

This is Exhibit "W" referred to in the Affidavit of Samuel LeBlond affirmed by Samuel LeBlond of the Region of Lanaudière, in the Province of Quebec, before me at the City of Toronto, in the Province of Ontario, on July 18, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

Heather Fisher

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Commissioner for Taking Affidavits (or as may be)

**HEATHER FISHER**

**De :** Yvonne Frogosa <yfrogosa@mhccna.com>  
**Envoyé :** July 17, 2024 11:20 AM  
**À :** Accounting <accounting@fairmontlogistics.com>

**Cc :** Wilson Escalante <[wilson@fairmontlogistics.com](mailto:wilson@fairmontlogistics.com)>; Samuel Leblond <[sleblond@mhccna.com](mailto:sleblond@mhccna.com)>

**Objet :** RE: Orbit - Fairmont

Thanks Jessamyn! All invoices still need to be paid to MHCCA 😊

**Yvonne Frogosa**

Senior Account Representative, Factoring

Chargée de comptes senior, affacturage

**T** 1-855-840-1298 #2519

**@** [yfrogosa@mhccna.com](mailto:yfrogosa@mhccna.com)

---

**From:** Accounting <[accounting@fairmontlogistics.com](mailto:accounting@fairmontlogistics.com)>

**Sent:** Wednesday, July 17, 2024 11:02 AM

**To:** Yvonne Frogosa <[yfrogosa@mhccna.com](mailto:yfrogosa@mhccna.com)>

**Cc:** Wilson Escalante <[wilson@fairmontlogistics.com](mailto:wilson@fairmontlogistics.com)>; Samuel Leblond <[sleblond@mhccna.com](mailto:sleblond@mhccna.com)>

**Subject:** RE: Orbit - Fairmont

**ATTENTION: Courriel externe - External email**

Hi Yvonne,

Thank you for confirming! Previously, they were just asking for direct payment this was the first time they actually sent the email with a new invoice attached. I wasn't sure how it would work if they didn't notify you of the invoice etc.

**Jessamyn Cravens**

Senior Accountant

**T:** (310) 888-1820, Ext. 2474

**E:** [jessamyn@fairmontlogistics.com](mailto:jessamyn@fairmontlogistics.com)



Please visit our website for available loads

[www.fairmontlogistics.com](http://www.fairmontlogistics.com)

Have a great day!

---

**From:** Yvonne Frogosa <[yfrogosa@mhccna.com](mailto:yfrogosa@mhccna.com)>

**Sent:** Wednesday, July 17, 2024 7:59 AM

**To:** Accounting <[accounting@fairmontlogistics.com](mailto:accounting@fairmontlogistics.com)>

**Cc:** Wilson Escalante <[wilson@fairmontlogistics.com](mailto:wilson@fairmontlogistics.com)>; Samuel Leblond <[sleblond@mhccna.com](mailto:sleblond@mhccna.com)>

**Subject:** RE: Orbit - Fairmont

**Importance:** High

Hi Jessamyn,

Thanks for letting me know again, it is very much appreciated.

Orbit is still legally bonded to MHCCA. Unless you receive a letter of release from MHCCA, kindly continue to pay us, as usual.

Again, it is much appreciated, that you are keeping me in the loop 😊

**Yvonne Frogosa**

Chargée de comptes senior, affacturage  
Senior Account Representative, Factoring

T 1-855-840-1298 #2519

@ yfrogosa@mhccna.com

---

 **MITSUBISHI HC CAPITAL CANADA**

2200, rue de la Sidbec Sud  
Trois-Rivières ,(Québec) G8Z 4H1



[mhccna.com](http://mhccna.com)

Employeur  
de choix

Employer  
of choice



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**NOTICE |** The entire contents of this email message are confidential and may include privileged or protected information. Any unauthorized use is strictly prohibited. If you are not the intended recipient, please notify the sender and delete the message. Thank you.

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**From:** Accounting <[accounting@fairmontlogistics.com](mailto:accounting@fairmontlogistics.com)>  
**Sent:** Wednesday, July 17, 2024 10:54 AM  
**To:** Yvonne Frogosa <[yfrogosa@mhccna.com](mailto:yfrogosa@mhccna.com)>  
**Cc:** Wilson Escalante <[wilson@fairmontlogistics.com](mailto:wilson@fairmontlogistics.com)>  
**Subject:** Orbit

**ATTENTION: Courriel externe - External email**

Hi Yvonne,

Please see below email where Orbit is again requesting to be paid directly. Let us know how we should proceed!

Thank you,

# Jessamyn Cravens

Senior Accountant

T: (310) 888-1820, Ext. 2474

E: [jessamyn@fairmontlogistics.com](mailto:jessamyn@fairmontlogistics.com)



Please visit our website for available loads

[www.fairmontlogistics.com](http://www.fairmontlogistics.com)

**From:** Orbit Express Accounting <[accounting@orbitexpress.ca](mailto:accounting@orbitexpress.ca)>

**Sent:** Wednesday, July 17, 2024 6:37 AM

**To:** Accounting <[accounting@fairmontlogistics.com](mailto:accounting@fairmontlogistics.com)>

**Subject:** INVOICE: I008033, CUST. ORDER: 151158

Hello,  
Hope you received the paperwork with the email.  
Please proceed the payment as quick pay.



