

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

B E T W E E N:

ROYAL BANK OF CANADA

Applicant

and

PEACE BRIDGE DUTY FREE INC.

Respondent

**APPLICATION UNDER SUBSECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C.
1985, c. B-3, AS AMENDED AND SECTION 101 OF THE COURTS OF JUSTICE
ACT, R.S.O. 1990, c. C.43, AS AMENDED**

**MOTION RECORD
(Returnable 9 December 2022)**

7 October 2022

**GOWLING WLG (CANADA) LLP
Barristers & Solicitors
1 First Canadian Place
100 King Street West, Suite 1600
Toronto ON M5X 1G5**

**Christopher Stanek (LSO# 45127K)
Tel: 416-862-4369
Fax: 416-862-7661
E. Patrick Shea (LSO# 39655K)
Tel: 416-369-7399
Fax: 416-862-7661**

**Lawyers for Buffalo and Fort Erie Public Bridge
Authority**

TO: THE SERVICE LIST

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**SERVICE LIST
(as at 6 October, 2022)**

TO:	<p>AIRD & BERLIS LLP Brookfield Place 181 Bay Street, Suite 1800 Toronto, ON M5J 2T9</p> <p>Sanj Mitra (LSO #37934U) Tel: (416) 865-3085 Fax: (416) 863-1515 Email: smitra@airdberlis.com</p> <p><i>Lawyers for the Applicant</i></p>
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AND TO:	<p>BLANEY MCMURTRY LLP Barristers & Solicitors 2 Queen Street East, Suite 1500 Toronto, ON, M5C 3G5</p> <p>David T. Ullmann (LSO #42357I) Email: dullmann@blaney.com</p> <p>John Wolf (LSO #30165B) Email: jwolf@blaney.com</p> <p>Lawyers for the Respondent</p>
AND TO:	<p>GOWLING WLG 100 King St. W., Suite 1600 Toronto, ON M5X 1G5</p> <p>Christopher Stanek (LSO# 45127K) Tel: (416) 862-4369 Fax: (416) 862-7661 Email: christopher.stanek@gowlingwlg.com</p> <p>E. Patrick Shea (LSO# 39655K) Email: patrick.shea@gowlingwlg.com</p> <p><i>Lawyers for Buffalo and Fort Erie Public Bridge Authority</i></p>
AND TO:	<p>THORNTON GROUT FINNIGAN LLP 100 Wellington Street West Toronto-Dominion Centre, Suite 3200 Toronto, ON M5K 1K7</p> <p>Leanne Williams Tel: (416) 304-0060 Fax: (416) 304-1313 Email: lwilliams@tgf.ca</p> <p>Lawyers for the Monitor</p>

AND TO:	ATTORNEY GENERAL OF CANADA Department of Justice Canada Ontario Regional Office, Tax Law Section 120 Adelaide Street West, Suite 400 Toronto, ON Diane Winters Tel: (647) 256-7459 Email: diane.winters@justice.gc.ca
AND TO:	MINISTRY OF FINANCE (ONTARIO) Legal Services Branch 6 th Floor – 33 King Street WestOshawa, ON L1H 8H5 Email: insolvency.unit@ontario.ca
<p style="text-align: center;">EMAIL ADDRESS LIST</p> <p>smitra@airdberlis.com; lwilliams@tgf.ca;</p> <p>christopher.stanek@gowlingwlg.com;</p> <p>diane.winters@justice.gc.ca;</p> <p>insolvency.unit@ontario.ca; dullmann@blaney.com; jwolf@blaney.com; _____</p>	

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TAB 1

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

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

B E T W E E N:

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1985, c. B-3, AS AMENDED AND SECTION 101 OF THE COURTS OF JUSTICE
ACT, R.S.O. 1990, c. C.43, AS AMENDED**

NOTICE OF MOTION

BUFFALO & FORT ERIE PUBLIC BRIDGE AUTHORITY, (the "Authority") will make a Motion to a Judge of the Ontario Superior Court of Justice (Commercial List) on 9 December 2022 at 10:00 a.m., or as soon after that time as the motion can be heard, via Zoom.

PROPOSED METHOD OF HEARING: The Motion is to be heard by video conference.

THE MOTION IS FOR

1. An Order

- (a) declaring that the Authority is no longer bound by the restriction imposed by paragraph 11 of the Order dated 14 December 2021 as amended (the "Appointment Order") for the**

reason that Peace Bridge Duty Free Inc. ("PBDF") has not, since 14 December 2021, paid rent as required by the Building Lease between the Authority and PDBF dated 28 July 2016 (the "Lease"); or, in the alternative,

- (b) an Order lifting the stay imposed by paragraphs 9 so that the Authority may exercise its remedies under the Lease, including terminating the Lease and evicting PBDF; or, in the further alternative,
- (c) an Order that PBDF pay, within 10 business days, all rent payable in accordance with the Lease since 14 December 2021 and account for all subsidies received by PBDF since 14 December 2021, without prejudice to the Authority's rights in connection with rent owing by PBDF for the period prior to 14 December 2021.

2. Such further and other relief as to this Honourable Court may seem just.

THE GROUNDS FOR THE MOTION ARE:

- 1. The Authority is the owner and operator of the Peace Bridge in Fort Erie, Ontario.
- 2. Pursuant to the Lease, the Authority leased certain premises to PBDF for the purpose of permitting PBDF to operate a duty free store at the Peace Bridge.
- 3. The Lease requires that PBDF pay Rent, which is comprised of Base Rent, Percentage Rent and any applicable sales taxes, as well property taxes, operating costs and utilities. The minimum annual Rent payable by PBDF is \$4 million per annum—\$333,333 per month. The rent payable by PBDF under the Lease was proposed by PBDF as part of a Request for Proposal process undertaken by the Authority in 2016.

4. This Motion is brought based on the fact that PBDF has not paid rent to the Authority as required by the Lease since the Appointment Order was made on 14 December 2021.
5. Although there may be a dispute as to how much is owing by PBDF, there is not dispute that PBDF owes a substantial amount of rent to the Authority for the period prior to 14 December 2021.
6. The Authority advised Royal Bank of Canada ("RBC")—a secured creditor of PBDF with security over the Lease—that PBDF had defaulted of its obligations under the Lease that that the Authority intended to exercise remedies under the Lease.
7. As a result of the notice provided by the Authority, RBC brought an Application to appoint a receiver over the assets and property of PBDF.
8. PBDF opposed RBC's Application. PBDF took the position that, among other things: (a) it was not, as at December of 2021, in default of its obligations under the Lease; and, even if it was, (b) the Authority did not have the right to exercise its remedies under the Lease based on Provincial legislation that imposed a moratorium on the exercise of remedies by commercial landlords.
9. On 14 December 2021, the Court made the Appointment Order appointing MSI Sperel inc. (the "Monitor") as "monitor" of PBDF to protect RBC's interests as a secured creditor pending the return of RBC's Application and adjourned RBC's Application to 17 January 2022.
10. Paragraph 9 of the Appointment Order provides:

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.

11. Paragraph 11 of the Appointment Order provides:

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.

12. On 17 January 2022, RBC's Applications was adjourned until 23 March 2022.
13. On 23 March 2022, RBC's Application was adjourned to date on or after 23 June 2022.
14. The hearing of RBC's Application has not yet been scheduled
15. PBDF has not paid rent in accordance with the Lease since the Appointment Order was made on 14 December 2021. PBDF has, instead, being unilaterally paying rent equal to 20% of its reported sales.
16. On or about 7 January 2022, the Monitor was, through counsel, advised that PBDF was unilaterally paying rent equal to 20% of its reported sales.
17. While there may be communications between PBDF and the Monitor of which the Authority is not aware, there has been no explanation from PBDF of which the Authority is aware as to why PBDF is not paying rent in accordance with the Lease since the Appointment Order was made on 14 December 2021.

18. The Authority is aware that, in opposition to RBC's Application, PBDF made certain assertions as to why, prior to 14 December 2021, it was not paying rent to the Authority in accordance with the Lease. None of these assertions would justify PBDF not paying rent in accordance with the Lease subsequent to the Appointment Order being made on 14 December 2021.
19. As a result of the impact of the COVID Pandemic, the Lease was amended by a Rent Deferral Agreement dated 27 April 2020 (the 'First Rent Deferral'). While there is, as set forth below a dispute as to whether there was a further deferral agreed to by the Authority, there is no dispute between the Authority and PBDF that the First Rent Deferral expired on 31 July 2020 and the First Rent Deferral required that the PBDF begin to pay back to the Authority the deferred rent.
20. PBDF asserted that the Lease was further amended—and the rent deferral extended—by a second Rent Deferral Agreement dated 20 November 2020 (the "Second Rent Deferral").
21. Article 2.17 of the Lease provides:

No supplement, modification, amendment, waiver, discharge or termination of this Lease is binding unless it is executed in writing by the party to be bound. No waiver or, failure to exercise or delay in exercising, any provision of this Lease constitutes a waiver of any other provision (whether or not similar) not does any waiver constitute a continuing waiver unless otherwise expressly provided.
22. The Second Rent Deferral expressly provides that it is not binding on the Authority until it is signed by the Authority.
23. The Authority did not sign the Second Rent Deferral. PBDF was advised in writing on or about 20 November 2020, 2 December 2020 and 9 December 2020 that the Authority was not going to sign the Second Rent Deferral and/or further defer rent unless certain conditions were satisfied by PBDF. Those conditions were not satisfied by PBDF.

24. Any reliance by PBDF on the Second Rent Deferral in light of Article 2.17 of the Lease, the communications by the Authority to PBDF and the express terms of the Second Rent Deferral is unreasonable.
25. Even assuming the Second Rent Deferral is binding on the Authority, PBDF cannot rely on the Second Rent Deferral as a reason to not pay rent as required by the Lease after the Appointment Order was made on 14 December 2021. The Second Rent Deferral provides for the deferral of rent payable under the Lease up to the earlier of: (a) 31 March 2021; and (b) the last day of the month following the date the PBDF fully reopened the duty free store at the Peace Bridge.
26. PBDF asserts that the Authority acquiesced to PBDF not paying rent as required by the Lease. In granting any indulgences to PBDF in terms of not pursuing payment of rent strictly in accordance with the Lease, the Authority relied on Article 2.17 of the Lease. At no time did the Authority agree in writing to waive any of its right under the Lease or to provide PBDF with a permanent rent deferral or waiver.
27. PBDF asserts that the “principal” of the First Rent Deferral and the Second Rent Deferral was that PBDF would not have to pay base rent under the Lease “until traffic across the Canada-US bordered returned to normal levels and [PBDF] was able to reopen its store to the public”. There is nothing in either the First Rent Deferral or, assuming that it is a binding agreement, the Second Rent Deferral to support this assertion. Moreover, PBDF continued to not pay rent in accordance with the Lease subsequent to reopening the duty free store at the Peace Bridge on 19 September 2021.
28. PBDF asserts that it understood that the Authority had agreed to defer rent until the Canada-US border reopened. Even if this was the agreement between the Authority and PBDF, which it was not, the Canada-US border reopened on November 8, 2021.

29. There is no basis upon which PBDF could have assumed that the Authority accepted it paying rent subsequent to the Appointment Order being made on 14 December 2022 otherwise than in accordance with the Lease.
30. The Authority advised PBDF in writing, including on or about 24 February 2022, that the Authority did not accept, and did not agree to, PBDF paying rent equal to 20% of reported sales as opposed to in accordance with the Lease.
31. Neither the First Rent Deferral nor the Second Rent Deferral contemplated the waiver or forgiveness of rent by the Authority. Both provide for only the deferral of rent payable for a fixed period of time during which deferred rent was to be paid by PBDF to the Authority, with interest, in equal monthly installments over one year in the case of the First Rent Deferral or, assuming that it is a binding agreement, two years in the case of the Second Rent Deferral.
32. PBDF did not comply with either the First Rent Deferral or, assuming it is a binding agreement, the Second Rent Deferral insofar as it has not made any payments whatsoever against the deferred rent.
33. Prior to 22 April 2022, there was no practical reason for the Authority to request permission or seeking an Order permitting it to exercise its remedies under the Lease based on the failure of PBDF to pay rent in accordance with the Lease as required by the Appointment Order. The Provincial moratorium that PBDF asserted, in December of 2021, prevented the Authority from evicting PBDF based on the failure of PBDF to pay rent remained in force until 22 April 2022. Notwithstanding whether the Monitor consented to the exercise of the Authority of its remedies or the Court lifted the stay to permit the Authority to exercise its remedies, the Authority would have had to engage in litigation with POBDF over the scope of the Provincial moratorium on the eviction of commercial tenants and whether it applied to prevent the Authority from exercising its remedies under the Lease.

34. Subsequent to the Provincial moratorium on the eviction of commercial tenants coming to an end on 22 April 2022, the Authority waited to see if PBDF would comply with the Appointment Order and pay back and going-forward rent as required by the Lease. PBDF did, however, not pay rent as required by the Lease in May, June or July of 2022 and made no attempt to pay the back rent owing from 14 December 2021.
35. On or about 6 July 2022—the day PBDF paid to the Authority 20% of its reported sales—the Authority again advised PBDF in writing that the Authority did not agree or acquiesce to PBDF paying rent equal to 20% of reported sales as opposed to as required by the Lease.
36. On or about 26 July 2022, the Authority, through counsel, inquired as to whether the Monitor would consent to the Authority exercising its rights and remedies under the Lease based on PBDF's failure to pay rent in accordance with the Lease. This correspondence was also addressed to PBDF.
37. The Monitor has declined to consent to the Authority exercising its remedies under the Lease and has required that the Authority bring this Motion seeking an Order allowing the Authority to exercise its remedies under the Lease.
38. On about 2 August 2022, the Authority, through counsel, demanded from PBDF payment of the rent payable in accordance with the Lease from 14 December 2021 and required that PBDF pay rent in accordance with the Lease. PBDF did not pay the rent owing under the Lease since 14 December 2021 or pay rent in accordance with the Lease on 1 August 2022.
39. Aside from the Appointment Order, there are no further restrictions on the Authority's ability to exercise its remedies under the Lease and evict PBDF.

40. The Authority is prejudiced by the failure of PBDF to pay rent as required by the Lease while the Authority is stayed by the Appointment Order from exercising its remedies. The purpose of the Appointment Order was not to provide PBDF with a “rent holiday” at the expense, and without the consent, of the Authority.
41. The Authority is concerned that COVID-related rent assistance provided to PBDF may have not been all paid over to the Authority by PBDF. On or about 2 August 2022, the Authority asked that PBDF account for all COVID-related rent assistance that it has received. PBDF has not provided that information to the Authority
42. There have been other breaches by PBDF of the Lease subsequent to 14 December 2021, including the failure of PBDF to provide the Authority with financial information as required by Article V of the Lease and late payments.
43. The grounds set out in the Affidavit of Ron Rienas sworn 7 September 2022.
44. Such further and other grounds as the lawyers may advise and this Honourable Court may accept

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

1. The Affidavit of Ron Rienas sworn 7 September 2022.
2. The Affidavit of Jim Pearce 12 December 2021.
3. Such further and other evidence as the lawyers may advise and this Honourable Court may permit.

5 October 2022

GOWLING WLG (CANADA) LLP
Barristers & Solicitors
1 First Canadian Place
100 King Street West, Suite 1600
Toronto ON M5X 1G5

Christopher Stanek (LSO# 45127K)
Tel: 416-862-4369
Fax: 416-862-7661
E. Patrick Shea (LSO# 39655K)
Tel: 416-369-7399
Fax: 416-862-7661

Lawyers for Buffalo and Fort Erie Public Bridge
Authority

TO: THE SERVICE LIST

ROYAL BANK OF CANADA
Applicant

-and- **PEACE BRIDGE DUTY FREE INC.**
Respondent

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

ONTARIO
SUPERIOR COURT OF JUSTICE
PROCEEDING COMMENCED AT
TORONTO

NOTICE OF MOTION OF
BUFFALO & FORT ERIE PUBLIC BRIDGE AUTHORITY

GOWLING WLG (CANADA) LLP
Barristers & Solicitors
1 First Canadian Place
100 King Street West, Suite 1600
Toronto ON M5X 1G5

Christopher Stanek (LSO# 45127K)
Tel: 416-862-4369
Fax: 416-862-7661
E. Patrick Shea (LSO# 39655K)
Tel: 416-369-7399
Fax: 416-862-7661

Lawyers for Buffalo and
Fort Erie Public Bridge Authority

TAB 2

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

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

BETWEEN:

ROYAL BANK OF CANADA

Applicant

and

PEACE BRIDGE DUTY FREE INC.

Respondent

APPLICATION UNDER SUBSECTION 243(1) OF THE BANKRUPTCY AND INSOLVENCY ACT, R.S.C.
1985, c. B-3, AS AMENDED AND SECTION 101 OF THE COURTS OF JUSTICE
ACT, R.S.O.1990, c. C.43, AS AMENDED

AFFIDAVIT OF RON RIENAS
(Sworn 7 September 2022)

I, RON RIENAS of the City of Port Colborne, in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am the General Manager of the Buffalo and Fort Erie Public Bridge Authority (the "**Authority**") and, as such, have personal knowledge of the matters herein deposed save and except where I rely on information and belief, in which cases I identify the source of that information and verily believe it to be true.
2. I am swearing this affidavit in support of a motion being brought by the Authority seeking an Order :
 - (a) declaring that the Authority is no longer bound by the restriction imposed by paragraph 11 of the Order dated 14 December 2021 as amended (the "**Appointment Order**") for the reason that Peace Bridge Duty Free Inc. ("PDBF") has not, since 14 December 2021, paid rent as required by the Building Lease between the Authority and PDBF dated 28 July 2016 (the "**Lease**"); or, in the alternative,

- (b) an Order lifting the stay imposed by paragraph 9 of the Appointment Order so that the Authority may exercise its remedies under the Lease, including terminating the Lease and evicting PBDF; or, in the further alternative,
- (c) an Order that PBDF pay, within 10 business days, all rent payable in accordance with the Lease since 14 December 2021 and account for all subsidies received by PBDF since 14 December 2021, without prejudice to the Authority's rights in connection with rent owing by PBDF for the period prior to 14 December 2021.

3. Now produced and shown to me is a bound document titled Brief of Exhibits to Affidavit of Ron Rienas sworn 7 September 2022 (the '**Brief of Exhibits**').

4. The Authority is an international compact entity—a statutory corporation-created pursuant to a compact entered into—and legislation passed-by the State of New York, with the consent of the United States Congress, and by the Government of Canada. It owns and operates the Peace Bridge, an international toll crossing spanning the Niagara River between Fort Erie, Ontario, and Buffalo, New York.

5. The Authority receives its revenues from tolls as well as rental and fee income from the United States Bureau of Customs and Border Protection, Public Works and Government Services Canada, the United States and Canadian duty-free shops, and commercial brokers operating on the property owned by the Authority and from leases of communication conduits spanning the Peace Bridge.

6. Pursuant to the Lease, the Authority has leased certain premises to PBDF for the purpose of permitting PBDF to operate a duty free store at the Peace Bridge. A true copy of the Lease is at Tab [1] of the Brief of Exhibits.

7. As a result of the impact of the COVID Pandemic, the Lease was amended by a Rent Deferral Agreement dated 27 April 2020 (the "**First Rent Deferral**"). A true copy of the First Rent Deferral is at Tab [2] of the Brief of Exhibits.

8. While there is, as set forth below a dispute as to whether there was a further deferral agreed to by the Authority, there is no dispute between the Authority and PBDF that the First Rent Deferral expired on 31 July 2020 and the First Rent Deferral required that the PBDF begin to pay back to the Authority the deferred rent.

9. The Lease requires that PBDF pay Rent, which is comprised of Base Rent, Percentage Rent and any applicable sales taxes, as well property taxes, operating costs and utilities. The minimum annual Rent payable by PBDF is \$4 million per annum—\$333,333 per month. The rent payable by PBDF under the Lease was proposed by PBDF as part of a Request for Proposal process undertaken by the Authority in 2016.

10. The Authority has brought this Motion because PBDF has not paid rent to the Authority as required by the Lease since the Appointment Order was made on 14 December 2021.

11. The Authority is not a Crown corporation and received no COVID-related assistance from the Government of Canada or the United States Government. As a result of the quantum of the rent that is payable by PBDF under the Lease, the Authority was not eligible for the Canada Emergency Commercial Rent Assistance Program.

12. Although there **may be** a dispute as to how much is owing by PBDF¹¹, there is no dispute that PBDF owes a substantial amount of rent to the Authority for the period prior to 14 December 2021. Based on the failure of PBDF to pay rent and other breaches of the Lease, on 8 September 2021, the Authority delivered notice to PBDF that it intended to exercise remedies under the Lease. A true copy of this notice is at Tab [3] of the Brief of Exhibits.

13. The Royal Bank of Canada ("**RBC**") is a secured creditor of PBDF and has security over, among other assets of PBDF, the Lease.

14. On or about 21 November 2021, the Authority, through counsel, advised RBC that it intended to exercise remedies under the Lease as a result of those defaults.

15. On or about 3 December 2021, RBC served an Application to appoint a receiver over the assets and property of PBDF.

16. PBDF opposed RBC's Application and took the position that, among other things: (a) it was not, as at December of 2021, in default of its obligations under the Lease; and, even if it was, (b) the Authority did

¹¹ I understand that PBDF has indicated that it disputes the amount of rent that the Authority claims is owing, but PBDF has never provided the Authority with the specifics of that dispute or identified how much rent it believes that it owes to the Authority.

not have the right to exercise its remedies under the Lease based on Provincial legislation that imposed a moratorium on the exercise of remedies by commercial landlords.

17. On 14 December 2021, the Court made the Appointment Order appointing msi Sperel inc. (the “**Monitor**”) as “monitor” of PBDF to protect RBC's interests as a secured creditor pending the return of RBC's Application and adjourned RBC's Application to 17 January 2022.

18. On 17 January 2022, RBC's Applications was adjourned until 23 March 2022. On 23 March 2022, RBC's Application was adjourned to date on or after 23 June 2022. To the best of my knowledge, the hearing of RBC's Application has not yet been scheduled

19. PBDF has not paid rent in accordance with the Lease since the Appointment Order was made on 14 December 2021. PBDF has, instead, been unilaterally paying rent equal to 20% of its reported sales. A rent ledger showing the rent owing and the amounts paid by PBDF since 14 December 2021 is at Tab [4] of the Brief of Exhibits.

20. On or about 7 January 2022, the Monitor was, through counsel, advised that PBDF was unilaterally paying rent equal to 20% of its reported sales. A true copy of the e-mail from 7 January 2022 is at Tab [5] of the Brief of Exhibits.

21. While there may be communications between PBDF and the Monitor of which I am not aware, there has been no explanation from PBDF of which the Authority is aware as to why PBDF has not been paying rent in accordance with the Lease since the Appointment Order was made.

22. I am aware that, in opposition to RBC's Application, PBDF made certain assertions as to why, prior to 14 December 2021, it was not paying rent in accordance with the Lease. Those assertions are contained in the Affidavit of Jim Pearce sworn 12 December 2021 (the “**Pearce Affidavit**”). None of the assertions made in the Pearce Affidavit explain why PBDF has not paid rent as required by the Lease subsequent to 14 December 2021.

23. I understand, based on the Pearce Affidavit, that PBDF asserts that the Lease was further amended—and the rent deferral extended—by a Rent Deferral Agreement dated 20 November 2020 (the “**Second Rent Deferral**”). The Second Rent Deferral was not signed by the Authority. A true copy of the unsigned Second Rent Deferral is at Tab [6] of the Brief of Exhibits.

24. I do not understand the basis upon which PBDF could possibly assert that the Lease was amended by the unsigned Second Rent Deferral or on what basis the Authority is bound by the unsigned Second Rent Deferral.

25. The Second Rent Deferral expressly provides that it is not binding on the Authority until it is signed by the Authority. In addition, Article 2.17 of the Lease provides:

No supplement, modification, amendment, waiver, discharge or termination of this Lease is binding unless it is executed in writing by the party to be bound. No waiver or, failure to exercise or delay in exercising, any provision of this Lease constitutes a waiver of any other provision (whether or not similar) not does any waiver constitute a continuing waiver unless otherwise expressly provided.

26. The Authority did not sign the Second Rent Deferral. PBDF was advised in writing on or about 20 November 2020, 2 December 2020 and 9 December 2020 that the Authority was not going to sign the Second Rent Deferral and/or further defer rent unless certain conditions were satisfied by PBDF. Those conditions were not satisfied by PBDF. True copies of these communications are at Tab [7] of the Brief of Exhibits.

27. It was my believe, based on the e-mails attached At Tab 7 of the Exhibit Brief, that PBDF understood that the Authority would not sign the Second Rent Deferral and was not agreeing to defer rent after 31 July 2020. I further believe that PBDF understood that any further deferral of rent on the part of the Authority was an indulgence provided by the Authority to try to assist PBDF. That indulgence was provided by the Authority in the context of certain restrictions imposed by the Province of Ontario on the right of commercial landlords to evict tenants based on the failure of the tenants to pay rent.

28. I also note that the Second Rent Deferral cannot possibly be the basis for PBDF to not have paid rent in accordance with the Lease subsequent o 14 December 2021. The Second Rent Deferral, assuming it was signed by the Authority, provided for the deferral of rent payable under the Lease up to the **earlier of**: (a) 31 March 2021; and (b) the last day of the month following the date the PBDF fully reopened the duty free store at the Peace Bridge.

29. I believe, based on the Pearce Affidavit, that PBDF may assert that the Authority acquiesced to PBDF not paying rent as required by the Lease. In granting any indulgences to PBDF in terms of not pursuing payment of rent strictly in accordance with the Lease, the Authority relied on Article 2.17 of the Lease. At no time did the Authority agree in writing to waive any of its right under the Lease or to provide PBDF with a

permanent rent deferral or waiver. As noted below, subsequent to 14 December 2021, the Authority made it clear to PBDF that it was not accepting PBDF's unilateral decision to pay rent equal to 20% of its reported sales.

30. I believe, based on the Pearce Affidavit, that PBDF may assert that it somehow understood that the Authority had agreed to defer rent until the Canada-US border reopened. Even if this was the agreement between the Authority and PBDF, which it was not, the Canada-US border reopened on November 8, 2021.

31. I believe, based on the Pearce Affidavit, that PBDF may assert that the "principal" of the First Rent Deferral and the Second Rent Deferral was that PBDF would not have to pay base rent under the Lease "until traffic across the Canada-US border returned to normal levels and [PBDF] was able to reopen its store to the public". That is not correct. There is nothing in either the First Rent Deferral or, assuming that it is a binding agreement, the Second Rent Deferral to support this assertion.

32. The Authority advised PBDF in writing on or about 24 February 2022,¹¹ April 2022 and 6 July 2022, that the Authority did not accept, and did not agree to, PBDF paying rent equal to 20% of reported sales as opposed to in accordance with the Lease. True copies of these communications are at Tab [8] of the Brief of Exhibits.

33. Prior to 22 April 2022, there was no practical reason for the Authority to request permission or seek an Order permitting it to exercise its remedies under the Lease based on the failure of PBDF to pay rent in accordance with the Lease. The Provincial moratorium that PBDF asserted, in December of 2021, prevented the Authority from evicting PBDF based on the failure of PBDF to pay rent remained in force until 22 April 2022. Notwithstanding whether the Monitor consented to the exercise of the Authority of its remedies or the Court lifted the stay to permit the Authority to exercise its remedies, the Authority would have had to engage in litigation with PBDF over the scope of the Provincial moratorium and whether it applied to prevent the Authority from exercising its remedies under the Lease.

34. Subsequent to the Provincial moratorium on the eviction of commercial tenants coming to an end on 22 April 2022, the Authority waited a reasonable period to see if PBDF would comply with the Appointment Order and pay back- and going-forward rent as required by the Lease and the Appointment Order. PBDF did, however, not pay rent as required by the Lease in May, June or July of 2022 and made no attempt to pay the back rent owing in accordance with the Lease from 14 December 2021.

CON RIENAS

ROYAL BANK OF CANADA

Applicant

-and-

PEACE BRIDGE DUTY FREE INC.

Respondent

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

**ONTARIO
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT
TORONTO

AFFIDAVIT OF RON RIENAS
(SWORN 7 SEPTEMBER 2022)

GOWLING WLG (CANADA) LLP

Barristers & Solicitors

1 First Canadian Place

100 King Street West, Suite 1600

Toronto ON M5X1G5

Christopher Stanek (LSUC# 45127K)

Tel: 416-862-4369

Fax: 416-862-7661

E. Patrick Shea (LSUC# 39655K)

Tel: 416-369-7399

Fax: 416-862-7661

Lawyers for Buffalo and Fort Erie Public Bridge Authority

TAB 3

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

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

ROYAL BANK OF CANADA

Applicant

- and -

PEACE BRIDGE DUTY FREE INC.

Respondent

AFFIDAVIT OF JIM PEARCE

I, **Jim Pearce**, of the Town of Fort Erie, in the Province of Ontario, **AFFIRM AND SAY THAT:**

1. I am the general manager as well as an officer holding the position of Secretary/Treasurer of Peace Bridge Duty Free Inc. ("**Duty Free**"). As such, I have personal knowledge of the matters to which I hereinafter depose. Where I do not have personal knowledge of the matters set out herein, I have stated the source of my information and belief, and, in all such cases, believe it to be true.

2. Capitalized terms not defined in the affidavit have the same meaning as in the Lease (as defined below).

3. Having reviewed the application record of the Royal Bank of Canada ("**RBC**"), and based on my involvement in this matter, it is my understanding that RBC is acting out of concern that our landlord will shortly take steps to terminate the lease. Duty Free is not in monetary default

with RBC and had entered into a forbearance with RBC, which was terminated over concerns with the landlord. Absent RBC's concerns about the landlord terminating our lease, I believe that RBC would not be bringing a receivership application.

4. I make this affidavit in support of Duty Free's request to have the receivership application adjourned to allow for more time for good faith negotiations with the landlord and RBC to reach an acceptable resolution. If negotiations stall and the landlord continues to dispute that its enforcement rights are stayed under Part IV of the *Commercial Tenancies Act* (the "**Act**"), Duty Free seeks an opportunity to bring an application for an order enjoining the landlord from taking any enforcement steps in accordance with the Act.

Background

5. Duty Free is an Ontario corporation with a registered office address located at 1 Peace Bridge Plaza, Fort Erie, Ontario (the "**Leased Premises**").

6. By lease dated July 28, 2016, Duty Free leased the Leased Premises from the Buffalo and Fort Erie Public Bridge Authority (the "**Landlord**") for a fifteen (15) year term commencing on November 1, 2016 and ending on October 31, 2031, subject to Duty Free's option to extend for an additional period of five (5) years through 2036 (the "**Lease**"). The terms of the Lease were amended by rent deferral agreements, which are further detailed below. Attached as **Exhibit "A"** is a copy of the Lease.

7. The Landlord is an international entity created by the State of New York and the Government of Canada. It is governed by a 10 member Board of Directors consisting of five members from New York State and five members from Canada.

8. As the name suggests, Duty Free operates a land border duty free shop with 26,000 square feet of retail space from the Leased Premises. The retail store sells alcohol, tobacco and other products such as fragrances, cosmetics, jewelry and sunglasses. Other services provided at the store include currency exchange, motor coach parking and travel services, such as processing customs paperwork for truck drivers. The duty-free store is located at the border crossing with Buffalo, New York, which is the main north-south travel corridor between Canada and the United States.

9. Before the pandemic, the duty free shop would at times have more than 500 customers in the store, with approximately 60% of customers from Canada and 40% from the United States. Particularly during busy travel times, the store would be at capacity and the parking lot full of buses and cars. The duty free shop is a destination retail store for Western New York State. Duty Free has also done extensive marketing campaigns to bring tourists to Canada, including bus tour companies from Asia and Southern United States. Duty Free was awarded second place as the Best Land Border Store in the Americas and was a finalist in the Best Land Border store in the world.

10. Prior to the COVID-19 pandemic, the retail store also had a full-service Tim Hortons on site, but it closed in August 2020. There is currently no food vendor in the Leased Premises.

11. The duty free store is typically open 24 hours a day and 365 days a year, although the store's hours were impacted by the pandemic. The business previously employed approximately 90 staff, including cashiers, product specialists/buyers, customer service, sales staff, supervisors, marketing professionals, and support staff in replenishment, customs paperwork, inventory and cash control. Forty employees were full-time staff, including myself. All staff live locally and all

functions are performed at the store location. The Fort Erie store is one of the busiest stores in the 49th Parallel and is steady from mid-March through to December.

12. The pandemic, and particularly the border closures between Canada and the United States, greatly impacted Duty Free's business. The land border was closed between March 2020 and August 2021 for all non-essential travel. The retail store entirely closed on or about March 21, 2020 and was partially reopened on September 19, 2021. Canada only reopened its land border to fully vaccinated Americans on August 9, 2021, and the United States did not re-open its border to Canadian travelers until November 8, 2021.

13. When the retail store was closed for approximately a year and a half, Duty Free maintained staff to secure the Leased Premises. Washroom facilities were opened for truckers and essential workers in the Spring of 2020. Since the store reopened to retail customers in mid-September 2021, the business has approximately 20 employees and is operating at 30% capacity as compared to pre-pandemic levels.

14. In addition to the duty free store operating from the Leased Premises, Duty Free also operates a duty free shop and convenience store at the Hamilton International Airport by way of a lease with Hamilton International Airport Limited. Inventory for the Hamilton store is shipped from the Leased Premises. There are no issues with the lease or the landlord relating to the Hamilton Airport location.

Tenant Improvements to the Leased Premises

15. Duty Free was the successful bidder in a request for proposal ("RFP") process initiated by the Landlord prior to entering into the Lease. As part of the RFP, Duty Free was required to and

agreed that it would undertake significant capital improvements to the Leased Premises. As a result, Duty Free undertook a major renovation of the Leased Premises, including reconfiguring the space with new entrance and exit ways, redoing the stucco and exterior, installing a new roof, gutting the interior and putting in new floors, ceiling, and walls, and fixing the parking lot. The renovation work started in August 2018 and finished in May 2019. During the renovation, the duty free shop operated at half capacity because we renovated half of the store at a time.

16. The renovations were significant in scale and cost Duty Free over \$6 million. As will be explained in greater detail below, Duty Free obtained financing from RBC in the amount of approximately \$4.2 to fund the project. In addition, Duty Free invested more than \$1.8 million of company assets into the improvements.

The Fort Erie Tenancy

17. Under the Lease, Duty Free agreed to pay Base Rent, Percentage Rent and Additional Rent. As a result, the Rent payable is tied to Duty Free's Gross Sales.

18. The amount payable for Base Rent and Percentage Rent are set out in subsections 4.02 and 4.03 of the Lease and can generally be described as approximately 20% of sales with a floor of \$4,000,000.

19. The agreement on the amount of Rent was largely based on traffic and revenue expectations, as attached at Schedule D to the Lease. Obviously, the worldwide pandemic that prohibited virtually all cross-border travel destroyed any business during the time the bridge was closed to non-essential travel.

20. The parties realized that the nature of this tenancy and the control exercised by other parties needed to be accounted for. Pursuant to subsection 18.07 of the Lease the Landlord agreed to consult with Duty Free about the impact of changes to Applicable Laws on the Lease as follows:

In the event an unanticipated introduction of or a change in any Applicable Laws causes a material adverse effect (*sic*) on the business operations of the Tenant at the Leased Premiers, the Landlord agrees to consult with the Tenant to discuss the impact of such introduction of or change in Applicable Laws to the Lease. [emphasis added]

21. Adverse Effect is defined as paragraph 2.01(c) of the Lease:

“Adverse Effect” means any one or more of:

...

(vii) loss of **enjoyment of a normal use** of property; and

(viii) **interference with the normal conduct of business.** [emphasis added]

22. Applicable Laws is defined as paragraph 2.01(e) of the Lease:

“Applicable Laws” means any statutes, laws, by-laws, regulations, ordinances and requirement of governmental and other public authorities having jurisdiction over or in respect of the Leased Premises or the Property, or any portion thereof, and all amendments thereto at any time and from time to time, and including but not limited to the Environmental Laws. (emphasis added).

Rent Deferral Agreements

23. Duty Free’s revenues relied heavily on a retail duty-free store that catered exclusively to members of the public that are crossing the Canada-US border, and the pandemic had a profound impact on its business, particularly during the year and a half that the border was closed to non-essential travel.

24. On April 27, 2020, Duty Free entered into a rent deferral agreement prepared by the Landlord due to travel restrictions and economic hardship created by the Covid-19 pandemic. A copy of the April rental deferral agreement is attached hereto and marked as **Exhibit "B"**.

25. During the Rent Deferral Period, Duty Free was required to pay all Additional Rent, which it did, and Base Rent was deferred to be paid over an amortized period.

26. The first agreement expired on July 31, 2020. The parties continued to act as if the agreement had been extended.

27. In November 2020, Duty Free accepted the Landlord's offer to enter into a second deferral agreement, which had the same terms as the first agreement except that the amortization period to repay rent was doubled to two years. The Rent Deferral Period under the second deferral agreement was to be extended to the earlier of (i) March 31st, 2021 or (ii) the last day of the month following the date the duty free shop fully reopened for business after the restrictions on non-essential travel between Canada and the US are lifted.

28. Duty Free executed the second deferral agreement and delivered it to the Landlord in accordance with the Landlord's request on November 19, 2020. The Landlord has not yet delivered an executed copy of the agreement to us. A copy of the second rental deferral agreement is attached hereto and marked as **Exhibit "C"**. The parties have conducted themselves in accordance with the rental deferral agreement since November 19, 2020.

29. Notwithstanding that under the rent deferral agreement the Rent Deferral Period ended on March 31, 2021 and the Restart Date was April 1, 2021, the Canada-US border remained closed

and the retail duty-free store remained closed. Again, the parties continued to act as if the agreement had been extended.

30. During all Rental Deferral Periods, Duty Free paid all Additional Rent in accordance with its obligation under the rent deferral agreements.

31. The underlying principle of the deferral agreements was that Duty Free would not be required to pay Base Rent until traffic across the Canada-US border returned to normal levels and Duty Free was able to reopen its store to the public.

32. Duty Free continued to make payments and the Landlord continued to accept payment under the terms as set out in the rent deferral agreements. Duty Free also paid to the Landlord all government subsidies for rent, as set out below. It was my understanding that the parties agreed to continue these arrangements until the border reopened. The Landlord did not raise any objection until it demanded immediate payment of all Deferred Rent plus three months' accelerated rent on September 8, 2021, some 13 days before Duty Free opened for business.

Duty Free Participated in CERS

33. Duty Free participated in the government programs designed to assist small businesses that were affected by Covid-19 with rent payments.

34. In or about October 2020, the Canadian government announced the Canada Emergency Rent Subsidy ("CERS") that provided a subsidy to cover part of eligible commercial rent for small businesses impacted by Covid-19 to be administered in several four (4) week periods. The CERS program applied retroactively starting September 27, 2020, and ran until October 23, 2021.

35. Duty Free applied for and was approved for CERS. Duty Free obtained rent assistance under CERS between September 25, 2020 through to October 23, 2021, when the program was completed. A summary of the timing and amounts of funds received by Duty Free related to CERS is attached hereto and marked as **Exhibit "D"**.

Landlord Delivers Notices of Default

36. On September 8, 2021, the Landlord provided Duty Free with two Notices of Default, one relating to purported monetary defaults and one relating to non-monetary defaults. A copy of the Notices of Default are attached as Exhibit "G" to the Affidavit of Christopher Schulze, sworn December 2, 2021 ("**Schulze Affidavit**").

37. The monetary default sought payment of approximately \$5.9 million of rent arrears 9 days later, which represented the full amount of all unpaid Rent. The Landlord threatened to seize our property and/or terminate the Lease if this payment was not made.

38. The monetary Notice of Default asserts that Duty Free's arrears at the time were \$5,931,389, despite the fact that the Deferred Rent was to be payable in equal installments over a two-year period (as set out in the amortization schedule in subsection 2.3 of the November rent deferral agreement). There had been no previous Notice of default or allegation of an Event of Default. Duty Free disputes the accuracy of the amount of arrears of Rent identified in the monetary Notice of Default and takes the position that the Notice of Default is invalid.

39. The second Notice of Default was a non-monetary default alleging that Duty Free breached the Lease by not being open for business 24 hours a day, 7 days a week, 365 days a year, and also alleged Duty Free had abandoned the Leased Premises in March 2020. The notice further said that

Duty Free breached the Lease by being closed for 10 consecutive days without the prior consent of the Landlord. Finally, the notice alleged that Duty Free did not provide a replacement letter of credit after the Landlord, without notice and contrary to the parties' course of conduct to that point, applied Duty Free's full \$50,000 letter of credit toward Rent even though the Canada-US border and the duty free shop had not re-opened. The Landlord demanded payment in 14 days of three month's accelerated rent, being about \$1.2 million dollars plus \$10,000 of legal expenses and more taxes.

40. The total amount demanded to be paid by certified cheque in 14 days under the two Notices of Default exceeded \$7 million and the Duty Free was not yet open for business.

41. Regarding the second (non-monetary) notice of default, Duty Free has restored the \$50,000 letter of credit and reopened the duty-free store, thus curing the non-monetary defaults, to the extent they were *bona fide* defaults.

42. Since re-opening for business on September 19, 2021, in addition to Additional Rent and CERS payments, Duty Free has made the following payments to the Landlord, which represent 20% of gross sales: \$19,533 for September rent paid; \$61,600 for October rent; and \$109,400 for November rent. Unfortunately, as of November 2021, traffic across the bridge and Duty Free's gross sales remain down approximately 70-60% from pre-Covid-19 levels.

Duty Free Subject to Eviction Moratorium under the Act

43. Duty Free advised the Landlord that, as a result of qualifying for CERS, it was protected by the eviction moratorium mandated by the Ontario government as set out in the Act. Duty Free further advised the Landlord that it had applied for, been approved to receive and did receive CERS

payments, which had all been paid to the Landlord as rent. In total, Duty Free paid \$220,161.00 in CERS payments to the Landlord before September 20, 2021. Duty Free also provided the Landlord with retroactive CERS approval notices. These sums are in addition to the monthly payments of Additional Rent made during the deferment period.

44. Copies of letters between Duty Free and its Landlord in regards to the Notices of Default and Duty Free's CERS payments are attached hereto and marked as **Exhibit "E"**.

45. Duty Free and the Landlord entered into without prejudice negotiations to try and settle issues related to the Notice of Default and the Lease. These negotiations have not resulted in an agreement at this time.

46. Duty Free continued to qualify for and receive CERS payments after September 2021. Most recently, Duty Free was approved for CERS claim period 14 (September 26, 2021 to October 23, 2021) on November 8, 2021. Attached as **Exhibit "F"** is a copy of the CERS approval notice from CRA dated November 8, 2021.

47. On November 12, 2021, I provided evidence of Duty Free's CERS approval to the Landlord by sending a copy of the CERS approval notice to the Landlord by email. Attached as **Exhibit "G"** to this Affidavit is a copy of my email to the Landlord dated November 12th, 2021.

