

In accordance with Section IIIc) of the Request for Proposals for a Canadian Duty Free Store Operator, the following questions were received and answered.

In responding to certain of these questions, the Authority has relied upon information provided to it by third-party sources. The Authority has not audited or otherwise attempted to verify the accuracy or completeness of that information and expresses no opinion or other form of assurance the information is complete or accurate.

Inquiries Received as of August 5, 2025:

- 1. Will the Authority provide the name and contact information for the current receiver of the duty free operations?**

https://www.spergelcorporate.ca/engagements/peace-bridge-duty-free-inc/?utm_source=insolvencyinsider.ca&utm_medium=referral&utm_campaign=peace-bridge-duty-free-inc-receivership

- 2. Will the authority extend the period for asking questions/seeking clarifications by a week to August 4?**

Addressed in Addendum #1, issued on July 28, 2025.

- 3. The RFP timetable indicates the successful proponent will be notified October 10 with the commencement of the lease and operations by no later than December 10. However, the CBSA website indicates that the agency “targets” licencing consideration within 90 days of submission. Given a CBSA submission could not be made until being named as successful in the RFP process, a fully functioning enterprise would not be on line until mid January at the earliest. Will the Authority revise the start date?**

The December 1, 2025 date for lease commencement is assumed to be attainable. However, the licensing process by Canadian Border Services Agency (CBSA) is not within the control of the Authority and, as such, will be assessed as required. CBSA is aware of the Authority’s RFP and associated schedule.

- 4. The Authority has provided recent traffic counts in Appendix E and audited sales for 2019. Can we be provided with sales for 2022, 2023, 2024 and year to date 2025?**

Please see updated Appendix E.

Additional Passenger and Commercial vehicle statistics can be retrieved from the Peace Bridge website at: <https://www.peacebridge.com/history/yearly-traffic-volumes/>

- 5. Can we receive recent sales figures for the McDonalds and Tim’s businesses that are/were at the facility?**

The Authority is unable to provide the requested information.

- 6. Approximately what is the estimated inventory value the successful proponent will have to purchase?**

The Authority is unable to provide the requested information.

- 7. Will historical financial statements be provided to facilitate a more accurate modelling of forecasts?**

The Authority is unable to provide the requested information.

- 8. Can the Authority provide a list of employee positions and current rates of compensation?**

The Authority cannot provide the requested information. Employees are the employees of the current operator (PBDF) and not the Authority. The Proponent is not acquiring the business of PBDF and this information is not available to Authority.

- 9. Are there any pending regulatory issues with the CBSA, Health Canada, or any provincial or municipal authorities?**

The Authority is not aware of any issues. The RFP is for a Lease. The Proponent is NOT acquiring the business of the current operator.

- 8. What is the status of the current CBSA license? Who is the named licensee?**

The Authority is unable to provide this information.

- 9. Are there any outstanding financial obligations we would be required to assume (e.g. taxes, payroll liabilities, supplier debts)?**

The Proponent shall be responsible for the purchase of inventory at cost at the time of Lease execution. The Proponent will not be responsible for any other outstanding financial obligations of the existing tenant. The RFP is for a lease. The Proponent is NOT acquiring the business of the current operator.

- 10. Are there any secured creditors with claims on assets, or liens/encumbrances on inventory or equipment?**

The Proponent is NOT acquiring the business of the current operator.

Any assets sold to the proponent will be sold free and clear (pursuant to a court order).

- 11. Are there any union-related issues? Will existing staff be rehired, or is there an obligation to transition them to new ownership?**

The Authority is not aware of any union-related issues. Employees are the employees of the current operator not the Authority. The Proponent is not acquiring the business of PBDF and this information is not available to Authority. Proponents should obtain their own legal advice.

12. Please provide information on the conclusion of the receivership and the startup/takeover by the successful proponent.

The Authority is unable to answer this question. The RFP is for a lease. The Proponent is NOT acquiring the business of the current operator.

13. Can a detailed list of physical assets, including FF&E and POS systems, be provided?

The RFP is for a lease. The Proponent is NOT acquiring the business of the current operator.

14. Ownership and Condition of Fixtures - Please clarify which fixtures are owned by the Receiver, which are owned by suppliers or brands, and which (if any) may be removed prior to lease commencement? Brand-specific fixtures may not be the property of Peace Bridge Duty Free or the Receiver. If these, or generic fixtures are removed, the premises cannot be considered a turnkey operation.

The existing media screens are non-functional; please confirm their operational status and ownership.

The Authority does not have this information. The RFP is for a lease. The Proponent is NOT acquiring the business of the current operator.

15. Inventory to be purchased at cost - Can you confirm that any expired, damaged, or otherwise non-sellable inventory will be excluded from the purchase of inventory at cost from the Receiver and that such items will be destroyed under CBSA supervision prior to operations handover.

That is the Authority's expectation.

16. Control over inventory purchases prior to lease commencement - Can the successful bidder approve or place limits on any new inventory purchases made by the Receiver between the bid award and lease commencement?

The Authority does not control the conduct of the business by the Receiver.

17. Municipal and provincial business taxes - Can you confirm whether there are any additional business taxes or licensing fees imposed by the City of Fort Erie or the Province of Ontario beyond standard corporate income tax? Specifically, is there a municipal business license requirement or annual fee applicable to operating a retail business at this location?

The Authority is unable to provide this information.

18. Alternative Rental Structure - Would the Authority consider an alternative rental structure based on gross margin rather than the proposed rental terms?

