

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

BETWEEN:

**ROYAL BANK OF CANADA**

Applicant

- and -

**PEACE BRIDGE DUTY FREE INC.**

Respondent

**FOURTH REPORT OF MSI SPERGEL INC.  
IN ITS CAPACITY AS THE COURT-APPOINTED MONITOR OF  
PEACE BRIDGE DUTY FREE INC.**

**March 19, 2025**

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## **I. APPOINTMENT AND BACKGROUND**

1. This fourth report (this **"Fourth Report"**) is filed by msi Spergel inc. (**"Spergel"**) in its capacity as the Court-appointed monitor (in such capacity, the **"Monitor"**) of Peace Bridge Duty Free Inc. (the **"Debtor"**). Pursuant to section 101 of the *Courts of Justice Act* R.S.O. 1990, c. C.43, as amended, Spergel was appointed as the Monitor, without security, of the Debtor by Order of the Honourable Mr. Justice Pattillo of the Ontario Superior Court of Justice (Commercial List) (the **"Court"**) dated December 14, 2021 (the **"Appointment Order"**). The Appointment Order was made upon the application of the Debtor's general secured creditor, Royal Bank of Canada (**"RBC"**). Attached as **Appendix "1"** to this Fourth Report is a copy of the Appointment Order.
2. The Debtor was formed on March 1, 2012 by way of amalgamation of a company by the same name (which was also previously known as Forte Erie Duty Free Shoppe Ltd. and Fort Erie Duty Free Shoppe Inc.) and Giving Gallery Inc.
3. The Debtor operates a duty-free shop located near the Peace Bridge. The Debtor leases its operating location from The Buffalo and Fort Erie Public Bridge Authority (the **"Landlord"**).
4. The Monitor retained Thornton Grout Finnigan LLP as its independent legal counsel.
5. RBC initially brought an application for an appointment of a receiver, without security, over all of the assets, undertakings and properties of the Debtor. Pursuant to the Endorsement of the Honourable Justice Pattillo dated December 14, 2021 (the **"December 14<sup>th</sup> Endorsement"**), the Monitor was appointed but the appointment of a receiver was adjourned to January 17, 2022. Attached as **Appendix "2"** to this Fourth Report is a copy of the December 14<sup>th</sup> Endorsement.
6. On January 14, 2022, the Monitor filed its first report (the **"First Report"**) providing the Court with information with respect to the activities of the Monitor and the Debtor since the issuance of the Appointment Order. Attached as **Appendix "3"** to this Fourth Report is a copy of the First Report (without appendices).

7. On January 17, 2022, the Honourable Justice Pattillo granted an order (the **“Amended Appointment Order”**) amending the terms of the Appointment Order and ordering, amongst other things, that the relief sought by RBC with respect to the appointment of a receiver be and is adjourned until March 23, 2022, provided, however that the Debtor is required to satisfy the following conditions at all times:
- a. the Debtor is required to continually replenish its inventory to ensure that, at no time, was the total book value of its inventory allowed to fall below \$1,175,000;
  - b. the Debtor was required to ensure that, at no time, the cash balance in the Debtor’s account administered by RBC was to be less than \$850,000 (the **“Minimum Balance”**); and
  - c. the Debtor was to provide the Monitor and RBC with the following information:
    - i. on a bi-weekly basis, an updated projected cash flow statement; and
    - ii. on a monthly basis, an income statement and balance sheet along with a variance analysis disclosing actual results to the projections with an explanation of any variance (collectively, the **“Additional Reporting”**).

Attached as **Appendix “4”** to this Fourth Report is a copy of the Amended Appointment Order.

8. On March 21, 2022, the Monitor filed its second report (the **“Second Report”**) providing the Court with information with respect to the activities of the Monitor and the Debtor since the First Report. Attached as **Appendix “5”** to this Fourth Report is a copy of the Second Report (without appendices).
9. On March 23, 2022, the Honourable Justice Penny granted an order (the **“March 23<sup>rd</sup> Order”**), among other things, adjourning the relief sought by RBC with respect to the appointment of a receiver to a date on or after June 23, 2022 to be set by the Court. Attached as **Appendix “6”** to this Fourth Report is a copy of the March 23<sup>rd</sup> Order.

10. The March 23<sup>rd</sup> Order also amended the terms of the Amended Appointment Order requiring the following amendment to the Minimum Balance as follows:
  - a. the Debtor was required to use the sum of \$850,000 in its account administered by RBC to purchase a Guaranteed Investment Certificate (“**GIC**”) for a term of three months, which GIC was to be used as additional security by RBC subject to a Cash Collateral Agreement in a form satisfactory to RBC.
11. On January 3, 2023, the Monitor filed its third report (the “**Third Report**”) providing the Court with information with respect to the activities of the Monitor and the Company since the Second Report and providing comments regarding the potential impact of the Landlord’s request to lift the stay of proceedings on the other creditors of the Debtor. Attached as **Appendix “7”** to this Fourth Report is a copy of the Third Report (without appendices).

## **II. PURPOSE OF THIS FOURTH REPORT AND DISCLAIMER**

12. The purpose of this Fourth Report is to provide the Court with information pertaining to (i) the Monitor’s activities and general updates since the Third Report, (ii) the results of the Monitor’s review of the amounts outstanding to RBC and the Landlord, and (iii) cash resources available to the Debtor to satisfy its obligations to RBC and/or the Landlord.

### **Restrictions and Disclaimer**

13. In preparing this Fourth Report, the Monitor has relied upon certain information provided to it by the Debtor’s management. The Monitor has not performed an audit or verification of such information for accuracy, completeness or compliance with Accounting Standards for Private Enterprises or International Financial Reporting Standards. Accordingly, the Monitor expresses no opinion or other form of assurance with respect to such information.
14. The cash flow forecast and projections in this Fourth Report relate to future events and are based on management’s assumptions, which may not remain valid throughout the period of the projections. Consequently, they cannot be relied upon

to the same extent as information derived from the reviewed accounts for completed accounting periods. For these reasons, the Monitor expresses no opinion as how closely the actual cash flows achieved will correspond to the projection.

15. Parties using this Fourth Report, other than for the purposes outlined herein, are cautioned that it may not be appropriate for their purposes and consequently should not be used for any other purpose.
16. All references to dollars in this Fourth Report are in Canadian currency unless otherwise noted.

### III. ACTIVITIES OF THE MONITOR

17. Since the Third Report, the Monitor undertook the following activities:
  - a. reviewed certain financial information provided by the Debtor;
  - b. reviewed and provided feedback with respect to the Additional Reporting;
  - c. carried out a monitoring program to monitor receipts and disbursements on a regular basis; and
  - d. communicated with RBC's counsel, the Landlord's counsel, the Debtor and the Debtor's counsel with respect to the proceedings.

### IV. AMOUNTS OUTSTANDING TO RBC

18. On March 7, 2025, the Monitor received payout numbers from RBC indicating that the Debtor was indebted to RBC in the amount of \$3,319,159.93 (the "**RBC Indebtedness**") as follows:

PEACE BRIDGE DUTY FREE INC					
balances as of March 7, 2025					
Borrower	Facility	Principal	Accrued Interest	Fees	Total
PEACE BRIDGE DUTY FREE INC	Lease Facility**	n.a.	n.a.	n.a.	\$1,928,433.27
PEACE BRIDGE DUTY FREE INC	Visa Facility	\$19,639.47	\$0.00	\$0.00	\$19,639.47
PEACE BRIDGE DUTY FREE INC	HASCAP Loan	\$740,740.72	\$54,446.47	\$0.00	\$795,187.19
PEACE BRIDGE DUTY FREE INC	LC/LG Facility	n.a.	n.a.	n.a.	\$575,900.00
					<b>\$3,319,159.93</b>

\*\*Consists of \$1,706,577.12 in rents, \$1.00 residual buyout value, and \$221,855.15 HST

19. In support of the indebtedness, RBC provided the Monitor with the following:

- a. A master lease Agreement dated August 21, 2018 (the “**Master Lease Agreement**”) between RBC and the Debtor;
- b. A leasing schedule (the “**Leasing Schedule**”) with respect to the leasehold improvements indicating:
  - i. A term of 84 months;
  - ii. Commencement date of August 29, 2019;
  - iii. Termination date of August 29, 2026;
  - iv. Monthly payments of \$77,159.13 consisting of \$68,282.42 (including principal and interest) plus \$8,876.71 for *Harmonized Sales Tax* (“**HST**”).
- c. An amending agreement dated November 18, 2020 (the “**Amending agreement**” together with the Master Lease Agreement and the Leasing Schedule, the “**Lease Agreements**”) providing deferral of payments totaling \$230,931.18 consisting of \$204,363.88 (including principal and interest) plus \$26,567.30 for HST to be collected on January 29, 2027;
- d. A below schedule outlining the outstanding payments under the Lease Agreements:

PEACE BRIDGE DUTY FREE INC		Rental	Installment	HST	Total
2025	Mar	68,282.42	8,876.71	77,159.13	
	April	68,282.42	8,876.71	77,159.13	
	May	68,282.42	8,876.71	77,159.13	
	June	68,282.42	8,876.71	77,159.13	
	Jul	68,282.42	8,876.71	77,159.13	
	Aug	68,282.42	8,876.71	77,159.13	
	Sep	68,282.42	8,876.71	77,159.13	
	Oct	68,282.42	8,876.71	77,159.13	
	Nov	68,282.42	8,876.71	77,159.13	
	Dec	68,282.42	8,876.71	77,159.13	
2026	Jan	68,282.42	8,876.71	77,159.13	
	Feb	68,282.42	8,876.71	77,159.13	
	Mar	68,282.42	8,876.71	77,159.13	
	April	68,282.42	8,876.71	77,159.13	
	May	68,282.42	8,876.71	77,159.13	
	June	68,282.42	8,876.71	77,159.13	
	Jul	68,282.42	8,876.71	77,159.13	
	Aug	68,282.42	8,876.71	77,159.13	
	Sep	68,282.42	8,876.71	77,159.13	
	Oct	68,282.42	8,876.71	77,159.13	
	Nov	68,282.42	8,876.71	77,159.13	
	Dec	68,282.42	8,876.71	77,159.13	
2027	Jan	204,363.88	26,567.30	230,931.18	
	Feb (buyout)	1.00	0.13	1.13	
		1,706,578.12	221,855.15	1,928,433.27	

- e. Copies of outstanding letters of credit (collectively the “**Outstanding LCs**”) as follows:

<b>PEACE BRIDGE DUTY FREE INC - OUTSTANDING LETTER OF CREDITS</b>		
<b>Beneficiary</b>	<b>Bond No.</b>	<b>Amount</b>
Hamilton International Airport	P365456T07512	15,900
Revenue Canada Customs and Excise	P66349T04222	500,000
Department of National Revenue	P66347T04222	30,000
Canada Border Services Agency	P365003T07512	15,000
Canada Customs and Revenue Agency	P364660T07512	10,000
RBC is locating this LC		5,000
		<b>\$ 575,900</b>

- f. A copy of the Highly Affected Sectors Credit Availability Program (“**HASCAP**”) loan agreement dated June 2, 2021 (the “**HASCAP Loan Agreement**”).
20. Attached as **Appendix “8”** to this Fourth Report are copies of the Lease Agreements, the Outstanding LCs and the HASCAP Loan Agreement.
21. A review of the financial statements as at December 31, 2024 prepared by the Debtor indicates, among other things, that:
- a. the Debtor owes approximately \$1,757,000 to RBC in relation to the amounts outstanding under the Lease Agreements. In conversation with the management of the Debtor, it was determined that the difference in the amounts provided by RBC and the Debtor appears to be the failure to account for outstanding HST and interest;
  - b. the Debtor owes approximately \$759,000 in relation to the HASCAP Loan Agreement; and
  - c. the Debtor owes approximately \$7,906,000 in relation to the amounts outstanding to the Landlord.

***Cash Available to the Debtor***

22. In an effort to determine the ability of the Debtor to repay the RBC Indebtedness with its existing cash resources, the Monitor reviewed the cash balances of the Debtor (provided by RBC) as at March 17, 2025 and notes as follows:

- a. RBC is holding a cash balance of \$647,684.14 in a Guaranteed Investment Certificate (“**GIC**”) as collateral against the exposure related to the Outstanding LCs and the visa facility. RBC’s exposure with respect to the Outstanding LCs and the visa facility is \$595,539.47. It appears that the amount held in this GIC can only be available to pay the general indebtedness of RBC upon either the surrender or cancelation of the Outstanding LCs;
  - b. RBC is holding a cash balance of \$850,000 in a GIC as collateral security for the RBC Indebtedness;
  - c. Cash balance of CAD \$817,445.58 is available in the general unrestricted CAD account of the Debtor; and
  - d. Cash balance of USD \$6,820.30 is available in the general unrestricted USD account of the Debtor.
23. In summary, the amounts outstanding in relation to the Lease Agreements and the HASCAP Loan Agreement total \$2,723,620.46 and the cash available to the Debtor to satisfy this amount is approximately \$1.67 million (\$850K in GIC + \$817K in CAD cash + \$6k in USD cash). Accordingly, it appears that, as at March 17, 2025, the Debtor does not have sufficient cash resources to repay the RBC Indebtedness in full.

**V. THE LANDLORD**

24. The Monitor has continued to monitor the ongoing dispute between the Debtor and the Landlord and has continued to take no position in respect of the appropriate amount owing by the Debtor to the Landlord.
25. The Monitor has contacted counsel for the Landlord in order to obtain an updated statement of the amount owing to the Landlord by the Debtor and any information with respect to any potential settlement negotiations between the Debtor and the Landlord. The Monitor will report further to the Court upon receiving such information from the Landlord.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

Dated at Toronto this 19<sup>th</sup> day of March, 2025

**msi Spergel inc.,**  
solely in its capacity as Court-appointed Monitor  
of Peace Bridge Duty Free Inc. and not in its  
personal or corporate capacity

Per:

A handwritten signature in black ink, appearing to read 'Mukul', written over a horizontal line.