48. As a result of Duty Free receiving CERS up to the last CERS period, I believe that the Landlord cannot take any steps to terminate the Lease or take possession of the inventory at the store because of the eviction moratorium under the Act.

Licenses to Operate the Duty Free Store

49. Duty Free is authorized by the Liquor Control Board of Ontario (“**LCBO**”) to buy and sell alcohol. Alcohol sales amounts to approximately 50% of the company’s business. Spirits are typically re-stocked on a weekly basis, and wine is purchased bi-weekly. New orders for alcohol products for the Spring and Fall of 2022 need to be organized through the LCBO in the next month or two. Attached hereto and marked as **Exhibit “H”** is a copy of the Land Border Duty Free Shop Authorization between the LCBO and Duty Free.

50. Duty Free also holds two licenses from the Canada Border Services Agency (“**CBSA**”) which provides it with authority to operate the duty free stores at its two locations. The CBSA license for the Hamilton Airport location, which expires on April 30, 2027 is attached hereto and marked as **Exhibit “I”**. The CBSA license for the Leased Premises is valid until January 25, 2025 and is attached hereto and marked as **Exhibit “J”**.

51. The CBSA licenses are non-transferrable. It is my understanding that the store cannot be operated by a trustee in bankruptcy or receiver. This is being further reviewed by our counsel. The CBSA contacted me following service by the receiver to ascertain if, despite the application to appoint a receiver, we were continuing to operate. Attached hereto and marked as **Exhibit “K”** is a copy of the e-mail I received from the CBSA in regards to the appointment of a receiver.

52. As mentioned above, December is typically a top month for sales due to holiday travel between Canada and the United States. We expect that business will continue to improve because the Canadian government has recently lifted testing requirements for travellers returning to Canada. As of December 8th, fully vaccinated Canadian travelling to the United States for 72 hours

or less do not need to have a pre-entry test. In addition, there is a Buffalo Bills home game in December, which attracts tourists to Buffalo and is an extremely busy time for the store.

53. Given the complexities of dealing with the inventory in a highly regulated environment and the fact that December is a particularly busy month, it would be extremely difficult for a Receiver to manage the business, were it even allowed to do so. Obtaining key product, such as wine and spirits, while overseeing sales and navigating the CBSA requirements in December will be challenging for a party that is not familiar with the procedures between the CBSA and Duty Free.

54. Given the foregoing, my belief is that a Receiver appointed over the business is more likely to shut down the business than to operate it, at least initially. I note that the application materials provided by RBC do not say they intend for the Receiver to operate the business, nor do they say they intend to continue the employment of the staff.

Credit Facilities with RBC

55. Duty Free obtained financing from the Royal Bank of Canada ("**RBC**") pursuant to the terms of a credit agreement dated July 20, 2018, as amended on July 5, 2021 and October 8, 2021 (collectively, the "**Credit Agreement**"). A copy of the Credit Agreement is attached as Exhibit "D" to the Schulze Affidavit.

56. The Credit Agreement provided Duty Free access to the following facilities:

- a. Facility #1: \$900,000 revolving demand facility by way of Royal Bank Prime loans and Royal Bank US Base Rate loans;

- b. Facility #2: \$575,900 revolving demand facility by way of letters of guarantee;
- c. Facility #3: \$5,000,000 revolving lease line of credit by way of leases; and
- d. VISA Business credit card to a maximum of \$300,000.

57. As set out above, Duty Free financed renovations of the Leased Premises by way of borrowings against the revolving lease line of credit.

58. Duty Free has always had a productive and open relationship with RBC. Duty Free kept RBC apprised of issues it was facing during the COVID-19 pandemic and provided it with business plans and other financial reporting in a timely fashion, as required under the Credit Agreement.

59. Duty Free has made all payments to RBC when due and has continued to pay amounts owing in accordance with the terms of the Credit Facilities up to now.

60. As a result of the land border being closed between March 2020 and August 2021 (in the case of Americans entering Canada) and November 2021 (in the case of Canadians travelling to the United States), the duty free shop was closed to retail customers between March 2020 and September 2021. Since Duty Free had no sales revenue during this time, it was offside of its financial covenants under the Credit Agreement. On July 2, 2021, RBC sent Duty Free a letter indicating that it was aware of the company's plan to remedy the default by December 31, 2021, but took no further steps, which are appreciated. A copy of the July 2nd letter is attached hereto and marked as **Exhibit "L"**.

61. However, after the Landlord issued its Notice of Default on September 8, 2021, RBC made demand and sent a Notice of Intention to Enforce Security on September 23, 2021. A copy of the demand letter is attached as Exhibit "H" to the Schulze Affidavit.

62. On October 8, 2021, RBC and Duty Free entered into a Forbearance Agreement. The Forbearance Agreement was set to expire on the earlier of either January 4, 2022 or an "Intervening Event," which included if the Landlord purported to terminate the Lease or levy distress against the company's assets. A copy of the Forbearance Agreement is attached as Exhibit "D" to the Schulze Affidavit.

63. We allowed for the inclusion of this "Intervening Event" because we believed that the landlord was stayed from acting during the forbearance period due to the moratorium under the Act.

64. On November 23, 2021, RBC terminated the Forbearance Agreement on the grounds that Duty Free had failed to deliver by no later than November 15, 2012, "evidence that an arrangement satisfactory to the Lender, in its sole discretion, has been entered into between the Borrower and the Landlord in respect of the Lease and the defaults thereunder to ensure that the Landlord will not terminate the Lease before the end of its current term." A copy of RBC's termination letter is attached hereto and marked as **Exhibit "M"**.

65. I have reviewed the Schulze Affidavit and it appears that the termination notice was sent following an e-mail from counsel for the Landlord to counsel for RBC indicating that the parties have been unable to resolve their issues and that the Landlord "intends to exercise its remedies under the default provisions of the Lease." However, the letter does not mention that negotiations were still on-going at that time and RBC did not provide Duty Free with time to cure the default.

Duty Free a Viable Business

66. Under the Forbearance Agreement, Duty Free provided monthly cash flow statements to RBC for the months of October and November 2021. Cash flow statements from October to December are attached hereto and marked as **Exhibit "N"**.

67. The cash flows demonstrate the Duty Free is currently a viable business and will continue to stay that way as long as border restrictions stay the same. Indeed, in November, the business was profitable due to higher than expected sales revenue and lower than expected costs, and because Duty Free paid rent at 20% of sales to the Landlord.

68. As mentioned above, we expect that December will be a busy month for sales, especially because the testing requirements for short-term vaccinated travellers have reduced. I believe it is likely we will see an improvement in respect of our projections for December. I am hopeful that the business has weathered the worst of the pandemic and we can look forward to a continued increase in travellers and, therefore, customers at the Fort Erie land border.

69. However, terminating the lease will destroy the business. Since duty free stores can only be operated at airports or land borders, there are very few opportunities to conduct business elsewhere in Ontario. Duty Free spent approximately one year and more than \$6 million making significant improvements to the Leased Premises. It continued to secure the Leased Premises during the time when the land border was closed to non-essential travel and has reopened its retail store as quickly as possible once the border reopened. Having endured the challenges of the COVID-19 pandemic, it is not appropriate to now allow the Landlord to terminate the Lease, thereby precipitating RBC's receivership application, when an eviction moratorium is in place and the business' cash flow supports its continued operation.

70. Furthermore, terminating the Lease would also compromise Duty Free's ability to operate the duty free shop at the Hamilton Airport, which is otherwise in good standing with its landlord and the CBSA, because Duty Free ships inventory from its Leased Premises to the Hamilton location.

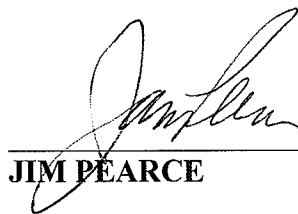
71. On December 8, 2021, the Duty Free retained Blaney McMurtry LLP ("**Blaney**") as local specialist counsel to assist in this matter. Blaney offered on December 10th to enter into negotiations with the Landlord. The Landlord replied that it was available for a meeting on Monday morning. A copy of the e-mail correspondence discussing a meeting is attached hereto and marked as **Exhibit "O"**.

72. I believe that, given more time, a commercial resolution can be reached with the Landlord reflecting a fair compromise to both parties. I believe our ability to make a proposal that will be found to be credible and reasonable by the Landlord will be enhanced by the passage of time as the business, which was once a very profitable business, returns to form over the next few months.

SWORN (OR AFFIRMED) remotely)
 by way of video conference by)
 Alexandra Teodorescu stated as being)
 located in the City of Oshawa, Province)
 of Ontario, on this 12th day of)
 December, 2021, in accordance with)
 O.Reg. 431/20, Administering the Oath)
 or Declaration remotely.)



A Commissioner for Taking Affidavits,
Alexandra Teodorescu



JIM PEARCE

Signature:

Email: jimp@dutyfree.ca

This is Exhibit “A” referred to in the Affidavit of Jim Pearce sworn remotely this 12th day of December 2021.

A handwritten signature in blue ink, appearing to read 'Alexandra Teodorescu', is centered on the page.

Commissioner for Taking Affidavits (or as may be)

Alexandra Teodorescu

BUILDING LEASE

BETWEEN

BUFFALO AND FORT ERIE PUBLIC BRIDGE AUTHORITY

- AND -

PEACE BRIDGE DUTY FREE INC.

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SCHEDULES:

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SCHEDULE "B"	PLAN OF LEASED PREMISES
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SCHEDULE "D"	TENANT'S PROPOSAL

THIS LEASE is dated as of the 28th day of July, 2016.

B E T W E E N:

**BUFFALO AND FORT ERIE PUBLIC BRIDGE
AUTHORITY**, an entity created pursuant to an Act of the State of
New York, with the consent of the United States Congress, and by
an Act of the Government Of Canada

(the "Landlord")

AND:

PEACE BRIDGE DUTY FREE INC., a corporation incorporated
under the laws of the Province of Ontario

(the "Tenant")

ARTICLE I BASIC LEASE TERMS

1.01 Basic Lease Terms

- (a) Landlord: Buffalo and Fort Erie Public Bridge Authority

Address of Landlord:

- (b) Tenant: Peace Bridge Duty Free Inc.

Address of Tenant:

- (c) Leased Premises: The Building and the portion of the Lands as identified in Schedule "B".
- (d) Term: 15 years.
- (e) Commencement Date: November 1, 2016.
- (f) Termination Date: October 31, 2031.
- (g) Letter of Credit: \$50,000.
- (h) Extension Options: One option to extend the term for an additional period of five years.

ARTICLE II DEFINITIONS AND INTERPRETATION

2.01 Definitions

In this Lease and the schedules forming part of it, the following definitions apply:

- (a) **"Additional Rent"** means all money or charges which the Tenant is required to pay under this Lease (except Base Rent, Percentage Rent and Sales Taxes) whether or not they are designated "Additional Rent" whether or not they are payable to the Landlord or to third parties.
- (b) **"Additional Services"** means those services provided to the Tenant at its request, as additional services, which are not part of the services provided by the Landlord to the Tenant in accordance with the terms of this Lease and charged as Operating Costs including, but not limited to, maintenance, repair, janitorial or cleaning services. Additional Services also includes any services provided by the Landlord on behalf of the Tenant in respect of any obligations of the Tenant required under this Lease which the Tenant fails to observe and perform.
- (c) **"Adverse Effect"** means any one or more of:

- (i) impairment of the quality of the natural environment for any use that can be made of it;
 - (ii) injury or damage to property or to plant or animal life;
 - (iii) harm or material discomfort to any Person;
 - (iv) an adverse effect on the health of any Person;
 - (v) impairment of the safety of any Person;
 - (vi) rendering any property or plant or animal life unfit for human use;
 - (vii) loss of enjoyment of a normal use of property; and
 - (viii) interference with the normal conduct of business.
- (d) **“Alterations”** has the meaning ascribed to that term in Section 12.02.
- (e) **“Applicable Laws”** means any statutes, laws, by-laws, regulations, ordinances and requirements of governmental and other public authorities having jurisdiction over or in respect of the Leased Premises or the Property, or any portion thereof, and all amendments thereto at any time and from time to time, and including but not limited to the Environmental Laws.
- (f) **“Architect”** means the architect, engineer or land surveyor named by the Landlord from time to time.
- (g) **“Base Rent”** means the annual base rent payable by the Tenant and described in Section 4.02.
- (h) **“Building”** means the building located on the Lands as shown on Schedule B as it exists from time to time.
- (i) **“Building Systems”** means: (i) the equipment, facilities and all systems, services and installations from time to time installed in or servicing the Leased Premises (or any portion thereof) including, but not limited to: mechanical (including plumbing, sprinkler, drainage and sewage) and electrical systems and appurtenances thereto; utilities (including, without limitation, electricity, water, hydro and gas), lighting, sprinkler, life safety (including fire prevention, communications, security and surveillance); computer (including environmental, security and lighting control); and (ii) all machinery, appliances, equipment, apparatus, components, computer software and appurtenances forming part of or used for or in connection with any of such systems, services, installations and facilities including, but not limited to, boilers, motors, generators, fans, pumps, pipes, conduits, ducts, valves, wiring, meters and controls, and the structures and shafts housing and enclosing any of them.

- (j) “**Business Day**” means any day other than a Saturday, Sunday or statutory holiday in the Province of Ontario.
- (k) “**Business Taxes**” means every tax, duty and licence fee which is levied, rated, charged or assessed against or in respect of the business carried on in the Leased Premises or in respect of the use or occupancy of the Leased Premises by the Tenant whether the taxes, rates, duties, assessments or licence fees are rated, charged or assessed by any Government Authority during the Term.
- (l) “**Claims**” means any threatened or actual claim, demand, action, cause of action, administrative order, requirement or proceeding, damage, loss, cost, fine, penalty, interest, liability and expense including, without limitation, reasonable engineering and legal fees and disbursements on a full indemnity basis.
- (m) “**Commencement Date**” means the date set out in Section 1.01(e).
- (n) “**Contaminants**” means any solid, liquid, gas, odour, heat, sound, vibration, radiation or combination of any of them resulting directly or indirectly from human activities that causes or may cause an Adverse Effect and includes any waste, dangerous good, hazardous product, controlled substance or any other substance or thing regulated or reportable under any Environmental Laws.
- (o) “**Environmental Approvals**” means all applicable permits, licences, authorizations, consents, directions and approvals required by Governmental Authorities pursuant to Environmental Laws in respect of the Leased Premises and the equipment, structures, substances and activities located or carried on therein or thereon by the Tenant.
- (p) “**Environmental Laws**” means all existing and future federal, provincial and municipal laws, regulations, by-laws, ordinances, notices, orders, rules, protocols, policies, directions and guidelines and all present and future principles of common law and equity relating to the protection of the environment, including Contaminants, pollution and waste management.
- (q) “**Environmental Site Assessment**” or “**ESA**” includes a visual and instructive inspection of property, buildings, structures, soils, bedrock and groundwater, including the installation of monitoring and measurement devices, for the purpose of determining the presence of Contaminants or compliance with Environmental Laws.
- (r) “**Event of Default**” has the meaning ascribed to that term in Section 17.01.
- (s) “**Extension Term**” has the meaning ascribed to that term in Section 3.06.
- (t) “**Governmental Authorities**” means all applicable federal, provincial and municipal agencies, boards, tribunals, ministries, departments, inspectors, officials, employees, servants or agents having jurisdiction and “**Government Authority**” means any one of them.

- (u) **"HVAC System"** means the whole of any systems required for the supply of heating, ventilating or air-conditioning to the Building and the improvements, fixtures, appurtenances, equipment and systems associated with or required therefor and for the further processing and distribution or exhaust of air such as ducts, diffusers, reheat coils, controls and other apparatus and equipment therefor.
- (v) **"Landlord"** means the party named in Section 1.01(a) and all successors and assigns of such party.
- (w) **"Lands"** means the lands more particularly described in Schedule "A".
- (x) **"Leased Premises"** means collectively the Building and the portion of the Lands as identified in Schedule "B".
- (y) **"Leasehold Improvements"** means all fixtures, improvements, installations, Alterations and additions from time to time made, erected or installed by or on behalf of the Tenant or any former occupant of the Leased Premises, including cabling, trenches, concrete bases, doors, hardware, partitions (including moveable partitions) and wall-to-wall carpeting, but excluding furniture and equipment not in the nature of fixtures.
- (z) **"Letter of Credit"** means the letter of credit described in Section 4.06.
- (aa) **"Licence"** shall mean the licence, permission, registration, authorization, appointment, power, jurisdiction, or other similar right granted or conferred by the Government of Canada upon the Tenant and allowing the Tenant to operate a duty free shop at the Leased Premises.
- (bb) **"Mortgage"** means any mortgage or other security against the Leased Premises or the Landlord's interest in this Lease, from time to time.
- (cc) **"Mortgagee"** means the holder of any Mortgage from time to time.
- (dd) **"Operating Costs"** has the meaning ascribed to that term in Section 6.04.
- (ee) **"Percentage Rent"** means the percentage rent payable by the Tennant and described in Section 4.03
- (ff) **"Permitted Use"** means the operation of a duty free shop and related services (such as banking and travel related services).
- (gg) **"Person"** if the context allows, includes any person, firm, partnership or corporation, or any group of persons, firms, partnerships or corporations or any combination of them.
- (hh) **"Prime Rate"** means the annual rate of interest announced from time to time by the Canadian chartered bank chosen by the Landlord as the daily rate of interest used by such bank as a reference rate in setting rates of interest for Canadian dollar

commercial loans and commonly referred to by such bank as its Canadian “prime rate”.

- (ii) “**Property Taxes**” means all real property taxes, rates, duties, levies, fees, charges (including local improvement charges) and assessments, whether general or special, that are levied, rated, charged or assessed against the Lands, the Leased Premises or any part of it from time to time by any lawful taxing authority, whether federal, provincial, regional, municipal, school or otherwise and any taxes or other amounts which are imposed in lieu of, as a substitute for or in addition to, any of the foregoing whether or not similar to or of the foregoing character or not and whether or not in existence at the Commencement Date, and any such taxes levied or assessed against the Landlord on account of its ownership of the Lands or its interest in it, including capital taxes imposed on the Landlord and including taxes levied on the Landlord on account of rents payable by the Tenants, and all legal and other professional fees and interest and penalties on deferred payments incurred by the Landlord in contesting or appealing any Property Taxes.
- (jj) “**Release**” means, in respect of Contaminants, without limitation, a spill, leak, disposal, dumping, pumping, pouring, emission, emptying, discharge, deposit, injection, escape, release or leaching.
- (kk) “**Released Persons**” includes the Landlord, the property manager for the Leased Premises, if any, the Mortgagee and their respective directors, officers, employees, agents, contractors and other Persons for whom they are responsible in law.
- (ll) “**Rent**” means collectively the Base Rent, Percentage Rent and Additional Rent payable under this Lease.
- (mm) “**Rental Year**” means a period of time, the first Rental Year of the Term commencing on the Commencement Date and ending on October 31, 2017. After the first Rental Year each Rental Year of the Term will consist of a period of twelve (12) calendar months, but the last Rental Year of the Term will terminate on the Termination Date or earlier termination of the Term. Despite what is stated above, if the Landlord considers it necessary or convenient, it may from time to time, by written notice to the Tenant, specify an annual date from which each subsequent Rental Year is to commence for the purposes of any other provision of this Lease, and the Rental Year then current for that purpose or those purposes will terminate on the day immediately preceding the commencement of the new Rental Year.
- (nn) “**Rules and Regulations**” means the rules and regulations promulgated by the Landlord from time to time pursuant to the terms of this Lease.
- (oo) “**Sales Taxes**” means all goods and services, harmonized sales taxes, business transfer, value-added, national sales, multi-stage sales, sales, use or consumption taxes or other taxes of a similar nature imposed by any lawful taxing authority upon the Landlord or the Tenant with respect to Rent, this Lease, the rental of space pursuant to this Lease, or the goods and services provided by the Landlord to the

Tenant, including, without limitation, the provision of administrative services to the Tenant hereunder.

- (pp) **“Tenant”** means the party named in Section 1.01(b). A reference to “Tenant” includes, where the context allows, the employees, agents, contractors, invitees and licensees of the Tenant, and any other Persons over whom the Tenant may reasonably be expected to exercise control, including but not limited to any and all sub-tenants, licensees or assignees of the Leased Premises or any portion thereof, and such other Persons for whom the Tenant is responsible at law.
- (qq) **“Tenant’s Audited Gross Sales”** shall mean a statement of the Tenant’s Gross Sales prepared and verified by the auditor of the Tenant in accordance with generally accepted auditing principles completed in a form and manner satisfactory to the Landlord acting reasonably.
- (rr) **“Tenant Construction Criteria”** means the criteria provided, upon request, by the Landlord to the Tenant from time to time setting out the construction criteria relating to Alterations and which may also provide for Landlord’s reasonable review and supervision fees.
- (ss) **“Tenant’s Gross Sales”** means the total dollar amount of all sales of goods or services made on or from the Leased Premises by the Tenant to the Tenant’s customers (and by any subtenant to the subtenant’s customers) during the specific period(s) of time referred to herein. In the case of currency exchange or financial services it shall mean the gross revenue derived from that service and not the total of the actual currency exchanged. In the case of ticket sales, it shall mean the gross revenue derived from the service and not the total face value of actual ticket sales. In the case of Travel Services, it shall mean the gross revenue derived from the Travel Services and not the total face value of any accommodation booking or travel ticket sales. Tenant’s Gross Sales includes but is not limited to:

- (i) orders taken or received at the Leased Premises or any offsite sales outlet servicing the Leased Premises, whether by telephone, internet or other electronic means, or in writing or other form of communication and whether the orders are filled from the Leased Premises or elsewhere,

- (ii) deposits not refunded to purchasers; and

- (iii) all other receipts and receivables from sales or services (including interest, instalment and finance charges) from business conducted in or from the Leased Premises,

whether the sales or other receipts or receivables are made by cheque, cash, credit, charge account, exchange or otherwise and whether the sales are made by means or mechanical or other vending devices in the Leased Premises. Bank charges or uncollectible credit accounts or charges made by collection agencies will not be deducted and no allowances will be made for bad debts. Each charge or sale made on instalment or credit will be treated as a sale for the full selling price in the month

for which the charge, sale or rental is made, regardless of the time when the Tenant receives payment (whether full or partial).

There shall be excluded or deducted, as the case may be, from the calculation of Tenant's Gross Sales:

- (i) all refunds of merchandise, the sale price of which has already been included in the Tenant's Gross Sales;
 - (ii) all sales taxes, harmonized sales taxes, goods and services taxes, or any other taxes imposed in lieu thereof;
 - (iii) discounts, allowances or credits given to the Tenant's customers;
 - (iv) all interest, finance or carrying charges charged by the Tenant above the selling price to its customers, as incidental to the sale and with no profit to the Tenant;
 - (v) gift or merchandise certificates or cards provided that such gift or merchandise certificate or card shall be included in the calculation of Gross Sales at the time of their redemption on the Leased Premises;
 - (vi) any sales of the Tenant's used fixtures, chattels or other equipment out of the ordinary course of business; and
 - (vii) transfers of merchandise between any of the Tenant's other stores
- (tt) **"Tenant's Proposal"** means the Tenant's proposal for capital expenditures for the Leased Premises and for the general operation and management of the duty free shop from the Leased Premises as detailed in Schedule "D".
- (uu) **"Term"** means the period of time set out in Section 1.01(d).
- (vv) **"Termination Date"** means the date set out in Section 1.01(f).
- (ww) **"Transfer"** has the meaning ascribed to that term in Section 14.01.
- (xx) **"Transferee"** has the meaning ascribed to that term in Section 14.01.
- (yy) **"Travel Services"** means providing services for booking reservations at hotels, inns, campsites and other accommodations and for selling or reserving travel tickets.
- (zz) **"Unavoidable Delay"** means any delay by a party in the performance of its obligations under this Lease caused in whole or in part by any acts of God, strikes, lockouts or other industrial disturbances, acts of public enemies, sabotage, war, blockades, insurrections, riots, epidemics, washouts, nuclear and radiation activity or fallout, arrests, civil disturbances, explosions, unavailability of materials,

breakage of or accident to machinery, any legislative, administrative or judicial action which has been resisted in good faith by all reasonable legal means, any act, omission or event, whether of the kind herein enumerated or otherwise, not within the control of such party, and which, by the exercise of control of such party, could not have been prevented. Insolvency or lack of funds on the part of such party shall not constitute an unavoidable delay.

2.02 Net Lease

This Lease is a completely carefree net lease to the Landlord. Except as otherwise stated in this Lease, the Landlord is not responsible for any costs, charges, expenses or outlays of any nature whatsoever arising from or relating to the Leased Premises, or the use and occupancy of the Leased Premises, or the contents or the business carried on in the Leased Premises; and the Tenant will pay all charges, impositions, costs and expenses of every nature relating to the Leased Premises.

2.03 Extended Meanings

Use of the neuter singular pronoun to refer to the Landlord or the Tenant is considered a proper reference even though the Landlord or the Tenant is an individual, a partnership, a corporation, or a group of two or more individuals, partnerships or corporations. The necessary grammatical changes required to make the provisions of this Lease apply in the plural sense where there is more than one Landlord or Tenant and to either corporations, associations, partnerships or individuals, males or females, will in all instances be assumed as though they were fully expressed.

2.04 Entire Agreement

There are no covenants, representations, warranties, agreements or other conditions expressed or implied, collateral or otherwise, forming part of or in any way affecting or relating to this Lease, save as expressly set out or incorporated by reference herein and this Lease and the schedules attached hereto constitute the entire agreement duly executed by the parties hereto.

2.05 Governing Law

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

2.06 Time of the Essence

Time is of the essence of this Lease and each part of it.

2.07 No Limitation

Any statement or provision in this Lease followed by words denoting inclusion or example, such as "including" or "such as", and then listing or referring to specific matters or items shall not be read so as to limit or restrict the generality of such statement or provision regardless of whether or not words such as "without limitation" or "without limiting the generality of the foregoing" precede such list or reference.

2.08 Headings and Captions

The table of contents, article numbers, article headings, section numbers and section headings in this Lease are inserted for convenience of reference only and are not to be considered when interpreting this Lease.

2.09 Severability

Each provision of this Lease is distinct and severable. If any provision of this Lease, in whole or in part, is or becomes illegal, invalid or unenforceable in any jurisdiction, the illegality, invalidity or unenforceability of that provision will not affect the legality, validity or enforceability of the remaining provisions of this Lease, or the legality, validity or enforceability of that provision in any other jurisdiction.

2.10 Successors and Assigns

The rights and liabilities of the parties shall enure to the benefit of their respective successors and assigns, subject to any requirement for consent by the Landlord hereunder.

2.11 No Partnership or Agency

The Landlord does not in any way or for any purpose become a partner of the Tenant in the conduct of its business, or otherwise, or a joint venturer, or a member of a joint enterprise with the Tenant, and the relationship of principal and agent is not created as a result of the entering into of this Lease.

2.12 Joint and Several Liability

The liability to pay Rent and perform all other obligations under this Lease of each Person signing this Lease as the Tenant where the Tenant is more than one Person, shall be deemed to be joint and several.

2.13 Landlord as Agent

The Tenant agrees that the Landlord acts as agent or trustee for the Released Persons to the extent necessary to ensure that all exculpatory provisions and indemnities included in favour of the Released Persons in this Lease are enforceable by the Landlord against the Tenant.

2.14 Interpretation

The Landlord and the Tenant agree that notwithstanding any rule of law or equity, presumption, principle of construction, law or statutory enactment to the contrary:

- (a) in any controversy, dispute, contest, arbitration, mediation or legal proceeding of any kind, including an action, lawsuit, motion, application, reference or appeal regarding the interpretation, validity or enforcement of this Lease or any of its provisions, there shall be no inference, presumption or conclusion drawn whatsoever against either the Landlord or the Tenant by virtue of that party having

drafted this Lease or any portion thereof or by virtue of this Lease being drawn using the Landlord's form;

- (b) any deletion of language or wording from this Lease prior to execution by the Landlord and the Tenant shall not be construed to have any particular meaning or to raise any presumption, construction or implication including, without limitation, any implication that by the deletion of certain language or wording, the Landlord and the Tenant intended to state the opposite of the deleted language or wording; and
- (c) the selection or use of any bold, italicized, underlined or coloured print in this Lease shall not be construed to have any particular meaning or to raise any presumption, construction or implication.

2.15 Reasonableness

Except as may be otherwise specifically provided in this Lease, whenever the Landlord or the Tenant is required to use its discretion or to consent or approve any matter under this Lease, the Landlord and the Tenant agree that such discretion shall be reasonably exercised and that such approval or consent will not be unreasonably or arbitrarily withheld or delayed.

2.16 Conflict with Schedules

Any conflict or inconsistency between the provisions contained in the Schedules of this Lease and the provisions contained elsewhere in the Lease will be resolved in favour of the provisions contained elsewhere in the Lease.

2.17 Amendment and Waiver

No supplement, modification, amendment, waiver, discharge or termination of this Lease is binding unless it is executed in writing by the party to be bound. No waiver of, failure to exercise, or delay in exercising, any provision of this Lease constitutes a waiver of any other provision (whether or not similar) nor does any waiver constitute a continuing waiver unless otherwise expressly provided.

ARTICLE III GRANT AND TERM

3.01 Demise

In consideration of the rents, covenants and agreements hereinafter reserved and contained on the part of the Tenant to be paid, observed and performed, the Landlord demises and leases to the Tenant and the Tenant rents from the Landlord the Leased Premises.

3.02 Commencement and Termination Date of Term

The Tenant will have and hold the Leased Premises for and during the Term commencing on the Commencement Date and expiring on the Termination Date, unless terminated earlier pursuant to the provisions hereof.

3.03 “As Is” Condition of Leased Premises

The Tenant agrees to accept the Leased Premises in an “as is, where is” condition, except as otherwise provided herein. The Tenant further agrees that, except as may be specifically set out herein, there is no promise, representation or undertaking binding upon the Landlord with respect to any alteration, remodelling or decoration of the Leased Premises or with respect to the installation of equipment or fixtures in the Leased Premises, or to prepare them or make them suitable for the Tenant's occupancy and use.

3.04 Delay in Possession

Should the Tenant be delayed by any fault of the Landlord or any other reason (other than the fault of the Tenant) in taking possession of the Leased Premises at the start of the Commencement Date, then and only then shall the Commencement Date and the Term be postponed for the same number of days that the Tenant is delayed in taking possession of the Leased Premises. The Tenant acknowledges and agrees that such postponement shall be full settlement for any claims it might have against the Landlord for such delay.

3.05 Restrictive Covenant

The Landlord hereby agrees that it shall not at any time during the Term, lease, sublease, licence or allow the occupation of any part of the Landlord's property located in Canada, servicing U.S. bound traffic, for any duty-free, banking, currency exchange or for any other retail operation, services or purposes which are or may be in any way competitive with the facilities and services offered within the Leased Premises.

3.06 Right to Extend the Term

Provided that the Tenant: (i) is itself in physical occupation of the whole of the Leased Premises; (ii) has duly and regularly paid the Rent, (iii) is actively operating from the Premises and performs all of the covenants, provisos and agreements on the part of Tenant to be paid and performed in this Lease; and (iv) has given Landlord no less than twelve (12) months' written notice and no more than eighteen (18) months' written notice prior to the expiry date of the Term of its election to extend the Term, Tenant shall have the right and option to extend the Term for one (1) additional period of five (5) years (the “Extension Term”) upon the same terms and conditions as in this Lease except that there shall be no further right to extend the term. If Tenant elects to exercise its said option to extend, the Term shall be automatically extended for the Extension Term covered by the option so exercised. If Tenant shall fail to give notice in writing exercising its option to extend within the time stipulated in this section 3.06 the Tenant's rights to extend the Term of this Lease shall be null and void. There will be no further right to extend the Term beyond the Extension Term.

The parties shall execute a lease extension agreement prepared by the Landlord to reflect the terms of the Extension Term.

ARTICLE IV RENT

4.01 Covenant to Pay

The Tenant will pay Rent as provided in this Lease, together with all applicable Sales Taxes, duly and punctually by way of electronic funds transfer (“**EFT**”) from the Tenant’s bank account. The Tenant undertakes to execute and deliver concurrently with this Lease such documentation as may be required by the Landlord and its bank in order to effect payment of Rent by EFT. Any invoice sent by the Landlord to the Tenant pursuant to the provisions of this Lease, other than for pre-authorized monthly Rent payments, shall be paid for by cheque to the Landlord at its address set out in Section 1.01(a) or as the Landlord otherwise directs.

4.02 Base Rent

The Tenant covenants and agrees to pay to the Landlord the annual Base Rent payable in twelve (12) equal monthly instalments on the first day of each month during the Term herein in advance together with all applicable taxes. For the first year of the Lease the Base Rent shall be \$4,000,000. The Base Rent for the second year and each succeeding year of the Lease shall be the greater of (i) \$4,000,000 or (ii) 75% of the aggregate of the Base Rent and the Percentage Rent payable by the Tenant to the Landlord for the immediately preceding Rental Year.

4.03 Percentage Rent

The Tenant covenants and agrees with the Landlord that the following Percentage Rent rates will apply for the initial Term of this Lease and for any Extension Term.

Annual Gross Sales	Percentage
\$0 - \$20,000,000	20%
\$20,000,000 - \$25,000,000	22%
>\$25,000,000	24%

The Tenant covenants and agrees with the Landlord that for each month (including any broken calendar month) of the Term or Extension Term, if applicable, the above percentage rates will be applied to the Tenant’s Gross Sales during such monthly period (with the applicable percentage rate based on the Tenant’s year to date Gross Sales for the then current Rental Year). If, during any month (including any broken calendar month) of the Term or the Extension Term the

calculation of Percentage Rent in such monthly period (based on the Tenant's year to date Gross Sales for the then current Rental Year) exceeds (i) the Base Rent payable for such period (based on the year to date Base Rent payable for the then current Rental Year) plus (ii) the amount of Percentage Rent previously paid by the Tenant for the then current Rental Year, the Tenant will within twenty-five (25) days following the conclusion of such monthly period, pay the resulting difference together with all applicable taxes, to the Landlord as Percentage Rent.

The Landlord and the Tenant agree that any money required to be paid as Percentage Rent as set forth in the Lease shall be deemed to be Rent and be collectible as Rent and the Landlord shall have the same remedies in respect of arrears of Percentage Rent as it has in respect to arrears of Base Rent.

For clarity, below is an example of the calculation of Base Rent and Percentage Rent in accordance with Sections 4.02 and 4.03 of the Lease:

Year	Gross sales	75% PY rent Calculation	Base rent Minimum	Calculated annual % rent	Additional % Rent due	Total rent Due
1	\$ 24,000,000		\$ 4,000,000	\$ 4,880,000	\$ 880,000	\$ 4,880,000
2	\$ 26,000,000	\$ 3,660,000	\$ 4,000,000	\$ 5,340,000	\$ 1,340,000	\$ 5,340,000
3	\$ 35,000,000	\$ 4,005,000	\$ 4,000,000	\$ 7,500,000	\$ 3,495,000	\$ 7,500,000
4	\$ 24,000,000	\$ 5,625,000	\$ 4,000,000	\$ 4,880,000	\$ -	\$ 5,625,000
5	\$ 22,000,000	\$ 4,218,750	\$ 4,000,000	\$ 4,440,000	\$ 221,250	\$ 4,440,000
6	\$ 20,000,000	\$ 3,330,000	\$ 4,000,000	\$ 4,000,000	\$ -	\$ 4,000,000

In the example above Base Rent and Percentage Rent would be as follows: in year one of the Lease Base Rent is \$4,000,000 and Percentage Rent is \$880,000; in year two Base Rent would be \$4,000,000 and Percentage Rent would be \$1,340,000; in year three Base Rent would be \$4,005,000 and Percentage Rent would be \$3,495,000; in year four Base Rent would be \$5,625,000 and Percentage Rent would be \$0; in year five Base Rent would be \$4,218,750 and Percentage Rent would be \$221,250; and in year six Base Rent would be \$4,000,000 and there would be no Percentage Rent.

In year four, because the annual calculated Percentage Rent is less than the Base Rent for that year, no additional Percentage Rent would be due. In year five, Base Rent is \$4,218,750 (greater of \$4,000,000 or 75% of prior year total rent). The total calculated Percentage Rent for year five is \$4,440,000. Because the calculated Percentage Rent is greater than the Base Rent, the difference of \$221,250 would be due as Percentage Rent for that year.

4.04 Accrual of Rent

Rent shall be considered as accruing from day to day hereunder from the Commencement Date. If it is necessary for any reason to re-calculate such Rent for an irregular period during the relevant Rental Year, an appropriate apportionment and adjustment shall be made on a per diem basis based upon a 365 day calendar year.

4.05 Rent and Payments Generally

All Rent and other payments by the Tenant to the Landlord of whatsoever nature required or contemplated by this Lease, which are payable by the Tenant to the Landlord, shall:

- (a) be paid when due hereunder, without prior demand therefor and without any abatement, set-off, compensation or deduction whatsoever (except as otherwise specifically provided for in this Lease);
- (b) be applied towards amounts then outstanding hereunder in such manner as the Landlord determines in its sole discretion;
- (c) bear interest at a rate equal to twenty-four percent (24%) per annum, calculated and payable monthly from the date such Rent or other payments became due to and including the date of payment;
- (d) an administrative charge of \$150.00 will be charged in connection with any late payment or returned cheque to cover the Landlord's additional administration costs;
- (e) in addition the Tenant shall pay all Sales Taxes. The amount of such Sales Taxes will be calculated by the Landlord in accordance with the applicable legislation and will be paid to the Landlord (or to the lawful taxing authority, as the Landlord may direct) on the due date of the amounts in respect of which such Sales Taxes are payable. All such payments shall be made prior to the date that the same shall become due and payable and any interest and any penalties assessed as a result of any default in or late payment of same shall be the sole responsibility of the Tenant. Notwithstanding any other provision of this Lease, the amount payable by the Tenant under this section shall be deemed not to be Rent but the Landlord shall have all of the same remedies for and rights of recovery of such amount as it has for the recovery of Rent under this Lease or otherwise; and
- (f) if the Commencement Date is on a day other than the first day of a calendar month or if the Term ends on any day other than the last day of the month, Rent for the fractions of a month at the Commencement Date and at the end of the Term shall be calculated on a pro rata basis.

4.06 Letter of Credit

The Tenant covenants that, on or before the Commencement Date, the Tenant shall deliver to the Landlord an irrevocable and unconditional letter of credit or other form of cash collateral security satisfactory to the Landlord (the "**Letter of Credit**") in favour of Landlord issued by a Schedule 1 Canadian chartered bank in the amount of \$50,000.00, which shall be held by the Landlord during the Term and any Extension Term. The Letter of Credit shall be in such form as is approved in advance by the Landlord. If at any time during the Term or any Extension Term, the Tenant defaults in the payment of any Rent or other amounts payable under this Lease or in the performance of any of its other obligations under this Lease or if this Lease is surrendered, terminated, disclaimed or repudiated whether by Landlord as a result of default of Tenant or in connection with any insolvency or bankruptcy of Tenant or otherwise, then Landlord at its option

may, in addition to any and all other rights and remedies provided for in this Lease or at law, draw a portion of or all of the principal amount of the Letter of Credit, whereupon the proceeds thereof shall be applied to compensate Landlord for damages suffered by it as the result of Tenant's default, and the balance, if any, will be returned to the Tenant. If the Landlord draws all or part of the Letter of Credit, the Tenant shall provide the Landlord with a replacement Letter of Credit in the full amount of \$50,000 upon written demand from the Landlord to do so.

The rights of Landlord hereunder, in respect of the Letter of Credit, shall continue in full force and effect and shall not be waived, released, discharged, impaired or affected by reason of the release or discharge of Tenant in any receivership, bankruptcy, insolvency, winding-up or other creditors' proceedings including, without limitation, any proceedings under the *Bankruptcy and Insolvency Act* (Canada) or the *Companies Creditors' Arrangement Act* (Canada), or the surrender, disclaimer, repudiation or termination of the Lease in any such proceedings and shall continue with respect to the periods prior thereto and thereafter as if the Lease had not been surrendered, disclaimed, repudiated, or terminated.

At the end of the Term or any Extension Term if applicable and provided that the Tenant is not then in default, which default remains uncured, under the terms of this Lease, the Landlord shall return the Letter of Credit, or the remaining balance of the Letter of Credit if it has been drawn upon in accordance with the terms hereof, to the Tenant.

ARTICLE V FINANCIAL INFORMATION

5.01 Monthly Statements

The Tenant shall furnish in writing to the Landlord by the tenth (10th) calendar day of the succeeding month, monthly statements of the Tenant's Gross Sales, patron counts, vehicle counts for the preceding month, and any other similar financial or statistical information which the Landlord may request. The monthly statement of the Tenant's Gross Sales shall: (i) state that the Tenant's Gross Sales as reported in the monthly statement is in accordance with the definition of Tenant's Gross Sales in Section 2.01(ss) (ii) contain a certification by the Tenant that the monthly statement is correct; (iii) is in the detail and form that the Landlord requires; and (iv) without limiting the requirements stated above, shows (1) the amount of Tenant's Gross Sales for the preceding month, (and fractional months, if any, at the commencement or end of the Term); (2) the amount of Tenant's Gross Sales for all preceding months of the Rental Year, (and fractional months, if any, at the commencement or end of the Term); and (3) the monthly payments made on account of Basic Rent and Percentage Rent for the Rental Year.

Failure of the Tenant to comply with this provision shall at the option of the Landlord constitute a default under the terms of this Lease and the Landlord shall be entitled to exercise all of its rights and remedies as herein provided.

5.02 Annual Statements

The Tenant shall furnish in writing to the Landlord within forty five (45) calendar days of the end of each year of this Lease and any renewal thereof, the Tenant's Audited Gross Sales statements. Failure of the Tenant to comply with this provision shall at the option of the Landlord constitute a

default under the terms of this Lease and the Landlord shall be entitled to exercise all of its rights and remedies as herein provided.

If the total of the Percentage Rent paid by the Tenant in respect of a Rental Year is less than the amount of Percentage Rent payable for such Rental Year calculated based on the Tenant's Audited Gross sales statement delivered in accordance with this Section 5.02, the Tenant shall pay the difference to the Landlord no later than the first day of the month immediately following the month in which the Landlord receives the statement. Provided that the Tenant is not in default, if the Percentage Rent paid is greater than the actual amount of Percentage Rent payable for such Rental Year, the difference shall be applied in reduction of future payments, if any, due under this Lease, or if no future payments are due, shall be refunded to the Tenant.

5.03 Traffic Reports

The Landlord shall provide the Tenant with a copy of the daily bridge traffic counts for the Peace Bridge.

