

**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

Respondent

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. C43, AS AMENDED

RESPONDING MOTION RECORD
(on behalf of the Creditor, ROL-LAND FARMS and GREENHOUSES INC.)

September 7, 2017

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AND TO: **GOULD LEASING LTD.**
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AND TO: **CLE LEASING ENTERPRISE LTD.**
3390 South Service Road, Suite 104
Burlington, Ontario L7N 3J5

AND TO: **CAPMOR FINANCIAL SERVICES CORPORATION**
5575 North Service Road, Suite 401
Burlington, Ontario L7L 6M1

AND TO: **BODKIN CAPITAL CORPORATION**
1465 North Service Road East, Suite 102
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AND TO: **1419768 ONTARIO INC.**
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AND TO: **DEPARTMENT OF JUSTICE CANADA**
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ONTARIO AS REPRESENTED BY THE MINISTER OF FINANCE**

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Ontario Farm Products Marketing Commission
Secretariat, Ministry of Agriculture, Food and Rural Affairs
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Email: dvd5@bell.net

AND TO: **959699 ONTARIO INC. o/a DEWS ORGANIC FARMS**
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Wallaceburg, Ontario N8A 4L3

AND TO: **AGRICORP**
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Guelph, Ontario N1G 4Y2

Kevin McCormack
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AND TO: **COXON'S SALES AND RENTALS LTD.**
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Maidstone, Ontario NOR 1K0
Email: service@ctscoxons.com

AND TO: **MINISTRY OF AGRICULTURE, FOOD AND RURAL AFFAIRS**
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Guelph, Ontario N1G 4Y2

Greg Meredith, Deputy Minister
Email: greg.meredith@ontario.ca

George Borovilos, Director, Business Development Branch
Email: george.borovilos@ontario.ca

**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

Respondent

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. C43, AS AMENDED

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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 L.P.

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. C43, AS AMENDED

AFFIDAVIT OF LYNN DEBROUWER
(on behalf of the Creditor, ROL-LAND FARMS LTD. and GREENHOUSES INC.)

I, Lynn Debrouwer, of the Town of Blenheim, in the County of Chatham-Kent, Province of Ontario, MAKE OATH AND SAY:

1. I am the Greenhouse Manager of the Creditor, Rol-Land Farms and Greenhouses Inc. ("Rol-Land Farms"), and as such, have personal knowledge of the matters deposed herein. Where I do not have personal knowledge, I state the source of my information and belief, which I verily believe to be true.

2. Rol-Land Farms is in the business of agricultural seedling, crop and vegetable production for the vegetable processing industry, or, in other words, is an Ontario Processing Vegetable Grower.

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3. On March 29, 2017, Rol-Land Farms and Thomas Canning (Maidstone) Ltd. ("Thomas Canning"), entered into a "Local Tomato Plant Contract" wherein Thomas Canning agreed to purchase, and Rol-Land Farms agreed to plant and care for 3,168,000 tomato plants using seeds supplied by Thomas Canning. The seedling plug plants were to be grown by Rol-Land Farms and delivered to Thomas Canning in over the period of May 8, 2017 to June 2, 2017. Attached hereto and marked as **Exhibit "A"** is a copy of the Local Tomato Plant Contract, entered March 29, 2017.

4. Payment was required prior to delivery of the tomato seedlings.

5. I have reviewed the affidavit of James Clark, sworn June 20, 2017, filed in this proceeding, and agree that vegetable growers for the processing industry, such as Rol-Land Farms incur significant up-front costs in the production of vegetables for supply to processors. The vegetables are grown pursuant to a specific contract with specific stipulations regarding the plants to be supplied, which are not generally marketable to other producers in the event of default. As such, and as indicated by Mr. Clark, vegetable growers are in a particularly vulnerable position should a processor be unwilling or unable to pay the grower for the tomatoes contracted to be supplied by the grower.

6. The same is no different for the tomato seedlings produced by Rol-Land Farms pursuant to the Local Tomato Plant Contract. The tomato plants were grown specifically in accordance with the specifications of Thomas Canning. In addition, by the time the plants are ready for delivery, other processors have already made and filled their orders with other plant growers. As such, in the event of default, it is very difficult to find a secondary market for the tomato seedlings and they are essentially wasted.

7. At no time did anybody from BFI, Richter, or Thomas Canning, provide Rol-Land Farms with notice of any of these proceedings or the Orders made pursuant to same. The limited notice Rol-Land Farms did get, was through alternative sources.

8. On April 30, 2017, the Chairman of the Ontario Seedlings Board forwarded to me a copy of the Order of the Honourable Justice Newbould, dated April 20, 2017, in which Richter Advisory Group Inc. ("Richter") was appointed Interim Receiver of all of the assets, undertakings and properties of Thomas Canning. Attached hereto and marked as **Exhibit "B"** is a copy of the email I received attaching the Order of Justice Newbould, which email is dated April 30, 2017.

9. By the time Rol-Land Farms had notice of the appointment of the Interim Receiver, the tomato plants had already been seeded in the greenhouse pursuant to the Local Tomato Plant Contract.

10. The Order of Justice Newbould specifically prevented suppliers with pre-existing contracts with Thomas Canning from altering or discontinuing the supply of goods and/or services, but provided that such goods or services after the date of the Order would be paid for in accordance with normal payment practices.

