospectus requirements in respect of distributions of securities by issuers, who may or may not be private issuers, in connection with a private placement; relief from trades in securities of an issuer on exercise of various rights attached to the securities; first trade relief for exchanged shares, subject to conditions, including a 4 month hold period and; relief from take-over bid requirements in respect of acquisitions of securities on exercise of various rights attached to the securities

Applicable British Columbia Provisions

*Securities Act*, R.S.B.C. 1996, c. 418, ss. 34(1)(a), 48, 61, 76, 105, 106, 107, 108, 109, 110, 114(2)(c), 171