**Accounting**

Office: 1135 Meyerside Dr, Mississauga, ON, L5T 1J6

T: 905.296.3353 X 407

F: 905.296.3363

PLEASE UPDATE OUR NEW MAILING ADDRESS :

**28 CAPE DORSET CRES., BRAMPTON, ON L6R 3L2**



This is Exhibit "X" referred to in the Affidavit of Samuel LeBlond affirmed by Samuel LeBlond of the Region of Lanaudière, in the Province of Quebec, before me at the City of Toronto, in the Province of Ontario, on July 18, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

Heather Fisher

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Commissioner for Taking Affidavits (or as may be)

**HEATHER FISHER**

**From:** Besan Fawaz <Besan\_H\_Fawaz@ryder.com>  
**Sent:** 28 June 2024 16:23  
**To:** Iqbal, Asim  
**Cc:** Samuel Leblond; kulwantcheema2; Kelly L. Porter; Susan K. Stencil; Sahib Singh; Romeo, Marco  
**Subject:** Re: Orbit Express Inc.

**This message originated from outside of Gowling WLG. | Ce message provient de l'extérieur de Gowling WLG.**

---

It is Mrs.

I am not at liberty to discuss anything related to Orbit with an external party. Ryder is contract with Orbit and GM not Mitsubishi, so we will confer with GM and your team can also doing the same.

Ms. Besan Fawaz  
248-699-7684

---

**From:** Iqbal, Asim <Asim.Iqbal@gowlingwlg.com>  
**Sent:** Friday, June 28, 2024 4:08:44 PM  
**To:** Besan Fawaz <Besan\_H\_Fawaz@ryder.com>  
**Cc:** Samuel Leblond <sleblond@mhccna.com>; kulwantcheema2 <kulwantcheema2@gmail.com>; Kelly L. Porter <Kelly\_L\_Porter@ryder.com>; Susan K. Stencil <stensk@ryder.com>; Sahib Singh <sahib.singh@gm.com>; Romeo, Marco <Marco.Romeo@gowlingwlg.com>  
**Subject:** Re: Orbit Express Inc.

Some people who received this message don't often get email from asim.iqbal@gowlingwlg.com. [Learn why this is important](#)

**RYDER CAUTION:** This email originated from outside of the organization and may have malicious content. Be cautious when clicking on links or opening attachments.

Mr. Fawaz:

I'm following up on my email below. Could we please arrange a time to have a discussion next week? Please advise of your availability. Feel free to include your legal counsel.

Thanks,  
Asim

Asim Iqbal  
M: 647.202.6621

---

**From:** Iqbal, Asim  
**Sent:** Wednesday, June 26, 2024 4:30:01 PM  
**To:** besan\_h\_fawaz@ryder.com <besan\_h\_fawaz@ryder.com>  
**Cc:** Samuel Leblond <sleblond@mhccna.com>; kulwantcheema2 <kulwantcheema2@gmail.com>;

Kelly\_L\_Porter@ryder.com <Kelly\_L\_Porter@ryder.com>; stensk@ryder.com <stensk@ryder.com>;  
sahib.singh@gm.com <sahib.singh@gm.com>

**Subject:** Orbit Express Inc.

Mr. Fawaz,

Please find attached correspondence of today's date.

Thanks,

Asim Iqbal

*Partner*

**T** +1 416 862 4693

**M** +1 647.202.6621

asim.iqbal@gowlingwlg.com



Gowling WLG (Canada) LLP  
Suite 1600, 1 First Canadian Place  
100 King Street West  
Toronto ON M5X 1G5  
Canada



**gowlingwlg.com**

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**Thomson Reuters' Stand-out Lawyers 2024**

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References to 'Gowling WLG' mean one or more members of Gowling WLG International Limited and/or any of their affiliated businesses as the context requires. Gowling WLG (Canada) LLP has offices in Montréal, Ottawa, Toronto, Hamilton, Waterloo Region, Calgary and Vancouver.

The information contained in this electronic communication and any accompanying document is confidential, may be attorney-client privileged, and is intended only for the use of the addressee. It is the property of Ryder System, Inc. Unauthorized use, disclosure or copying of this communication, or any



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This is Exhibit "Y" referred to in the Affidavit of Samuel LeBlond affirmed by Samuel LeBlond of the Region of Lanaudière, in the Province of Quebec, before me at the City of Toronto, in the Province of Ontario, on July 18, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

Heather Fisher

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Commissioner for Taking Affidavits (or as may be)

**HEATHER FISHER**

## Iqbal, Asim

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**From:** kulwant cheema <kulwantcheema2@gmail.com>  
**Sent:** June 25, 2024 3:02 PM  
**To:** Iqbal, Asim  
**Cc:** Romeo, Marco; Scopelliti, Franca  
**Subject:** Re: Letter to K. Singh

**This message originated from outside of Gowling WLG. | Ce message provient de l'extérieur de Gowling WLG.**

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Hello,  
As reiterated we do not owe anything to MHCC.