11. On May 1, 2017, I contacted Mr. William Thomas by phone to ask for details of the financial status of Thomas Canning, and whether I should be contacting anybody else for information and/or direction on what to do about the production of the tomato seedlings, as at that time, there was still an opportunity to potentially find another producer to purchase the tomato seedlings.

12. Mr. Thomas advised that the interim receivership was to allow Thomas Canning to continue operations in 2017 and that he was still in control of and making decisions in relation to the business. Mr. Thomas advised that the tomato seedlings would still be paid up front at the time of delivery.

13. As such, and in compliance with the Order of Justice Newbould, dated April 20, 2017, Rol-Land Farms continued maintenance of and production of the tomato seedlings. On May 1, 2017, I forwarded Mr. Thomas an email attaching Rol-Land Farms' first invoice for the tomato plants and attached pictures of same. Attached hereto and marked as **Exhibit "C"** is a copy of my email correspondence to Mr. Thomas, dated May 1, 2017, with the attached invoice in the amount of \$43,154.97, and photographs of the tomato plants.

14. Rol-Land Farms was not given notice of the motion or of the Order of Justice Newbould, dated May 1, 2017.

15. On May 12, 2017, I was forwarded email correspondence that attached a letter from Sam Babe of Aird & Berlis LLP, counsel for Bridging Finance Inc. ("BFI") to the Ontario Farm Products Marketing Commission, indicating that BFI had the financial resources and was prepared to fund Thomas Canning for security which may be negotiated between Thomas Canning and the applicable growers, subject to certain terms and conditions. Attached hereto and marked as **Exhibit "D"** is a copy of the email and attached correspondence of Mr. Babe.

16. At no time did anybody from BFI or Richter advise Rol-Land Farms to stop producing the tomato plants that were being grown pursuant to the Local Tomato Plant Contract, or that Rol-Land Farms would not be paid for same.

17. On June 1, 2017, payment of the invoice rendered on May 1, 2017 still had not been paid. I called Mr. Thomas, and he advised that it had been submitted for payment. As such, in accordance with the Order of Justice Newbould, dated April 20, 2017, which we still thought was the governing Order, we continued to produce and maintain the tomato seedlings.

18. On June 13, 2017, I spoke to Mr. Thomas again. On this occasion he told me to start looking for alternative sources to dispose of the tomato seedlings, as Thomas Canning would not be able to pay for and/or accept delivery of same. I was advised by Mr. Thomas that he was unable to secure a non-organic grower for the seedlings and that the receiver was not permitting Thomas Canning to pay suppliers of tomatoes up front on delivery.

19. Unfortunately, at this point, all other processors had all of their plants in their fields and there was accordingly no market for the plant seedlings developed for Thomas Canning. The tomato seedlings had to be destroyed.

20. We had incurred the entirety of our costs and expenses to develop and maintain these seedlings for Thomas Canning pursuant to the Local Tomato Plant Contract and the Order of Justice Newbould, dated April 20, 2017. If we had been advised in April 2017 to stop the production of the tomato seedlings, we would have at least had the opportunity to attempt to secure an alternative processor for the seedlings, or at the very least, prevented any further incurrence of the time and costs of production of the tomato seedlings in April 2017; rather than continuing to produce until June 2017.

21. Through the conduct of BFI and Richter, and their failure to provide any notice of these proceedings to Rol-Land Farms; in particular the motion and order of Justice Newbould dated May 1, 2017, and their failure to have any contact with Rol-Land Farms, denied Rol-Land Farms the

opportunity to attempt to mitigate its losses by finding an alternative producer, or, at the very least, destroy the plants at an earlier point in their production to save further production costs.

22. On June 19, 2017, I emailed Mr. Thomas Rol-Land Farms' final invoice, in the amount of \$42,260.01. Attached hereto and marked as **Exhibit "E"** is a copy of the final invoice of Rol-Land Farms, dated June 19, 2017.

23. The total amount due to Rol-Land Farms is \$85,414.98, plus interest. This amount became due and payable after the receivership order(s) were made, and pursuant to Rol-Land Farms' performance of its obligations under the Local Tomato Plant Contract and in compliance with the Order of Justice Newbould, dated April 20, 2017, which Order was requested by BFI and was made to permit Thomas Canning to continue its operations in 2017.

24. To date, this amount remains unpaid.

25. I have reviewed the affidavits of William Thomas, sworn May 17, 2017 and June 20, 2017, and now understand that BFI and Richter had originally supported Thomas Canning's intention to plant 400 acres and that BFI considered the 2017 seedling suppliers to be "critical expenses" of Thomas Canning for the ongoing operations of Thomas Canning, which it was prepared to fund.

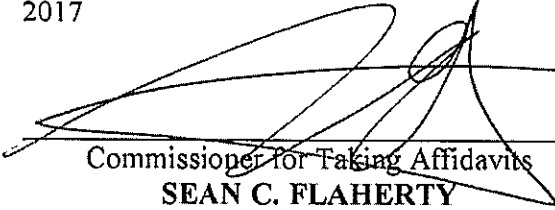
26. It is also my understanding from reviewing Mr. Thomas' affidavits, that BFI and Richter subsequently refused to allow the accounts of Rol-Land Farms to be paid.