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Mukul Manchanda, CPA, CIRP, LIT

## **APPENDIX “1”**

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

THE HONOURABLE	)	TUESDAY, THE 14TH
	)	
JUSTICE PATTILLO	)	DAY OF DECEMBER, 2021

**ROYAL BANK OF CANADA**

Applicant

- and -

**PEACE BRIDGE DUTY FREE INC.**

Respondent

**ORDER  
(appointing Monitor)**

**THIS APPLICATION**, made by Royal Bank of Canada ("**RBC**") for an Order pursuant to section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**") appointing msi Spergel inc. ("**Spergel**") as a monitor (in such capacity, the "**Monitor**") without security, of Peace Bridge Duty Free Inc. (the "**Debtor**"), was heard this day via Zoom videoconference because of the Covid-19 pandemic.

**ON READING** the affidavit of Christopher Schulze sworn December 2, 2021 and the exhibits thereto, and the affidavit of Jim Pearce sworn December 12, 2021 and on hearing the submissions of counsel for RBC, the Debtor, the Buffalo and Fort Erie Public Bridge Authority and such other counsel as were present, no one appearing for any other stakeholder although duly served as appears from the affidavit of service of Eunice Baltkois sworn December 3, 2021, the consent of the Respondent, and on reading the consent of Spergel to act as the Monitor,

## SERVICE

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

## APPOINTMENT

2. THIS COURT ORDERS that pursuant to section 101 of the CJA, Spergel is hereby appointed Monitor, without security, of the Debtor with the powers, rights and duties further set out herein. This Order and the appointment of the Monitor does not constitute a finding by this Court that the Debtor is insolvent.

3. THIS COURT ORDERS AND DECLARES that:

- (a) the Monitor shall not take possession or control, nor shall it be deemed to have taken possession or control, of the Debtor's business or the assets, property or undertaking of the Debtor (the “**Property**”), and that the Debtor shall retain all operational control of their Property, business and operations;
- (b) the Monitor shall not be and shall not be deemed to be a receiver for purposes of subsection 243(1) of the Bankruptcy and Insolvency Act (the “BIA”) or under any other statute;
- (c) the Monitor shall have none of the obligations of a receiver under Part XI of the BIA, other than section 247, and for greater certainty it shall not send notice of its appointment or this order to the Superintendent in Bankruptcy or to the known creditors of the Debtor; and
- (d) the appointment of the Monitor shall not be and shall not be deemed to be a change of control of the Debtors.

## MONITOR'S POWERS

4. THIS COURT ORDERS that the Monitor is hereby empowered and authorized, but not obligated, to act at once and, without in any way limiting the generality of the foregoing, the Monitor is hereby expressly empowered and authorized, but not obligated, to do any of the following where the Monitor considers it necessary or desirable:

- (a) to monitor the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to take physical inventories of the Property as may be necessary or desirable;
- (c) to monitor the business of the Debtor;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Monitor's powers and duties, including without limitation those conferred by this Order;
- (e) to monitor receipts and disbursements of the Debtor;
- (f) to report to, meet with and discuss with such affected Persons (as defined below) as the Monitor deems appropriate on all matters relating to the Property, and to share information, subject to such terms as to confidentiality as the Monitor deems advisable; and
- (g) subject to the limitations in section 3 of this Order, to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

#### DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE MONITOR

5. THIS COURT ORDERS that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Monitor of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Monitor.

6. THIS COURT ORDERS that all Persons, including but not limited to Canada Border Services Agency and Canada Revenue Agency, shall be authorized to share information, with the Monitor, provided the Debtor shall be entitled to request and receive copies of all such information from the Monitor.

#### NO PROCEEDINGS AGAINST THE MONITOR

7. THIS COURT ORDERS that no proceeding or enforcement process in any court or tribunal (each, a "Proceeding"), shall be commenced or continued against the Monitor except with the written consent of the Monitor or with leave of this Court.

#### NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

8. THIS COURT ORDERS that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Monitor or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

#### NO EXERCISE OF RIGHTS OR REMEDIES

9. THIS COURT ORDERS that all rights and remedies against the Debtor, the Monitor or affecting the Property are hereby stayed and suspended except with the written consent of the Monitor or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Debtor from compliance with statutory or

regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

#### **NO INTERFERENCE WITH THE MONITOR**

10. THIS COURT ORDERS that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Monitor or leave of this Court.

#### **CONTINUATION OF SERVICES**

11. THIS COURT ORDERS that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Debtor in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Debtor, or as may be ordered by this Court.

#### **CASL**

12. THIS COURT ORDERS that any and all interested stakeholders in this proceeding and their counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in this proceeding, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to such other interested stakeholders in this proceeding and their counsel and advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

### **LIMITATION ON THE MONITOR'S LIABILITY**

13. THIS COURT ORDERS that the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by section 14.06 of the BIA or by any other applicable legislation.

### **MONITOR'S ACCOUNTS**

14. THIS COURT ORDERS that the Monitor and counsel to the Monitor shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Monitor and counsel to the Monitor shall be entitled to and are hereby granted a charge (the "Monitor's Charge") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings limited to the amount of \$100,000, and that the Monitor's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

15. THIS COURT ORDERS that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

16. THIS COURT ORDERS that prior to the passing of its accounts, the Monitor shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Monitor or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

### **SERVICE AND NOTICE**

17. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "Protocol") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List

website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 of the *Rules of Civil Procedure* (the "Rules") this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules. Subject to Rule 3.01(d) of the Rules and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission.

18. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Monitor is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

#### **GENERAL**

19. THIS COURT ORDERS that exhibit N will be removed from the Affidavit of Jim Pearce as filed and the Debtor shall file a copy of that exhibit with the Court in a sealed envelope which shall be sealed until a further order of this court. Parties to the Service List in possession of that Exhibit as served shall treat it as sealed by this court, pending a further order of this court..

20. THIS COURT ORDERS that the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

21. THIS COURT ORDERS that nothing in this Order shall prevent the Monitor from acting as a trustee in bankruptcy of the Debtor.

22. 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 Monitor 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 Monitor, as an officer of this

Court, as may be necessary or desirable to give effect to this Order or to assist the Monitor and its agents in carrying out the terms of this Order.

23. THIS COURT ORDERS that the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

24. THIS COURT ORDERS that RBC shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of RBC's security or, if not so provided by RBC's security, then on a substantial indemnity basis to be paid by the Monitor from the Debtor's estate with such priority and at such time as this Court may determine.

25. THIS COURT ORDERS that any interested party, including without limitation the Debtor, may apply to this Court to vary or amend this Order or discharge the Monitor on not less than seven (7) days' notice to the Monitor, the Debtor, the Applicant and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

26. THIS COURT ORDERS that the application is otherwise adjourned to January 17, 2022 at 2 pm.



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**ROYAL BANK OF CANADA**

- and -

**PEACE BRIDGE DUTY FREE INC.**

Applicant

Respondent

Court File No. CV-21-00673084-00CL

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

**Proceedings commenced at Toronto**

**ORDER**  
**(appointing Monitor)**

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*Lawyers for Royal Bank of Canada*

## **APPENDIX “2”**

Court File Number: CV - 21 - 00673084 - 0001

Superior Court of Justice  
Commercial List

FILE/DIRECTION/ORDER

Royal Bank of Canada

Plaintiff(s)

AND

App.

Peace Bridge Duty Free Inc.

Defendant(s)

Resp.

Case Management ☐ Yes ☐ No by Judge: \_\_\_\_\_

Counsel	Telephone No:	Facsimile No:
S. Mitra & J. Newers - for RBC		
D. Wilman, A. Todorescu & A. Leigh - for Resp.		
P. Shea & C. Stanek - for the Bridge Authority		

- ☐ Order ☐ Direction for Registrar (No formal order need be taken out)  
☐ Above action transferred to the Commercial List at Toronto (No formal order need be taken out)

- ☐ Adjourned to: \_\_\_\_\_  
☐ Time Table approved (as follows): \_\_\_\_\_

On the consent of the parties, the matter is adjourned to January 17, 2022 at 2pm (1 hr.) before me. In the interim and as agreed by the parties, Msi Spengel is appointed as monitor of the Respondent, without security, pursuant to s. 101 of the Courts of Justice Act.

Exhibit N to the Respondent's affidavit contains confidential commercial information of the Respondent. I am satisfied it should be sealed based on the test in Sherman Estate.

Order signed by me.

Dec 14, 2021

Date

[Signature]

Judge's Signature

☐ Additional Pages \_\_\_\_\_

## **APPENDIX “3”**

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

BETWEEN:

**ROYAL BANK OF CANADA**

Applicant

- and -

**PEACE BRIDGE DUTY FREE INC.**

Respondent

**FIRST REPORT OF MSI SPERGEL INC.  
IN ITS CAPACITY AS THE COURT-APPOINTED MONITOR OF  
PEACE BRIDGE DUTY FREE INC.**

**January 14, 2022**

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## **APPENDICES**

1. The Appointment Order
2. December 14, 2021 Endorsement of the Honourable Justice Pattillo
3. Copy of the rent schedule received from the Landlord's counsel
4. The Draft Amended Appointment Order

## **CONFIDENTIAL APPENDICES**

1. The Updated Cash Flow Forecast

## **I. APPOINTMENT AND BACKGROUND**

1. This first report (this “**First Report**”) is filed by msi Spergel inc. (“**Spergel**”) in its capacity as the Court-appointed monitor (in such capacity, the “**Monitor**”) of Peace Bridge Duty Free Inc. (the “**Debtor**”). Pursuant to section 101 of the *Courts of Justice Act* R.S.O. 1990, c. C.43, as amended (the “**CJA**”), Spergel was appointed as the Monitor, without security, of the Debtor by Order of the Honourable Mr. Justice Pattillo of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated December 14, 2021 (the “**Appointment Order**”). The Appointment Order was made upon the application of the Debtor’s general secured creditor, Royal Bank of Canada (“**RBC**”). Attached as **Appendix “1”** to this First Report is a copy of the Appointment Order.
2. The Debtor was formed on March 1, 2012 by way of amalgamation of a company by the same name (which was also previously known as Forte Erie Duty Free Shoppe Ltd. and Fort Erie Duty Free Shoppe Inc.) and Giving Gallery Inc.
3. The Debtor operates a duty-free shop located near the Peace Bridge. The Debtor leases its operating location (the “**Premises**”) from The Buffalo and Fort Erie Public Bridge Authority (the “**Landlord**”).
4. The Monitor retained Thornton Grout Finnigan LLP (the “**Monitor’s Counsel**”) as its independent legal counsel.
5. RBC initially brought an application for an appointment of a receiver, without security, over all of the assets, undertakings and properties of the Debtor (the “**Property**”). Pursuant to the Endorsement of the Honourable Justice Pattillo dated December 14, 2021 (the “**Endorsement**”) the matter with respect to the appointment of a receiver was adjourned to January 17, 2022 (the “**Return Date**”). Attached as **Appendix “2”** to this First Report is a copy of the Endorsement. The Monitor understands that the Debtor intends to seek a further adjournment of the matter on the Return Date on certain terms that have been agreed to between RBC and the Debtor.

## **II. PURPOSE OF THIS FIRST REPORT AND DISCLAIMER**

6. The purpose of this First Report is to advise the Court as to the developments that have occurred in these proceedings since the Monitor's appointment.

### **Restrictions and Disclaimer**

7. In preparing this First Report, the Monitor has relied upon certain information provided to it by the Debtor's management. The Monitor has not performed an audit or verification of such information for accuracy, completeness or compliance with Accounting Standards for Private Enterprises or International Financial Reporting Standards. Accordingly, the Monitor expresses no opinion or other form of assurance with respect to such information.
8. The cash flow forecast and projections in this First Report relate to future events and are based on management's assumptions, which may not remain valid throughout the period of the projections. Consequently, they cannot be relied upon to the same extent as information derived from the reviewed accounts for completed accounting periods. For these reasons, the Monitor expresses no opinion as how closely the actual cash flows achieved will correspond to the projection.
9. This First Report does not take into account the future impact of COVID-19 on any projection or other assumptions presented by the Debtor to the Monitor. The potential for unknown ramifications on consumers, supply chains, commercial counterparties (both direct and indirect to the Debtor's operations) and future decisions that may need to be made as a result of the evolving COVID-19 situation means that the projections and other assumptions may be significantly impacted by COVID-19. The full impact of COVID-19, both on the Debtor's business and in general, is not capable of being qualitatively or quantitatively assessed at this time, and the Monitor has not endeavored to do so in this First Report.
10. Parties using this First Report, other than for the purposes outlined herein, are cautioned that it may not be appropriate for their purposes, and consequently should not be used for any other purpose.

11. All references to dollars in this First Report are in Canadian currency unless otherwise noted.

### **III. ACTIVITIES OF THE MONITOR**

12. Immediately upon the appointment, the Monitor undertook the following activities:
- a. attended a meeting with the principals of the Debtor at the Premises and took a tour and photographs of the Premises;
  - b. reviewed certain financial information provided by the Debtor, including but not limited to:
    - i. audited financial statements as at December 31, 2020;
    - ii. an inventory listing as at December 19, 2021 including identification of goods received within 30 days of the date of the inventory listing;
    - iii. bank statements for the last twenty-four months;
    - iv. aged accounts payable listing as at December 19, 2021; and
    - v. information with respect to amounts outstanding, if any, to Canada Revenue Agency in relation to source deductions and sales tax.
  - c. developed and carried out a monitoring program to monitor receipts and disbursements on a go-forward basis;
  - d. communicated with RBC's counsel, the Landlord's counsel, the Debtor and the Debtor's counsel with respect to the proceedings; and
  - e. reviewed and provided feedback with respect to the Updated Cash Flow Forecast (as defined herein);

### **IV. THE LANDLORD**

13. On January 6, 2022 the Monitor's Counsel sent an email to the counsel of the Landlord requesting: a) a statement of the amount of rent outstanding together with any interest and penalties; b) the amount of the current obligations and the rent currently being paid monthly by the Debtor; and c) the rate of interest related

to the arrears. A copy of the rent schedule received from the Landlord is attached to this First Report as **Appendix “3”**.