MHCC needs to collect Money from Ryder.

They need to follow up with Ryder as per Ryder contract they can pay in 90 days.

Stop doing harassment to us and pls stop threatening  
Us as we are not able to concentrate on our work

And your client holding our money which they cannot pls advise them to release our payment ASAP.

Thanks

Kulwant Singh

On Tue, Jun 25, 2024 at 9:44 AM Iqbal, Asim <[Asim.Iqbal@gowlingwlg.com](mailto:Asim.Iqbal@gowlingwlg.com)> wrote:

Kulwant,

Do you and/or Orbit have a lawyer? We assume not. Please let us know if you do and provide their contact information.

With respect to the balance of your email, it's entirely incorrect. You owe MHCC the amounts set out in our correspondence (plus accrued interest, costs, and fees until the date of repayment).

We have instructions to pursue all legal remedies available to our client, including commencing proceedings against you personally on your guarantee and enforcing all security we have, including mortgage security on real property.

Please advise if you have counsel so we may ensure they receive notice and service of court materials on your behalf. Otherwise, we will assume you do not.

Regards,

Asim Iqbal

*Partner*

T +1 416 862 4693

M +1 647.202.6621

[asim.iqbal@gowlingwlg.com](mailto:asim.iqbal@gowlingwlg.com)



---

**From:** kulwant cheema <[kulwantcheema2@gmail.com](mailto:kulwantcheema2@gmail.com)>

**Sent:** Tuesday, June 25, 2024 8:56 AM

**To:** Romeo, Marco <[Marco.Romeo@ca.gowlingwlg.com](mailto:Marco.Romeo@ca.gowlingwlg.com)>

**Cc:** Iqbal, Asim <[Asim.Iqbal@ca.gowlingwlg.com](mailto:Asim.Iqbal@ca.gowlingwlg.com)>; Scopelliti, Franca <[Franca.Scopelliti@gowlingwlg.com](mailto:Franca.Scopelliti@gowlingwlg.com)>

**Subject:** Re: Letter to K. Singh

**This message originated from outside of Gowling WLG. | Ce message provient de l'extérieur de Gowling WLG.**

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Good Morning Team,

FYI, All our payment has been stopped by MHCC due to which we are unable to run our trucks and unable to deliver the customer freight due to which Ryder put all the payments on hold.

As MHCC was providing Orbit Express Factoring service its MHCc job to follow with customer to collect amount from them.

We are open to help and MHCC need to release our payments which they have hold illegally so that we can deliver customer freight and they can release the Payments.

Orbit Express kulwant Singh and Yadwinder Singh do not owe anything to MHCC.

Pls stop Harassing us your customer needs to do the things in corrective manner.

Hope this helps

Thanks

Kulwant Singh

On Mon, Jun 24, 2024 at 10:56 PM Romeo, Marco <[Marco.Romeo@gowlingwlg.com](mailto:Marco.Romeo@gowlingwlg.com)> wrote:

Mr. Singh,

Please see the attached correspondence.

Marco Romeo  
Associat  
T +1 416 862 5751  
[marco.romeo@gowlingwlg.com](mailto:marco.romeo@gowlingwlg.com)



Gowling WLG (Canada) LLP  
Suite 1600, 1 First Canadian Place  
[100 King Street West](https://www.gowlingwlg.com)

[Toronto ON M5X 1G5](#)  
[Canada](#)



[gowlingwlg.com](http://gowlingwlg.com)

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This is Exhibit "Z" referred to in the Affidavit of Samuel LeBlond affirmed by Samuel LeBlond of the Region of Lanaudière, in the Province of Quebec, before me at the City of Toronto, in the Province of Ontario, on July 18, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

Heather Fisher

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Commissioner for Taking Affidavits (or as may be)

**HEATHER FISHER**





This is Exhibit "AA" referred to in the Affidavit of Samuel LeBlond affirmed by Samuel LeBlond of the Region of Lanaudière, in the Province of Quebec, before me at the City of Toronto, in the Province of Ontario, on July 18, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

Heather Fisher

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Commissioner for Taking Affidavits (or as may be)

**HEATHER FISHER**

# Government Corporation/Non-Profit Search of Alberta ■ Corporate Registration System

Date of Search: 2024/01/12  
 Time of Search: 06:17 AM  
 Service Request Number: 41242845  
 Customer Reference Number: 05082252-11144978

**Corporate Access Number:** 2023398932  
**Business Number:** 766378749  
**Legal Entity Name:** NOBLE EXPRESS INC.

**Legal Entity Status:** Active  
**Alberta Corporation Type:** Named Alberta Corporation  
**Registration Date:** 2021/04/13 YYYY/MM/DD

