

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

ROYAL BANK OF CANADA

Applicant

- and -

**2236715 ONTARIO LIMITED
o/a LUXURY AND SPORTS CARS**

Respondent

**APPLICATION UNDER SUBSECTION 47(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**

**SUPPLEMENTARY MOTION RECORD
(Returnable August 3, 2018)**

Date: August 2, 2018

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AND TO: NEXTGEAR CAPITAL CORPORATION
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TAB 1

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Court File No. CV-18-00600821-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

ROYAL BANK OF CANADA

Applicant

- and -

2236715 ONTARIO LIMITED o/a LUXURY AND SPORTS CARS

Respondent

**SUPPLEMENT TO THE FIRST REPORT OF MSI SPERGEL INC.
IN ITS CAPACITY AS THE COURT-APPOINTED INTERIM RECEIVER OF
2236715 ONTARIO LIMITED o/a LUXURY AND SPORTS CARS**

August 1, 2018

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APPENDICES

1. Draft Vehicle Sale Agreement

1.0 APPOINTMENT AND PURPOSE OF REPORT

- 1.0.1 msi Spergel inc. ("**Spergel**"), in its capacity as the Court-appointed interim receiver (in such capacity, the "**Interim Receiver**") of 2236715 Ontario Limited o/a Luxury and Sports Cars ("**Luxury Cars**" or the "**Company**") filed its first report to the Court dated July 24, 2018 (the "**First Report**"). The Royal Bank of Canada ("**RBC** or the "**Bank**") has brought a motion to, among other things, appoint Spergel as a Court-appointed receiver (the "**Proposed Receiver**") in relation to the assets and undertakings of Luxury Cars on August 3, 2018. All terms not otherwise defined shall be as defined in First Report.
- 1.0.2 This report is supplemental to the First Report (the "**Supplemental Report**"). The purpose of this Supplemental Report is to provide the Court with information on the Interim Receiver's activities since the First Report and request to have this Honourable Court approve the sale process in relation to certain assets of the Company pursuant to the Vehicle Sale Agreement (as defined herein).

2.0 DISCLAIMER

- 2.0.2 The Interim Receiver will not assume responsibility or liability for losses incurred by the reader as a result of the circulation, publication, reproduction or use of this Supplemental Report for any other purpose.
- 2.0.3 In preparing this Supplemental Report, the Interim Receiver has relied upon certain information extracted from the Company's website and other external sources. The Interim Receiver has not performed an audit or verification of such information for accuracy, completeness or compliance with Accounting Standards for Private Enterprises or International Financial Reporting Standards. Accordingly, the Interim Receiver

expresses no opinion or other form of assurance with respect to such information.

2.0.4 All references to dollars in this Supplemental Report are in Canadian currency unless otherwise noted.

3.0 ACTIVITIES SINCE FIRST REPORT

3.0.1 The Interim Receiver was concerned about the transfer of the following seven (7) vehicles from the Company to Chartreuse Bancorp Inc. ("**Chartreuse**") prior to its appointment:

VEHICLES	VIN
2015 Mercedes-Benz M-Class	4JGDA2EB7FA452675
2014 Mercedes-Benz CLS-Class Luxury Sedan	WDDLJ9BB6EA094485
2011 Porsche Panamera	WP0AA2A76BL014785
2016 BMW X3	5UXWX9C53G0D63101
2014 BMW 535i	WBA5B3C57ED530245
2014 Mercedes-Benz M-Class Luxury	4JGDA2EB1EA386851
2014 Audi S5	WAULGBFR7EA039791

(collectively the "**Vehicles**")

3.0.2 As detailed in the First Report, Chartreuse is a shareholder of the Company pursuant to the Share Purchase Agreement.

3.0.3 On July 25, 2018 the Interim Receiver examined Ardavan Khavari, the principal of Chartreuse (the "**Khavari Examination**").