14. The Debtor continues to dispute the amounts claimed by the Landlord in respect of rental arrears and current rent owing. The Monitor has been advised by the Debtor that it has presented a proposal to the Landlord and is continuing to attempt to negotiate a resolution with the Landlord but has not been successful. The Monitor has not been party to those discussions and has not been provided with a copy of the proposal.

**V. CASH FLOW FORECAST**

15. The Debtor has prepared an updated cash flow forecast (the “**Updated Cash Flow Forecast**”) for the period from January 3, 2022 to March 19, 2022 (the “**Forecasted Period**”). A copy of the Updated Cash Flow Forecast is attached to this First Report as **Confidential Appendix “1”**. The Debtor is seeking a continuation of the sealing order in respect of the Updated Cash Flow Forecast as it contains commercially sensitive information, the release of which would be prejudicial to the Debtor and the stakeholders of the Debtor should this proceeding be terminated.
16. The Updated Cash Flow Forecast indicates, among other things, that:
  - a. the cash balance is forecasted to remain at or in excess of \$858,000 during the Forecasted Period;
  - b. the Debtor is forecasting to generate \$1,130,000 in receipts (sales) during the Forecasted Period;
  - c. the Debtor continues to be eligible for the rent and wage subsidy programs and during the Forecasted Period is forecasting to collect \$140,000 and \$205,000 from wage and rent subsidy programs, respectively;
  - d. the Debtor is forecasted to pay \$290,000 to the Landlord on account of rent during the Forecasted Period; and

- e. the book value of inventory is forecasted to remain at or in excess of \$1,178,000 during the Forecasted Period.

## VI. ADJOURNMENT

- 17. The Debtor intends to seek a further adjournment on the Return Date of the receivership application. To that end, the Monitor has been provided with a copy of a draft amended Appointment Order (the “**Draft Amended Appointment Order**”) agreed upon between RBC and the Debtor. The Draft Amended Appointment Order provides terms upon which RBC would agree to the adjournment and provides for, among other things,
  - a. additional powers to the Monitor including, but not limited to, the power:
    - i. to report to the Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property or the business of the Debtor and such other matters as may be relevant to the proceedings; and
    - ii. to monitor and report on the status of negotiations between the Debtor and the Landlord.
  - b. that the Debtor shall continually replenish its inventory to ensure that at no time the total book value of its inventory drops below \$1,175,000;
  - c. that the Debtor shall ensure that at no time does the cash balance in the Debtor’s account administered by RBC (the “**Account**”) go below \$850,000 (the “**Minimum Balance**”);
  - d. the Debtor provides the Monitor and RBC the following information:
    - i. on a bi-weekly basis, an updated projected cash flow statement; and
    - ii. on a monthly basis, an income statement and balance sheet along with a variance analysis disclosing actual results to the projections with an explanation of any variance.
  - e. that RBC be authorized to place a hold on the Account in the amount of the Minimum Balance.

18. A copy of the Draft Amended Appointment Order is attached to this First Report as **Appendix "4"**.
19. A copy of the Draft Amended Appointment Order was provided to counsel for the Landlord on January 13, 2022.

**msi Spergel inc.,**  
solely in its capacity as Court-appointed Monitor  
of Peace Bridge Duty Free Inc. and not in its  
personal or corporate capacity

Per:

A handwritten signature in black ink, appearing to read 'Mukul', written over a horizontal line.

---

Mukul Manchanda, CPA, CIRP, LIT

## **APPENDIX “4”**

Court File No. CV-21-00673084-00CL

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

THE HONOURABLE

)

MONDAY, THE 17TH

JUSTICE PATTILLO

)

)

DAY OF JANUARY, 2022

**ROYAL BANK OF CANADA**

Applicant

- and -

**PEACE BRIDGE DUTY FREE INC.**

Respondent

**AMENDED ORDER  
(appointing Monitor)**

**THIS APPLICATION**, made by Royal Bank of Canada ("**RBC**") for an Order pursuant to section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**") appointing msi Spergel inc. ("**Spergel**") as a monitor (in such capacity, the "**Monitor**") without security, of Peace Bridge Duty Free Inc. (the "**Debtor**"), was heard this day via Zoom videoconference because of the Covid-19 pandemic.

**ON READING** the affidavit of Christopher Schulze sworn December 2, 2021 and the exhibits thereto, and the affidavit of Jim Pearce sworn December 12, 2021 (the "**Pearce Affidavit**") and the exhibits thereto, and on hearing the submissions of counsel for RBC, the Debtor, the Buffalo and Fort Erie Public Bridge Authority (the "**Authority**") and such other counsel as were present, no one appearing for any other stakeholder although duly served as

appears from the affidavit of service of Eunice Baltkois sworn December 3, 2021, and on reading the consent of Spergel to act as the Monitor,

### **SERVICE**

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

### **APPOINTMENT**

2. **THIS COURT ORDERS** that pursuant to section 101 of the CJA, Spergel is hereby appointed Monitor, without security, of the Debtor with the powers, rights and duties further set out herein. This Order and the appointment of the Monitor does not constitute a finding by this Court that the Debtor is insolvent.

3. **THIS COURT ORDERS AND DECLARES** that:

- (a) the Monitor shall not take possession or control, nor shall it be deemed to have taken possession or control, of the Debtor's business or the assets, property or undertaking of the Debtor (the "**Property**"), and that the Debtor shall retain all operational control of their Property, business and operations;
- (b) the Monitor shall not be and shall not be deemed to be a receiver for purposes of subsection 243(1) of the Bankruptcy and Insolvency Act (the "BIA") or under any other statute;
- (c) the Monitor shall have none of the obligations of a receiver under Part XI of the BIA, other than section 247, and for greater certainty it shall not send notice of its appointment or this order to the Superintendent in Bankruptcy or to the known creditors of the Debtor; and
- (d) the appointment of the Monitor shall not be and shall not be deemed to be a change of control of the Debtors.

## **MONITOR'S POWERS**

4. **THIS COURT ORDERS** that the Monitor is hereby empowered and authorized, but not obligated, to act at once and, without in any way limiting the generality of the foregoing, the Monitor is hereby expressly empowered and authorized, but not obligated, to do any of the following where the Monitor considers it necessary or desirable:

- (a) to monitor the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to take physical inventories of the Property as may be necessary or desirable;
- (c) to monitor the business of the Debtor;
- (d) to report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property or the business of the Debtor and such other matters as may be relevant to the proceedings herein;
- (e) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Monitor's powers and duties, including without limitation those conferred by this Order;
- (f) to monitor receipts and disbursements of the Debtor;
- (g) to report to, meet with and discuss with such affected Persons (as defined below) as the Monitor deems appropriate on all matters relating to the Property, and to share information, subject to such terms as to confidentiality as the Monitor deems advisable;

- (h) to monitor and report on the status of negotiations between the Debtor and the Authority; and
- (i) subject to the limitations in section 3 of this Order, to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE MONITOR**

5. **THIS COURT ORDERS** that (i) the Debtor, (ii) all of its current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Monitor of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Monitor.

6. **THIS COURT ORDERS** that all Persons, including but not limited to Canada Border Services Agency and Canada Revenue Agency, shall be authorized to share information, with the Monitor, provided the Debtor shall be entitled to request and receive copies of all such information from the Monitor.

#### **NO PROCEEDINGS AGAINST THE MONITOR**

7. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Monitor except with the written consent of the Monitor or with leave of this Court.

#### **NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY**

8. **THIS COURT ORDERS** that no Proceeding against or in respect of the Debtor or the Property shall be commenced or continued except with the written consent of the Monitor or with leave of this Court and any and all Proceedings currently under way against or in respect of the Debtor or the Property are hereby stayed and suspended pending further Order of this Court.

### **NO EXERCISE OF RIGHTS OR REMEDIES**

9. **THIS COURT ORDERS** that all rights and remedies against the Debtor, the Monitor or affecting the Property are hereby stayed and suspended except with the written consent of the Monitor or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the BIA, and further provided that nothing in this paragraph shall (i) empower the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on, (ii) exempt the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

### **NO INTERFERENCE WITH THE MONITOR**

10. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by the Debtor, without written consent of the Monitor or leave of this Court.

### **CONTINUATION OF SERVICES**

11. **THIS COURT ORDERS** that all Persons having oral or written agreements with the Debtor or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Debtor are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Debtor in accordance with normal payment practices of the Debtor or such other practices as may be agreed upon by the supplier or service provider and the Debtor, or as may be ordered by this Court.

## CASL

12. **THIS COURT ORDERS** that any and all interested stakeholders in this proceeding and their counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in this proceeding, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to such other interested stakeholders in this proceeding and their counsel and advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or juridical obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

## LIMITATION ON THE MONITOR'S LIABILITY

13. **THIS COURT ORDERS** that the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by section 14.06 of the BIA or by any other applicable legislation.

## MONITOR'S ACCOUNTS

14. **THIS COURT ORDERS** that the Monitor and counsel to the Monitor shall be paid their reasonable fees and disbursements by the Debtor upon presentation of such accounts to the Debtor, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Monitor and counsel to the Monitor shall also be entitled to and are hereby granted a charge (the "**Monitor's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings limited to the amount of \$100,000, and that the Monitor's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

15. **THIS COURT ORDERS** that the Monitor and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Monitor and its legal counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

16. **THIS COURT ORDERS** that prior to the passing of its accounts, the Monitor shall be at liberty to apply the monies received from the Debtor pursuant to paragraph 14 of this Order against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Monitor or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

#### **SERVICE AND NOTICE**

17. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 of the *Rules of Civil Procedure* (the "**Rules**") this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules. Subject to Rule 3.01(d) of the Rules and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission.

18. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the Monitor is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile transmission to the Debtor's creditors or other interested parties at their respective addresses as last shown on the records of the Debtor and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

#### **GENERAL**

19. **THIS COURT ORDERS** that exhibit N will be removed from the Pearce Affidavit as filed and the Debtor shall file a copy of that exhibit with the Court in a sealed envelope which shall be sealed until a further order of this Court. Parties to the Service List in possession of that exhibit as served shall treat it as sealed by this Court, pending a further order of this Court.

20. **THIS COURT ORDERS** that Confidential Appendix “1” to the First Report of the Monitor, dated January 14, 2022 shall be sealed and kept confidential pending further order of this Court.

21. **THIS COURT ORDERS** that the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

22. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as a trustee in bankruptcy of the Debtor.

23. **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 Monitor 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 Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Monitor and its agents in carrying out the terms of this Order.

24. **THIS COURT ORDERS** that the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

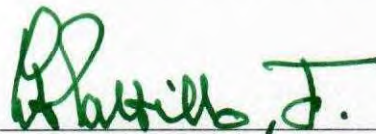
25. **THIS COURT ORDERS** that RBC shall have its costs of this application, up to and including entry and service of this Order, provided for by the terms of RBC’s security or, if not so provided by RBC’s security, then on a substantial indemnity basis to be paid by the Debtor with such priority and at such time as this Court may determine.

26. **THIS COURT ORDERS** that the balance of the relief sought by RBC in this application be and is adjourned until March 23, 2022 at noon (one-hour hearing), provided, however that the Debtor satisfies the following conditions at all times:

- (a) the Debtor shall continually replenish its inventory to ensure that at no time does the total book value of its inventory go below \$1,175,000;
- (b) the Debtor shall ensure that at no time does the cash balance in the Debtor's account administered by RBC (the "**Account**") go below \$850,000 (the "**Minimum Balance**"); and
- (c) the Debtor provides the Monitor and RBC the following information:
  - (i) on a bi-weekly basis, an updated projected cash flow statement; and
  - (ii) on a monthly basis, an income statement and balance sheet along with a variance analysis disclosing actual results to the projections with an explanation of any variance.

27. **THIS COURT ORDERS** that RBC be and is hereby authorized to place a hold on the Account in the amount of the Minimum Balance.

28. **THIS COURT ORDERS** that any interested party, including, without limitation, RBC and the Debtor, may apply to this Court to vary or amend this Order or discharge the Monitor on not less than seven (7) days' notice to the Monitor, the Debtor, RBC and any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

  
\_\_\_\_\_

ROYAL BANK OF CANADA

- and -

PEACE BRIDGE DUTY FREE INC.

Applicant

Respondent

Court File No. CV-21-00673084-00CL

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

Proceedings commenced at Toronto

**AMENDED ORDER  
(appointing Monitor)**

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Barristers and Solicitors  
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*Lawyers for Royal Bank of Canada*

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# **APPENDIX “5”**

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

BETWEEN:

**ROYAL BANK OF CANADA**

Applicant

- and -

**PEACE BRIDGE DUTY FREE INC.**

Respondent

**SECOND REPORT OF MSI SPERGEL INC.  
IN ITS CAPACITY AS THE COURT-APPOINTED MONITOR OF  
PEACE BRIDGE DUTY FREE INC.**

**March 21, 2022**

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## **APPENDICES**

1. The Appointment Order
2. December 14, 2021 Endorsement of the Honourable Justice Pattillo
3. First Report of the Monitor (without appendices)
4. The Amended Appointment Order
5. Fee Affidavit of Mukul Manchanda, sworn March 21, 2022
6. Fee Affidavit of Leanne Williams, sworn March 21, 2022
7. The Draft Amended Appointment Order

## **CONFIDENTIAL APPENDICES**

1. The Updated Cash Flow Forecast

## **I. APPOINTMENT AND BACKGROUND**

1. This second report (this “**Second Report**”) is filed by msi Spergel inc. (“**Spergel**”) in its capacity as the Court-appointed monitor (in such capacity, the “**Monitor**”) of Peace Bridge Duty Free Inc. (the “**Debtor**”). Pursuant to section 101 of the *Courts of Justice Act* R.S.O. 1990, c. C.43, as amended (the “**CJA**”), Spergel was appointed as the Monitor, without security, of the Debtor by Order of the Honourable Mr. Justice Pattillo of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated December 14, 2021 (the “**Appointment Order**”). The Appointment Order was made upon the application of the Debtor’s general secured creditor, Royal Bank of Canada (“**RBC**”). Attached as **Appendix “1”** to this Second Report is a copy of the Appointment Order.
2. The Debtor was formed on March 1, 2012 by way of amalgamation of a company by the same name (which was also previously known as Forte Erie Duty Free Shoppe Ltd. and Fort Erie Duty Free Shoppe Inc.) and Giving Gallery Inc.
3. The Debtor operates a duty-free shop located near the Peace Bridge. The Debtor leases its operating location (the “**Premises**”) from The Buffalo and Fort Erie Public Bridge Authority (the “**Landlord**”).
4. The Monitor retained Thornton Grout Finnigan LLP (the “**Monitor’s Counsel**”) as its independent legal counsel.
5. RBC initially brought an application for an appointment of a receiver, without security, over all of the assets, undertakings and properties of the Debtor (the “**Property**”). Pursuant to the Endorsement of the Honourable Justice Pattillo dated December 14, 2021 (the “**Endorsement**”) the matter with respect to the appointment of a receiver was adjourned to January 17, 2022. Attached as **Appendix “2”** to this Second Report is a copy of the Endorsement.
6. On January 14, 2022, the Monitor filed its first report (the “**First Report**”) providing the Court with information with respect to the activities of the Monitor and the Company since the issuance of the Appointment Order. Attached as **Appendix “3”** to this Second Report is a copy of the First Report (without appendices).