27. I verily believe that BFI and Richter depended upon the presence of 2017 critical suppliers of the source materials for Thomas Canning's products, and benefitted from same, in selling the business as a going concern.

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28. To any extent necessary, I rely upon the provisions contained in Mr. Thomas' affidavits, sworn May 17, 2017 and June 20, 2017.

SWORN BEFORE ME at the City of London,
in the County of Middlesex on September 8,
2017

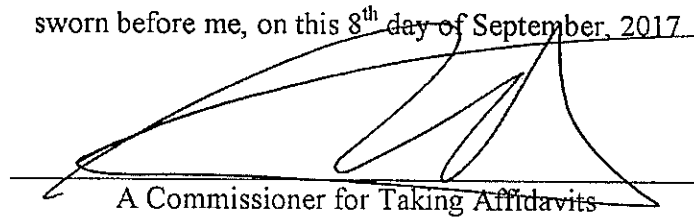


Commissioner for Taking Affidavits
SEAN C. FLAHERTY



LYNN DEBROUWER

This is Exhibit "A" referred to in the Affidavit of Lynn Debrouwer
sworn before me, on this 8th day of September, 2017

A handwritten signature in black ink, appearing to read "Sean C. Flaherty", is written over a horizontal line. The signature is stylized with a large, sweeping initial 'S' and a distinct 'F'.

A Commissioner for Taking Affidavits

Sean C. Flaherty

THOMAS CANNING LTD.

Packers of UTOPIA Brand Products

Rt. 111 - 516 South Lakeshore Dr.

Maitland, Ontario

N0H 1G0

**2017 Local Tomato Plant Contract**

Thomas Canning (Maitland) Limited hereinafter called the Company, hereby agrees to purchase from the undersigned Grower in the 2017 season, the tomato seedlings named in this contract.

The Grower hereby agrees to plant and care for 3,168,000 tomato plants using only seeds supplied by the Company. The grower also agrees to use only those agricultural pesticides registered for use in the production of greenhouse tomato seedlings in Canada and a current record of all pesticide applications should be readily available.

Both the grower and the company agree to provide all the cooperation necessary for sampling as part of an industry pesticide residue program. The Company hereby agrees to pay the grower as per the price schedule outlined in the 2017 Ontario Processing Tomato seedling Plant Growers Marketing Board Agreement at a budgeted plant count of 270, for all contracted seedling plug plants certified and delivered F.O.B. plant farm. The Board license fee of 0.20 cents per thousand and the grower's plant count and residue testing fee of 0.05 cents per thousand will be deducted from the price of plants.

PAYMENT PROVISIONS

Payment shall be made by the processor to the plant grower, after deducting all monies due and owing to the processor by the plant grower, for all tomato plants under Payment Provisions terms of the agreement.

DELIVERY SCHEDULE

Tomato seedling plug plants shall be grown in accordance with Marketing Board specifications and available for delivery as follow

THOMAS CANNING processing plant		
Variety	Quantity	Date
ISH28 (inventory)	24,000	05/08/17
9997 (inventory)	24,000	05/08/17
TSH38 (inventory)	180,000	05/08/17
	60,000	05/22/17
TSH18	240,000	05/11/17
	120,000	05/14/17
TSH24	120,000	05/14/17
	180,000	05/16/17
TSH40	120,000	05/16/17
	300,000	05/18/17
TSH26	120,000	05/17/17
	180,000	05/22/17
	120,000	05/29/17

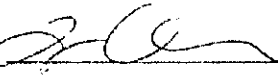
TSH39	180,000	05/27/17
TSH34	180,000	05/20/17
TOTAL TS	2,148,000	
VARIETY HEINZ		
H4007	270,000	05/25/17
	270,000	05/19/17
H3406	240,000	06/02/17
TOTAL HZ	780,000	
H4007 INSURANCE	240,000	05/23/17
TOTAL	3,168,000	

The provisions of the Farms Product Marketing Act and the Regulations and The Agreement for Marketing the 2017 Crop of Tomato Plants as approved by the Seedling Board shall apply to and form part of this contract

NOTICE TO BANKERS AND LENDING INSTITUTES

In the event the crop covered by this contract is used as collateral for a loan, or a lien is placed against the crop covered by this contract, or this contract is used in any way as collateral for a loan, the lender must notify the contractor of the crop as listed above to ensure payment is made to the appropriate parties.

GROWER Rolland Farms and Greenhouses Inc.
 ADDRESS R.R. # 3, 7162 Highway # 404
R.R. # 4, 19002 Communication Rd., Blenheim, ON N0P 1A0

SIGNATURE  TELEPHONE: 519-676-8425 ³⁻²⁵⁶

Thomas Canning (Maldstone) Limited hereby accepts the above contract and agrees to bind itself to the terms thereof.

Processor License Number 18

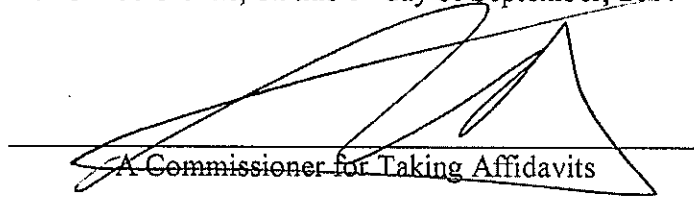
DATE: March 29, 2017


 PER THOMAS CANNING (MALDSTONE) LTD.