- 3.0.4 At the Khavari Examination the Interim Receiver was advised that Chartreuse was in possession of the Vehicles and claims to have a purchase money security interest in the Vehicles.
- 3.0.5 RBC also claims a priority interest in the Vehicles.
- 3.0.6 In an effort to have the Vehicles sold for the highest price and realizing the rapidly depreciating nature of vehicles the Proposed Receiver and Chartreuse have agreed to enter into an agreement, subject to approval of this Court, wherein Chartreuse will market the Vehicles for sale and the terms of such sale will be subject to the approval of the Proposed Receiver (the "**Vehicle Sale Agreement**").
- 3.0.7 The draft Vehicle Sale Agreement, which is attached at **Appendix "A"** hereto, has Chartreuse market and sell the Vehicles, with the terms of the sale of each of the Vehicles being approved by the Proposed Receiver. The Proposed Receiver will hold all proceeds of sale in trust and only release same upon the consent of the Proposed Receiver, the Bank and Chartreuse and with further order of the Court.
- 3.0.8 As at the date of this Supplemental Report, the terms of the Vehicle Sale Agreement have yet to be finalized and executed by the parties.
- 3.0.9 The Proposed Receiver anticipates an agreement comparable to the Vehicle Sale Agreement will be agreed to by Chartreuse, the Bank and the Proposed Receiver.

4.0 RECOMMENDATIONS AND CONCLUSION

- 4.0.1 The Order sought to appoint the Proposed Receiver empowers the Proposed Receiver to market and sell the assets of the Company.
- 4.0.2 The Proposed Receiver is of the view that the Vehicle Sale Agreement is the most effective method of selling and marketing the Vehicles and will

ensure the Vehicles are sold in a commercially reasonable manner thus maximizing the recoveries for the stakeholders of the Company.

5.0.1 The Interim Receiver respectfully requests that this Honourable Court grant an Order approving the following:

- a. This Supplemental Report and the actions of the Interim Receiver described herein; and,
- b. The sales process of the Vehicles as outlined in the Vehicle Sale Agreement, with such amendments as the Proposed Receiver deems necessary.

Dated at Toronto this 1st day of August, 2018.

msi Spergel inc.,
solely in its capacity as court-appointed
Interim Receiver of 2236715 Ontario Limited
o/a Luxury and Sports Cars and not in its
personal or corporate capacity

Per:



Mukul Manchanda, CIRP, LIT
Principal

APPENDIX 1

VEHICLE SALE AGREEMENT

THIS AGREEMENT is made as of this day of July, 2018

B E T W E E N :

msi Spergel inc.

solely in its capacity as proposed court appointed receiver of the assets,
undertakings and properties of 2236715 Ontario Limited o/a Luxury and Sports
Cars and not in its personal or corporate capacity

(“Spergel”)

- and -

Chartreuse Bancorp Inc.

a company incorporated pursuant to the laws of Ontario

(the “Seller”)

RECITALS:

WHEREAS

- A.** Pursuant to an Order of the Ontario Superior Court of Justice – Commercial List (the “**Court**”) dated July 4, 2018 (the “**Interim Receivership Order**”), Spergel was appointed as interim receiver, without security, of all of the assets, undertakings and properties of the 2236715 Ontario Limited o/a Luxury and Sports Cars;
- B.** Royal Bank of Canada (the “**Bank**”), the senior secured creditor of the Debtor, has served a motion to be heard on August 3, 2018 before the Court to have Spergel discharged as interim receiver and appointed as receiver, without security, of all of the assets, undertakings and properties of the Debtor (in such capacity, the “**Receiver**”);
- C.** The Seller is in possession of seven vehicles listed at Schedule “A” attached hereto (the “**Vehicles**”), which Vehicles were previously in the possession of the Debtor and form part of the Debtor’s Property (as such term is defined in the Interim Receivership Order);
- D.** Each of the Bank and the Seller asserts a security interest in the Vehicles, and claims priority to the proceeds thereof; and
- E.** The Seller and Spergel have agreed to enter into this Agreement respecting the sale of the Vehicles, upon the terms and conditions hereinafter set forth.