7. On January 17, 2022, the Honourable Justice Pattillo granted an order (the “**Amended Appointment Order**”) amending the terms of the Appointment Order and ordering, amongst other things, that the relief sought by RBC with respect to the appointment of a receiver be and is adjourned until March 23, 2022 at noon (the “**Return Date**”), provided, however that the Debtor satisfies the following conditions at all times:
- a. the Debtor shall continually replenish its inventory to ensure that at no time does the total book value of its inventory go below \$1,175,000;
  - b. the Debtor shall ensure that at no time does the cash balance in the Debtor’s account administered by RBC go below \$850,000 (the “**RBC Holdback**”); and
  - c. the Debtor provides the Monitor and RBC the following information:
    - i. on a bi-weekly basis, an updated projected cash flow statement; and
    - ii. on a monthly basis, an income statement and balance sheet along with a variance analysis disclosing actual results to the projections with an explanation of any variance (collectively, the “**Additional Reporting**”).

Attached as **Appendix “4”** to this Second Report is a copy of the Amended Appointment Order.

8. The Monitor understands that the Debtor intends to seek a further adjournment of the matter on the Return Date on certain terms that have been agreed to between RBC and the Debtor.

## **II. PURPOSE OF THIS SECOND REPORT AND DISCLAIMER**

9. The purpose of this Second Report is to provide the Court with information pertaining to (i) the Monitor’s activities and general updates since the First Report, and (ii) the Monitor’s comments regarding the Updated Cash Flow Forecast (as defined herein); and to seek the approval of (a) the fees and disbursements of the Monitor and the Monitor’s Counsel for the period to and including January 31,

2022, and (b) the activities of the Monitor contained in the First Report and this Second Report.

*Restrictions and Disclaimer*

10. In preparing this Second Report, the Monitor has relied upon certain information provided to it by the Debtor's management. The Monitor has not performed an audit or verification of such information for accuracy, completeness or compliance with Accounting Standards for Private Enterprises or International Financial Reporting Standards. Accordingly, the Monitor expresses no opinion or other form of assurance with respect to such information.
11. The cash flow forecast and projections in this Second Report relate to future events and are based on management's assumptions, which may not remain valid throughout the period of the projections. Consequently, they cannot be relied upon to the same extent as information derived from the reviewed accounts for completed accounting periods. For these reasons, the Monitor expresses no opinion as how closely the actual cash flows achieved will correspond to the projection.
12. This Second Report does not take into account the future impact of COVID-19 on any projection or other assumptions presented by the Debtor to the Monitor. The potential for unknown ramifications on consumers, supply chains, commercial counterparties (both direct and indirect to the Debtor's operations) and future decisions that may need to be made as a result of the evolving COVID-19 situation means that the projections and other assumptions may be significantly impacted by COVID-19. The full impact of COVID-19, both on the Debtor's business and in general, is not capable of being qualitatively or quantitatively assessed at this time, and the Monitor has not endeavored to do so in this Second Report.
13. Parties using this Second Report, other than for the purposes outlined herein, are cautioned that it may not be appropriate for their purposes, and consequently should not be used for any other purpose.

14. All references to dollars in this Second Report are in Canadian currency unless otherwise noted.

### **III. ACTIVITIES OF THE MONITOR**

15. Since the First Report, the Monitor undertook the following activities:
- a. reviewed certain financial information provided by the Debtor;
  - b. reviewed and provided feedback with respect to the Additional Reporting;
  - c. carried out a monitoring program to monitor receipts and disbursements on a regular basis;
  - d. communicated with RBC's counsel, the Landlord's counsel, the Debtor and the Debtor's counsel with respect to the proceedings; and
  - e. reviewed and provided feedback with respect to the Updated Cash Flow Forecast;

### **IV. THE LANDLORD**

16. The Monitor has been advised by counsel for the Debtor that there have been no further direct discussions between the Debtor and the Landlord or its counsel. Monitor's Counsel has also been advised that neither the Debtor nor its counsel have received any communication from the Landlord or its counsel in respect of the Return Date.

### **V. CASH FLOW FORECAST**

17. The Debtor has prepared an updated cash flow forecast (the "**Updated Cash Flow Forecast**") for the period from March 13, 2022 to June 25, 2022 (the "**Forecasted Period**"). A copy of the Updated Cash Flow Forecast is attached to this Second Report as **Confidential Appendix "1"**. The Debtor is seeking a continuation of the sealing order in respect of the Updated Cash Flow Forecast as it contains commercially sensitive information, the release of which would be prejudicial to the Debtor and the stakeholders of the Debtor should this proceeding be terminated.
18. The Updated Cash Flow Forecast indicates, among other things, that:

- a. The RBC Holdback will be converted to a Guaranteed Investment Certificate (“**GIC**”) assuming the order sought on the Return Date is granted by the Court;
- b. the cash balance is forecasted to remain at or in excess of \$389,000 (net of the RBC Holdback) during the Forecasted Period;
- c. the Debtor is forecasting to generate \$2,425,000 in receipts (sales) during the Forecasted Period;
- d. the Debtor continues to be eligible for the rent and wage subsidy programs and during the Forecasted Period is forecasting to collect \$187,000 and \$105,000 from wage and rent subsidy programs, respectively;
- e. the Debtor is forecasted to pay \$424,000 to the Landlord on account of rent during the Forecasted Period; and
- f. the book value of inventory is forecasted to remain at or in excess of \$1,236,000 during the forecasted period.

## **VI. FEES AND DISBURSEMENTS OF THE MONITOR**

- 19. The Monitor and the Monitor’s Counsel have maintained detailed records of the professional time and costs incurred since the Appointment Order was granted on December 14, 2021. Pursuant to the Appointment Order, the Court granted the Monitor’s Charge (as defined in the Appointment Order) in the amount of \$100,000 to secure the fees and disbursements of the Monitor and the Monitor’s Counsel.
- 20. The total fees of the Monitor during the period to and including January 31, 2022 are set out in the affidavit of Mukul Manchanda (the “**Manchanda Affidavit**”), sworn March 21, 2022 in support hereof, a copy of which is attached hereto as **Appendix “5”**. As set out in the Monitor’s Fee Affidavit, the Monitor’s fees incurred to and including January 31, 2022 are \$31,020.70 (inclusive of taxes and disbursements).
- 21. The total legal fees incurred by the Monitor for services provided by the Monitor’s Counsel during the period to and including January 31, 2022 are set out in the

affidavit of Leanne Williams (the “**Williams Affidavit**”), sworn March 21, 2022, in support hereof, a copy of which is attached hereto as **Appendix “6”**. As set out in the Williams affidavit, the legal fees incurred up to and including January 31, 2022 are \$17,418.62 (inclusive of taxes and disbursements).

22. The Monitor is of the view that these accounts are reasonable in the circumstances and respectfully requests that the Court approve its fees and disbursements those of its legal counsel.

## **VII. ADJOURNMENT**

23. The Debtor intends to seek a further adjournment on the Return Date of the receivership application. To that end, the Monitor has been provided with a copy of a draft order amending the Amended Appointment Order (the “**Draft Amended Appointment Order**”) agreed upon between RBC and the Debtor. The Draft Amended Appointment Order provides terms upon which RBC would agree to the adjournment and provides for, subject to the terms of the Amended Appointment Order,
- a. that the requirement of the RBC Holdback be deleted and replaced with the following:
- i. the Debtor shall use the RBC holdback to purchase a GIC for a term of three months, which GIC shall be used as additional security by RBC subject to a Cash Collateral agreement in a form satisfactory to RBC.
24. A copy of the Draft Amended Appointment Order is attached to this Second Report as **Appendix “7”**.
25. A copy of the Draft Amended Appointment Order was provided to counsel for the Landlord on March 21, 2022.

Dated at Toronto this 21<sup>st</sup> day of March, 2022

**msi Spergel inc.,**  
solely in its capacity as Court-appointed Monitor  
of Peace Bridge Duty Free Inc. and not in its  
personal or corporate capacity

Per:

A handwritten signature in black ink, appearing to read 'Mukul', written in a cursive style.

---

Mukul Manchanda, CPA, CIRP, LIT

# **APPENDIX “6”**

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

THE HONOURABLE MR.

)

WEDNESDAY, THE 23<sup>rd</sup>

JUSTICE PENNY

)

DAY OF MARCH, 2022

)

**ROYAL BANK OF CANADA**

Applicant

- and -

**PEACE BRIDGE DUTY FREE INC.**

Respondent

**ORDER**

**THIS APPLICATION**, made by Royal Bank of Canada ("**RBC**") for, amongst other things, an Order pursuant to section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**") appointing msi Spergel inc. ("**Spergel**") as a monitor (in such capacity, the "**Monitor**") without security, of Peace Bridge Duty Free Inc. (the "**Debtor**"), was heard this day via Zoom videoconference because of the Covid-19 pandemic.

**ON READING** the affidavit of Christopher Schulze sworn December 2, 2021 and the exhibits thereto, the affidavit of Jim Pearce sworn December 12, 2021 and the exhibits thereto and the Second Report of the Monitor dated March 21, 2022 and the appendices thereto (the "**Second Report**"), and on hearing the submissions of counsel for RBC, the Monitor, the Debtor, the Buffalo and Fort Erie Public Bridge Authority (the "**Authority**") and such other counsel as

were present, no one appearing for any other stakeholder although duly served as appears from the affidavit of service of Eunice Baltkois sworn December 3, 2021,

1. **THIS COURT ORDERS** that the balance of the relief sought by RBC in its application be and is hereby adjourned to a date on or after June 23, 2022 to be set by the Court, subject to the terms of the Amended Order (Appointing Monitor) of The Honourable Mr. Justice Pattillo dated January 17, 2022 (the “**Amended Order**”), which is further amended as follows:

- (a) the requirement to establish a Minimum Balance (as defined at paragraph 26(b) of the Amended Order) be and is hereby deleted and replaced with the following:
- (b) the Debtor shall use the sum of \$850,000 in its account administered by RBC to purchase a Guaranteed Investment Certificate for a term of three months (“**GIC**”), which GIC shall be used as additional security by RBC subject to a Cash Collateral Agreement in a form satisfactory to RBC.

2. **THIS COURT ORDERS** that paragraph 27 of the Amended Order be and is hereby deleted.

3. **THIS COURT ORDERS** that the First Report of the Monitor dated January 14, 2022, the Second Report and the activities, decisions, and conduct of the Monitor as set out therein are hereby authorized and approved.

4. **THIS COURT ORDERS** that the professional fees and disbursements of the Monitor for the period to January 31, 2022, in the amount of \$27,452.00 and Harmonized Sales Tax (“**HST**”) of \$3,568.76, for a total of \$31,020.76, as further set out in the Second Report and the Manchanda Affidavit, are hereby approved.

5. **THIS COURT ORDERS** that the professional fees and disbursements of Thornton Grout Finnigan LLP, counsel to the Monitor, for the period January 31, 2022, in the amount of \$15,410.00, plus disbursements in the amount of \$5.32, and HST of \$2,003.30, for a total of \$17,418.62, as further set out in the Second Report and the Williams Affidavit, are hereby approved.

6. **THIS COURT ORDERS** that the cash flow forecast appended to the Second Report be sealed, kept confidential and not form part of the public record, but rather be placed, separate and apart from all other contents of the Court file, in a sealed envelope attached to a notice which sets out the title of these proceedings and a statement that the contents are subject to a sealing order.

 3.

