

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

**BRIDGING FINANCE INC.,
as agent for SPROTT BRIDGING INCOME FUND LP**

Applicant

and

**THOMAS CANNING (MAIDSTONE) LIMITED and 692194 ONTARIO
LIMITED**

Respondents

**IN THE MATTER OF AN APPLICATION PURSUANT TO SUBSECTIONS 47(1) AND
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**

RETURN APPLICATION AND MOTION RECORD

June 15, 2017

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C.43, AS AMENDED**

**NOTICE OF RETURN OF APPLICATION AND MOTION
(returnable June 21, 2017)**

The Applicant, Bridging Finance Inc. (“**Bridging**”), who last appeared on this Application before this Court on May 1, 2016 for an order appointing Richter Advisory Group Inc. (“**Richter**”) as monitor (in such capacity, the “**Monitor**”) of Thomas Canning (Maidstone) Limited (the “**Thomas Canning**”) and 692194 Ontario Limited (“**6921**” and, together with Thomas Canning, the “**Debtors**”), will return to Court on Wednesday, June 21, 2017 at 10:00 a.m., or as soon after that time as the Applicant can be heard, at 330 University Avenue, Toronto, Ontario, to seek certain relief originally sought in this Application and to make a motion for further relief.

PROPOSED METHOD OF HEARING: The Application and the motion are to be heard orally.

1. **THE APPLICATION IS FOR** an Order, substantially in the form of the draft Order attached hereto as **Schedule “A”** (the **“Receivership Order”**), pursuant to subsection 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the **“BIA”**) and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the **“CJA”**), appointing Richter as receiver, without security, over all of the assets, undertaking and property of the Debtors (in such capacity, the **“Receiver”**).

2. **THE MOTION IS FOR** an Order, substantially in the form of the draft Order attached hereto as **Schedule “B”** (the **“Approval and Vesting Order”**), among other things:
 - (a) approving an asset purchase agreement (the **“Purchase Agreement”**) to be made between the Receiver and a company owned by Mr. Santokh Mahal (the **“Purchaser”**), and authorizing the Receiver to complete the transaction contemplated thereby (the **“Transaction”**); and

 - (b) vesting in the Purchaser the Debtors’ right, title and interest in and to the assets described in the Purchase Agreement, free and clear of any claims and encumbrances subject to certain exceptions; and

such further and other relief as counsel may advise and this Honourable Court may permit.

3. **THE GROUNDS FOR THE APPLICATION AND MOTION ARE:**

THE PARTIES

- (a) Thomas Canning is a privately-owned Ontario corporation, which operates a tomato canning business in Lakeshore, Ontario;

- (b) Thomas Canning operates from a plant it owns at 326 South Talbot Road, Maidstone, Ontario and also leases warehouse space at 2755 Lauzon Parkway, Windsor, Ontario;

- (c) Thomas Canning is wholly-owned by 6921 which is, in turn, owned by members of the Thomas family and related corporations (collectively, the **“Shareholders”**);

- (d) Thomas Canning produces a variety of organic and conventional tomato products including pastes, sauces, canned tomatoes (whole, diced and crushed) and juices, and its tomato supply comes from greenhouse farmers with whom it contracts at the start of the season for supply at harvest;
- (e) Bridging is the senior secured creditor of the Debtors and a creditor of William Thomas, Robert Thomas and John Thomas (together with 6921 the “**Guarantors**” and, the Guarantors collectively with Thomas Canning, the “**Obligors**”);
- (f) a search of registrations against Thomas Canning made pursuant to the *Personal Property Security Act* (Ontario) (the “**PPSA**”), revealed various registrations against Thomas Canning by equipment lessors and by Shareholders, all of which registrations were made subsequent to the registration in favour of Bridging;
- (g) a search of registrations against 6291 made pursuant to the PPSA, revealed no registrations in favour of any other party other than Bridging;

BRIDGING’S LOAN AND SECURITY

- (h) Bridging and the Obligors are parties to a letter credit agreement dated July 3, 2105 (as amended, replaced, restated, or supplemented from time to time, the “**Credit Agreement**”);
- (i) pursuant to the terms and conditions of the Credit Agreement, Bridging has supplied Thomas Canning with the following credit facilities (collectively, the “**Credit Facilities**”):
 - (i) a demand revolving operating facility in the maximum amount of CDN\$15,000,000, with a sub-limit of USD\$1,000,000, plus a seasonal structured overadvance of CDN\$2,000,000, all margined against current assets;
 - (ii) a CDN\$608,000 demand term loan facility; and
 - (iii) a CDN\$3,757,650 demand term loan facility;

- (iv) a term revolving facility in the maximum amount of CDN\$2,500,00;
- (j) as security for its obligations to Bridging, Thomas Canning provided, among other things, a General Security Agreement dated July 3, 2015, registration in respect of which was made pursuant to the PPSA;
- (k) Thomas Canning, Bridging and Bank of Montreal (“**BMO**”) entered in to a Blocked Account Agreement, pursuant to which Bridging was given full cash dominion over CDN\$ and \$USD collection accounts, located at BMO’s Toronto main branch;
- (l) by a Guarantee Agreement dated as of July 3, 2015 (the “**6921 Guarantee**”), 6921 guaranteed all present and future obligations under the Credit Agreement of Thomas Canning to Bridging;
- (m) as security for its obligations under the 6921 Guarantee, 6921 provided, among other things, (a) a General Security Agreement, registration in respect of which was made pursuant to PPSA; and (b) a Securities Pledge Agreement pursuant to which 6921 pledged, as collateral, all its present or future investment property including all its shares in the capital of Thomas Canning;
- (n) Thomas Canning and 6921 also granted Bridging a first mortgage on all their owned real estate;

FINANCIAL DIFFICULTIES AND DEFAULTS

- (o) Thomas Canning has been in overadvance under the Credit Facilities since July, 2015 and in default as a result of failure to pay such overadvances since at least December 2015;
- (p) Thomas Canning also failed to repay the Credit Facilities as a whole upon their 18 month maturity in January, 2017;
- (q) Thomas Canning is alarmingly deficient in terms of its bookkeeping and finance functions;

- (r) Thomas Canning has failed to comply with and operate their businesses within the agreed margining set out in the Credit Agreement;
- (s) Thomas Canning has and continues to breach its reporting obligations under the Credit Agreement;
- (t) Thomas Canning overstated its inventory;
- (u) Thomas Canning diverted receipts and funds away from the cash management system constituting a clear breach of the terms of the Credit Agreement;

FAILED FINANCING AND REFINANCING EFFORTS

- (v) starting in early 2016, Thomas Canning began to search for a lender to refinance the Credit Facilities when they would become due in January, 2017 and, in March, 2016 retained Norton McMullen Corporate Finance Inc. to run an investment solicitation process to raise equity;
- (w) upon the failure of its refinancing solicitation efforts, Thomas Canning retained The Coterie Group the summer of 2016 as funding consultants to assist in finding financing for the Credit Facilities, which efforts were also unsuccessful;
- (x) the Debtors did not present Bridging with any evidence of other concrete refinancing opportunities after the term of the Credit Facilities expired in January, 2017;