PHONE 737-1531 FAX 737-7003

²⁰¹⁷
 2015 Local Tomato Plant Contract

This is Exhibit "B" referred to in the Affidavit of Lynn Debrouwer
sworn before me, on this 8th day of September, 2017



A Commissioner for Taking Affidavits

Sean C. Flaherty

Dawn Eedy (McKenzie Lake Lawyers)

----- Original Message -----

Subject: Fw: Thomas filing -CREDITOR PROTECTION AND REORGANIZATION

Date: Sun, 30 Apr 2017 14:30:11 -0400

From: "DVD Farms" <dvd5@bell.net>

To: <ldebrouwer@rollandfarms.com>, <hvanderpol@rollandfarms.com>

Hi Lynn- This was sent to me yesterday.

DAVE

Court File No. CV-17-11773-0066

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

THE HONOURABLE MR) THURSDAY, THE 20TH DAY
JUSTICE NEWBOULD) OF APRIL, 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;**

**ORDER
(Appointment of Interim Receiver)**

THIS APPLICATION made by the Applicant for an Order pursuant to subsection 47(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**"), appointing Richter Advisory Group Inc. ("**Richter**") as interim receiver (in such capacities, the "**Interim 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 affidavit of Graham Marr sworn April 19, 2017 and the exhibits thereto and on hearing the submissions of counsel for the Applicant, no one appearing for any other person, and on reading the consent of Richter to act as the Interim Receiver,

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APPOINTMENT

1. **THIS COURT ORDERS** that pursuant to subsection 47(1) of the BIA, Richter is hereby appointed Interim Receiver, without security, of all of the assets, undertakings and properties of the Debtors acquired for, or used in relation to a business carried on by the Debtors, including all proceeds thereof (the "Property").

INTERIM RECEIVER'S POWERS

2. **THIS COURT ORDERS** that the Interim Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Interim Receiver is hereby expressly empowered and authorized to do any of the following where the Interim 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 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 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 Interim Receiver's powers and duties, including without limitation those conferred by this Order;
- d) to report to, meet with and discuss with such affected Persons (as defined below) as the Interim Receiver deems appropriate on all matters relating to the Property and the interim receivership, and to share information, subject to such terms as to confidentiality as the Interim Receiver deems advisable; and

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c) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations.

f) and in each case where the Interim 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.

CASH MANAGEMENT

3. **THIS COURT ORDERS** that the Debtors shall be required to continue to comply with cash management arrangements as set out and required under letter credit agreement dated July 3, 2015, as amended, between Thomas Canning, the Applicant and others, and the blocked account agreement dated June 29, 2015 entered into between Bank of Montreal, the Applicant and Thomas Canning.

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

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

5. **THIS COURT ORDERS** that all Persons shall forthwith advise the Interim 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 Interim Receiver or permit the Interim Receiver to make, retain and take away copies thereof and grant to the Interim Receiver

- 4 -

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 Interim 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 Interim Receiver for the purpose of allowing the Interim 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 Interim Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Interim Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Interim Receiver with all such assistance in gaining immediate access to the information in the Records as the Interim Receiver may in its discretion require including providing the Interim Receiver with instructions on the use of any computer or other system and providing the Interim 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 INTERIM 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 Interim Receiver except with the written consent of the Interim 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 Interim 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.

- 5 -

NO EXERCISE OF RIGHTS OR REMEDIES

9. **THIS COURT ORDERS** that all rights and remedies against the Debtors, the Interim Receiver, or affecting the Property, are hereby stayed and suspended except with the written consent of the Interim 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 Interim Receiver or the Debtors to carry on any business which the Debtors are not lawfully entitled to carry on, (ii) exempt the Interim 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 INTERIM 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, licence or permit in favour of or held by the Debtors, without written consent of the Interim 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 Interim Receiver, and that the Interim 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 Interim 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 Interim Receiver, or as may be ordered by this Court.

- 6 -

INTERIM RECEIVER TO HOLD FUNDS

12. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments that may be received or collected directly by the Interim Receiver from and after the making of this Order from any source whatsoever shall be deposited into one or more new accounts to be opened by the Interim Receiver (the "**Post Interim Receivership Accounts**") and the monies standing to the credit of such Post Interim Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Interim 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 shall remain the employees of the Debtors. The Interim Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Interim 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*.

LIMITATION ON ENVIRONMENTAL LIABILITIES

14. **THIS COURT ORDERS** that nothing herein contained shall require the Interim 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 Interim Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Interim Receiver shall not, as a result of this Order or anything done in pursuance of the Interim Receiver's duties and powers under this Order, be deemed to be

- 7 -

in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE INTERIM RECEIVER'S LIABILITY

15. **THIS COURT ORDERS** that the Interim 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 Interim Receiver by section 14.06 of the BIA or by any other applicable legislation.

INTERIM RECEIVER'S ACCOUNTS

16. **THIS COURT ORDERS** that the Interim Receiver and counsel to the Interim 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 Interim Receiver and counsel to the Interim Receiver shall be entitled to and are hereby granted a charge (the "**Interim 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 Interim Receiver's Charge shall form a charge on the Property in priority to the security interests in favour of the Applicant but behind all other security interests, trusts, liens, charges and encumbrances, statutory or otherwise (collectively, "**Encumbrances**"), in favour of any Person that has not been served with the notice of the application of this Order, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA. The Applicant and the beneficiaries of the Interim Receiver's Charge shall be entitled to seek priority ahead of all Encumbrances, on notice to those parties likely to be affected by such priority.