Refer to RFP Section IV. B. 8. Financial Terms and Business Plan and Appendix G of the RFP for guidance on potential Financial Terms.

- 19.Outstanding liabilities - Provide a detailed list of all outstanding debts and liabilities owed by the previous operator beyond amounts owed to the Receiver. This should include any amounts payable to suppliers, contractors, service providers, or other third parties.**

Refer to Question # 9 and #10 above. The RFP is for a lease. The Proponent is NOT acquiring the business of the current operator.

- 20.HVAC maintenance report - Please provide the most recent HVAC maintenance report(s) or invoices from the current operator, including service history, inspection records, and any outstanding maintenance or repair issues.**

No detailed information is available. Refer to Appendix B: Baseline Property Condition Assessment. Please see Appendix I.

- 21.Ownership of dutyfree.ca domain - Can you confirm whether the domain dutyfree.ca is currently owned or controlled by the Receiver, and if so, whether it is included as part of the assets available for transfer to the successful bidder?**

The Authority does not have this information. The RFP is for a lease. The Proponent is NOT acquiring the business of the current operator.

- 22.Impact of prepayments on renewal term - Would any prepayments made during the initial 5-year term reduce the overall \$5,000,000 payment required at the commencement of the 15-year renewal term?**

Refer to RFP Section IV. B. 8. Financial Terms and Business Plan and Appendix G of the RFP for guidance on potential Financial Terms. Refer to RFP Section V. Lease for guidance on the form of Lease.

- 23.Historical sales data - Please provide historical sales figures by product category, including the balance of sale, for each of the past three years.**

Historical sales data as requested are not available. Refer to Question 4 above.

- 24.CBSA audit reports - Provide copies of all CBSA audit reports from the past three years. This should include any noted compliance issues, deficiencies, enforcement actions, or corrective measures taken as a result of those audits.**

The Authority does not have this information.

- 25.Product destruction history - Provide a record of all product destructions conducted over the past two years, including the detailed item reports and supporting documentation: CBSA Forms E15 and B116 (outs).**

The Authority does not have this information. The RFP is for a lease. The Proponent is NOT acquiring the business of the current operator.

26.Can you provide the total duty free sales for 2016, 2017 and 2018 along with the passenger and commercial vehicle statistics?

Please refer to Question 4 above. Additional Passenger and Commercial vehicle statistics can be retrieved from the Peace Bridge website at: <https://www.peacebridge.com/history/yearly-traffic-volumes/>

27.Can you provide the total duty free sales for 2024?

Refer to Question 4 above.

28.Can you provide the total year-to-date duty free sales for 2025?

Refer to Question 4 above.

29.Does the 2019 sales figure of \$18,396,000 include sales from the restaurants (or other sub-tenants), or is it strictly duty free sales? If applicable, what were the restaurant (and/or other sub-tenant) sales? Note that, in a report filed in January 2023, the court appointed monitor (now the receiver) of the current operator stated that 2019 sales were of \$21,317,847.

Refer to Question 4 above.

Information provided in updated APPENDIX E was provided to us by the current operator.

30.What is the current value of the inventory on hand at cost?

Refer to Question 6 above. The Authority does not have this information.

31.Are there any open purchase orders for merchandise that has not yet been delivered? If so, what is the amount by product category?

The Authority does not have this information. Refer to Questions 11 and 17 above.

32.Can you provide the average number of full-time employees and their job titles?

The Authority does not have this information. Refer to Question 8 above.

33.Are any employees in a union?

The Authority does not have this information. Refer to Question 13 above.

34.Can you provide a Word version of the draft lease at Appendix A to the RFP?

*Yes, a Microsoft Word version of the draft form of Lease is provided as a digital **Attachment J** to these Responses. The Authority is not responsible for any changes made to the Microsoft Word version provided. The pdf document supplied in Appendix A of this RFP shall be used as official reference.*

35. Will the Authority consider extending the due date for the submission of questions?

Refer to Question 2 above.

36. Please provide Appendix E's traffic data split by direction (i.e., US-bound vs. Canada-bound)

Additional Passenger and Commercial vehicle statistics can be retrieved from the Peace Bridge website at: <https://www.peacebridge.com/history/yearly-traffic-volumes/>

37. Please share more historical data for the store, including the following: a.) If previous lease mirrored monthly statement expectations set in Appendix A, full information including gross sales, patron counts, and vehicle counts for previous 10 years. b.) Only sales information is available, that would be acceptable for same time horizon

The Authority is unable to provide this information. Please refer to Question 4 above.

38. Please share financial terms for past rent agreements

The Authority is unable to provide this information.

39. Please share itemized non-rent payments from tenant to landlord for the past 10 years? a. For example, additional services, traffic personnel, operating costs, utilities, etc.

No additional payments were received by the Authority for non-rent items from the tenant during the current lease term beginning in 2016.

40. Are all dollar figures in the materials Canadian Dollar denominated? For example, property taxes in Appendix C and 2019 sales in Appendix E

Yes - All currency values referenced in the RFP and Appendices are denoted in Canadian Dollar.

41. In the proposal, can the prospective tenant offer multiple different rent arrangements for the Peace Bridge Authority to choose from (e.g., one emphasizing fixed rent portion, one more focused on percentage of sales, etc.)?

Proponents are expected to provide their highest and best offer. Should a proponent put forward multiple rent scenarios, the Authority, in its sole discretion, will determine which rent proposal to use in the scoring of the RFP proposal.

