

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

B E T W E E N:

SKYMARK FINANCE CORPORATION

Applicant

and

MAHAL VENTURE CAPITAL INC. and GOLDEN MILES FOOD
CORPORATION

Respondents

**RESPONDING MOTION RECORD OF MNP LTD.,
IN ITS CAPACITY AS COURT APPOINTED RECEIVER OF
12175622 CANADA INC. AND GPM FOOD INC.
AND WITHOUT PERSONAL OR CORPORATE LIABILITY**

(Motion Returnable June 4, 2024 - Omit Tax Dispute hearing)

April 26, 2024

GOWLING WLG (CANADA) LLP
Barristers & Solicitors
1 First Canadian Place
100 King Street West, Suite 1600
Toronto ON M5X 1G5

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Lawyers for MNP Ltd., in its capacity as
Court Appointed Receiver of 12175622
Canada Inc. and GPM Food Inc. and
without personal or corporate liability

TO: SERVICE LIST

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

B E T W E E N:

SKYMARK FINANCE CORPORATION

Applicant

and

MAHAL VENTURE CAPITAL INC. and GOLDEN MILES FOOD
CORPORATION

Respondents

SERVICE LIST
(as at March 27, 2024)

<p>CHAITONS LLP 5000 Yonge Street, 10th Floor Toronto, Ontario M2N 7E9</p> <p>Harvey Chaiton (LSO # 21592F) Tel: 416-218-1129 Fax: 416-218-1849 Email: harvey@chaitons.com</p> <p>Lawyers for Skymark Finance Corporation</p>	<p>DICKINSON WRIGHT LLP 199 Bay Street Suite 2200, Box 447 Commerce Court Postal Station Toronto, Ontario M5L 1G4</p> <p>David P. Preger (LSO #36870L) Tel: 416-646-4606 Email: dpreger@dickinsonwright.com</p> <p>Lisa S. Corne (LSO #27974M) Email: lcorne@dickinsonwright.com</p> <p>David Z. Seifer (LSO #77474F) Tel: 416-646-6867 Email: dseifer@dickinsonwright.com</p> <p>Lawyers for the Respondents, Mahal Venture Capital Inc. and Golden Miles Food Corporation</p>
<p>KIRWIN PARTNERS LLP 423 Pelissier Street Windsor, ON N9A 4L2</p> <p>Rodney M. Godard Tel: 519.255.9840 ext. 112 Email: rgodard@kirwinpartners.com</p> <p>Lawyers for Santokh Mahal</p>	<p>MARY L. BIGGAR Tel: 416-475-1444 Email: mlbiggar@mlbiggar.com</p>

<p>JESSE MAHAL 6845 Second Line West Mississauga, Ontario L5W 1M8 Email: jesse.mahal@gmail.com</p>	<p>SANTOKH MAHAL 800 Swinbourne Drive Mississauga, Ontario L5V 1J6 Email: s.mahal@rogers.com</p>
<p>WATEROUS HOLDEN AMEY HITCHON LLP 20 Wellington Street P.O. Box 1510 Brantford, Ontario N3T 5V6</p> <p>Dennis Touesnard Tel: 519-759-6220 Email: dtouesnard@waterousholden.com</p> <p>Lawyers for Vicano Construction Limited</p>	<p>DEPARTMENT OF JUSTICE CANADA Ontario Regional Office 120 Adelaide Street West, Suite 400 Toronto, Ontario M5H 1T1</p> <p>Email: AGC-PGC.Toronto-Tax-Fiscal@justice.gc.ca</p> <p>Lawyers for Canada Revenue Agency</p>
<p>KSV RESTRUCTURING INC. 150 King Street West, Suite 2308 Toronto, Ontario M5H 1J9</p> <p>Noah Goldstein Tel: 416-932-6207 Email: ngoldstein@ksvadvisory.com</p> <p>Mitch Vininsky Email: mvininsky@ksvadvisory.com</p> <p>Murtaza Tallat Email: mtallat@ksvadvisory.com</p> <p>Receiver</p>	<p>BLAKE, CASSELS & GRAYDON LLP 199 Bay Street Suite 4000, Commerce Court West Toronto, Ontario M5L 1A9</p> <p>Chris Burr Tel: 416-863-3261 Email: chris.burr@blakes.com</p> <p>Daniel Loberto Tel: 416-863-2937 Email: daniel.loberto@blakes.com</p> <p>Lawyers for the Receiver</p>
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Inc. and KLN Holdings Inc.**