DEMANDS

- (y) Bridging, by its counsel on April 5, 2017, sent the Obligors demands for repayment of Thomas Canning's obligations under the Credit Agreement;
- (z) in the case of Thomas Canning and 6921, their demands were accompanied by notices of intention to enforce security under Section 244 of the BIA dated the same date;

APPOINTMENT OF THE INTERIM RECEIVER

- (aa) on April 20, 2017, in the absence of repayment of the obligations under the Credit Facilities and in the face of a written statement from the Debtors' counsel that he had advised the Debtors to divert funds from cash management, the Bridging filed the within Application;
- (bb) that same day, Richter was appointed as Interim Receiver of the Debtors (in such capacity, the "**Interim Receiver**") on an *ex parte* basis by Order (the "**Interim Receivership Order**") of the Honourable Justice Newbould (as he then was);
- (cc) among other things, the Interim Receivership Order required the Debtors to comply with their cash management arrangements with Bridging;

ACCOMMODATION AGREEMENT AND MONITOR ORDER

- (dd) following the making of the Interim Receivership Order, Bridging and the Obligors entered into negotiations around forbearance arrangements, which culminated in the execution of an Accommodation Agreement on April 29, 2017 (the "**Accommodation Agreement**");
- (ee) the Accommodation Agreement required the Court-appointment of Richter as monitor of the Debtors to, among other things, run a refinancing, investment and/or sale solicitation process, the terms of which were agreed to in the Accommodation Agreement (the "**RISP**");
- (ff) by an Order made on May 1, 2017, again by Justice Newbould, Richter was appointed as the Monitor (the "**Monitor Order**");
- (gg) the Monitor Order authorized and empowered the Monitor to conduct the RISP as agreed to between the Debtors, Bridging and the Monitor, but was explicit that the Monitor would not be in possession of the Debtors' property and the Monitor would not be a receiver for purposes of subsection 243(1) of the BIA;

RISP AND PURCHASE AGREEMENT

- (hh) as detailed in the Report, the Monitor marketed the Debtors' property and assets to the best of its ability in accordance with the RISP, making adjustments thereto when requested by the Debtors and where the Monitor thought reasonable;
- (ii) the RISP built on the Debtors' previous efforts to seek financing and refinancing in 2016, which efforts were ultimately unsuccessful;
- (jj) the Monitor's marketing and sale efforts have culminated in the Purchase Agreement, which the Monitor has accepted, subject to approval by this Honourable Court;
- (kk) the Purchase Agreement contemplates that the Receiver will complete the Transaction described therein, and that the assets described in the Purchase Agreements will be vested in the Purchaser;
- (ll) a condition of the Purchase Agreement is that this Honourable Court provide a sale approval and vesting order in favour of the Purchaser;
- (mm) the Purchase Agreement is the highest and best available offer for the Property, and it represents a fair net realizable value for the assets being purchased;
- (nn) the Purchase Agreement is commercially reasonable and in the best interests of the Debtors and their stakeholders, and necessary to complete the Transaction;
- (oo) the Receiver has filed with the Court its Report outlining, among others things: (i) the background to, and circumstances surrounding, the Debtors' business, operations and financial position; (ii) the RISP; and (iii) the Purchase Agreement and the Transaction;
- (pp) Robert Thomas has submitted a competing bid, and attempted to improve it after the amended deadline for binding letters of intent under the RISP and after the Transaction was selected, but has failed to post a deposit in the amount required

under the Accommodation Agreement or to provide evidence of resources sufficient to close a transaction competitive to the Transaction;

APPOINTMENT OF RECEIVER

- (qq) the Purchase Agreement required the appointment of the Receiver to close the Transaction and to perform certain post-closing obligations;
- (rr) pursuant to its security, Bridging has the right, upon an event of default, to seek the court-appointment of a receiver over the Debtors;
- (ss) pursuant to the Accommodation Agreement, the Obligors consented to the appointment of a receiver upon the occurrence of any further event of default, and covenanted not to contest the same;
- (tt) the Report details numerous additional events of default under the Credit Facilities and the Accommodation Agreement including a large number of additional instances of diversions of funds away from cash management, the most recent of which occurred after, and therefore in violation of, the Interim Receivership Order;
- (uu) the Obligors and their counsel have given no answer to the Monitor's charges of diversions of receipts from cash management;
- (vv) because the Monitor, under the terms of the Monitor Order, is not in possession or control of the Debtors' current assets, the employees of Thomas Canning will not benefit from the protections offered by section 81.4 of the BIA unless the Receiver is appointed;
- (ww) Bridging has, at all times, acted in good faith and with considerable patience towards the Debtors, including by continuing to fund critical payments in the face of mounting events of default;
- (xx) the Debtors have failed to honour their obligations to Bridging pursuant to the Credit Agreement and the Accommodation Agreement;

- (yy) Bridging has lost faith in the Debtors' abilities and intentions;
- (zz) in the circumstances, it is just and equitable that a receiver be appointed;
- (aaa) Richter is a licensed trustee and has consented to act as Receiver should the Court so appoint it;
- (bbb) the other grounds set out in the Report;
- (ccc) sections 100 and 101 of the CJA;
- (ddd) section 84 and subsection 243(1) of the BIA;
- (eee) rules 1.04, 2.03, 3.02, 37 and 38 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended; and
- (fff) such further grounds as are required and this Court may permit.

2. **THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the Application and the Motion:

- (a) the Report;
- (b) the consent of Richter to act as the Receiver; and
- (c) such other material as is required and this Court may permit.

Dated: June 15, 2017

AIRD & BERLIS LLP

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*Lawyers for Bridging Finance Inc, as agent
for Sprott Bridging Income Fund LP*

TO: ATTACHED SERVICE LIST

Tab 1(a)

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE <*>) WEDNESDAY, THE 21ST DAY
JUSTICE <*>) OF JUNE, 2017

B E T W E E N:

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as agent for SPROTT BRIDGING INCOME FUND LP**

Applicant

- and -

THOMAS CANNING (MAIDSTONE) LIMITED and 692194 ONTARIO LIMITED

Respondents

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

**ORDER
(Appointment of Receiver)**

THIS APPLICATION made by the Applicant for an Order pursuant to subsection 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”), and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the “**CJA**”), appointing Richter Advisory Group Inc. (“**Richter**”) as receiver (in such capacity, the “**Receiver**”) without security, of all of the assets, undertakings and properties of each of Thomas Canning (Maidstone) Limited (“**Thomas Canning**”) and 692194 Ontario Limited (together with Thomas Canning, the “**Debtors**”) acquired for, or used in relation to a business carried on by the Debtors, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report of Richter in its capacities as Court-appointed Monitor (the “**Monitor**”) and Interim Receiver dated June 15, 2017, and on hearing the submissions of counsel for the Applicant, counsel for the Debtors, counsel for the Monitor and no one appearing for any other person although duly served as appears from the affidavit of service of <*> sworn June <*>, 2017 and on reading the consent of Richter to act as the Receiver,