NOW THEREFORE IN CONSIDERATION of the mutual covenants and agreements contained herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree to the terms and conditions set forth below.

1.01 The Seller agrees to:

- a) implement an advertising and marketing plan as deemed necessary or appropriate by the Seller to maximize the net recovery on the Vehicles;
- b) prepare for the sale of the Vehicles, including gathering specifications and photographs for pictorial brochures and arranging the Vehicles in a manner, which in the Seller's judgment would be designed to enhance the net recovery on the Vehicles;
- c) at its own expense carry out a refurbishing program of the Vehicles as may be required to enhance potential recoveries at the discretion of the Seller;
- d) provide to Spergel, on execution of this Agreement, evidence that the Vehicles are sufficiently insured to the satisfaction of Spergel;
- e) locate purchasers for the Vehicles using unrelated, third party dealerships or contacts;
- f) accept responsibility for any damage to the Vehicles while in possession or during the period of this Agreement;
- g) not charge a fee or obtain any type of commission on the sale of the Vehicles;
- h) sell or cause to be sold the Vehicles or any one of the Vehicles for cash or other immediately available funds for the highest obtainable price in accordance with the terms of this Agreement;
- i) provide to Spergel all necessary information with respect to a sale of any one or more of the Vehicles including, details of purchaser, mileage of the Vehicle, original purchase price, proposed sale price, vehicle history, after market upgrades and fees and commissions, and draft sale documentation;
- j) obtain the consent of Spergel prior to entering into any sale transaction with respect to the Vehicles ("**Approved Sale**");
- k) in the event that the Seller, after making all reasonable efforts, or at the expiry of thirty (30) days following the execution of this Agreement, is not able to sell all of the Vehicles, it will provide possession of the then remaining Vehicles to Spergel, for Spergel to sell same on without prejudice basis to the Seller's or any other party's claim of priority to any sale proceeds from the sale of the Vehicles;
- l) charge all applicable federal and provincial taxes in connection with the sale of the Vehicles;

- m) ensure that any proceeds from the sale of the Vehicles are paid directly by the purchaser or third party dealer to Spergel. For clarity, any sale agreement entered into by the Seller with respect to any of the Vehicles shall specifically provide that the purchase price is to be paid directly to Spergel; and,
- n) ensure that all applicable federal and provincial taxes in connection with the sale of the Vehicles are charged and collected and the Seller will ensure that same is remitted to the proper governmental authority immediately upon completion of a sale. Proof of such remittances must be provided to Spergel.

2.01 Spergel agrees to:

- a) hold all proceeds from the sale of the Vehicles and not release same without the written consent of each of the Seller, Spergel and the Bank, or further Order of the Court; and,
- b) obtain an undertaking from the Bank that the Bank will discharge their registration made against the Vehicles upon an Approved Sale and receipt of the proceeds of such Approved Sale.

3.00

3.01 Conditions Precedent

This Agreement shall not be effective unless and until:

- a) Spergel has been appointed by the Court as the Receiver;
- b) this Agreement has been approved by the Court; and
- c) the Seller has granted Spergel access to inspect the Vehicles, and Spergel has advised the Seller that it is satisfied as to the existence and condition of the Vehicles.

4.01 Termination

- a) If either of the Seller or Spergel fails to comply with any of the provisions of this Agreement, the other party shall be entitled at its option to terminate this Agreement, but only if the breaching party provides the other party with two (2) business days to remedy such failure and the breaching party has not done so. In the event that the Agreement is terminated, possession of any of the Vehicles not sold will be provided to Spergel on a without prejudice basis to any party making a claim to the proceeds of the sale of Vehicles, and be sold by Spergel in such manner and on such terms and conditions as Spergel in its sole discretion determines.

- b) In the event of Termination, Spergel will hold all proceeds and only release the proceeds with the consent of the Bank, the Seller and Spergel or Order of the Court.