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

- 8 -

18. **THIS COURT ORDERS** that prior to the passing of its accounts, the Interim Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Interim 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 INTERIM RECEIVERSHIP

19. **THIS COURT ORDERS** that the Interim 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 \$500,000 (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 Interim 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 "Interim Receiver's Borrowings Charge") as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to the security interests in favour of the Applicant but behind all other Encumbrances in favour of any Person that has not been served with the notice of application of this Order, but subordinate in priority to the Interim Receiver's Charge and the charges as set out in sections 14.06(7), 81.4(4), and 81.6(2) of the BIA. The Applicant and the beneficiaries of the Interim Receiver's Borrowings Charge shall be entitled to seek priority ahead of all Encumbrances, on notice to those parties likely to be affected by such priority.

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

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

- 9 -

22. **THIS COURT ORDERS** that the monies from time to time borrowed by the Interim Receiver pursuant to this Order or any further order of this Court and any and all Interim 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 Interim Receiver's Certificates.

SERVICE AND NOTICE

23. **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/>) 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>'.

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

GENERAL

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

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26. **THIS COURT ORDERS** that nothing in this Order shall prevent the Interim Receiver from acting as a BIA section 243(1) receiver or as a trustee in bankruptcy of the Debtors.

27. **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 Interim Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Interim Receiver, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Interim Receiver and its agents in carrying out the terms of this Order.

28. **THIS COURT ORDERS** that the Interim 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 Interim 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.

29. **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 Interim Receiver from the Debtors' estate with such priority and at such time as this Court may determine.

30. **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 Interim 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.



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

APR 20 2017

PER / PAR: 

SCHEDULE "A"

INTERIM RECEIVER CERTIFICATE

CERTIFICATE NO. _____

AMOUNT \$ _____

1. THIS IS TO CERTIFY that Richter Advisory Group Inc., the interim receiver (the "Interim 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 ____ day of _____, 2017 (the "Order") made in an action having Court file number ____-CL-_____, has received as such Interim Receiver from the holder of this certificate (the "Lender") the principal sum of \$_____, being part of the total principal sum of \$_____ which the Interim 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 _____ 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 Interim Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Interim 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.

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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 Interim 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 Interim 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 Interim 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__.

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

Per: _____

Name:

Title:

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

Applicant

THOMAS CANNING (MAIDSTONE) LIMITED and 692194
ONTARIO LIMITED

Respondents

Court File No.

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
PROCEEDING COMMENCED AT TORONTO

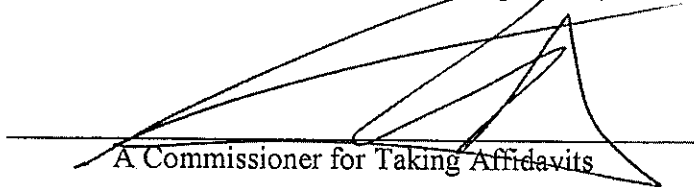
ORDER
(Appointment of Interim Receiver)

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

Sam Babe - LSUC # 49498B
Tel: 416.863.1500
Fax: 416.863.1515
Email: sbabe@airdberlis.com

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

This is Exhibit "C" referred to in the Affidavit of Lynn Debrouwer
sworn before me, on this 8th day of September, 2017



A Commissioner for Taking Affidavits

Sean C. Flaherty

Dawn Eedy (McKenzie Lake Lawyers)

From: ldebrouwer@rollandfarms.com
Sent: Friday, June 30, 2017 8:27 AM
To: Stuart Mackay (McKenzie Lake Lawyers)
Subject: Fwd: Thomas plants and contract
Attachments: IMG_2492.JPG; IMG_2491.JPG; IMG_2489.JPG; Thomas Canning Invoice.PDF

