

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

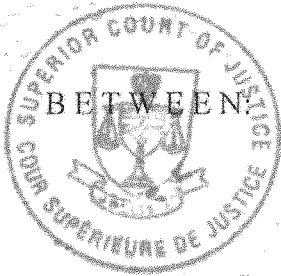
THE HONOURABLE

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THURSDAY, THE 13TH

JUSTICE *DUNPHY*

DAY OF DECEMBER, 2018



**BRIDGING FINANCE INC., as agent for
2665405 ONTARIO INC.**

Applicant

- and -

1033803 ONTARIO INC. and 1087507 ONTARIO LIMITED

Respondents

APPROVAL AND VESTING ORDER

THIS MOTION, made by KSV Kofman Inc. in its capacity as the Court-appointed receiver and manger (in such capacities, the "Receiver") without security, of (i) all the assets, undertakings and properties of 1033803 Ontario Inc. operating as Forma-Con Construction and Forma Finishing and 1087507 Ontario Limited (the "Debtors"), acquired for or used in relation to a business carried on by the Debtors, (ii) the specific assets of Bondfield Construction Company Limited and Bondfield Construction Equipment Ltd, and (iii) the real property known municipally as 131

Saramia Crescent in Vaughan, Ontario, for an order approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (the "Sale Agreement") between the Receiver and George Frankfort in trust for a corporation to be incorporated ("GF") dated November 23, 2018, and amended pursuant to an amending agreement dated December 10, 2018, and appended to the Report of the Receiver dated December 10, 2018 (the "Report"), and vesting in GF Equipment Corp. (the "Purchaser") as assignee of GF the Receiver's and the Debtor's 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, including the Confidential Appendices (as defined in the Report) and on hearing the submissions of counsel for the Receiver, counsel for the Purchaser, counsel for Bridging Finance Inc., and such other counsel appearing on the counsel slip, no one appearing for any other person on the service list, although properly served as appears from the affidavit of service of Adam Slavens sworn December 11, 2018, filed, the affidavit of service of Cathy Pellegrini sworn December 12, 2018, filed, and the affidavit of service of Siva Sivaperuman sworn December 12, 2018, filed:

1. THIS COURT ORDERS AND DECLARES that the Transaction is 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 that the Confidential Appendices shall be treated as confidential and shall be segregated from other documents filed in connection with this motion, and shall not be disclosed to any person except: (i) the Debtor, who shall be entitled to access to the Sale Agreement, provided that, prior to such disclosure, the Debtor shall deliver to the Receiver a written agreement and undertaking, in form satisfactory to the Receiver, to keep the said Confidential Appendices confidential and not disclose same to any person (a "Confidentiality Undertaking"), except to the extent necessary to obtain legal advice thereon from counsel for the purposes of advancing legitimate interests in respect of the Purchased Assets and the proceeds

thereof; (ii) the Court; and (iii) such other person as may be directed by further Order of this Honourable Court, on notice to the Receiver and the Applicant and the Confidential Appendices provided to such persons shall be provided in a sealed envelope marked with the following label:

Pursuant to an order dated December 13, 2018, this envelope shall remain sealed in the court file or otherwise (as applicable) and shall not be opened until the filing with the Court of the Receiver's Certificate or upon further order of the Court.

and the Confidential Appendices shall not be disclosed by a recipient thereof to any other person until the filing with the Court of the Receiver's Certificate or upon further Order of the Court.

3. THIS COURT ORDERS that the Receiver is hereby authorized without the requirement for a further Order of the Court to:

- (a) enter into a rental agreement with the Purchaser for use of the Equipment (as defined in the Sale Agreement) and to pay a monthly rental fee for such Equipment in an amount to be mutually agreed upon based upon prevailing market rates;
- (b) enter into a rental agreement with the Purchaser for use of the Aluma Equipment (as defined in the Sale Agreement) at the same rate as set out in the Aluma Contracts (as defined in the Sale Agreement);
- (c) pay to the Purchaser the Pre-Closing Revenue, any entitlement of the Purchaser to the Escrow Amount, and the balance of the Pre-Closing Liabilities Reimbursement, if applicable, (each capitalized term as defined in the Sales Agreement); and
- (d) incur such expense as the Receiver determines is necessary to complete the Removal Arrangements (as defined in the Sale Agreement).