5.04 Books and Records

The Tenant will keep in the Leased Premises or at its principal office in Canada, for at least four (4) years after the end of each Rental Year, adequate books and records kept in accordance with generally accepted accounting principles that show inventories and receipts of merchandise at the Leased Premises and daily receipts from all sales, charges, services and other transactions, in or from the Leased Premises made by the Tenant and any other Persons conducting business in or from the Leased Premises as well as sales tax returns, pertinent original sales records, and any other sales records that the Landlord reasonably requires and that would normally be examined by an accountant pursuant to accepted auditing standards in performing a detailed audit of Tenant's Gross Sales. The Tenant will also cause the records described above to be kept by all Persons doing business in or from the Leased Premises. The Tenant, and all other Persons conducting business in or from the Leased Premises, will record at the time of the sale, in the presence of the customer, all receipts from sales, charges, services or other transactions whether for cash or credit, in a cash register or registers having a sealed cumulative total and any other control features that are required by the Landlord.

5.05 Right to Examine

The Tenant shall make available for inspection and audit by a representative of Landlord, at reasonable times during business hours, all such books, records and other information in order to allow Landlord to verify such statements of Tenant's Gross Sales and the inventories of merchandise at the Leased Premises. The Landlord and its authorized representatives may examine the Tenant's records and procedures during regular business hours, and may have a Person in the Leased Premises to check, verify and tabulate the Tenant's Gross Sales, or to examine accounting records and procedures including control features affecting the determination of the Tenant's Gross Revenue.

5.06 Audit

The Landlord may, at reasonable times, cause a complete audit to be made of the Tenant's business and records relating to the calculation of the Tenant's Gross Sales completed by an auditor who shall be a chartered accountant or other accredited public accountant independent of the Landlord. If the auditor reports that the Tenant's records and procedures are insufficient to permit a determination of the Tenant's Gross Sales for a Rental Year, or a part of a Rental Year, or that the Tenant is not complying with this ARTICLE V, the Landlord may deliver to the Tenant an estimate (which will be final and binding on the Tenant) of the Tenant's Gross Sales for the relevant period and the Tenant will immediately pay to the Landlord the amount shown in the estimate to be owing.

If any inspection or audit by Landlord reveals an understatement by Tenant of the Tenant's Gross Sales by more than two percent (2%) and such understatements occur twice or more within any five-year period, Tenant shall pay Landlord on demand for the cost of each such inspection and audit, as well as five (5) times the amount by which Rent was understated or underpaid for each applicable period. If the Tenant substantially, continually or repeatedly fails to produce records and follow procedures sufficient to permit a determination of the Tenant's Gross Sales or if the Tenant's Audited Gross Sales is understated by two percent (2%) or more on more than three (3) occasions, then in addition to any other remedies of the Landlord under this Lease or otherwise, the Landlord may terminate this Lease on five (5) days' prior written notice to the Tenant. Landlord must inspect and audit such records within two years after the date of each annual statement and Landlord's inspection and audit shall be limited to the period covered by such statement.

5.07 Confidentiality

The Landlord undertakes to treat the financial information of the Tenant provided to the Landlord under this Lease as strictly confidential and not to divulge such financial information to any person, firm, corporation or other entity (other than the Landlord's directors, officers, employees or professional advisors who have a need to know such financial information and who shall be obligated to treat all such financial information confidential). The confidentiality obligations under this Section 5.07 shall not apply to: (i) information which is generally available to the public; (ii) information which after disclosure by the Landlord becomes generally available to the public, otherwise than through any act or omission on the part of the Landlord; or (iii) information which the Landlord is obligated to disclose by law.

5.08 Tenant's Failure

If the Tenant fails to deliver a statement or an audit opinion required under this ARTICLE V within the time required, the Landlord may, on five (5) days' notice to the Tenant, employ an auditor to examine the Tenant's books and records to certify the amount of the Tenant's Gross Sales for the period related to the statement or the audit opinion, and the Tenant will pay to the Landlord, on demand, as Additional Rent the cost of the examination together with the sums shown by the examination to be owing on account of Percentage Rent with interest on the latter calculated from the date the statement or the audit opinion was required at five percent (5%) above the Prime Rate.

ARTICLE VI PROPERTY TAXES AND OPERATING COSTS

6.01 Property Taxes Payable by the Tenant

The Tenant shall pay to the Landlord, as Additional Rent, all Property Taxes levied, rated, charged or assessed throughout the Term, on or in relation to the Leased Premises, or any part thereof, in accordance with the following:

- (a) payment shall be due in equal monthly installments over each taxation period or such shorter period as Landlord may reasonably require such that the Landlord will have received an amount sufficient to pay each installment of Property Taxes when due to the taxing authorities. Prior to the commencement of each taxation period, the Landlord shall estimate the amount of such equal monthly installments and notify the Tenant in writing of such estimate. From time to time during the taxation period, the Landlord may re-estimate the amounts payable for such taxation period, in which event the Landlord shall notify the Tenant in writing of such re-estimate and fix monthly installments for the remaining balance of such taxation period;
- (b) to the extent that a separate assessment and separate tax bill for Property Taxes in respect of the Leased Premises are not provided by the assessment and/or taxing authorities, the Tenant will pay a share of Property Taxes levied, rated, charged or assessed on or in relation to all of the Lands on such basis as the Landlord shall reasonably and equitably determine. To the extent the Leased Premises are assessed and billed separately with respect to any Property Taxes, then, at the election of the Landlord, the Tenant's share of such Property Taxes shall be computed on the basis of such separate assessments or apportionments; and
- (c) if the Landlord so directs, the Tenant shall pay Property Taxes directly to the taxing authorities. In that event, the Tenant shall make payment on or before the due date of each installment and shall provide to the Landlord on demand evidence of payment in the form of receipted bills.

6.02 Contesting Property Taxes

Property Taxes, or the assessments in respect of Property Taxes which are the subject of any contest by Landlord or Tenant, shall nonetheless be payable in accordance with the foregoing provisions hereof, provided, however, that in the event Tenant shall have paid any amount in respect of Property Taxes in excess of the amount ultimately found payable as a result of the disposition of any such contest, and Landlord receives a refund in respect thereof, the appropriate amount of such refund shall be refunded to or, at the option of Landlord, credited to the account of Tenant. Landlord may contest any Property Taxes with respect to the Leased Premises or all or any part of the Lands and appeal any assessments related thereto and may withdraw any such contest or appeal or may agree with the relevant authorities on any settlement, compromise or conclusion in respect thereof and Tenant consents to Landlord's so doing. Tenant will co-operate with Landlord in respect of any such contest and appeal and shall make available to Landlord such information in respect thereof as Landlord requests. Tenant will execute forthwith on request all

consents, authorizations or other documents as Landlord requests to give full effect to the foregoing.

Tenant will not contest any Property Taxes or appeal any assessments related to the Leased Premises or the Lands. However, provided Landlord is not otherwise contesting such assessment, Tenant may contest any separate assessment that relates solely to the Leased Premises, with the consent of Landlord, such consent not to be unreasonably withheld, provided that Tenant shall be solely responsible, and shall indemnify Landlord, for all costs, penalties or fees, relating to such contest, including without limitation, any resulting increase in Property Taxes. Tenant shall pay to Landlord forthwith upon demand such reasonable share as allocated by Landlord, acting reasonably, of all costs and expenses of any kind incurred by Landlord bona fide and acting reasonably in obtaining or attempting to obtain information in respect of or a reduction or re-allocation in respect of Property Taxes and any assessments related thereto including, without limitation, legal, appraisal, administration and overhead costs.

6.03 Business Taxes

In each and every year during the Term, the Tenant shall either pay all Business Taxes as Additional Rent or discharge within fifteen (15) days after they become due and indemnify the Landlord from and against payment of, and any interest or penalty in respect of Business Taxes.

6.04 Operating Costs

In each Rental Year, the Tenant will pay to the Landlord, as Additional Rent, the costs, expenses, fees, rentals, disbursements and outlays of every nature and kind paid, payable or incurred by or on behalf of the Landlord in owning, maintaining, repairing, replacing, operating, administering and managing the Leased Premises (the “**Operating Costs**”). The Operating Costs shall include, without limitation or duplication, all of the following costs, expenses, fees, rentals, disbursements and outlays:

- (a) the cost of the Landlord's insurance premiums on lands, buildings, improvements, equipment and other property in the Leased Premises together with all amounts falling below the level of the Landlord's insurance deductibles which are paid by the Landlord in connection with claims made against it, including the costs of the insurance detailed in Section 10.06. The Landlord's insurance and costs of insurance may include, without limitation, (A) loss of insurable gross profits attributable to the perils insured against by the Landlord or commonly insured against by landlords, including loss of Rent and other amounts receivable from the Tenant pursuant to this Lease, (B) commercial general liability coverage including the exposure of personal injury, bodily injury and property damage occurrence, including all contractual obligations coverage and including actions of the employees, contractors, subcontractors and agents working on behalf of the Landlord and (C) costs and expenses for defending and payment of claims below deductibles;

- (b) accounting, auditing, legal and other professional and consulting fees relating to any reports or actions required to be taken by the Landlord under the terms of this Lease;
- (c) the cost of any and all environmental inspections and Environmental Site Assessments of the Leased Premises conducted by the Landlord from time to time which are not the responsibility of the Tenant;
- (d) the cost of any and all repairs, replacements (including major repairs and any repairs and replacements required to comply with all Applicable Laws, or the requirements of the Landlord's insurers), preventative and ongoing maintenance and operation, inspection, engineering and service contracts and consulting services, if any, relating to the Leased Premises;
- (e) all costs incurred in contesting or appealing Property Taxes with respect to the Leased Premises or related assessments, including legal, appraisal and other professional fees and administration and overhead related thereto;
- (f) all other direct and indirect costs and expenses of every kind, to the extent incurred in or allocable to the operation, supervision, administration or management of work or maintenance at all or any part of the Leased Premises, or any of its appurtenances; and
- (g) Sales Taxes on the purchase of goods and services included in the calculation of Operating Costs to the extent that the Landlord has not recovered an input tax credit or refund in respect of the same; notwithstanding any other provision of this Lease, the amount payable by the Tenant under this paragraph shall be deemed not to be Rent but the Landlord shall have all of the same remedies for and rights of recovery of such amount as it has for the recovery of Rent under this Lease or otherwise.

6.05 Payment of Operating Costs

Before the commencement of each Rental Year, the Landlord will estimate the Operating Costs. The Tenant shall pay such estimated amount to the Landlord in equal consecutive monthly instalments, each in advance on the first day of each month during such Rental Year. The Landlord may from time to time during a Rental Year re-estimate any items of Operating Costs and may fix monthly instalments for the then remaining balance of the Rental Year so that such items will have been entirely paid during such Rental Year.

Within one hundred and twenty (120) days after the end of such Rental Year, the Landlord will determine and provide the Tenant with a statement in reasonable detail for the relevant Rental Year of the Operating Costs and Property Taxes. If the total of the monthly instalments paid by the Tenant in respect of estimated Operating Costs and Property Taxes for such Rental Year is less than the amount of Operating Costs and Property Taxes payable for such Rental Year shown on such statement, the Tenant shall pay the difference to the Landlord no later than the first day of the month immediately following the month in which the Tenant receives the statement. Provided that the Tenant is not in default, if the estimated amount of such monthly instalments paid is greater than the actual amount of Operating Costs and Property Taxes payable for such Rental Year, the

difference shall be applied in reduction of future payments, if any, due under this Lease, or if no future payments are due, shall be refunded to the Tenant. Neither party may claim a re-adjustment in respect of Operating Costs and Property Taxes for a Rental Year except by written notice delivered to the other party within one year after the delivery date of the Landlord's statement of Operating Costs and Property Taxes.

ARTICLE VII UTILITIES

7.01 Charges for Utilities

The Tenant shall pay promptly when due all charges, costs, accounts and any other sums payable by reason of the supply of the utilities to the Leased Premises and shall indemnify the Landlord from and against payment of, and any interest or penalty, in respect of all such utilities. The Tenant, at its own cost and expense, shall procure each and every permit, licence or other authorization required pertaining to any work required in respect of utilities consumed in or for the Leased Premises. The Tenant acknowledges and agrees that in the event any such utility supplier requires as a condition of the utility supply, or as a condition of constructing any infrastructure or installing any equipment to enable the utility supplier to provide such utility for the Tenant's use or consumption, that an agreement or contract shall be entered with the utility supplier and/or that a letter of credit or other form of security be posted with or delivered to the utility supplier, the Tenant shall, upon the written request of the Landlord, execute and deliver such agreement in the Tenant's name to such supplier, and cause to be issued, at the Tenant's sole cost and in the Tenant's name and deliver such letter of credit or other security to such supplier. Should the Tenant fail to execute and deliver any such agreement or to cause to be issued and delivered such letter of credit or to pay such other security deposit, within twenty (20) days of receipt of the Landlord's written notice that it do so, the Landlord shall be entitled on behalf of and as lawful attorney for the Tenant to execute and deliver such agreement in the name of and on behalf of the Tenant, and to pay such deposit on behalf of the Tenant, and in such event the Landlord's costs of so doing shall be payable by the Tenant forthwith upon demand as Additional Rent.

7.02 Tenant Not to Overload Facilities

The Tenant shall not install any equipment which overloads the capacity of any utility, electrical or mechanical facilities in the Leased Premises. The Tenant agrees that if any changes proposed or use by the Tenant requires additional utility, electrical or mechanical facilities, the Landlord may, in its sole discretion, if they are available, elect to install them in accordance with plans and specifications to be approved in advance in writing by the Landlord and the cost thereof, together with an administration fee equal to fifteen percent (15%) of such cost, shall be payable on demand by the Tenant as Additional Rent.

7.03 No Liability

In no event shall the Landlord be liable for any injury to the Tenant, its employees, agents or invitees, or to the Leased Premises, or to any property of the Tenant or anyone else, for any loss of profits or business interruption, indirect or consequential damages, or for any other costs, losses

or damages of whatsoever kind arising from any interruption or failure in the supply of any utility or service to the Leased Premises.

ARTICLE VIII HVAC

8.01 HVAC System

The Tenant shall be responsible, at its sole cost, for operating, maintaining, repairing and replacing the HVAC System throughout the Term. The Tenant covenants and agrees to take out and keep in force throughout the Term a standard servicing contract with a reputable company for the preventative maintenance and service of the HVAC System. Thirty (30) days prior to the end of each Rental Year (excluding the initial 2016 partial Rental Year), the Tenant will provide the Landlord with a certificate from a recognized, reputable heating and air-conditioning contractor approved in writing by the Landlord, stating that the HVAC System is in good working order. If such certificate is not provided, the Landlord may obtain such a certificate on behalf of the Tenant and if required, perform all necessary repairs and replacements to the HVAC System, and the cost of such certificate and work, together with an administration fee equal to fifteen percent (15%) of such cost, shall be payable by the Tenant to the Landlord as Additional Rent, forthwith on demand.

8.02 Landlord's Right to Maintain / Repair HVAC System

In the event that the Tenant neglects or refuses to maintain and repair the heating, ventilating and/or air conditioning system and equipment serving the Leased Premises, then the Landlord, after five (5) days written notice to the Tenant during which period the Tenant has not commenced to maintain or repair the system and equipment, may maintain and repair the heating, ventilating and/or air conditioning system and equipment serving the Leased Premises and the Tenant shall reimburse the Landlord its costs and expenses of all such repairs, replacements to and maintenance and operation of the heating, ventilating and air conditioning equipment and systems which serve the Leased Premises in accordance with the terms of Section 9.05.

8.03 Tenant's Responsibility

The Tenant will heat and ventilate the Leased Premises at all times throughout the Term in order to maintain reasonable conditions of temperature and humidity within the Leased Premises, in accordance with the terms of this Lease and all Applicable Laws.

ARTICLE IX USE OF THE LEASED PREMISES

9.01 Use of the Leased Premises

The Tenant shall not use the Leased Premises for any purpose other than the Permitted Use. The Tenant acknowledges that the Landlord is making no representations with respect to the zoning of the Property or the compliance therewith of the Tenant's Permitted Use and it shall be the Tenant's sole responsibility to satisfy itself in this regard.

9.02 Conduct and Operation of Business

The Tenant shall occupy the Leased Premises during the Term of the Lease and shall continuously and actively carry on the Permitted Use in the whole of the Leased Premises. In the conduct of the Tenant's business pursuant to this Lease the Tenant shall:

- (a) operate its business 24 hours a day, seven days a week, 365 days a year with due diligence and efficiency and maintain an adequate staff to properly serve all customers;
- (b) observe and obey the reasonable rules and regulations of the Landlord promulgated from time to time for reasons of safety, health or preservation of property or for the maintenance of the good and orderly appearance and operations of the Peace Bridge. Without limiting the generality of the foregoing, the Landlord, after consulting with the Tenant, may provide rules setting out where customers of the Tenant shall park their vehicles and may further provide for the orderly flow of traffic entering and exiting from the area of the Leased Premises provided such rules are reasonable and acceptable to the Tenant, acting reasonably. The Tenant agrees that it shall be responsible to provide any and all traffic direction required in or upon the Leased Premises.
- (c) abide by all reasonable rules and regulations and general policies formulated by the Landlord from time to time relating to the delivery of goods and merchandise to the Leased Premises;
- (d) not erect, maintain or display any signs or any advertising at or on the exterior of the Leased Premises without the prior written approval of the Landlord, such approval not to be unreasonably withheld;
- (e) keep the Leased Premises clean, neat and free of hazards and fire dangers at all times;
- (f) perform all landscaping and maintenance of all outside areas, including cleaning, line painting, snow and ice clearing and removal and salting of sidewalks, driveways and parking facilities and all lawn and garden maintenance;
- (g) provide policing, supervision and security as required;
- (h) maintain proper lighting in the parking facilities;
- (i) take any and all action necessary to prevent any of its employees from affecting the orderly flow of traffic in or upon the Leased Premises or any other lands owned by the Landlord;
- (j) dispose of all waste or recyclable material at a location in the Leased Premises at such times and in such manner as may be directed by the Landlord from time to time and in accordance with Applicable Law;

- (k) obtain a Licence and maintain its Licence in good standing;
- (l) provide adequate public restrooms for the anticipated number of travelers using the Peace Bridge, including persons who may not be patrons of the duty free shop;
- (m) in the event that the Tenant's Licence is terminated, revoked or suspended for any period of Time, or has expired, the Tenant shall cause its Licence to be reinstated or renewed within 60 days of such termination, revocation, suspension or expiration;
- (n) operate and manage the business at the Leased Property in a manner consistent with the Tenant's Proposal; and
- (o) abide by any and all directives of Canada Border Services Agency in regards to the conduct of the Tenant's business.

9.03 Nuisance and Waste

The Tenant shall not commit any waste upon, or damage to, the Leased Premises or commit any nuisance or other act or thing and will not perform any acts or carry on any practices which may damage the Leased Premises. The Tenant will not permit any odours, vapours, steam, water, vibrations, noises or other undesirable effects to emanate from the Leased Premises or any equipment or installation therein which, in the Landlord's opinion, are objectionable, and the Tenant will not cause any interference with the safety, comfort or convenience of the Landlord.

9.04 Observance of Law

The Tenant shall, at its own expense, comply with all Applicable Laws affecting the Leased Premises or the use or occupation thereof including, without limitation, police, fire and health regulations and requirements of the fire insurance underwriters. The Tenant shall carry out modifications, alterations or changes to the Leased Premises and the Tenant's conduct of business in or use of the Leased Premises which are required by any such authorities and shall keep its Licence in good standing.

9.05 Additional Services of the Landlord

The Tenant shall pay to the Landlord the costs of all Additional Services provided by the Landlord to the Tenant, together with an administration fee equal to fifteen percent (15%), forthwith on demand as Additional Rent.

9.06 Traffic Direction

In the event that the Landlord, after consultation with the Tenant, determines that additional traffic personnel are required as a result of the operations of Tenant, Landlord shall add such additional personnel as may be required, and Tenant and Landlord shall each pay one-half of the cost of such additional personnel.

ARTICLE X
TENANT'S ENVIRONMENTAL COVENANT AND INDEMNITY

10.01 Compliance with Environmental Laws and Environmental Approvals

The Tenant shall comply with all applicable Environmental Laws and shall obtain and comply with any Environmental Approvals that may be required for the Tenant's use of the Leased Premises. Without restricting the generality of the foregoing, the Tenant shall not use, generate, handle, transport, manufacture, refine, treat, store, remove, recycle or dispose of any Contaminant on the Leased Premises except in compliance with all applicable Environmental Laws.

10.02 Release of a Contaminant

- (a) In the event of a Release of a Contaminant at or from the Leased Premises other than in compliance with Environmental Laws, the Tenant shall immediately notify the Landlord of the Release and shall at its own expense, immediately retain a qualified environmental consultant acceptable to the Landlord, acting reasonably, to prepare a report assessing the full nature and extent of the Release and recommending the work plan to remediate the Release and to restore the Leased Premises, any affected abutting lands, as well as the natural environment, to the condition they were in before the Release, and the Tenant shall submit this report to the Landlord for the Landlord's approval acting reasonably.
- (b) Upon the Landlord's approval of the report and at the sole option of the Landlord, either the Tenant shall arrange for the implementation of the work plan, or the Landlord shall arrange for the implementation of the work plan, in either case at the cost of the Tenant, together with an administration fee of fifteen percent (15%) of such cost, which shall be payable as Additional Rent forthwith upon receipt of written demand for payment from the Landlord.
- (c) In the event that the Landlord, acting reasonably, does not approve of the report submitted by the Tenant, the Landlord shall retain a qualified environmental consultant to prepare a report, the cost of which plus an administration fee of fifteen percent (15%) of such cost, shall be borne by the Tenant. Upon the completion of the report, at the sole option of the Landlord, either the Tenant shall arrange for the implementation of the work plan, or the Landlord shall arrange for the implementation of the work plan, in either case at the cost to the Tenant together with an administration fee of fifteen percent (15%) of such costs, which shall be payable as Additional Rent forthwith upon receipt of written demand for payment from the Landlord.
- (d) In addition, the Tenant shall be liable to the Landlord for loss of rent, loss of profits, or for any consequential, incidental, indirect, special or punitive damages of any kind resulting from the Release and any remediation required pursuant to this Section.

10.03 Environmental Site Assessment

The Landlord and its agent shall have the right to enter upon the Leased Premises and conduct an Environmental Site Assessment from time to time. In the event the ESA discloses a Release, any apparent or imminent contravention of Environmental Laws or other matter requiring remediation or other action in order to prevent a Claim from arising for which the Tenant or any person for whom the Tenant is responsible at law, the Tenant shall pay for the ESA; in the event the ESA does not disclose such a Release or other condition, the cost of the ESA shall be paid for by the Landlord.

10.04 Tenant's Environmental Indemnity

The Tenant hereby indemnifies and saves harmless the Released Persons from and against any and all Claims which may be made against the Released Persons as a direct or indirect result of the failure or neglect by the Tenant to comply with any Environmental Laws or Environmental Approvals in respect to the Leased Premises, as a direct or indirect result of the existence on, in, under or adjacent to the Leased Premises of any Contaminant attributable to the Tenant's use or occupation of the Leased Premises or as a result of any Claims made against the Tenant arising from or involving Environmental Laws. This indemnity shall survive the termination or surrender of this Lease or any renewal or extension thereof and shall continue in full force and effect without time limit.

10.05 Governmental Authority Requirements

If any Governmental Authority having jurisdiction shall lawfully require the investigation, monitoring or remediation of any Contaminant used, held, released, discharged, abandoned or placed upon the Leased Premises or Released into the environment by the Tenant, then the Tenant shall, at its own expense, subject to Section 10.02, carry out all lawfully required work and shall provide to the Landlord full information with respect to all such work and comply with all applicable Environmental Laws with respect to such work. At the option of the Landlord, the Landlord may itself undertake such work or any part thereof at the cost and expense of the Tenant and that cost and expense plus an administration fee equal to fifteen percent (15%) shall be paid to the Landlord forthwith on demand as Additional Rent.

10.06 Pre Existing Contaminants

The Landlord hereby releases the Tenant from liability to the Released Persons for any and all Claims which may be made against the Released Persons as a result of the existence as at the Commencement Date of any Contaminant on, in, under or adjacent to the Leased Premises.

10.07 Responsibility for Environmental Contaminants

- (a) Despite any statutory provision or rule of law to the contrary, any Contaminants brought to or resulting from activities carried out on the Leased Premises during the Term or any renewal or extension thereof shall be and remain the sole and exclusive property of the Tenant and shall not become the property of the Landlord despite the degree of affixation of the Contaminants or the goods contained in the Contaminants to the Leased Premises and despite the expiry, repudiation,

disclaimer or earlier termination of this Lease; and, at the option of the Landlord, to the extent there is non-compliance with applicable Environmental Laws, any substance, including soil and groundwater contaminated by such Contaminants shall become the property of the Tenant.

- (b) The Tenant covenants and agrees to carry out at the request of the Landlord at its own cost and expense, remediation of all Contamination of the Leased Premises arising out of the Tenant's uses or occupation thereof so that the soil and groundwater condition of the Leased Premises and any affected areas beyond the Leased Premises or property owned or controlled by a third party, complies with remediation criteria set out in guidelines, policies, criteria or otherwise established under Environmental Laws. Risk assessment will not be used unless agreeable to the Landlord. This covenant shall survive the Termination Date.
- (c) At the option of the Landlord, the Landlord may itself undertake such work or any part thereof at the cost and expense of the Tenant and that cost and expense plus an administration fee equal to fifteen percent (15%) shall be paid to the Landlord forthwith on demand as Additional Rent; but having commenced such work, the Landlord shall have no obligation to the Tenant to complete such work.
- (d) The obligations of the Tenant hereunder relating to Contaminants shall survive any assignment, expiry, repudiation, disclaimer or earlier termination of this Lease. To the extent that the performance of those obligations requires access to or entry upon the Leased Premises, the Tenant shall have such entry and access after such expiry, repudiation, disclaimer or earlier termination only at such times and upon such terms and conditions as the Landlord may reasonably from time to time specify.

ARTICLE XI INSURANCE AND INDEMNITY

11.01 Tenant's Insurance

The Tenant will obtain and maintain the following insurance throughout the Term and any renewal or extension thereof:

- (a) "All risks" (including flood and earthquake) property insurance for the full replacement cost, insuring (a) all property owned by the Tenant, or for which the Tenant is responsible, and located within the Leased Premises including, but not limited to, fittings, fixtures, additions, alterations, partitions and all other Leasehold Improvements, and (b) the Tenant's furniture, inventory and equipment;
- (b) broad form boiler and machinery insurance on a blanket repair and replacement basis with limits for each accident in an amount equal to at least the replacement cost of the property with respect to all boilers and machinery owned or operated by the Tenant or by others (other than the Landlord) on behalf of the Tenant in the Leased Premises;

- (c) Business interruption insurance for a minimum period of twenty-four (24) months or such longer period that will reimburse the Tenant for direct and indirect loss of earnings and profit attributable to damage caused by the perils insured against under Subsections (a) and (b) above, and other perils insured by prudent tenants, or attributable to prevention of access to the Leased Premises by civil authorities;
- (d) Commercial general liability insurance under a standard commercial general liability form which shall include coverage against bodily injury, including death, and property damage. Such insurance shall:
 - (i) include extensions such as personal injury, blanket contractual liability, employers liability, owner's and contractor's protective liability, cross liability, severability of interests coverage, breach of warranty clause and non-owned automobile insurance;
 - (ii) cover the Tenant's use of the Leased Premises, including all of the Tenant's activities and operations therein and any other Persons performing work on behalf of the Tenant, and those for whom the Tenant is responsible at law;
 - (iii) be written on an "occurrence" form with inclusive limits of liability not less than Five Million Dollars (\$5,000,000.00) per occurrence or such higher limits as the Landlord may require from time to time;
 - (iv) include tenant's legal liability insurance covering the perils of "all risks" for the replacement cost of the Leased Premises, including loss of use thereof; and
 - (v) include standard automobile insurance covering third party liability with limits of liability not less than One Million Dollars (\$1,000,000.00) per accident, plus accident benefits, for all automobiles owned or operated by or on behalf of the Tenant; and
- (e) Any other form of insurance the Tenant, the Landlord or its Mortgagee may require from time to time, in form, in amounts insured, and for perils or risks insured against, which a prudent tenant would insure.

11.02 Requirements of Insurance

- (a) The policies required under Sections 11.01(a), 11.01(b), 11.01(c) and 11.01(d) above will also contain a waiver of all subrogation rights which the Tenant's insurers may have against the Released Persons whether or not the damage is caused by their act, error, omission or negligence.
- (b) All policies will:
 - (i) be placed with insurers acceptable to the Landlord, in a form acceptable to the Landlord;

- (ii) name the Released Persons and such other Persons as the Landlord may designate from time to time, as additional insureds;
 - (iii) be primary, and not excess or contributing with any other insurance available to the Landlord;
 - (iv) provide for deductibles which are acceptable to the Landlord;
 - (v) not be invalidated as respects the interests of the Released Persons, or any of them, by reason of any breach or violation of warranty, representation, declaration or condition contained in the policies, or any of them; and
 - (vi) contain a condition by insurers to notify the Released Persons in writing not less than thirty (30) days before any cancellation or material change in policy conditions is effected.
- (c) The Tenant will deliver certificates of insurance duly executed by the Tenant's insurers or their duly authorized representatives, evidencing that all such insurance described above is in full force and effect prior to going into occupancy of the Leased Premises and thereafter at least thirty (30) days prior to the expiry of the then current term of the insurance. Such certificates must confirm the limits and special conditions of such insurance as required by this Section. No review or approval by the Landlord of any such insurance certificates shall operate to derogate from or diminish the Landlord's rights under this Lease.

11.03 Sign Insurance

The Tenant shall insure and keep insured, at its expense, all signs relating to the Tenant's business placed or erected on the exterior of the Leased Premises for and in its name and in the name of the Landlord. The Tenant waives any right of complaint as to the form and location of the Landlord's existing signs.

11.04 Increase in Insurance Premiums

The Tenant will comply promptly with all requirements of the Insurer's Advisory Organization and of each insurer pertaining to the Leased Premises. If the occupancy of the Leased Premises, the conduct of business in the Leased Premises or any acts or omissions of the Tenant in the Leased Premises, or any part thereof, cause an increase in premiums for the insurance carried from time to time by the Landlord on the Leased Premises, the Tenant shall pay the increase as Additional Rent immediately after invoices for the additional premiums are rendered by the Landlord.

11.05 Cancellation of Insurance

If any insurance policy on the Leased Premises is cancelled, or threatened by the insurer to be cancelled, or if the coverage under any insurance policy is reduced in any way by the insurer because of the use or occupation of any part of the Leased Premises by the Tenant or by any occupant of the Leased Premises, and if the Tenant fails to remedy the condition giving rise to the cancellation, threatened cancellation or reduction of coverage within forty-eight (48) hours after

notice by the Landlord, the Landlord may either: (a) re-enter and take possession of the Leased Premises immediately by leaving upon the Leased Premises a notice of its intention to do so, following which the Landlord will have the same rights and remedies as are contained in Article XVII; or (b) enter upon the Leased Premises and remedy the condition giving rise to the cancellation, threatened cancellation or reduction of coverage, and the Tenant will immediately pay the costs and expenses to the Landlord, together with an administration fee equal to fifteen percent (15%) of such costs and expenses, which costs and expenses may be collected by the Landlord as Additional Rent, and the Landlord will not be liable for any damage or injury caused to any property of the Tenant or others located on the Leased Premises as the result of the entry. Such an entry by the Landlord is not a re-entry or a breach of any covenant for quiet enjoyment.

11.06 Landlord's Insurance

The Landlord will obtain and maintain the following insurance throughout the Term of this Lease and any renewal or extension thereof:

- (a) insurance on the Building and improvements and equipment contained therein owned or leased by Landlord or which Landlord desires to insure against damage by fire and extended perils coverage in those reasonable amounts and with those reasonable reductions that would be carried by a prudent owner of a reasonably similar premises, having regard to size, age and location;
- (b) broad form boiler and machinery insurance on a blanket repair and replacement basis with limits for each accident in an amount equal to at least the replacement cost of the boilers and machinery owned by the Landlord, including the HVAC System;
- (c) public liability and property damage insurance with respect to the Landlord's operations in the Leased Premises, in those reasonable amounts and with those reasonable deductibles, that would be carried by a prudent owner of a reasonably similar premises, having regard to size, age and location; and
- (d) such other forms of insurance which the Landlord or the Mortgagee considers advisable from time to time.

Despite this Section 11.06, and regardless of any contribution by the Tenant to the costs of insurance premiums: (i) the Tenant is not relieved of any liability arising from or contributed to by its negligence or its wilful acts or omissions; and (ii) no insurable interest is conferred upon the Tenant under any policies of insurance carried by the Landlord and the Tenant has no right to receive any proceeds of any such insurance policies. The costs of the Landlord's insurance under this Section 11.06 will be included in Operating Costs.

11.07 Loss or Damage

None of the Released Persons shall be liable for any death or injury from or out of any occurrence in, upon, at or relating to the Leased Premises, or damage to property of the Tenant or of others located on the Leased Premises, and will not be responsible for any loss of or damage to any property of the Tenant or others from any cause whatsoever, whether or not the death, injury, loss

or damage results from the negligence of the Released Persons, or any of them. Without limiting the generality of the foregoing, the Released Persons will not be liable for any injury or damage to Persons or property resulting from fire, explosion, falling plaster, steam, gas, electricity, water, rain, flood, snow or leaks from any part of the Leased Premises or from the pipes, appliances, plumbing works, roof, subsurface of any floor or ceiling or from the street or any other place, or from any dampness or by any other cause whatsoever. None of the Released Persons shall be liable for any damage caused by occupants of adjacent property, or the public, or caused by construction or by any private, public or quasi public work. All of the property of the Tenant kept or stored on the Leased Premises shall be kept or stored at the risk of the Tenant only, and the Tenant will indemnify the Released Persons and save them harmless from any claims arising out of any damages to that property including, but not limited to, any subrogation claims by the Tenant's insurers.

11.08 Indemnification of the Landlord

Despite anything to the contrary contained in this Lease, the Tenant will indemnify the Released Persons and save them harmless from and against any and all Claims (including loss of Rent payable by the Tenant under this Lease), in connection with loss of life, personal injury, damage to property or any other loss or injury whatsoever arising from or out of this Lease, or any occurrence in, upon or at the Leased Premises, or the occupancy or use by the Tenant of the Leased Premises, or any part thereof, or occasioned wholly or in part by any act or omission of the Tenant or by anyone permitted to be on the Leased Premises by the Tenant. If a Released Person, without fault on its part, is made a party to any litigation commenced by or against the Tenant, then the Tenant will protect, indemnify and hold the Released Person harmless and will pay all costs, expenses and reasonable legal fees (on a substantial indemnity basis) incurred or paid by the Released Person in connection with that litigation. The Tenant will also pay all costs, expenses and legal fees (on a substantial indemnity basis) that may be incurred or paid by the Landlord in enforcing the terms, covenants and conditions in this Lease, unless a court decides otherwise. This indemnity will survive the Termination Date.

ARTICLE XII MAINTENANCE, REPAIRS AND ALTERATIONS

12.01 Maintenance and Repairs and Replacement by the Tenant

The Tenant shall, throughout the Term and any extension or renewal thereof, at its sole cost, keep the Leased Premises in a first class condition, as required by the Landlord. The Tenant shall, at its sole cost and expense, maintain, repair and replace, as required, the following:

- (a) the whole of the Leased Premises including, but not limited to, entrances, and all glass, windows and doors, including their frames and mouldings;
- (b) all signs (both interior and exterior), partitions, trade fixtures and Alterations located in or upon the Leased Premises;
- (c) the exterior areas of and facilities on the lands included in the Leased Premises which include, without limitation, the parking areas, driveways, sidewalks, loading

areas, concrete aprons, curbs, gutters, access points, control gates, security barriers or fences, landscaped areas;

- (d) the structural components of the Building including, without limitation, the roof (including the roof deck and roof membrane), foundations, interior walls, interior concrete slab floors and exterior walls; and
- (e) all Building Systems.

If any of the foregoing repairs or replacements (excluding repairs or replacement of the HVAC System) are of a capital nature that are required as a result of the useful life of a capital asset coming to an end and are capable of being amortized by the Landlord according to generally accepted accounting principles, the Tenant may request that same be paid for by the Landlord and charged back to Tenant as Additional Rent with the costs of such items to be amortized over such period as determined by Landlord, provided that such determination is made in accordance with generally accepted accounting principles, on a straight line basis to zero and interest to be calculated and paid annually during the Term on the unamortized cost of such items in respect of which amortization is included at 4% per annum in excess of the Prime Rate. For greater certainty, capital repairs do not include (i) repairs necessary to keep an asset in as good working condition as such asset was as of the Commencement Date (reasonable wear and tear excepted); (ii) any wear on or elimination of parking lot lines, black topping or asphalt sealing, or tarring or asphaltting of cracks or holes or asphaltting of less than the entire of the driveway or parking lot; or (iii) any replacement of glass in the windows.

The Landlord shall cooperate with the Tenant so that in the performance of the Tenant's covenants in this Section 12.01 and the Tenant will have the benefit of any warranties held by the Landlord in respect of the Building.

12.02 Landlord's Approval of Alterations

- (a) Except as provided in Section 12.02(b), the Tenant will not make any repairs, alterations, replacements, Leasehold Improvements or improvements (collectively the "**Alterations**") to the Leased Premises without first obtaining the Landlord's prior written approval. Prior to commencing any Alterations, the Tenant will submit to the Landlord: (i) details of the proposed Alterations including drawings and specifications; (ii) any indemnification or security against liens, costs, damages and expenses the Landlord requires; and (iii) evidence that the Tenant has obtained the necessary consents, permits, licences and inspections from all governmental authorities having jurisdiction.
- (b) The Tenant shall not be required to obtain the Landlord's prior written approval for any minor decorations to the interior of the Building.
- (c) Alterations shall be performed at the Tenant's sole cost in a good and workmanlike manner by competent workmen, in accordance with the drawings and specifications approved by the Landlord and subject to the reasonable restrictions imposed by the Landlord, all in accordance with the Tenant Construction Criteria.

- (d) Despite anything to the contrary contained in this Section, the Landlord may, at its option, complete the Alterations. Upon completion of the Alterations, the Tenant will pay to the Landlord, upon demand, as Additional Rent, the cost of the Alterations as well as any fees related thereto as may be set out from time to time in the Tenant Construction Criteria, together with an administration fee equal to fifteen percent (15%) of such costs,

12.03 Landlord's Inspection

The Tenant permits the Landlord and its agents, upon reasonable prior notice to the Tenant and during normal business hours (except in emergency) of the Tenant without interference to the operations of the Tenant, to enter the Leased Premises to examine the condition, management and operation thereof. In addition to the Tenant's obligations under Section 12.01, the Tenant shall effect the maintenance and carry out any work referred to in that Section in accordance with notice from the Landlord following its inspection. The failure to give the notice does not relieve the Tenant from its obligations under Section 12.01.

12.04 Surrender of the Leased Premises

On the Termination Date or earlier termination of the Term, the Tenant shall peaceably surrender up the Leased Premises to the Landlord in first class condition, will deliver all of the keys for the Leased Premises to the Landlord and will inform the Landlord of all combinations of locks, safes and vaults, if any, in the Leased Premises. The Tenant shall also remove its trade fixtures and the Leasehold Improvements in accordance with the provisions of Section 12.07 at the Termination Date or earlier termination of the Term.

12.05 Repair where Tenant at Fault

Despite anything to the contrary contained in this Lease, if the Leased Premises or any part thereof, requires repair or replacement because of the act of the Tenant, the cost of such repair or replacement, together with an administration fee equal to fifteen percent (15%) of such cost, shall be paid by the Tenant to the Landlord as Additional Rent on demand.

12.06 Tenant Not to Overload Floors

The Tenant will not bring upon the Leased Premises, or any part thereof, any machinery, equipment, article or thing that by reason of its weight, size or use might in the opinion of the Landlord damage the Leased Premises and shall not at any time overload the floors of the Building.

12.07 Removal and Restoration by the Tenant

- (a) Any Leasehold Improvements made by the Tenant, or made by the Landlord on the Tenant's behalf, immediately shall become the property of the Landlord and will not be removed from the Leased Premises except that: (i) the Tenant may, during the Term, in the usual course of its business, and with the prior written consent of the Landlord, remove the trade fixtures which it has installed, but only if they have become excess for the Tenant's purposes or if the Tenant is substituting new and similar trade fixtures, and the Tenant is not in default under this Lease; (ii) the

Tenant will, at the expiration of the Term, at its cost, remove all of its trade fixtures installed in the Leased Premises and those Leasehold Improvements which the Landlord requires to be removed; and all Contaminants required pursuant to ARTICLE X.

- (b) The Tenant will repair any damage to the Leased Premises caused by the installation or removal of the items described in subsection (a) above. This obligation will survive the Termination Date or earlier termination of the Term.
- (c) If the Tenant does not remove any of the items described in subsection (a) which it is required to remove, the Landlord may do so and the Tenant will pay the Landlord's removal, disposal, sale and storage charges. Any Leasehold Improvements or other items not removed shall, at the Landlord's option, become the property of the Landlord and may be removed from the Leased Premises and sold or disposed of by the Landlord in such manner as it deems advisable.
- (d) The parties agree that the Tenant's trade fixtures do not include any of the following: (i) the HVAC System; (ii) floor coverings, ceilings, partitioning and draperies; (iii) light fixtures; (iv) washroom fixtures and hot water tank; (v) electrical service including any transformer; (vi) internal stairways; (vii) show windows and doors; and (viii) signs, all of which are Leasehold Improvements.

12.08 Tenant Capital Expenditures and Improvements

The Tenant shall, in compliance with the provisions contained in this Lease, complete the capital expenditures and Leasehold Improvements that are detailed in the Tenant's Proposal, which is attached to this Lease (as Schedule D) for purposes of outlining the proposed capital expenditures and Leasehold Improvements.

12.09 Notice of Defects

The Tenant will notify the Landlord of any damage to, or deficiency or defect in, the Leased Premises, and any equipment, utility systems or installations located therein or thereon, immediately following the date the Tenant becomes aware of such damage, deficiency or defect, whether or not the Landlord has an obligation to repair the damage, or remedy the deficiency or defect.

12.10 Liens

The Tenant will promptly pay its contractors, material men, suppliers and workmen and will do everything necessary to ensure that no lien is registered against the Leased Premises or against the Landlord's interest in the Leased Premises, or against the Tenant's interest in the Leased Premises. If such a lien is made, filed or registered on title to the Leased Premises, the Tenant will discharge it, or cause it to be discharged, immediately, at the Tenant's expense. If the Tenant fails to discharge any such lien as required herein, the Landlord, in addition to its other remedies hereunder, at law or in equity may, but shall not be required to, discharge the lien by paying the amount claimed into court, together with any security for costs, or by paying the amount claimed directly to the lien claimant and the amount so paid, together with all related costs and expenses,

including solicitor's fees (on a substantial indemnity basis) and an administration fee equal to fifteen percent (15%) of such costs and expenses, all of which shall be payable by the Tenant on demand as Additional Rent.