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**HIS MAJESTY THE QUEEN IN RIGHT
OF THE PROVINCE OF ONTARIO AS
REPRESENTED BY THE MINISTER OF
FINANCE**

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Inc., in its capacity as court-appointed
receiver and manager of Bridging
Finance Inc. et al.**

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<p>KANIA LAWYERS 223 Main Street North Brampton, Ontario L6X 1N2</p> <p>Antal Bakaity Tel: 905-451-3222 Email: abakaity@kanialawyers.com</p> <p>Lawyers for Birdseye Security Solutions</p>	<p>JANODEE INVESTMENTS LTD. 68 Alexandra Wood North York, Ontario M5N 2S5</p> <p>Stanley Cash Email: lcash@rogers.com</p>
<p>STIEBER BERLACH LLP 130 Adelaide Street West, 32nd Floor Toronto, Ontario M5H 3P5</p> <p>Kurt Pereira Tel: 416-594-4683 Email: kpereira@sblegal.ca</p> <p>Lawyers for Lanhack Consultants Inc. and David Hacking</p>	<p>SHILLINGTON McCALL LLP 148 Fullarton Street, Unit #1500 London, Ontario N6A 5P3</p> <p>David Thompson Tel: 519-645-7330, Ext. 223 Email: dthompson@shillingtonmccall.ca</p> <p>Lawyers for The Corporation of the City of Brantford</p>
<p>SEAGRAVE BUILDING SYSTEMS LTD. 55 Robinglade Drive Seagrave, Ontario L0C 1G0 Email: info@seagravebuildings.com</p>	<p>THE CORPORATION OF THE CITY OF BRANTFORD Tax Office 55 Dalhousie Street Brantford, Ontario N3TG 2J2 Email: tax.info@brantford.ca</p>

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1989474 Ontario Inc.**

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**Lawyers for the MNP Ltd., in its
capacity as Court Appointed Receiver
of 12175622 Canada Inc. and GPM Food
Inc. and without personal or corporate
liability**

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B E T W E E N:

SKYMARK FINANCE CORPORATION

Applicant

- and -

MAHAL VENTURE CAPITAL INC. and GOLDEN MILES FOOD
CORPORATION

Respondents

**RESPONDING MOTION RECORD OF MNP Ltd., in its capacity as
Court Appointed Receiver of 12175622 Canada Inc. and
GPM Food Inc. and without personal or corporate liability**

I N D E X

Tab	Description
1	Affidavit of Dale Snider affirmed April 25, 2024
A	Exhibit "A" – 2022 City of Brantford Tax Certificate
B	Exhibit "B" – City of Brantford Confirmation of Payment dated May 30, 2022
C	Exhibit "C" – 2023 City of Brantford Tax Certificate
D	Exhibit "D" – Letter dated June 9, 2023 from T. Gertner to City of Brantford

Court File No. CV-21-00664778-00CL

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B E T W E E N:

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and

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CORPORATION

Respondents

AFFIDAVIT

I, Dale Snider, of the Town of Elmira, in the Province of Ontario, AFFIRM:

1. I am the Senior Corporate & Commercial Account Manager, Special Credit at Farm Credit Canada ("**FCC**"). FCC provided financing for the Purchaser in the court-approved sale process in this proceeding (described in more detail below), and, as such, have knowledge of the matters contained in this affidavit, except where I refer to matters based on information and belief, in which case I state the source of that information and believe it to be true.
2. I make this affidavit in respect of the Receiver's motion for an order that the Receiver, KSV Restructuring Inc. ("**KSV**"), is not liable or otherwise obligated to pay 12175622 Canada Ltd. ("**121**") or the City of Brantford on account of the Omit Tax Claims (as defined below).
3. FCC takes no position on the remaining issues raised in the motion.