42. The time period from when the selected proponent is notified (October 10, 2025) to when the lease is due to start (December 1, 2025) is 53 calendar days. Has CBSA confirmed if this is adequate enough time for a duty free license application to be processed?

Refer to Question 3 above.

43. The timeframe from date of certainty as to new selected operator is even shorter than 53 days (15 days for negotiation after October 10, plus how long before final legal draft is ready and signed after negotiations). Has the Authority had any discussions with CBSA on the pre-existing conditions necessary before they begin processing a new license application and length of time to complete this process? We would also need to negotiate with the Receiver for the fixtures, furnishings and inventory during this period which could take additional time.

The Authority has not had any discussions with CBSA on the pre-existing conditions necessary before they begin processing a new license application and length of time to complete this process. Refer to Question 3 above.

44. If the duty free license application is not available by December 1, 2025 and the Authority delays the lease commencement date, will the current duty free operator continue to operate or will the facility have to close temporarily?

The Authority does not control the conduct of the business by the Receiver.

45. We understand the relationship with the current tenant is contentious. It is likely to become more contentious now that a RFP has been issued and even more when a new tenant is awarded the lease. What is the Authority and/or Receiver's plan if/when the current operator (Management and Staff) decides to stop operating the store?

The Authority does not control the conduct of the business by the Receiver.

46. What is the plan to ensure the current operator continues to operate the store at a high standard? What is the plan to ensure the facility and assets are well cared for (not damaged, disposed of, removed from the facility etc.) during the transition?

It is the duty of the court-appointed Receiver to safeguard assets.

47. Considering the tight timelines, can proponents have a 2nd round of questions to follow up on Authority answers to the 1st set of questions and to ask questions that may arise as we work through the due diligence process in the coming weeks? For example, it is likely that questions will arise from site visits and there has not been sufficient time to arrange for a site visit since the RFP was issued.

Proponents are permitted, within five (5) business days of these Responses being sent, to seek clarification of the Authority's response to a question previously submitted. In consideration of the RFP schedule and the target date for lease commencement, no new questions shall be accepted beyond the posted Due Date for Submission of Questions.

Refer to Question 2 above.

48. During scheduled site visits are Proponents allowed to ask questions to present employees of the duty free shop?

Proponents are directed to Section III of the RFP for guidance on acceptable and prohibited conduct.

49. During scheduled site visits are Proponents allowed to ask questions to Authority employees who are responsible for the oversight and maintenance of the duty free facility?

Site visits, if requested and confirmed, will be escorted by Authority personnel. Authority personnel shall not answer questions relating to the facility nor its operations and shall be present solely to provide access as required to non-public areas of the premises. All inquiries related to the RFP, the duty-free facility, and its operation must be directed to the Contact Person noted in the RFP. Proponents are directed to Section III of the RFP for guidance on acceptable and prohibited conduct.

To offer further clarification in response to this question, the Authority is not responsible for the oversight and maintenance of the duty-free facility.

50. [Concerning (sic.)] Section IV - B3d, Page 19: Provide financial statements for the last six (6) years of the Proponent (audited if available) and...If the Proponent is a newly formed corporate entity by experienced retail individuals, this information will not be available. Also, not all proponents will be at liberty to release financial statements and/or sensitive financial information. What other information may be required instead?

Proponents must provide sufficient information and documentation to allow the authority to assess their financial viability.

51. Are there available separate traffic numbers for buses and RV type vehicles crossing the Peace Bridge?

Additional Passenger and Commercial vehicle statistics can be retrieved from the Peace Bridge website at: <https://www.peacebridge.com/history/yearly-traffic-volumes/>. Bus volumes statistics are available for Canada-bound only. RV-type vehicles counts are not available for either direction.

52. Can you provide historical financial statements for the duty free operation?

The Authority is unable to provide this information.

53. If financial statements are not available, can you provide audited sales numbers for the fiscal years 2014 to 2024?

Refer to Question 4 above.

54. Can you provide the year to date monthly 2025 duty free operation sales numbers?

Refer to Question 4 above.

55. For proponents to submit realistic financial forecasts, monthly transaction and sales volumes by vehicle type (i.e. car, commercial truck, bus) are required. Can you provide a minimum of the last 3 years and year to date (up to June 2025) sales numbers with this level of detail?

The Authority is unable to provide this information. Refer to Question 4 above.

56. Is a line item breakdown (with detailed descriptions) of the Operating Costs and any other fees (including expenses charged as Additional Rent etc.) charged to the duty free operation available for the 2014 – 2024 fiscal years as well as those budgeted for 2025?

The Authority is unable to provide this information. Current monthly operating costs charged as additional rent are roughly \$15,500 plus HST.

57. Section I, Paragraph B, Page 5, details that the existing duty free shop includes a currency exchange service and an ATM machine. Are historical separate sales or income numbers from these ancillary operations available?

The Authority is unable to provide this information.

58. The RFP proposal details that a "restaurant or similar food service offering must be included in any submitted proposal." It is our understanding that the site previously had Tim Hortons and McDonald's operations. Are historical income numbers from these food operations available?

The Authority is unable to provide this information.

59. Can you please explain the rationale for requiring a mandatory food service offering inside the duty free operation?

A mandatory food service offering is a non-negotiable requirement of the Lease. The Authority is of the belief that a food service offering provides benefits by: increasing foot traffic and dwell time; enhancing the customer experience through convenience and comfort for travelers; and, affording revenue diversification.

60. It is understood that a food service offering needs to be included in the RFP submission. However, this condition does not appear in the lease. Is it meant to be a condition of the lease or is the Authority just interested in reviewing ideas at this point?