12.11 Signs and Advertising

The Tenant shall not paint, affix or display any sign, picture, advertisement, notice, lettering or decoration on any part of the exterior of or in any part of the Building without, in each case, the prior written approval of the Landlord, such approval not to be unreasonably withheld. All signs erected by the Tenant shall comply with all Applicable Laws.

ARTICLE XIII DAMAGE AND DESTRUCTION AND EXPROPRIATION

13.01 Damage or Destruction to the Leased Premises

Subject to the following, if the Building, or any portion thereof, are damaged or destroyed by fire or by other casualty, Rent shall abate in proportion to the area of that portion of the Building which, in the opinion of the Architect, is thereby rendered unfit for the purposes of the Tenant until the Building is repaired and rebuilt, and the Landlord shall repair and rebuild the Leased Premises. Notwithstanding the foregoing, if the Tenant has caused or contributed to the damage or destruction, it shall not be entitled to any abatement of Rent. Rent shall recommence to be payable one (1) day after the Landlord notifies the Tenant that the Tenant may reoccupy the Building for the purpose of undertaking its work.

13.02 Rights to Termination

Notwithstanding Section 13.01:

- (a) if the Building or any portion thereof are damaged or destroyed by any cause whatsoever and cannot be rebuilt within one hundred and eighty (180) days of the damage or destruction, the Landlord may, instead of rebuilding the Building, terminate this Lease by giving to the Tenant notice of termination within thirty (30) days after the occurrence of such damage or destruction and thereupon Rent shall be apportioned and paid to the date of the occurrence of such damage or destruction and the Tenant shall immediately deliver up vacant possession of the Leased Premises to the Landlord; and
- (b) if the Building shall, at any time, be wholly or partially damaged or destroyed to the extent that twenty-five percent (25%) or more of the Building has become unfit for use, the Landlord may elect, within thirty (30) days from the date of the occurrence of such damage or destruction, to terminate this Lease on thirty (30) days' notice to the Tenant, in which event Rent shall remain payable until the date of termination (unless it has abated under Section 13.01).

13.03 Certificate Conclusive

Any decisions regarding the extent to which the Leased Premises have become unfit for use or the length of time required to complete any repair or reconstruction shall be made by the Architect whose decision shall be final and binding upon the parties.

13.04 Insurance Proceeds

Notwithstanding Sections 13.01 and 13.02, in the event of damage or destruction occurring by reason of any cause in respect of which proceeds of insurance are insufficient to pay for the costs of rebuilding the Building, or are not payable to or received by the Landlord, or in the event that any Mortgagee or other Person entitled thereto shall not consent to the payment to the Landlord of the proceeds of any insurance policy for such purpose, or in the event that the Landlord is not able to obtain all necessary approvals and permits from Governmental Authorities to enable it to rebuild the Building, the Landlord may elect, on written notice to the Tenant, within thirty (30) days following the occurrence of such damage or destruction, to terminate this Lease, and the Tenant shall immediately deliver up vacant possession of the Leased Premises to the Landlord in accordance with the Landlord's notice.

13.05 Landlord's Rights of Rebuilding

In performing any reconstruction or repair, the Landlord may use drawings, designs, plans and specifications other than those used in the original construction of the Building and may alter or relocate the Building. The Landlord shall have no obligation to grant to the Tenant any allowances or inducements to which it may have been granted at the beginning of the Term, and shall not be required to repair any damage to Leasehold Improvements (which include the HVAC System), fixtures, chattels the Tenant's trade fixtures or any other property of the Tenant.

13.06 Negligence of the Tenant

Notwithstanding anything to the contrary contained in this Lease, if any damage or destruction by fire or other casualty to all or any part of the Leased Premises is due to the fault or the negligence of the Tenant, the Tenant shall be liable for all costs and damages incurred or suffered by the Landlord without prejudice to any other rights and remedies of the Landlord and without prejudice to the rights of subrogation of the Landlord's insurer.

13.07 Expropriation

If all or any part of the Leased Premises is taken or expropriated by any lawful expropriating authority, or purchased under threat of such taking, or if part of the Leased Premises is taken so that substantial alteration or reconstruction of the Building is necessary or desirable as a result thereof, this Lease shall automatically terminate on the date on which the expropriating authority takes possession. Upon any such taking or purchase, the Landlord shall be entitled to receive and retain the entire award or consideration for the affected lands and improvements, and the Tenant shall not have, and shall not advance, any claim against the Landlord for the value of the Tenant's property or its leasehold estate or the unexpired Term, or for costs of removal or relocation, or business interruption expense or any other damages arising out of such taking or purchase. Nothing herein shall give the Landlord any interest in or preclude the Tenant from seeking and

recovering on its own account from the expropriating authority any award or compensation attributable to the taking or purchase of the Tenant's improvements, chattels or trade fixtures, or the removal, relocation or interruption of its business. If any such award made or compensation paid to either party specifically includes an award or amount for the other, the party first receiving the same shall promptly account therefor to the other.

ARTICLE XIV

ASSIGNMENT, SUBLETTING, PARTING WITH POSSESSION AND CORPORATE CONTROL

14.01 Transfers

The Tenant shall not assign this Lease in whole or in part, sublet all or any part of the Leased Premises or part with or share possession of all or any part of the Leased Premises to any Person, mortgage, charge or encumbrance of this Lease or the Leased Premises or any part of the Leased Premises or other arrangement under which either this Lease or the Leased Premises become security for any indebtedness or other obligation (in each case, a “**Transfer**” and any such assignee, sub-tenant, occupant or any other Person to whom a Transfer is to be made is a “**Transferee**”) without the Landlord’s prior written consent, which consent, subject to the Landlord’s termination right set out in Section 14.02, shall not be unreasonably withheld. At the time the Tenant requests the Landlord’s consent to a Transfer, the Tenant shall provide the Landlord with a true copy of the offer and any information the Landlord may require with regard to the reputation, financial standing and business of the proposed Transferee, together with payment of a non-refundable Landlord’s administrative fee as determined from time to time by the Landlord (which fee is currently One Thousand, Two Hundred and Fifty Dollars (\$1,250.00) plus applicable Sales Taxes). This restriction on Transfer also applies to any Transfer by operation of law.

14.02 Landlord’s Option to Terminate

Within thirty (30) days following the date the Tenant requests the Landlord to consent to a Transfer and provides all the information required by the Landlord in order to consider such request, the Landlord shall notify the Tenant in writing (i) whether or not it elects to terminate this Lease or such part of it as is the subject of the Transfer and (ii) the date of such termination of this lease, if applicable. If the Landlord elects to terminate this Lease or such part of it as is the subject of the Transfer, the Tenant shall, within fifteen (15) days after receipt of the Landlord’s notice of its election to terminate, notify the Landlord whether it shall: (i) refrain from the Transfer; or (ii) accept the termination of this Lease or such part of it as is the subject of the Transfer. If the Tenant fails to deliver its notice within the fifteen (15) day period, this Lease, or such part of it as is the subject of the Transfer, shall be terminated upon the date for termination provided for in the Landlord’s notice. If the Transfer relates only to part of the Leased Premises, and this Lease is terminated as to that part, then the Tenant shall be required, at its sole cost and expense and subject to the terms of Section 12.02, to demise the Leased Premises to permit such termination to occur. If the Tenant advises the Landlord that it intends to refrain from the Transfer, then the Landlord’s election to terminate this Lease, or such part of it as is the subject of the Transfer, will have no effect.

14.03 Consent Required

- (a) The Landlord shall not be considered to be unreasonably withholding its consent, and may, whether or not it would otherwise be considered unreasonable, refuse to give its consent, if its reason or reasons for doing so is or are based upon all or any of the following factors:
 - (i) any factor which a court of law would consider to be reasonable;
 - (ii) the Tenant is in default under this Lease, whether or not an Event of Default has occurred;
 - (iii) the proposed Transfer does or could result in violation or breach of any covenants or restrictions affecting the Lands;
 - (iv) the Transferee does not have a good credit rating, is not of substantial means, is not capable of financing its acquisition of the Tenant's business and this Lease on terms and conditions at least as favourable as those originally obtained by the Tenant or has a history of unsuccessful business operations in the business conducted on the Leased Premises;
 - (v) the Transferee previously has been bankrupt or insolvent or has defaulted under the terms of any lease for industrial, commercial or office premises whether leased from the Landlord or other parties; or
 - (vi) any Mortgagee, whose consent is required, refuses to consent to the Transfer for whatever reason.
- (b) Upon any Transfer, the Landlord may collect Rent from the Transferee and apply the net amount collected to the Rent required to be paid under this Lease, but no acceptance by the Landlord of any payments by a Transferee shall be construed as a waiver of any right of the Landlord, or the acceptance of the Transferee as tenant or a release of the Tenant from the performance of its obligations under this Lease. Any document effecting the Transfer of this Lease and every document consenting to the Transfer shall be prepared by the Landlord or its solicitors and the legal costs and other expenses in connection with such documents shall be paid to the Landlord by the Tenant upon demand, as Additional Rent, in addition to the administration fee described in Section 14.01.
- (c) Any Transfer shall be subject to the following conditions:
 - (i) the Transferee and the Tenant shall promptly execute an agreement agreeing with the Landlord whereby the Transferee shall be bound by all the Tenant's obligations under this Lease as if the Transferee had originally executed this Lease as tenant and the Tenant shall agree to remain jointly and severally liable with the Transferee on this Lease and any renewals or extensions thereof and will not be released from any obligations under this Lease as amended from time to time;

- (ii) if the Transferee agrees to pay the Tenant or any Person any amount in excess of the Rent payable under this Lease or provides any other benefit in each case in consideration for the Transfer, the Tenant shall pay such excess amount or an amount equal to such benefit to the Landlord at the same time as the Rent is due and payable hereunder; and
- (iii) the Tenant shall pay for all of the Landlord's reasonable legal costs incurred to approve and complete all agreements necessitated by the Transfer.

14.04 No Advertising of the Leased Premises

The Tenant shall not advertise the whole or any part of the Leased Premises or this Lease for the purpose of a Transfer and will not permit any broker or other Person to do so on its behalf.

14.05 Corporate Ownership

- (a) If the Tenant is a corporation, any transfer or issue by sale, assignment, bequest, inheritance, operation of law or other disposition, or by subscription from time to time of all or any part of the corporate shares of the Tenant, or of any holding body corporate or subsidiary body corporate of the Tenant, or any corporation which is an affiliated body corporate of or is associated with the Tenant (as those terms are defined in the *Canada Business Corporations Act*, as amended, which results in any change in the present effective voting control of the Tenant by the Person holding that voting control at the date of execution of this Lease (or at the date of a Transfer to a corporation) shall be considered to be a Transfer to which Section 14.01 of this Lease apply. The Tenant shall make all corporate books and records of the Tenant available to the Landlord for inspection at all reasonable times.
- (b) Section 14.05(a) does not apply to the Tenant as long as: (i) the Tenant is a public corporation whose shares are traded and listed on any recognized stock exchange in Canada or the United States; or (ii) the Tenant is a private corporation and is controlled by a public corporation described in item (i).
- (c) The Tenant represents and warrants to and in favour of the Landlord that it has provided to the Landlord a certificate of an officer of the Tenant showing the current ownership and effective voting control of the Tenant as at the date hereof.

14.06 Assignment or Transfer by the Landlord

If the Landlord sells, leases or otherwise disposes of the Leased Premises, or if it assigns this Lease or any interest of the Landlord in it, then, to the extent that the purchaser, transferee or assignee assumes the obligation of the Landlord under this Lease, the Landlord shall, without further agreement, be released from all liability with respect to the Landlord's obligations under this Lease. In addition, upon the Landlord transferring any outstanding Letter of Credit to the purchaser, transferee or assignee, the Landlord shall be released from all liability to the Tenant in connection therewith.

ARTICLE XV ACCESS

15.01 Right to Show the Leased Premises

The Landlord and its agents have the right to enter the Leased Premises at all times to show them to prospective tenants.

15.02 Emergencies

If the Tenant is not personally present to permit an entry into the Leased Premises at any time when for any reason an entry is necessary or permitted, the Landlord or its agents may forcibly enter them without liability and without affecting this Lease.

15.03 Access Not Re-entry

Any entry by the Landlord on the Leased Premises in accordance with the provisions of this Lease shall not be considered a re-entry or a breach of covenant for quiet enjoyment.

15.04 Roof Rights

- (a) The Landlord may at any time, and from time to time, prior to or during the Term, grant a licence (a “**Roof licence**”) to third parties (individually a “**Roof Licensee**”) for the purpose of installing, operating and maintaining equipment (“**Roof-Top Equipment**”) on the roof of the Building, it being understood and agreed that the Roof-Top Equipment does not include any part of the HVAC System. Without limiting the rights which the Landlord may grant to the Roof Licensee, the Roof Licensee shall:
 - (i) be entitled to have such access to the Leased Premises at times agreed upon by the Tenant, the Tenant hereby agreeing to act reasonably in dealing with a Roof Licensee’s request for such access, as it may require in order to install, operate, maintain and repair the Roof-Top Equipment. For greater certainty, the foregoing right shall apply to the Roof Licensee’s employees, servants, agents, contractors and those Persons for whom the Roof Licensee is responsible in law (collectively, the “**Roof Licensee’s Employees**”);
 - (ii) be entitled to:
 - (1) sell or otherwise deal with any good or service generated or provided by the Roof-Top Equipment in such manner as a Roof Licensee may determine; and
 - (2) install such equipment and wiring and cabling as may be required so that goods or services generated or provided by the Roof-Top Equipment can be distributed off-site of the Property; and

- (iii) be under no obligation to sell or otherwise make available to the Tenant any good or service generated or provided by the Roof-Top Equipment.

The Tenant shall not interfere with the exercise by the Roof Licensee of any rights granted to it by the Landlord.

- (b) If the Landlord grants a Licence to a Roof Licensee, then upon the commencement of the installation of the Roof-Top Equipment on the roof of the Building:
 - (i) the Tenant will have no further maintenance, repair or replacement obligations with respect to any damage to the Leased Premises caused by the Roof Licensee or the Roof Licensee's Employees; and
 - (ii) the Landlord shall thereafter be responsible, at its sole cost, for repairing all damage:
 - (1) caused to the roof (including, without limitation, the roof membrane) by the Roof-Top Equipment, including, without limitation, repairing all leaks in the roof caused by the Roof-Top Equipment; and
 - (2) to the Leased Premises caused by the Roof Licensee or the Roof Licensee's Employees, the Landlord and its contractors being entitled to have such access to the Leased Premises as may be required in order to carry out repair of any such damage.
- (c) except as set out in Section 15.04(b)(ii), the Landlord shall have no liability whatsoever for and the Tenant hereby releases the Landlord from all Claims arising out of damages, injuries (including, without limitation, bodily injuries) or losses (including without limitation, loss of life) caused or contributed to by the Roof-Top Equipment, the Roof Licensee or the Roof Licensee's Employees; and
- (d) if the Roof-Top Equipment is subsequently removed from the roof of the Building, the Landlord will (at its sole cost) repair all damage to the roof of the Building caused by the installation and removal of the Roof-Top Equipment and thereafter the provisions of Section 15.04(b) shall cease to have effect.

15.05 Right to Install Solar Panels

The Landlord shall be entitled to have such access to the Leased Premises at times agreed upon by the Tenant, the Tenant hereby agreeing to act reasonably in dealing with the Landlord's request for such access, as it may require in order to install, operate, maintain and repair solar panels on the roof of the Building. The Landlord will not disturb the operation of the Tenant's business any more than is reasonably necessary in the circumstances while carrying on such work.

ARTICLE XVI
STATUS STATEMENT, ATTORNMENT AND SUBORDINATION

16.01 Status Statement

Within ten (10) days after a written request by the Landlord, the Tenant shall deliver, in a form supplied by the Landlord, a status statement or certificate to any Mortgagee or purchaser of the Leased Premises, or to the Landlord, stating the following:

- (a) that this Lease is unmodified and in full force and effect (or if there have been modifications, that this Lease is in full force and effect as modified and identifying the modification agreements) or if this Lease is not in full force and effect, the certificate shall so state;
- (b) the Commencement Date;
- (c) the date to which Rent has been paid under this Lease;
- (d) whether or not there is any existing default by the Tenant in the payment of any Rent or other monies due and owing under this Lease, and whether or not there is any existing or alleged default by either party under this Lease with respect to which a notice of default has been served and if there is any such default, specifying the nature and extent of it;
- (e) whether there are any set-offs, defences or counter claims against enforcement of the obligations to be performed by the Tenant under this Lease; and
- (f) with reasonable particularity, details respecting the Tenant's financial standing and corporate organization.

16.02 Subordination and Attornment

The Tenant's rights under this Lease are subordinate to any Mortgages registered on title to the Lands, or any part thereof, from time to time. Upon request, the Tenant shall subordinate this Lease and all of its rights under it, in the form the Landlord requires, to any such Mortgage, and if requested, the Tenant shall attorn to the Mortgagee. The Tenant shall, if possession is taken under, or any proceedings are brought for the foreclosure of, or the power of sale is exercised under any Mortgage granted by the Landlord or otherwise in existence against the Leased Premises, attorn to the Mortgagee, and recognize the Mortgagee, as the Landlord under this Lease.

16.03 Financial Information

- (a) The Tenant shall, upon request, provide the Landlord with such information as to the financial standing and corporate organization of the Tenant as the Landlord or the Mortgagee requires. Failure of the Tenant to comply with the Landlord's request shall be a default under this Lease.

- (b) Without limiting the generality of the foregoing, the Tenant shall provide the Landlord with its most recent audited annual financial statements immediately upon request and in any event within one hundred and twenty (120) days of the end of each fiscal year of the Tenant.
- (c) The Tenant agrees to provide to the Landlord prompt notice of any impending financial difficulties that could lead to a secured creditor exercising, or providing notice of an intention to exercise, its remedies, including a notice under Section 244 of the *Bankruptcy and Insolvency Act* (Canada).

ARTICLE XVII DEFAULT

17.01 Event of Default

An “**Event of Default**” shall be considered to have occurred when any one or more of the following happens:

- (a) the Tenant fails to pay any Rent when it is due and such failure continues for five (5) days after notice from the Landlord to the Tenant of such failure;
- (b) the Tenant fails to observe or perform any other of the terms, covenants, conditions or agreements contained in this Lease and such failure continues for ten (10) days after notice from the Landlord to the Tenant specifying the failure (except as set out in paragraphs (c)–(n), both inclusive, below where the Landlord shall have no obligation to provide such notice to the Tenant);
- (c) the Term or any of the goods, chattels or fixtures of the Tenant on the Leased Premises are seized or taken in execution or attached by any creditor;
- (d) a writ of execution or sequestration is issued against the goods, chattels or fixtures of the Tenant;
- (e) the Tenant makes a sale in bulk of all or a substantial portion of its assets other than in a Transfer approved by the Landlord;
- (f) the Tenant sells or disposes of the goods, chattels or fixtures or removes them or any of them from the Leased Premises without complying with Section 12.07;
- (g) the Tenant abandons or attempts to abandon the Leased Premises or the Leased Premises remain vacant for ten (10) consecutive days or more without the prior written consent of the Landlord;
- (h) the Leased Premises are used by any Person other than those Persons entitled to use them under this Lease;
- (i) the Tenant makes an assignment for the benefit of creditors or commits any act of bankruptcy as defined in the *Bankruptcy and Insolvency Act* (Canada) or any

successor of it, or becomes bankrupt or insolvent or takes the benefit of any legislation now or hereafter in force for bankrupt or insolvent debtors;

- (j) an order is made for the winding up or liquidation of the Tenant, or the Tenant voluntarily commences winding-up procedures for liquidation;
- (k) an order or appointment is made for a receiver or a receiver and manager of all of the assets or undertaking of the Tenant;
- (l) any insurance policy covering any part of the Leased Premises is, or is threatened to be, cancelled or adversely changed or the premium cost is, or may be, significantly increased as a result of any act or omission by the Tenant or any person for whom the Tenant is responsible in law;
- (m) the Tenant's Licence is revoked, suspended or terminated; or
- (n) any default or event of default occurs under any lease or agreement to lease relating to other properties owned by the Landlord, leased to or occupied by the Tenant or any Person related to the Tenant.

17.02 Rights of the Landlord

Upon the occurrence of any Event of Default the following provisions apply:

- (a) The Landlord may terminate this Lease by notice to the Tenant, or re-enter the Leased Premises and repossess them and, in either case, enjoy them as of its former estate and the Landlord may remove all Persons and property from the Leased Premises and the property may be sold or disposed of by the Landlord as it considers advisable or may be stored in a public warehouse or elsewhere at the cost and for the account of the Tenant, all without service of notice or resort to legal process and without the Landlord being guilty of trespass or being liable for any loss or damage which may be occasioned thereby.
- (b) If the Landlord elects to re-enter the Leased Premises as provided in this Section, or if it takes possession pursuant to legal proceedings or pursuant to any notice provided for by law, it may either terminate this Lease or it may from time to time, without terminating this Lease, make those alterations and repairs which are necessary in order to re-let the Leased Premises or any part of them for a term (which may be for a term extending beyond the Term) and at a rent and upon those other terms, covenants and conditions which the Landlord, in its discretion, considers advisable. Upon each reletting, the rent received by the Landlord from the reletting shall be applied first to the payment of any indebtedness other than Rent due under this Lease from the Tenant to the Landlord; second to the payment of any costs and expenses of the reletting including brokerage fees and solicitors' fees and the costs of the alterations and repairs; third to the payment of Rent due and unpaid under this Lease; and the residue, if any, shall be held by the Landlord and applied towards payment of future Rent as it becomes due under this Lease. If the rent received from the reletting during any month is less than the Rent to be

paid during that month by the Tenant under this Lease, the Tenant will pay the deficiency, which shall be calculated and paid monthly in advance on or before the first day of each month. No re-entry or taking possession of the Leased Premises by the Landlord shall be construed as an election on its part to terminate this Lease unless a written notice of that intention is given to the Tenant. Despite any reletting without termination, the Landlord may at any time afterwards elect to terminate this Lease for the previous breach. If the Landlord at any time terminates this Lease for any breach, in addition to any other remedies it may have, it may recover from the Tenant all damages it incurs by reason of the breach including, without limitation, the costs of recovering the Leased Premises, solicitors' fees (on a substantial indemnity basis) and the worth, at the time of the termination, of the excess, if any, of the amount of Rent and charges equivalent to Rent required to be paid under this Lease for the remainder of the Term over the then reasonable rental value of the Leased Premises for the remainder of the Term.

- (c) The Landlord may remedy, or attempt to remedy, the default of the Tenant and in so doing may make any payments due or alleged to be due by the Tenant to third parties and may enter upon the Leased Premises to do any work or other things therein or thereon, in which case all the Landlord's costs and expenses, together with an administration fee of fifteen percent (15%) of such costs and expenses, shall be payable on demand by the Tenant as Additional Rent. The Landlord will not be liable for any loss or damage resulting from any action or entry by the Landlord under this Subsection 17.02(c) and will not be considered to have breached any covenant for quiet enjoyment.
- (d) The Landlord may recover from the Tenant the full amount of the current month's instalment of Rent together with the next three (3) months' instalments of Rent, all of which shall be deemed to be accruing on a day-to-day basis, and shall immediately become due and payable as accelerated Rent, and the Landlord may immediately distrain for such accelerated Rent together with any other Rent arrears.

17.03 Expenses

If legal action is brought for recovery of possession of the Leased Premises, for the recovery of Rent or any other amount due under this Lease, or because of the breach of any other terms, covenants or conditions contained in this Lease on the part of the Tenant to be kept or performed, and a breach is established, the Tenant shall pay to the Landlord all the expenses incurred in connection with it, including solicitor's fees (on a substantial indemnity basis), unless a court otherwise awards.

17.04 Waiver of Exemption from Distress

Despite anything to the contrary contained in this Lease or the provisions of applicable legislation, none of the goods and chattels of the Tenant on the Leased Premises at any time and from time to time during the Term, or any extension or renewal thereof, shall be exempt from levy by distress for Rent in arrears and the Tenant hereby waives any rights it has or might otherwise have under any such applicable legislation in that regard. If any claim is made for such an exemption by the

Tenant, or if distress is made by the Landlord, this Section may be pleaded as an estoppel against the Tenant in any action brought to test the right of the levying upon any of those goods which are named as exempted in any sections of any applicable legislation.

17.05 Remedies Generally

The exercise by the Landlord of any particular remedy does not preclude the Landlord from exercising any other remedy in respect of the occurrence of an Event of Default. No remedy shall be exclusive or dependant upon any other remedy, and the Landlord may from time to time exercise one or more of its remedies generally or in combination, those remedies being cumulative and not alternative.

ARTICLE XVIII MISCELLANEOUS

18.01 Rules and Regulations

The Rules and Regulations set out in Schedule "C" attached hereto form part of this Lease and the Tenant shall comply with and observe such Rules and Regulations throughout the Term. The Tenant's failure to comply with and observe the Rules and Regulations shall be a default under this Lease in the same manner as if the Rules and Regulations were set out as covenants in this Lease. The Landlord may from time to time establish new Rules and Regulations or amend, supplement or terminate the existing Rules and Regulations. Notice of the Rules and Regulations and any amendments, supplements or termination thereof, shall be given to the Tenant and the Tenant shall comply with and observe same from the date upon which it is so notified. The Rules and Regulations shall not conflict with or contradict the other provisions of this Lease.

18.02 Overholding

If the Tenant remains in possession of the Leased Premises after the end of the Term, or any renewal or extension thereof, without having executed and delivered a new lease, it shall be considered to be occupying the Leased Premises as a tenant from month-to-month on the same terms and conditions as are set out in this Lease, except that it shall be liable for payment of Rent at the rate equal to 150% of the Base Rent and Percentage Rate which it was responsible for paying during the last month of the Term, or any renewal or extension thereof, together with Additional Rent as set out in this Lease. In addition, the Landlord may exercise all of its rights and remedies under this Lease and at law to remove the Tenant from the Leased Premises.

18.03 Notices

Any notice, demand, request, consent or other instrument which may be or is required to be given under this Lease shall be delivered in person or sent by registered mail postage prepaid and shall be addressed: (a) if to the Landlord at the address set out in Section 1.01(a) or to such other Person or at such other address as the Landlord designates by written notice; (b) if to the Tenant, at the address set out in Section 1.01(b) or at such other address as the Tenant designates by written notice. If there is more than one Tenant, any notice under this Lease may be given by or to any one of them and will have the same effect as if given by or to all of them. Any notice, demand, request, consent or other instrument shall be conclusively deemed to have been given or made on

the day upon which the notice, demand, request, consent or other instrument is delivered, or, if mailed, then seventy-two (72) hours following the date of mailing and the time period referred to in the notice begins to run from the time of delivery or seventy-two (72) hours following the date of mailing. Either party may at any time give notice in writing to the other of any change of address of the party giving the notice and upon the giving of that notice, the address specified in it shall be considered to be the address of the party for the giving of notices under this Lease. If the postal service is interrupted or is substantially delayed, or is threatened to be interrupted, any notice, demand, request, consent or other instrument will only be delivered in person.

18.04 Registration

The Tenant will not register this Lease or any notice thereof on title to the Lands without the prior written consent of the Landlord and the Landlord's approval of the form and content of such registration.

18.05 Quiet Enjoyment

Provided the Tenant pays the Rent and other sums provided for under this Lease, and observes and performs all of the terms, covenants, and conditions on its part to be observed and performed, the Tenant will peaceably and quietly hold and enjoy the Leased Premises for the Term without hindrance or interruption by the Landlord or any other Person lawfully claiming by, through or under the Landlord subject, however, to the terms, covenants and conditions of this Lease.

18.06 Landlord's Co-Operation and Access

The Landlord will make commercially reasonable efforts to assist the Tenant with any reasonable request for co-operation in increasing the revenue to be generated from the Leased Premises, provided that such requests do not result in any interference with the Landlord's operations. The Landlord shall co-operate in order to allow vehicular traffic including cars, trucks and motor coaches, free and open access to the duty free shop operated at the Leased Premises.

18.07 Regulatory Changes

In the event an unanticipated introduction of or a change in any Applicable Laws causes a material adverse effect on the business operations of the Tenant at the Leased Premises, the Landlord agrees to consult with the Tenant to discuss the impact of such introduction of or change in Applicable Laws to the Lease.


18.08 Unavoidable Delay

Notwithstanding anything to the contrary contained in this Lease, if any party hereto is *bona fide* delayed or hindered in or prevented from performance of any term, covenant or act required hereunder by reason of Unavoidable Delay, then performance of such term, covenant or act is excused for the period of the delay and the party so delayed, hindered or prevented shall be entitled to perform such term, covenant or act within an appropriate time period after the expiration of the period of such delay. However, the provisions of this Section 18.06 do not operate to excuse the Tenant from the prompt payment of Rent and any other payments required by this Lease.

[END OF PAGE]

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


**BUFFALO AND FORT ERIE PUBLIC
BRIDGE AUTHORITY**

Per 
Name: *Ron Kleins*
Title: *general manager* 7/28/16

Per _____
Name:
Title:

I/We have authority to bind the Compact

PEACE BRIDGE DUTY FREE INC.

Per 
Name: *GREGORY G. O'HARA*
Title: *PRESIDENT*

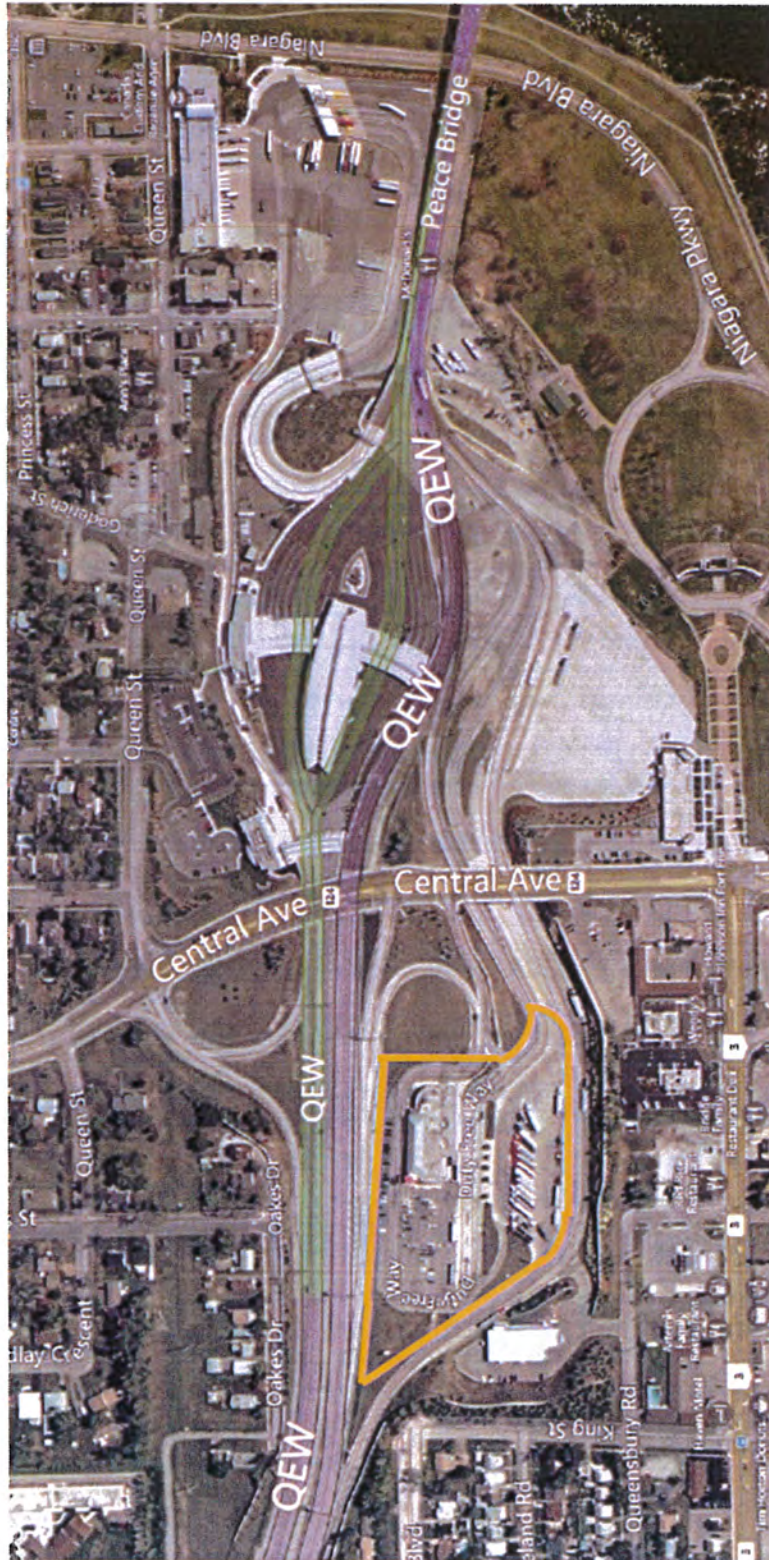
I have the authority to bind the Corporation

SCHEDULE "A"
LEGAL DESCRIPTION OF THE LANDS

PT LT 229-233 PL 519, PT LT 166-180 PL 519, PT DOUGLAS ST PL 505, PT LANE PL 519 ABUTTING LT 229-233, PT MAIN ST PL 519 CLOSED BY R0691414, R0458946, BB98631 & R0114588, PT LT 221-223 PL 519, LT 224, 225, 226 PT LT 227 PL 519, PT FOURTH ST PL 519, PT WADSWORTH ST PL 505 CLOSED BY R0691414, LT 81-91 PL 519, LANE PL 519 ABUTTING LT 81 TO 88 & LT 88 TO 91 CLOSED BY BB57684, LT 116-126 PL 519, LANE PL 519 ABUTTING LT 119 TO 126 & 116 TO 119 CLOSED BY BB30073 & R0143454 LT 181-195 PL 519, LANE PL 519 ABUTTING LT 181-195 CLOSED BY R0691414, LT 55-85 PL 524, PT PRICELAND RD PL 524 CLOSED BY R0221079, LT 1-4 PL 505 E/S DOUGLAS ST, LT 5 PL 505 N/S GARRISON RD, PT LT 6 PL 505 N/S GARRISON RD, PT LT 7 PL 505 W/S WADSWORTH ST, LT 8-10 PL 505 W/S WADSWORTH ST, LT 1-4 PL 505 E/S WADSWORTH ST, PT LT 5-8 PL 505 W/S NORTH ST, PT QUEENSBURY RD PL 524 CLOSED BY R0691414 PT 1, 2, 5, 6, 7, 8, 9, 10, 11, 12 59R10134, PT 1, 2, 3, 12 59R8848, PT 1 59R9201, AS IN R0655269, R0660595, R0658993 EXCEPT PT 1 59R11984, S/T BB29712, S/T R0485157, S/T R0486298, S/T R0486299, S/T R0688285, S/T R0688286, S/T R0688288, T/W R0655269; FORT ERIE E.

Being all of PIN 64220-0290 (LT)

SCHEDULE "B"
LEASED PREMISES PLAN



SCHEDULE "C"
RULES AND REGULATIONS

1. The Tenant shall not place or cause to be placed any additional locks upon any doors of the Building without the approval of the Landlord and subject to any conditions imposed by the Landlord.
2. The washrooms and other water apparatus shall not be used for any purpose other than those for which they were constructed, and no sweepings, rubbish, rags, ashes or other substances shall be thrown therein. Any damage resulting from misuse shall be borne by the Tenant by whom or whose agents, servants, or employees cause the damage. The Tenant shall not let the water run unless it is in actual use, and shall not deface or mark any part of the Building.
3. No one shall use the Building for sleeping apartments or residential purposes, or for the storage of personal effects or articles not required for business purposes.

SCHEDULE "D"
TENANT'S PROPOSAL

Please see attached as labeled Schedule D

SCHEDULE D

**Response to Request for Proposal
Operation of a Duty Free Shop at the Peace Bridge
Issued by the Buffalo and Fort Erie Public Bridge Authority**

**The Technical Proposal
May 9, 2016**

Submitted to: Buffalo and Fort Erie Public Bridge Authority
Attn: Kimberlee Kaiser, Executive Assistant
100 Queen Street
Fort Erie, Ontario
L2A 3S6

Proponent: Peace Bridge Duty Free Inc.
1 Peace Bridge Plaza
Fort Erie, Ontario
L2A 5N1

Contact: Gregory G. O'Hara
President and Chief Executive Officer
905-871-5400 ext. 107
gohara@dutyfree.ca

The attached bid includes confidential business and commercial information pertaining to Peace Bridge Duty Free Inc. Peace Bridge Duty Free Inc. respectfully requests that the contents of the bid not be disclosed to anyone other than employees, officers, directors or evaluation committee members of the Buffalo and Fort Erie Public Bridge Authority.

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2	Transmittal Letter	
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	• Non-collusive Proposal Certification	
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P.O. Box 339 Peace Bridge Plaza Fort Erie, Ontario L2A 5N1 Canada
P.O. Box 572 Buffalo, New York USA 14213-0572
T: 905-871-5400 F: 905-871-6335

May 9, 2016

Kimberlee Kaiser
Executive Assistant
Buffalo & Fort Erie Public Bridge Authority
100 Queen Street
Fort Erie, ON L2A 3S6

Dear Ms. Kaiser:

Peace Bridge Duty Free Inc. ("PBDF") is pleased to submit a proposal in response to the Request for Proposal (the "RFP") issued by the Buffalo & Fort Erie Public Bridge Authority (the "Authority") to develop and operate a duty free Store on the Canadian side of the Peace Bridge.

PBDF has reviewed the lease included in Appendix A of the RFP and confirms that PBDF understands the principal terms of the lease. If successful in this RFP process, PBDF is committed to entering into the lease in a form to be agreed upon by PBDF and the Authority, including those provisions identified as mandatory provisions in Part V, Section B of the RFP.

Peace Bridge Duty Free Inc. is the incumbent operator at the Peace Bridge Plaza and firmly believes that it is the best qualified to operate the duty free Store. The reasons for PBDF's belief in this regard are set out in full detail our proposal, which PBDF confirms is a firm and irrevocable offer.

PBDF believes that it is the best qualified to develop and operate the duty free Store at the Peace Bridge for many key reasons including:

- PBDF has a senior management group and staff that have extensive duty free industry business experience and its ownership is stable and has a strong financial capability.
- PBDF is an award winning duty free operator that has received numerous duty free industry distinctions over the years including the "Platinum Award" from the Frontier Duty Free Association in recognition for being the "Best Canadian Land Border Duty Free Store."
- PBDF has demonstrated a track record of generating incremental sales and mitigating significant business challenges including dealing with declining Peace Bridge vehicle traffic from Canada to the United States for more than a decade.





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- PBDF has engaged a renowned design team SmartDesign Group, that has a tremendous amount of experience with respect to specialized retail environments, to assist PBDF in creating an unparalleled luxury land border duty free shopping experience.
- PBDF has entered into many strategic relationships. These relationships will significantly enhance the business at the Store.

PBDF owners, staff and partners look forward to the exciting opportunity to develop and operate a land border duty free store at the Peace Bridge Plaza in Fort Erie, Ontario.

I, Gregory G. O'Hara, am an official with PBDF and will be the primary contact person with the Authority.

Yours truly,

Gregory G. O'Hara
President and Chief Executive Officer
Peace Bridge Duty Free Inc.
1 Peace Bridge Plaza
Fort Erie, Ontario

Email: gohara@dutyfree.ca
Phone: 905-871-5400 ext. 107



Non-collusive Proposal Certification



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In accordance with Item (iv) of Part IV.A.1.2a. of the RFP, I, Gregory G. O'Hara, President and Chief Executive Officer of Peace Bridge Duty Free Inc., hereby certify that:

- This proposal is genuine and is not made in the interest of, or on behalf of, an undisclosed person or corporation;
- Peace Bridge Duty Free Inc. has not directly or indirectly induced or solicited any other Proponent to submit a false or sham Proposal, or decline to submit a Proposal;
- Peace Bridge Duty Free Inc. has not sought, by collusion, to obtain any advantage over any other Proponent or over the Authority; and
- I, Gregory G. O'Hara, am entitled to represent Peace Bridge Duty Free Inc., empowered to submit the bid, and authorized to sign a lease with the Authority.

Gregory G. O'Hara
President and Chief Executive Officer
Peace Bridge Duty Free Inc.



Conflict of Interest Declaration



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In accordance with item (v) of Part IV.A1.2a. of the RFP, I, Gregory G. O'Hara, President and Chief Executive Officer of Peace Bridge Duty Free Inc., hereby certify, on behalf of Peace Bridge Duty Free Inc., that there is no actual or potential Conflict of Interest relating to the preparation of this proposal, and/or Peace Bridge Duty Free Inc. does not foresee an actual or potential Conflict of Interest in performing the contractual obligations contemplated in the RFP.

I also confirm that I have the power to bind Peace Bridge Duty Free Inc. and, therefore, I am entitled to make this certification and declaration on behalf of Peace Bridge Duty Free Inc.

In the interests of full disclosure, the only individual involved in the preparation of the proposal that has had any employment relationship with the Bridge Authority is an individual who worked as a summer student at the Buffalo and Fort Erie Public Bridge Authority ("**Authority**") over 35 years ago. The full details of his employment are:

Name: John Menchella

Last date of employment with the Authority: John Menchella was employed by the Authority for the summer terms of 1978 and 1979.

Name of last supervisor with the Authority: unknown

Description of individual's job functions at last position with the Authority: John Menchella was employed as a summer student with the Authority for a short period in 1978 and 1979. John Menchella was assigned tasks related to traffic direction.

Description of the nature of individual's participation in preparation of proposal: John Menchella acted as a consultant and provided advice regarding the preparation of the proposal.

Gregory G. O'Hara
President and Chief Executive Officer
Peace Bridge Duty Free Inc.



Statement of Insurability



McAvoy, Belan & Campbell
Insurance and Financial Services Ltd.

April 26, 2016

Peace Bridge Duty Free Inc.
P.O. Box 339
Peace Bridge Plaza
Fort Erie, Ont.
L2A 5N1

Attention: Jim Pearce

Dear Sir:

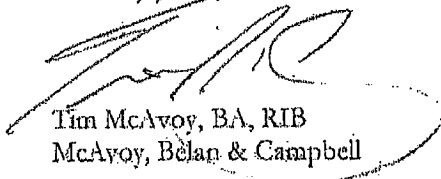
I have examined the lease requirements and confirm that we are currently providing and/or exceeding the required types and levels of insurance as outlined in the leasing conditions. We will have no problem maintaining these requirements in the future.

In addition to the lease requirements, we have added the following enhancements:

- 1) Business interruption on the main location has been extended to cover the bridge itself. This will allow the Duty Free income stream to continue if one of the same perils befalls the structure
- 2) Terrorism insurance, which is a standard exclusion in Canada, has been purchased through the international markets to cover the main location for property and loss of income. It has also been extended to cover the bridge structure as described above
- 3) Other coverage added to the main location include:
 - a. Privacy Breach Liability
 - b. Pollution Liability
 - c. Flood & Earthquake Coverage

If you require further information, please do not hesitate to contact me.