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4. 121 entered into an Agreement of Purchase and Sale dated March 18, 2022 to purchase substantially all of the Property (the “**Purchased Property**”) in this Receivership (the “**Transaction**”).

5. The Transaction included the purchase of real property located at 155 Adams Boulevard, Brantford, Ontario (the “**Lands**”).

6. FCC provided financing for the Transaction.

7. On April 11, 2022, KSV brought a motion to approve the Transaction and obtained an approval and vesting order with respect to the Transaction (the “**Approval and Vesting Order**”), which conveyed the Purchased Property to 121 free and clear of all claims and encumbrances.

8. Based on the information available on the website maintained by KSV in these proceedings, I understand from Thomas Gertner of Gowling WLG, solicitors for FCC, and believe it to be true that the City of Brantford was served with the motion materials to approve the Transaction. I am further advised that there is no documentary record of any opposition to the KSV motion for the Approval and Vesting Order by the City of Brantford.

9. In advance of the closing of the Transaction, the City of Brantford issued a tax certificate in respect of the Lands dated March 21, 2022 (the “**2022 Tax Certificate**”). The 2022 Tax Certificate certified there were outstanding taxes against the Lands in the amount of \$156,501.53. A copy of the 2022 Tax Certificate is attached as **Exhibit “A”**.

10. In reliance on financing provided by FCC, the Purchaser closed the Transaction on May 18, 2022.

11. On May 25, 2022, KSV paid the full amount of the 2022 Tax Certificate. The City of Brantford confirmed receipt of funds on May 30, 2022. A copy of the City of Brantford's confirmation of receipt of funds is attached as **Exhibit "B"**.

12. On June 1, 2023, FCC obtained an updated tax certificate in respect of the Lands (the "**2023 Tax Certificate**"), reflecting significant tax arrears that had not previously been disclosed (the "**Omit Tax Claims**"). A copy of the 2023 Tax Certificate is attached as **Exhibit "C"**.

13. Until receiving the 2023 Tax Certificate, FCC had no notice of any tax arrears other than those addressed in the 2022 Tax Certificate.

14. On June 9, 2023, FCC, in its capacity as senior secured lender to 121, wrote a letter to the City of Brantford setting out its position that the tax arrears reflected in the 2023 Tax Certificate related to taxes which had been vested out as a claim against the Lands pursuant to the Approval and Vesting Order, the 2022 Tax Certificate and FCC's reasonable expectations. A copy of the June 9, 2023 letter (excluding enclosures) is attached as **Exhibit "D"**.

15. FCC advanced funds for the Transaction on its specific reliance that the Property was being conveyed free and clear of any claims or encumbrances, and on the 2022 Tax Certificate. FCC would not have agreed to advance funds for the Transaction if it

was aware the Omit Tax Claims were a continued liability as against the Purchaser and the Lands.

16. FCC subsequently brought an application on January 18, 2024 to appoint MNP Ltd. as receiver and manager, without security, over all assets, undertakings and properties of 121 and a related entity, GPM Food Inc., (collectively, "GPM") acquired for, or used in relation to a business carried on by GPM, which includes the Lands. The Court granted the relief sought by Order of Justice Krawchenko dated January 18, 2024.

AFFIRMED by Dale Snider of the Town of Elmira, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on April 25, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



DocuSigned by:
Heather Fisher

Commissioner for Taking Affidavits
(or as may be)

HEATHER FISHER (LSO#75006L)

DocuSigned by:
Dale Snider

DALE SNIDER

This is Exhibit "A" referred to in the Affidavit of Dale Snider affirmed by Dale Snider of the Town of Elmira, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on April 25, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

Heather Fisher

2F7B29C04CC6424...