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Return of Application and the Return Application Record is hereby validated and that this Application is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT OF RECEIVER

2. **THIS COURT ORDERS** that pursuant to subsection 243(1) of the BIA and section 101 of the CJA, Richter is hereby appointed Receiver, without security, of all of the assets, undertakings and properties of 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 Debtors and 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 undertake environmental or workers' health and safety assessments of the Property and operations of the Debtors;
- (j) 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;
- (k) 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;

- (l) 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 \$250,000, provided that the aggregate consideration for all such transactions does not exceed \$1,000,000; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required;

- (m) 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;
- (n) 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;
- (o) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (p) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of the Debtors;
- (q) 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;

- (r) to exercise any shareholder, partnership, joint venture or other rights which the Debtors may have;
- (s) to exercise any and all rights of the Debtors under any certificate, certification, consent, approval, licence or permit in favour of or held by the Debtors or Thomas Canning's manufacturing plant, including those granted by any governmental or regulatory body; and
- (t) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including the 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, advisors, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request. Without limiting the foregoing, 2190330 Ontario Ltd. shall grant the Receiver such access to the Property of the Debtors located on the real property of the legal description PT LT 290, CON STR MAIDSTONE AS IN R1425228, LAKESHORE, PIN 75016-0085 (LT), as the Receiver may require for the continued operation and/or removal of such Property, or as the Receiver may require to give any purchaser of such Property the same access.

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.

NO PROCEEDINGS AGAINST THE RECEIVER

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

NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY

8. **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

9. **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 are 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

10. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, certificate, certification, consent, approval, licence or permit in favour of or held by the Debtors or Thomas Canning’s manufacturing plant without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

11. **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

12. **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

13. **THIS COURT ORDERS** that all employees of the Debtors are hereby terminated. 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 or any liability as an employer or sponsor of any workers employed or to be employed by the Debtors through the Temporary Foreign Worker Program or the International Mobility Program, 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

14. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver may 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

15. **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

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

17. **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, 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. For greater certainty, the Receiver’s Charge shall rank in priority to the Interim Receiver’s Charge and the Interim Receiver’s Borrowings Charge (as such terms are defined in the Interim Receivership Order made in this proceeding on April 20, 2017) and to the Monitor’s Charge (as defined in the Monitor Order made in this proceeding on May 1, 2017).

18. **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass their 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.

19. **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 normal 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

20. **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 \$600,000 (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. For greater certainty, the Receiver’s Borrowings Charge shall rank in priority to the Interim Receiver’s Charge, the Interim Receiver’s Borrowings Charge and the Monitor’s Charge.

21. **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.

22. **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.

23. **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.

PAYMENTS AND DISTRIBUTION

24. **THE COURT ORDERS** that the Receiver is hereby authorized, upon the closing of the sale transaction approved by this Court pursuant to the Approval and Vesting Order dated June 21, 2017, to:

- (a) repay the principal amount, and all interest that has accrued thereon, borrowed by the Interim Receiver in accordance with the Interim Receivership Order and secured by the Interim Receiver’s Borrowings Charge;

- (b) pay the fees and disbursements of the Monitor and its counsel, as approved by this Court pursuant to the Order dated June 21, 2017 and secured by the Monitor's Charge; and
- (c) distribute the net sale proceeds to the Applicant, subject to reasonable reserves as determined by the Receiver, without further Order of this Court.

JOINT ADMINISTRATION

25. **THIS COURT ORDERS** and directs that the receiverships and estates of the Debtors be jointly administered.

SERVICE AND NOTICE

26. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the "**Protocol**") is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL '<http://www.richter.ca/Folder/Insolvency-Cases/T/Thomas-Canning-Limited>'.

27. **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.

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

GENERAL

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

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

31. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies including, without limitation, the Ontario Farm Products Marketing Commission and the Canadian Food Inspection Agency, 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.

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

33. **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 each of the Debtors' estates with such priority and at such time as this Court may determine.

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

SCHEDULE "A"
RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. **THIS IS TO CERTIFY** that Richter Advisory Group Inc., the receiver (the "**Receiver**") of the assets, undertakings and properties of each of Thomas Canning (Maidstone) Limited and 692194 Ontario Limited (together, 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 (Commercial List) (the "**Court**") dated the 21st day of June, 2017 (the "**Order**") made in an action having Court file number CV-17-11773-00CL, has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$_____, being part of the total principal sum of \$_____ which the Receiver is authorized to borrow under and pursuant to the Order.

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

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, 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* (Canada), 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 _____, 2017.

RICHTER ADVISORY GROUP INC., solely in its capacity as Receiver of the Thomas Canning (Maidstone) Limited and 692194 Ontario Limited, and not in its corporate or personal capacity

Per:

Name:

Title:

**BRIDGING FINANCE INC., as agent for
SPROTT BRIDGING INCOME FUND LP**
Applicant

And **THOMAS CANNING (MAIDSTONE) LIMITED and 692194
ONTARIO LIMITED**

Respondents

Court File No. CV-17-11773-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
PROCEEDING COMMENCED AT TORONTO**

**ORDER
(APPOINTMENT OF RECEIVER)**

AIRD & BERLIS LLP
Barristers and Solicitors
Brookfield Place
Suite 1800, Box 754
181 Bay Street
Toronto, Ontario M5J 2T9

Sam Babe - LSUC No. 49498B
Kyle B. Plunkett - LSUC No. 61044N
Tel: 416.863.1500
Fax: 416.863.1515
Email: sbabe@airdberlis.com / kplunkett@airdberlis.com
Lawyers for the Applicant

Tab 1(b)

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE) WEDNESDAY, THE 21ST DAY
JUSTICE <*>)
) OF JUNE, 2017

B E T W E E N:

**BRIDGING FINANCE INC.,
as agent for SPROTT BRIDGING INCOME FUND LP**

Applicant

- and -

THOMAS CANNING (MAIDSTONE) LIMITED and 692194 ONTARIO LIMITED

Respondents

**IN THE MATTER OF AN APPLICATION PURSUANT TO SUBSECTIONS 47(1) AND
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**

APPROVAL AND VESTING ORDER

THIS MOTION, made by Bridging Finance Inc. for an order approving the sale transaction (the “**Transaction**”) contemplated by an asset purchase agreement dated June 15, 2017 (the “**Sale Agreement**”) and made between <*> (the “**Purchaser**”) and Richter Advisory Group Inc. (“**Richter**”) in its capacity as the Court-appointed receiver (the “**Receiver**”) of the undertakings, properties and assets of each of Thomas Canning (Maidstone) Limited (“**Thomas Canning**”) and 692194 Ontario Limited (together with Thomas Canning, the “**Debtors**”), as appended to the Report of Richter in its capacity as Interim Receiver and Monitor in these

proceedings dated June 15, 2017 (the “**Report**”), and vesting in the Purchaser the Debtors’ right, title and interest in and to the assets described in the Sale Agreement (the “**Purchased Assets**”), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report and on hearing the submissions of counsel for the Receiver, counsel for the Debtors, counsel for Bridging, _____, no one appearing for any other person on the service list, although properly served as appears from the affidavit of <*> sworn June <*>, 2017, filed:

1. **THIS COURT ORDERS AND DECLARES** that the Sale Agreement and the Transaction are hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

2. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver’s certificate to the Purchaser substantially in the form attached as **Schedule A** hereto (the “**Receiver’s Certificate**”), all of the Debtors’ right, title and interest in and to the Purchased Assets described in the Sale Agreement, including, without limitation, those listed on **Schedule B** hereto, shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the “**Claims**”) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Orders of the Honourable Justice Newbould dated April 20, 2017 and May 1, 2017 in this proceeding; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on **Schedule C** hereto (all of which are

collectively referred to as the “**Encumbrances**”, which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule D**) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

3. **THIS COURT ORDERS** that the Purchaser shall be entitled to take delivery of those Purchased Assets comprised of the 50 acres of organic tomatoes being grown under contract by 959699 Ontario Inc. o/a DeNijs Organic Farms, in the normal course and upon release of the funds held in escrow for payment of the same, regardless of the assignability or status of Thomas Canning’s Ontario Farm Products Marketing Commission procurement license #1944-18.
4. **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the Land Titles Division of Windsor of an Application for Vesting Order in the form prescribed by the *Land Titles Act*, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule B hereto (the “**Real Property**”) in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in **Schedule C** hereto.
5. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver’s Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.
6. **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver’s Certificate, forthwith after delivery thereof.

7. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Debtors' records pertaining to the Debtors' past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the Debtors.

8. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Debtors and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Debtors;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors and shall not be void or voidable by creditors of the Debtors, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

9. **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 including, without limitation, the Ontario Farm Products Marketing Commission and the Canadian Food Inspection Agency, 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.

**SCHEDULE A
FORM OF RECEIVER'S CERTIFICATE**

Court File No. CV-17-11773-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

**BRIDGING FINANCE INC.,
as agent for SPROTT BRIDGING INCOME FUND LP**

Applicant

- and -

THOMAS CANNING (MAIDSTONE) LIMITED and 692194 ONTARIO LIMITED

Respondents

RECEIVER'S CERTIFICATE

RECITALS

- A. Pursuant to an Order of the Honourable <*> of the Ontario Superior Court of Justice (the “**Court**”) dated June 21, 2017, Richter Advisory Group Inc. was appointed as the receiver (the “**Receiver**”) of the undertakings, properties and assets of Thomas Canning (Maidstone) Limited and 692194 Ontario Limited (collectively, the “**Debtors**”).
- B. Pursuant to an Order of the Court dated June 21, 2017, the Court approved the asset purchase agreement made as of June 15, 2017 (the “**Sale Agreement**”) between the Receiver and <*> (the “**Purchaser**”) and provided for the vesting in the Purchaser of the Debtors’ right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in Article 5 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

- C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in section Article 5 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at _____ on <*>, 2017.

RICHTER ADVISORY GROUP INC., in its capacity as Receiver of the undertakings, propertied and assets of THOMAS CANNING (MAIDSTONE) LIMITED and 692194 ONTARIO LIMITED, and not in its personal capacity

Per: _____
Name:
Title:

**SCHEDULE B
PURCHASED ASSETS**

All of the properties, assets and undertakings of the Debtors (collectively, the “**Purchased Assets**”) including but not limited to:

- (a) all accounts receivable, bills receivable, trade accounts, book debts and insurance claims Related to the Business, including recoverable deposits, including any unpaid interest on such items and any security or collateral for such items;
- (b) all books, records, files and papers Related to the Business or the Purchased Assets including, but not limited to, drawings, manuals and data related to equipment, computer hardware and software and phone systems, computer system passwords, combinations and keys to locks and other safety and storage systems, sales and purchases correspondence, trade association files, lists of present and former customers and suppliers, security and alarm system records, personnel, employment and other records, and all copies and recordings of the foregoing;
- (c) all rights and interests of the Debtors to and in all pending and/or executory contracts, agreements, licences (including, without limitation, all software licences and Ontario Farm Products Marketing Commission procurement license #1944-18), leases and arrangements;
- (d) the goodwill related to the business carried on by the Debtors (the “**Business**”), including all right, title and interest of the Debtors in, to and in respect of all elements which contribute to the goodwill related to the Business, including goodwill represented by customer and supplier lists and the logos of the Debtors;
- (e) the intellectual property including, without limitation:
 - (i) all business and trade names, corporate names, brand names and slogans Related to the Business including “Thomas’ Utopia Brand”;
 - (ii) all inventions, patents, patent rights, patent applications (including all reissues, divisions, continuations, continuations-in-part and extensions of any patent or patent application), industrial designs and applications for registration of industrial designs and associated rights related to the Business;
 - (iii) all copyrights and trade-marks (whether used with goods or services and including the goodwill attaching to such trade-marks), registrations and applications for trade-marks and copyrights (and all future income from such trade-marks and copyrights) related to the Business;
 - (iv) all rights and interests in and to processes, lab journals, notebooks, data, trade secrets, designs, know-how, product formulae and information, manufacturing, engineering and other drawings and manuals, technology, blue prints, research and development reports, agency agreements, technical information, technical assistance, engineering data, design and engineering specifications, and similar

materials recording or evidencing expertise or information Related to the Business;

- (v) all other intellectual and industrial property rights throughout the world related to the Business;
 - (vi) all rights of the Debtors in all confidentiality, non-compete, non-solicitation and intellectual property assignment agreements;
 - (vii) all licences of the intellectual property listed in items (i) to (vi) above;
 - (viii) all future income and proceeds from any of the intellectual property and licences listed in items (i) to (vi) above and the licenses listed in item (vii) above;
 - (ix) all rights to damages and profits by reason of the infringement of any of the intellectual property listed in items (i) to (vii) above;
 - (x) all phone numbers; and,
 - (xi) all websites, including www.thomasutopiabrand and www.thomascanning.com;
- (f) all inventories of stock-in-trade and merchandise including seedlings, crops, materials, supplies, finished goods, repair and service parts related to the Business (collectively, the “**Inventory**”) including, without limitation, those in possession of suppliers, customers and other third parties (including, without limitation, the 50 acres of organic tomatoes being grown under contract by 959699 Ontario Inc. o/a DeNijs Organic Farms);
- (g) all licences, permits, filings, authorizations, registrations, certificates of approval, approvals, grants, quotas, commitments, rights, privileges or indicia of authority related to the Business or necessary for the conduct of the Business;
- (h) all machinery, equipment, furniture, fixtures, computer systems and equipment and other chattels related to the Business;
- (i) all rights and interests of the Debtors to and in all customer orders for purchases of Inventory; and
- (j) the all real property of the Debtors including, without limitation, the following:
- (i) **PIN 75228-0009 (LT)**
PT LT 28-29 CON 9 MAIDSTONE AS IN R305027, PT 2 12R9420; T/W R1042854; S/T MB18413; LAKESHORE; SUBJECT TO AN EASEMENT IN GROSS OVER PT. 1 12R24775 AS IN CE502602
 - (ii) **PIN 75228-0005 (LT)**
PT LT 27 CON 10 MAIDSTONE AS IN R442677; LAKESHORE