----- Original Message -----

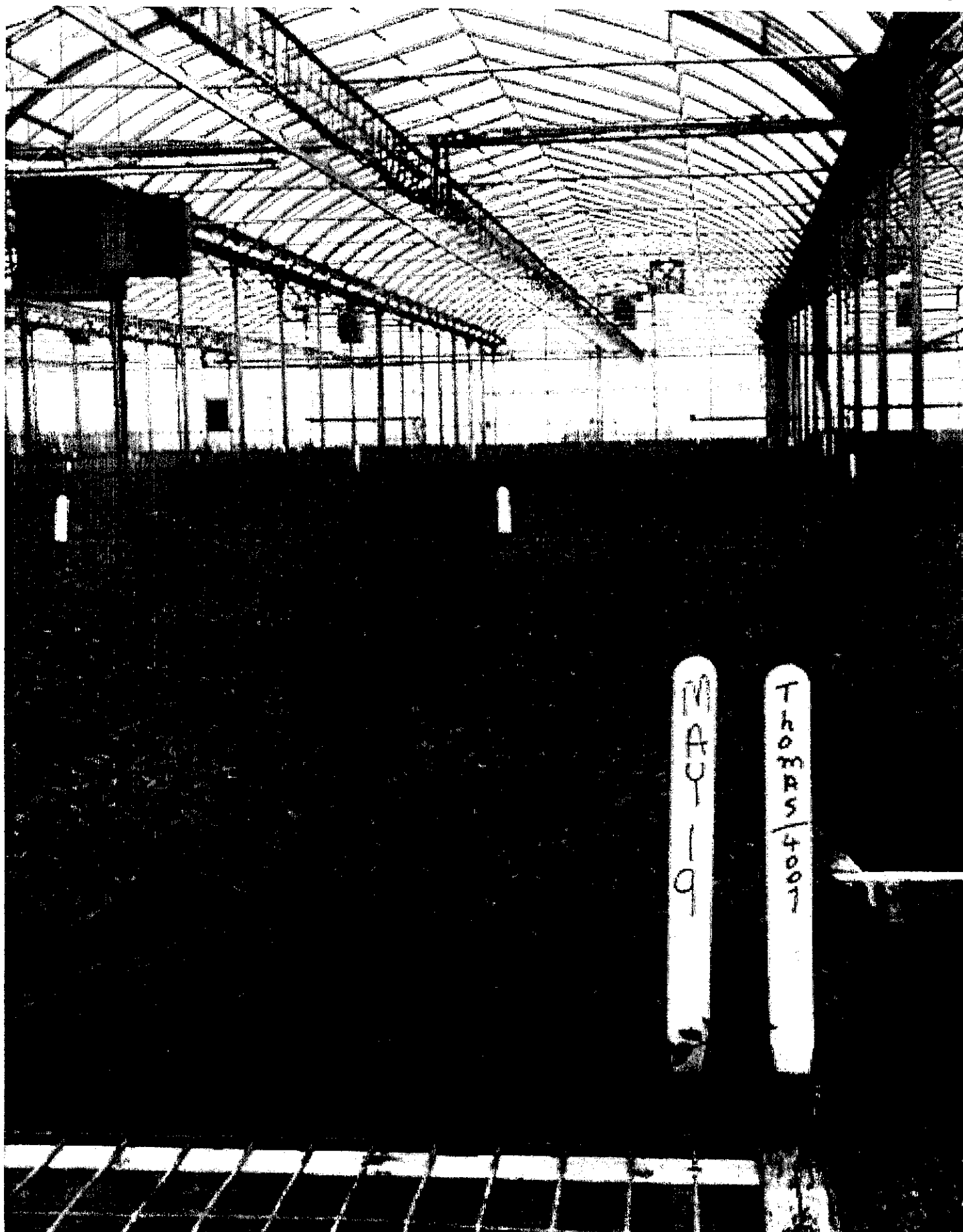
Subject: Fwd: Thomas plants and contract
Date: Mon, 01 May 2017 14:46:31 -0400
From: ldebrouwer@rollandfarms.com
To: William Thomas <williamt@thomascanning.net>