Refer to Question 59 above. A food service offering will be a condition of the Lease and will be included as part of an Operating Agreement negotiated between the successful Proponent and the Authority based on the proposal submitted.

61. It is unclear how the rent collected from sub-tenants would factor into the rent payment. Is it included in the base rent amount proposed or is the Authority expecting a separate amount?

Refer to Appendix A of the RFP for the draft form of Lease and Appendix G of the RFP for guidance on potential Financial Terms.

62. In regards to rent, the RFP requires the Proponent to offer base rent, percentage rent (fixed or escalating) and a proposed rate of increase year over year. Is this annual escalation on the base rent meant to reflect CPI changes?

Refer to RFP Section IV. B. 8. Financial Terms and Business Plan and Appendix G of the RFP for guidance on potential Financial Terms.

63. Are historical utilities costs (hydro, gas, water) available for the duty free operation?

The Authority is unable to provide this information.

64. Has the existing currency exchange operation ever been cited for violations of FINTRAC, AML and TF guidelines?

The Authority is unable to provide this information. The RFP is for a lease. The Proponent is NOT acquiring the business of the current operator.

65. Many uncontrollable factors exist in the current business and border environment that can have a negative impact on future traffic and business potential for duty free operations (health issues such as COVID, trade Issues between US and Canada, highway construction issues or border infrastructure projects, changes to border security processes, changes to Canadian or US Tax laws etc.). Is the Authority willing to consider reasonable lease proposals that would reduce or temporarily suspend lease financial obligations based on uncontrollable factors resulting from government actions that drastically alter border traffic and/or change the duty free business model?

Refer to RFP Section IV. B. 8. Financial Terms and Business Plan, Section V. Lease. Refer to Appendix A of the RFP for the draft form of Lease and Appendix G of the RFP for guidance on potential Financial Terms.

66. Can you please clarify on a map, the boundaries of the Duty Free leased premises? Based on the maps, images and information provided, the boundaries of the leased premises are unclear.

Refer to the last page of Appendix D – the area outlined in yellow reflects the area of the leased premises.

67. Can you clarify what specific criteria must be met to qualify for the 15 year lease extension?

Refer to the RFP Appendix A draft form of Lease Article III.

68. Assuming the lease is extended for the subsequent 15 year term and the \$5M lease extension fee is paid, should the lease be terminated prior to the end of the 15 year term for any of the various reasons contemplated in the proposed lease, will the Authority repay the lease extension fee to the Tenant on a pro rata basis?

Refer to the RFP Appendix A draft form of Lease Article I.

69. Lease Agreement: Article IV - 4.10: Question: Section 4.10 indicates the Landlord will hold a PPSA charge over assets. Financial Institutions require PPSA's for many lending facilities and typically do not want to be ranked 2nd. If a financial institution requires the Landlord to be ranked behind them, is the Landlord willing to do so?

The Authority is willing to enter into inter-creditor agreements with financial institutions providing financing to the proponent

70. Under what circumstances will the Tenant be required to furnish annual financial statements within 120 days of the end of each fiscal year?

Refer to RFP Appendix A draft form of Lease Article V Financial Information.

71. Given that Section 2.02 specifies that the Lease is a "completely carefree net lease to the Landlord" with the Tenant responsible for all costs and expenses, is there expected to be significant additional costs levied as Additional Rent by the Landlord?

Refer to Appendix A – draft form of Lease for an understanding of what constitutes Additional Rent. Refer to Question 56 above.

72. The definition for leasehold improvements includes the broad term "fixtures". Can you please confirm that the Tenant owns the retail trade fixtures and furnishings including backwall displays, gondolas and all other casework?

The Authority is unable to provide this information.

73. Is the Landlord willing to reduce or eliminate base rent if the traffic falls under a certain threshold? E.g. automobile traffic declines greater than 40% from 2024 levels.

Refer to RFP Section IV. B. 8. Financial Terms and Business Plan, Section V. Lease. Refer to Appendix A of the RFP for the draft form of Lease and Appendix G of the RFP for guidance on potential Financial Terms.

74. Are there any limitations or restrictions on the type of signage or external modifications the Tenant can install?

Refer to Appendix A of the RFP – draft form of Lease, Article IX – Use of the Leased Premises.

75.If Proponent is a new entity created by various individuals with relevant retail experience, there will be no previous financial results available to qualify for the last 5%. What else can the Proponent demonstrate to earn these points?

Proponents must provide sufficient information and documentation to allow the Authority to assess their financial viability.

76.Can proponents arrange meetings with PINCHIN to discuss details of the Baseline Property Condition Assessment?

Appendix B of the RFP was prepared by an independent, 3rd-party consultant and is meant to be used as a reference only to assist with the Proponent's understanding of potential current and future costs associated with the premises. Proponents are directed to Section III of the RFP for guidance on acceptable and prohibited conduct.

77.What, if any of the repairs and replacement recommendations listed in the Pinchin report does the Authority expect to be completed during the initial 5 year term of the lease?

Refer to Question 76 above. Also, refer to Appendix A of the RFP – Draft form of Lease Article XII – Maintenance, Repairs and Alterations for an understanding of the Proponent's obligations.

78.What would the process be to determine if, how and when an element of the facility needs to be repaired/replaced? Can you please explain citing the following example, it is anticipated that the asphalt automobile parking area and concrete truck parking area will need to undergo significant work (perhaps complete replacement) during the 5+15 year term of the lease. How would the Authority and duty free operator determine if, how and when it would need to be repaired/replaced?