4. 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 (as defined in the Sale Agreement) 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 Order of the Honourable Justice Hainey dated November 19, 2018; and (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 (all of which are collectively referred to as the "Encumbrances"), 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.

5. THIS COURT ORDERS, subject to paragraph 6, that for the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets (the "Proceeds") 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 that the Receiver shall be entitled to pay the amounts owing to Gabrielli Crane Erectors Inc. contemplated by section 15(c) of the Sale Agreement out of the Proceeds.

7. THIS COURT ORDERS that the protections granted to the Receiver pursuant to the Order dated November 19, 2018, including without limitation paragraphs 14 and 15-18 thereof, apply to the Transaction.

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

9. 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 records pertaining to the Debtors' past and current employees, including personal information of those employees listed on Schedule "E" 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 Debtors.

10. 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;

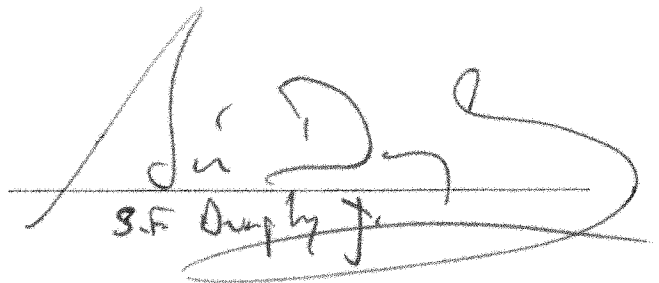
the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors and shall not be void or voidable by creditors of the Debtors, nor shall it constitute nor be deemed to be a fraudulent preference, 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.

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

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

DEC 13 2018

PER / PAR:



S.F. Dupuy Jr.

Schedule A – Form of Receiver’s Certificate

Court File No. CV-18-608978-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:

**BRIDGING FINANCES INC., as agent for
2665405 ONTARIO INC.**

Applicant

- and -

1033803 ONTARIO INC. and 1087507 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 November 19, 2018, KSV Kofman Inc. was appointed as the receiver and manger (in such capacities, the “Receiver”) without security, of (i) all the assets,

undertakings and properties of 1033803 Ontario Inc. operating as Forma-Con Construction and Forma Finishing and 1087507 Ontario Limited (the "Debtors"), acquired for or used in relation to a business carried on by the Debtors, (ii) the specific assets of Bondfield Construction Company Limited and Bondifeld Construction Equipment Ltd, and (iii) the real property known municipally as 131 Saramia Crescent in Vaughan, Ontario.

B. Pursuant to an Order of the Court dated December 13, 2018, the Court approved the agreement of purchase and sale made as of November 23, 2018, (the "Sale Agreement") between the Receiver and GF Equipment Corp. (the "Purchaser") and provided for the vesting in the Purchaser of the Receiver's and 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 sections 13 and 14 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 sections 13 and 14 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 December _____, 2018.

**KSV KOFMAN INC., in its capacity as
Receiver of the undertaking, property and
assets of 1033803 Ontario Inc. and 1087507
Ontario Limited, and not in its personal
capacity**

Per: _____

Name:

Title:

**BRIDGING FINANCE INC.,
as agent for 2665405 ONTARIO INC.**

Applicant

**1033803 ONTARIO INC. and
1087507 ONTARIO LIMITED**

Respondents

Court File No. CV-18-608978-00CL

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

Proceedings commenced in Toronto

APPROVAL AND VESTING ORDER

TORYS LLP

79 Wellington St. W., Suite 3000
Box 270, TD Centre
Toronto, Ontario
M5K 1N2 Canada
Fax: 416.865.7380

Scott A. Bomhof (LSO#: 37006F)
Tel: 416.865.7370
Email: sbomhof@torys.com

Adam M. Slavens (LSO#: 54433J)
Tel: 416.865.7333
Email: aslavens@torys.com

Lawyers for KSV Kofman Inc.,
in its capacity as Court-appointed
Receiver