5.01 Representations and Indemnities

- a) The Seller hereby agrees to indemnify and hold Spergel harmless from any and all claims, causes of action, damages, losses, judgments or liabilities (including, without limitation, reasonable legal fees) by any buyer or prospective buyer of the Vehicles based on the Seller's breach of any of its obligations, representations or warranties hereunder or its performance or failure to perform hereunder.
- b) The Seller hereby agrees to indemnify Spergel for the proceeds of any sale of the Vehicles which are not provided to Spergel pursuant to the terms of this Agreement, regardless of the reason or cause or the Sellers claim against any third party in relation to the sale proceeds from the Vehicles.

6.01 General provisions

- a) The parties shall deal with each other fairly and in good faith so as to allow both parties to perform their respective duties and earn the benefits of this Agreement.
- b) The Seller shall provide Spergel with:
 - i. all reasonably requested information with respect to the Vehicles to the extent in the Seller's possession; and
 - ii. information on prospect interest and evidence of all inquiries with respect to the Vehicles going forward, to the extent that the Seller has such information and evidence.
- c) The Seller is entering into and implementing the terms of this Agreement solely in its capacity as the agent for and on behalf of Spergel in connection with the sale of the Vehicles and is not acting as and nothing contained herein shall be deemed to create any other type of partnership or other relationship between the parties hereto.
- d) This Agreement may be signed in counterparts and delivered via facsimile transmission, PDF or other electronic means.
- e) The parties will execute such further and other documents and do such further and other things as may be necessary to carry out and give effect to the intent of this Agreement.
- f) Any notice, demand, acceptance, request, election or waiver required or permitted to be given hereunder (the "Notice") shall be in writing and shall be deemed to be sufficiently given if personally delivered to an officer of Spergel or the Seller or served by facsimile

message or e-mail or if mailed by registered mail, postage prepaid, addressed to the party to whom the same is given as follows:

in the case of Spergel:

Attention:

msi Spergel Inc.
Attention: Mukul Manchanda
505 Consumers Road, Suite 200
Toronto
M32J 4V8

in the case of the Seller:

•

Any such notice personally delivered, faxed or e-mailed shall be deemed to be given on the date on which it was so personally delivered or faxed or e-mailed and any Notice so served by registered mail shall be deemed to have been given on the third business day following the day on which it was mailed. During the existence of any interruption or threatened interruption in the Canadian postal services, all notices shall be personally delivered or forwarded by email or fax.

- g) This Agreement is entered into by Spergel solely in its capacity as the proposed Receiver of the Debtor and Spergel shall incur no personal or corporate liability as a result of its entering into this Agreement or performing, or failing to perform, its obligations hereunder.
- h) Nothing in this Agreement shall be deemed to constitute an acknowledgement or other statement as to the validity of the Seller's asserted ownership interest in the Vehicles.
- i) This Agreement is without prejudice to any party making a claim to the proceeds of the sale of the Vehicles. For clarity, nothing in this Agreement shall be deemed to constitute an acknowledgment or other statement as to the Seller's rights in or claims to the proceeds of the sale of the Vehicles.
- j) No party hereto shall be entitled to assign any of its rights and obligations hereunder without the written consent of the other party hereto; provided, however, that Spergel may assign same to any trustee in bankruptcy of the Debtor, if applicable.
- k) This Agreement shall enure to the benefit of, and be binding upon, the parties hereto and their respective successors and permitted assigns.
- l) This Agreement shall constitute the entire agreement between the parties hereto pertaining to the subject matter hereof and shall supersede all prior and contemporaneous

agreements, understandings, negotiations and discussions, whether oral or written, of the parties, and there are no agreements, or understandings between the parties in connection with the subject matter hereof except as specifically set forth herein. No supplement, modification, waiver or termination of such agreement shall be binding, unless executed in writing by the party to be bound thereby, provided that the time provided for doing any matter or thing contemplated herein may be abridged or extended by written agreement, in letter form or otherwise, executed by duly authorized signatories for the parties.