Refer to Question 77 above. Also, refer to Appendix A of the RFP – Draft form of Lease Article XII – Maintenance, Repairs and Alterations for an understanding of the Proponent's obligations.

79.The PINCHIN Report references Replacement Reserves of \$268,000 (with \$178,000 for asphalt and parking areas). Does this reflect amounts already paid by the current tenant and held in reserve for future repairs?

Refer to Question 78 above. Also, refer to Appendix A of the RFP – Draft form of Lease Article XII – Maintenance, Repairs and Alterations for an understanding of the Proponent's obligations. The Authority does not hold any replacement reserve payments.

80.Are there any known environmental risks, previous contamination, or hazardous material disclosures for the leased site?

There are no known environmental conditions and no environmental orders filed against the Leased Premises. Section 10.06 of Appendix A states that the Authority expressly releases

the tenant from any environmental liability for any pre-existing contaminants as of the commencement date of the lease.

81. The Successful Proponent will have the ability to purchase the fixtures at a price to be negotiated with the receiver appointed over the property of the current operator. Is a master list of these fixtures available?

The Authority does not have this information. The RFP is for a lease. The Proponent is NOT acquiring the business of the current operator.

82. Are any of these assets actually owned by suppliers? This arrangement is common in the duty free industry and those assets should not be considered in the negotiations.

The Authority does not have this information. The RFP is for a Lease NOT acquiring the business of the current operator.

83. What is the net book value of the fixtures, furnishings, and equipment for which the Proponent is expected to negotiate with the Receiver? If you are unable to provide this information, will proponents be permitted to discuss these details directly with the Receiver during the due diligence process?

The Authority does not have this information. The RFP is for a lease. The Proponent is NOT acquiring the business of the current operator.

84. The Successful Proponent will also be required to purchase the inventory (at cost) from the Receiver upon taking possession of the premises. Is a list of current inventory available for distribution?

Refer to Questions 6, 16 and 31 above.

85. Can the Authority provide any historical information on the bridge traffic capture rate for the Duty Free Shop?

The Authority is unable to provide this information.

86. Provide the 10 most recent invoices from the LCBO.

The Authority is unable to provide this information.

87. The Draft Lease Agreement includes Articles 15.04 and 15.05: Please clarify whether these provisions grant the Authority exclusive access to the roof? Does the tenant retain any rights to access the roof for other installations or to issue rooftop licenses to third parties?

Refer to Appendix A draft form of Lease Article XV.

88. Will a Force Majeure provision be included in the final version of the lease?

Refer to RFP Section IV. B. 8. Financial Terms and Business Plan, Section V. Lease. Refer to Appendix A of the RFP for the draft form of Lease

89. Section IV.A.1 of the RFP requests a digital copy of both the Technical Proposal and Financial Terms Proposal. Please confirm the preferred method of delivery: should the digital copy be submitted on a USB key alongside the hard copies or sent via email to Kimberlee Kaiser?

The digital copies should be provided on a USB and submitted alongside the hard copies.

90. The RFP indicates a lease commencement date of December 1, 2025. Will the selected proponent be granted access to the premises prior to this date for preparatory activities such as inventory counts, staff training or renovations? If early access is permitted, please provide an expected lead time. If early access is not permitted, how does the Authority envision facilitating a seamless operational launch on December 1?

The Authority anticipates possession of the leased premises to occur on the Lease Commencement date.

91. If the new tenant cannot open by December 1 due to unforeseen delays, for example, regulatory delays, will rent commencement be tied to the lease commencement date regardless of whether the store is open to the public or can the opening date be adjusted? Conversely, if the outgoing tenant were to leave early, would the Authority allow the new tenant to commence earlier than December 1?

The Authority anticipates possession of the leased premises to occur on the Lease Commencement date which is anticipated to be December 1, 2025. Refer to Question 3 above.

92. Are there any known environmental issues or hazardous materials on site or any pre-existing environmental contamination by the previous operator?

There are no known environmental conditions and no environmental orders filed against the Leased Premises. Section 10.06 of Appendix A states that the Authority expressly releases the tenant from any environmental liability for any pre-existing contaminants as of the commencement date of the lease.

93. Regarding the previous operator's website, can the current customer database be maintained?

The Authority does not have this information. The RFP is for a lease. The Proponent is NOT acquiring the business of the current operator.

94. Please provide proof of payment for the existing inventory. Additionally, what is the treatment of any outstanding amounts owed to suppliers who have not yet been paid for this inventory or inventory already sold?

The Authority does not have this information. The RFP is for a lease. The Proponent is NOT acquiring the business of the current operator. Refer to Question 10.

95. The Authority response to questions are integral to determining how to structure a proposal. Since the due date for questions was delayed a week, will the due date for proposal submissions also be delayed by a week to September 19, 2025?

The Authority has no intentions of extending the deadlines included in the RFP. Refer to Question 2 above.

96. Can you please list and describe any possible or impending projects the Authority has been made aware of (i.e. infrastructure, IT, operational or otherwise) that have the potential to impact duty free traffic, sales, access to/from the facility, the QEW approaching the border, the Duty Free building, or the rest of the leased premises? These may be projects initiated by or involving the Authority, CBSA, CBP, Niagara Region, MTO, or the Town of Fort Erie.

1. Can you also indicate the extent to which you anticipate the duty free operation may be impacted by these projects?

The Authority is aware of a pavement resurfacing project currently tendered by the Ministry of Transportation, Ontario entitled "MTO Contract No. 2025-2005 QEW Rehabilitation from Central Avenue to Bowen Road". Proponents are advised to contact MTO for information relating to this project.