(iii) **PIN 75228-0067 (LT)**

PT LT 27 CON 10; LAKESHORE DESIGNATED AS PT 2 12R20686,

(iv) **PIN 75016-0010 (LT)**

PT LT 289 CON STR MAIDSTONE AS IN R305027 (THIRDLY) EXCEPT
PTS 3, 4 R423541; S/T MB18404; LAKESHORE

(v) **PIN 75016-0009 (LT)**

PT LT 289 CON STR MAIDSTONE AS IN R1119864; S/T MB18355;
LAKESHORE

(vi) **PIN 75016-0021 (LT)**

PT LT 291 CON STR MAIDSTONE PTS 1, 2 RD138 EXCEPT PT 1 RD273 &
PT 1 12R376; S/T R389219; LAKESHORE

(vii) **PIN 75016-0019 (LT)**

PT LT 289-290 CON STR MAIDSTONE AS IN R645962, R463774 & R305027
(FIRSTLY) EXCEPT PT 1 12R2096 & PTS 9, 10 R423541; S/T MB18409,
MB18414, R902964; LAKESHORE

SCHEDULE C
CLAIMS TO BE DELETED AND EXPUNGED FROM TITLE TO REAL PROPERTY

SCHEDULE D
PERMITTED ENCUMBRANCES, EASEMENTS AND RESTRICTIVE COVENANTS
RELATED TO THE REAL PROPERTY

(unaffected by the Vesting Order)

29606565.3

IN THE MATTER OF AN APPLICATION PURSUANT TO SUBSECTIONS 47(1) AND 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;

**BRIDGING FINANCE INC., as agent for SPROTT
BRIDGING INCOME FUND LP**

Applicant

**THOMAS CANNING (MAIDSTONE) LIMITED and 692194
ONTARIO LIMITED**

Respondents

Court File No. CV-17-11773-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
PROCEEDING COMMENCED AT TORONTO**

**NOTICE OF RETURN APPLICATION AND
MOTION**

AIRD & BERLIS LLP
Barristers and Solicitors
Brookfield Place
Suite 1800, Box 754
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Toronto, Ontario M5J 2T9



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*Lawyers for the Applicant, Bridging Finance Inc., as
Agent For Sprott Bridging Income Fund LP*

Tab 2

Court File No. ~~#####~~ [CV-17-11773-00CL](#)

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE _____)	WEEKDAY
JUSTICE )	WEDNESDAY , THE # 21ST
)	DAY OF MONTH, 20YR
JUSTICE )	OF JUNE, 2017

PLAINTIFF[†]

Plaintiff

BETWEEN:

BRIDGING FINANCE INC.,
as agent for SPROTT BRIDGING INCOME FUND LP

Applicant

- and -

DEFENDANT

Defendant

THOMAS CANNING (MAIDSTONE) LIMITED and 692194 ONTARIO LIMITED

Respondents

[†]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.

IN THE MATTER OF AN APPLICATION PURSUANT TO SUBSECTIONS 47(1) AND 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~~
(Appointment of Receiver)

THIS ~~MOTION~~ APPLICATION made by the ~~Plaintiff~~² Applicant for an Order pursuant to ~~section~~ subsection 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA") and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "CJA"), appointing ~~[RECEIVER'S NAME]~~ Richter Advisory Group Inc. ("Richter") as receiver ~~[and manager]~~ (in such ~~capacities~~ capacity, the "Receiver") without security, of all of the assets, undertakings and properties of ~~[DEBTOR'S NAME]~~ (the "Debtor" each of Thomas Canning (Maidstone) Limited ("Thomas Canning") and 692194 Ontario Limited (together with Thomas Canning, the "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, Ontario.

ON READING the ~~affidavit of [NAME] sworn [DATE] and the Exhibits thereto~~ Report of Richter in its capacities as Court-appointed Monitor (the "Monitor") and Interim Receiver dated June 15, 2017, and on hearing the submissions of counsel for ~~[NAMES]~~ the Applicant, counsel for the Debtors, counsel for the Monitor and no one appearing for ~~[NAME]~~ any other person although duly served as appears from the affidavit of service of ~~[NAME]~~ [NAME] ~~sworn [DATE] June [DATE], 2017~~ sworn [DATE] June [DATE], 2017 and on reading the consent of ~~[RECEIVER'S NAME]~~ Richter to act as the Receiver,

²-Section 243(1) of the BIA provides that the Court may appoint a receiver "on application by a secured creditor".

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of ~~Motion~~Return of Application and the ~~Motion~~Return Application Record is hereby ~~abridged and~~ validated³ ~~so and~~ that this ~~motion~~Application is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT OF RECEIVER

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

³~~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.~~

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 undertake environmental or workers' health and safety assessments of the Property and operations of the Debtors;
- (j) ~~(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.⁴ 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;

⁴~~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.~~

(k) ~~(i)~~ 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;

(l) ~~(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 \$,250,000, provided that the aggregate consideration for all such transactions does not exceed \$ 1,000,000; and

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

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

(m) ~~(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;

(n) ~~(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;

(o) ~~(n)~~ to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;

⁵ ~~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.~~

- (p) ~~(e)~~ 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;
- (q) ~~(f)~~ 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;
- (r) ~~(g)~~ to exercise any shareholder, partnership, joint venture or other rights which the ~~Debtor~~Debtors may have;
- (s) to exercise any and all rights of the Debtors under any certificate, certification, consent, approval, licence or permit in favour of or held by the Debtors or Thomas Canning's manufacturing plant, including those granted by any governmental or regulatory body; and
- (t) ~~(h)~~ 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, advisors, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "Persons" and each being a "Person") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's ~~request.~~'s request. Without

limiting the forgoing, 2190330 Ontario Ltd. shall grant the Receiver such access to the Property of the Debtors located on the real property of the legal description PT LT 290, CON STR MAIDSTONE AS IN R1425228, LAKESHORE, PIN 75016-0085 (LT), as the Receiver may require for the continued operation and/or removal of such Property, or as the Receiver may require to give any purchaser of such Property the same access.

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

7. ~~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

8. ~~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

9. ~~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 is~~Debtors are 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

10. ~~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, certificate, certification, consent, approval, licence or permit in favour of or held by the ~~Debtor~~Debtors or Thomas Canning's manufacturing plant without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

11. ~~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's~~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 ~~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

12. ~~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

13. ~~14.~~ **THIS COURT ORDERS** that all employees of the ~~Debtor shall remain the employees of the Debtor until such time as the Receiver, on the Debtor's behalf, may terminate the employment of such employees~~ Debtors are hereby terminated. 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 or any liability as an employer or sponsor of any workers employed or to be employed by the Debtors through the Temporary Foreign Worker Program or the International Mobility Program, 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

14. ~~15.~~ **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver ~~shall~~ may 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

15. ~~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

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

17. ~~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.⁶ For greater certainty, the Receiver's Charge shall rank in priority to the Interim

⁶ ~~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".~~

Receiver's Charge and the Interim Receiver's Borrowings Charge (as such terms are defined in the Interim Receivership Order made in this proceeding on April 20, 2017) and to the Monitor's Charge (as defined in the Monitor Order made in this proceeding on May 1, 2017).