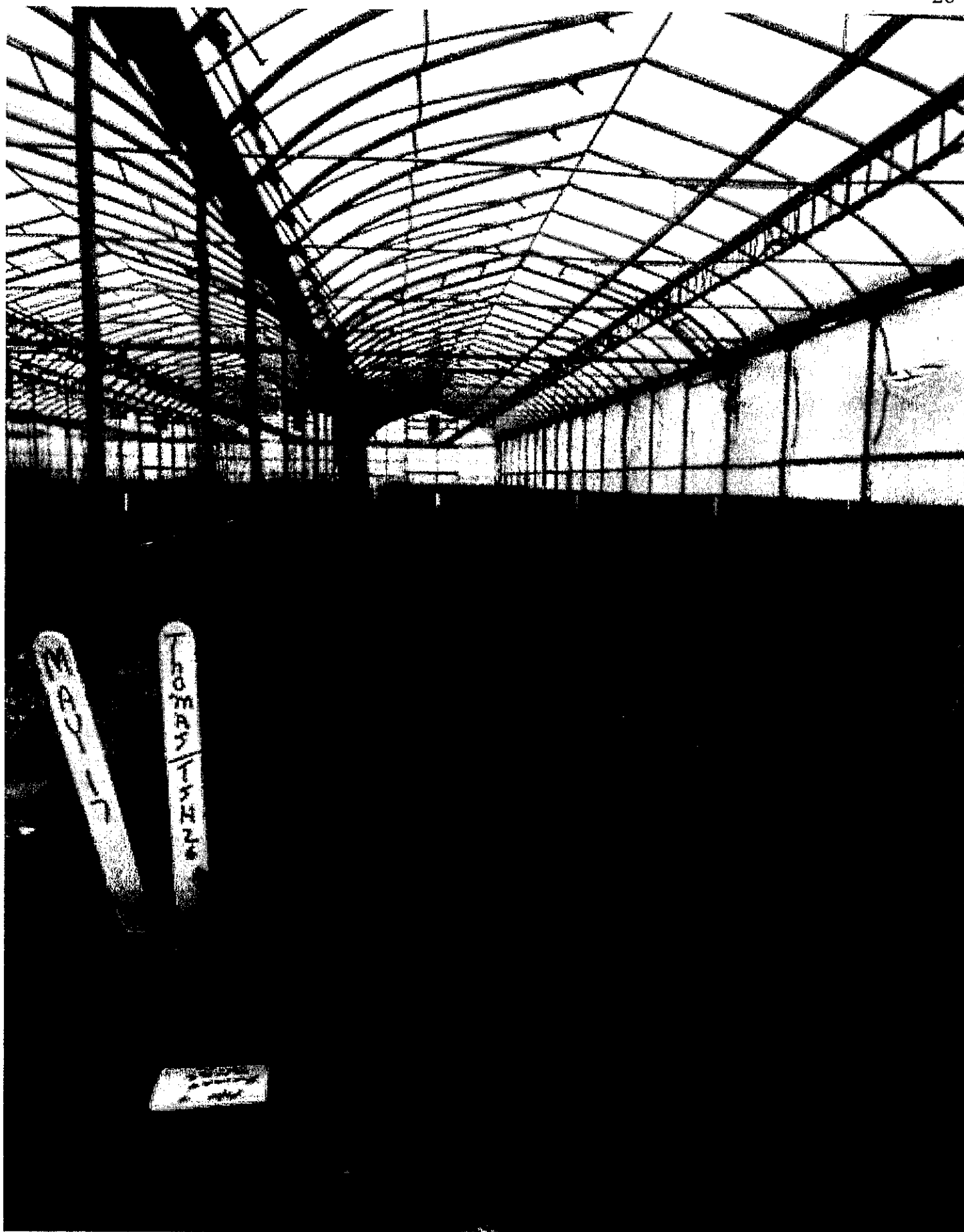
Good afternoon Bill,

As we discussed this morning I'm forwarding to you the first invoice for the tomato plants as well as a few pictures. Please let me know if you need anything further.

Thanks
Lynn

Sent from my iPhone







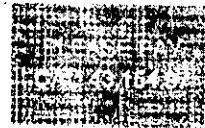


Rolland Farm and Greenhouses Inc.

Rolland Farms & Greenhouses Inc.
9102 Bisnett Line
RR 3
Blenheim ON N0P1A0
ldebrouwer@rollandfarms.com
GST Registration No.: 889086948

INVOICE 1091

DATE
01-06-2017



DLG FILE
4-05 2017

INVOICE TO
Thomas Canning (Maidstone) Limited
326 South Talbot Rd
Maidstone ON N0R 1K0

Please detach top portion and return with your payment.

ACTIVITY	QTY	RATE	AMOUNT
vegetable transplants	1	38,190.24	38,190.24
2017 Tomato Plant Contract (3,168,000 plants @ \$24.11/m) First Payment 50%			
			38,190.24
			4,964.73
			43,154.97

PAID TO:	38,190.24
MSI (CONTRACT)	4,964.73
TOTAL	43,154.97

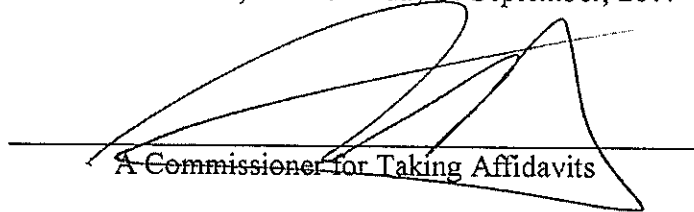
0000.000 CAD 49.154.97

Hydrogen 2500

TAX SUMMARY

RATE	TAX	NET
HST (ON) @ 13%	4,964.73	38,190.24

This is Exhibit "D" referred to in the Affidavit of Lynn Debrouwer
sworn before me, on this 8th day of September, 2017

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke, is written over a horizontal line. The signature is positioned above the text "A Commissioner for Taking Affidavits".

A Commissioner for Taking Affidavits

Sean C. Flaherty

Dawn Eedy (McKenzie Lake Lawyers)

----- Original Message -----

Subject: Fw: Thomas Canning (Maidstone) Limited

Date: Fri, 12 May 2017 17:12:55 -0400

From: "DVD Farms" <dvd5@bell.net>

To: <joel@labradel.com>, "Ross Adamson" <iradamson4@gmail.com>, "Jeff" <jeffmezenberg@hotmail.com>, <cove546@gmail.com>, "Angela McHardy" <aamchardy@gmail.com>, <otsgmb@gmail.com>

From: Sam Babe

Sent: Friday, May 12, 2017 2:40 PM

To: <mailto:mike.relf@ontario.ca>

Cc: 'David T. Ullmann' ; Sam P. Rappos ; <mailto:rwilson@wilsonspurrlaw.ca> ; <mailto:dvd5@bell.net> ; <mailto:jeff@hewittlaw.ca> ; <mailto:greg.sayer@agricorp.com> ; Ken Rosenstein

Subject: Thomas Canning (Maidstone) Limited

Please find attached our letter of today's date.

Sam Babe, J.D., M.B.A.

T 416.865.7718

F 416.863.1515

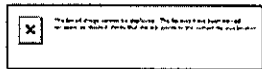
E sbabe@airdberlis.com

Brookfield Place • 181 Bay Street

Suite 1800 • Box 754

Toronto ON • M5J 2T9 • Canada

www.airdberlis.com



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to resolution of matter addressed in this communication



Please consider the environment before printing this email.