**ROYAL BANK OF CANADA**

- and -

**PEACE BRIDGE DUTY FREE INC.**

Applicant

Respondent

Court File No. CV-21-00673084-00CL

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

**Proceedings commenced at Toronto**

**ORDER**

**AIRD & BERLIS LLP**  
Barristers and Solicitors  
Brookfield Place  
181 Bay Street, Suite 1800  
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*Lawyers for Royal Bank of Canada*

# **APPENDIX “7”**

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

BETWEEN:

**ROYAL BANK OF CANADA**

Applicant

- and -

**PEACE BRIDGE DUTY FREE INC.**

Respondent

**THIRD REPORT OF MSI SPERGEL INC.  
IN ITS CAPACITY AS THE COURT-APPOINTED MONITOR OF  
PEACE BRIDGE DUTY FREE INC.**

**January 3, 2023**

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## **APPENDICES**

1. The Appointment Order
2. December 14, 2021 Endorsement of the Honourable Justice Pattillo
3. First Report of the Monitor (without appendices)
4. The Amended Appointment Order
5. The Second Report
6. The March 23<sup>rd</sup> Order

## **I. APPOINTMENT AND BACKGROUND**

1. This third report (this “**third Report**”) is filed by msi Spergel inc. (“**Spergel**”) in its capacity as the Court-appointed monitor (in such capacity, the “**Monitor**”) of Peace Bridge Duty Free Inc. (the “**Debtor**”). Pursuant to section 101 of the *Courts of Justice Act* R.S.O. 1990, c. C.43, as amended, Spergel was appointed as the Monitor, without security, of the Debtor by Order of the Honourable Mr. Justice Pattillo of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) dated December 14, 2021 (the “**Appointment Order**”). The Appointment Order was made upon the application of the Debtor’s general secured creditor, Royal Bank of Canada (“**RBC**”). Attached as **Appendix “1”** to this Third Report is a copy of the Appointment Order.
2. The Debtor was formed on March 1, 2012 by way of amalgamation of a company by the same name (which was also previously known as Forte Erie Duty Free Shoppe Ltd. and Fort Erie Duty Free Shoppe Inc.) and Giving Gallery Inc.
3. The Debtor operates a duty-free shop located near the Peace Bridge. The Debtor leases its operating location from The Buffalo and Fort Erie Public Bridge Authority (the “**Landlord**”).
4. The Monitor retained Thornton Grout Finnigan LLP as its independent legal counsel.
5. RBC initially brought an application for an appointment of a receiver, without security, over all of the assets, undertakings and properties of the Debtor. Pursuant to the Endorsement of the Honourable Justice Pattillo dated December 14, 2021 (the “**December 14<sup>th</sup> Endorsement**”), the matter with respect to the appointment of a receiver was adjourned to January 17, 2022. Attached as **Appendix “2”** to this Third Report is a copy of the December 14<sup>th</sup> Endorsement.
6. On January 14, 2022, the Monitor filed its first report (the “**First Report**”) providing the Court with information with respect to the activities of the Monitor and the Company since the issuance of the Appointment Order. Attached as **Appendix “3”** to this Third Report is a copy of the First Report (without appendices).

7. On January 17, 2022, the Honourable Justice Pattillo granted an order (the **“Amended Appointment Order”**) amending the terms of the Appointment Order and ordering, amongst other things, that the relief sought by RBC with respect to the appointment of a receiver be and is adjourned until March 23, 2022 at noon, provided, however that the Debtor satisfies the following conditions at all times:
- a. the Debtor shall continually replenish its inventory to ensure that at no time does the total book value of its inventory go below \$1,175,000;
  - b. the Debtor shall ensure that at no time does the cash balance in the Debtor’s account administered by RBC go below \$850,000 (the **“Minimum Balance”**) and
  - c. the Debtor provides the Monitor and RBC the following information:
    - i. on a bi-weekly basis, an updated projected cash flow statement; and
    - ii. on a monthly basis, an income statement and balance sheet along with a variance analysis disclosing actual results to the projections with an explanation of any variance (collectively, the **“Additional Reporting”**).

Attached as **Appendix “4”** to this Third Report is a copy of the Amended Appointment Order.

8. On March 21, 2022, the Monitor filed its second report (the **“Second Report”**) providing the Court with information with respect to the activities of the Monitor and the Company since the First Report. Attached as **Appendix “5”** to this Third Report is a copy of the Second Report (without appendices).
9. On March 23, 2022, the Honourable Justice Penny granted an order (the **“March 23<sup>rd</sup> Order”**), among other things, adjourning the relief sought by RBC with respect to the appointment of a receiver to a date on or after June 23, 2022 to be set by the Court. Attached as **Appendix “6”** to this Third Report is a copy of the March 23<sup>rd</sup> Order.

10. The March 23<sup>rd</sup> Order also amended the terms of the Amended Appointment Order requiring the establishment of the Minimum Balance as follows:
  - a. the Debtor shall use the sum of \$850,000 in its account administered by RBC to purchase a Guaranteed Investment Certificate for a term of three months (“**GIC**”), which GIC shall be used as additional security by RBC subject to a Cash Collateral Agreement in a form satisfactory to RBC.

## **II. PURPOSE OF THIS THIRD REPORT AND DISCLAIMER**

11. The purpose of this Third Report is to provide the Court with information pertaining to (i) the Monitor’s activities and general updates since the Second Report, and (ii) the Monitor’s comments regarding the potential impact of the Landlord’s request to lift the stay of proceedings on the other creditors of the Debtor.

### **Restrictions and Disclaimer**

12. In preparing this Third Report, the Monitor has relied upon certain information provided to it by the Debtor’s management. The Monitor has not performed an audit or verification of such information for accuracy, completeness or compliance with Accounting Standards for Private Enterprises or International Financial Reporting Standards. Accordingly, the Monitor expresses no opinion or other form of assurance with respect to such information.
13. The cash flow forecast and projections in this Third Report relate to future events and are based on management’s assumptions, which may not remain valid throughout the period of the projections. Consequently, they cannot be relied upon to the same extent as information derived from the reviewed accounts for completed accounting periods. For these reasons, the Monitor expresses no opinion as how closely the actual cash flows achieved will correspond to the projection.
14. This Third Report does not take into account the future impact of COVID-19 on any projection or other assumptions presented by the Debtor to the Monitor. The potential for unknown ramifications on consumers, supply chains, commercial counterparties (both direct and indirect to the Debtor’s operations) and future

decisions that may need to be made as a result of the evolving COVID-19 situation means that the projections and other assumptions may be significantly impacted by COVID-19. The full impact of COVID-19, both on the Debtor's business and in general, is not capable of being qualitatively or quantitatively assessed at this time, and the Monitor has not endeavored to do so in this Third Report.

15. Parties using this Third Report, other than for the purposes outlined herein, are cautioned that it may not be appropriate for their purposes, and consequently should not be used for any other purpose.
16. All references to dollars in this Third Report are in Canadian currency unless otherwise noted.

### **III. ACTIVITIES OF THE MONITOR**

17. Since the Second Report, the Monitor undertook the following activities:
  - a. reviewed certain financial information provided by the Debtor;
  - b. reviewed and provided feedback with respect to the Additional Reporting;
  - c. carried out a monitoring program to monitor receipts and disbursements on a regular basis; and
  - d. communicated with RBC's counsel, the Landlord's counsel, the Debtor and the Debtor's counsel with respect to the proceedings.

### **IV. THE LANDLORD**

18. The Monitor has continued to monitor the ongoing dispute between the Debtor and the Landlord and has continued to take no position in respect of the appropriate amount owing by the Debtor to the Landlord under its lease which is the subject of the Dispute.

### **V. ADDITIONAL REPORTING**

19. In accordance with the Amended Appointment Order, the Debtor submitted the following to the Monitor:
  - a. on a bi-weekly basis, an updated projected cash flow statement; and

- b. on a monthly basis, an income statement and balance sheet along with a variance analysis disclosing actual results to the projections with an explanation of any variance.
20. A review of the financial statements as at November 30, 2022 prepared by the Debtor indicates, among other things, that:
- a. the Debtor generated sales of \$9,583,153 for the period from January 1, 2022 to November 30, 2022 as compared to the sales of \$3,107,805 for the period from January 1, 2020 to December 31, 2020 and sales of \$21,317,847 for the period from January 1, 2019 to December 31, 2019, respectively;
  - b. the Debtor collected \$387,108 with respect to rent subsidies and \$265,780 with respect to wage subsidies for the period from January 1, 2022 to November 30, 2022;
  - c. the Debtor paid \$1,916,631 towards rent during the period from January 1, 2022 to November 30, 2022
  - d. the Debtor generated a net profit of \$1,371,970;
  - e. the cash in the Debtor's bank account was \$2,051,488 as at November 30, 2022, subject to potential cash impairments noted in the financial statements; and
  - f. the inventory balance as at November 30, 2022 was \$1,233,684.
21. The Debtor prepared an updated cash flow forecast (the “**Updated Cash Flow Forecast**”) for the period from December 10, 2022 to January 7, 2023 (the “**Forecasted Period**”). The Updated Cash Flow Forecast indicates, among other things, that:
- a. the cash balance is forecasted to stay at or in excess of \$1,130,000 (net of the Minimum Balance) during the Forecasted Period;
  - b. the debtor is forecasting to generate \$975,000 in receipts (sales) during the Forecasted Period; and

- c. the Debtor is forecasted to pay \$210,000 to the Landlord on account of rent during the Forecasted Period.

**VI. POTENTIAL IMPACT OF LIFTING OF STAY IN FAVOUR OF ONE CREDITOR**

22. The Landlord has sought to lift the stay of proceedings against the Debtor in order to terminate its lease on the basis that the lease is in default in contravention of the Amended Appointment Order. The Debtor has disputed that it is in default of its obligations to the Landlord. The Monitor takes no position on the relief sought by the Landlord or the Debtor's defenses to same.
23. It is the Monitor's position that any lifting of the stay of proceedings should not be granted in favour of one creditor to the exclusion of other creditors. Allowing one creditor to enforce its rights and remedies while continuing to stay the rights and remedies of the Debtor's remaining creditors would create an unfairness and prejudice to those creditors remaining subject to the stay of proceedings. It is the Monitor's position that any lifting of the stay of proceedings to allow any enforcement of rights and remedies against the Debtor should be done in favour of all creditors.

ALL OF WHICH IS RESPECTFULL SUBMITTED.

Dated at Toronto this 3<sup>rd</sup> day of January, 2023

**msi Spergel inc.,**  
solely in its capacity as Court-appointed Monitor  
of Peace Bridge Duty Free Inc. and not in its  
personal or corporate capacity

Per:



---

Mukul Manchanda, CPA, CIRP, LIT

# **APPENDIX “8”**



Revised 07/17

Royal Bank of Canada  
**Master Lease Agreement**  
(PPSA - S)

This Master Lease Agreement (the "Master Lease Agreement") made as of the 21st day of August, 2018 between

**ROYAL BANK OF CANADA** ("Lessor")

and

**PEACE BRIDGE DUTY FREE INC.** ("Lessee")

Address:  
5575 North Service Rd,  
Suite 300,  
Burlington, Ontario  
L7L 6M1

Address:  
1 Peace Bridge Plaza Box 339  
Fort Erie, Ontario  
L2A 5N1

Lessor and Lessee agree as follows:

**1. Leasing of Equipment**

- 1.1 Lessor may, from time to time, at its option, on the request of Lessee, acquire equipment for leasing to the Lessee ("Equipment"), pursuant to the terms of this Lease Agreement and the relevant supplemental agreement ("Leasing Schedule").
- 1.2 Neither the Lessor, nor the Lessee on behalf of Lessor, will order or acquire any Equipment unless Lessee has executed such documents and agreements as Lessor may require. Lessee will advise Lessor promptly of any Equipment ordered or acquired by Lessee on behalf of Lessor pursuant to this Lease Agreement.
- 1.3 Lessee will provide Lessor with a copy of the invoice for each item of Equipment to be purchased pursuant to this Lease Agreement, addressed to Lessor. A Leasing Schedule for that Equipment shall be entered into before payment is made for the Equipment.
- 1.4 Lessee shall conduct such acceptance testing of any Equipment to be purchased pursuant to this Lease Agreement as may be appropriate in the circumstances, and promptly upon successful completion of that acceptance testing shall sign the relevant Leasing Schedule for the Equipment, and return one executed Leasing Schedule to the Lessor.
- 1.5 Lessor shall have no responsibility under any purchase order or any purchase or license agreement or any Leasing Schedule if Lessee does not accept the Equipment and sign and deliver to Lessor the Leasing Schedule(s) and acceptance certificate for that Equipment. Any agreement with the seller of the Equipment will include a provision to this effect.
- 1.6 Each Leasing Schedule shall constitute a separate Lease of the Equipment described in the Leasing Schedule but incorporating the terms of this Lease Agreement. In the event of a conflict between the terms of this Lease Agreement and any Leasing Schedule with respect to any Lease, the terms of the Leasing Schedule shall govern.
- 1.7 Terms not otherwise defined herein shall have the same meaning ascribed under the Leasing Schedule.

**2. Payment of Equipment Cost**

- 2.1 Lessor will pay the agreed cost to be funded by Lessor for the Equipment acquired pursuant to this Lease Agreement on the later of: (i) the due date for payment, and (ii) delivery of the signed Leasing Schedule.

**3. Rental**

- 3.1 Lessee shall pay to Lessor the rental payable, as set out in the Leasing Schedule. The first installment is payable on the Commencement Date of the Term and the last of such installments is payable on the Termination Date of Term, all as shown on the relevant Leasing Schedule.

**4. Rent Payment**

- 4.1 The Total Rental Installments shall be paid at the office of Lessor, at the address set out on page 1 of this Lease Agreement, or at such other place in Canada as Lessor may from time to time designate by notice.

**5. Ownership**

- 5.1 Title to, ownership of, and property in, the Equipment shall at all times be and remain solely and exclusively in the Lessor, subject only to the rights of Lessee to use the Equipment pursuant to the provisions of this Lease, and to purchase the same pursuant to any option granted in the relevant Leasing Schedule.

**6. Personal Property**

- 6.1 Notwithstanding any purposes for which the Equipment may be used or that it may become in any manner affixed or attached to or embedded in or permanently rested upon land or any structure thereon, it shall remain moveable personal property, and subject to all of the rights of Lessor under the Lease to which it is subject.
- 6.2 Lessee agrees to use all reasonable commercial efforts to obtain a waiver, if required by and in a form satisfactory to Lessor, from any landlord, mortgagee, hypothecary creditor or other encumbrancers or any person having any interest in the land or structure referred to in Section 6.1 hereof consenting to this Lease Agreement and any relevant Leasing Schedule, and to the exercise by Lessor of its rights thereunder and hereunder and declaring that such encumbrances do not affect the Equipment.
- 6.3 Solely for the purpose of, and to the extent reasonably necessary to protect the interest of the Lessor as to its title and first priority interest in the Equipment, and without election or admission that this Agreement or any Leasing Schedule is a finance lease, the Lessee grants a security interest in any interest of the Lessee in the Equipment to the Lessor.