18. ~~19.~~ **THIS COURT ORDERS** that the Receiver and its legal counsel shall pass ~~its~~their 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.

19. ~~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~~normal 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

20. ~~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 \$ 600,000 (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. For greater certainty, the Receiver's Borrowings Charge shall rank in priority to the Interim Receiver's Charge, the Interim Receiver's Borrowings Charge and the Monitor's Charge.

21. ~~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.

22. ~~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.

23. ~~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.

PAYMENTS AND DISTRIBUTION

24. THE COURT ORDERS that the Receiver is hereby authorized, upon the closing of the sale transaction approved by this Court pursuant to the Approval and Vesting Order dated June 21, 2017, to:

- (a) repay the principal amount, and all interest that has accrued thereon, borrowed by the Interim Receiver in accordance with the Interim Receivership Order and secured by the Interim Receiver's Borrowings Charge;
- (b) pay the fees and disbursements of the Monitor and its counsel, as approved by this Court pursuant to the Order dated June 21, 2017 and secured by the Monitor's Charge; and
- (c) distribute the net sale proceeds to the Applicant, subject to reasonable reserves as determined by the Receiver, without further Order of this Court.

JOINT ADMINISTRATION

25. THIS COURT ORDERS and directs that the receiverships and estates of the Debtors be jointly administered.

SERVICE AND NOTICE

26. ~~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/scj/practice/practice-directions/toronto/e-service-protocol/>~~http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/e-service-protocol/~~<http://www.ontariocourts.ca/scj/practice/practice-directions/toronto/eservice-commercial/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that a Case Website shall be established in accordance with the Protocol with the following URL ‘~~@~~’ <http://www.richter.ca/Folder/Insolvency-Cases/T/Thomas-Canning-Limited>’.

27. ~~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's~~Debtors’ 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.

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

GENERAL

29. ~~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.

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

31. ~~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 including, without limitation, the Ontario Farm Products Marketing Commission and the Canadian Food Inspection Agency 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.

32. ~~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.

33. ~~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 each of the ~~Debtor's-estate~~Debtors' estates with such priority and at such time as this Court may determine.

34. ~~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.



SCHEDULE "A"
RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that ~~[RECEIVER'S NAME]~~ Richter Advisory Group Inc., the receiver (the "Receiver") of the assets, undertakings and properties ~~[DEBTOR'S NAME]~~ of each of Thomas Canning (Maidstone) Limited and 692194 Ontario Limited (together, 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 21st day of June, 20 2017 (the "Order") made in an action having Court file number CL CV-17-11773-00CL, has received as such Receiver from the holder of this certificate (the "Lender") the principal sum of \$ _____, being part of the total principal sum of \$ _____ which the Receiver is authorized to borrow under and pursuant to the Order.

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

3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, 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 (Canada)*, 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 2017.

~~[RECEIVER'S NAME]~~ RICHTER ADVISORY GROUP INC., solely in its capacity as Receiver of the ~~Property~~ Thomas Canning (Maidstone) Limited and 692194 Ontario Limited, and not in its corporate or personal capacity

Per:

Name:

Title:

26520979.1

BRIDGING FINANCE INC., as agent for
SPROTT BRIDGING INCOME FUND LP
Applicant

And **THOMAS CANNING (MAIDSTONE) LIMITED and 692194**
ONTARIO LIMITED

Respondents

Court File No. CV-17-11773-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
PROCEEDING COMMENCED AT TORONTO

ORDER
(APPOINTMENT OF RECEIVER)

AIRD & BERLIS LLP
Barristers and Solicitors
Brookfield Place
Suite 1800, Box 754
181 Bay Street
Toronto, Ontario M5J 2T9

Sam Babe - LSUC No. 49498B

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Lawyers for the Applicant

Document comparison by Workshare Compare on June-15-17 4:08:58 PM

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Tab 3

~~[MODEL APPROVAL AND VESTING ORDER]~~ (May 11, 2010) Court File No. ~~<*>~~ CV-17-11773-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE

~~<*>~~
) WEDNESDAY, THE ~~<*>~~ 21ST DAY

JUSTICE ~~<*>~~

)
) OF ~~<*>~~ JUNE, 20~~<*>~~ 2017

B E T W E E N:

~~<NAME OF PLAINTIFF>~~

Plaintiff

BRIDGING FINANCE INC.,
as agent for SPROTT BRIDGING INCOME FUND LP

Applicant

- and -

~~<NAME OF DEFENDANT>~~

Defendant

THOMAS CANNING (MAIDSTONE) LIMITED and 692194 ONTARIO LIMITED

Respondents

IN THE MATTER OF AN APPLICATION PURSUANT TO SUBSECTIONS 47(1) AND 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

APPROVAL AND VESTING ORDER

THIS MOTION, made by ~~<receiver>~~ in its capacity as the Court appointed receiver (the “Receiver”) of the ~~undertaking, property and assets of <debtor>~~ (the “Debtor”) Bridging Finance Inc. for an order approving the sale transaction (the “Transaction”) contemplated by an asset purchase agreement of purchase and sale dated June 15, 2017 (the “Sale Agreement”) and made between ~~the Receiver and <name of purchaser>~~ (the “Purchaser”) dated ~~<*>, 20<*>~~ and ~~<*>~~ (the “Purchaser”) and Richter Advisory Group Inc. (“Richter”) in its capacity as the Court-appointed receiver (the “Receiver”) of the undertakings, properties and assets of each of Thomas Canning (Maidstone) Limited (“Thomas Canning”) and 692194 Ontario Limited (together with Thomas Canning, the “Debtors”), as appended to the Report of the Richter in its capacity as Interim Receiver and Monitor in these proceedings dated <*>, 20<*> June 15, 2017 (the “Report”), and vesting in the Purchaser the ~~Debtor’s~~ Debtors’ right, title and interest in and to the assets described in the Sale Agreement (the “Purchased Assets”), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Report and on hearing the submissions of counsel for the Receiver, ~~<name of other parties appearing>~~ counsel for the Debtors, counsel for Bridging, _____, no one appearing for any other person on the service list, although properly served as appears from the affidavit of ~~<name*>~~ sworn June <*>, 20<*> 2017, filed[†]:

[†]—This model order assumes that the time for service does not need to be abridged. The motion seeking a vesting order should be served on all persons having an economic interest in the Purchased Assets, unless circumstances warrant a different approach. Counsel should consider attaching the affidavit of service to this Order.