**Registered Office:**

**Street:** 5230 23 AVE SW  
**City:** EDMONTON  
**Province:** ALBERTA  
**Postal Code:** T6X2X3

**Email Address:** HARINDERVIRK87@GMAIL.COM

**Primary Agent for Service:**

Last Name	First Name	Middle Name	Firm Name	Street	City	Province	Postal Code	Email
VIRK	HARINDER	SINGH		5230 23 AVE SW	EDMONTON	ALBERTA	T6X2X3	HARINDERVIRK87@GMAIL.COM

**Directors:**

**Last Name:** SINGH  
**First Name:** KULWANT  
**Street/Box Number:** 28 CAPE DORSET CRES  
**City:** BRAMPTON  
**Province:** ONTARIO  
**Postal Code:** L6R3L2

**Last Name:** SINGH  
**First Name:** YADWINDER  
**Street/Box Number:** 15 FLATLANDS WAY

**City:** BRAMPTON  
**Province:** ONTARIO  
**Postal Code:** L6R2B5

**Last Name:** VIRK  
**First Name:** HARINDER  
**Middle Name:** SINGH  
**Street/Box Number:** 5230 23 AVE SW  
**City:** EDMONTON  
**Province:** ALBERTA  
**Postal Code:** T6X2X3

**Voting Shareholders:**

**Last Name:** SINGH  
**First Name:** KULWANT  
**Street:** 28 CAPE DORSET CRES  
**City:** BRAMPTON  
**Province:** ONTARIO  
**Postal Code:** L6R3L2  
**Percent Of Voting Shares:** 22.5

**Last Name:** SINGH  
**First Name:** YADWINDER  
**Street:** 15 FLATLANDS WAY  
**City:** BRAMPTON  
**Province:** ONTARIO  
**Postal Code:** L6R2B5  
**Percent Of Voting Shares:** 22.5

**Last Name:** VIRK  
**First Name:** HARINDER  
**Middle Name:** SINGH  
**Street:** 5230 23 AVE SW  
**City:** EDMONTON  
**Province:** ALBERTA  
**Postal Code:** T6X2X3  
**Percent Of Voting Shares:** 55

**Details From Current Articles:**

**The information in this legal entity table supersedes equivalent electronic attachments**

**Share Structure:** AS PER SCHEDULE "A" ATTACHED  
**Share Transfers Restrictions:** NONE

**Min Number Of Directors:** 1  
**Max Number Of Directors:** 7  
**Business Restricted To:** NONE  
**Business Restricted From:** NONE  
**Other Provisions:** AS PER SCHEDULE "B" ATTACHED

**Other Information:**

**Last Annual Return Filed:**

File Year	Date Filed (YYYY/MM/DD)
2023	2023/05/29

**Filing History:**

List Date (YYYY/MM/DD)	Type of Filing
2021/04/13	Incorporate Alberta Corporation
2021/04/13	Update Business Number Legal Entity
2021/09/03	Change Director / Shareholder
2023/05/29	Enter Annual Returns for Alberta and Extra-Provincial Corp.

**Attachments:**

Attachment Type	Microfilm Bar Code	Date Recorded (YYYY/MM/DD)
<a href="#">Share Structure</a>	ELECTRONIC	2021/04/13
<a href="#">Other Rules or Provisions</a>	ELECTRONIC	2021/04/13

The Registrar of Corporations certifies that, as of the date of this search, the above information is an accurate reproduction of data contained in the official public records of Corporate Registry.



This is Exhibit "BB" referred to in the Affidavit of Samuel LeBlond affirmed by Samuel LeBlond of the Region of Lanaudière, in the Province of Quebec, before me at the City of Toronto, in the Province of Ontario, on July 18, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

Heather Fisher

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Commissioner for Taking Affidavits (or as may be)

**HEATHER FISHER**

# Government of Alberta ■ Corporation/Non-Profit Search

## Corporate Registration System

Date of Search: 2024/05/29  
 Time of Search: 09:47 AM  
 Service Request Number: 42227558  
 Customer Reference Number: 05456000-11538968

**Corporate Access Number:** 2023398932  
**Business Number:** 766378749  
**Legal Entity Name:** NOBLE EXPRESS INC.

**Legal Entity Status:** Active  
**Alberta Corporation Type:** Named Alberta Corporation  
**Registration Date:** 2021/04/13 YYYY/MM/DD

**Registered Office:**

**Street:** 5230 23 AVE SW  
**City:** EDMONTON  
**Province:** ALBERTA  
**Postal Code:** T6X2X3

**Email Address:** HARINDERVIRK87@GMAIL.COM

**Primary Agent for Service:**

Last Name	First Name	Middle Name	Firm Name	Street	City	Province	Postal Code	Email
VIRK	HARINDER	SINGH		5230 23 AVE SW	EDMONTON	ALBERTA	T6X2X3	HARINDERVIRK87@GMAIL.COM

**Directors:**

**Last Name:** SINGH  
**First Name:** DILAWAR  
**Street/Box Number:** 28 CAPE DORSET CRES  
**City:** BRAMPTON  
**Province:** ONTARIO  
**Postal Code:** L6R3L2