- m) The validity and interpretation of this Agreement, and of each provision and part thereof, shall be governed by the laws of the Province of Ontario and the parties hereto hereby irrevocably attorn to the jurisdiction of the courts of that province with respect to all matters arising out of this Agreement.

[PAGE LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement with effect as of the date written above.

msi Spergel Inc., solely in its capacity as proposed Receiver of 2236715 Ontario Limited o/a Luxury and Sports Cars and not in its personal or corporate capacity

Per: _____
Mukul Manchanda

CHARTREUSE BANCORP INC.

Per: _____

Title:
I have authority to bind the company

SCHEDULE "A"
VEHICLE LIST

VEHICLES	VIN
2015 Mercedes-Benz M-Class	4JGDA2EB7FA452675
2014 Mercedes-Benz CLS-Class Luxury Sedan	WDDLJ9BB6EA094485
2011 Porsche Panamera	WP0AA2A76BL014785
2016 BMW X3	5UXWX9C53G0D63101
2014 BMW 535i	WBA5B3C57ED530245
2014 Mercedes-Benz M-Class Luxury	4JGDA2EB1EA386851
2014 Audi S5	WAULGBFR7EA039791

TAB 2

Court File No. CV-18-00600821-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE

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FRIDAY, THE 3rd DAY

JUSTICE

)

OF AUGUST, 2018

BETWEEN:

ROYAL BANK OF CANADA

Applicant

- and -

**2236715 ONTARIO LIMITED
o/a LUXURY AND SPORTS CARS**

Respondent

**APPLICATION UNDER SUBSECTION 47(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**

ORDER

THIS MOTION, made by Royal Bank of Canada (“**RBC**”), for an Order, *inter alia*, pursuant to subsection 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”), and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”), discharging msi Spergel inc. (“**Spergel**”) as interim receiver (in such capacity, the “**Interim Receiver**”) of 2236715 Ontario Limited o/a Luxury and Sports Cars (the “**Debtor**”), and appointing Spergel as receiver (in such capacity, the “**Receiver**”), without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Kevin Leung sworn July 3, 2018 and the exhibits thereto (the “**First Leung Affidavit**”), the affidavit of Kevin Leung sworn July 25, 2018 and the exhibits thereto (the “**Second Leung Affidavit**”), the First Report of the Interim Receiver dated July 24, 2018 (the “**First Report**”), the Supplement to the First Report of the Interim Receiver dated August 1, 2018 (the “**Supplement to the First Report**”), the consent of Spergel to act as the Receiver, and on hearing the submissions of counsel for RBC, no one appearing for any other person on the service list, although duly served as appears from the affidavit of service of Diana McMillen sworn July 27, 2018, filed,

SERVICE

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

DISCHARGE OF INTERIM RECEIVER AND APPOINTMENT OF RECEIVER

2. **THIS COURT ORDERS** that the First Report and the activities of the Interim Receiver, as set out in the First Report, be and are hereby approved.

3. **THIS COURT ORDERS** that the Supplement to the First Report and the activities of the Interim Receiver, as set out in the Supplement to the First Report, be and are hereby approved.

4. **THIS COURT ORDERS** that Spergel be discharged as Interim Receiver of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to the Debtor’s business, provided, however, that notwithstanding its discharge herein: (a) the Interim Receiver shall remain Interim Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein; and (b) the Interim Receiver shall continue to have the benefit of the provisions of all Orders made in these proceedings, including, without limitation, all approvals, protections and stays of proceedings in favour of Spergel in its capacity as Interim Receiver.

5. **THIS COURT ORDERS** that pursuant to subsection 243(1) of the BIA and section 101 of the CJA, Spergel is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the “**Property**”).