AIRD & BERLIS LLP

Barristers and Solicitors

Sam Babe
 Direct: 416.863.7718
 E-mail: sbabe@airdberlis.com

May 11, 2017

BY EMAIL

Ontario Farm Products Marketing Commission
 1 Stone Road West, 5th Floor SW
 Guelph, ON N1G 4Y2

Attention: Mike Relf, Secretary

Dear Sirs/Mesdames,

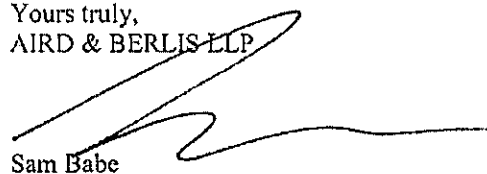
Re: Thomas Canning (Maidstone) Limited

As you know, we are counsel to Bridging Finance Inc. ("BFI"), the administrative and collateral agent to the senior secured lender of Thomas Canning (Maidstone) Limited ("Thomas Canning"). We are writing in response to the request made by Ontario Farm Products Marketing Commission (the "Commission"), at the end of the May 11, 2017 pre-hearing conference call, for written submissions on what security could be provided to any growers with which Thomas Canning might contract for in respect of the 2017 season.

BFI has advised that they have the financial resources and are prepared to fund Thomas Canning for security which may be negotiated between Thomas Canning and the applicable growers, whether it be it in the form of letters of credit or cash deposits on and subject to the following terms and conditions: (i) the proposed growing contracts shall be for an amount of product and on and terms and conditions acceptable to BFI; (ii) the proposed security or deposits shall be reasonable in both quantum and structure; and (iii) the Commission must confirm that, if any such security is put in place or any such deposits made, it will continue to provide a license to Thomas Canning or any purchaser of the business in order that they may be in a position to take delivery and make payment in full for all such product.

Given the timing involved with respect to the 2017 growing season, we would appreciate an answer on the above on an urgent basis so that Thomas Canning can negotiate and finalize contracts with the growers and BFI can make arrangements to provide them with security satisfactory to all.

Yours truly,
 AIRD & BERLIS LLP

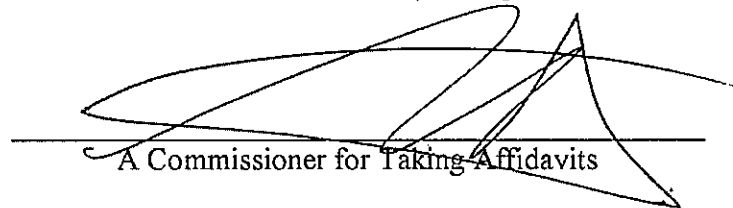


Sam Babe

c. David Ullman, Blaney McMurtry LLP
 Sam Rappos, Cheltons LLP
 Rob Wilson, Wilson Spurr LLP
 David Dick, Ontario Tomato Seedling Growers' Marketing Board
 Jeffrey Hewitt
 Greg Sawyer, Agricorp
 Ken Rosenstein, Aird & Berlis LLP

29287685.2

This is Exhibit "E" referred to in the Affidavit of Lynn Debrouwer
sworn before me, on this 8th day of September, 2017



A Commissioner for Taking Affidavits

Sean C. Flaherty



Rolland Farms and Greenhouses Inc.

Rolland Farms & Greenhouses Inc.
 9102 Bisnett Line
 RR 3
 Blenheim ON N0P1A0
 ldebrouwer@rollandfarms.com
 GST Registration No.: 889086948

Invoice 1086

DATE
 19-06-2017

PLEASE PAY
 CAD 42,260.01

DUE DATE
 01-07-2017

INVOICE TO
 Thomas Canning (Maidstone) Limited
 326 South Talbot Rd
 Maldstone ON N0R 1K0

Please detach top portion and return with your payment.

ACTIVITY	QTY	RATE	AMOUNT
vegetable transplants	1	38,190.24	38,190.24
2017 Tomato Plant Contract (3,168,000 plants @ \$24,11/m) Final Payment			
Board fees	-3,168	0.20	-633.60
3,168,000 @ \$0.20/m			
Count Fees	-3,168	0.05	-158.40
3,168,000 @ \$0.05/m			
		SUBTOTAL	37,398.24
		HST (ON) @ 13%	4,861.77
		TOTAL	42,260.01

TOTAL DUE CAD 42,260.01

THANK YOU

TAX SUMMARY

	RATE	TAX	NET
HST (ON) @ 13%		4,861.77	37,398.24

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

AFFIDAVIT OF LYNN DEBROUWER

MCKENZIE LAKE LAWYERS LLP
140 Fullarton Street, Suite 1800
London, Ontario N6A 5P2

Stuart R. Mackay (24517U)
Sean C. Flaherty (56379Q)
Tel: 519-672-5666
Fax: 519-672-2674

Lawyers for the Creditor,
Rol-Land Farms Ltd. and Greenhouses Inc.

BRIDGING FINANCE INC., AS AGENT FOR SPROTT
BRIDGING INCOME FUND LP
Applicant

-and-

THOMAS CANNING (MAIDSTONE) LIMITED AND 692194
ONTARIO LIMITED
Respondent

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

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST
PROCEEDING COMMENCED AT
TORONTO

RESPONDING MOTION RECORD

MCKENZIE LAKE LAWYERS LLP
140 Fullarton Street, Suite 1800
London, Ontario N6A 5P2

Stuart R. Mackay (24517U)
Sean C. Flaherty (56379Q)

Tel: 519-672-5666
Fax: 519-672-2674

Lawyers for the Creditor,
Rol-land Farms Ltd. and Greenhouses Inc.