Sincerely yours,



Tim McAvoy, BA, RIB
McAvoy, Belan & Campbell

351 CANBORO ROAD
RIDGEVILLE ON
L0S 1M0
905.892.9590

350 KING STREET
PORT COLBORNE ON
L3K 4H3
905.834.3666

mbefinancial.ca

Consent to Surety



RBC
Royal Bank

Chris Miotto
Senior Account Manager

Commercial Financial Services
Grantham Shopping Plaza Branch
380 Scott Street
St. Catharines, ON L2M 3W4
Transit 04242

Tel: (905) 934-4415
Fax: (905) 934-4676
E-mail: chris.miotto@rbc.com

April 6, 2016

Jim Pearce
Manager Finance
Peace Bridge Duty Free Inc.
P.O. Box 339, Peace Bridge Plaza
Fort Erie, Ontario, L2A 5N1

Dear Jim:

Further to our discussions, we congratulate Peace Bridge Duty Free Inc. for their outstanding historical financial performance. This letter will confirm that RBC Royal Bank and Peace Bridge Duty Free Inc. have an outstanding business relationship spanning several years. RBC Royal Bank currently supports and will continue to support the company's vision and future plans.

We at RBC Royal Bank acknowledge the strong relationship that Peace Bridge Duty Free Inc. has with the Buffalo & Fort Erie Public Bridge Authority and such, offer the following surety statement. Based on the company's strong historical financial results, Peace Bridge Duty Free Inc. would qualify and be eligible for a Letter of Credit to be issued to the benefit of the Landlord, the Buffalo & Fort Erie Public Bridge Authority in the amount of \$500,000.

Peace Bridge Duty Free Inc. has made notable contributions to Fort Erie's community & economic development, and such, the outstanding financial results could not have been reached without the company's strong leadership and commitment to quality customer service.

Congratulations again, we trust the foregoing meets your requirements; however, should you require further information, please feel free to give me a call.

Yours truly,

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

Chris Miotto
Senior Account Manager

Independence Statement



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T: 905-871-5400 F: 905-871-6335

In accordance with Item 2 of Part IV.B of the RFP, I, Gregory G. O'Hara, President and Chief Executive Officer of Peace Bridge Duty Free Inc., hereby certify and declare, on behalf of Peace Bridge Duty Free Inc., that Peace Bridge Duty Free Inc. is independent of the Authority and that Peace Bridge Duty Free Inc. and its personnel will avoid any actual, apparent or perceived conflict of interest.

I, Gregory G. O'Hara, also confirm that I have the power to bind Peace Bridge Duty Free Inc. and, therefore, I am entitled to make this certification and declaration on behalf of Peace Bridge Duty Free Inc.

Gregory G. O'Hara
President and Chief Executive Officer
Peace Bridge Duty Free Inc.



Representations by the Proponent



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In accordance with Item e of Part IV.B3. of the RFP, I, Gregory G. O'Hara, President and Chief Executive Officer of Peace Bridge Duty Free Inc., hereby certify and represent, on behalf of Peace Bridge Duty Free Inc., that:

- i. All financial statements provided as part of Peace Bridge Duty Free Inc.'s proposal have been prepared in accordance with GAAP and present fairly the financial condition of Peace Bridge Duty Free Inc. at the dates of such statements;
- ii. No material adverse change in the business or financial condition of Peace Bridge Duty Free Inc. has occurred since the date of the most recent financial statements provided as part of the Proposal;
- iii. Peace Bridge Duty Free Inc. has filed all tax returns required to be filed at the date of the Proposal and has paid all taxes owing as at the date of the Proposal;
- iv. During the three years prior to the date of the Proposal, Peace Bridge Duty Free Inc. has not been a party to or otherwise subject to any material litigation or judicial proceeding nor is any such litigation or proceeding threatened at the date of the Proposal;
- v. Peace Bridge Duty Free Inc. is in compliance, in all material respects, with all laws applicable to Peace Bridge Duty Free Inc. and its business;
- vi. During the three years prior to the date of the Proposal, Peace Bridge Duty Free Inc. has not received any notice from any government or governmental body or agency of, or otherwise been involved in, any investigation, inquiry, charge or proceeding involving or affecting Peace Bridge Duty Free Inc.; other than issuance of a ticket for \$365 from the Niagara Region under the Smoke Free Ontario Act (which is being contested) which is automatically issued after one of our long-term staff erroneously sold cigarettes to someone under age. PBDF has re-educated all staff and is making additional system improvements to lessen any chance of reoccurrence.
- vii. During the three years prior to the date of the Proposal, Peace Bridge Duty Free Inc. has not made an assignment in bankruptcy, being petitioned into bankruptcy or been the subject of a receivership or other insolvency proceeding;





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In accordance with Item (iv) of Part IV.A.1.2a. of the RFP, I, Gregory G. O'Hara, President and Chief Executive Officer of Peace Bridge Duty Free Inc., hereby certify that:

- This proposal is genuine and is not made in the interest of, or on behalf of, an undisclosed person or corporation;
- Peace Bridge Duty Free Inc. has not directly or indirectly induced or solicited any other Proponent to submit a false or sham Proposal, or decline to submit a Proposal;
- Peace Bridge Duty Free Inc. has not sought, by collusion, to obtain any advantage over any other Proponent or over the Authority; and
- I, Gregory G. O'Hara, am entitled to represent Peace Bridge Duty Free Inc., empowered to submit the bid, and authorized to sign a lease with the Authority.

Gregory G. O'Hara
President and Chief Executive Officer
Peace Bridge Duty Free Inc.



Qualifications and Experience

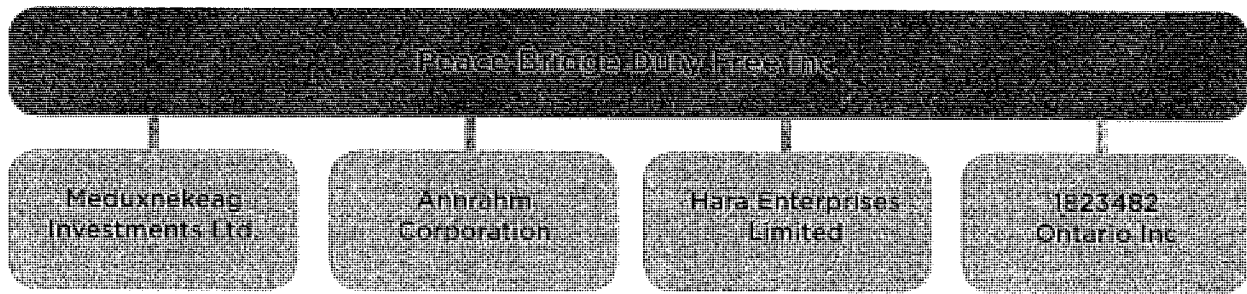
a. Proponent Name and Location of Proponent Headquarters

Peace Bridge Duty Free Inc. ("Proponent" or "PBDF") headquarters are located at 1 Peace Bridge Plaza, Fort Erie, Ontario, Canada where it operates the Peace Bridge duty free land border store ("Store").

All of the functions related to the duty free store will be based at 1 Peace Bridge Plaza in Fort Erie, Ontario. In addition, PBDF will have an off-site warehouse located at 1178 Concession Road, Fort Erie, Ontario to store fixtures not currently in use.

b. Description of Proponent

The ownership structure for Peace Bridge Duty Free Inc. is as follows:



Each shareholder has a 25% ownership in Peace Bridge Duty Free Inc.

The Directors and Officers of the Proponent are:

i) Directors

Barbara Slipp
Israel Harvey Rossman
John Michael Marsh
Gregory G. O'Hara

ii) Officers

Gregory G. O'Hara
Chairman
President
Chief Executive Officer

James Pearce
General Manager
Secretary-Treasurer

Brief Description of the Proponent's Business

PBDF is a business primarily focused on the operation of a land border duty free store. PBDF has operated a land border duty store on the Canadian side of the Peace Bridge crossing since November, 1986. PBDF is a major employer in the local community as it currently employs approximately 90 staff in its retail operations.

c. Proponent's Experience as an Operator of a Duty Free Store or Other Retail Operations for the Last Five Years.

Over the last five years PBDF has operated a land border duty free store and a duty free store at an international airport. Each will be described separately in response to the RFP information requested.

Land Border Duty Free Operations

i) Location:

Peace Bridge Duty Free Inc.
1 Peace Bridge Plaza
Fort Erie, Ontario, Canada

ii) Years in Business:

PBDF has successfully operated a large scale land border duty free store for 30 years since November, 1986.

It was managed by a true industry leader and innovator, George W. Slipp, from 1986 until his death in 2012. PBDF continues to follow Mr. Slipp's innovative business approach.

iii) Brief Description of Services Provided

PBDF is a multi-award winning land border duty free shop operator which currently manages approximately 28,000 square feet of duty free retail space. Peace Bridge duty free has won many prestigious awards over the years including the 'Platinum Award' for being the 'Best Canadian Land Border Duty Free Store' from the Frontier Duty Free Association.

PBDF is a full-line, full-service land border duty free store operator dedicated to providing its customers with quality merchandise and exceptional service at the Canada/USA border crossing in Fort Erie, Ontario. The land border duty free operation is open 24 hours a day, 365 days a year, and has a Tim Horton's and McDonald's, as well as a large food court on-site. In addition to its retail offering, PBDF also provides a FINTRAC authorized currency exchange service at competitive rates (with the guarantee 'better than the bank'), ample motor coach parking, and other travel services tied to selected marketing programs.

PBDF is a well established, highly successful, locally owned Canadian company that has been in operation since November 1986. PBDF has been a duty free leader in marketing as evidenced by its numerous industry awards and is devoted to promoting the border crossing and the local area as a destination and as a travel stop. As the last stop travelers will encounter prior to exiting Canada, PBDF takes its ambassadorial responsibilities very seriously and strives to provide each visitor leaving the Country with a very favourable lasting impression of Canada thereby ensuring their return visit.

PBDF is noted for offering luxury name brand products such as Ray Ban, Coach, Michael Kors, Tory Burch, Kate Spade, Tom Ford and more all which are sold at tax and duty free prices. PBDF is famous for its offering of quality luxury brand names and excellent customer service and holds the esteemed distinction of selling more Crown Royal than any other retailer in the world.

iv) Average Sales

The Store operation has generated average annual sales of \$22.4 million (approximately \$1.9 million per month or \$60,000 per day) over the last five years at the Peace Bridge Plaza location.

Airport Retail Operations

i) Location:

Hamilton International Duty Free and Departures ("HIDF")

Hamilton International Airport
9300 Airport Rd W
Mount Hope, Ontario

ii) Years in Business:

Peace Bridge Duty Free Inc, doing business as Hamilton International Duty Free and Departures, has operated the duty free and duty paid retail operations since 2007.

iii) Brief Description of Services Provided

PBDF offers passengers traveling internationally through Hamilton International Airport a duty free shopping experience. The HIDF retail outlet is located post-security in the Departures Lounge and also provides passengers traveling domestically with duty-paid 'convenience' item purchase options.

iv) Average Sales

PBDF has generated average annual sales of \$.5 million (approximately \$40,000 per month or \$1,400 per day) over the past five years at Hamilton International Airport.

d) Financial Statements

PBDF has audited financial statements for 2013 and 2014.

Audited financial statements for 2015 are not yet available and therefore the 2015 financial statements included in this RFP response are indicated as "Notice to Reader" at the time of this submission.

2016 Interim Financial Statements have also been provided in accordance with RFP requirements.

All the financial statements are found at the end of Tab 4.

As evidenced by the financial statements provided, PBDF has consistently demonstrated a strong financial position and is fully capable of financing the proposed Store development and operational plan.

e) Representations by the Proponent

Please see Tab 3 for Representations by the Proponent.

f. Canadian Border Services Agency (“CBSA”) License

PBDF currently has a license to operate the land border duty free shop at Fort Erie, Ontario, Canada. The CBSA license is effective until January 25, 2025.

PBDF does not have an impediment that would prevent it from obtaining a license from CBSA. Its current license extends beyond the proposed lease commencement date indicated in the RFP.

g. Description of Past Marketing and Sales Program

PBDF's ownership believes that it is very important to continually invest in marketing and sales programs in order to stimulate sales. PBDF has directly invested approximately \$800,000 per year and in partnership with its brand partners invests well over \$1 million per year in marketing and sales programs.

PBDF has conducted a multitude of highly successful marketing and sales programs over the years in order to maximize sales at its land border duty free store located at Peace Bridge Plaza in Fort Erie, Ontario.

As an acknowledgment of PBDF's effective and successful marketing and sales programs, PBDF has won many duty free industry awards in recognition of its efforts including the 2015 “Best Marketing” and “Best New Idea Awards” from the Frontier Duty Free Association.



Some examples of the effective marketing and sales programs that PBDF has developed and executed are as follow.

Loyalty Club Program

This is a **proprietary** and **exclusive** program developed and managed by PBDF. This program is designed to stimulate repeat business by offering the Store loyalty club members exclusive offers and targeted communications. Members are given the opportunity to pre-order products, access exclusive limited editions and receive special introductory prices. E-blasts are sent to members on a weekly basis, at a minimum.



PBDF has built the largest Canadian land border duty free loyalty program and has in excess of 60,000 loyalty club members and has a Facebook following of approximately 30,000. PBDF's proprietary data indicates that this program is effective at generating loyalty and program members spend 15% more, on average, than the rest of its customers.

Partnerships

PBDF has entered into numerous partnerships in order to generate store awareness and stimulate sales.

A key partnership that PBDF has developed over the years is with Diageo, the largest liquor company in the world. Diageo has asked PBDF to participate in an exclusive global travel retail program. PBDF is the only Canadian land border duty free operator to be chosen by Diageo to participate in this initiative. This ongoing program involves special promotional displays, new branded fixtures, specialized training, targeted pricing promotions, external media and online campaigns, etc.

PBDF has established promotional based partnerships linked to Darien Lake Amusement Park, Kissing Bridge Ski Resort, Buffalo Bisons Baseball, Erie County Fair, Live Nation, Fantasy Island Amusement Park, etc. PBDF's partnership with these popular points of interest provides discounted tickets and coupon offers to the Store. These partnerships have led to many new customers visiting the Store.

PBDF has an exclusive partnership with the Buffalo Niagara International Airport ("BNIA"). As part of this exclusive agreement, PBDF is officially known as the duty free store of BNIA. Approximately 600,000 Canadians fly out of BNIA annually. PBDF created this partnership to increase the capture and sales of those travelers crossing the border on their way to BNIA. PBDF, as part of its travel services offering, coordinates Stay n Fly packages with hotels near the airport as well as discount parking and provides other Store discounts. PBDF is prominently marketed on the BNIA website and BNIA is featured on PBDF's website.

As the largest seller of beer on the Canada/USA border, PBDF has coordinated a tri-partnership with Budweiser/Labatt and Elite Sports, the number one bus company for sports trips. The purpose of this tri-promotion is to provide added value to the bus customer, generate more beer sales for Budweiser/Labatt and increase total sales for PBDF.

PBDF has a travel service which provides exclusive travel offers to key destinations in the states of New York and Pennsylvania. For example, PBDF offers Canadian customers the opportunity to utilize PBDF's travel service whereby PBDF will make hotel reservations to destinations such as Erie and Grove City, Pennsylvania Shopping Centers, Splash Lagoon Family Getaways, Peak n Peak Ski and Golf packages, Ellicottville promotional packages, etc. Customers not only get free travel services from PBDF but they also get discount coupons for products in the Store and offerings related to the outlet malls. Customers pick up their reservation materials at the Store and this results in increased customer traffic.

Media and Publications

For 30 years, PBDF has invested significant funds in traditional media venues. These include radio, newsprint, flyers, magazines, publications and television. Depending on the particular day of the week, month or season or the current economic, border or currency situations, PBDF would alternate target markets to Western New York, the Greater Toronto Area, the QEW corridor from Mississauga to Fort Erie as well as the Hamilton and Niagara regions.

PBDF has developed an excellent relationship with the LCBO and is one of their largest land border duty free customers. PBDF promotes its offering in the LCBO Food and Drink magazine, which has a distribution of over 500,000. The purpose of this promotional initiative is to create awareness for the Store, to highlight the savings to customers by shopping duty free and to promote exclusive products available only in the Store.





PBDF has launched a **proprietary** and **exclusive** "Freeway" magazine specifically developed to target potential duty free customers. Distribution of this magazine is done through LCBO stores and is a result of the unique relationship that PBDF has developed with the LCBO over the years. In addition, 50,000 copies of this magazine are distributed through Buffalo News and 10,000 copies are distributed through the Grimsby Travel Centre. This magazine promotes key products and is designed to stimulate sales into the Store.



PBDF has entered into key contracts for strategic billboard placements. PBDF strategically uses billboard signage located along major highways to direct vehicular traffic to the Peace Bridge Plaza. This signage has proven to be effective at creating awareness, to showcase specific product offers and to highlight that Tim Horton's and McDonald's are located in the Store. The Tim Horton's and McDonald's brands have proven to be high traffic generators.

In-store Promotional Areas

In-store promotional areas are important because they are utilized to showcase new product launches and to stimulate sales. Many of the in-store promotions are done in partnership with PBDF's key Brand partners.

PBDF has developed a seasonal marketing calendar that highlights promotions based on the month, holidays and the events on both sides of the border. Promotions are strategically planned with billboards, signage and displays in store based on the time of year. For example during May, promotions are run on both sides of the border for the start of summer for the Canadian and American long weekends. Special events such as Buffalo Bills, Buffalo Sabres and Buffalo Bison games are promoted with discount ticket, merchandise and product offers during their specific seasons. During the holidays, PBDF runs a very unique marketing campaign to encourage Americans to do their holiday shopping at PBDF during their lunch hours with a Let US Pay Your Toll reward for coming to shop during this time.



An example of a successful in-store promotion was one which involved celebrity **Dan Ackroyd**, who is brand owner of Crystal Head vodka. He drew over 1000 customers and as a result of his appearance, PBDF set a duty free industry record for one day sales of Crystal Head vodka.

Digital Marketing

PBDF has developed a **proprietary** and **exclusive** website which has the domain of www.dutyfree.ca. This site is used to create awareness for the Store and to highlight key promotions in order to generate sales. The domain www.dutyfree.ca is ranked #1 in the duty free industry by Google and has surpassed 1 million visitors to the site, over 4 million page views and achieved a 28% return rate.

PBDF has purchased strategic digital ad placements on many high traffic websites including The Toronto Star, buffalonews.com, Buffalo Niagara International Airport, The Globe and Mail, The Weather Network, Yelp, TripAdvisor, Google, Facebook, Chinese Professional Association and crossbordershopping.ca

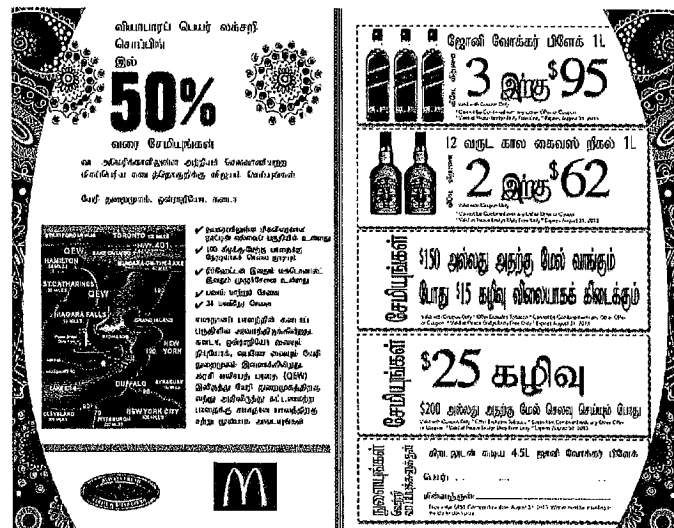


#Found@PBDF is an example of a digital campaign that leveraged Twitter, Facebook, and YouTube to generate social conversation around the brand. The campaign encouraged customers to share the great deals, interesting finds and favourite brands purchases at the Store, on their social networks, using #Found@PBDF. This initiative helped to create positive buzz and consumer advocacy and worked to brand the Store in terms of selection, uniqueness and exclusivity of products.

Another recent example of a digital marketing initiative is one that was conducted in March, 2016. PBDF enacted a heavily targeted online strategy with the Buffalo News and Western New York radio stations' email lists to encourage US audiences to travel to the Store as a destination stop. PBDF offered a "Pay Your Toll" reimbursement and gift cards as incentive offers and created a visual online campaign "This is What 30% more looks like" with a large money pile that visually enforced the additional savings our US customers would receive. The campaign was very successful and achieved 792,000 impressions with approximately 12,000 clicks.

Ethnic Marketing

PBDF has developed an Ethnic marketing program. PBDF utilizes this type of marketing to target specific groups with more focused and appropriately presented messages with the ultimate goals of generating increased store awareness and to stimulate sales. For example, PBDF utilized this type of marketing to target the almost one million East Indians that live in the Toronto area. Flyers were developed in their native language and distributed to neighborhoods populated by this customer segment. The flyers identified popular products and promoted special offers and pricing. This campaign was extremely successful and generated a noticeable increase in business.



Experience of Manager and Key Personnel

In 2010, PBDF made changes to its senior management team. Since these changes were implemented, PBDF sales have outperformed traffic by 10%. The current management team has been successful in creating a positive team focused culture to the complete satisfaction of staff.

All of PBDF's management, buying, accounting, marketing, sales and support staff live in the community where the Store is located. The key personnel that will be involved in the development and operation of the Store are indicated below. Their respective resumes are provided at the end of Tab 4.

Gregory G. O'Hara President and CEO

Greg has been President and CEO of PBDF since 2012 and has been a Director of PBDF since 1993. He has over 30 years of retail experience much of which has been in the duty free industry. In addition to PBDF, Greg is an owner in Hara Enterprises, a venture capital firm. Greg has a Master of Business Administration degree from Miami University, Ohio.

Greg will be the executive liaison with the Authority and will be responsible for leading the PBDF organization.

James Pearce

General Manager

Jim has been an employee of PBDF for 24 years and has experience in all aspects of the land border duty free business. He has held several key management positions throughout his career including at the PBDF Currency Exchange and Tourist Information Centre, PBDF retail at the Fort Erie Truck Plaza and duty free operations at Hamilton International Airport. Jim is a Chartered Professional Accountant and a Certified Management Accountant.

Jim will have oversight responsibilities for all aspects of the proposed operation including managing a team of 12 buyers for the various product categories sold at the PB store.

Bonnie Gates

Marketing Manager

Bonnie began her career at PBDF in 1997 as a retail floor supervisor. Since 2009, she has been the Marketing Manager at PBDF. She is responsible for the development and implementation of the PBDF marketing program and her efforts have resulted in PBDF receiving numerous marketing awards in recent years. Bonnie has a bachelor degree from the University of New Brunswick.

Bonnie will be responsible for developing and implementing the proposed marketing program and in-store merchandising.

Sandy Rienzo

Store and Operations Manager

Sandy has served in various management roles at PBDF for 25 years. Prior to joining PBDF, he held management positions in retail and in the food and beverage industry across Canada and Spain. Sandy attended the Western University - Engineering, Mohawk College - Electronic Technology and Niagara College - Operations Management.

Sandy will be responsible for providing oversight to PBDF full complement of ten supervisors and for effective sales and support of the operations.

Other PBDF Support

PBDF has entered into a consulting agreement with John Menchella, President of Menchella Consulting Group, Inc. John has over 30 years of business experience and has held various senior management positions at many large retail corporations in Canada during his career.

He has an extensive background in business development, marketing, general management and finance. John also has over 15 years of experience in the duty free industry. Prior to founding his own consulting company in 2014, John was Senior Vice President of Business Development and a member of the Executive Management team for one of the world's largest, global duty free organizations, The Nuance Group.

John attained a Bachelor of Business Administration from Wilfrid Laurier University and is a Chartered Professional Accountant and a Certified Management Accountant.

John has provided assistance to PBDF in their RFP response and if PBDF is the Successful Proponent, he will assist in the proposed store development. John will be part of an Advisory Board that will be established by PBDF to oversee the Store operations, be responsible for long range planning and business development initiatives.

Experience in Similar Retail Operations

Please see section c above for a description of other similar retail operations. In addition to its land border duty free operation at the Peace Bridge, PBDF has developed and operates a duty free operation at Hamilton International Airport. This operation serves customers traveling to international destinations and has been in existence since 2007.

The landlord contacts that can confirm PBDF's operational experience at these retail operations are:

<p>Ron Rienas <i>General Manager</i> Buffalo and Fort Erie Public Bridge Authority rr@peacebridge.com 905-871-1608</p>	<p>Lauren Yaksich <i>Director, Marketing and Communications</i> John C. Munro Hamilton International Airport lyaksich@flyhamilton.ca 905-679-1999</p>
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Distinguishing Features

PBDF is an award winning leader in the land border duty free industry since 1986 and has operated one of the largest land border duty free stores in the Americas since 1998. Over that time, it has gained unsurpassed knowledge of the challenges and opportunities of the Peace Bridge Plaza retail environment in which it operates. In recognition of its outstanding performance during the last several years, PBDF has received numerous awards including the prestigious "Platinum Award" bestowed by the Frontier Duty Free Association. This award has been received multiple times by PBDF and is for the distinction of being recognized as the "Best Canadian Land Border Duty Free Store."

PBDF has also been recognized in the duty free industry for its many outstanding marketing and sales programs. It is a multiple winner of industry awards in recognition of its exceptional marketing program including the 2015 "Best Marketing" award. Please see section g of this submission for examples of some of the many marketing and sales programs conducted by PBDF.

PBDF has major key distinguishing features when compared to other similar business. The key distinguishing features are commitment to:

- Investment in Innovative Marketing Initiatives
- Strategic partnerships
- Local Community Involvement

Investment in Innovative Marketing Initiatives

A key distinguishing feature of PBDF is that it does not rest on its past accomplishments despite having a distinguished record of growing its business significantly from the time it first began operations in 1986.

PBDF prides itself on being an **innovator** in the duty free business and an organization that evolves to meet industry and customer trends in order to maximize sales. Over the years, PBDF has developed and implemented many new innovative marketing initiatives.

PBDF has developed a comprehensive digital marketing strategy in order to promote the Store and to increase sales.

The PBDF domain www.dutyfree.ca is the #1 ranked site for all duty free searches according to

Google and has had over **one million visitors**. PBDF is in the process of developing a state of the art retail website that will further drive customer awareness and stimulate sales. This new website will be launched in the Fall of 2016 just in time for the holiday season. It will feature full product search, pre-order shopping cart features, travel reservation services, PBDF created videos and product information.

The new website will support all social media channels and will attempt to engage consumers of all age demographics. PBDF will have a full digital strategy to leverage these platforms that will include the development of the PBDF YouTube channel. With over 2 billion views a day, YouTube is the second most visited site in the world and an important platform to share short videos with people and an extremely powerful tool to help educate the duty free consumer. PBDF will utilize YouTube by inserting videos into product descriptions which will help grow the PBDF channel and increase awareness about the brands and exclusive products offered at PBDF.

PBDF is also exploring the use of the fastest growing social application Snapchat. Snapchat is an app where you can share a photo or video and allows PBDF to send exclusive content to its followers. Snapchat is an effective way to generate a buzz around a new product launch and highlight duty free exclusive offers. Similar to a response on Facebook or Twitter, PBDF will use Snapchat to send personalized messages and videos to thank customers for their loyalty.

PBDF is also exploring the use of mobile messaging applications to increase capture to the store. Ping Perks is a mobile push messaging service that leverages beacon technology to offer consumers relevant SMS promotions based on shopping behaviors.

Strategic Partnerships

In order to create awareness and to increase sales at the Store, PBDF has entered in many strategic partnerships over the years and will continue to look for new opportunities in this area in the future.

An important strategic initiative in this regard was to enter into an agreement to have high profile brands **Tim Horton's** and **McDonald's** establish operations within the Store. This initiative is important because it has proven to increase Store customer capture rates and ultimately generate increased duty free sales.

PBDF is currently seeking to enter into a key partnership with DFASS Distribution, LLC, a **DFASS Group** affiliated company ("DFASS"). DFASS, headquartered in Miami, Florida, is an award winning, global leader in duty free and specialty retail operations. DFASS generates \$600 million in annual revenue and has operations on five continents. DFASS is the world's largest in-flight duty free enterprise and also has many land border and international airport duty free operations. Some of the prominent international airports where DFASS has duty free operations include Chicago O'Hare, Dallas/Fort Worth, Fort Lauderdale/Hollywood and Orlando.

DFASS and PBDF intend to enter into a supply/services agreement which will include DFASS supplying PBDF specific product categories and assistance with merchandise planning related services. This relationship is important to PBDF because it provides PBDF access to the DFASS global supply network and economies of scale. It will also allow PBDF to leverage the DFASS global customer database to enhance customer buying preference understanding and this will translate into better targeted product offerings and increased sales.

The key benefit to the Authority of this partnership will be more revenue through increased sales.

PBDF continues to team up with many other strategic partners including key Brand Partners such as Diageo, the largest liquor brand owner in the world, in order to promote important duty free products; Destination Partners such as the Buffalo Bisons, Buffalo Sabres, Buffalo Bills and key Tour Bus Operators in order to drive additional customer traffic into the Store.

Most recently, PBDF entered into an agreement with a significant Asian Tour Bus Operator. This is very important because the Asian customer is by far the highest spending nationality in the duty free industry and a customer that buys very high end duty free brands.

This partnership is expected to result in significant incremental sales growth.

Local Community Involvement

PBDF is committed to supporting the local community. It has done so by providing approximately 90 local employment opportunities and by investing significantly in local community programs.

PBDF offers local community staff highly competitive wages and it is considered a major employer in Fort Erie. In addition to competitive wages, PBDF offers comprehensive benefit packages including a health program and a pension plan. Additionally, it provides incentive programs to its employees that recognize and rewards exceptional performance. PBDF strongly believes that this is a key part of its overall compensation program so that its employees are fully aligned with senior management in maximizing sales at the Store.

In recognition of its employment program efforts, PBDF was awarded "2011 Employer of the Year" by the Fort Erie Chamber of Commerce.

PBDF is also an integral part of the community because it employs local contractors, trades, cleaning staff, etc. in the maintenance and operation of its Store.

PBDF is proud to be a major donator and sponsor of many worthwhile programs both in the Niagara Region and Western New York. Some of the local initiatives that PBDF has supported or continues to support local schools and local athletic programs (e.g. Fort Erie Minor Hockey and Baseball), Walker Cancer Foundation, Champ Foundation of Buffalo, Douglas Memorial Hospital, Visitor Convention bureaus, Buffalo/Niagara Partnership, Cystic Fibrosis Fundraiser, Association of Childhood Diabetes and many more worthwhile community programs.



Identification of Anticipated Potential Problems

As the incumbent duty free operator, PBDF knows best the ongoing challenges and potential problems of operating the land border duty free store at Peace Bridge Plaza in Fort Erie. Some the the current challenges that it deals with includes:

- Fluctuating currency exchange rate related issues
- Enhanced retail competition
- Vehicle traffic issues including a steady decline in volumes
- Customer awareness and traffic perceptions and delays

PBDF knows best how to address these ongoing challenges and prides itself on successfully mitigating these issues by being innovative in its business and by being able to grow sales per vehicle despite these challenges. Examples of how PBDF addresses each of these challenges are contained in the section below.

i) Currency Exchange Rate Issues

Recently, when the exchange rate dramatically swung in favor of American tourism, PBDF promoted Canada, Toronto and Niagara to US markets through aggressive radio, TV and online campaigns. PBDF used best exchange rate guarantees ("better than the bank") to give the American consumer the confidence that they would receive the maximum benefit for the US dollar at the Store.

In the past, when the Canadian dollar strengthened versus the US dollar, Canadians intensified their cross-border shopping and visits to US destinations. To take advantage of this trend, PBDF partnered with many US based organizations such as Grove City, Kissing Bridge, Darien Lake, Buffalo Bisons, Erie County Fair, Fantasy Island and Buffalo Niagara International Airport, etc. in cross promotions designed to make the Store a stop for Canadians on their way to these locations.

ii) Retail Competition

PBDF has implemented a very successful sales campaign targeted to Canadian shoppers called "start your cross-border shopping at PBDF". PBDF sourced both different and competitive products from the US, including non-traditional duty free products, adjusted prices to be competitive with the large US retailers, and added the PBDF level of customer service not found at many of the competitive retail stores.

iii) Vehicle Traffic Issues Including a Steady Decline in Volumes

Since a peak of 3.3 million in Peace Bridge passenger vehicles from Canada to the United States in 2000, there has been a steady decline in this amount. In 2015, traffic declined to 2.1 million. This represents a 38% decline in passenger vehicles utilizing the Peace Bridge since 2000.

PBDF is proud of the fact that despite the significant reduction in passenger vehicles, during the same time period, duty free sales related to to passenger vehicles declined by only 12%, from \$21.0 million of sales in 2000 to \$18.5 million of sales in 2015. This achievement by PBDF was a result of it's many efforts to increase sales per vehicle through many initiatives including promotions, pricing and enhanced customer service. PBDF was able to increase sales per vehicle from \$50.33 in 2000 to \$64.27 in 2015. **This represents an average sales increase of 28% per vehicle.**

PBDF is proud that despite this significant challenge, sales at the Store have consistently outperformed traffic volume levels as measured by sales per outbound vehicle.

iv) Customer Awareness and Traffic Perceptions and Delays

In addition to numerous awareness generating marketing programs discussed earlier in this section, PBDF was successful, due to the great cooperation with the Authority, in creating Duty Free Way. This successful initiative involved the implementation of overhead signage on the QEW which directed travelers onto a dedicated roadway leading into the Store.

In addition, PBDF launched an advertising campaign called Fastest Border Crossing Guarantee. If customers experienced a longer wait time at the Peace Bridge versus any other Regional bridge they received 10% off their purchase.

In 2009, when changes to the US immigration documentation requirements was set to dramatically affect cross-border traffic, PBDF was successful and thrilled to have Erie County Clerk Kathy Hochul visit PBDF to hold a news conference with all media from Canadian and US to help educate people on the new requirements needed to cross the border. With PBDF's assistance, it worked with customers to help them obtain the proper identification. In conjunction with the Authority, PBDF issued toll handouts and organized clinics to sign new NEXUS applicants.



As evidence by the initiatives above, PBDF has consistently and effectively addressed the many challenges impacting the Store and continues to be proactive in this regard.

**Response to Request for Proposal
Operation of a Duty Free Shop at the Peace Bridge
Issued by the Buffalo and Fort Erie Public Bridge Authority**

**The Financial Terms Proposal
May 9, 2016**

Submitted to: Buffalo and Fort Erie Public Bridge Authority
Attn: Kimberlee Kaiser, Executive Assistant
100 Queen Street
Fort Erie, Ontario
L2A 3S6

Proponent: Peace Bridge Duty Free Inc.
1 Peace Bridge Plaza
Fort Erie, Ontario
L2A 5N1

Contact: Gregory G. O'Hara
President and Chief Executive Officer
905-871-5400 ext. 107
gohara@dutyfree.ca

The attached bid includes confidential business and commercial information pertaining to Peace Bridge Duty Free Inc. Peace Bridge Duty Free Inc. respectfully requests that the contents of the bid not be disclosed to anyone other than employees, officers, directors or evaluation committee members of the Buffalo and Fort Erie Public Bridge Authority.

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Tab A - Sales Initiatives

Peace Bridge Duty Free Inc. ("PBDF" or "Proponent"), incumbent operator of the Peace Bridge Plaza Land Border Duty Free Store ("Store"), has demonstrated its ability over the years to increase efficiency, customer traffic and sales while maintaining high quality services. This achievement is evidenced by the numerous industry awards that PBDF has received including the "Platinum Award" bestowed by the Frontier Duty Free Association. This award was given in recognition for being "Best Canadian Land Border Duty Free Store."



PBDF has been able to **increase efficiency** by studying customer traffic volumes and patterns and ensuring that it has adequate staffing during peak periods in order to reduce transaction processing wait times. PBDF understands that efficient transaction processing is an important part of the sales process and places a key emphasis in this area. Product placement in the Store is important in order to direct customers to key areas and to increase add on sales as customer approach the point of sale ("POS") counters.

PBDF has been and continues to be proactive in increasing customer capture rates into the store and stimulating sales. Initiatives implemented to increase store traffic and sales include:

Loyalty Club Program



This is a **proprietary** and **exclusive** program developed and managed by PBDF. This program is designed to stimulate repeat business by offering the Store loyalty club members exclusive offers and targeted communications. Members are given the opportunity to pre-order products, access exclusive limited editions and receive special introductory prices. E-blasts are sent to members on a weekly basis, at a minimum.

PBDF has built the largest Canadian land border duty free loyalty program and has in excess of 60,000 loyalty club members and has a Facebook following of approximately 30,000. PBDF's proprietary data indicates that this program is effective at generating loyalty and program members spend 15% more, on average, than the rest of its customers.

Brand Partner Promotions

PBDF has created a path-to-purchase route for its brand partners to invest in. This starts with e-blasts and external media advertising, followed by billboard and on-site signage and finishes in-store with promotional areas and offers.

Another example of a brand partner promotion is utilizing a tasting bar that will be set up in the liquor area for customers who wish to try new whisky brands. PBDF will also organize special tasting events with guest speakers and whisky makers for members of the PBDF Whisky Club. These members will get advanced notifications of all new and exclusive products and invitations to special gala events.

Strategic Alliances with Motor Coach Operators

PBDF has been an active member of the Ontario Motor Coach Association and the American Motor Coach Association for the past 25 years. As a result of these partnerships, PBDF has built very successful relationships to include the Store as a destination on their route crossing the border to the USA.

In the Summer of 2016, PBDF will implement a strategic alliance with an Asian Tour Company which will bring visitors from China to Canada. PBDF will be a dedicated stop on these tours when they return to the United States. This new business is projected to increase stores sales by over \$1 million.

PBDF has invested in creating the most generous bus incentive program on the border. The loyalty that these tour groups show with their partners is very strong and encouraging for PBDF to expand to other Asian tour groups.



In a separate motorcoach initiative, PBDF has partnered with a Southern US based travel company who bring almost 300 buses to Toronto/Niagara every year. PBDF is projecting that it will secure 80% of those buses. PBDF's investment will be in training and compensating staff to act as tour guides that travel with these motor coaches on the Canadian portion of their tour. PBDF staff will assist the tours throughout Niagara and Toronto and direct the buses back through PBDF as they return home. This partnership is projected to add \$600,000 in sales annually. It will also give valuable exposure to other US based tour agencies.

Another partnership has been established with Elite Sports Tours, Ontario's #1 Sport Travel Company, with over 50 bus tours dedicated to PBDF. PBDF introduced Budweiser/Labatt to Elite Sports and combined have created the largest Sports partnership in the duty free industry.

Other Strategic Alliances

In order to create awareness and to increase sales at the Store, PBDF has entered in many strategic partnerships over the years and will continue to look for new opportunities in this area in the future.

An important strategic initiative in this regard was to enter into an agreement to have high profile brands **Tim Horton's** and **McDonald's** establish operations within the Store. This initiative is important because it has proven to increase Store customer capture rates and ultimately generate increased duty free sales.

PBDF is currently seeking to enter into a key partnership with DFASS Distribution, LLC, a **DFASS Group** affiliated company ("DFASS"). DFASS, headquartered in Miami, Florida, is an award winning, global leader in duty free and specialty retail operations. DFASS generates \$600 million in annual revenue and has operations on five continents. DFASS is the world's largest in-flight duty free enterprise and also has many land border and international airport duty free operations. Some of the prominent international airports where DFASS has duty free operations include Chicago O'Hare, Dallas/Fort Worth, Fort Lauderdale/Hollywood and Orlando.

DFASS and PBDF intend to enter into a supply/services agreement which will include DFASS supplying PBDF specific product categories and assistance with merchandise planning related services. This relationship is important to PBDF because it provides PBDF access to the DFASS global supply network and economies of scale. It will also allow PBDF to leverage the DFASS global customer database to enhance customer buying preference understanding and this will translate into better targeted product offerings and increased sales.

PBDF continues to team up with many other strategic partners including key Brand Partners such as Diageo, the largest liquor brand owner in the world, in order to promote important duty free products: Destination Partners such as the Buffalo Bisons, Buffalo Sabres, Buffalo Bills and key Tour Bus Operators in order to drive additional customer traffic into the Store.

The key benefit to the Authority of these partnerships will be more revenue through increased sales.

Digital Awareness

PBDF is working on several programs that will increase customer awareness through digital technology. For example, if PBDF is the selected Proponent for the Peace Bridge Duty Free concession, as part of the proposed capital program, PBDF will implement exterior digital signage visible from the QEW in order to increase customer traffic into the Store.

New sales generating initiatives in progress include:

Website Enhancements

PBDF's proprietary domain www.dutyfree.ca has the distinction of receiving the number 1 ranking from Google for being the most visited duty free website. PBDF's website is being enhanced in order to evolve it into an ecommerce tool. Features of the website will include a product search engine that will highlight the full product portfolio. Additionally, the new website will include a pre-order option for customers to add all their items to a virtual basket and have them ready and waiting when they arrive. This newly enhanced website will be launched in the Fall of 2016.

Social Media

PBDF is constantly investigating the use of modern digital technologies that can assist in increasing awareness, growing sales and reward customer loyalty. A new, state of the art retail website will support all social media channels and attempt to engage new and old consumers of all age demographics. PBDF will have a full digital strategy to leverage social platforms that will include the development of the PBDF YouTube channel. YouTube's platform will give PBDF the ability to share videos with consumers which will not only educate but grow a loyal database. Videos will be produced by PBDF with support from suppliers and will be integrated into the new website increasing brand awareness.

PBDF will be experimenting with new advertising opportunities by utilizing some of the fastest growing social applications including Snapchat and Instagram. Snapchat is the trendiest social app with the 24-35 demographic which PBDF continues to target. Snapchat offers a personalized experience which PBDF can leverage to build brand awareness.

PBDF is also exploring the use of mobile messaging applications to increase capture to the store. Ping Perks is a mobile push messaging service that leverages beacon technology to offer consumers relevant SMS promotions based on shopping behaviors.



Maintaining High Quality Services

PBDF is dedicated to maintaining high quality services. As an industry leader, we take pride in our ability to provide a positive lasting impression to our Duty Free customers. PBDF strives to maintain its high standards with a proactive approach to measuring and maintaining customer satisfaction. This is accomplished by the following means:

- Mystery shopper inspections
- Customer surveys for satisfaction and areas for improvement
- Quality Assurance Checklist - A management checklist of exterior and interior operational standards, staff communication to customers, merchandising and customer sales service

- Continual staff training from customer service to product knowledge seminars
- Customer feedback from email and in person is immediately addressed by the Store Manager and reported to Executive Management
- Annual staff reviews with bonuses based on achieving specific customer service criteria
- Frequent interaction between supervisors and staff on new ways to improve the customer experience

The overall goal of PBDF is to ensure that the customer has a great experience when shopping in the Store and leave a lasting, favourable impression of PBDF.