1. **THIS COURT ORDERS AND DECLARES** that the [Sale Agreement and the Transaction](#) ~~is~~are hereby approved², and the execution of the Sale Agreement by the Receiver³ is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

2. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Receiver's certificate to the Purchaser substantially in the form attached as **Schedule A** hereto (the "**Receiver's Certificate**"), all of the ~~Debtor~~Debtors's right, title and interest in and to the Purchased Assets described in the Sale Agreement ~~and, including, without limitation, those~~ listed on **Schedule B** hereto⁴, shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**"⁵) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the ~~Order~~Orders of the Honourable Justice ~~<name>~~ dated ~~<*>~~, ~~20<*>~~ Newbould dated April 20, 2017 and May 1, 2017 in this proceeding; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; and (iii) those Claims listed on **Schedule C**

² ~~In some cases, notably where this Order may be relied upon for proceedings in the United States, a finding that the Transaction is commercially reasonable and in the best interests of the Debtor and its stakeholders may be necessary. Evidence should be filed to support such a finding, which finding may then be included in the Court's endorsement.~~

³ ~~In some cases, the Debtor will be the vendor under the Sale Agreement, or otherwise actively involved in the Transaction. In those cases, care should be taken to ensure that this Order authorizes either or both of the Debtor and the Receiver to execute and deliver documents, and take other steps.~~

⁴ ~~To allow this Order to be free-standing (and not require reference to the Court record and/or the Sale Agreement), it may be preferable that the Purchased Assets be specifically described in a Schedule.~~

⁵ ~~The "Claims" being vested out may, in some cases, include ownership claims, where ownership is disputed and the dispute is brought to the attention of the Court. Such ownership claims would, in that case, still continue as against the net proceeds from the sale of the claimed asset. Similarly, other rights, titles or interests could also be vested out, if the Court is advised what rights are being affected, and the appropriate persons are served. It is the Subcommittee's view that a non-specific vesting out of "rights, titles and interests" is vague and therefore undesirable.~~

hereto (all of which are collectively referred to as the “**Encumbrances**”, which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule D**) and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

3. **THIS COURT ORDERS** that the Purchaser shall be entitled to take delivery of those Purchased Assets comprised of the 50 acres of organic tomatoes being grown under contract by 959699 Ontario Inc. o/a DeNijs Organic Farms, in the normal course and upon release of the funds held in escrow for payment of the same, regardless of the assignability or status of Thomas Canning’s Ontario Farm Products Marketing Commission procurement license #1944-18.

4. ~~3.~~ **THIS COURT ORDERS** that upon the registration in the Land Registry Office for the ~~[Registry Division of <location> of a Transfer/Deed of Land in the form prescribed by the Land Registration Reform Act duly executed by the Receiver]~~ Land Titles Division of ~~<location>~~ Windsor of an Application for Vesting Order in the form prescribed by the *Land Titles Act* ~~and/or the *Land Registration Reform Act*~~⁶, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule B hereto (the “**Real Property**”) in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in **Schedule C** hereto.

5. ~~4.~~ **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net proceeds⁷ from the sale of the Purchased Assets shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the Receiver’s Certificate all Claims and Encumbrances shall attach to the net proceeds from the sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale⁸, as if the Purchased Assets had not been sold and

⁶—Elect the language appropriate to the land registry system (Registry vs. Land Titles).

⁷—The Report should identify the disposition costs and any other costs which should be paid from the gross sale proceeds, to arrive at “net proceeds”.

⁸—This provision crystallizes the date as of which the Claims will be determined. If a sale occurs early in the insolvency process, or potentially secured claimants may not have had the time or the ability to register or perfect proper claims prior to the sale, this provision may not be appropriate, and should be amended to remove this crystallization concept.

remained in the possession or control of the person having that possession or control immediately prior to the sale.

6. ~~5.~~ **THIS COURT ORDERS AND DIRECTS** the Receiver to file with the Court a copy of the Receiver's Certificate, forthwith after delivery thereof.

7. ~~6.~~ **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the ~~Company's~~Debtors' records pertaining to the ~~Debtor's~~Debtors' past and current employees, ~~including personal information of those employees listed on Schedule "~~*~~" to the Sale Agreement.~~ The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by the ~~Debtor~~Debtors.

8. ~~7.~~ **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the ~~Debtor~~Debtors and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the ~~Debtor~~Debtors;

the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the ~~Debtor~~Debtors and shall not be void or voidable by creditors of the ~~Debtor~~Debtors, nor shall it constitute nor be deemed to be a settlement, fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

~~8. THIS COURT ORDERS AND DECLARES that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).~~

9. **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 including, without limitation, the Ontario Farm Products Marketing Commission and the Canadian Food Inspection Agency, 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.

**SCHEDULE A
FORM OF RECEIVER'S CERTIFICATE**

Court File No. ~~CV-17-11773-00CL~~

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

~~NAME OF PLAINTIFF~~

Plaintiff

BRIDGING FINANCE INC.,
as agent for SPROTT BRIDGING INCOME FUND LP

Applicant

- and -

~~NAME OF DEFENDANT~~

Defendant

THOMAS CANNING (MAIDSTONE) LIMITED and 692194 ONTARIO LIMITED

Respondents

RECEIVER'S CERTIFICATE

RECITALS

- A. Pursuant to an Order of the Honourable ~~name of judge~~ of the Ontario Superior Court of Justice (the "Court") dated ~~date of order~~, ~~name of receiver~~ June 21, 2017, Richter Advisory Group Inc. was appointed as the receiver (the "Receiver") of the ~~undertaking, property and assets of~~ ~~debtor~~ (the "~~Debtor~~ undertakings, properties and assets of Thomas Canning (Maidstone) Limited and 692194 Ontario Limited (collectively, the "Debtors")").
- B. Pursuant to an Order of the Court dated ~~date~~ June 21, 2017, the Court approved the ~~agreement of asset purchase and sale agreement~~ made as of ~~date of agreement~~ June 15, 2017 (the "**Sale Agreement**") between the Receiver ~~debtor~~ and ~~name of purchaser~~

(the “**Purchaser**”) and provided for the vesting in the Purchaser of the ~~Debtor’s~~Debtors’ right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in ~~section~~Article 5 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. The conditions to Closing as set out in ~~section~~Article 5 of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the Receiver.
4. This Certificate was delivered by the Receiver at ~~time~~ on ~~*~~, ~~20~~~~*~~-2017.