Commissioner for Taking Affidavits (or as may be)

HEATHER FISHER



TAX CERTIFICATE

Property Tax Office: 58 Dalhousie St. (N3T 2J2)
 (Mail To) P.O. Box 515, Brantford, ON N3T 6L6
 Phone: (519) 759-4150 Email: tax.info@brantford.ca
www.brantford.ca

CERTIFICATION DATE	ROLL NUMBER
March 21, 2022	2906-030-007-07200-0000

CERTIFICATE NUMBER	FEE PAID	ACCOUNT NO.	REFERENCE #
250216	\$80.00	00167800	

REQUESTED BY:	PROPERTY OWNER & LEGAL DESCRIPTION
BLAKE, CASSELS & GRAYDON LLP BARRISTERS & SOLICITORS 199 BAY ST SUITE 4000 TORONTO ON M5L 1A9	MAHAL VENTURE CAPITAL INC 155 ADAMS BLVD BRANTFORD CON 3 PT LOTS 38 AND 39 RP 2R6545 PARTS 1 AND 2 RP 2R4747 PART 1 RP 2R1332 PARTS 1 TO 3

(Certificate authorized by Section 352 of the Municipal Act, 2001, S.O. 2001, c.25)

CURRENT LEVY:	INTERIM	FINAL	SUPP/OMIT/ OTHER	ADJUSTMENT FOR CAP/CLAWBACK	TOTAL LEVY
	\$25,871.48	\$0.00	\$650.00	0.00	\$26,521.48

INSTALMENTS	TAXES LEVIED	TAXES PAST DUE	PENALTY / INTEREST	TOTAL OUTSTANDING
Interim Inst. 1. Feb 25, 22	\$12,936.48	\$12,936.48	\$161.71	\$13,098.19
Interim Inst. 2. Apr 27, 22	\$12,935.00	\$0.00	\$0.00	\$12,935.00
Final Inst. 1.	\$0.00	\$0.00	\$0.00	\$0.00
Final Inst. 2.	\$0.00	\$0.00	\$0.00	\$0.00
Supp/Omit/Other	\$650.00	\$650.00	\$7.50	\$657.50

PRIOR YEAR LEVY	\$51,742.94
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(YEARS NOT DETAILED BELOW ARE PAID IN FULL)

PRIOR YEARS	TAXES PAST DUE	PENALTY / INTEREST	TOTAL OUTSTANDING
2021	\$51,742.94	\$6,628.97	\$58,371.91
2020	\$58,183.84	\$13,255.09	\$71,438.93
2019 and Prior DEFERRED TAXES ON ACCOUNT CREDIT	\$0.00	\$0.00	\$0.00
			\$0.00
GRAND TOTAL OUTSTANDING (ALL YEARS):			\$156,501.53

I HEREBY CERTIFY THAT THE ABOVE STATEMENTS RESPECTIVELY SHOW:

- The current amount of taxes on Real Property and whether any or all of the taxes have been paid as at this date in connection with the above lands, and that the Interim and/or Final taxes as described above, for The Corporation of the City of Brantford have been levied for the current year; and
- All arrears of taxes returned to this office and due and owing against the above lands.

(FOR) CITY TREASURER



TAX CERTIFICATE

Property Tax Office: 58 Dalhousie St. (N3T 2J2)
 (Mail To) P.O. Box 515, Brantford, ON N3T 6L6
 Phone: (519) 759-4150 Email: tax.info@brantford.ca
www.brantford.ca

LOCAL IMPROVEMENTS ASSESSED TO THE PROPERTY TO DATE INCLUDE:

<u>BY LAW</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>	<u>EXPIRY</u>
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Note: The City of Brantford does not have any properties with local improvement charges added to property tax accounts.