Design - Renovations Plan for the Store

PBDF is excited about the opportunity to invest in a new store as part of a long-term concession contract, and is pleased to be working with SmartDesign Group to see its vision come to fruition.

SmartDesign Group, an award-winning full-service firm, focuses on the creation and development of commercial success through design. Their unique understanding of consumer behaviour and global trends, coupled with creative talent and solid strategic thinking, has helped operators around the world reach and exceed their business goals. SmartDesign Group's extensive experience provides a true understanding of passenger behaviour, and their innovative and creative solutions surprise and delight their customers.

In the proposed new vision for the Peace Bridge store, customer experience is at the forefront, with an improved exterior presence, increased visibility within the interior space, and an improved intergration of the latest technology, plus unique features such as a tasting bar in the liquor section and a makeover station in fragrance and cosmetics. Specifically, technology will be utilized to promote products and provide product knowledge. (i.e. iPads, digital display screens, etc)

The customer experience begins upon approach to the store, with an expanded wood and metal canopy and a landscaped area that greets travellers, offering a new covered area for unloading tour bus passengers in addition to creating a natural congregation point for visitors. Inside the store, an open space provides a natural place for an evolving promotion display. The layout has also been redesigned to enhance flow and to reorganize merchandise categories.

The design allows clear sightlines to the major product categories, with fragrance and cosmetics prominent on the left, liquor on the right, and confection and promotion in the centre. The customer flow is enhanced with differing materials that lead shoppers easily throughout the space, looping back around the liquor section before leading to the POS stations, with tobacco as a nearby final purchase option.

The new layout exposes the entire store, encouraging a strong sense of discovery. High-volume products have been located to drive traffic, and fixtures and displays provide opportunities for browsing and impulse purchases. Previously underutilized warehouse space has been opened up to allow for an additional 1,810 sq.ft. of shopping area and new merchandise opportunities. New ceiling structures bring refinement and warmth to the store and allow for the introduction of accent lighting.

Overall, the store now has a more contemporary look, with a neutral palette that enhances merchandise display. Sustainable options for all proposed materials and finishes have been considered, to convey respect for the environment and to display the relationship with the region and its natural beauty.

Demonstration bars in the fragrance area, a makeover station in cosmetics, a tasting bar in liquor and special promotion areas throughout the store provide both educational and enhanced service opportunities. Dedicated 'shop-in-shop' installations for premium liquor, regional wine and craft beer will offer additional memorable experiences, helping to ensure that this store is must for cross-border shoppers!

At the end of Tab H, you will find a mood board, floor plan, interior rendering, and exterior rendering. These will provide visuals of PBDF's proposed design intentions for the store.

All these design enhancements mentioned above will create an exciting new retail environment in the Store. These enhancements will improve customer flow and product displays, and will result in significantly increased sales.

Transition

PBDF as the incumbent operator does not require a start up plan, as it will have continuous operations. PBDF plans a complete major renovation of the Store starting in January 2017 and construction is expected to continue for 4 consecutive months.

PBDF is confident in its ability to implement a phased approach to the proposed renovation and upgrade of the current facility. PBDF will rely on the expertise of SmartDesign Group, a leading retail design consultant, with global experience executing duty free construction projects under very tight timelines and constraints.

PBDF can guarantee that there will be continuous service and sales throughout the renovation and with increased signage and awareness combined with knowledgeable staff, customers will not be affected by a phased construction schedule.

PBDF will deliver continuous operations/sales throughout the renovation of the Store.

Proposed Minimum Base Rent, Percentage Rent, Proposed Section 4.03 and Form of Lease

PBDF is pleased to offer the following financial terms (all in Canadian dollars) to the Authority in accordance with the guidelines provided in the RFP (including Appendix G).

Minimum Base Rent:

PBDF proposes a Minimum Base Rent of \$4,000,000.

Percentage Rent:

The Annual Percentage Rent proposed is based on the Tenant's Annual Gross Sales, as follows:

Annual Sales			Rent % Applicable to Range of Sales
\$0	up to	\$20,000,000	20
>\$20,000,000	up to	\$25,000,000	22
>\$25,000,000			24

To facilitate monthly payments of the Percentage Rent pursuant to section 4.03 of the Lease, PBDF proposes that Percentage Rent payable in a given month will be calculated on the basis of the Applicable Percentage Rent Rate based on Aggregate Year-to-Date Gross Sales x Tenant's Gross Sales during the month for which Percentage Rent is being calculated.

At the end of each year, there will be a reconciliation to ensure that the Percentage Rent paid on a monthly basis equals the Percentage Rent payable on the basis of the Tenant's Annual Gross Sales.

The tenant's annual gross sales will include sales related to products from the Store, currency exchange revenue and sales of its sub tenants and any other elements defined in the lease.

For clarity, based on \$25,000,000 in Tenant's Annual Gross Sales the Annual Percentage Rent would be \$5,100,000.

Proposed Section 4.03 (Percentage Rent)

PBDF is pleased to provide a completed section 4.03 (Percentage Rent) in the Form of Lease on the basis of PBDF's financial proposal. Please note that PBDF proposes that the Percentage Rent will be the same for the initial term of the lease and the extension term of the lease. This is reflected in section 4.03 proposed below.

4.03 Percentage Rent

The Tenant covenants and agrees with the Landlord to pay Annual Percentage Rent, as follows:

- The Tenant will pay to the Landlord 20% of the Tenant's Annual Gross Sales that are \$0 up to \$20,000,000
- The Tenant will pay to the Landlord 22% of the Tenant's Annual Gross that are in excess of \$20,000,000 but less than \$25,000,000
- The Tenant will pay to the Landlord 24% of the Tenant's Annual Gross Sales that are equal to or greater than \$25,000,00

To facilitate monthly payments of the Percentage Rent, the Tenant covenants and agrees with the

Landlord that if, during any month (including any broken calendar month) of the Term of the Lease or any Extension Term of the Lease, the Calculated Percentage Rent (which is based on the Tenant's Gross Sales during such monthly period) exceeds the monthly Base Rent for the same monthly period, the Tenant will within twenty-five (25) days following the conclusion of such monthly period, pay the resulting difference between the calculated Percentage Rent and the Base Rent together with all applicable taxes, to the Landlord as Percentage Rent.

The Calculated Percentage Rent is to be calculated as follows: Applicable Percentage Rent Rate x Tenant's Gross Sales during the month for which Percentage Rent is being calculated. The Applicable Percentage Rent Rate is based on the Tenant's Year-to-Date Annual Gross Sales.

At the end of each year, there will be a reconciliation based on the Tenant's audited Annual Gross Sales to ensure that the Tenant pays the higher of the Annual Percentage Rent or Minimum Base Rent.

Form of Lease:

PBDF confirms that it does not propose any changes to the Form of Lease.

Sub Tenancy Arrangements

PBDF currently has a sub tenancy agreement with the Tim Horton's restaurant and McDonald's restaurant which will expire on October 31, 2016.

PBDF proposes to continue with these sub tenancy agreements and has included the projected sales from the Tim Horton's and McDonald's restaurants located within the Store into its Pro forma.

PBDF is currently discussing with Tim Horton's and McDonald's the continuation of these sub tenancy agreements if PBDF becomes the Successful Proponent.



These sub tenants will increase Store awareness, customer volumes and sales.

Forecasted Sales

PBDF's financial projections for this opportunity were developed based on its extensive experience in land border duty free operations and consideration of many factors including reference to its proprietary database to determine what products appeal to key customer demographics, its analysis of the retail environment (i.e. traffic flows, customer volume, store flow and sight lines, etc.) and by soliciting input from key brand partners and duty free industry consultants.

PBDF began its analysis by examining the actual performance metrics of the current Store and the passenger demographics/volumes and associated spending behaviors. In addition to understanding the current situation, PBDF also looked at many new opportunities that would allow for a significantly improved business.

These opportunities include:

- New Merchandise Categories/Brands and optimization and expansion of the retail space.
- Improved proposed retail store design that will make the Store more inviting and increase customer penetration.
- New innovative technology applications, online activities and marketing initiatives.
- Consideration of how future traffic flows, customer volumes and changing demographics would impact store performance.

PBDF used projected proprietary passenger demographic/volume information and coupled it with its understanding of spending by customer segment. This information, in addition to many brand considerations, guided it on its proposed merchandise mix for the Store.

The Store will have appropriate foreign language speaking staff in order to converse with significant customer segments in their language of preference to stimulate sales.

PBDF's estimated spend per customer segment (car, bus and truck customer) is a function of many factors including customer demographics, customer volume, store design, increased retail space, product offerings, marketing initiatives, price, brand/product appeal, operational programs, and dwell time. Annual customer volume growth and associated average transaction value was projected by customer segment.

In Year 1, store downtime due to construction has been factored into the sales estimate. Store downtime due to construction was mitigated by taking a more expensive phased approach to the store development. This additional cost was partially offset by the benefit of continuous sales.

Based on the above, the forecasted sales at the Store including currency exchange revenue and its sub tenants sales during the term of the lease are as follows:

Forecasted Sales (\$ million)

Year	1	2	3	4	5	6	7	8	9	10
Sales	26.3	29.8	30.5	31.3	32.1	32.9	33.7	34.5	35.4	36.3

Year	11	12	13	14	15	16	17	18	19	20
Sales	37.2	38.1	39.1	40.0	41.0	42.1	43.1	44.2	45.3	46.4

Tab G - Operating and Capital Cost

Operating Costs:

Forecasted operating costs were projected based on a combination of PBDF's actual operating cost experience for the land border duty free operation, using 2015 financial results as a baseline, and by adjusting future costs by taking into consideration many key items including projected customer volumes by segment, new capital investment, property tax adjustments due to the new store development, etc.

PBDF projects to spend \$1 million annually on marketing and sales initiatives.

PBDF examined its fixed versus variable cost structure and considered this as it projected its expenses in relation to projected customer volumes and associate sales.

The inflation rate used for expense growth was 3%.

Capital Investment:

PBDF's capital projection included several items including new store development, new computer systems, equipment, etc. Details of our capital cost related to the facility/property only are described in more detail in Tab H of this submission.

Below are PBDF's forecasted operating and capital costs during the term of the lease.

Forecasted Operating and Capital Costs (\$000)

Year	1	2	3	4	5	6	7	8	9	10
Rent to Authority	5,405	6,246	6,425	6,608	6,796	6,988	7,185	7,388	7,595	7,807
Rent from Subtenant	-178	-201	-206	-211	-217	-222	-228	-233	-239	-245
Rent Cost to PBDF	5,227	6,045	6,219	6,397	6,579	6,766	6,958	7,154	7,355	7,562
Compensation	2,648	2,727	2,809	2,893	2,980	3,069	3,161	3,256	3,354	3,454
Marketing	1,021	1,052	1,083	1,116	1,149	1,184	1,219	1,256	1,293	1,332
Other	1,314	1,444	1,487	1,532	1,578	1,625	1,674	1,724	1,776	1,829
Total Operating Costs	10,210	11,268	11,598	11,938	12,286	12,644	13,012	13,390	13,778	14,177
Capital	7,000					1,250				

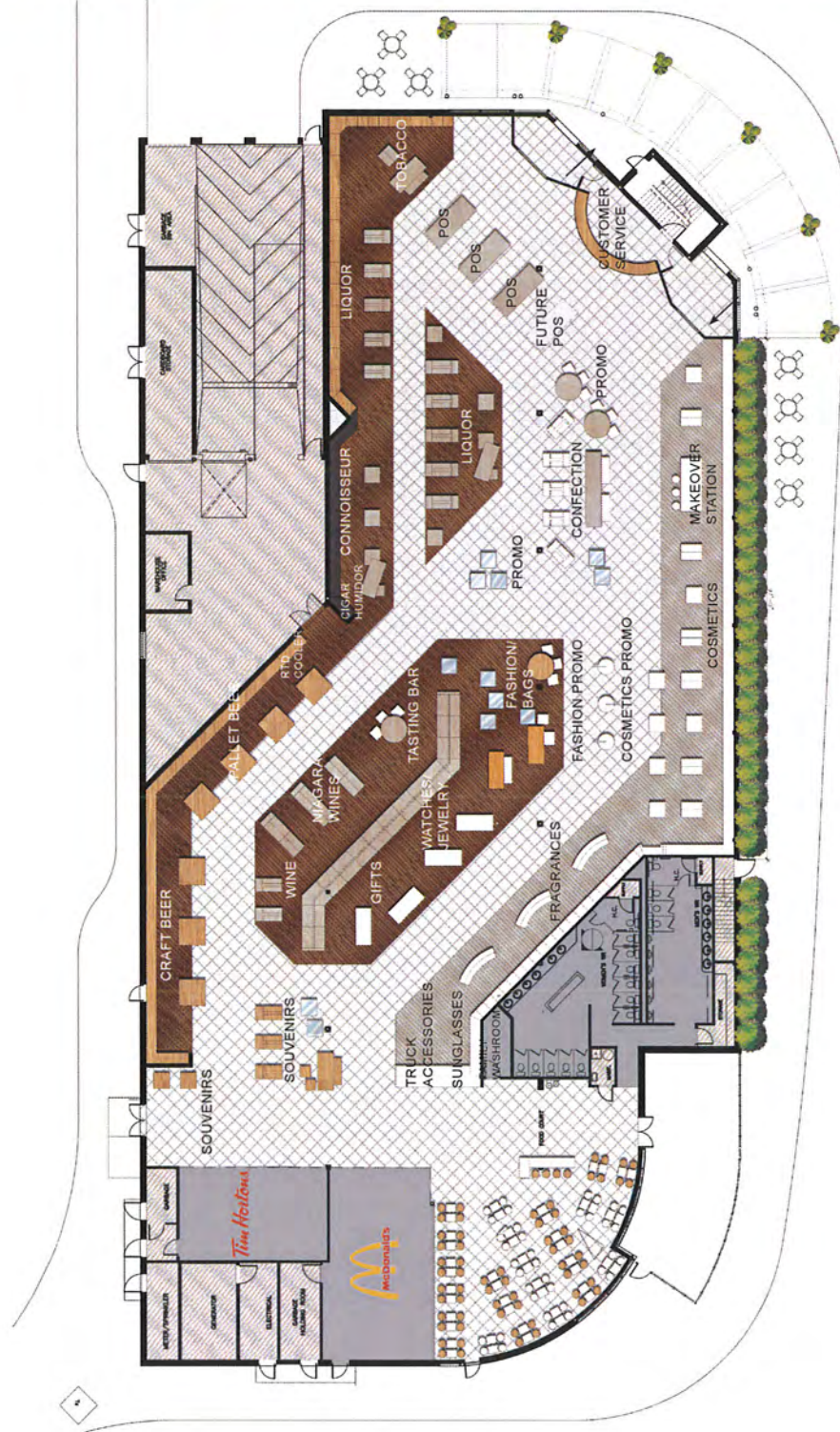
Year	11	12	13	14	15	16	17	18	19	20
Rent to Authority	8,025	8,248	8,477	8,711	8,951	9,198	9,450	9,709	9,974	10,246
Rent from Subtenant	-251	-258	-264	-271	-278	-284	-292	-299	-306	-314
Rent Cost to PBDF	7,773	7,990	8,212	8,440	8,674	8,913	9,158	9,410	9,668	9,932
Compensation	3,558	3,665	3,775	3,888	4,005	4,125	4,248	4,376	4,507	4,642
Marketing	1,372	1,413	1,456	1,499	1,544	1,591	1,638	1,688	1,738	1,790
Other	1,884	1,940	1,998	2,058	2,120	2,184	2,249	2,317	2,386	2,458
Total Operating Costs	14,587	15,008	15,441	15,885	16,343	16,813	17,293	17,791	18,299	18,822
Capital	1,250					1,250				

Capital Investment

Our initial Store Capital Investment is estimated to be \$6,000,000. Below is a breakdown of the key components.

General Construction including millwork/POS	\$ 4,975,000
FF&E (Food Court/Exterior Seating)	125,000
Lighting & Media	300,000
	<hr/>
Subtotal Before Consultant Fees	\$ 5,400,000
	<hr/>
Consultant Fees	600,000
	<hr/>
Total Initial Store Capital Investment	<u><u>\$ 6,000,000</u></u>

In addition to the initial capital described above, Peace Bridge Duty Free has provided for Refurbishment Capital in years 6, 11, and 16 of this lease. The amount allocated in each refurbishment year is \$1.25 million. The total amount of Store capital investment that PBDF will commit to over the course of the lease is \$9.75 million.





Peace Bridge Duty Free



Exterior
Rendering



This is Exhibit “B” referred to in the Affidavit of Jim Pearce sworn remotely this 12th day of December 2021.

A handwritten signature in blue ink, appearing to read 'Alexandra Teodorescu', written in a cursive style.

Commissioner for Taking Affidavits (or as may be)

Alexandra Teodorescu

RENT DEFERRAL AGREEMENT

THIS AGREEMENT made the 27th day of April, 2020.

BETWEEN:

BUFFALO AND FORT ERIE PUBLIC BRIDGE AUTHORITY
(the "Landlord")

AND

PEACE BRIDGE DUTY FREE INC.
(the "Tenant")

WHEREAS:

- A. By a lease made July 28, 2016 between the Landlord and the Tenant, the Tenant leased from the Landlord certain premises (the "**Premises**") municipally known 1 Peace Bridge, Fort Erie, Ontario, for a term commencing November 1, 2016 and expiring October 31, 2031; and
- B. Due to travel restrictions and economic hardships created across the world by the COVID-19 pandemic, the Tenant requests rent relief.

NOW THEREFORE THIS AGREEMENT WITNESSES in consideration of the covenants and agreements contained herein, and for other good and valuable consideration, the receipt of sufficiency whereof is hereby acknowledged, the parties agree as follows:

1. INTERPRETATION

1.1 **Expressions in Lease:** Unless expressly provided to the contrary in this Agreement, all terms defined in the Lease shall have the same meaning in this Agreement.

1.2 **Definitions and Interpretation:** The Lease is amended by adding the following definitions thereto:

"**Amortization Period**" means the one year period commencing on the Restart Date.

"**Suspension Date**" means April 1, 2020.

"**Deferred Rent**" means the Base Rent otherwise payable by the Tenant pursuant to the Lease during the Rent Deferral Period but for the terms of this Agreement.

"**Rent Deferral Period**" means the period commencing on the Rent Suspension Date to and including the earlier of:

- i. July 31, 2020; or

- ii. the last day of the month following the date that the Tenant has fully reopened the Duty Free Shop for business after the restrictions on non-essential travel between Canada and the United States are lifted (for greater clarity, a partial reopening to accommodate essential travel does not constitute a full reopening).

"Required Conditions" means:

- i. the Tenant pays all Additional Rent throughout the Rent Deferral Period, including without limitation, all Operating Costs and Property Taxes;
- ii. the Tenant does not seek benefit or protection of any statute for the benefit of bankrupt or insolvent debtors, including without limitation, a proposal, assignment or arrangement with its creditors or the repudiation or disclaimer of the Lease;
- iii. there has not been a Transfer (as defined in section 14.01 of this Lease); and
- iv. the Tenant strictly complies with all of the terms of the Lease and there is no Event of Default; and
- v. the Tenant strictly complies with all of the terms of this Agreement (including without limitation, the representations and warranties herein).

"Restart Date" means the day immediately following the last day of the Rent Deferral Period.

2. RENT DEFERRAL

2.1 Tenant's Representations and Warranties: The Tenant represents and warrants to the Landlord the following:

- (a) the Tenant temporarily closed its business at the Premises on or about March 21, 2020 and will fully re-open for business at the Premises as soon the restrictions on non-essential travel between Canada and the United States of America are lifted; and
- (b) the Tenant has and will continue to use its best efforts to take advantage of all government programs offering financial relief from the effects of the COVID-19 pandemic, including without limitation, any income tax deferral or reduction, rent assistance, employee wage and benefit subsidies and the like, with a view to ensuring that the Tenant is and remains a financially viable business, and shall keep the Landlord apprised of the Tenant's efforts in this regard.

2.2 Rent Suspension and Deferral: Provided the Required Conditions are met both throughout the Rent Deferral Period and the Amortization Period, then notwithstanding anything in this Lease to the contrary, the Tenant's obligation to pay the Deferred Rent during the Rent Deferral Period shall be suspended and deferred and shall not be payable until the Restart Date. The Tenant shall, however, be bound by all the other terms and conditions of this Lease during the Rent Suspension Period. For the purpose of clarity, it is understood and agreed that if any of the Required Conditions are not met, the Tenant's right to suspend and defer payment of Deferred Rent during the Rent Suspension Period shall be immediately forfeited and withdrawn retroactive to the Rent Suspension Date and the Deferred Rent that would otherwise have been payable during the Rent Suspension Period to the date of such forfeiture shall be immediately due and payable together with interest thereon at the rate set forth in the Lease for non-payment of Rent, calculated from the date each such installment of Deferred Rent would otherwise have been payable pursuant to Lease but for this Agreement. Except as expressly

suspended and deferred in accordance with this section, the Tenant shall continue to pay all Rent in accordance with the Lease.

- 2.3 **Repayment of the Deferred Rent:** Repayment of the Deferred Rent shall commence on the Restart Date. The aggregate amount of Deferred Rent together with interest thereon at the rate of 4% per annum shall be amortized over the Amortization Period and repaid by the Tenant in equal consecutive monthly instalments on the first day of each month from and including the Restart Date, without abatement or set-off, in the same manner as Rent. The Tenant covenants and agrees that if at any time, any of the Required Conditions are not met, the Landlord's agreement to amortize the repayment of the Deferred Rent shall be deemed to have been immediately withdrawn and the Tenant shall immediately pay to the Landlord the then outstanding unamortized balance of the Deferred Rent together with interest thereon at the rate of 4% per annum.

3. **ACKNOWLEDGEMENT**

- 3.1 **Acknowledgement:** The Tenant confirms that, as of the date hereof, (a) the Landlord is not in default under any obligation of the Landlord under the Lease and (b) there are no disputes or claims outstanding by the Tenant against the Landlord in respect of any past billings, rental recoveries or other matters pertaining to the Lease.

4. **NO AGREEMENT**

- 4.1 This Agreement shall be deemed not to have been executed and delivered by the Landlord until:
- i. this Agreement has been duly executed by all the other parties hereto and the Landlord has received at least one executed original hereof; and
 - ii. the Landlord has received payment of the sum of \$3,000 plus the applicable HST thereon, being the estimated legal fees incurred by the Landlord in relation to the request for rent-relief and the preparation of this Agreement.

Until the aforesaid deliverables have been received by the Landlord, the Landlord may, at its sole option, by written notice to the Tenant, withdraw any agreement in respect of rent-relief and this Agreement shall be null and void and of no further force or effect.

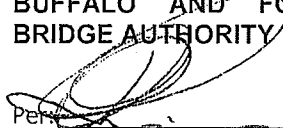
5. **AGREEMENT PART OF LEASE**

- 5.1 **Agreement Part of Lease:** This Agreement shall be read in conjunction with the Lease and shall form a part thereof and all provisions of the Lease insofar as applicable and except as amended by this Agreement shall continue in full force and effect and shall be binding upon and shall enure to the benefit of the parties, their successors and permitted assigns.
- 5.2 **Further Assurances:** Each party shall at any time and from time to time, upon the request of the other party, execute and deliver such further documents and do such further acts and things as the other party may reasonably request to evidence, carry out and give full effect to the terms, conditions, intent and meaning of this Agreement.
- 5.3 **Counterparts:** This Agreement may be executed by the parties in separate counterparts each of which when so executed and delivered to all of the parties shall be deemed to be and shall be read as a single agreement among the parties.

[Signature Page Follows]

IN WITNESS WHEREOF the parties hereto have duly executed this Agreement with effect on the date first set out on the first page of this Agreement.

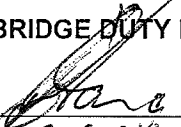
**BUFFALO AND FORT ERIE PUBLIC
BRIDGE AUTHORITY**

Per: 
Name: ■ Ron Rienas
Title: ■ General Manager c/s

Per: _____
Name: ■ _____
Title: ■ _____

I/~~We~~ have authority to bind the corporation

PEACE BRIDGE DUTY FREE INC.

Per: 
Name: ■ G.G. O'HARA
Title: ■ PRESIDENT c/s

Per: _____
Name: ■ _____
Title: ■ _____

I/We have authority to bind the corporation

This is Exhibit “C” referred to in the Affidavit of Jim Pearce sworn remotely this 12th day of December 2021.

A handwritten signature in blue ink, appearing to read 'Alexandra Teodorescu', written in a cursive style.

Commissioner for Taking Affidavits (or as may be)

Alexandra Teodorescu

RENT DEFERRAL AGREEMENT

THIS AGREEMENT made the 20th day of November, 2020.

BETWEEN:

BUFFALO AND FORT ERIE PUBLIC BRIDGE AUTHORITY
(the "Landlord")

AND

PEACE BRIDGE DUTY FREE INC.
(the "Tenant")

WHEREAS:

- A. By a lease made July 28, 2016 between the Landlord and the Tenant, the Tenant leased from the Landlord certain premises (the "**Premises**") municipally known 1 Peace Bridge, Fort Erie, Ontario, for a term commencing November 1, 2016 and expiring October 31, 2031; and
- B. Due to travel restrictions and economic hardships created across the world by the COVID-19 pandemic, the Tenant requests rent relief.

NOW THEREFORE THIS AGREEMENT WITNESSES in consideration of the covenants and agreements contained herein, and for other good and valuable consideration, the receipt of sufficiency whereof is hereby acknowledged, the parties agree as follows:

1. INTERPRETATION

1.1 **Expressions in Lease:** Unless expressly provided to the contrary in this Agreement, all terms defined in the Lease shall have the same meaning in this Agreement.

1.2 **Definitions and Interpretation:** The Lease is amended by adding the following definitions thereto:

"**Amortization Period**" means the two year period commencing on the Restart Date.

"**Suspension Date**" means April 1, 2020.

"**Deferred Rent**" means the Base Rent otherwise payable by the Tenant pursuant to the Lease during the Rent Deferral Period but for the terms of this Agreement.

"**Rent Deferral Period**" means the period commencing on the Rent Suspension Date to and including the earlier of:

- i. March 31, 2021; or

- ii. the last day of the month following the date that the Tenant has fully reopened the Duty Free Shop for business after the restrictions on non-essential travel between Canada and the United States are lifted (for greater clarity, a partial reopening to accommodate essential travel does not constitute a full reopening).

“Required Conditions” means:

- i. the Tenant pays all Additional Rent throughout the Rent Deferral Period, including without limitation, all Operating Costs and Property Taxes;
- ii. the Tenant does not seek benefit or protection of any statute for the benefit of bankrupt or insolvent debtors, including without limitation, a proposal, assignment or arrangement with its creditors or the repudiation or disclaimer of the Lease;
- iii. there has not been a Transfer (as defined in section 14.01 of this Lease); and
- iv. the Tenant strictly complies with all of the terms of the Lease and there is no Event of Default; and
- v. the Tenant strictly complies with all of the terms of this Agreement (including without limitation, the representations and warranties herein).

“Restart Date” means the day immediately following the last day of the Rent Deferral Period.

2. RENT DEFERRAL

2.1 Tenant’s Representations and Warranties: The Tenant represents and warrants to the Landlord the following:

- (a) the Tenant temporarily closed its business at the Premises on or about March 21, 2020 and will fully re-open for business at the Premises as soon the restrictions on non-essential travel between Canada and the United States of America are lifted; and
- (b) the Tenant has and will continue to use its best efforts to take advantage of all government programs offering financial relief from the effects of the COVID-19 pandemic, including without limitation, any income tax deferral or reduction, rent assistance, employee wage and benefit subsidies and the like, with a view to ensuring that the Tenant is and remains a financially viable business, and shall keep the Landlord apprised of the Tenant’s efforts in this regard.

2.2 Rent Suspension and Deferral: Provided the Required Conditions are met both throughout the Rent Deferral Period and the Amortization Period, then notwithstanding anything in this Lease to the contrary, the Tenant’s obligation to pay the Deferred Rent during the Rent Deferral Period shall be suspended and deferred and shall not be payable until the Restart Date. The Tenant shall, however, be bound by all the other terms and conditions of this Lease during the Rent Suspension Period. For the purpose of clarity, it is understood and agreed that if any of the Required Conditions are not met, the Tenant’s right to suspend and defer payment of Deferred Rent during the Rent Suspension Period shall be immediately forfeited and withdrawn retroactive to the Rent Suspension Date and the Deferred Rent that would otherwise have been payable during the Rent Suspension Period to the date of such forfeiture shall be immediately due and payable together with interest thereon at the rate set forth in the Lease for non-payment of Rent, calculated from the date each such installment of Deferred Rent would otherwise have been payable pursuant to Lease but for this Agreement. Except as expressly

suspended and deferred in accordance with this section, the Tenant shall continue to pay all Rent in accordance with the Lease.

- 2.3 **Repayment of the Deferred Rent:** Repayment of the Deferred Rent shall commence on the Restart Date. The aggregate amount of Deferred Rent together with interest thereon at the rate of 4% per annum shall be amortized over the Amortization Period and repaid by the Tenant in equal consecutive monthly instalments on the first day of each month from and including the Restart Date, without abatement or set-off, in the same manner as Rent. The Tenant covenants and agrees that if at any time, any of the Required Conditions are not met, the Landlord's agreement to amortize the repayment of the Deferred Rent shall be deemed to have been immediately withdrawn and the Tenant shall immediately pay to the Landlord the then outstanding unamortized balance of the Deferred Rent together with interest thereon at the rate of 4% per annum.

3. **ACKNOWLEDGEMENT**

- 3.1 **Acknowledgement:** The Tenant confirms that, as of the date hereof, (a) the Landlord is not in default under any obligation of the Landlord under the Lease and (b) there are no disputes or claims outstanding by the Tenant against the Landlord in respect of any past billings, rental recoveries or other matters pertaining to the Lease.

4. **NO AGREEMENT**

- 4.1 This Agreement shall be deemed not to have been executed and delivered by the Landlord until:
- i. this Agreement has been duly executed by all the other parties hereto and the Landlord has received at least one executed original hereof; and

Until the aforesaid deliverables have been received by the Landlord, the Landlord may, at its sole option, by written notice to the Tenant, withdraw any agreement in respect of rent-relief and this Agreement shall be null and void and of no further force or effect.

5. **AGREEMENT PART OF LEASE**

- 5.1 **Agreement Part of Lease:** This Agreement shall be read in conjunction with the Lease and shall form a part thereof and all provisions of the Lease insofar as applicable and except as amended by this Agreement shall continue in full force and effect and shall be binding upon and shall enure to the benefit of the parties, their successors and permitted assigns.
- 5.2 **Further Assurances:** Each party shall at any time and from time to time, upon the request of the other party, execute and deliver such further documents and do such further acts and things as the other party may reasonably request to evidence, carry out and give full effect to the terms, conditions, intent and meaning of this Agreement.
- 5.3 **Counterparts:** This Agreement may be executed by the parties in separate counterparts each of which when so executed and delivered to all of the parties shall be deemed to be and shall be read as a single agreement among the parties.

[Signature Page Follows]

IN WITNESS WHEREOF the parties hereto have duly executed this Agreement with effect on the date first set out on the first page of this Agreement.

**BUFFALO AND FORT ERIE PUBLIC
BRIDGE AUTHORITY**


Per: _____
Name: ■
Title: ■

c/s

Per: _____
Name: ■
Title: ■

I/We have authority to bind the corporation

PEACE BRIDGE DUTY FREE INC.

Per: 
Name: ■ GREGORY G. O'HARA
Title: ■ PRESIDENT

c/s

Per: _____
Name: ■
Title: ■

I/We have authority to bind the corporation

This is Exhibit “D” referred to in the Affidavit of Jim Pearce sworn remotely this 12th day of December 2021.

A handwritten signature in blue ink, appearing to read 'Alexandra Teodorescu', is centered on the page.

Commissioner for Taking Affidavits (or as may be)

Alexandra Teodorescu

Period 1 Oct 24/20		Date paid to PBA		
Submitted to CRA	Nov 30/20			
Rec'd from CRA	Dec 4/20	Dec 23/20	CERS - Per 1-Oct 24	43,441.54
Paid PBA	Dec 23/20	Feb 2 /21	PBA-CERS-Period2-Nov 21	40,583.14
Confirmation sent to PBA	Dec 31/20	Mar 10/21	PBA-CERS-Lockdown Per 2	18,750.00
		Apr 20/21	PBA-CERS-Period3-Dec20	58,053.31
Period 2 Nov 21/20		Sep 8/21	PBA-CERS-Per 4/11 Jan2021	59,333.14
Submitted to CRA	Jan 12/21	Sep 21/21	Period 5/12 Feb 13/21	58,449.84
Rec'd from CRA	Jan 15/21	Sep 21/21	Period 6/13 Mar 13/21	39,699.84
Paid PBA	Feb 2/21	Sep 23/21	Period 7/14 Apr 10/21	39,699.84
Confirmation sent to PBA	Feb 9/21	Sep 23/21	Period 8/15 May 8/21	37,937.67
		Sep 23/21	Period 9/16 Jun 5/21	37,937.67
Period 3 Dec 19/20		Sep 23/21	Period 10/17 July 3/21	37,937.67
Submitted to CRA	Feb 16/21	Sep 30/21	Period 11/18 July 31/21	34,187.67
Rec'd from CRA	Feb 24/21	Sep 30/21	Period 12/19 Aug 28/21	19,187.67
Paid PBA	Apr 20/21	Oct 18/21	Period 13/20 Sep 25/21	19,187.67
Confirmation sent to PBA	Apr 23/21	Nov 11/21	Period 14/21 Oct 23/21	4,187.67
Period 4/11 Jan 16/21				548,574.34
Submitted to CRA	July 7/21			
Rec'd from CRA	July 12/21			
Paid PBA	Sep 8/21			
Confirmation sent to PBA	Sep 16/21			
Period 5/12 Feb 13/21				
Submitted	Aug 9/21			
Rec'd from CRA	Aug 12/21			
Paid PBA	Sep 21/21			
Confirmation for Period 12 thru 17 sent to Gowling				
Period 6/13 Mar 13/21				
Submitted	Sep 7/21			
Rec'd from CRA	Sep 13/21			
Paid PBA	Sep 21/21			
Period 14 Apr 10/21				
Submitted	Sep 20/21			
Rec'd from CRA	Sep 23/21			
Paid PBA	Sep 23/21			
Period 15 May 8/21				
Submitted	Sep 20/21			
Rec'd from CRA	Sep 23/21			
Paid PBA	Sep 23/21			
Period 16 Jun 5/21				
Submitted	Sep 20/21			
Rec'd from CRA	Sep 23/21			
Paid PBA	Sep 23/21			
Period 17 July 3/21				
Submitted	Sep 20/21			
Rec'd from CRA	Sep 23/21			
Paid PBA	Sep 23/21			
Period 18 July 31/21				
Submitted	Sep 23/21			
Rec'd from CRA	Sep 28/21			
Paid PBA	Sep 30/21			
Confirmation sent to PBA	Sep 30/21			
Period 19 Aug 28/21				
Submitted	Sep 23/21			
Rec'd from CRA	Sep 28/21			
Paid PBA	Sep 30/21			
Confirmation sent to PBA	Sep 30/21			
Period 20 Sep 25/21				
Submitted	Oct 12/21			
Rec'd from CRA	Oct 15/21			
Paid PBA	Oct 18/21			
Confirmation sent to PBA	Oct 18/21			
Period 21 Oct 23/21				
Submitted	Nov 3/21			
Rec'd from CRA	Nov 8/21			
Paid PBA	Nov 11/21			
Confirmation sent to PBA	Nov 12/21			

This is Exhibit “E” referred to in the Affidavit of Jim Pearce sworn
remotely this 12th day of December 2021.

A handwritten signature in blue ink, appearing to read 'Alexandra Teodorescu', is centered on the page.

Commissioner for Taking Affidavits (or as may be)

Alexandra Teodorescu

PEACE BRIDGE
DUTY FREE

September 16, 2021

Ron Reinas

General Manager

Buffalo & Fort Erie Public Bridge Authority

P.O. Box 512
Fort Erie, Ontario L2A 5A1
Canada

P.O. Box 512
Buffalo, New York 14215-1152

Telephone: (905) 871-5101
Fax: (905) 871-6311

Ron,

We are in receipt of a letter from Christopher M. Stanek dated September 8, 2021. This letter was sent by registered mail, and we only received it on September 14, 2021.

We acknowledge that base rent has not been paid in accordance with the 2016 lease.

However, we deny all other allegations made in the Notice of Default, which we believe are being advanced in bad faith. We have been fully transparent with the Buffalo and Fort Erie Public Bridge Authority (PBA) since the commencement of the pandemic and have sought an opportunity to discuss the circumstances associated with the pandemic on countless occasions. The various correspondences that we have sent to the PBA speak for themselves.

Please note that any act in furtherance of the Notice of Default will be seen as being taken in bad faith and in contravention of the commercial tenancy eviction moratorium.

Also, to be clear, the duty-free shop has been open throughout the pandemic with respect to those services that were essential and supported the continued flow of traffic across the bridge (e.g., ATM, washrooms and customs paperwork for truckers). We acknowledge that the retail aspect of the duty-free shop has been closed due to public health restrictions and due to border restrictions, which have affected the ability of customers to purchase duty free goods.

Despite our efforts to co-ordinate with the PBA to work towards re-opening the retail operation, the PBA has made it clear that it does not want to discuss the particulars of such re-opening.

While we deny that the closing of the retail operations was a default under the lease in light of the public health and border restrictions, we nonetheless will be re-opening the retail aspect of the duty-free shop on September 19, 2021. Please note that such re-opening will be done in a manner that is consistent with our best efforts to provide a COVID safe environment for both our employees and customers and in compliance with public health guidance.

As set-out in our proposal of August 20, 2021, we will pay rent to the PBA on a percentage rent basis. Due to the continued border restrictions and associated reduction in traffic, the revenues from the retail operation will not be enough to pay the base rent as set out in the lease.

Furthermore, it appears that the PBA has not credited the \$50,000 it took from security deposit against the outstanding rent. As such, it remains unclear what that amount was applied to. Nonetheless, if the PBA were to confirm that the amount has been applied to the outstanding rent, we are prepared to make arrangements for the further \$50,000 demanded as a security deposit. We look forward to your guidance as to whether such security deposit will be maintained as a security deposit or will the PBA liquidate the deposit only to make another demand. Your guidance in that regard would be much appreciated as we could otherwise arrange for the security deposit to be held by a third party, in trust.

The suggestion that we are not in compliance with the GERS program is false. No particulars of our apparent non-compliance have been provided and we view this as an extraordinarily serious and damaging allegation. We request that this allegation be withdrawn immediately.

Finally, as you know, we have not abandoned the lease and the leased premises have not been left vacant. With the exception of the base rent payments, we have met all obligations under the lease.

Again, we look forward to discussing this matter with you so to develop a going forward plan.

Regard;/L

... 7,'

Gregory G. O'Hara

President and CEO

Peace Bridge Duty Free Inc.



September 17, 2021

Via Registered Mail & Email - gohara@dutyfree.ca

Gregory G. O'Hara
President, CEO
Peace Bridge Duty Free Inc.
1 Peace Bridge
PO BOX 339 STN Main
Fort Erie, Ontario
L2A 5N1

Christopher M. Stanek
Direct +1 416 862 4369
christopher.stanek@gowlingwlg.com
File no. K0565679

Dear Mr O'Hara:

Re: Buffalo and Fort Erie Public Bridge Authority and Peace Bridge Duty Free Inc.

I am writing in response to your letter dated September 16, 2021 addressed to my client, Buffalo and Fort Erie Public Bridge Authority. Please direct all future correspondence to me. Particularly where such correspondence is in response to a letter from me. I am retained to deal with the default of your obligations under the Lease.

With respect to the Notice of Default dated September 8, 2021, served upon you concerning the arrears of rent, please note that the "commercial tenancies eviction moratorium", that you reference in your letter is a regulation passed by the Ontario Government and is effective **only** if the following requirements have been met:

1. The tenant has been approved to receive CERS;
2. The tenant has **provided proof** of its CERS approval to the landlord for each claim period;
3. Not more than 12 weeks have passed since the tenant was approved for CERS for each claim period.

If these conditions are not met, there is no moratorium. Please provide the documentary evidence that Peace Bridge Duty Free is in compliance with the above conditions on or before **Friday, September 17, 2021**. Absent such documentary evidence, our clients' position will be that the default with respect to unpaid rent is unrectified, and the moratorium on eviction is not effective.

Please also note that, with respect to the Notice of Default dated September 8, 2021 concerning your failure to open the duty-free store, our client disputes your assertion that "the duty-free shop has been open throughout the pandemic". Indeed, what you describe as the "retail aspect" that you intend to open on September 19, 2021, is, in fact, what was required to remain open under the Lease. The duty-free store could have been (and should have been) opened months ago without any involvement or participation from our client.

Please also note that even if you do open the duty-free store as promised, our client does not agree that partial payments of rent are acceptable to satisfy your rental obligations under the Lease. The full



amount of rent set out in the Lease remains due and owing irrespective of how your operations are conducted.

Finally, we confirm that the \$50,000 security deposit has been applied to outstanding rent. You continue to have an obligation to replenish it.

Sincerely,

Gowling WLG (Canada) LLP

A handwritten signature in black ink, appearing to read "Chris Stanek", with a long horizontal flourish extending to the right.

Christopher M. Stanek

CMS:cc

Bcc: Client



P.O. Box 339 Peace Bridge Plaza
Fort Erie, Ontario L2A 5N1 Canada

P.O. Box 572
Buffalo, New York USA 14213-0572

Telephone: (905) 871-5400
Fax: (905) 871-6335

September 20, 2021

Christopher Stanek

Gowling WLG

Mr. Stanek,

We are in receipt of your letter of September 17, 2021.

The purpose of this letter is to respond to the inquiry made in your letter of September 17, 2021 regarding the Canada Emergency Rent Subsidy and Ontario's moratorium on commercial tenancies evictions.

We disagree with the statement that PBDF is not in compliance with the requirements associated with the moratorium. PBDF has applied for, been approved to receive and has received CERS payments, which have been paid over to the PBA as rent. In total, PBDF has paid \$220,161.00 in CERS over to PBA. Furthermore, we will be sending an additional \$98,150.00 that we have received but have not yet paid to the PBA. Also, so long as PBDF continues to qualify for the program, PBDF will continue to make such payments.

Attached is the most recent approval for payment received from the CRA, which is dated August 12, 2021. This amount was received by PBDF on August 12, 2021 and is in the process of being paid over to the PBA. Furthermore, PBDF made a payment of amounts received from the CERS to PBA on September 8, 2021. In addition, PBDF submitted a further application which was approved September 13, 2021. These approvals to receive CERS are within the 12 weeks as require by Ontario's moratorium and as described in your letter and are in compliance with the CERS program. Attached for your information are copies of all approval documents provided to us by CRA with respect to the CERS. PBDF is in the process of making additional application for CERS for subsequent periods that are presently open.