**Last Name:** VIRK  
**First Name:** HARINDER  
**Middle Name:** SINGH

**Street/Box Number:** 5230 23 AVE SW  
**City:** EDMONTON  
**Province:** ALBERTA  
**Postal Code:** T6X2X3

**Voting Shareholders:**

**Last Name:** SINGH  
**First Name:** DILAWAR  
**Street:** 28 CAPE DORSET CRES  
**City:** BRAMPTON  
**Province:** ONTARIO  
**Postal Code:** L6R3L2  
**Percent Of Voting Shares:** 99.98

**Last Name:** VIRK  
**First Name:** HARINDER  
**Middle Name:** SINGH  
**Street:** 5230 23 AVE SW  
**City:** EDMONTON  
**Province:** ALBERTA  
**Postal Code:** T6X2X3  
**Percent Of Voting Shares:** .02

**Details From Current Articles:**

**The information in this legal entity table supersedes equivalent electronic attachments**

**Share Structure:** AS PER SCHEDULE "A" ATTACHED  
**Share Transfers Restrictions:** NONE  
**Min Number Of Directors:** 1  
**Max Number Of Directors:** 7  
**Business Restricted To:** NONE  
**Business Restricted From:** NONE  
**Other Provisions:** AS PER SCHEDULE "B" ATTACHED

**Other Information:**

**Last Annual Return Filed:**

File Year	Date Filed (YYYY/MM/DD)
2023	2023/05/29

**Filing History:**

<b>List Date (YYYY/MM/DD)</b>	<b>Type of Filing</b>
2021/04/13	Incorporate Alberta Corporation
2021/04/13	Update Business Number Legal Entity
2023/05/29	Enter Annual Returns for Alberta and Extra-Provincial Corp.
2024/03/21	Change Director / Shareholder

**Attachments:**

<b>Attachment Type</b>	<b>Microfilm Bar Code</b>	<b>Date Recorded (YYYY/MM/DD)</b>
<a href="#">Share Structure</a>	ELECTRONIC	2021/04/13
<a href="#">Other Rules or Provisions</a>	ELECTRONIC	2021/04/13

The Registrar of Corporations certifies that, as of the date of this search, the above information is an accurate reproduction of data contained in the official public records of Corporate Registry.





This is Exhibit "CC" referred to in the Affidavit of Samuel LeBlond affirmed by Samuel LeBlond of the Region of Lanaudière, in the Province of Quebec, before me at the City of Toronto, in the Province of Ontario, on July 18, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

Heather Fisher

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Commissioner for Taking Affidavits (or as may be)

**HEATHER FISHER**

Court File No. CV-24-00003220-0000

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

MITSUBISHI HC CAPITAL CANADA, INC. and  
MITSUBISHI HC CAPITAL CANADA LEASING, INC.

Applicants

and

ORBIT EXPRESS INC., 10055913 CANADA INC.,  
and 8615314 CANADA INC.

Respondents

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

**CONSENT TO ACT**

**msi Spergel Inc.** hereby consents to act as receiver and manager over all of the assets, undertakings and property of Orbit Express Inc., 10055913 Canada Inc., and 8615314 Canada Inc., in accordance with an order substantially in form of the receivership order sought and included in the Application Record of Mitsubishi HC Capital Canada Inc. and Mitsubishi HC Capital Canada Leasing, Inc.

DATED AT Brampton, this 18<sup>th</sup> day of July, 2024.

**msi Spergel Inc.**



---

Per: Mukul Manchanda  
Title: Managing Partner

MITSUBISHI HC CAPITAL CANADA, INC. et al.

- and - ORBIT EXPRESS INC. et al.

Applicants

Respondents

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
PROCEEDING COMMENCED AT  
BRAMPTON**

**CONSENT TO ACT**

**GOWLING WLG (CANADA) LLP**

Barristers & Solicitors  
1 First Canadian Place  
100 King Street West, Suite 1600  
Toronto ON M5X 1G5

Tel: 416-862-7525  
Fax: 416-862-7661

**Asim Iqbal (61884B)**

Tel: 416-862-4693  
*asim.iqbal@gowlingwlg.com*

**Heather Fisher (75006L)**

Tel: 416 369 7202  
*heather.fisher@gowlingwlg.com*

Lawyers for the Applicants

MITSUBISHI HC CAPITAL CANADA, INC. et al

- and - ORBIT EXPRESS INC. et al.

Applicants

Respondents

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

PROCEEDING COMMENCED AT  
BRAMPTON

**AFFIDAVIT OF SAMUEL LEBLOND  
(Affirmed July 18, 2024)**

**GOWLING WLG (CANADA) LLP**

Barristers & Solicitors  
1 First Canadian Place  
100 King Street West, Suite 1600  
Toronto ON M5X 1G5

Tel: 416-862-7525

Fax: 416-862-7661

**Asim Iqbal (61884B)**

Tel: 416-862-4693

*asim.iqbal@gowlingwlg.com*

**Heather Fisher (75006L)**

Tel: 416 369 7202

*heather.fisher@gowlingwlg.com*

Lawyers for the Applicants

# TAB 3

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

THE HONOURABLE ) TUESDAY, THE 30<sup>TH</sup>  
 )  
JUSTICE ) DAY OF JULY, 2023

MITSUBISHI HC CAPITAL CANADA, INC. and  
MITSUBISHI HC CAPITAL CANADA LEASING, INC.