- Water and Sewer Arrears should be checked with Customer Services, at P.O. Box 515, Brantford, ON. N3T 6L6. Phone 519-756-1360.
- This Certificate reflects only those charges added to the Tax Collectors Roll up to the date of Certification.
- Any Credit Balance appearing on this Certificate is not verified. No adjustment should be made unless the credit balance is a known and acknowledged overpayment.
- The Tax Levy to date does not include subsequent supplementary taxes that may be levied and added under Section 33 or 34 of the Assessment Act, R.S.O. 1990, c.A.31, as amended, nor does it include adjustments that may be made under Section 357, 358 and 359 of the Municipal Act, and Section 39.1 and 40 of the Assessment Act.
- Supplementary tax bills for new buildings and additions/improvements to existing buildings, etc., have various due dates depending on when the billing is issued. They are normally payable in two installments with 21 days notice.
- Tax due dates for regular billings are normally during the months of February, April, June and September. Please call to verify this years due dates.
- If the taxes on this property are paid by **Pre-Authorized Payment (PAP)**, the owner is responsible for notifying the Tax Office when to cancel the PAP deductions. Deductions can be stopped up to the day before the PAP file is transmitted to our bank. Once the file is transmitted, the payments will be processed. We will not refund any payments that have been processed prior to notice being given to cancel the deductions. Taxes can be adjusted on closing to include the final PAP deduction.



TAX CERTIFICATE

Property Tax Office: 58 Dalhousie St. (N3T 2J2)
 (Mail To) P.O. Box 515, Brantford, ON N3T 6L6
 Phone: (519) 759-4150 Email: tax.info@brantford.ca
www.brantford.ca

CERTIFICATION DATE	ROLL NUMBER
March 21, 2022	2906-030-007-07910-0000

CERTIFICATE NUMBER	FEE PAID	ACCOUNT NO.	REFERENCE #
250217	\$80.00	00964411	25198/2

REQUESTED BY:	PROPERTY OWNER & LEGAL DESCRIPTION
BLAKE, CASSELS & GRAYDON LLP BARRISTERS & SOLICITORS 199 BAY ST SUITE 4000 TORONTO ON M5L 1A9	MAHAL VENTURE CAPITAL INC 403 S/S@ ADAMS CON 3 PT LOT 38 RP 2R6421 PART 2

(Certificate authorized by Section 352 of the Municipal Act, 2001, S.O. 2001, c.25)

CURRENT LEVY:	INTERIM	FINAL	SUPP/OMIT/ OTHER	ADJUSTMENT FOR CAP/CLAWBACK	TOTAL LEVY
	\$506.75	\$0.00	\$650.00	0.00	\$1,156.75

INSTALMENTS	TAXES LEVIED	TAXES PAST DUE	PENALTY / INTEREST	TOTAL OUTSTANDING
Interim Inst. 1. Feb 25, 22	\$253.75	\$253.75	\$3.17	\$256.92
Interim Inst. 2. Apr 27, 22	\$253.00	\$0.00	\$0.00	\$253.00
Final Inst. 1.	\$0.00	\$0.00	\$0.00	\$0.00
Final Inst. 2.	\$0.00	\$0.00	\$0.00	\$0.00
Supp/Omit/Other	\$650.00	\$650.00	\$7.50	\$657.50

PRIOR YEAR LEVY	\$1,013.49
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(YEARS NOT DETAILED BELOW ARE PAID IN FULL)

PRIOR YEARS	TAXES PAST DUE	PENALTY / INTEREST	TOTAL OUTSTANDING
2021	\$1,013.49	\$129.80	\$1,143.29
2020	\$1,139.65	\$259.77	\$1,399.42
2019 and Prior DEFERRED TAXES ON ACCOUNT CREDIT	\$0.00	\$0.00	\$0.00
			\$0.00
GRAND TOTAL OUTSTANDING (ALL YEARS):			\$3,710.13

I HEREBY CERTIFY THAT THE ABOVE STATEMENTS RESPECTIVELY SHOW:

- The current amount of taxes on Real Property and whether any or all of the taxes have been paid as at this date in connection with the above lands, and that the Interim and/or Final taxes as described above, for The Corporation of the City of Brantford have been levied for the current year; and
- All arrears of taxes returned to this office and due and owing against the above lands.

(FOR) CITY TREASURER



TAX CERTIFICATE

Property Tax Office: 58 Dalhousie St. (N3T 2J2)
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LOCAL IMPROVEMENTS ASSESSED TO THE PROPERTY TO DATE INCLUDE:

<u>BY LAW</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>	<u>EXPIRY</u>
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Note: The City of Brantford does not have any properties with local improvement charges added to property tax accounts.