The Authority is not aware of any other possible or impending projects.

97. On the Authority website, the historical bridge traffic statistics are made available back to 2003. For the East – To U.S. traffic numbers on the website that are detailed by car or truck, we have the following questions;

1. How are these eastbound traffic numbers gathered or calculated?

Eastbound traffic numbers are gathered using a proprietary lane sensor system located in the US Plaza.

2. Do these numbers exclude staff or service vehicles for the Authority, CBSA, duty free etc.? No.

3. Bus traffic numbers are detailed for westbound traffic (to Canada) but not for eastbound. Are they included in the eastbound car or truck numbers? Busses east bound are included in the commercial numbers.

Appendix E

Historical Traffic Information

Below is the historical traffic for the past five (5) years at the Peace Bridge

Year	Volume		Yearly Average
	Passenger	Commercial	USD Exchange Rate
2019*	4,021,579	1,094,241	1.33
2020	876,229	1,022,228	1.34
2021	682,366	1,111,690	1.25
2022	2,232,200	1,079,923	1.30
2023	3,394,021	1,090,614	1.35
2024	3,739,580	1,062,499	1.37

Historical Sales Information

			Historical	
			duty free sales	
2018			\$ 20,735,181	
2019			\$ 19,581,696	
2020			\$ 6,201,710	
2021			\$ 408,604	
2022			\$ 9,894,596	
2023			\$ 13,841,422	
2024			\$ 14,790,862	
2025			\$ 5,175,000	YTD 7/31/25

Air Care Services 723716 Ontario Limited

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Niagara Falls, Ontario L2G 0L5
Canada

Phone 905-295-6568
Fax 905-295-6139
Email aircareservices8@gmail.com

December 2, 2024

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

ATTENTION: Dave.

RE: HVAC General Equipment Conditions.

As per your request the following:

Upon completion of Preventative Maintenance Service as of Nov.29, 2024, all HVAC Units have been serviced including replacement of filters and inspection of V-belts. Electrical control wiring inspection has been completed consisting of tightening of terminal and wire connections, inspection of contactors, Air Conditioning operations fresh air dampers and related controls.

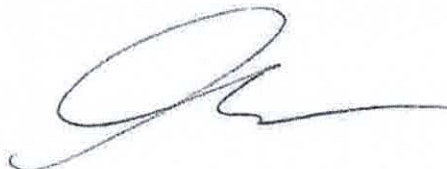
PLEASE NOTE: In general, all HVAC equipment is in excellent conditions, as being 7 years of age.

Office fresh air damper linkage and motor require replacement

Trusting the above is the information you required. If you have any additional questions, please contact the Writer.

Yours truly,

AIR CARE SERVICES ONT. LTD.



Gary Sandlac

GS:ds
12/02/2024

BUILDING LEASE

BETWEEN

BUFFALO AND FORT ERIE PUBLIC BRIDGE AUTHORITY

- AND -

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Execution Page

SCHEDULES :

SCHEDULE “A”	LEGAL DESCRIPTION OF THE LANDS
SCHEDULE “B”	PLAN OF LEASED PREMISES
SCHEDULE “C”	RULES AND REGULATIONS

THIS LEASE is dated as of the ● day of ●, 20●.

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:

●

(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:

Address of Tenant:

(c) Leased Premises: The Building and the portion of the Lands as identified in
Schedule “B”.

(d) Term: 5 years.

(e) Commencement Date: October 1, 2025.

(f) Termination Date: October 31, 2030

(g) Letter of Credit: \$500,000 or 3 months proposed rent, whichever is greater.

- (h) Extension Options: One option to extend the term for an additional period of fifteen years. A non-refundable and fully-earned fee of \$5,000,000 (the “**Lease Extension Fee**”) is required upon exercise of the option to extend the Lease.

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 Subsection 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 Subsection 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) **“Lease Extension Fee”** means the fee described in Subsection 1.01(h).
- (aa) **“Letter of Credit”** means the letter of credit described in Section 4.09.
- (bb) **“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.
- (cc) **“Mortgage”** means any mortgage or other security against the Leased Premises or the Landlord's interest in this Lease, from time to time, including, without limitation, any assignment of rents and **“Mortgagee”** means the holder of such security 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) **“PPSA”** means the *Personal Property Security Act*, RSO 1990 c. P.10.
- (ii) **“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”.
- (jj) **“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.

- (kk) **“Release”** means, in respect of Contaminants, without limitation, a spill, leak, disposal, dumping, pumping, pouring, emission, emptying, discharge, deposit, injection, escape, release or leaching.
- (ll) **“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.
- (mm) **“Rent”** means collectively the Base Rent, Percentage Rent and Additional Rent payable under this Lease.
- (nn) **“Rental Year”** means a period of time, the first Rental Year of the Term commencing on the Commencement Date, and ending on the last day of the month of December next following. 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.
- (oo) **“Roof Licence”, “Roof Top Equipment” and “Roof Licensee’s Employees”** have the meanings ascribed to those terms in Section 15.04
- (pp) **“Rules and Regulations”** means the rules and regulations promulgated by the Landlord from time to time pursuant to the terms of this Lease, including, without limitation, with respect to health, safety, preservation of property, maintenance, traffic flow, parking, the flying of flags, or relating to the delivery of goods and merchandise to the leased Premises.
- (qq) **“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.
- (rr) **“Tenant”** means the party named in Subsection 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.