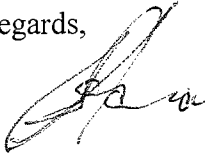
PBDF has responded to any request by the PBA re: proof of CERS approval. In any event, PBA has always known that we have been approved under the CERS program and has accepted payment of rent on the basis of the CERS subsidy.

Also, we are in the process of making arrangements for the replenishment of the \$50,000.00 security deposit. We now understand that the amount previously held by the PBA has been applied to outstanding rent. As noted in our previous correspondence to the PBA, we do not believe that it is appropriate in the circumstances for the PBA to apply the security deposit towards rent during Ontario's moratorium. We trust that the amounts that we will be paying to replenish the security deposit will not be applied toward rent in the same manner.



Finally, we confirm that the duty free shop re-opened its retail operations on September 19, 2021.

Regards,

A handwritten signature in black ink, appearing to read "G. O'Hara", with a large, stylized initial "G" and a flourish at the end.

Gregory G. O'Hara

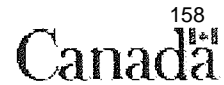
President and CEO

Peace Bridge Duty Free Inc.



Canada Revenue
Agency

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COVID-19: Canada Emergency Rent Subsidy (CERS) - confirmation

Your application has been received. Your confirmation number is: **756686**

Your claim will be reviewed within 10 to 15 business days. Any payment resulting from this application will be made using the direct deposit or mailing address information we have on file for your account.

Business number: **101851210 ZA0001**

Business name: **PEACE BRIDGE DUTY FREE INC**

Period covered: **2021-06-06 to 2021-07-03**

Filing date: **2021-09-20**

Claim summary

Line	Description	Amount
Line 110	Number of properties eligible for the rent subsidy	2
Line 120	Total eligible rent for the claim period	\$354,473.00
Line 130	Total eligible property taxes for the claim period	\$0.00
Line 140	Total eligible property insurance for the claim period	\$0.00
Line 150	Total eligible interest on commercial mortgages for the claim period	\$0.00
Line 155	Total eligible expenses for the claim period (Line 120 + Line 130 + Line 140 + Line 150)	\$354,473.00
Line 160	Total qualifying rent expenses for the claim period (maximum \$75,000 per property)	\$82,324.00
Line 170	Maximum rent expenses that can be claimed for the claim period (lesser of: Line 160; \$300,000; and, if applicable, \$300,000 multiplied by the percentage assigned per the agreement among affiliated entities claiming the rent subsidy)	\$82,324.00
Line 200	Revenue drop for the current period	98.20%
Line 210	Revenue drop for the previous period	99.30%
Line 220	Subsidy rate (maximum 65%)	65.00%
Line 300	Base Canada Emergency Rent Subsidy (Line 170 * Line 220)	\$53,510.60
Line 310	Lockdown support (subsidy top-up)	\$0.00
Line 320	Total Canada Emergency Rent Subsidy (Line 300 + Line 310)	\$53,510.60



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159
Canada

COVID-19: Canada Emergency Rent Subsidy (CERS) - confirmation

Your application has been received. Your confirmation number is: 189476

Your claim will be reviewed within 10 to 15 business days. Any payment resulting from this application will be made using the direct deposit or mailing address information we have on file for your account.

Business number: 101851210 ZA0001

Business name: PEACE BRIDGE DUTY FREE INC

Period covered: 2021-05-09 to 2021-06-05

Filing date: 2021-09-20

Claim summary

Line	Description	Amount
Line 110	Number of properties eligible for the rent subsidy	2
Line 120	Total eligible rent for the claim period	\$354,431.00
Line 130	Total eligible property taxes for the claim period	\$0.00
Line 140	Total eligible property insurance for the claim period	\$0.00
Line 150	Total eligible interest on commercial mortgages for the claim period	\$0.00
Line 155	Total eligible expenses for the claim period (Line 120 + Line 130 + Line 140 + Line 150)	\$354,431.00
Line 160	Total qualifying rent expenses for the claim period (maximum \$75,000 per property)	\$82,275.00
Line 170	Maximum rent expenses that can be claimed for the claim period (lesser of: Line 160; \$300,000; and, if applicable, \$300,000 multiplied by the percentage assigned per the agreement among affiliated entities claiming the rent subsidy)	\$82,275.00
Line 200	Revenue drop for the current period	99.30%
Line 210	Revenue drop for the previous period	99.20%
Line 220	Subsidy rate (maximum 65%)	65.00%
Line 300	Base Canada Emergency Rent Subsidy (Line 170 * Line 220)	\$53,478.75
Line 310	Lockdown support (subsidy top-up)	\$0.00
Line 320	Total Canada Emergency Rent Subsidy (Line 300 + Line 310)	\$53,478.75



Canada Revenue
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du Canada



COVID-19: Canada Emergency Rent Subsidy (CERS) - confirmation

Your application has been received. Your confirmation number is: **439919**

Your claim will be reviewed within 10 to 15 business days. Any payment resulting from this application will be made using the direct deposit or mailing address information we have on file for your account.

Business number: **101851210 ZA0001**

Business name: **PEACE BRIDGE DUTY FREE INC**

Period covered: **2021-04-11 to 2021-05-08**

Filing date: **2021-09-20**

Claim summary

Line	Description	Amount
Line 110	Number of properties eligible for the rent subsidy	2
Line 120	Total eligible rent for the claim period	\$354,443.00
Line 130	Total eligible property taxes for the claim period	\$0.00
Line 140	Total eligible property insurance for the claim period	\$0.00
Line 150	Total eligible interest on commercial mortgages for the claim period	\$0.00
Line 155	Total eligible expenses for the claim period (Line 120 + Line 130 + Line 140 + Line 150)	\$354,443.00
Line 160	Total qualifying rent expenses for the claim period (maximum \$75,000 per property)	\$82,249.00
Line 170	Maximum rent expenses that can be claimed for the claim period (lesser of: Line 160; \$300,000; and, if applicable, \$300,000 multiplied by the percentage assigned per the agreement among affiliated entities claiming the rent subsidy)	\$82,249.00
Line 200	Revenue drop for the current period	99.20%
Line 210	Revenue drop for the previous period	99.50%
Line 220	Subsidy rate (maximum 65%)	65.00%
Line 300	Base Canada Emergency Rent Subsidy (Line 170 * Line 220)	\$53,461.85
Line 310	Lockdown support (subsidy top-up)	\$0.00
Line 320	Total Canada Emergency Rent Subsidy (Line 300 + Line 310)	\$53,461.85



Canada Revenue
Agency

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du Canada



COVID-19: Canada Emergency Rent Subsidy (CERS) - confirmation

Your application has been received. Your confirmation number is: 989419

Your claim will be reviewed within 10 to 15 business days. Any payment resulting from this application will be made using the direct deposit or mailing address information we have on file for your account.

Business number: 101851210 ZA0001

Business name: PEACE BRIDGE DUTY FREE INC

Period covered: 2021-03-14 to 2021-04-10

Filing date: 2021-09-20

Claim summary

Line	Description	Amount
Line 110	Number of properties eligible for the rent subsidy	2
Line 120	Total eligible rent for the claim period	\$351,561.00
Line 130	Total eligible property taxes for the claim period	\$0.00
Line 140	Total eligible property insurance for the claim period	\$0.00
Line 150	Total eligible interest on commercial mortgages for the claim period	\$0.00
Line 155	Total eligible expenses for the claim period (Line 120 + Line 130 + Line 140 + Line 150)	\$351,561.00
Line 160	Total qualifying rent expenses for the claim period (maximum \$75,000 per property)	\$81,026.00
Line 170	Maximum rent expenses that can be claimed for the claim period (lesser of: Line 160; \$300,000; and, if applicable, \$300,000 multiplied by the percentage assigned per the agreement among affiliated entities claiming the rent subsidy)	\$81,026.00
Line 200	Revenue drop for the current period	99.50%
Line 210	Revenue drop for the previous period	99.60%
Line 220	Subsidy rate (maximum 65%)	65.00%
Line 300	Base Canada Emergency Rent Subsidy (Line 170 * Line 220)	\$52,666.90
Line 310	Lockdown support (subsidy top-up)	\$0.00
Line 320	Total Canada Emergency Rent Subsidy (Line 300 + Line 310)	\$52,666.90



Canada Revenue
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Canada¹⁶²

COVID-19: Canada Emergency Rent Subsidy (CERS) - confirmation

Your application has been received. Your confirmation number is: 903311

Your claim will be reviewed within 10 to 15 business days. Any payment resulting from this application will be made using the direct deposit or mailing address information we have on file for your account.

Business number: 101851210 ZA0001

Business name: PEACE BRIDGE DUTY FREE INC

Period covered: 2021-02-14 to 2021-03-13

Filing date: 2021-09-07

Claim summary

Line	Description	Amount
Line 110	Number of properties eligible for the rent subsidy	2
Line 120	Total eligible rent for the claim period	\$349,834.00
Line 130	Total eligible property taxes for the claim period	\$0.00
Line 140	Total eligible property insurance for the claim period	\$0.00
Line 150	Total eligible interest on commercial mortgages for the claim period	\$0.00
Line 155	Total eligible expenses for the claim period (Line 120 + Line 130 + Line 140 + Line 150)	\$349,834.00
Line 160	Total qualifying rent expenses for the claim period (maximum \$75,000 per property)	\$79,287.00
Line 170	Maximum rent expenses that can be claimed for the claim period (lesser of: Line 160; \$300,000; and, if applicable, \$300,000 multiplied by the percentage assigned per the agreement among affiliated entities claiming the rent subsidy)	\$79,287.00
Line 200	Revenue drop for the current period	99.60%
Line 210	Revenue drop for the previous period	99.70%
Line 220	Subsidy rate (maximum 65%)	65.00%
Line 300	Base Canada Emergency Rent Subsidy (Line 170 * Line 220)	\$51,536.55
Line 310	Lockdown support (subsidy top-up)	\$0.00
Line 320	Total Canada Emergency Rent Subsidy (Line 300 + Line 310)	\$51,536.55



Summerside PE C1N 5Z7

0008599

Date Issued Aug 12, 2021
Business number 10185 1210 ZA0001

PEACE BRIDGE DUTY FREE INC
C/O KAREN SHAUBEL
P.O. BOX 339 STN MAIN
FORT ERIE ON L2A 5N1

Subject: Canada Emergency Rent Subsidy (CERS) - Notice of (re)determination (period covered: **January 17, 2021 to February 13, 2021**)

We determined that PEACE BRIDGE DUTY FREE INC is eligible for the rent subsidy for this qualifying period.

Your entitlement is **\$70,137.70** (under subsection 152(3.4) of the Income Tax Act).

If the amount showing on this notice is different from what you claimed, we will send you an explanation of the change separately.

For more information on the CERS program, go to **canada.ca/rent-subsidy**.

If you disagree and want to file an objection, you have 90 days from the date of this notice. To learn more about your objection rights, go to **canada.ca/cra-complaints-disputes**.

If you are late with filing any of your returns, we encourage you to file them as soon as possible. We use your tax information to determine your eligibility for benefit and credit payments.

We may also hold any refunds or credits you are entitled to until you file all your outstanding returns.

You must keep your books and records in case we ask to see them later. For more information on how to keep adequate books and records, go to **canada.ca/taxes-records**.

If you need more information about this notice, call us at **1-800-959-5525**.

Thank you,

Bob Hamilton
Commissioner of Revenue



COVID-19: Canada Emergency Rent Subsidy (CERS) - confirmation

Your application has been received. Your confirmation number is: 510972

Your claim will be reviewed within 10 to 15 business days. Any payment resulting from this application will be made using the direct deposit or mailing address information we have on file for your account.

Business number: 101851210 ZA0001

Business name: PEACE BRIDGE DUTY FREE INC

Period covered: 2021-01-17 to 2021-02-13

Filing date: 2021-08-09

Claim summary

Line	Description	Amount
Line 110	Number of properties eligible for the rent subsidy	2
Line 120	Total eligible rent for the claim period	\$349,737.00
Line 130	Total eligible property taxes for the claim period	\$0.00
Line 140	Total eligible property insurance for the claim period	\$0.00
Line 150	Total eligible interest on commercial mortgages for the claim period	\$0.00
Line 155	Total eligible expenses for the claim period (Line 120 + Line 130 + Line 140 + Line 150)	\$349,737.00
Line 160	Total qualifying rent expenses for the claim period (maximum \$75,000 per property)	\$79,058.00
Line 170	Maximum rent expenses that can be claimed for the claim period (lesser of: Line 160; \$300,000; and, if applicable, \$300,000 multiplied by the percentage assigned per the agreement among affiliated entities claiming the rent subsidy)	\$79,058.00
Line 200	Revenue drop for the current period	99.70%
Line 210	Revenue drop for the previous period	99.60%
Line 220	Subsidy rate (maximum 65%)	65.00%
Line 300	Base Canada Emergency Rent Subsidy (Line 170 * Line 220)	\$51,387.70
Line 310	Lockdown support (subsidy top-up)	\$18,750.00
Line 320	Total Canada Emergency Rent Subsidy (Line 300 + Line 310)	\$70,137.70



Summerside PE C1N 5Z7

0000698

Date Issued Jul 12, 2021
Business number 10185 1210 ZA0001

PEACE BRIDGE DUTY FREE INC
C/O KAREN SHAUBEL
P.O. BOX 339 STN MAIN
FORT ERIE ON L2A 5N1

Subject: Canada Emergency Rent Subsidy (CERS) - Notice of (re)determination (period covered: **December 20, 2020 to January 16, 2021**)

We determined that PEACE BRIDGE DUTY FREE INC is eligible for the rent subsidy for this qualifying period.

Your entitlement is **\$72,345.75** (under subsection 152(3.4) of the Income Tax Act).

If the amount showing on this notice is different from what you claimed, we will send you an explanation of the change separately.

For more information on the CERS program, go to **canada.ca/rent-subsidy**.

If you disagree and want to file an objection, you have 90 days from the date of this notice. To learn more about your objection rights, go to **canada.ca/cra-complaints-disputes**.

If you are late with filing any of your returns, we encourage you to file them as soon as possible. We use your tax information to determine your eligibility for benefit and credit payments.

We may also hold any refunds or credits you are entitled to until you file all your outstanding returns.

You must keep your books and records in case we ask to see them later. For more information on how to keep adequate books and records, go to **canada.ca/taxes-records**.

If you need more information about this notice, call us at **1-800-959-5525**.

Thank you,

Bob Hamilton
Commissioner of Revenue



Canada Revenue
Agency

Agence du revenu
du Canada

166
Canada

COVID-19: Canada Emergency Rent Subsidy (CERS) - confirmation

Your application has been received. Your confirmation number is: 673086

Your claim will be reviewed within 10 to 15 business days. Any payment resulting from this application will be made using the direct deposit or mailing address information we have on file for your account.

Business number: 101851210 ZA0001

Business name: PEACE BRIDGE DUTY FREE INC

Period covered: 2020-12-20 to 2021-01-16

Filing date: 2021-07-07

Claim summary

Line	Description	Amount
Line 110	Number of properties eligible for the rent subsidy	2
Line 120	Total eligible rent for the claim period	\$352,501.00
Line 130	Total eligible property taxes for the claim period	\$0.00
Line 140	Total eligible property insurance for the claim period	\$0.00
Line 150	Total eligible interest on commercial mortgages for the claim period	\$0.00
Line 155	Total eligible expenses for the claim period (Line 120 + Line 130 + Line 140 + Line 150)	\$352,501.00
Line 160	Total qualifying rent expenses for the claim period (maximum \$75,000 per property)	\$82,455.00
Line 170	Maximum rent expenses that can be claimed for the claim period (lesser of: Line 160; \$300,000; and, if applicable, \$300,000 multiplied by the percentage assigned per the agreement among affiliated entities claiming the rent subsidy)	\$82,455.00
Line 200	Revenue drop for the current period	99.60%
Line 210	Revenue drop for the previous period	99.40%
Line 220	Subsidy rate (maximum 65%)	65.00%
Line 300	Base Canada Emergency Rent Subsidy (Line 170 * Line 220)	\$53,595.75
Line 310	Lockdown support (subsidy top-up)	\$18,750.00
Line 320	Total Canada Emergency Rent Subsidy (Line 300 + Line 310)	\$72,345.75



Summerside PE C1N 5Z7

0004734

Date Issued Feb 24, 2021
Business number 10185 1210 ZA0001

PEACE BRIDGE DUTY FREE INC
C/O KAREN SHAUBEL
P.O. BOX 339 STN MAIN
FORT ERIE ON L2A 5N1

Subject: Canada Emergency Rent Subsidy (CERS) - Notice of (re)determination (period covered:
November 22, 2020 to December 19, 2020)

We determined that PEACE BRIDGE DUTY FREE INC is eligible for the rent subsidy for this qualifying period.

Your entitlement is **\$69,876.40** (under subsection 152(3.4) of the Income Tax Act).

If the amount showing on this notice is different from what you claimed, we will send you an explanation of the change separately.

For more information on the CERS program, go to **canada.ca/rent-subsidy**.

If you disagree and want to file an objection, you have 90 days from the date of this notice. To learn more about your objection rights, go to **canada.ca/cra-complaints-disputes**.

If you are late with filing any of your returns, we encourage you to file them as soon as possible. We use your tax information to determine your eligibility for benefit and credit payments.

We may also hold any refunds or credits you are entitled to until you file all your outstanding returns.

You must keep your books and records in case we ask to see them later. For more information on how to keep adequate books and records, go to **canada.ca/taxes-records**.

If you need more information about this notice, call us at **1-800-959-5525**.

Thank you,

Bob Hamilton
Commissioner of Revenue



Your application has been received. Your confirmation number is: **417530**

Your claim will be reviewed within 10 to 15 business days. Any payment resulting from this application will be made using the direct deposit or mailing address information we have on file for your account.

Business number: **101851210 ZA0001**

Business name: **PEACE BRIDGE DUTY FREE INC**

Period covered: **2020-11-22 to 2020-12-19**

Filing date: **2021-02-19**

Claim summary

Line	Description	Amount
Line 110	Number of properties eligible for the rent subsidy	2
Line 120	Total eligible rent for the claim period	\$345,156.00
Line 130	Total eligible property taxes for the claim period	\$0.00
Line 140	Total eligible property insurance for the claim period	\$0.00
Line 150	Total eligible interest on commercial mortgages for the claim period	\$0.00
Line 155	Total eligible expenses for the claim period (Line 120 + Line 130 + Line 140 + Line 150)	\$345,156.00
Line 160	Total qualifying rent expenses for the claim period (maximum \$75,000 per property)	\$78,656.00
Line 170	Maximum rent expenses that can be claimed for the claim period (lesser of: Line 160; \$300,000; and, if applicable, \$300,000 multiplied by the percentage assigned per the agreement among affiliated entities claiming the rent subsidy)	\$78,656.00
Line 200	Revenue drop for the current period	99.40%
Line 210	Revenue drop for the previous period	99.60%
Line 220	Subsidy rate (maximum 65%)	65.00%
Line 300	Base Canada Emergency Rent Subsidy (Line 170 * Line 220)	\$51,126.40
Line 310	Lockdown support (subsidy top-up)	\$18,750.00
Line 320	Total Canada Emergency Rent Subsidy (Line 300 + Line 310)	\$69,876.40



Canada Revenue Agency
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du Canada

Canada

Your application has been received. Your confirmation number is: 972802

Your claim will be reviewed within 10-15 business days. Any payment resulting from this application will be made using the direct deposit or mailing address information we have on file for your account.

Business number: **101851210 ZA0001**

Business name: **PEACE BRIDGE DUTY FREE INC**

Period covered: **2020-10-25 to 2020-11-21**

Filing date: **2021-01-12**

Claim summary

Line 110	Number of properties eligible for the rent subsidy	2
Line 120	Total eligible rent for the claim period	\$343,954.00
Line 130	Total eligible property taxes for the claim period	\$0.00
Line 140	Total eligible property insurance for the claim period	\$0.00
Line 150	Total eligible interest on commercial mortgages for the claim period	\$0.00
Line 155	Total eligible expenses for the claim period (Line 120 + Line 130 + Line 140 + Line 150)	\$343,954.00
Line 160	Total qualifying rent expenses for the claim period (maximum \$75,000 per property)	\$75,953.00
Line 170	Maximum rent expenses that can be claimed for the claim period (lesser of: Line 160; \$300,000; and, if applicable, \$300,000 multiplied by the percentage assigned per the agreement among affiliated entities claiming the rent subsidy)	\$75,953.00
Line 200	Revenue drop for the current period	99.60%
Line 210	Revenue drop for the previous period	99.10%
Line 220	Subsidy rate (maximum 65%)	65.00%
Line 300	Base Canada Emergency Rent Subsidy (Line 170 * Line 220)	\$49,369.45
Line 310	Lockdown support (subsidy top-up)	\$18,750.00
Line 320	Total Canada Emergency Rent Subsidy (Line 300 + Line 310)	\$68,119.45



Your application has been received. Your confirmation number is: 147705

Your claim will be reviewed within 10-15 business days. Any payment resulting from this application will be made using the direct deposit or mailing address information we have on file for your account.

Business number: 101851210 ZA0001

Business name: PEACE BRIDGE DUTY FREE INC

Period covered: 2020-09-27 to 2020-10-24

Filing date: 2020-11-30

Claim summary

Line 110	Number of properties eligible for the rent subsidy	2
Line 120	Total eligible rent for the claim period	\$304,663.16
Line 130	Total eligible property taxes for the claim period	\$4,636.00
Line 140	Total eligible property insurance for the claim period	\$3,530.00
Line 150	Total eligible interest on commercial mortgages for the claim period	\$0.00
Line 155	Total eligible expenses for the claim period (Line 120 + Line 130 + Line 140 + Line 150)	\$312,829.16
Line 160	Total qualifying rent expenses for the claim period (maximum \$75,000 per property)	\$76,547.44
Line 170	Maximum rent expenses that can be claimed for the claim period (lesser of: Line 160; \$300,000; and, if applicable, \$300,000 multiplied by the percentage assigned per the agreement among affiliated entities claiming the rent subsidy)	\$76,547.44
Line 200	Revenue drop for the current period	99.11%
Line 210	Revenue drop for the previous period	99.06%
Line 220	Subsidy rate (maximum 65%)	65.00%
Line 300	Base Canada Emergency Rent Subsidy (Line 170 * Line 220)	\$49,755.84
Line 310	Lockdown support (subsidy top-up)	\$0.00
Line 320	Total Canada Emergency Rent Subsidy (Line 300 + Line 310)	\$49,755.84



September 22, 2021

Via Registered Mail & Email - gohara@dutyfree.ca

Gregory G. O'Hara
President, CEO
Peace Bridge Duty Free Inc.
1 Peace Bridge
PO BOX 339 STN Main
Fort Erie, Ontario
L2A 5N1

Christopher M. Stanek
Direct +1 416 862 4369
christopher.stanek@gowlingwlg.com
File no. K0565679

Dear Mr O'Hara:

Re: Buffalo and Fort Erie Public Bridge Authority and Peace Bridge Duty Free Inc.

I am writing in response to your September 20, 2021 letter and the attachments thereto.

We note that the information you provided was repeatedly requested by our client but you failed to do so until after receiving a Notice of Default. Indeed, our client's letter to you dated July 15, 2021 stated: "Multiple times we have requested that you provide dates of application and approval for each claim period under the CERS program and you continue to ignore these requests".

My client is frustrated that not only did you ignore these requests you have also chosen to delay applications and payments under the CERS program demonstrating little regard for your landlord's financial circumstances. For example:

- You have only remitted CERS payments for claim periods that ended on January 16, 2021,
- For claim periods 4-6 you waited until almost the last day to file your applications, effectively delaying CERS payments to my client by up to six months
- Two days ago you filed four applications for claim periods 7-10 when they could have been filed months ago
- You provided no evidence that you have filed for claim periods 11-12 even though you are eligible to do so
- You received a CERS payment on August 12, 2021 but have yet to remit it to my client. Likewise, your July 12, 2021 payment was not remitted until September 8, 2021.

Please note that the full amount of rent set out in the Lease remains due and owing. Notwithstanding the eviction moratorium, the default concerning the rent due and owing has not been cured.



We acknowledge the Duty Free store did re-open on September 19, 2021. Our client expects replenishment of the security deposit within the next seven days.

Sincerely,

Gowling WLG (Canada) LLP

A handwritten signature in black ink, appearing to read "Christopher M. Stanek", written over a horizontal line.

Christopher M. Stanek

CMS:cc

Bcc: Client

This is Exhibit “F” referred to in the Affidavit of Jim Pearce sworn remotely this 12th day of December 2021.

A handwritten signature in blue ink, appearing to read 'Alexandra Teodorescu', written in a cursive style.

Commissioner for Taking Affidavits (or as may be)

Alexandra Teodorescu



Summerside PE C1N 5Z7

0004591

Date Issued Nov 8, 2021
Business number 10185 1210 ZA0001

PEACE BRIDGE DUTY FREE INC
C/O KAREN SHAUBEL
P.O. BOX 339 STN MAIN
FORT ERIE ON L2A 5N1

Subject: Canada Emergency Rent Subsidy (CERS) - Notice of (re)determination (period covered: **September 26, 2021 to October 23, 2021**)

We determined that PEACE BRIDGE DUTY FREE INC is eligible for the rent subsidy for this qualifying period.

Your entitlement is **\$15,507.10** (under subsection 152(3.4) of the Income Tax Act).

If the amount showing on this notice is different from what you claimed, we will send you an explanation of the change separately.

For more information on the CERS program, go to **canada.ca/rent-subsidy**.

If you disagree and want to file an objection, you have 90 days from the date of this notice. To learn more about your objection rights, go to **canada.ca/cra-complaints-disputes**.

If you are late with filing any of your returns, we encourage you to file them as soon as possible. We use your tax information to determine your eligibility for benefit and credit payments.

We may also hold any refunds or credits you are entitled to until you file all your outstanding returns.

You must keep your books and records in case we ask to see them later. For more information on how to keep adequate books and records, go to **canada.ca/taxes-records**.

If you need more information about this notice, call us at **1-800-959-5525**.

Thank you,

Bob Hamilton
Commissioner of Revenue

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This is Exhibit “G” referred to in the Affidavit of Jim Pearce sworn remotely this 12th day of December 2021.

A handwritten signature in blue ink, appearing to read 'Alexandra Teodorescu', is centered on the page.

Commissioner for Taking Affidavits (or as may be)

Alexandra Teodorescu

From: Jim Pearce
Sent: Friday, November 12, 2021 8:30 AM
To: nct@peacebridge.com
Subject: Payment

Hi - information for CERS Oct 23rd Period is attached - payment went out yesterday.
Regards,
Jim

PBA Remittance - Nov 11/21

Period 14/21
Sep26-Oct23

PBDF store max	75,000.00
CERS rate	<u>20%</u>
	15,000.00

Previously paid Add'l Rent Insurance&Taxes	<u>(10,812.33)</u>
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Remitted to PBA	<u>4,187.67</u>
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Summerside PE C1N 5Z7

0004591

Date Issued Nov 8, 2021
Business number 10185 1210 ZA0001

PEACE BRIDGE DUTY FREE INC
C/O KAREN SHAUBEL
P.O. BOX 339 STN MAIN
FORT ERIE ON L2A 5N1

Subject: Canada Emergency Rent Subsidy (CERS) - Notice of (re)determination (period covered: **September 26, 2021 to October 23, 2021**)

We determined that PEACE BRIDGE DUTY FREE INC is eligible for the rent subsidy for this qualifying period.

Your entitlement is **\$15,507.10** (under subsection 152(3.4) of the Income Tax Act).

If the amount showing on this notice is different from what you claimed, we will send you an explanation of the change separately.

For more information on the CERS program, go to **canada.ca/rent-subsidy**.

If you disagree and want to file an objection, you have 90 days from the date of this notice. To learn more about your objection rights, go to **canada.ca/cra-complaints-disputes**.

If you are late with filing any of your returns, we encourage you to file them as soon as possible. We use your tax information to determine your eligibility for benefit and credit payments.

We may also hold any refunds or credits you are entitled to until you file all your outstanding returns.

You must keep your books and records in case we ask to see them later. For more information on how to keep adequate books and records, go to **canada.ca/taxes-records**.

If you need more information about this notice, call us at **1-800-959-5525**.

Thank you,

Bob Hamilton
Commissioner of Revenue

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This is Exhibit “H” referred to in the Affidavit of Jim Pearce sworn remotely this 12th day of December 2021.

A handwritten signature in blue ink, appearing to read "Alexandra Teodorescu". The signature is fluid and cursive, with the first name "Alexandra" written in a larger, more prominent script than the last name "Teodorescu".

Commissioner for Taking Affidavits (or as may be)

Alexandra Teodorescu

LAND BORDER DUTY FREE SHOP AUTHORIZATION

Made in triplicate as of the 27th day of January, 2015

BY:

LIQUOR CONTROL BOARD OF ONTARIO
55 Lake Shore Blvd. East
Toronto, Ontario
M5E 1A4
(the "LCBO")

TO:

PEACE BRIDGE DUTY FREE INC.
P. O. Box 339
Peace Bridge Plaza
Fort Erie, Ontario
L2A 5N1
(the "Operator")

WHEREAS the LCBO, pursuant to the *Liquor Control Act*, R.S.O. 1990, c. L. 18, has the power to sell liquor and to control the sale, transportation and delivery of liquor in Ontario;

AND WHEREAS the Operator is licensed to operate a Duty Free Shop at or near the Border Crossing Point at **Fort Erie, Ontario** under a licence issued by Canada Border Services Agency pursuant to the *Customs Act*, R.S.C. (2nd Supp.) 1985, c.1, as amended and Regulations made thereto;

AND WHEREAS pursuant to the Regulations Respecting Duty Free Shops made under the Customs Act, the written approval of the LCBO is required to sell intoxicating liquor in Duty Free Shops in Ontario;

AND WHEREAS the LCBO has granted such approval with respect to the Shop described in this Authorization upon the terms and conditions of this Authorization;

NOW THEREFORE the Operator is authorized to purchase Intoxicating Liquor from the LCBO and to sell Intoxicating Liquor from the Shop solely in accordance with the terms and conditions of this Authorization, as follows:

1. DEFINITIONS AND INTERPRETATION

In this Authorization, unless the subject matter or context is inconsistent therewith, the following expressions shall have the following meanings respectively:

- 1.1 "Border Crossing Point"** means a place on the international border between Canada and the United States at which there is a Canada Customs Office.
- 1.2 "Duty Free Product Assortment List"** means the LCBO's list of the products for which the LCBO regularly maintains a separate inventory for filling duty free orders, as amended by the LCBO from time to time.
- 1.3 "Duty Free Shop"** means "duty free shop" within the meaning of the *Customs Act*, R.S.C. (2nd Supp.) 1985, c.1, as amended.

- 1.4 "Eligible Ontario Wine" means Ontario wine made by an Eligible Winery that is not a product included by the LCBO on the Duty Free Product Assortment List.
- 1.5 "Eligible Winery" means a person holding a manufacturer's licence issued under the *Liquor Licence Act* who has been authorized by the LCBO to sell Eligible Ontario Wine.
- 1.6 "Intoxicating Liquor" means "intoxicating liquor" within the meaning of the *Importation of Intoxicating Liquors Act*, R.S.C. 1985 c. l-4, as amended, and includes all "beer", "liquor", "spirits" and "wine" within the meaning of the *Liquor Control Act* R.S.O. 1990, c. L. 18, as amended.
- 1.7 "Landed Cost" means the amount paid by the LCBO to purchase Intoxicating Liquor including all transportation and freight charges incurred F.O.B. the Warehouse designated by the LCBO, together with any tax, charge or levy which the LCBO is required by law from time to time to pay but shall exclude all charges, duties, levies and taxes not applicable to Intoxicating Liquor sold in a Duty Free Shop.
- 1.8 "Licence" means the licence issued to the Operator by Canada Border Services Agency under the *Customs Act*, R.S.C. (2nd Supp.) 1985, c.1, as amended and Regulations made thereunder to operate a Duty Free Shop in the premises at the **Border Crossing Point at Fort Erie, Ontario**.
- 1.9 "Mark-up" means the amount set from time to time by the LCBO in accordance with this Authorization to be added to the LCBO's Landed Cost for purposes of calculating the Operator's Purchase Price of Intoxicating Liquor.
- 1.10 "Purchase Price" means the amount to be paid from time to time by the Operator to the LCBO under this Authorization for the purchase of Intoxicating Liquor.
- 1.11 "Sale Price" means the amount at which the Operator may sell Intoxicating Liquor from time to time in accordance with this Authorization.
- 1.12 "'Shop" means the premises at the Border Crossing Point at **Fort Erie, Ontario**, from which the Operator is permitted by the Licence to operate a Duty Free Shop, and will include any office and storage area adjacent to or close to the said premises which are used in conjunction with the duty free business and any other premises permitted by the Licence and approved by the LCBO in writing.

2. TERM

This Authorization shall be for a **ten (10)** year term commencing on **January 27, 2015** and ending on **January 26, 2025**, unless terminated earlier in accordance with the provisions of this Authorization.

3. AUTHORIZATION TO PURCHASE AND SELL INTOXICATING LIQUOR AND PRICING

3.1 The LCBO hereby authorizes the Operator:

- (a) to purchase Intoxicating Liquor only from the LCBO or as otherwise directed herein or by written notice signed by the President or the General Counsel of the LCBO from time to time; and

- (b) to sell Intoxicating Liquor from the Shop only to persons who are about to leave Canada, and who are entitled to purchase Intoxicating Liquor pursuant to the laws of the Province of Ontario and Canada,

in accordance with the terms and conditions of this Authorization.

- 3.2** The LCBO shall determine and establish, by giving at least thirty (30) days written notice to the Operator, the Purchase Price at which the Operator may purchase Intoxicating Liquor from the LCBO and such price shall be calculated by adding the Mark-Up set by the LCBO in writing from time to time to the LCBO's Landed Cost for the Intoxicating Liquor.
- 3.3** The LCBO shall advise the Operator of the Mark-Up applicable to all types of Intoxicating Liquor as determined by the LCBO from time to time. The LCBO may at any time change the Mark-Up applicable to any type of Intoxicating Liquor by giving at least ten (10) days written notice thereof to the Operator and the changed Purchase Price resulting therefrom, which will be effective and binding on the Operator on the effective date specified in the notice. Subject to Section 3.6, the maximum Mark-Up that will be set by the LCBO is thirty percent (30%) of the LCBO's Landed Cost.
- 3.4** The maximum Sale Price at which the Operator may sell Intoxicating Liquor shall be 225% of the Purchase Price paid by the Operator to the LCBO to purchase the Intoxicating Liquor.
- 3.5** The Operator may request the LCBO in writing to increase the maximum Sale Price calculated under Section 3.4 for any specified Intoxicating Liquor product and, within twenty (20) Business Days after the receipt of such written request, the LCBO shall, by written notice, grant or deny such request or, with the consent of the Operator, vary the increase so requested.
- 3.6** Despite Section 3.3, where the LCBO grants or varies the increase to the maximum Sale Price requested under Section 3.5, the LCBO shall, by written notice, increase the Purchase Price for such product by an amount that is one-half of the increase granted under Section 3.5 to the maximum Sale Price for the product.
- 3.7** Where an increase to the maximum Sale Price has been granted under Section 3.5 for any Intoxicating Liquor product, the Operator may request the LCBO in writing to reduce such increased maximum Sale Price to an amount that is not lower than the maximum Sale Price permitted under Section 3.4 for the product and, within twenty (20) Business Days after the receipt of such written request, the LCBO shall, by written notice, grant such request or, with the consent of the Operator vary the decrease so requested.
- 3.8** When the LCBO grants or varies the decrease to the maximum Sale Price requested under Section 3.7, it shall also reduce the Purchase Price for the product as increased under Section 3.6, by deducting therefrom an amount equal to one-half of the decrease granted under Section 3.7.
- 3.9** Any notice given by the LCBO pursuant to this section shall state the date upon which any increase or decrease or other change shall become effective and such notice must be signed by any one of the President, the Senior Vice President of Finance and Administration or the General Counsel of the LCBO.

- 3.10** The Operator shall purchase Intoxicating Liquor to be sold in the Shop only from the LCBO, or as otherwise directed herein or by written notice signed by the Chair, the President or the General Counsel of the LCBO from time to time, at the Purchase Price set by the LCBO from time to time. However, the Operator may, in accordance with procedures for ordering, purchasing, and delivering issued to the Operator by the LCBO from time to time: (a) purchase beer made in Ontario from either Brewers Retail Inc. or from a manufacturer authorized by the Alcohol and Gaming Commission of Ontario to sell such beer to the LCBO; and (b) purchase Eligible Ontario Wine from an Eligible Winery, acting on behalf of the LCBO. The Operator will purchase such beer or Eligible Ontario Wine at the applicable price approved by the LCBO from time to time and not at the Purchase Price described in Section 3.2. The Operator shall pay the Purchase Price for Eligible Ontario Wine to the applicable Eligible Winery that is acting on behalf of the LCBO, and not to the LCBO, as would otherwise be required pursuant to Section 4.5.
- 3.11** The Operator shall not transfer Intoxicating Liquor from the Shop without the written approval of the LCBO. This provision shall survive any expiration or revocation of this Authorization.
- 3.12** The LCBO agrees that, except for increases in the Purchase Price for an Intoxicating Liquor product resulting from the application of Section 3.6, the Purchase Price for any Intoxicating Liquor product at any time shall not be greater than the price payable to the LCBO at such time for such product by any operator of a Duty Free Shop located at a Border Crossing Point.

4. PROCEDURES FOR PURCHASE AND SALE

- 4.1** The LCBO shall sell to the Operator those brands of Intoxicating Liquor listed for sale by the LCBO in LCBO operated liquor stores in Ontario and/or in Ontario Duty Free Shops located at Border Crossing Points. In addition, the LCBO may, from time to time, sell to the Operator other types of Intoxicating Liquor upon such terms as the LCBO considers reasonable and for a Purchase Price determined in accordance with Section 3. At all times, the LCBO reserves the right to limit the number and size of brands it will sell to the Operator in order to ensure that the Operator maintains a reasonable inventory of and sells a representative selection of Intoxicating Liquor products furnished by various suppliers. The Operator will include within its purchases of Intoxicating Liquor products, some of the wines that a manufacturer of Ontario wine licensed under the *Liquor Licence Act*, is permitted to sell in Ontario and by doing so, the Operator shall be deemed to have satisfied its obligation under Section 10.2 with respect to Ontario wines.
- 4.2** The Operator shall purchase Intoxicating Liquor in case-lots from the LCBO according to the procedures for ordering set from time to time by the LCBO.
- 4.3** The LCBO will endeavour to fill all orders of Intoxicating Liquor received from the Operator as quickly as possible, but where it cannot fill an order for any reason or where there will be a delay, the LCBO will notify the Operator promptly and the Operator will not be entitled to any claim, demand or legal remedy of any kind against the LCBO for damages resulting from any such delay or failure to supply Intoxicating Liquor to the Operator for any reason.

- 4.4 The Operator may contract, at its own expense, carriers to transport Intoxicating Liquor to the Operator. Otherwise, the Operator will be responsible for directly paying the LCBO's contracted carrier for the full costs of transporting Intoxicating Liquor to the Operator at the rate paid by the LCBO from time to time for transporting its goods. Such amount will be invoiced by the LCBO's contracted carrier directly to the Operator. The LCBO's general practice is to choose its carriers as a result of an independent bidding process.
- 4.5 The Operator shall pay the LCBO the Purchase Price for all Intoxicating Liquor within twenty (20) days of delivery of the Intoxicating Liquor to the Operator. Payment must be made by cash, cheque, money order or electronic wire transfer of funds to the LCBO's bank account as designated from time to time by the LCBO in writing. If the Operator does not pay such amount to the LCBO on or before the 20th day following such delivery (the "Due Date"), then such overdue amounts shall bear interest, accruing daily from the Due Date until the date such amount is received by the LCBO, at a rate equal to 18% per annum. The Operator shall pay such interest to the LCBO within seven (7) days of the LCBO's written demand therefor. Where payment is repetitively late and the LCBO has not revoked the Authorization, the Operator shall, as and when required by the LCBO and without limitation of the LCBO's right to collect interest on such late payments hereunder, prepay the LCBO in full for all future orders.
- 4.6 Title to the Intoxicating Liquor shall pass to the Operator at the time it is paid for by the Operator. However Intoxicating Liquor shall be at the risk of the Operator from the time it is delivered to the Operator. Where any Intoxicating Liquor that is delivered to the Operator is not paid for by the Operator within the required time, the LCBO may at any time while such payment is overdue, and in addition to any other remedies it may have at law, enter the Shop and seize the liquor and may refuse to sell any more Intoxicating Liquor to the Operator until the amount owing is paid in full.
- 4.7 All Intoxicating Liquor purchased by the Operator shall be sold only from the Shop pursuant to the terms of this Authorization and the Operator shall, at all times, comply with the *Liquor Control Act*, the *Liquor Licence Act*, the *Customs Act*, the Regulations passed thereunder, and all amendments thereto.
- 4.8 The Operator shall, when ordered by the LCBO, cease selling any specified brand of Intoxicating Liquor where the LCBO has determined, in its sole discretion, that continued sale may put the health or safety of the public at risk. In such circumstances the Operator shall, if requested by the LCBO, return to the LCBO at the LCBO's cost the Operator's supply of the brand of Intoxicating Liquor specified. The LCBO shall reimburse the Operator in an amount equal to the Purchase Price paid by the Operator for the Intoxicating Liquor.
- 4.9 The LCBO hereby authorizes the Operator to store Intoxicating Liquor at the Warehouse, provided that the LCBO may, in its absolute discretion, terminate or suspend such authorization upon any termination or suspension of the Canada Border Security Agency's approval of such Warehouse premises as an off-site storage facility for the Operator's Duty Free Shop. The Operator may only receive and store Intoxicating Liquor at the Warehouse. The Operator shall not sell nor offer to sell Intoxicating Liquor at the Warehouse.

5. RESTRICTIONS ON TRANSFER OF RIGHTS

- 5.1 This Authorization and the rights and obligations hereunder may not be assigned, subcontracted, transferred or ceded by operation of law or otherwise. The rights of the Operator under this Authorization constitute a privilege and do not constitute personal property.
- 5.2 The LCBO may revoke this Authorization where there is a change of control or ownership of the Operator.
- 5.3 The Operator shall notify the LCBO immediately upon any change in its Articles of Incorporation or other incorporating documents or in the names of its directors or officers.
- 5.4 The Operator shall not permit the transfer, without the prior written consent of the LCBO, of any of its shares of a class that carries a voting right. The LCBO shall not unreasonably withhold such consent in the case of a transfer to a person, who, at the date of commencement of this Authorization owns one or more of the Operator's shares that carries a voting right or to a person to whom any such share has been subsequently transferred in accordance with the provisions of this subsection, but, in either event, only where such transfer does not constitute a change of effective control of the Operator.