**7. Licence**

- 7.1 Lessee agrees that Lessor:
  - (a) may at any time and from time to time, if an Event of Default (s.18) has occurred and is continuing, enter upon any lands and premises where any Equipment is located with all such force as may be reasonably required, to dismantle, detach and remove the Equipment or render it unusable;
  - (b) shall not be liable for any damage done to those lands or premises in exercising those rights, save only such damage as may be caused by the gross negligence or willful act of Lessor or its agents or servants; and
  - (c) may, at its election, register, by way of caveat or otherwise, against those lands and premises of its rights under the Lease.

**8. Exclusion of Warranties**

- 8.1 Lessee acknowledges that the Equipment will be personally chosen and selected by Lessee and that it will be of a make,

size, design and capacity specified by Lessee for the purpose intended by Lessee.

- 8.2 Lessee confirms that Lessor does not make or give any representation or warranty, express or implied, as to the Equipment, its condition, fitness or suitability for any particular use intended by Lessee.
- 8.3 Lessee shall bear the risk of any theft, loss or destruction of or damage to any item of Equipment. Lessee acknowledges that none of these events will in any way affect its obligations, which will continue in full force and effect, except to the extent of any proceeds of any insurance maintained by Lessee that are actually received by Lessor.
- 8.4 Lessee shall not exert or claim against Lessor any defense, write-off, set-off, claim or counterclaim to which Lessee may be entitled against the supplier(s), and no such right shall affect the Lessor's obligations.

#### 9. Maintenance and Use

9.1 Lessee will, at its own expense:

- (a) keep the Equipment in good operating condition and repair including, without limitation, the repair of any damage to the Equipment, whatever the cost, except for the repair of ordinary wear and tear, provided that Lessee will repair ordinary wear and tear if such repair is required to maintain the Equipment in good operating condition and repair; and
- (b) comply in all respects with all recommendations, or requirements of the supplier(s) or manufacturer(s) regarding the Equipment, as may be necessary to preserve all warranties.
- 9.2 Any parts or anything else that are, as part of Lessee's maintenance and repair of the Equipment, placed in or upon the Equipment shall form part of the Equipment, become property of the Lessor, and be free of all adverse claims.

#### 10. Inspection

10.1 Lessor and its agents shall have the right to inspect the Equipment at any reasonable time upon reasonable notice to Lessee, and Lessee shall afford all reasonable facilities required by the Lessor or its agents for the purpose of inspection, and for that purpose may enter any premises where the Equipment is located.

#### 11. Insurance

- 11.1 As and from the earlier of the date upon which Lessor acquires ownership of, or title to, the Equipment or the date on which Lessee takes possession or control of the Equipment, and thereafter throughout the term of each relevant Leasing Schedule, Lessee shall, at its sole expense:
- (a) place and maintain all risks property insurance on the Equipment, in amounts satisfactory to Lessor, consistent with Lessee's normal and usual practice for insuring equipment of the same general classification. This property damage insurance shall specifically state by its wording or by endorsement that it:
- i) includes Lessor (as owner) as an additional named insured,
  - ii) includes a loss payable clause in favour of Lessor,
  - iii) includes a waiver of subrogation clause in favour of Lessor;
- (b) place and maintain comprehensive general liability insurance, and automobile liability insurance in the case of leased licensed motor vehicles, with limits of liability satisfactory to Lessor for injury to or death of any one or more persons or damage to property. Said insurance shall specifically state by its wording or by endorsement that it:
- i) extends to cover the liabilities of the Lessee from the use or possession of the Equipment,
  - ii) includes Lessor as an additional named insured, and

- iii) includes a cross liability provision that the policy shall insure each person, firm or corporation insured thereunder in the same manner and to the same extent as if a separate policy had been issued to each, but the inclusion therein of more than one insured shall not operate to increase the limits of the insurers' liability.

11.2 Lessee shall supply Lessor with a certificate of insurance or other evidence satisfactory to Lessor evidencing the foregoing coverage and evidence of its renewal or replacement from time to time; so long as any Leasing Schedule remains in force and effect.

#### 12. Taxes

12.1 Lessee shall pay punctually all sales taxes, licence fees, business taxes, levies and assessments of every nature and kind whatsoever which be or become payable at any time or from time to time upon, or in respect of, the Equipment, and any payments to be made under this Lease Agreement or any Leasing Schedule, except for income taxes payable by Lessor.

#### 13. Adverse Claims

13.1 Lessee shall keep the Equipment free and clear of all adverse claims. Lessee may contest any adverse claim provided that Lessee:

- a) gives Lessor notice of the adverse claim;
- b) provides Lessor with an indemnity and collateral security, both satisfactory to Lessor; and
- c) contests the adverse claim with all due dispatch.

#### 14. Laws and Regulations

14.1 Lessee shall comply with all laws, by-laws and regulations relating to the ownership, possession, operation and maintenance of the Equipment including, without limiting the generality of the foregoing, laws, by-laws or regulations dealing with the protection of the environment, health and safety. Lessee will obtain and maintain all necessary licenses, permits and permissions required for the use of the Equipment.

#### 15. Alterations

15.1 All alterations, additions or improvements made by Lessee to the Equipment shall be at Lessee's expense and shall belong to and become the property of Lessor and be subject to all the provisions of this Leasing Agreement and the relevant Leasing Schedule.

#### 16. Loss of Equipment

16.1 Lessee shall bear the risks of (i) any total loss, or loss that amounts, in the sole opinion of the Lessor, to a total loss of the Equipment through theft, damage, destruction, or even by superior force and (ii) any expropriation or other compulsory taking or use of the Equipment by any government or other authority ("Loss of Equipment"). If a Loss of Equipment occurs, Lessee shall pay to Lessor an amount calculated by discounting the aggregate amount of all Rental Instalments, including the Purchase Option amount, if any, specified under the applicable Leasing Schedule which were to be paid during the remainder of the Term, using an assumed rate equal to the lesser of:

- i) five percent (5%);
- ii) the bond rate at the date, for the equivalent term to maturity, of the applicable Leasing Schedule; and
- iii) the bond rate at the date of the discount calculation for a term equivalent to the remaining term of such Leasing Schedule (with, in the case of (ii) and (iii), Canadian dollar obligations being benchmarked against bonds issued by the Government of Canada and U.S. dollar obligations being benchmarked against bonds issued by the Government of the United States of America).

16.2 Upon such payment, Lessor shall convey on an "as is", "where is" basis, subject to the rights of the insurer, all its right, title and interest in the Equipment and any claim for proceeds of loss of equipment, in which case the Lease shall terminate with respect to that Equipment, and no further rental payment shall be payable thereafter with respect to that Equipment. All Federal and Provincial sales or transfer taxes, licence fees and similar assessments connected with the transfer of Lessor's right, title and interest to the Equipment to Lessee shall be paid by Lessee.

#### 17. Lessee's Acknowledgements - Foreseeable Damages

17.1 Lessee hereby acknowledges that Lessor:

- (a) has or will acquire the Equipment at the request and direction of Lessee and for the purpose of leasing same to Lessee under a Leasing Schedule; and
- (b) intends to treat the lease of Equipment to the Lessee as a true lease and to claim over the term of the lease all available tax benefits.

Lessee acknowledges that if an Event of Default occurs, Lessor's return on its investment may be adversely affected. In that case Lessor may, in addition to its immediate loss of interest on its investments, sustain and claim from Lessee other foreseeable damages which cannot be quantified on the date of execution of this Lease Agreement or any Leasing Schedule. Those damages may include, without limitation, loss of fiscal benefits for the remainder of the term of any lease of any Equipment or increased tax liabilities or both, unanticipated increased administrative costs, amortized but unrecovered setup costs, fees and disbursements as well as additional or increased monetary liabilities towards any third party lender, under or by reason of such Event of Default and the premature termination of the lease of any Equipment and the funding thereof.

#### 18. Events of Default

18.1 Any of the following is an "Event of Default":

- (a) Failure by Lessee to pay any Total Rental Installment or other amount pursuant to any Leasing Schedule.
- (b) Failure by Lessee to perform any of its obligations under Sections 11 or 14 of this Lease.
- (c) Failure of Lessee to perform any of its other obligations within 15 days of notice from Lessor as to the failure and requiring it to be rectified.
- (d) The bankruptcy or insolvency of Lessee, the filing against Lessee of a petition in bankruptcy, the making of an authorized assignment for the benefit of creditors by Lessee, the appointment of a receiver or trustee for Lessee or for any assets of Lessee or the institution by or against Lessee of any other type of insolvency proceeding under the Bankruptcy and Insolvency Act or otherwise, or the institution by or against Lessee of any formal or informal proceedings for the dissolution or liquidation of, settlement of, claim against or winding up of affairs of Lessee.
- (e) The amalgamation of Lessee with another corporation or corporations, or continuation of Lessee under a statute other than the statute under which it exists at the date of execution of this Lease Agreement.
- (f) If any adverse claim becomes enforceable against Lessee affecting or against any Equipment.
- (g) Failure of the Lessee to perform any obligation it may have under any agreement with Royal Bank of Canada or any of its subsidiaries.
- (h) A change that is, in the opinion of Lessor, a material adverse change in the business, financial condition or ownership of Lessee or Equipment.

#### 19. Lessor's Remedies on Default

19.1 If an Event of Default occurs, Lessor may, without notice to Lessee, take possession of all Equipment, and for that purpose may enter any premises where any of the Equipment is located. Lessor may sell, lease or otherwise dispose of Equipment for such consideration and upon such terms and conditions as it considers reasonable. This includes, without limitation, the right in the name of and as the irrevocably appointed agent and attorney of Lessee, to lease any item of the Equipment to any other person upon such terms and conditions, for such rental and for such period of time as Lessor may deem reasonable, without terminating or being deemed to have terminated the relevant Leasing Schedule, and to receive that rental and hold and apply it against any amount owing by Lessee to Lessor under the Lease. All of these rights are without prejudice to Lessor's other rights and recourses against Lessee, at law or in equity.

19.2 If an Event of Default occurs, then whether or not Lessor has taken possession of any Equipment, Lessee shall pay to Lessor on demand an amount determined as follows:

- a) an amount calculated by discounting the aggregate amount of all Rental Installments, including the Purchase Option amount, if any, specified under the applicable Leasing Schedule which were to be paid during the remainder of the Term, using an assumed rate equal to the lesser of:
  - i) five percent (5%);
  - ii) the bond rate at the date, for the equivalent term to maturity, of the applicable Leasing Schedule; and
  - iii) the bond rate at the date of the discount calculation for a term equivalent to the remaining term of such Leasing Schedule (with, in the case of (ii) and (iii), Canadian dollar obligations being benchmarked against bonds issued by the Government of Canada and U.S. dollar obligations being benchmarked against bonds issued by the Government of the United States of America); plus.
- b) the amount of any damages described in Section 17.1 suffered or sustained by Lessor and not recovered pursuant to Section 19.2 (a); plus
- c) the amount of any Total Rental Installments or payments of interim rental due as of the date of Event of Default and unpaid, and any other amount due on that date and unpaid under the Lease; plus
- d) any cost of disposition of the Equipment; less
- e) the amount of any security deposits under that Leasing Schedule and any proceeds of the disposal of the Equipment actually received by Lessor.

19.3 If Lessor has leased Equipment pursuant to its rights under this Section 19 it may demand payment under Section 19.2, and account to Lessee for the proceeds of that lease as and when Lessor receives them.

19.4 If Lessor has not taken possession of the Equipment, and Lessee pays Lessor the amount determined under Section 19.2 hereof, then Lessor will convey all of its right, title and interest in all Equipment to Lessee, on the terms of Sections 21.5 and 21.6 hereof.

#### 20. Lessor's Option to Terminate

20.1 Lessee agrees that neither this Lease Agreement nor any Leasing Schedule, nor any interest therein or in any Equipment, shall be assignable or transferable by operation of law and it is agreed and covenanted by and between the parties hereto that if any Event of Default shall occur or happen, then this Lease Agreement and any and all Leasing Schedules shall, at the option of the Lessor to be exercised by notice hereunder, immediately end and terminate and

neither this Lease Agreement nor any Leasing Schedule or any interest therein shall be an asset of Lessee after the exercise of that option; provided that no such termination shall terminate or affect any right or remedy which shall have arisen under the Lease prior to such termination.

## **21. Option to Purchase**

21.1 If there is no Event of Default, Lessor hereby grants to Lessee an option to purchase whatever title Lessor may have to the Equipment for the purchase price and at the time or times set forth in the relevant Leasing Schedule.

21.2 This option to purchase may be exercised by Lessee by giving to Lessor notice of Lessee's intention to exercise such option, at least thirty (30) days prior to the date of intended purchase, describing the Equipment with respect to which such option is being exercised.

21.3 The intended purchase and sale shall be concluded on a date specified in the said notice falling on or after, the date stated in the relevant Leasing Schedule, but in any event not later than the termination date of the term pertaining to the Equipment being purchased.

21.4 Upon the exercise of this option, there shall be a binding agreement for the sale and purchase of the Equipment described in the notice on the terms and conditions provided herein. The purchase price shall be paid to Lessor at the time of the conclusion of the sale.

21.5 Upon this purchase, Lessor shall sell the Equipment so purchased free and clear of all interests of Lessor under this Lease Agreement and any Leasing Schedule and thereupon this Lease shall terminate with respect to the Equipment so purchased. The sale shall be on an "as-is where-is" basis and be without representation or warranty by Lessor except that it has the right to sell the Equipment to Lessee and that it has not given any security interest in the Equipment to any third party.

21.6 Lessee shall bear the cost of any taxes, licence or registration fees or other assessments or charges imposed on, or connected with, the transfer of title to and ownership of the Equipment.

## **22. Remedying Defaults**

22.1 If Lessee shall fail to perform or comply with any of its obligations under this Lease Agreement or any Leasing Schedule, Lessor at its discretion may do all such acts and make all such disbursements as may be necessary to cure the default and any costs incurred or disbursements made by Lessor incurring any such default shall be payable by Lessee on demand.