- (ss) **“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.
- (tt) **“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.
- (uu) **“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 (excluding sales 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. 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 (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; and
- (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.
- (vv) **“Term”** means the period of time set out in Subsection 1.01(d).
- (ww) **“Termination Date”** means the date set out in Subsection 1.01(f).
- (xx) **“Transfers”** and **“Transferee”** have the meanings ascribed to that terms in Article XIV.
- (yy) **“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 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 and has, at the same time as providing such notice paid to the Landlord the Lease Extension Fee, Tenant shall have the right and option to extend the Term for one (1) additional period of fifteen (15) 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, and the Lease Extension Fee has been paid, the Term shall be automatically extended for the Extension Term covered by the option so exercised. If Tenant shall fail to pay to the Landlord the Lease Extension Fee or 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 Subsection 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 _____. The Base Rent for the second and each succeeding year of the Lease shall be _____.

4.03 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, _____ percent (____%) of 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 together with all applicable taxes, to the Landlord as Percentage Rent.

The Tenant covenants and agrees with the Landlord that if, during any month (including any broken calendar month) of the Extension Term of the Lease, _____ percent (____%) of 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 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.

4.04 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.

4.05 Traffic Personnel

In the event that the Landlord 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.

4.06 Sales Tax

In addition to Rent 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 4.06 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.

4.07 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.

4.08 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;
and
- (e) 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.

4.09 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 (the "**Letter of Credit**") in favour of Landlord issued by a Schedule 1 Canadian chartered bank in the amount of \$500,000.00 or 3 months proposed rent (whichever is greater), 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 \$500,000 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.

4.10 Security Interest

The Tenant hereby grants to the Landlord a security interest in all of its present and after-acquired personal property (as defined by the PPSA) of whatsoever nature or kind, including, without limitation, any proceeds (as defined by the PPSA), to secure the performance of Tenant's obligations under this Lease, including, without limitation, the obligation to pay Rent. Any default under this Lease shall entitle the Landlord to enforce its security interest in accordance with the PPSA, including the right to appoint a receiver or a receiver and manager of the property of the Tenant subject to the Landlord's security interest or apply to the court for an order appointing a receiver or receiver and manager over the Tenant.

ARTICLE V FINANCIAL INFORMATION

5.01 Monthly Statements

The Tenant shall furnish in writing to the Landlord by the fifth (5th) 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 Subsection 2.01(uu); (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.

5.02 Annual Statements

The Tenant shall furnish in writing to the Landlord within thirty (30) 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.

5.03 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 and the Indemnifier as the Landlord 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 and the Indemnifier shall provide the Landlord with their respective most recent 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 and the Indemnifier.
- (c) The Tenant agrees to provide to the Landlord prompt notice of any anticipated or 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).

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 Corporate Books and Records

The Tenant shall make all corporate books and records of the Tenant available to the Landlord for inspection at all reasonable times.

5.06 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.

5.07 Audit

- (a) 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. 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.

- (b) 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.
- (c) The Landlord must inspect and audit under this Section 5.07 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.

5.08 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 11.06. 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 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 2025 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 Article 7.5.

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, obey and abide by the Rules and Regulations
- (c) comply with the operating agreement between the Tenant and the Landlord executed concurrent with the execution of this Lease;
- (d) keep the Leased Premises clean, neat and free of hazards and fire dangers at all times;
- (e) 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;
- (f) provide policing, supervision and security as required;
- (g) maintain proper lighting in the parking facilities;

- (h) 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;
- (i) not erect, paint, affix display or maintain 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, and all signs erected by the Tenant shall comply with all Applicable Laws;
- (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; and
- (m) abide by any and all directives of Canada Border Services Agency in regards to the conduct of the Tenant's business.

9.03 Termination, Etc. of Licence

In the event that the Licence is terminated, revoked, suspended, or expires, the Tenant shall: (a) notify the Landlord in writing; and (b) cause the Licence to be reinstated or renewed within 60 days of such termination, revocation, suspension or expiration.

9.04 Traffic

The Tenant agrees that it shall be responsible to provide any and all traffic direction required in or upon the Leased Premises.

9.05 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.

9.06 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 **[any]** 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.

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, employer's 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.
- (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.

12.03 Permitted Alterations

- (a) 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) Permitted Alterations shall be performed at the Tenant's sole cost in a good and workmanlike manner by competent workmen whose labour union affiliations are compatible with others employed by the Landlord and its contractors, 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.
- (c) Despite anything to the contrary contained in this Section, the Landlord may, at its option, complete any permitted Alterations. Upon completion of the permitted Alterations, the Tenant will pay to the Landlord, upon demand, as Additional Rent, the cost of the permitted 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.

12.04 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.

12.05 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 12.08 at the Termination Date or earlier termination of the Term.

12.06 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.

12.07 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.

12.08 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.

12.09 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.

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 any other provisions of this Lease:

- (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.

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, ETC

14.01 Transfers

- (a) 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, (in each case, a “**Transfer**” and any such assignee, subtenant, 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 13.02, 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.
- (b) 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.

14.02 Consent Required--Transfer

- (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(a)
- (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.

14.03 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.