RECEIVER’S POWERS

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

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, protect and maintain control of the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver’s powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;

- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,

- (i) without the approval of this Court in respect of any transaction not exceeding \$75,000, provided that the aggregate consideration for all such transactions does not exceed \$750,000; and
- (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause,

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act* or section 31 of the Ontario *Mortgages Act*, as the case may

be, shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply;

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (n) to conduct examinations, if deemed necessary, including, without limitation, an examination of Hossein Totonchian, Tana Totonchian, Ardavan Khavari, and Mohammad Moradi;
- (o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (q) to make an assignment in bankruptcy on behalf of the Debtor if it deems appropriate, in its sole discretion;
- (r) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (s) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (t) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

7. **THIS COURT ORDERS** that the Vehicle Sale Agreement, as defined in the Supplement to the First Report, be and is hereby approved, with such minor amendments as the Receiver deems necessary.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

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

9. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the “**Records**”) in that Person’s possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 7 or in paragraph 8 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

10. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

11. **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days' notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE RECEIVER

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

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

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

NO EXERCISE OF RIGHTS OR REMEDIES

14. **THIS COURT ORDERS** that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver 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 Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on; (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment; (iii) prevent the filing of any registration to preserve or perfect a security interest; or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

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

CONTINUATION OF SERVICES

16. **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 as may be required by the

Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, 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 Receiver 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 Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

17. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

18. **THIS COURT ORDERS** that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in subsection 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under subsections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

19. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act* and any other applicable provincial privacy legislation, the Receiver shall disclose personal information of identifiable individuals to

prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a “Sale”). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

20. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, “**Possession**”) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver’s duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER’S LIABILITY

21. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any

gross negligence or wilful misconduct on its part, or in respect of its obligations under subsections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

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

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

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

FUNDING OF THE RECEIVERSHIP

25. **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$100,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may

arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the “**Receiver’s Borrowings Charge**”) as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver’s Charge, and the charges as set out in subsections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

26. **THIS COURT ORDERS** that neither the Receiver’s Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

27. **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as **Schedule “A”** hereto (the “**Receiver’s Certificates**”) for any amount borrowed by it pursuant to this Order.

28. **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver’s Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver’s Certificates.

SERVICE AND NOTICE

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

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

GENERAL

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

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

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

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

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

36. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

SCHEDULE "A"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. **THIS IS TO CERTIFY** that msi Spergel inc., the receiver (the "**Receiver**") of the assets, undertakings and properties of 2236715 Ontario Limited o/a Luxury and Sports Cars (the "**Debtor**") acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the 3rd day of August, 2018 (the "**Order**") made in an application bearing Court file number CV-18-00600821-00CL, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property (as defined in the Order), in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver

to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property (as defined in the Order) as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the ____ day of _____, 2018.

MSI SPERGEL INC., solely in its capacity as
Receiver of the Property (as defined in the Order),
and not in its personal or corporate capacity

Per: _____

Name:

Title:

ROYAL BANK OF CANADA

Applicant

- and -

2236715 ONTARIO LIMITED o/a LUXURY AND SPORTS
CARS

Respondent

Court File No. CV-18-00600821-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

Proceedings commenced at Toronto

RECEIVERSHIP ORDER

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Lawyers for Royal Bank of Canada

TAB 3

Court File No. CV-18-00600821-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE)	FRIDAY, THE 3 rd DAY
)	
JUSTICE)	OF AUGUST, 2018

BETWEEN:

ROYAL BANK OF CANADA

Applicant

- and -


**2236715 ONTARIO LIMITED
o/a LUXURY AND SPORTS CARS**

Respondent

**APPLICATION UNDER SUBSECTION 47(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**

ORDER

THIS MOTION, made by Royal Bank of Canada (“**RBC**”), for an Order, *inter alia*, pursuant to subsection 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”), and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”), discharging *msi Spergel inc.* (“**Spergel**”) as interim receiver (in such capacity, the “**Interim Receiver**”) of 2236715 Ontario Limited o/a Luxury and Sports Cars (the “**Debtor**”), and appointing *Spergel* as receiver (in such capacity, the “**Receiver**”), without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Kevin Leung sworn July 3, 2018 and the exhibits thereto (the “**First Leung Affidavit**”), the affidavit of Kevin Leung sworn July 25, 2018 and the exhibits thereto (the “**Second Leung Affidavit**”), the First Report of the Interim Receiver dated July 24, 2018 (the “**First Report**”), the Supplement to the First Report of the Interim Receiver dated August 1, 2018 (the “**Supplement to the First Report**”). the consent of Spergel to act as the Receiver, and on hearing the submissions of counsel for RBC, no one appearing for any other person on the service list, although duly served as appears from the affidavit of service of  Diana McMillen sworn July 25, 27, 2018, filed,

SERVICE

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

DISCHARGE OF INTERIM RECEIVER AND APPOINTMENT OF RECEIVER

2. **THIS COURT ORDERS** that the First Report and the activities of the Interim Receiver, as set out in the First Report, be and are hereby approved.

3. **THIS COURT ORDERS** that the Supplement to the First Report and the activities of the Interim Receiver, as set out in the Supplement to the First Report, be and are hereby approved.

4. **THIS COURT ORDERS** that Spergel be discharged as Interim Receiver of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to the Debtor’s business, provided, however, that notwithstanding its discharge herein: (a) the Interim Receiver shall remain Interim Receiver for the performance of such incidental duties as may be required to complete the administration of the receivership herein; and (b) the Interim Receiver shall continue to have the benefit of the provisions of all Orders made in these proceedings, including, without limitation, all approvals, protections and stays of proceedings in favour of Spergel in its capacity as Interim Receiver.

5. ~~4.~~ **THIS COURT ORDERS** that pursuant to subsection 243(1) of the BIA and section 101 of the CJA, Spergel is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the Debtor acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (the "**Property**").

RECEIVER'S POWERS

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

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, protect and maintain control of the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtor;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtor or any part or parts thereof;

- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtor and to exercise all remedies of the Debtor in collecting such monies, including, without limitation, to enforce any security held by the Debtor;
- (g) to settle, extend or compromise any indebtedness owing to the Debtor;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtor, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtor, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;
- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,

- (i) without the approval of this Court in respect of any transaction not exceeding \$75,000, provided that the aggregate consideration for all such transactions does not exceed \$750,000; and

- (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause,

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act* or section 31 of the Ontario *Mortgages Act*, as the case may

be, shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply;

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (n) to conduct examinations, if deemed necessary, including, without limitation, an examination of Hossein Totonchian, Tana Totonchian, Ardavan Khavari, and Mohammad Moradi;
- (o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtor;
- (q) to make an assignment in bankruptcy on behalf of the Debtor if it deems appropriate, in its sole discretion;
- (r) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtor, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtor;
- (s) to exercise any shareholder, partnership, joint venture or other rights which the Debtor may have; and
- (t) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the Debtor, and without interference from any other Person.

7. **THIS COURT ORDERS** that the Vehicle Sale Agreement, as defined in the Supplement to the First Report, be and is hereby approved, with such minor amendments as the Receiver deems necessary.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

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

9. ~~7.~~ **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtor, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 7 or in paragraph 8 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

10. ~~8.~~ **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

11. ~~9.~~ **THIS COURT ORDERS** that the Receiver shall provide each of the relevant landlords with notice of the Receiver's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes the Receiver's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and the Receiver, or by further Order of this Court upon application by the Receiver on at least two (2) days' notice to such landlord and any such secured creditors.