## **23. Indemnification**

23.1 Lessee will indemnify Lessor and save Lessor harmless from and against all loss, costs, damage or expense of every nature and kind whatsoever sustained or suffered by Lessor, or for which the Lessor may be or become liable, resulting from:

- (a) the execution of the Lease Agreement or any Leasing Schedule by Lessor or the purchase or ownership by Lessor of the Equipment;
- (b) the non-acceptance by Lessee or the failure, refusal or neglect of Lessee to accept the Equipment;
- (c) the moving, delivery, maintenance, repair, use, operation or possession of the Equipment by Lessee or the ownership thereof or other rights held therein by Lessor; or
- (d) the failure of Lessee to comply with any of its obligations under the Lease Agreement or a Leasing Schedule; unless caused by the act or neglect of Lessor, its servants or agents.

## **24. Assignment of Warranties**

® Registered trademark of Royal Bank of Canada

24.1 Lessor hereby assigns to Lessee the benefit of all warranties resulting from the sale entered into with the supplier for its use during the term of the Lease.

## **25. Patent Infringement**

25.1 Lessee shall defend and hold Lessor free and harmless from any cost, loss, damage or expense suffered or incurred by Lessor in any suit, proceeding or otherwise so far as the same is based on any claim that the use or operation of the Equipment by Lessee infringes any patent or copyright.

## **26. Overdue Payment**

26.1 Any overdue payment shall bear interest at the rate of Royal Bank Prime Interest Rate plus five per cent (5%) per annum calculated monthly whether before or after judgement, from the date it is due until paid.

## **27. Delivery at Termination**

27.1 Lessee shall on the expiration or sooner termination of any Lease, surrender the Equipment to Lessor at a place in Canada designated by Lessor in good order and repair, ordinary wear and tear excepted.

27.2 In the event that with or without the consent of Lessor, Lessee remains in the possession of or uses the Equipment after the expiration of the term of the Lease pertaining thereto, all the provisions of the Lease shall apply thereto, including the payment of rental and all other payments required, unless and until the same has been surrendered pursuant to the terms of this section, or Lessor has relieved Lessee from its obligations under the Lease with respect to the Equipment.

## **28. Notice**

28.1 Any notice required to be given hereunder shall be in writing and may be personally delivered or sent by facsimile or may be forwarded by registered mail. If any such notice is so mailed it shall be deemed to have been given by the sender and received by the party hereto to whom it has been addressed two business days after the due mailing thereof by prepaid registered mail addressed to the address shown on page 1 of this Lease Agreement or on the same business day if sent by delivery or facsimile.

28.2 Any person to whom a notice is required to be addressed may from time to time give notice of any change of address and in such event the foregoing addresses shall be deemed to have been changed accordingly.

## **29. Assignment and Sub-Letting**

29.1 Lessee will not assign any Lease or sub-let any Equipment without the prior consent in writing of Lessor, such consent not to be unreasonably withheld. No assignment of the Lease or sub-letting of any Equipment shall relieve the Lessee of its obligations hereunder nor shall any subletting be for a term which extends beyond the expiration of the term of the Lease Agreement.

## **30. Corporate Waiver**

30.1 Lessee waives its right to receive a copy of any financing statement or financing change statement registered by Lessor.

30.2 The Lessee hereby acknowledges that seizure or repossession of the Equipment referred to in any Lease shall not, by implication of law, extinguish the Lessee's indebtedness under any such Lease or other collateral security.

## **31. Limitation of Civil Rights - Saskatchewan**

31.1 Lessee covenants and agrees with Lessor that The Limitation of Civil Rights Act of the Province of Saskatchewan shall have no application to this Lease Agreement or any Leasing Schedule.

## **32. Successors and Assigns**

32.1 The Lease Agreement and each Leasing Schedule shall enure to the benefit of, and be binding upon Lessor and Lessee, their successor and permitted assigns and the sub-lessees of Lessee. Lessor shall be at liberty to assign and otherwise deal with its rights under any Lease.

### 33. Location of Equipment

33.1 Lessee shall not part with possession of the Equipment.  
33.2 Lessee declares that the Equipment will be located at the "Place of Use" in the relevant Leasing Schedule. If the location changes, Lessee will promptly give to Lessor notice of the new location not later than five (5) days after the change.

### 34. Records

34.1 Lessee shall maintain a record describing each item of Equipment, all changes, replacements, modifications and alterations thereto and the cost thereof. The record described shall be available to Lessor, its representatives or agents for inspection and to copy.

### 35. Offset

35.1 Lessee hereby waives any and all existing and future claims and offsets against any payment due to Lessor hereunder and agrees to pay those amounts due hereunder regardless of any offset or claim which may be asserted by Lessee or on its behalf.

### 36. Remedies Cumulative

36.1 All rights and remedies of Lessor hereunder are cumulative and not alternative and may be exercised by Lessor separately or together, in any order, sequence of combination.

### 37. Time

37.1 Time is and shall be in all respects of the essence of any Lease.

### 38. Entire Transaction

38.1 This Lease Agreement and Leasing Schedules represent the entire transaction between the parties hereto relating to the subject matter.

38.2 No agreement purporting to amend or modify this Lease Agreement or any Leasing Schedule or any document, paper or written relating hereto or thereto, or connected herewith or therewith, shall be valid and binding upon the parties hereto unless in writing and signed and accepted in writing by both parties hereto.

### 39. No Merger in Judgment

39.1 The taking of any judgment under this Lease Agreement or any Leasing Schedule shall not operate as a merger of any term, condition or provision hereof or thereof.

### 40. Further Assurances/Copy of Agreement

40.1 Lessee shall give further assurances and do, execute and perform all such acts, deeds, documents and things as may

be reasonably required to enable Lessor to have the full benefit of all rights and remedies intended to be reserved or created hereby.

40.2 Lessee acknowledges receipt of a copy of this Lease Agreement.

### 41. Proper Law

41.1 This Lease Agreement and each Leasing Schedule hereto shall be governed, construed and enforced in accordance with the laws of the Province of Ontario.

### 42. Currency

42.1 All sums payable by Lessee to Lessor under this Lease Agreement or any Leasing Schedule hereto shall be paid in Canadian dollars, unless otherwise specified in the Leasing Schedule.

### 43. Language

43.1 This Lease Agreement and each Leasing Schedule are drawn up in the English language at the request of both parties.

Le présent contrat de location a été rédigé en langue anglaise à la demande des deux parties.

### 44. General

44.1 Any terms herein defined in the singular number shall have a corresponding meaning when used in the plural.

44.2 Any act or deed required to be observed, performed or done hereunder falling on a Saturday, Sunday or other statutory holiday shall be observed, performed or done on the business day next following but any delay hereby granted shall not extend to relieve either party from the due performance and fulfillment of its obligations hereunder.

### 45. Facsimile Language


45.1 The Lessor will be entitled to rely on any signature appearing on a facsimile transmission that purports to be a signature of the Lessee or of a representative of the Lessee as being authorized, valid and binding on the Lessee, even if the signature was not, in fact, signed by the Lessee or its representative. The Lessee will keep the originals of all documents and instructions transmitted to the Lessor by facsimile, and will produce them to the Lessor upon request. Lessor and the Lessee agree that a copy of a document transmitted by fax shall be admissible as evidence of its contents and its execution by the parties in the same manner as an original document, and expressly waive any right to object to its introduction in evidence, including any right to object based on the best evidence rule.

### 46. Financial Information

46.1 Lessee will provide to the Lessor from time to time such information about Lessee and Lessee's business as the Lessor shall reasonably request, including, without limitation, bank and financing ratings, any financial statements prepared by or for Lessee regarding Lessee's business.

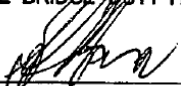
In witness whereof the parties hereto have executed this Lease Agreement on the Aug 21/18 over the hands of their proper signing officers duly authorized in that behalf:

Royal Bank of Canada

per   
Eugene Basolini  
Head, Equipment Finance Solution Centre

per \_\_\_\_\_

PEACE BRIDGE DUTY FREE INC.

per   
G. G. BIHARA  
PRESIDENT

per \_\_\_\_\_



Vendor	Invoice Date	Invoice #	Equipment Cost
PCL Construction	08/21/2018	3373002	\$31,500.00
PCL Construction	08/31/2018	3373003	\$127,640.70
PCL Construction	09/30/2018	3373004	\$648,174.98
PCL Construction	10/31/2018	3373005	\$785,725.96
PCL Construction	11/30/2018	3373006	\$443,253.07
PCL Construction	12/31/2018	3373007	\$390,851.08
PCL Construction	01/28/2019	3373009	\$306,691.82
PCL Construction	01/31/2019	3373008	\$163,377.45
PCL Construction	03/31/2019	3373010	\$638,395.76
PCL Construction	04/15/2019	3373011	\$516,593.91
PCL Construction	05/07/2019	3373012	\$124,456.55
PCL Construction	05/07/2019	3373013	\$472,028.27
PCL Construction	06/27/2019	3373014	\$5,019.68
3D Storage Solutions Limited	09/28/2018	7201	\$27,500.00
A1 Quality Roofing & Sliding	06/24/2019	Invoice dated 6/24/2019	\$32,960.00
Great Lakes Drywall and Stucco	10/07/2019	1016	\$900.00
Great Lakes Drywall and Stucco	10/07/2019	1017	\$20,750.00
Great Lakes Drywall and Stucco	10/07/2019	1018	\$55,000.00
Brubacher Roofing Systems Inc.	6/10/2019	1824	\$69,975.00
Brubacher Roofing Systems Inc.	5/30/2019	1815	\$69,975.00
		Total:	\$4,930,769.23

*Benjamin*

BRIDGE DUTY F



## Amending Agreement (PPSA)

THIS AGREEMENT made the 18th day of November 2020

BETWEEN:

**PEACE BRIDGE DUTY FREE INC.** ("Lessee"),

-and-

**Royal Bank of Canada** ("Royal Bank"),

WHEREAS:

Royal Bank and the Lessee entered into the following Equipment Lease or Leasing Schedule, hereinafter referred to as the "Lease"

**756679676 – 201000057726 (formerly 201000056627, formerly 201000041741)**

**Please refer to Schedule "A" – for new payment schedule:**

Royal Bank will be entitled to rely on any signature appearing on a facsimile transmission that purports to be a signature of the Lessee or of a representative of the Lessee as being authorized, valid and binding on the Lessee, even if the signature was not, signed by the Lessee or its representative. The Lessee will keep the originals of all documents and instructions transmitted to Royal Bank by facsimile, including the application for this Amending Agreement if it was previously transmitted by facsimile to Royal Bank, and will produce them to Royal Bank upon request. Royal Bank and the Lessee agree that a copy of a document transmitted by fax shall be admissible as evidence of its contents and its execution by the parties in the same manner as an original document, and expressly waive any right to object to its introduction in evidence, including any right to object based on the best evidence rule.

IN ALL OTHER RESPECTS the provisions of the Lease are hereby ratified and confirmed.

**ROYAL BANK OF CANADA**

A handwritten signature in black ink, appearing to read "Eugene Basolini".

---

Eugene Basolini  
Head, Equipment Finance Solution Centre  
Duly Authorized Signatory



**Schedule A**

**201000057726 (formerly 201000056627, formerly 201000041741)**

<b>Period</b>	<b>Date</b>	<b>Rent</b>	<b>GST</b>	<b>HST</b>	<b>PST</b>	<b>Total</b>
1-8	08/29/19-03/29/20	68,282.42	0.00	8,876.73	0.00	77,159.15
9-11	04/29/20-09/29/20	0.00	0.00	0.00	0.00	0.00
12-86	10/29/20-12/29/27	68,282.42	0.00	8,876.73	0.00	77,159.15
87	01/29/27	204,363.88	0.00	26,567.30	0.00	230,931.18
88	02/28/27	1.00	0.00	0.13	0.00	1.13



RBC  
Royal Bank

NON-NEGOTIABLE

ROYAL BANK OF CANADA  
INT'L TRADE CENTRE-ONTARIO  
180 WELLINGTON STREET WEST  
TORONTO, ONTARIO M5J 1J1  
TEL: 1-800-757-4525  
FAX: 1-800-450-7774

JULY 13, 2007

CANADA BORDER SERVICES AGENCY  
PEACE BRIDGE PLAZA, WALNUT STREET  
FORT ERIE, ONTARIO  
L2N 5N7

RIDER

BOND NO. : P66347T04222 FOR ACCEPTANCE OF UNCERTIFIED CHEQUES, SECTION 4,  
DEPARTMENT OF NATIONAL REVENUE ACT.  
ACCOUNT OF: PEACE BRIDGE DUTY FREE INC.  
FOR : CAD.30,000.00

IT IS UNDERSTOOD AND AGREED THAT THE ACTIVITIES CONDUCTED ON THE ABOVE-MENTIONED  
BOND, SHOULD READ:

ALL CUSTOMS OFFICES IN CANADA  
AND NOT AS PREVIOUSLY WRITTEN.

ALL OTHER TERMS AND CONDITIONS OF SAID BOND REMAINING THE SAME.

PRINCIPAL:  
PEACE BRIDGE DUTY FREE INC.  
BOX 339, PEACE BRIDGE PLAZA  
FORT ERIE, ONTARIO L2A 5N1

SIGNATURE [Signature]  
NAME AND TITLE James P. McGowan  
SIGNATURE [Signature]  
NAME AND TITLE Office Manager

SURETY:  
ROYAL BANK OF CANADA  
INTERNATIONAL TRADE CENTRE-ONTARIO  
180 WELLINGTON STREET WEST  
TORONTO, ONTARIO M5J 1J1

ORIGINAL SIGNED BY  
SIGNATURE W. LOBO  
NAME AND TITLE  
SIGNATURE ORIGINAL SIGNED BY  
NAME AND TITLE M. TARIQ

ROYAL BANK OF CANADA  
INTERNATIONAL TRADE CENTRE-ONTARIO  
180 WELLINGTON STREET WEST, 4TH FLOOR  
TORONTO, ONTARIO, M5J 1J1 CANADA  
TEL:1-800-757-4525  
FAX:1-800-450-7774

DATE: AUGUST 28, 2014

CANADA CUSTOMS AND REVENUE AGENCY  
HAMILTON INTERNATIONAL AIRPORT  
9300 AIRPORT ROAD, SUITE 2206  
MOUNT HOPE, ON L0R 1W0

RIDER

BOND NO. P364660T07512  
ACCOUNT OF: PEACE BRIDGE DUTY FREE INC.  
FOR : CAD.10,000.00  
-----

KINDLY NOTE THAT THE ABOVE MENTIONED BOND IS AMENDED AS FOLLOWS:

1. DEMANDS UNDER THIS BOND TO BE MADE TO ROYAL BANK OF CANADA,  
TRADE SERVICE CENTRE, 180 WELLINGTON STREET WEST, 4TH FLOOR, TORONTO  
ONTARIO M5J 1J1 INSTEAD OF EXISTING.

