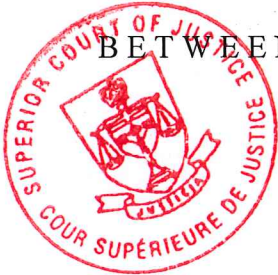


**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

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



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**

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 2581150 Ontario Inc. (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, counsel for the Ontario Farm Products Marketing Commission and no one appearing for any other person on the service list, although properly served as appears from the affidavits of Kyle Plunkett and Daphne Porter sworn June 16, 2017, filed:

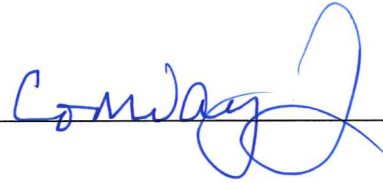
1. **THIS COURT ORDERS AND DECLARES** that the Sale Agreement and the Transaction are hereby approved, and the execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed 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 AND DECLARES** that the assumption of the Bridging Indebtedness, as such term is defined in the Sale Agreement, by the Purchaser pursuant to the Sale Agreement shall be effective as at the date of the Receiver's discharge in these proceedings.
8. **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.
9. **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.
10. **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. Be



ENTERED AT / INSCRIT À TORONTO
ON / BOOK NO:
LE / DANS LE REGISTRE NO;

JUN 21 2017

PER / PAR: 

**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 2581150 Ontario Inc. (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, properties 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), 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

PIN 75228-0009 (LT)

1. Instrument Number R233025 registered on January 5, 1961 being an Assignment of Lease
2. Instrument Number CE665518 registered on July 3, 2015 being a Charge in the principal amount of \$21,365,650.00 in favour of Bridging Finance Inc.
3. Instrument Number CE665523 registered on July 3, 2015 being a Notice of Assignment of Rents-General in favour of Bridging Finance Inc.

PIN 75228-0005 (LT)

1. Instrument Number CE665518 registered on July 3, 2015 being a Charge in the principal amount of \$21,365,650.00 in favour of Bridging Finance Inc.
2. Instrument Number CE665523 registered on July 3, 2015 being a Notice of Assignment of Rents-General in favour of Bridging Finance Inc.

PIN 75228-0067 (LT)

1. Instrument Number CE665518 registered on July 3, 2015 being a Charge in the principal amount of \$21,365,650.00 in favour of Bridging Finance Inc.
2. Instrument Number CE665523 registered on July 3, 2015 being a Notice of Assignment of Rents-General in favour of Bridging Finance Inc.

PIN 75016-0010 (LT)

1. Instrument Number CE665518 registered on July 3, 2015 being a Charge in the principal amount of \$21,365,650.00 in favour of Bridging Finance Inc.
2. Instrument Number CE665523 registered on July 3, 2015 being a Notice of Assignment of Rents-General in favour of Bridging Finance Inc.

PIN 75016-0009 (LT)

1. Instrument Number CE665518 registered on July 3, 2015 being a Charge in the principal amount of \$21,365,650.00 in favour of Bridging Finance Inc.
2. Instrument Number CE665523 registered on July 3, 2015 being a Notice of Assignment of Rents-General in favour of Bridging Finance Inc.

PIN 75016-0021 (LT)

1. Instrument Number R720043Z registered on December 22, 1977 being an Application to Annex Restrictive Covenant
2. Instrument Number CE665518 registered on July 3, 2015 being a Charge in the principal amount of \$21,365,650.00 in favour of Bridging Finance Inc.
3. Instrument Number CE665523 registered on July 3, 2015 being a Notice of Assignment of Rents-General in favour of Bridging Finance Inc.

PIN 75016-0019 (LT)

1. Instrument Number R902964 registered on March 8, 1984 being an Agreement for Right-of-Way in favour of Union Gas Limited (expired)
2. Instrument Number CE665518 registered on July 3, 2015 being a Charge in the principal amount of \$21,365,650.00 in favour of Bridging Finance Inc.
3. Instrument Number CE665523 registered on July 3, 2015 being a Notice of Assignment of Rents-General in favour of Bridging Finance Inc.

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

(unaffected by the Vesting Order)

PIN 75228-0009 (LT)

1. Instrument Number MB18413 registered on February 1, 1949 being a Transfer of Easement in favour of Bell Telephone Co. of Canada
2. Instrument Number R305027 registered on June 9, 1964 being a Transfer
3. Instrument Number 12R4451 registered on June 23, 1978 being a Reference Plan
4. Instrument Number 12R9420 registered on April 11, 1988 being a Reference Plan
5. Instrument Number R1042854 registered on April 13, 1988 being a Transfer
6. Instrument Number R1073171 registered on January 9, 1989 being a Notice of Claim
7. Instrument Number 12R24775 registered on August 17, 2011 being a Reference Plan
8. Instrument Number CE502602 registered on January 11, 2012 being a Transfer of Easement in favour of Hydro One Networks Inc.

PIN 75228-0005 (LT)

1. Instrument Number R442677 registered on June 19, 1969 being a Transfer

PIN 75228-0067 (LT)

1. Instrument Number 12R20686 registered on August 12, 2003 being a Reference Plan
2. Instrument Number CE52782 registered on January 6, 2004 being a Transfer

PIN 75016-0010 (LT)

1. Instrument Number MB18404 registered on January 21, 1949 being a Transfer of Easement in favour of The Bell Telephone Company of Canada
2. Instrument Number R305027 registered on June 9, 1964 being a Transfer
3. Instrument Number R1073182 registered on January 9, 1989 being a Notice of Claim

PIN 75016-0009 (LT)

1. Instrument Number MB18355 registered on November 23, 1948 a Transfer of Easement in favour of The Bell Telephone Company of Canada

2. Instrument Number R1042301 registered on April 7, 1988 being a Notice of Claim
3. Instrument Number R1119864 registered on February 26, 1990 being a Transfer

PIN 75016-0021 (LT)

1. Instrument Number R38129 registered on July 20, 1967 being a Transfer of Easement in favour of The Bell Telephone Company of Canada
2. Instrument Number RD138 registered on June 27, 1969 being a Reference Plan
3. Instrument Number R720043 registered on December 22, 1977 being a Transfer

PIN 75016-0019 (LT)

1. Instrument Number MB18409 registered on January 21, 1949 being a Transfer of Easement in favour of Bell Telephone Co. of Can.
2. Instrument Number MB18414 registered on February 1, 1949 being a Transfer of Easement in favour of Bell Telephone Co. of Canada
3. Instrument Number R305027 registered on June 9, 1964 being a Transfer
4. Instrument Number R463774 registered on March 10, 1970 being a Transfer
5. Instrument Number R645962 registered on October 16, 1975 being a Transfer
6. Instrument Number 12R7427 registered on January 20, 1984 being a Reference Plan
7. Instrument Number R1073173 registered on January 9, 1989 being a Notice of Claim
8. Instrument Number R1073175 registered on January 9, 1989 being a Notice of Claim
9. Instrument Number R1497830 registered on August 21, 2000 being a Site Plan Agreement

**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

APPROVAL AND VESTING ORDER

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