Applicants

and

ORBIT EXPRESS INC., 10055913 CANADA INC.,  
and 8615314 CANADA INC.

Respondents

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

**ORDER**  
**(appointing Receiver)**

THIS APPLICATION made by the Applicants for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**") appointing msi Spergel Inc. ("**MSI**") as receiver and manager (in such capacities, the "**Receiver**") without security, of all of the assets, undertakings and properties of Orbit Express Inc., 10055913 Canada Inc., and 8615314 Canada Inc. (collectively, the "**Debtors**") acquired for, or used in relation to a business carried on by the Debtors, was heard this day at 7755 Hurontario Street, Brampton, Ontario.

ON READING the affidavit of Samuel Leblond affirmed July 18, 2024 and the Exhibits thereto and on hearing the submissions of counsel for the Applicants and all other parties listed on the Counsel Slip, no one else appearing although duly served as

appears from the affidavit of service of Heather Fisher, affirmed July 19, 2024 and on reading the consent of MSI to act as the Receiver, filed,

### **SERVICE**

1. THIS COURT ORDERS that, if necessary, the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

### **APPOINTMENT**

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

### **RECEIVER'S POWERS**

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

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;

- (c) to manage, operate, and carry on the business of the Debtors, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the Debtors;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the Debtors or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors and to exercise all remedies of the Debtors in collecting such monies, including, without limitation, to enforce any security held by the Debtors;
- (g) to settle, extend or compromise any indebtedness owing to the Debtors;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the Debtors, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the Debtors, the Property or the Receiver, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or



applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
  - (i) without the approval of this Court in respect of any transaction not exceeding \$200,000.00, provided that the aggregate consideration for all such transactions does not exceed \$1,000,000.00; and
  - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act* shall not be required;

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;

- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtors;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the Debtors, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the Debtors;
- (q) to exercise any shareholder, partnership, joint venture or other rights which the Debtors may have;
- (r) make an assignment into bankruptcy on behalf of each of the Debtors; and
- (s) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations

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

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

4. THIS COURT ORDERS that (i) the Debtors, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on their instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such

Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

5. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the Debtors, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

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

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

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

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

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

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

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

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

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

### **NO INTERFERENCE WITH THE RECEIVER**

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

### **CONTINUATION OF SERVICES**

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

### **RECEIVER TO HOLD FUNDS**

13. THIS COURT ORDERS that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post**

**Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

## **EMPLOYEES**

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

## **PIPEDA**

15. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

## **LIMITATION ON ENVIRONMENTAL LIABILITIES**

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

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

17. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

## **RECEIVER'S ACCOUNTS**

18. THIS COURT ORDERS that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a

charge (the "**Receiver's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

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

#### **FUNDING OF THE RECEIVERSHIP**

21. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$150,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the



Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

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

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

#### **SERVICE AND NOTICE**

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

26. THIS COURT ORDERS that if the service or distribution of documents in accordance with the Protocol is not practicable, the Receiver is at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail,

courier, personal delivery or facsimile transmission to the Debtors' creditors or other interested parties at their respective addresses as last shown on the records of the Debtors and that any such service or distribution by courier, personal delivery or facsimile transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

## **GENERAL**

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

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

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

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

31. THIS COURT ORDERS that the Applicant shall have its costs of this Application, up to and including entry and service of this Order, provided for by the terms of the Applicant's security or, if not so provided by the Applicant's security, then on a

substantial indemnity basis to be paid by the Receiver from the Debtors' estate with such priority and at such time as this Court may determine.

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

33. THIS COURT ORDERS that, notwithstanding Rule 59.05, this order is effective from the date it is made, and it is enforceable without any need for entry and filing. In accordance with Rules 77.07(6) and 1.04, no formal order need be entered and filed unless an appeal or motion for leave to appeal is brought to an appellate court.

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## SCHEDULE "A"

### RECEIVER CERTIFICATE

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that msi Spergel Inc., the receiver and manager (the "**Receiver**") of the assets, undertakings and properties Orbit Express Inc., 10055913 Canada Inc., and 8615314 Canada Inc. (the "**Debtors**") acquired for, or used in relation to a business carried on by the Debtors, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (the "**Court**") dated the \_\_\_ day of \_\_\_\_\_, 20\_\_ (the "**Order**") made in an action having Court file number CV-24-00003220-0000, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$ \_\_\_\_\_, being part of the total principal sum of \$ \_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.