ALL OTHER TERMS AND CONDITIONS REMAIN UNCHANGED.

SURETY:

ROYAL BANK OF CANADA  
INTERNATIONAL TRADE CENTRE-ONTARIO  
180 WELLINGTON STREET WEST  
TORONTO, ONTARIO M5J 1J1

SIGNATURE \_\_\_\_\_

NAME AND TITLE \_\_\_\_\_

SIGNATURE \_\_\_\_\_

NAME AND TITLE \_\_\_\_\_



**RBC  
Royal Bank**

ROYAL BANK OF CANADA  
INT'L TRADE CENTRE-ONTARIO  
9TH FLOOR, 180 WELLINGTON STREET W.  
TORONTO, ONTARIO M5J 1J1  
TEL: 1-800-757-4525  
FAX: 1-800-450-7774

APRIL 25, 2007

PEACE BRIDGE DUTY FREE INC.  
PEACE BRIDGE PLAZA  
P.O.BOX 339  
FORT ERIE, ONTARIO  
L2A 5N1

PLEASE FIND ENCLOSED HERewith ONE ORIGINAL AND TWO NON-NEGOTIABLE  
COPIES OF THE CUSTOMS BOND:

P365003T07512

PLEASE SIGN AND DELIVER THE ORIGINAL OF THE ATTACHED BOND TO CANADA CUSTOMS AND  
REVENUE AGENCY AND RETURN ONE SIGNED NON-NEGOTIABLE COPY FOR OUR FILES TO THE A  
TENTION OF THE UNDERSIGNED AT THE ABOVE ADDRESS.

THANK YOU FOR YOUR CO-OPERATION TO THIS MATTER.

YOURS TRULY

.....  
LETTERS OF CREDIT AND GUARANTEES  
WESTLEY LOBO



Canada Customs  
and Revenue Agency

Agence des douanes  
et du revenu du Canada

NON-NEGOTIABLE

Bond No.

P365003T07512

CUSTOMS BOND

\*\*where applicable

Pursuant to the acts, regulations and other authorities governing the customs activity identified below, we the "principal" and "co-principal" and "surety" jointly and severally bind ourselves, our respective heirs, executors, administrators, successors, and assigns in the amount stated below unto Her Majesty in right of Canada, her heirs and successors as represented by the Minister of National Revenue of Canada. We the principal and co-principal\*\* further acknowledge that we are required to furnish and maintain security in the amount noted.

1. Activity to be secured TRANSACT BONDED CARRIER AND FORWARDING OPERATIONS

Relevant legislative authority CANADA BORDER SERVICES AGENCY

Bond amount FIFTEEN THOUSAND AND 00/100 CANADIAN DOLLARS

(in words)

dollars (\$) 15,000.00

2. Legislative authorities

Customs Brokers Licensing Regulations  
Transportation of Goods Regulations  
Customs Bonded Warehouse Regulations  
Customs Sufferance Warehouse Regulations

Duty Free Shop Regulations  
Temporary Importation (Tariff Item 9993.00.00) Regulations  
Accounting for Imported Goods and Payment of Duties Regulations  
Other authorities may be accepted

Now the condition of the above written obligation is such that if the obligation imposed by these legislative authorities is well and truly performed then this obligation shall be void and of no effect but otherwise shall be and remain in full force, virtue, and effect. Notwithstanding the foregoing, it is understood and agreed that the liability of the surety under this bond shall be limited to the amount stated herein and shall not be cumulative during the existence of this bond.

3. Specify the period of validity of this bond as determined by the relevant Regulations (check one box only)

a) ☒ Continuous bond — Effective date: APRIL 25, 2007

b) ☐ Bond for a specified period — Commencing on the \_\_\_\_\_ day of \_\_\_\_\_ year \_\_\_\_\_  
and terminating on the \_\_\_\_\_ day of \_\_\_\_\_ year \_\_\_\_\_

4. It is understood that the above-written obligation shall apply to activities conducted at \_\_\_\_\_

5. a) Provided that the surety gives the customs office holding the security thirty days notice by registered mail of its intention to terminate the obligation undertaken, then this obligation and all liability shall cease insofar as any act or dealing by the principal and co-principal\*\* subsequent to the termination date is concerned, but otherwise shall remain in full force and effect.

b) The liability of the principal and co-principal\*\* and of the surety hereunder, shall arise upon receipt by the surety of a written demand from the Canada Customs and Revenue Agency (CCRA) containing relevant documentation to substantiate the claim. However, if the principal or co-principal\*\* or the surety provides, within 60 days of the date of such demand, evidence to disprove the claim, then such liability, if any, arises on the date of the notice confirming that the demand is valid. All such demands shall be given to the surety within one year following the date of termination of this bond.

6. Notwithstanding this bond, it is understood that the CCRA may, at any time, as it sees fit, refuse the privileges associated with this bond.

7. In witness whereof the principal and co-principal\*\* has hereunto set his hand and seal and the surety has caused these present to be sealed with its corporate seal, attested to be the signature of its duly authorized officials, the day and year written below. We the principal and co-principal\*\* further testify that we have read and understand the relevant Acts, Regulations and other authorities indicated herein, and hereby undertake to be strictly governed by the provisions thereof.

Principal (name and address)	Signature and seal
PEACE BRIDGE DUTY FREE INC.	
BOX 339, FORT ERIE	Name and title JAMES PEARCE MGR FINANCE
ONTARIO, L2A 5N1.	Signature 
	Name and title CHARLES LOEWEN GENERAL MGR
**Co-principal (name and address)	Signature and seal
	Name and title
	Name and title
	Name and title
Surety (name and address)	Signature and seal
ROYAL BANK OF CANADA	
TRADE SERVICE CENTRE	Name and title W. LOBO
180 Wellington Street West, 9th Floor	Signature
Toronto, Ontario M5W 1J1	Name and title B. KING RAMDIN

8. Signed, sealed, and delivered in the presence of \_\_\_\_\_

(witness for principal and co-principal\*\*)

9. Dated this 25 TH day of APRIL year 2007

D120 (01/06)  
Printed in Canada

(Français au verso)

Canada

PAGE: 1

INT'L TRADE CENTRE - ONTARIO  
180 WELLINGTON ST WEST  
9TH FLOOR  
TORONTO, ONTARIO, M5J 1J1  
CANADA

DATE OF ISSUE: MAY 7, 2007                      OUR REFERENCE NUMBER:  
P365456T07512

DATE OF EXPIRY: MAY 6, 2008  
PLACE OF EXPIRY: TORONTO, ONTARIO

BENEFICIARY:	APPLICANT:
HAMILTON INTERNATIONAL AIRPORT LIMITED	PEACE BRIDGE DUTY FREE INC.
9300 AIRPORT ROAD WEST	PEACE BRIDGE PLAZA, PO BOX 339
MOUNT HOPE, ON LOR 1WO	FORT ERIE, ONTARIO
	L2A 5N1

AMOUNT: CAD 15,900.00  
FIFTEEN THOUSAND NINE HUNDRED AND  
00/100'S CANADIAN DOLLARS

IRREVOCABLE STANDBY LETTER OF CREDIT NO. P365456T07512.

WE HEREBY ISSUE IN YOUR FAVOUR THIS IRREVOCABLE STANDBY LETTER OF CREDIT WHICH IS AVAILABLE BY PAYMENT AGAINST YOUR WRITTEN DEMAND, ADDRESSED TO ROYAL BANK OF CANADA, INTERNATIONAL TRADE CENTRE-ONTARIO, 180 WELLINGTON STREET WEST, TORONTO, ONTARIO, M5J 1J1, BEARING THE CLAUSE: "DRAWN UNDER STANDBY LETTER OF CREDIT NO. P365456T07512 ISSUED BY ROYAL BANK OF CANADA, INTERNATIONAL TRADE CENTRE - ONTARIO, 180 WELLINGTON STREET WEST, TORONTO, ONTARIO, M5J 1J1", WHEN ACCOMPANIED BY THE FOLLOWING DOCUMENTS:

1. BENEFICIARY'S SIGNED CERTIFICATE SPECIFYING AMOUNT CLAIMED AND STATING THAT THE AMOUNT DRAWN IS DUE AND PAYABLE BY PEACE BRIDGE DUTY FREE INC. FOR THE PAYMENT OF RENT AND THE PERFORMANCE OF ALL OBLIGATIONS OF THE LEASE AGREEMENT

P365456T07512                      PAGE: 2

BETWEEN PEACE BRIDGE DUTY FREE INC. AND HAMILTON INTERNATIONAL AIRPORT LIMITED.

2. THE ORIGINAL OF THIS LETTER OF CREDIT FOR OUR ENDORSEMENT OF ANY PAYMENT.

SPECIAL CONDITION(S):

IT IS A CONDITION OF THIS LETTER OF CREDIT THAT IT SHALL BE AUTOMATICALLY EXTENDED, WITHOUT AMENDMENT, FOR ONE YEAR PERIODS FROM THE EXPIRY DATE HEREOF, OR ANY FUTURE EXPIRATION DATE, UNLESS AT LEAST THIRTY (30) DAYS PRIOR TO ANY SUCH EXPIRY DATE, WE SHALL NOTIFY YOU IN WRITING, BY REGISTERED MAIL OR COURIER, AT YOUR ADDRESS SPECIFIED ABOVE, OR ANY OTHER YOU HAVE ADVISED TO THIS DEPARTMENT IN WRITING, THAT THIS LETTER OF CREDIT WILL NOT BE EXTENDED FOR ANY SUCH ADDITIONAL PERIOD.

PARTIAL DRAWINGS ARE PERMITTED.

N.B. REFERENCE IN THIS LETTER OF CREDIT TO A LEASE AGREEMENT IS FOR IDENTIFICATION PURPOSES ONLY, IT IS NEITHER INCORPORATED IN NOR FORMS PART OF THIS CREDIT.

EXCEPT AS OTHERWISE EXPRESSLY STATED, THIS CREDIT IS ISSUED SUBJECT TO UNIFORM CUSTOMS AND PRACTICE FOR DOCUMENTARY CREDITS, 1993 REVISION, ICC PUBLICATION NO. 500.

WE ENGAGE TO HONOUR PRESENTATIONS SUBMITTED WITHIN THE TERMS AND CONDITIONS INDICATED ABOVE.

ROYAL BANK OF CANADA

-----  
AUTHORIZED SIGNATURE

-----  
OTHER SIGNATURE

THIS DOCUMENT CONSISTS OF 2 PAGE(S).



**THE ROYAL BANK  
OF CANADA**

INTL TRADE CENTRE-ONTARIO  
180 WELLINGTON ST W.,  
9TH FLOOR,  
TORONTO, ONTARIO, M5J 1J1  
CANADA

DATE: MARCH 11, 1994

AMENDMENT TO: P66349T04222

APPLICANT:  
FORT ERIE DUTY FREE SHOPPE INC.  
P.O. BOX 339, PEACE BRIDGE PLAZA  
FORT ERIE, ONTARIO  
L2A 5N1

CURRENCY AND AMOUNT: CAD 600,000.00

BENEFICIARY:  
REVENUE CANADA CUSTOMS AND EXCISE  
PEACE BRIDGE PLAZA, WALNUT STREET  
FORT ERIE, ONTARIO  
L2A 5N7

DUE TO A CHANGE IN OUR AUTOMATED SYSTEM WE HAVE ASSIGNED TO A BOND NO. 4222/16  
FOR OPERATION OF A DUTY FREE SHOP LOCATED AT PEACE BRIDGE PLAZA WALNUT STREET,  
FORT ERIE, ONTARIO ISSUED BY OUR 89-91 ST. PAUL STREET, ST. CATHARINES, ONTARIO (C  
BRANCH ON AUGUST 28, 1991-A NEW REFERENCE NUMBER :

P66349T04222

PLEASE QUOTE THIS NEW NUMBER IN ANY FUTURE CORRESPONDENCE OR COMMUNICATION  
ADDRESSED TO US.

ROYAL BANK OF CANADA

*M. Mans*  
-----  
AUTHORIZED SIGNATURE

*[Signature]*  
-----  
OTHER SIGNATURE

THIS DOCUMENT CONSISTS OF 1 PAGE(S).

**ROYAL BANK OF CANADA**

- and -

**PEACE BRIDGE DUTY FREE INC.**

Applicant

Respondent

Court File No. CV-21-00673084-00CL

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

Proceedings commenced at Toronto, Ontario

**FOURTH REPORT OF MSI SPERGEL INC.,  
IN ITS CAPACITY AS THE COURT-APPOINTED MONITOR OF  
PEACE BRIDGE DUTY FREE INC.**

**Thornton Grout Finnigan LLP**

TD West Tower, Toronto-Dominion Centre  
100 Wellington Street West, Suite 3200  
Toronto, ON M5K 1K7  
Fax: (416) 304-1313

**Leanne M. Williams** (LSO# 41877E)

Email: [lwilliams@tgf.ca](mailto:lwilliams@tgf.ca)

Tel: (416) 304-0060

Lawyers for msi Spergel Inc. in its capacity as Court-appointed  
Monitor of Peace Bridge Duty Free Inc.