14.04 Grant of Security

- (a) The Tenant shall not assign as security, 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 “**Grant of Security**” and any Person to whom a Grant of Security is to be made is a “**Creditor**”) without the Landlord’s prior written consent, which consent, subject to the Landlord’s termination right set out in Section 13.02, shall not be unreasonably withheld. At the time the Tenant requests the Landlord’s consent to a Grant of Security, the Tenant shall provide the Landlord with a true copy of the applicable agreement and any information the Landlord may require 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).
- (b) Within thirty (30) days following the date the Tenant requests the Landlord to consent to a Grant of Security 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 Grant of Security and (ii) the date of such termination of this Lease, if applicable. If the Landlord elects to terminate this Lease 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 Grant of Security; or (ii) accept the termination of this Lease. If the Tenant fails to deliver its notice within the fifteen (15) day period, this Lease shall be terminated upon the date for termination provided for in the Landlord’s notice. If the Tenant advises the Landlord that it intends to refrain from the Grant of Security, then the Landlord’s election to terminate this Lease.
- (c) Should the Landlord elect to terminate the Lease pursuant to this Section, Subsection 17.02(a) shall apply.

14.05 Consent Required Grant of Security

- (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 Grant of Security does or could result in violation or breach of any covenants or restrictions affecting the Lands;
- (iv) any Mortgagee, whose consent is required, refuses to consent to the Transfer for whatever reason.

14.06 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 effective voting control of the Tenant shall be considered to be a Transfer to which Article XIV of this Lease apply.
- (b) Within thirty (30) days following the date the Tenant notifying the Landlord of a change referred to in paragraph (a), the Landlord shall notify the Tenant in writing whether or not it elects to terminate this Lease. Should the Landlord elect to terminate the Lease pursuant to this Section, Subsection 17.02(a) shall apply.
- (c) This Section 14.06 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).

14.07 Officers, Directors, Etc

- (a) The Tenant shall notify the Landlord in writing in the event of any change in the: (a) directors; (b) officers; or (c) senior management of the Tenant responsible for the management of the Tenant's business at the Leased Premises.
- (a) Within thirty (30) days following the date the Tenant notifying the Landlord of a change in the: (a) directors; (b) officers; or (c) senior management of the Tenant responsible for the management of the Tenant's business at the Leased Premises the Landlord shall notify the Tenant in writing whether or not it elects to terminate this Lease. Should the Landlord elect to terminate the Lease pursuant to this Section, Subsection 17.02(a) shall apply.

14.08 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 one or more third parties 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 Subsection 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 Subsection 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, but will not be liable for any damages, whether direct, indirect or consequential, to any Person or property in respect of any temporary interference with or denial of access during the performance of such work, or in any other way in respect of the performance of such work, or for failure to perform 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) 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.

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 whether or not written notice of the failure is given from the Landlord to the Tenant;
- (b) the Tenant fails to observe or perform any other of the terms, covenants, conditions or agreements contained in this Lease, aside from the covenant to pay Rent, and such failure continues for ten (10) days after notice from the Landlord to the Tenant specifying the failure;
- (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 creditor with security over the Term or any of the goods, chattels or fixtures of the Tenant on the Leased Premises takes steps to enforce or indicates its intention to enforce its security;
- (e) a writ of execution or sequestration is issued against the goods, chattels or fixtures of the Tenant;
- (f) the Tenant makes a sale of all or substantially all of its inventory or other assets out-of-the-ordinary course of business other than in a Transfer approved by the Landlord;
- (g) the Tenant sells or disposes of Leasehold Improvements or trade fixtures or removes them or any of them from the Leased Premises without complying with Section 12.08;
- (h) the Tenant abandons or attempts to abandon the Leased Premises;
- (i) the Leased Premises remain vacant or the Tenant ceases to operate its business at the Leased Premises as required by Subsection 9.02(a) for ten (10) consecutive days or more without the prior written consent of the Landlord;
- (j) the Leased Premises are used by any Person other than those Persons entitled to use them under this Lease;
- (k) 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 a bankruptcy application is brought against the Tenant and that application is not withdrawn or dismissed within ten (10) days or a bankruptcy order is made against the Tenant;
- (l) proceedings under Part III of the *Bankruptcy and Insolvency Act* (Canada) or under the *Companies' Creditors Arrangement Act* (Canada) are commenced by or in respect of the Tenant;
- (m) an order is made for the winding up or liquidation of the Tenant, or the Tenant voluntarily commences winding-up or liquidation proceedings;

- (n) an application is made for the appointment of a receiver or receiver and manager and that application is not dismissed or withdrawn within ten (10) days or a receiver or receiver and manager is appointed over the Tenant's property by a creditor or the court;
- (o) 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;
- (p) the Tenant's Licence is terminated, revoked, suspended, or expires and: (i) the Tenant fails to notify the Landlord; or (ii) the Licence is not reinstated or renewed within 60 days of such termination, revocation, suspension or expiration;
- (q) the Tenant fails to comply with Section 5.01;
- (r) the Tenant: (i) substantially, continually or repeatedly fails to produce records and follow procedures sufficient to permit a determination of the Tenant's Gross Sales as contemplated by Section 5.07; or (ii) the Tenant's Gross Sales is understated by two percent (2%) or more on more than three (3) occasions when inspected and audited by the Landlord as contemplated by Section 5.07;
- (s) the Tenant fails to observe or perform any Rule or Regulations or 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; or
- (t) 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 full or complete indemnity basis), unless a court otherwise orders.

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. In the event of the conflict between the Rules and Regulations the other provisions of this Lease, the provisions of the Lease shall govern.

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 Subsection 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 Subsection 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 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.

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DRAFT

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:
Title:

Per _____
Name:
Title:

I/We have authority to bind the Compact

● **TENANT**

Per _____
Name:
Title:

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

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.

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.

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.

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