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

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

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

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

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

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

DATED the \_\_\_\_ day of \_\_\_\_\_, 2024.

msi Spergel Inc., solely in its capacity  
as Receiver of the Property, and not in its  
personal capacity

Per: \_\_\_\_\_  
Name:  
Title:

**TAB 4**

Revised: January 21, 2014  
~~s.243(1) BIA (National Receiver) and s. 101 CJA (Ontario) Receiver~~

Court File No. — CV-24-00003220-0000

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**

**~~COMMERCIAL LIST~~**

THE HONOURABLE ) ~~WEEKDAY~~ TUESDAY, THE # 30<sup>TH</sup>  
JUSTICE )  
DAY OF ~~MONTH~~ JULY, ~~20YR~~ 2023

MITSUBISHI HC CAPITAL CANADA, INC. and  
**~~PLAINTIFF<sup>†</sup>~~**

~~Plaintiff~~

~~—and—~~

**~~DEFENDANT~~**

~~Defendant~~

MITSUBISHI HC CAPITAL CANADA LEASING, INC.

Applicants

and

ORBIT EXPRESS INC., 10055913 CANADA INC.,  
and 8615314 CANADA INC.

Respondents

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

~~†—The Model Order Subcommittee notes that a receivership proceeding may be commenced by action or by application. This model order is drafted on the basis that the receivership proceeding is commenced by way of an action.~~

## ORDER (appointing Receiver)

THIS ~~MOTION~~APPLICATION made by the ~~Plaintiff~~<sup>2</sup>Applicants for an Order pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA") appointing ~~[RECEIVER'S NAME]~~msi Spergel Inc. ("MSI") as receiver ~~[and manager]~~ (in such capacities, the "Receiver") without security, of all of the assets, undertakings and properties of ~~[DEBTOR'S NAME]~~ (Orbit Express Inc., 10055913 Canada Inc., and 8615314 Canada Inc. (collectively, the "Debtor Debtors") acquired for, or used in relation to a business carried on by the ~~Debtor~~Debtors, was heard this day at ~~330 University Avenue, Toronto~~7755 Hurontario Street, Brampton, Ontario.

ON READING the affidavit of ~~[NAME]~~ sworn ~~[DATE]~~Samuel Leblond affirmed July 18, 2024 and the Exhibits thereto and on hearing the submissions of counsel for ~~[NAMES]~~the Applicants and all other parties listed on the Counsel Slip, no one else appearing ~~for [NAME]~~ although duly served as appears from the affidavit of service of ~~[NAME]~~ sworn ~~[DATE]~~Heather Fisher, affirmed July 19, 2024 and on reading the consent of ~~[RECEIVER'S NAME]~~MSI to act as the Receiver, filed,

### SERVICE

1. THIS COURT ORDERS that, if necessary, the time for service of the Notice of ~~Motion~~Application and the ~~Motion~~Application Record is hereby abridged and validated<sup>3</sup> so that this ~~motion~~Application is properly returnable today and hereby dispenses with further service thereof.

### APPOINTMENT

<sup>2</sup> ~~Section 243(1) of the BIA provides that the Court may appoint a receiver "on application by a secured creditor".~~

<sup>3</sup> ~~If service is effected in a manner other than as authorized by the Ontario Rules of Civil Procedure, an order validating irregular service is required pursuant to Rule 16.08 of the Rules of Civil Procedure and may be granted in appropriate circumstances.~~



2. THIS COURT ORDERS that pursuant to section 243(1) of the BIA and section 101 of the CJA, ~~[RECEIVER'S NAME]~~MSI is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of the ~~Debtor~~Debtors acquired for, or used in relation to a business carried on by the ~~Debtor~~Debtors, including all proceeds thereof (the "**Property**").

### **RECEIVER'S POWERS**

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

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property;
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of the ~~Debtor~~Debtors, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of the ~~Debtor~~Debtors;
- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to

assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;

- (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of the ~~Debtor~~Debtors or any part or parts thereof;
- (f) to receive and collect all monies and accounts now owed or hereafter owing to the ~~Debtor~~Debtors and to exercise all remedies of the ~~Debtor~~Debtors in collecting such monies, including, without limitation, to enforce any security held by the ~~Debtor~~Debtors;
- (g) to settle, extend or compromise any indebtedness owing to the ~~Debtor~~Debtors;
- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of the ~~Debtor~~Debtors, for any purpose pursuant to this Order;
- (i) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to the ~~Debtor~~Debtors, the Property or the Receiver, and to settle or compromise any such proceedings.<sup>4</sup> The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding;

~~<sup>4</sup>This model order does not include specific authority permitting the Receiver to either file an assignment in bankruptcy on behalf of the Debtor, or to consent to the making of a bankruptcy order against the Debtor. A bankruptcy may have the effect of altering the priorities among creditors, and therefore the specific authority of the Court should be sought if the Receiver wishes to take one of these steps.~~

- (j) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;
- (k) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
  - (i) without the approval of this Court in respect of any transaction not exceeding \$~~\_\_\_\_\_~~200,000.00, provided that the aggregate consideration for all such transactions does not exceed \$~~\_\_\_\_\_~~1,000,000.00; and
  - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, ~~[or section 31 of the Ontario *Mortgages Act*, as the case may be,]~~<sup>5</sup> shall not be required, ~~and in each case the Ontario *Bulk Sales Act* shall not apply.~~

- (l) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;