6. BOOKS, RECORDS, AUDIT

- 6.1 The Operator shall maintain and to furnish to the LCBO upon request, a report in a form approved by the LCBO, showing the gross sales of all Intoxicating Liquor sold from the Shop, the Operator's inventory of Intoxicating Liquor, and any other similar information which the LCBO may from time to time require.
- 6.2 The Operator shall maintain invoices and books of account and records at the Shop showing the dates, Purchase Prices, and Sale Prices of all Intoxicating Liquor purchased and sold by the Operator together with any other information directed to be kept by the LCBO. In addition, the Operator will keep records of all amounts charged for placing advertising or promotional materials in the Shop together with invoices and agreements and other documentation relating thereto.
- 6.3 The Operator shall furnish to the LCBO upon written request therefor its financial statements relating to Intoxicating Liquor sales for its last fiscal year, duly prepared and certified by a chartered accountant together with:
 - (a) an income statement indicating separately all revenues and direct expenses related to Intoxicating Liquor purchased and sold by the Operator;
 - (b) statements of net sales, product cost and direct margins for sales of Intoxicating Liquor; and
 - (c) a statement showing the percentage that sales of Intoxicating Liquor are of total sales of all other merchandise made from the Shop.
- 6.4 Books and records relating to the sale of Intoxicating Liquor in the Shop and with respect to placing advertising and promotional materials in the Shop shall be open to the LCBO at the Shop or in any other premises or place under the Operator's control for the purposes of audit and inspection by the LCBO and for the taking of extracts therefrom at any time.

- 6.5 An inventory and inspection of all Intoxicating Liquor held by the Operator may be undertaken by the LCBO at any time and the LCBO may enter the Shop at any time for such purpose.
- 6.6 The Operator shall maintain and shall furnish to the LCBO, immediately upon the written request of the LCBO, in order to investigate compliance with Section 7.1(h), a list of the names, dates of birth and addresses of all employees or persons who work or have worked in the Shop at any time during this Authorization and shall also provide the time during which each such person worked or was employed in the Shop.
- 6.7 All books, records and reports required to be kept by the Operator pursuant to the terms of this Authorization shall be retained for at least two (2) years following the expiration or revocation of this Authorization.

7. STORE OPERATION

7.1 The Operator shall:

- (a) keep and maintain the Shop in a clean and sanitary condition and conform with all by-laws and regulations from time to time in force which may affect the Shop;
- (b) employ a sufficient number of capable staff to ensure that persons desiring to purchase Intoxicating Liquor receive courteous, prompt, attentive and informative service;
- (c) employ only such personnel as will ensure a high standard of service to the public and who will conduct themselves politely and with inoffensive conduct at all times;
- (d) comply with all statutes, laws, by-laws, licences, regulations, permits, orders, ordinances and requirements of any federal, provincial or municipal authority;
- (e) abide by all applicable rules, directives, guidelines and policy statements of which the LCBO gives notice to the Operator from time to time;
- (f) ensure that Intoxicating Liquor products are displayed in the Shop in a dominant merchandising position, to the satisfaction of the LCBO;
- (g) ensure that the lay-out and setting of the Shop enhance the sale of Intoxicating Liquor;
- (h) ensure that no person under the age of eighteen (18) years is permitted to sell Intoxicating Liquor from the Shop; and
- (i) use its best efforts at all times to actively sell Intoxicating Liquor products in the Shop.

8. INDEMNITY

The Operator shall, at all times, protect, indemnify and save harmless the LCBO and its directors, officers, employees and agents against and from any and all losses, damages, costs, liabilities, expenses (including legal fees), claims, actions, demands and proceedings including, without limitation, claims for personal injury or property damage, which are caused by or arise out of, either directly or indirectly, any act or omission of the Operator or of any agent, contractor, employee, customer, invitee, officer, shareholder, director, volunteer or representative of the Operator in connection with this Authorization.

9. INSURANCE

9.1 The Operator shall, at its sole cost and expense, obtain and maintain in full force and effect at all times throughout the term of this Authorization insurance satisfactory to the LCBO, including without limitation, Comprehensive General Liability insurance insuring the Operator, its servants, agents, contractors and persons for whom the Operator is in law responsible, for all amounts it may become obliged to pay as damages by reason of bodily injury to any person (including death), or damage to or destruction of any property, with coverage for any one occurrence or claim of not less than Five Million Canadian Dollars (C\$5,000,000.00). The Comprehensive General Liability insurance shall include coverage for products and completed operations, liquor law liability, blanket contractual liability, employers or contingent employers' liability and non-owned automobile liability.

9.2 The insurance required pursuant to Section 9.1 must:

- (a) include the LCBO as an additional named insured but only in respect of and during service performed by the Operator under this Authorization;
- (b) contain a cross-liability and severability of interest clause;
- (c) include a provision requiring the insurer to give at least thirty (30) days prior written notice to the LCBO in the event that the policy of insurance is to be adversely changed or cancelled; and
- (d) provide that the LCBO shall be insured notwithstanding any act, omission, negligence or misrepresentation of the Operator which might otherwise result in the avoidance of a claim made by the LCBO under the policies, and that the policies will not be affected or invalidated by any act, omission or negligence of any third party which is not within the knowledge or control of the Operator and the LCBO or either of them.

9.3 The Operator shall arrange for the completion and submission to the LCBO of certificates of such insurance within thirty (30) days of the date of this Authorization, and thereafter immediately following every amendment, renewal or endorsement of such insurance policies. The Operator shall furnish the LCBO with a copy of the policies of such insurance upon request by the LCBO.

9.4 If the Operator does not at any time comply with the provisions of Sections 9.1, 9.2 or 9.3, then in addition to any other remedy which may be available to the LCBO, the LCBO may, at its option:

- (a) suspend or revoke this Authorization immediately upon written notice, without incurring any liability, penalty or charge;
- (b) obtain and pay for the insurance to be maintained by the Operator, on the Operator's behalf, and the Operator shall reimburse the LCBO immediately upon demand for all costs incurred by the LCBO in doing so;
- (c) withhold payment of any amounts due by the LCBO to the Operator; or
- (d) any or all of the above.

9.5 The Operator shall at all times operate the Shop under such bonds as are required by Canada Border Services Agency.

10. SALES PROMOTIONS AND ADVERTISING

- 10.1 Except for advertising or promotional agreements that are entered into and carried out in accordance with the requirements of this section, the Operator shall not directly or indirectly enter into any agreement, arrangement, concession or understanding, either oral or written with any manufacturer, brewer, distiller, producer, bottler or distributor of Intoxicating Liquor, their servants, agents, employees or anyone acting under their authority or direction or with any other person or group of persons whereby the Operator covenants or agrees, directly or indirectly to purchase, sell, promote the sale of, or otherwise give any preference to (including, without limitation, a preference as to the routine shelf position or space occupied by) any particular brand of Intoxicating Liquor produced, bottled, distributed or represented by any of such persons.
- 10.2 At all times a representative number of brands and types of Intoxicating Liquor, in reasonable quantities, shall be kept available for sale in the Shop to the satisfaction of the LCBO.
- 10.3 Neither the Operator nor any employee or agent of the Operator shall act as the agent or representative of any manufacturer, brewer, distiller, producer, bottler, distributor, or representative of any Intoxicating Liquor or of anyone acting under their authority or direction.
- 10.4 Neither the Operator nor any employee or agent of the Operator shall, except in accordance with the requirements of this section, accept from or give, either directly or indirectly, any gift, loan, or thing of value or material benefit from or to as the case may be, any manufacturer, brewer, distiller, producer, bottler, or distributor of Intoxicating Liquor, their servants, agents, employees or anyone acting under their authority or direction or any other person or group of persons.
- 10.5 The Operator shall comply with all advertising requirements imposed under the *Liquor Licence Act*, as amended and the Regulations made thereto irrespective of the person on whom such requirement is actually imposed.
- 10.6 The Operator may charge for placing advertising or promotional materials in the Shop provided that the rates charged for placing such advertising or promotional materials do not exceed the normal rates charged for similar type, quality and size advertising or promotional materials in the vicinity or in similar stores in which Intoxicating Liquor is

permitted for sale, and the Operator shall have available a printed schedule of the rates and all related charges for the placement of advertising or any promotion in the Shop, which schedule shall be provided without charge to any person requesting such rates and shall be provided to the LCBO upon the LCBO's written request therefor.

- 10.7 The sale of advertising space in the Shop by the Operator shall not, in any way, be conditional upon the quantity of a particular brand or type of Intoxicating Liquor selected for purchase by the Operator from the LCBO or conditional upon the establishment of the Sale Price charged by the Operator for a particular brand or type of Intoxicating Liquor.
- 10.8 Any advertising of products by the Operator shall be carried out in such a manner as to ensure that all manufacturers of all liquor products sold in the Shop are at all times given a reasonable opportunity to advertise and promote their products in the Shop.
- 10.9 All Intoxicating Liquor products will be displayed in the Shop by the Operator in a manner that is at all times satisfactory to the LCBO.
- 10.10 Neither the Operator nor any employee, agent or representative of the Operator shall directly or indirectly give any gift, loan, thing of value or material benefit to any member, employee, agent or representative of the LCBO or the Alcohol and Gaming Commission of Ontario.

11. SUSPENSION OR REVOCATION

- 11.1 The LCBO may revoke or suspend this Authorization immediately, in whole or in part, without liability, by written notice to the Operator where the Operator winds up, liquidates, ceases to carry on business or to exist or where:
 - (a) a trustee, (including a trustee in bankruptcy) receiver or receiver and manager is appointed in respect of the Operator or the property of the Operator and is not discharged within thirty (30) days thereafter; or
 - (b) any proceeding is commenced by the Operator for any relief under any bankruptcy or insolvency laws or laws relating to any reorganization, arrangement, compromise or winding up of the Operator and such proceeding remains undismissed or unstayed for thirty (30) days thereafter.
- 11.2 Notwithstanding anything to the contrary herein, the LCBO may, by written notice, immediately revoke this Authorization at any time in order to comply with any legislation, judgment, order or ruling of any kind affecting the LCBO, and such revocation will be effective upon giving thirty (30) days written notice thereof to the Operator.
- 11.3 This Authorization may be suspended, in whole or in part, immediately by the LCBO without liability, upon written notice and/or subject to Section 11.4, may be revoked, in whole or in part, by the LCBO immediately, without liability, upon written notice:
 - (a) upon any termination or during any suspension of either the Licence or of the Operator's lease or right to occupy the Shop;
 - (b) where there is a breach of any provision of this Authorization;

- (c) where the Operator or any of its employees, agents, directors, officers or voting shareholders exhibit conduct, which, in the opinion of the LCBO, acting reasonably, is cause for suspension or revocation;
- (d) where the volume of Intoxicating Liquor purchased by the Operator from the LCBO for sale in the Shop is no longer sufficient in the opinion of the LCBO, to warrant the continued sale of Intoxicating Liquor in the Shop;
- (e) where the Operator or any of its employees, agents, directors, officers or voting shareholders exhibit conduct, which in the opinion of the LCBO, acting reasonably, is unsatisfactory; or
- (f) where the Operator or any of its employees, agents, directors, officers or voting shareholders is charged with an offence against any statute or regulation, which, in the opinion of the LCBO, acting reasonably, is cause for suspension or revocation.

11.4 The LCBO shall, before revoking this Authorization under Section 11.3, give to the Operator:

- (a) thirty (30) days written notice of the proposed revocation;
- (b) a description of the grounds upon which the LCBO proposes to revoke the Authorization; and
- (c) ten (10) days from the date of such notice within which to respond and make written representations as to why this Authorization should not be revoked.

11.5 Where the LCBO suspends this Authorization, in whole or in part, it may impose such conditions as it deems necessary and the Operator will abide by such conditions. The exercise of any right of suspension under this Authorization does not prevent the LCBO from also exercising its right of revocation of this Authorization.

11.6 The LCBO may, by written notice, reinstate the rights or obligations under this Authorization at any time when it is satisfied that the cause for suspension no longer exists and may impose such further conditions as it deems necessary.

11.7 If this Authorization is revoked, suspended or it expires, then the Operator shall not sell or transfer from the Shop any Intoxicating Liquor remaining in its possession without the written consent of the LCBO, and shall comply with the LCBO's instructions regarding any Intoxicating Liquor remaining in its possession. In such circumstances, the LCBO may enter the Shop or any other place where the Operator has Intoxicating Liquor and may take possession of the Intoxicating Liquor if it deems necessary. If consent to transfer the Intoxicating Liquor from the Shop is not given, then the LCBO shall purchase the Intoxicating Liquor at an amount equal to the Purchase Price originally paid by the Operator for it.

11.8 The LCBO will not be responsible for any losses, costs, damages or any other type of compensation arising by virtue of the operation, suspension or revocation of this Authorization or of any right or obligation contained herein. The LCBO shall not, by reason of the suspension, revocation or expiration of the Authorization, be responsible to the

Operator for any loss, compensation, reimbursement, or damages (i) on account of loss of prospective profits on anticipated sales nor on account of expenditures, investments, leases or commitments made in connection with the business or goodwill of the Operator; or (ii) arising by virtue of the operation or cessation of operation of this Authorization, any right or obligation contained herein, or any decision not to renew or extend the term of this Authorization upon its expiry.

12. CONFLICT OF INTEREST

- 12.1** If a member of the Legislative Assembly of Ontario or any Ontario or Federal Government officer or employee, or any member of the LCBO or employee of the LCBO or of the Alcohol and Gaming Commission of Ontario has or proposes to have any connection to the Operator or any direct or indirect interest in, financial or otherwise, the Operator or in the management of the Shop, such person shall be deemed to have a potential conflict of interest.
- 12.2** If the Operator, or any officer, director, shareholder or employee of the Operator has or proposes to have any direct or indirect interest in, financial or otherwise, or connection to any particular manufacturer, distributor, or bottler of Intoxicating Liquor that he does not have with other manufacturers, distributors or bottlers of Intoxicating Liquor, then the Operator shall be deemed to have a potential conflict of interest.
- 12.3** The Operator must promptly inform the LCBO whenever a potential conflict of interest referred to in Section 12.1 or Section 12.2 occurs. The Operator shall provide to the LCBO the particulars of the nature and extent of such interest or connection, the name or names of the persons or entities involved and all other relevant details, and such further information as the LCBO may request.
- 12.4** Where, in the opinion of the LCBO:
- (a) any person with a potential conflict of interest described in Section 12.1 could be, or could be perceived to be, able to act in such capacity to further the Operator's private interest; or
 - (b) the interest, connection, or association described in Section 12.2, may result in the promotion in the Shop of the sale of one or more particular brands of Intoxicating Liquor in preference to another;

then the LCBO, in its absolute discretion, may revoke this Authorization or suspend it until such time as it is satisfied that such conflict of interest no longer exists.

13. GENERAL

13.1 Entire Understanding

This Authorization constitutes the entire understanding between the parties with respect to the subject contained herein and supersedes all prior agreements, negotiations, proposals and representations, whether oral, written or otherwise relating to such subject matter.

13.2 Successors

The rights granted to the Operator under this Authorization are intended to be personal in nature and shall not enure to the benefit of any successor, heir, executor or administrator of the Operator.

13.3 Waiver

No waiver of any breach of any provision of this Authorization shall be effective unless expressed in writing and signed by the LCBO. Unless otherwise expressly provided, the extent of any waiver granted shall be restricted to the specific breach waived and shall not extend to any further occurrence of such breach.

13.4 Parties Independent

The parties to this Authorization are mutually independent and this Authorization shall not be deemed to create or constitute a partnership, joint venture, agency or other form of joint enterprise between the parties. None of the parties shall have the right or authority or shall represent that they have the right or authority to undertake any obligations of any nature on behalf of the other party.

13.5 Survival

The provisions of Sections 3.11, 6, 8 and 11 of this Authorization shall survive any suspension, surrender, revocation or expiration of this Authorization.

13.6 Notices

Any notices to be given or required under this Authorization shall be in writing and shall be deemed to have been given when personally delivered, transmitted by telecopy or other electronic means of communication or mailed by registered or certified mail, postage fee paid to the following address:

To the Operator:
P. O. Box 339
Peace Bridge Plaza
Fort Erie, Ontario
L2A 5N1

Attention: *Mr. Gregory G. O'Hara*
~~Mr. George W. Slipp~~, Chief Executive Officer
Fax Number: (905) 871-6335



To the LCBO:
55 Lake Shore Boulevard East
Toronto, Ontario
M5E 1A4

Attention: Acting Director, Corporate Affairs
Fax Number: (416) 864-2431

Notice may be given by any of the methods prescribed as follows:

- (a) by delivery, effective at the time of actual delivery;
- (b) by telex, facsimile or other form of electronic communication, effective on the next business day; or
- (c) registered or certified mail, effective on the third (3rd) business day following the deposit of a properly addressed form of notice in the mail; provided however, in the event of a disruption of regular postal service notice shall not be given by mail.

13.7 Rights and Remedies.

The rights and remedies of the Operator and the LCBO under this Agreement are cumulative and are in addition to and not in substitution for any rights or remedies provided by law; and any single or partial exercise by the Operator or the LCBO of any right or remedy for default or breach of any term, covenant, condition or agreement herein contained shall not affect any other rights of the Operator or the LCBO and shall not be deemed to be a waiver of, or alter, affect or prejudice any other right or remedy to which either party may be lawfully entitled in respect of the same default or breach.

13.8 Set Off

Despite any other provisions of this Authorization, upon the failure of the Operator to pay to the LCBO, as and when due, any amount which becomes payable by the Operator to the LCBO pursuant to the provisions of this Authorization, the LCBO shall have the right, at its option, to deduct any and all such amounts then remaining unpaid from any amounts which are or become payable by the LCBO to the Operator.

LIQUOR CONTROL BOARD OF ONTARIO

Per: 

Name: Penny Wyger

Title: Senior Vice President, General Counsel & Corporate Secretary

The undersigned hereby acknowledges receipt of the foregoing terms and conditions.

PEACE BRIDGE DUTY FREE INC.

Per: 

Authorized Signing Officer

Name: James Pearce

Title: General Manager

Address:

Peace Bridge Duty Free Inc.
P.O. Box 339
Peace Bridge Plaza
Fort Erie, Ontario
L2A 5N1

Elizabeth Kruzel
Sr. Policy Advisor
Corporate Affairs

elizabeth.kruzel@lcbo.com
416-864-6820 tel
416-864-2431 fax

55 Lake Shore Blvd. East
Toronto, ON, M5E 1A4
lcbo.com



Date:

November 16, 2017

Attention:

Jim Pearce

Dear Mr. Pearce:

Following on our e-mail and telephone exchanges enclosed please find in triplicate replacement the LCBO Land Border Duty Free Shop Authorization issued to Peace Bridge Duty Free Inc.

Please arrange for execution under corporate seal; retain one copy for your records and return the other two copies to my attention.

Directly that we receive the fully executed Authorizations I will engage colleagues in LCBO Legal Services to prepare the Amending Agreement that formally removes the 225% maximum sale price ceiling.

Thank you in advance for promptly attending to execution and returning the documents to LCBO Corporate Affairs.

I am very glad to have been assigned once again to provide policy and administrative support to Duty Free Operators.

Sincerely,

Elizabeth Kruzel-D'Cunha
Sr. Policy Advisor, Corporate Affairs

Enclosure (3)

This is Exhibit "I" referred to in the Affidavit of Jim Pearce sworn remotely this 12th day of December 2021.

A handwritten signature in blue ink, appearing to read "Alexandra Teodorescu", written in a cursive style.

Commissioner for Taking Affidavits (or as may be)

Alexandra Teodorescu

*** I Canada Border
Services Agency**

191 Laurier Avenue. West
12th floor
Ottawa, Ontario
K1A 0L8

**Agence des services
frontaliers du Canada**

191, rue Laurier Ouest
12e étage
Ottawa, Ontario
K1A 0L8

April 27, 2017

Jim Pearce
Finance Manager
Peace Bridge Duty Free Inc.
Hamilton International Airport,
P. O. Box 339,
Peace Bridge Plaza
Fort Erie, ON L2A 5N1

Dear Mr. Pearce,

Officials of the Canada Border Services Agency have completed their review of the information your company submitted to support the renewal of the duty free shop licence for Peace Bridge Duty Free Inc. located at the Hamilton International Airport in Hamilton, Ontario.

I am pleased to inform you that your licence has been renewed for a period commencing May 1, 2017, and ending April 30, 2027, subject to your continuing compliance with the legislative and policy requirements of the Duty Free Shop Program.

I take this opportunity to wish your company continued success.

Yours sincerely,

Kathleen Warburton
Manager
Commercial Registration
Kathleen.Warburton a,cbsa-asfc.gc.ca

Attachment: Licence

Canada



LICENCE for DUTY FREE SHOP

This is to certify that:

AGREMENT de BOUTIQUE HORS TAXES

Il est certifié que

PEACE BRIDGE DUTY FREE INC.

has been issued a licence pursuant to the *Customs Act* to operate a duty free shop at:

a obtenu un agrement, conformernent a la *Loi sur les douanes*, pour exploiter une boutique hors taxes a :

Hamilton International Airport, Hamilton, Ontario

this ce	27th	day of Jour de	April/ avril	in the year de l'annee
------------	------	-------------------	-----------------	---------------------------

Manager, Commercial Registration Unit
Gestionnaire, ('unite des agrements commerciale

Authorization No. - N° d'autorisation

416 DFA 156

Effective Period - Periode de validite

From - De

To - A

2017.05.01

2027.04.30

Canada Border Services Agency
Agence des services frontaliers du Canada

ii=2:0111211=11261

PROTECTED D when completed
PROTEGE PUP une fois rempli

DUTY FREE SHOP
APPLICATION/AMENDMENT

BOUTIQUE HORS TAXES
DEMANDE/MODIFICATION

The information provided on this form is collected under the authority of Section 24 of the Customs Act for the purpose of assessing new applications, renewals and amendments to existing duty free shop operations. The information is used by Canada Border Services Agency in order to approve and track requests for new applications and amendments and is used to conduct a risk assessment to insure the individual (s) have no criminal or customs infractions. The information may be disclosed internally for risk assessment purposes. Individuals have the right of access to and/or can make corrections of their personal information under the Privacy Act - Section 12. The information collected is described within Info Source under the Duty Free Shops Program - CBSA PPU 007 which is detailed at <http://www.cbsa-asfc.gc.ca>.

Les renseignements fournis sur ce formulaire sont recueillis en vertu de l'article 24 de la Loi sur les douanes aux fins d'évaluation des nouvelles demandes, des modifications et des renouvellements relatifs aux boutiques hors taxes. L'Agence des services frontaliers du Canada utilise ses renseignements dans le but d'approuver et de surveiller les nouvelles demandes de modification ainsi que pour mener une évaluation des risques afin de s'assurer que les personnes en question n'ont pas commis d'infractions criminelles ou d'infractions relatives aux douanes. Les renseignements peuvent être divulgués à l'interne à des fins d'évaluation des risques. Les personnes ont le droit d'accéder à leurs renseignements personnels ou d'y apporter des corrections en vertu de l'article 12 de la Loi sur la protection des renseignements personnels. Les renseignements recueillis sont clairement indiqués dans la section réservée au Programme des boutiques hors taxes - ASFC PPU 007 du bulletin Info Source offert à l'adresse suivante <http://www.cbsa-asfc.gc.ca>.

52] Licence to operate Accordement d'exploitation	<input checked="" type="checkbox"/> Licence amendment Modification de l'accordement	<input type="checkbox"/> Amendment (Site/Building/Bond) I—I Modification (Emplacement/Immeuble/Garantie)	<input type="checkbox"/> Change in ownership Changement de propriétaire
--	--	---	--

Applicant information - Renseignements du demandeur

Name of applicant - Nom du demandeur
RA mil, nAi A-rc2s).47,0,i.4l-)JTV /A z"/.

Mailing address - Adresse postale
132(_2 2cl Atj A--g / QA)

Postal code - Code postal
1-d 4 .S-I') (

Telephone No. - N° de telephone
fa ,r ,i) 1 i - di 00

Duty free shop legal name - Raison sociale de la boutique hors taxes
4790. .?/), z Zci 7 a ,7 /4 c_

Are site and building plans included? - Les plans de l'emplacement et de l'immeuble sont-ils inclus?
Yes / Oui ☐ No / Non ☐

Site Address - Adresse de l'emplacement
9:200 / 1 f/a7 gO A L)A,7 ga, (OAJ

Business Number - Numéro d'entreprise
/ a / er - /0 2 / o

Licence to operate (Site applied for)
Agrément d'exploitation (Emplacement vise)
VI Airport / VI port ☐ mi land / mi terre ☐ border / terrestre ☐

Legal status of applicant (Provide proof of Canadian citizenship) - Statut juridique du demandeur (Fournir une preuve de citoyenneté canadienne)

<input checked="" type="checkbox"/> Corporation	<input type="checkbox"/> Partnership Société	<input type="checkbox"/> Sole proprietorship Propriétaire unique	<input type="checkbox"/> Trust Fiducie
---	---	---	---

Canadian citizen - Citoyen canadien Landed immigrant - Immigrant reçu Canadian company - Compagnie canadienne

All shares must be owned by individuals who are Canadian citizens or landed immigrants. (Airports excluded)
Les actionnaires doivent tous être des citoyens canadiens ou des immigrants reçus. (Aéroports exclus)

Licence Amendment (Provide certified copy of the amendment) - Modification de l'accordement (Fournir copie certifiée de la modification)

<input type="checkbox"/> Change in name - Changement au nom	<input type="checkbox"/> Suspension	<input checked="" type="checkbox"/> Cancellation - Annulation
---	-------------------------------------	---

Reasons for amendment - Motifs de la modification

Amendment (Site/Building/Bond) - Modification (Emplacement/Immeuble/Garantie)

Changes requested - Changements demandés

CANADA BORDER SERVICES AGENCY (CBSA) USE ONLY - RESERVE A L'AGENCE DES SERVICES FRONTALIERS DU CANADA (ASFC)

Approved - Approuvée

[1] Not approved - Rejetée

Comments - Commentaires

Authorized signature and title - Signature autorisée et titre

/at, Rnte,

Change in ownership structure (Provide certified copy of the amendment) - Modification a la structure de la propriete (Fournir copie certifiee de la modification)

All shares must be owned by individuals who are Canadian citizens or landed immigrants.
Provide proof of Canadian citizenship.
(Airports excluded)

Les actionnaires doivent tous etre des citoyens canadiens ou des immigrants regus.
Fournir une preuve de citoyennete canadienne.
(Aerports excius)

CURRENT - ACTUELLE

Name of applicant - Nom du demandeur

Address of residence - Adresse residentielle

Postal code - Code postal

Telephone No. - N° de telephone

Date of birth - Date de naissance Beneficial ownership interest
Participation dans la propriete reelle

Name of applicant - Nom du demandeur

Address of residence - Adresse residentielle

Postal code - Code postal

Telephone No. - N° de telephone

Date of birth - Date de naissance Beneficial ownership interest
Participation dans la propriete reelle

Name of applicant - Nom du demandeur

Address of residence - Adresse residentielle

Postal code - Code postal

Telephone No. - N° de telephone

Date of birth - Date de naissance Beneficial ownership interest
Participation dans la propriete reelle

Name of applicant - Nom du demandeur

Address of residence - Adresse residentielle

Postal code - Code postal

Telephone No. - N° de telephone

Date of birth - Date de naissance Beneficial ownership interest
Participation dans la propriete reelle

Name of applicant - Nom du demandeur

Address of residence - Adresse residentielle

Postal code - Code postal

Telephone No. - N° de telephone

Date of birth - Date de naissance Beneficial ownership interest
Participation dans la propriete reelle

Name of applicant - Nom du demandeur

Address of residence - Adresse residentielle

Postal code - Code postal

Telephone No. - N° de telephone

Date of birth - Date de naissance Beneficial ownership interest
Participation dans la propriete reelle

Authorized signature and title - Signature et titre de l'agent autorise

I hereby certify that all information provided with this application is true and I will conform with all the provisions of the CBSA laws and regulations, requirements and procedures for the operation of the free shops.

a t , 4l aAa

Applicant's signature and title - Signature et titre du demandeur

REVISED - MODIFIEE

Name of applicant - Nom du demandeur

Address of residence - Adresse residentielle

Postal code - Code postal

Telephone No. - N° de telephone

Date of birth - Date de naissance Beneficial ownership interest
Participation dans la propriete reelle 0/0

Name of applicant - Nom du demandeur

Address of residence - Adresse residentielle

Postal code - Code postal

Telephone No. - N° de telephone

Date of birth - Date de naissance Beneficial ownership interest
Participation dans la propriete reelle

Name of applicant - Nom du demandeur

Address of residence - Adresse residentielle

Postal code - Code postal

Telephone No. - N° de telephone

Date of birth - Date de naissance Beneficial ownership interest
Participation dans la propriete reelle

Name of applicant - Nom du demandeur

Address of residence - Adresse residentielle

Postal code - Code postal

Telephone No. - N° de telephone

Date of birth - Date de naissance Beneficial ownership interest
Participation dans la propriete reelle

Name of applicant - Nom du demandeur

Address of residence - Adresse residentielle

Postal code - Code postal

Telephone No. - N° de telephone

Date of birth - Date de naissance Beneficial ownership interest
Participation dans la propriete reelle

Name of applicant - Nom du demandeur

Address of residence - Adresse residentielle

Postal code - Code postal

Telephone No. - N° de telephone

Date of birth - Date de naissance Beneficial ownership interest
Participation dans la propriete reelle

Je certifie, par la presente, que les renseignements fournis sur cette demande sont veridiques et que je respecterai toutes les lois et tous les reglements de l'ASFC et toutes les exigences et les procedures pour l'exploitation des boutiques hors taxes.

Licence no. - N° d'agrement

This is Exhibit “J” referred to in the Affidavit of Jim Pearce sworn
remotely this 12th day of December 2021.

A handwritten signature in blue ink, appearing to read 'Alexandra Teodorescu', written in a cursive style.

Commissioner for Taking Affidavits (or as may be)

Alexandra Teodorescu



PROTECTION • SERVICE • INTÉGRITÉ

This is to certify that:

has been issued a licence pursuant to the *Customs Act* to operate a duty free shop at:

Il est certifié que :

a obtenu un agrément, conformément à la *Loi sur les douanes*, pour exploiter une boutique hors taxes à :

PEACE BRIDGE DUTY FREE INC.

FORT ERIE, ONTARIO

this
ce

14

day of
jour de

January

in the year
de l'année

2015

Manager, Commercial Registration
Gestionnaire, Unité de l'agrément commercial

Authorization No. - N° d'autorisation

410 DFL 018

Effective Period - Période de validité

From - De

To - À

2015.01.26

2025.01.25

Canada Border
Services Agency

Agence des services
frontaliers du Canada

252

Canada

This is Exhibit “K” referred to in the Affidavit of Jim Pearce sworn remotely this 12th day of December 2021.

A handwritten signature in blue ink, appearing to read 'Alexandra Teodorescu', with a stylized, cursive script.

Commissioner for Taking Affidavits (or as may be)

Alexandra Teodorescu

From: CBSA-ASFC_Duty_Free_Shops-Boutiques_Hors_Taxes <Duty_Free_Shops-Boutiques_Hors_Taxes@cbsa-asfc.gc.ca>

Sent: Thursday, December 9, 2021 3:08 PM

To: Jim Pearce

Cc: Karen Shaubel; CBSA-ASFC_Duty_Free_Shops-Boutiques_Hors_Taxes; Licensing Unit / Unité des agréments (CBSA/ASFC); Gabbatt, Brett; Schlosser, Carl

Subject: Status of Peace Bridge Duty Free Inc. - Fort Erie

Good Afternoon Jim,

It has come to our attention in the Commercial Registration Unit (CRU) that Peace Bridge Duty Free Inc., located at the Peace Bridge in Fort Erie, Ontario, has entered into receivership.

We would like to direct you to the following sections of [Memorandum D4-3-2](#) with respect to the receivership and/or bankruptcy of a Canada Border Services Agency (CBSA) licensed duty free shop:

Receivership or Bankruptcy

32. When it is expected that a DFS will be placed under the control of a receiver or may go bankrupt, the DFS licensee must notify the CBSA immediately in writing by sending an e-mail to the CRU.

33. The trustees and the licensee may be given limited access to the DFS but no sale or movement of goods is to take place without prior approval of the local CBSA office. In the case of a receivership, the licensee may request that the receivers be allowed to continue the day-to-day operations of the shop providing they meet the requirements of the DFS program. In the case of a bankruptcy, the DFS licence is automatically cancelled.

34. In both cases, the local CBSA office will conduct a complete audit of the DFS inventory and ensure that records are up to date.

If it is your intention to have the receivers continue the day-to-day operations of the duty free shop, please note that you must submit a request in writing to the CRU, detailing the information for the proposed personnel that will assume operation of the shop. To assist, you may complete and submit form [BSF664](#) as page 2 of the application form contains sections to provide the relevant personal information necessary for the CBSA to complete our review. Please note that this is not a licence application process and the receiver would not be issued a new duty free shop licence. Rather, this is a process for the CBSA to approve the receiver to continue to operate under the existing licence.

Additionally, we note that Peace Bridge Duty Free Inc. also operates the duty free shop located at John C. Munro Hamilton International Airport in Hamilton, Ontario. Would you be able to confirm that it is solely the duty free shop located at the Peace Bridge that is the subject of the receivership?

Please feel free to direct any questions or concerns that you have regarding this process to the CRU at Duty_Free_Shops-Boutiques_Hors_Taxes@cbsa-asfc.gc.ca.

Thank you,

Michael Jollymore

Commercial Registration / Commercial and Trade Branch

Canada Border Services Agency / Government of Canada

Duty_Free_Shops-Boutiques_Hors_Taxes@cbsa-asfc.gc.ca

Agrément commercial / La direction générale du secteur commercial et échanges commerciaux

Agence des services frontaliers du Canada / Gouvernement du Canada

Duty_Free_Shops-Boutiques_Hors_Taxes@cbsa-asfc.gc.ca



Government
of Canada

Gouvernement
du Canada

Canada

This is Exhibit “L” referred to in the Affidavit of Jim Pearce sworn remotely this 12th day of December 2021.

A handwritten signature in blue ink, appearing to read 'Alexandra Teodorescu', written in a cursive style.

Commissioner for Taking Affidavits (or as may be)

Alexandra Teodorescu



RBC Royal Bank

July 2, 2021

Peace Bridge Duty Free Inc.
1 Peace Bridge Plaza
Fort Erie ON
L2A 5N1

Dear Sirs/Mesdames:

Your Credit Facilities with Royal Bank of Canada

The events surrounding COVID-19 are truly unprecedented and we appreciate the hardships and financial uncertainty that many of our clients are facing. RBC wants to help provide you with the support you need, and that includes immediate and long term relief for clients facing challenging circumstances due to the COVID-19 crisis. It is important that you contact us to discuss your options tailored to your specific circumstances.

We are writing with reference to your credit facilities as set out in the Credit Agreement dated JULY 20, 2018 ('the Agreement'), and all capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Agreement. Our recent review reveals that you are in default of the following covenant(s) under the terms of the Agreement for the fiscal period ended December 31, 2020:

"FINANCIAL COVENANTS"

In the event that the Borrower changes accounting standards, accounting principles and/or the application of accounting principles during the term of this Agreement, all financial covenants shall be calculated using the accounting standards and principles applicable at the time this Agreement was entered into.

Without affecting or limiting the right of the Bank to terminate or demand payment of, or cancel or restrict availability of any unutilized portion of any demand or other discretionary facility the Borrower covenants and agrees with the Bank that the Borrower will:

- a) maintain to be measured as at the end of each fiscal year:
 - i. Debt Service Coverage, of not less than 1.25:1."

According to our calculation(s), you had a ratio Debt Service Coverage of -8.27.

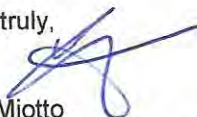
We acknowledge the default stated above and your plan to remedy such default, on or before December 31, 2021.

*Registered trademark of Royal Bank of Canada. RBC and Royal Bank are registered trademarks of Royal Bank of Canada.

We reserve all rights arising out of the default and reserve the right to demand payment of borrowings outstanding under the credit facilities, if you do not remedy the default within the time period indicated above or in the event of other breaches of the Agreement.

If you have any questions about your credit facilities or would like clarification on any of the above matters, please contact us immediately at the contact number provided below.

Yours truly,

A handwritten signature in blue ink, appearing to read 'Chris Miotto', with a long horizontal stroke extending to the right.

Chris Miotto
Senior Commercial Account Manager
Tel: 905-934-4415

This is Exhibit “M” referred to in the Affidavit of Jim Pearce sworn remotely this 12th day of December 2021.

A handwritten signature in blue ink, appearing to read 'Alexandra Teodorescu', is centered on the page.

Commissioner for Taking Affidavits (or as may be)

Alexandra Teodorescu



Sanjeev P. R. Mitra
Direct: 416.865.3085
E-mail: smitra@airdberlis.com

November 23, 2021

VIA EMAIL (bmills@conlinbedard.com)

Peace Bridge Duty Free Inc.
c/o Conlin Bedard LLP
220 Laurier Avenue, Suite 700
Ottawa, ON K1P 5Z9

Attention: Ben Mills

Dear Mr. Mills:

**Re: Credit Amending and Forbearance Agreement made as of October 8, 2021
(the "Agreement") between Royal Bank of Canada (the "Lender") and
Peace Bridge Duty Free Inc. (the "Borrower")**

As you know, we are counsel for the Lender in respect of the above-referenced Agreement. Unless otherwise defined, all capitalized terms in this letter are defined as they are under the Agreement.

One or more Intervening Event has occurred under the Agreement, including, without limitation, the failure by the Borrower under section 6.4(b) of the Agreement (and, therefore, under section 7.1(c) of the Agreement) to deliver to the Lender, by no later than November 15, 2021, *"evidence that an arrangement satisfactory to the Lender, in its sole discretion, has been entered into between the Borrower and the Landlord in respect of the Lease and the defaults thereunder to ensure that the Landlord will not terminate the Lease before the end of its current term."*

In light of the foregoing, this letter serves as notice pursuant to section 8.8 of the Agreement that the Forbearance Period be and is hereby terminated pursuant to section 4.1 of the Agreement.

Please govern yourself accordingly.

Yours very truly,

AIRD & BERLIS LLP

per

Sanjeev P. R. Mitra
SPRM/jn

This is CONFIDENTIAL Exhibit “N” referred to in the Affidavit of Jim Pearce sworn remotely this 12th day of December 2021.

A handwritten signature in blue ink, appearing to read "Alexandra Teodorescu". The signature is fluid and cursive, with the first name "Alexandra" written in a larger, more prominent script than the last name "Teodorescu".

Commissioner for Taking Affidavits (or as may be)

Alexandra Teodorescu

CONFIDENTIAL EXHIBIT "N" -
SEALED AND FILED SEPARATELY
WITH THE COMMERCIAL LIST
COURT PURSUANT TO THE
ENDORSEMENT OF JUSTICE
PATTILLO DATED
DECEMBER 14, 2021

This is Exhibit “O” referred to in the Affidavit of Jim Pearce sworn remotely this 12th day of December 2021.

A handwritten signature in blue ink, appearing to read 'Alexandra Teodorescu', written in a cursive style.

Commissioner for Taking Affidavits (or as may be)

Alexandra Teodorescu

From: Stanek, Chris <Christopher.Stanek@gowlingwlg.com>
Sent: December 10, 2021 11:07 AM
To: Shea, Patrick; David T. Ullmann
Cc: John C. Wolf; Alexandra Teodorescu; Brendan Jones
Subject: RE: Peace Bridge Duty Free

David:

We can do a call at 8:30 Monday morning.

Christopher Stanek
Partner
T +1 416 862 4369
 christopher.stanek@gowlingwlg.com



From: Shea, Patrick <Patrick.Shea@ca.gowlingwlg.com>
Sent: Friday, December 10, 2021 10:22 AM
To: David T. Ullmann <DUllmann@blaney.com>; Stanek, Chris <Christopher.Stanek@ca.gowlingwlg.com>
Cc: John C. Wolf <jwolf@blaney.com>; Alexandra Teodorescu <ATeodorescu@blaney.com>; Brendan Jones <BJones@blaney.com>
Subject: Re: Peace Bridge Duty Free

Good morning. Chris and I are working together on this. Chris has been dealing with the matter for longer so any meeting and the timing would be up to him.

Sent from my iPhone

On Dec 10, 2021, at 09:45, David T. Ullmann <DUllmann@blaney.com> wrote:

This message originated from outside of Gowling WLG. | Ce message provient de l'extérieur de Gowling WLG.

Good Morning Pat,

I hope this email finds you well and that the pandemic has been okay for you and yours.

We have very recently been retained on the Peace Bridge Duty Free file as counsel to the debtor. We understand that you have recently taken over carriage of the matter from Chris Stanek.

Based on our review of the file, it seems to me that it would be worthwhile for us to have a meeting, as soon as possible, to discuss the apparent gap between our clients views of the situation.

We are available to meet with you at 4pm today or first thing Monday morning. As I think a large part of this matter will be impacted by issues related to the lease terms, I would be bringing with me my partner John Wolf, who specializes in that area. We would recommend you bring whomever is providing the leasing law input from your side. We are prepared to meet at your office or ours. We do suggest the meeting be in person.

While I realize it is likely ambitious for us to reach a resolution of all issues prior to the court attendance scheduled for Tuesday, I am sure the Court will want to know that we have spoken prior to attending on Tuesday.

I look forward to meeting with you. Let me know if we can meet today.

Regards,

David



David T. Ullmann
Partner

dullmann@blaney.com

☎ 416-596-4289 | ☎ 416-594-2437

🌐 Blaney.com



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ROYAL BANK OF CANADA

and

PEACE BRIDGE DUTY FREE INC.

Applicant

Respondent

Email address of recipient: See Service List

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

Proceeding commenced at Toronto

AFFIDAVIT OF JIM PEARCE
(Motion Seeking to Adjourn the Application of Royal Bank of
Canada)**BLANEY MCMURTRY LLP**Barristers & Solicitors
2 Queen Street East, Suite 1500
Toronto, ON, M5C 3G5**David T. Ullmann** (LSO #42357I)

Tel: (416) 596-4289

Email: dullmann@blaney.com**John Wolf** (LSO #30165B)Email: jwolf@blaney.com**Brendan Jones** (LSO #56821F)Email: bjones@blaney.com**Alexandra Teodorescu** (LSO #63889D)Email: ateodorescu@blaney.com

Lawyers for the Respondent

ROYAL BANK OF CANADA
Applicant

-and- **PEACE BRIDGE DUTY FREE INC.**
Respondent

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

ONTARIO
SUPERIOR COURT OF JUSTICE
PROCEEDING COMMENCED AT
TORONTO

MOTION RECORD OF
BUFFALO & FORT ERIE PUBLIC BRIDGE AUTHORITY

GOWLING WLG (CANADA) LLP
Barristers & Solicitors
1 First Canadian Place
100 King Street West, Suite 1600
Toronto ON M5X 1G5

Christopher Stanek (LSO# 45127K)
Tel: 416-862-4369
Fax: 416-862-7661
E. Patrick Shea (LSO# 39655K)
Tel: 416-369-7399
Fax: 416-862-7661

Lawyers for Buffalo and Fort Erie Public Bridge Authority