NO PROCEEDINGS AGAINST THE RECEIVER

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

NO PROCEEDINGS AGAINST THE DEBTOR OR THE PROPERTY

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

NO EXERCISE OF RIGHTS OR REMEDIES

14. ~~12.~~ **THIS COURT ORDERS** that all rights and remedies against the Debtor, the Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Receiver 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 Receiver or the Debtor to carry on any business which the Debtor is not lawfully entitled to carry on; (ii) exempt the Receiver or the Debtor from compliance with statutory or regulatory provisions relating to health, safety or the environment; (iii) prevent the filing of any registration to preserve or perfect a security interest; or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

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

CONTINUATION OF SERVICES

16. ~~14.~~ **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 as may be required by the

Receiver, and that the Receiver shall be entitled to the continued use of the Debtor's current telephone numbers, facsimile numbers, internet addresses and domain names, 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 Receiver 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 Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

17. ~~15.~~ **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

18. ~~16.~~ **THIS COURT ORDERS** that all employees of the Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in subsection 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under subsections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

19. ~~17.~~ **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act* and any other applicable provincial privacy legislation, the Receiver shall disclose personal information of identifiable individuals to

prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a “Sale”). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

20. ~~18.~~ **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, “**Possession**”) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the “**Environmental Legislation**”), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver’s duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER’S LIABILITY

21. ~~19.~~ **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under

subsections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

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

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

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

FUNDING OF THE RECEIVERSHIP

25. ~~23.~~ **THIS COURT ORDERS** that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$100,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may

arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the “**Receiver’s Borrowings Charge**”) as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver’s Charge, and the charges as set out in subsections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

26. ~~24.~~ **THIS COURT ORDERS** that neither the Receiver’s Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.

27. ~~25.~~ **THIS COURT ORDERS** that the Receiver is at liberty and authorized to issue certificates substantially in the form annexed as **Schedule “A”** hereto (the “**Receiver’s Certificates**”) for any amount borrowed by it pursuant to this Order.

28. ~~26.~~ **THIS COURT ORDERS** that the monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver’s Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver’s Certificates.

SERVICE AND NOTICE

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

Case Website shall be established in accordance with the Protocol with the following URL:
<http://www.spergel.ca/luxurycars/>.

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

GENERAL

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

32. ~~30.~~ **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of the Debtor.

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

34. ~~32.~~ **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within

proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

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

36. ~~34.~~ **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to the Receiver and to any other party likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

SCHEDULE "A"

RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. **THIS IS TO CERTIFY** that msi Spergel inc., the receiver (the "**Receiver**") of the assets, undertakings and properties of 2236715 Ontario Limited o/a Luxury and Sports Cars (the "**Debtor**") acquired for, or used in relation to a business carried on by the Debtor, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated the 3rd day of August, 2018 (the "**Order**") made in an application bearing Court file number CV-18-00600821-00CL, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Receiver is authorized to borrow under and pursuant to the Order.

2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated and compounded [daily][monthly not in advance on the _____ day of each month] after the date hereof at a notional rate per annum equal to the rate of _____ per cent above the prime commercial lending rate of Bank of _____ from time to time.

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property (as defined in the Order), in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of such Property in respect of its remuneration and expenses.

4. All sums payable in respect of principal and interest under this certificate are payable at the main office of the Lender at Toronto, Ontario.

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver

to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

6. The charge securing this certificate shall operate so as to permit the Receiver to deal with the Property (as defined in the Order) as authorized by the Order and as authorized by any further or other order of the Court.

7. The Receiver does not undertake, and it is not under any personal liability, to pay any sum in respect of which it may issue certificates under the terms of the Order.

DATED the ____ day of _____, 2018.

MSI SPERGEL INC., solely in its capacity as
Receiver of the Property (as defined in the Order),
and not in its personal or corporate capacity

Per: _____

Name:

Title:

ROYAL BANK OF CANADA

Applicant

- and -

**2236715 ONTARIO LIMITED o/a LUXURY AND SPORTS
CARS**

Respondent

Court File No. CV-18-00600821-00CL

CMECALSPoedns omneaRECEIVERSHIP ORDER

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ROYAL BANK OF CANADA

Applicant

- and -

**2236715 ONTARIO LIMITED o/a LUXURY AND SPORTS
CARS**

Respondent

Court File No. CV-18-00600821-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
Proceedings commenced at Toronto

SUPPLEMENTARY MOTION RECORD
(Returnable August 3, 2018)

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