~~<Name of Receiver>~~RICHTER ADVISORY GROUP INC., in its capacity as Receiver of the ~~undertaking, property~~undertakings, propertied and assets of ~~<Debtor>~~THOMAS CANNING (MAIDSTONE) LIMITED and 692194 ONTARIO LIMITED, and not in its personal capacity

Per: _____
Name:
Title:

SCHEDULE B
PURCHASED ASSETS

All of the properties, assets and undertakings of the Debtors (collectively, the “**Purchased Assets**”) including but not limited to:

- (a) all accounts receivable, bills receivable, trade accounts, book debts and insurance claims Related to the Business, including recoverable deposits, including any unpaid interest on such items and any security or collateral for such items;
- (b) all books, records, files and papers Related to the Business or the Purchased Assets including, but not limited to, drawings, manuals and data related to equipment, computer hardware and software and phone systems, computer system passwords, combinations and keys to locks and other safety and storage systems, sales and purchases correspondence, trade association files, lists of present and former customers and suppliers, security and alarm system records, personnel, employment and other records, and all copies and recordings of the foregoing;
- (c) all rights and interests of the Debtors to and in all pending and/or executory contracts, agreements, licences (including, without limitation, all software licences and Ontario Farm Products Marketing Commission procurement license #1944-18), leases and arrangements;
- (d) the goodwill related to the business carried on by the Debtors (the “**Business**”), including all right, title and interest of the Debtors in, to and in respect of all elements which contribute to the goodwill related to the Business, including goodwill represented by customer and supplier lists and the logos of the Debtors;
- (e) the intellectual property including, without limitation:
 - (i) all business and trade names, corporate names, brand names and slogans Related to the Business including “Thomas’ Utopia Brand”;
 - (ii) all inventions, patents, patent rights, patent applications (including all reissues, divisions, continuations, continuations-in-part and extensions of any patent or patent application), industrial designs and applications for registration of industrial designs and associated rights related to the Business;
 - (iii) all copyrights and trade-marks (whether used with goods or services and including the goodwill attaching to such trade-marks), registrations and applications for trade-marks and copyrights (and all future income from such trade-marks and copyrights) related to the Business;
 - (iv) all rights and interests in and to processes, lab journals, notebooks, data, trade secrets, designs, know-how, product formulae and information, manufacturing, engineering and other drawings and manuals, technology, blue prints, research and development reports, agency agreements, technical information, technical assistance, engineering data, design and engineering specifications, and similar

materials recording or evidencing expertise or information Related to the Business;

(v) all other intellectual and industrial property rights throughout the world related to the Business;

(vi) all rights of the Debtors in all confidentiality, non-compete, non-solicitation and intellectual property assignment agreements;

(vii) all licences of the intellectual property listed in items (i) to (vi) above;

(viii) all future income and proceeds from any of the intellectual property and licences listed in items (i) to (vi) above and the licenses listed in item (vii) above;

(ix) all rights to damages and profits by reason of the infringement of any of the intellectual property listed in items (i) to (vii) above;

(x) all phone numbers; and,

(xi) all websites, including www.thomasutopiabrand and www.thomascanning.com;

(f) all inventories of stock-in-trade and merchandise including seedlings, crops, materials, supplies, finished goods, repair and service parts related to the Business (collectively, the “**Inventory**”) including, without limitation, those in possession of suppliers, customers and other third parties (including, without limitation, the 50 acres of organic tomatoes being grown under contract by 959699 Ontario Inc. o/a DeNijs Organic Farms);

(g) all licences, permits, filings, authorizations, registrations, certificates of approval, approvals, grants, quotas, commitments, rights, privileges or indicia of authority related to the Business or necessary for the conduct of the Business;

(h) all machinery, equipment, furniture, fixtures, computer systems and equipment and other chattels related to the Business;

(i) all rights and interests of the Debtors to and in all customer orders for purchases of Inventory; and

(j) the all real property of the Debtors including, without limitation, the following:

(i) **PIN 75228-0009 (LT)**

PT LT 28-29 CON 9 MAIDSTONE AS IN R305027, PT 2 12R9420; T/W R1042854; S/T MB18413; LAKESHORE; SUBJECT TO AN EASEMENT IN GROSS OVER PT. 1 12R24775 AS IN CE502602

(ii) **PIN 75228-0005 (LT)**

PT LT 27 CON 10 MAIDSTONE AS IN R442677; LAKESHORE

(iii) PIN 75228-0067 (LT)

PT LT 27 CON 10; LAKESHORE DESIGNATED AS PT 2 12R20686.

(iv) PIN 75016-0010 (LT)

PT LT 289 CON STR MAIDSTONE AS IN R305027 (THIRDLY) EXCEPT PTS 3, 4 R423541; S/T MB18404; LAKESHORE

(v) PIN 75016-0009 (LT)

PT LT 289 CON STR MAIDSTONE AS IN R1119864; S/T MB18355; LAKESHORE

(vi) PIN 75016-0021 (LT)

PT LT 291 CON STR MAIDSTONE PTS 1, 2 RD138 EXCEPT PT 1 RD273 & PT 1 12R376; S/T R389219; LAKESHORE

(vii) PIN 75016-0019 (LT)

PT LT 289-290 CON STR MAIDSTONE AS IN R645962, R463774 & R305027 (FIRSTLY) EXCEPT PT 1 12R2096 & PTS 9, 10 R423541; S/T MB18409, MB18414, R902964; LAKESHORE

SCHEDULE C
CLAIMS TO BE DELETED AND EXPUNGED FROM TITLE TO REAL PROPERTY

SCHEDULE D
PERMITTED ENCUMBRANCES, EASEMENTS AND RESTRICTIVE COVENANTS
RELATED TO THE REAL PROPERTY

(unaffected by the Vesting Order)

| [29606565.1](#)
[29606565.3](#)

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Tab 4

Court File No. _____

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

BETWEEN:

**BRIDGING FINANCE INC.,
as agent for SPROTT BRIDGING INCOME FUND LP**

Applicant

- and -

THOMAS CANNING (MAIDSTONE) LIMITED and 692194 ONTARIO LIMITED

Respondents

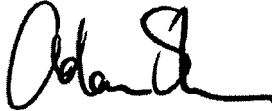
**IN THE MATTER OF AN APPLICATION PURSUANT TO SECTION
47(1) OF THE *BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3,
AS AMENDED**

CONSENT

RICHTER ADVISORY GROUP INC. (“Richter”) hereby consents to act as Court-appointed interim receiver, without security, of all of the assets, undertakings and properties of each of Thomas Canning (Maidstone) Limited and 692194 Ontario Limited pursuant to subsection 47(1) of *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, in accordance with an order substantially in the form requested by the Applicant, or as such order may be amended in a manner satisfactory to Richter.

DATED this 19th day of April, 2017

RICHTER ADVISORY GROUP INC.

Per: 
Name: Adam Sherman
Position: Senior Vice President

I have authority to bind the corporation

Tab 5

SERVICE LIST
(as at June 15, 2017)

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Wajahat Mahmood**

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and WMahmood@richter.ca

Court-appointed Interim Receiver and Monitor

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David Ullmann

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HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO AS REPRESENTED BY THE MINISTER OF FINANCE
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Lawyers for Canada Revenue Agency

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**BRIDGING FINANCE INC., as agent for SPROTT
BRIDGING INCOME FUND LP**

Applicant

**THOMAS CANNING (MAIDSTONE) LIMITED and 692194
ONTARIO LIMITED**

Respondents

Court File No. CV-17-11773-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
PROCEEDING COMMENCED AT TORONTO

**RETURN APPLICATION AND MOTION
RECORD**

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