<sup>5</sup> ~~If the Receiver will be dealing with assets in other provinces, consider adding references to applicable statutes in other provinces. If this is done, those statutes must be reviewed to ensure that the Receiver is exempt from or can be exempted from such notice periods, and further that the Ontario Court has the jurisdiction to grant such an exemption.~~

- (m) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (n) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (o) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the ~~Debtor~~Debtors;
- (p) to enter into agreements with any trustee in bankruptcy appointed in respect of the ~~Debtor~~Debtors, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by the ~~Debtor~~Debtors;
- (q) to exercise any shareholder, partnership, joint venture or other rights which the ~~Debtor~~Debtors may have;
- (r) make an assignment into bankruptcy on behalf of each of the Debtors; and
- (s) ~~(t)~~ to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

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

**DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

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

5. THIS COURT ORDERS that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of the ~~Debtor~~Debtors, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 5 or in paragraph 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

6. THIS COURT ORDERS that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion

deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

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

#### NO PROCEEDINGS AGAINST THE RECEIVER

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

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

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

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

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

## **NO INTERFERENCE WITH THE RECEIVER**

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

## **CONTINUATION OF SERVICES**

12. THIS COURT ORDERS that all Persons having oral or written agreements with the ~~Debtor~~Debtors or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the ~~Debtor~~Debtors are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of the ~~Debtor~~Debtors's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of the ~~Debtor~~Debtors or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

## RECEIVER TO HOLD FUNDS

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

## EMPLOYEES

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

## PIPEDA

15. THIS COURT ORDERS that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information.



The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the ~~Debtor~~Debtors, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

### **LIMITATION ON ENVIRONMENTAL LIABILITIES**

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

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

17. THIS COURT ORDERS that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

## RECEIVER'S ACCOUNTS

18. THIS COURT ORDERS that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges unless otherwise ordered by the Court on the passing of accounts, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.<sup>6</sup>

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

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

## FUNDING OF THE RECEIVERSHIP

21. THIS COURT ORDERS that the Receiver be at liberty and it is hereby empowered to borrow by way of a revolving credit or otherwise, such monies from time to time as it may consider necessary or desirable, provided that the outstanding

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~~<sup>6</sup>Note that subsection 243(6) of the BIA provides that the Court may not make such an order "unless it is satisfied that the secured creditors who would be materially affected by the order were given reasonable notice and an opportunity to make representations".~~

principal amount does not exceed \$ ~~\_\_\_\_\_~~ 150,000 (or such greater amount as this Court may by further Order authorize) at any time, at such rate or rates of interest as it deems advisable for such period or periods of time as it may arrange, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is hereby charged by way of a fixed and specific charge (the "**Receiver's Borrowings Charge**") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

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

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

## **SERVICE AND NOTICE**

25. THIS COURT ORDERS that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/sej/practice/practice-directions/toronto/e-service-protocol> <https://w>

[www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-commercial/](http://www.ontariocourts.ca/scj/practice/regional-practice-directions/eservice-commercial/)) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL '<@>':

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

## **GENERAL**

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

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

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

effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

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

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

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

33. THIS COURT ORDERS that, notwithstanding Rule 59.05, this order is effective from the date it is made, and it is enforceable without any need for entry and filing. In accordance with Rules 77.07(6) and 1.04, no formal order need be entered and filed unless an appeal or motion for leave to appeal is brought to an appellate court.

**SCHEDULE "A"**  
**RECEIVER CERTIFICATE**

CERTIFICATE NO. \_\_\_\_\_

AMOUNT \$ \_\_\_\_\_

1. THIS IS TO CERTIFY that ~~[RECEIVER'S NAME]~~ msi Spergel Inc., the receiver and manager (the "**Receiver**") of the assets, undertakings and properties ~~[DEBTOR'S NAME]~~ Orbit Express Inc., 10055913 Canada Inc., and 8615314 Canada Inc. (the "Debtors") acquired for, or used in relation to a business carried on by the ~~Debtor~~ Debtors, including all proceeds thereof (collectively, the "**Property**") appointed by Order of the Ontario Superior Court of Justice (~~Commercial List~~) (the "**Court**") dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the "**Order**") made in an action having Court file number ~~—CV-CL—~~ 24-00003220-0000, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$ \_\_\_\_\_, being part of the total principal sum of \$ \_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.

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

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

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

5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.

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

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

DATED the \_\_\_\_\_ day of \_\_\_\_\_, ~~20~~2024.

~~[RECEIVER'S NAME]~~ msi Spergel Inc.,  
solely in its capacity  
as Receiver of the Property, and not in its  
personal capacity

Per: \_\_\_\_\_

Name:

Title:

Document comparison by Workshare Compare on July-19-24 12:54:58 PM

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Split/Merged cell	
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Style changes	0
Format changes	0
Total changes	212



MITSUBISHI HC CAPITAL CANADA, INC., et al.

- and - ORBIT EXPRESS INC. et al.

Applicant

Respondents

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

PROCEEDING COMMENCED AT  
BRAMPTON

**APPLICATION RECORD**

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