- Water and Sewer Arrears should be checked with Customer Services, at P.O. Box 515, Brantford, ON. N3T 6L6. Phone 519-756-1360.
- This Certificate reflects only those charges added to the Tax Collectors Roll up to the date of Certification.
- Any Credit Balance appearing on this Certificate is not verified. No adjustment should be made unless the credit balance is a known and acknowledged overpayment.
- The Tax Levy to date does not include subsequent supplementary taxes that may be levied and added under Section 33 or 34 of the Assessment Act, R.S.O. 1990, c.A.31, as amended, nor does it include adjustments that may be made under Section 357, 358 and 359 of the Municipal Act, and Section 39.1 and 40 of the Assessment Act.
- Supplementary tax bills for new buildings and additions/improvements to existing buildings, etc., have various due dates depending on when the billing is issued. They are normally payable in two installments with 21 days notice.
- Tax due dates for regular billings are normally during the months of February, April, June and September. Please call to verify this years due dates.
- If the taxes on this property are paid by **Pre-Authorized Payment (PAP)**, the owner is responsible for notifying the Tax Office when to cancel the PAP deductions. Deductions can be stopped up to the day before the PAP file is transmitted to our bank. Once the file is transmitted, the payments will be processed. We will not refund any payments that have been processed prior to notice being given to cancel the deductions. Taxes can be adjusted on closing to include the final PAP deduction.

This is Exhibit "B" referred to in the Affidavit of Dale Snider affirmed by Dale Snider of the Town of Elmira, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on April 25, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

Heather Fisher

Commissioner for Taking Affidavits (or as may be)

HEATHER FISHER



Mitch Vininsky
ksv advisory inc.

150 King Street West, Suite 2308
 Toronto, Ontario, M5H 1J9
 T +1 416 932 6013
 F +1 416 932 6266

mvininsky@ksvadvisory.com
ksvadvisory.com

May 25, 2022

VIA COURIER

City of Brantford
 Customer Services Utilities
 58 Dalhousie Street
 Brantford, ON N3T 2J2

Dear Sirs:

**Re: Mahal Venture Capital Inc. and Golden Miles Food Corporation
 Sale to 12175622 Canada Ltd. of the property municipally known as
 155 Adams Blvd, Brantford, Ontario, and legally described in PINs 32281-0177(LT)
 and
 32281-0309(LT) as more particularly set out in Schedule "A" attached (the "Property")
 Assessment Roll Nos.: 2906-030-007-07200-0000 and 2906-030-007-07910-0000**

This letter is to advise the City of Brantford (the "City") that on May 18, 2022, the Receiver completed a sale of the Property to 12175622 Canada Ltd. Please find enclosed a cheque in the amount of \$167,402.39 payable to the City, representing payment of the property tax arrears, interest and penalties up to May 31, 2022, for the Property, calculated as follows:

Item	Amount Outstanding as per Tax Certificates (up to March 31, 2022)	April 27, 2022 Tax Instalment	Water Arrears	Interest and Penalties for April and May, 2022	Total
Property Taxes for Roll No. 2906-030-007-07910-0000	\$3,457.13	\$253.00	\$0.00	\$79.58	\$3,789.71
Property Taxes for Roll No. 2906-030-007-07200-0000	\$143,566.53	\$12,935.00	\$3,656.83	\$3,454.32	\$163,612.68
Total					\$167,402.39

Kindly acknowledge receipt of the enclosed cheque by executing the enclosed photocopy of this letter, where indicated, and return same to the attention of the undersigned in the self-addressed, self-stamped envelope enclosed.

PAID
 4 MAY 30 2022
 \$167,402.39 m.
CITY OF BRANTFORD

COPY

If you have any questions, please contact the undersigned at mvininsky@ksvadvisory.com or 416-932-6013.

Yours truly,

**KSV RESTRUCTURING INC.,
IN ITS CAPACITIES AS COURT-APPOINTED RECEIVER AND MANAGER,
AND TRUSTEE IN BANKRUPTCY OF
MAHAL VENTURE CAPITAL INC. AND GOLDEN MILES FOOD CORPORATION
AND NOT IN ITS PERSONAL OR CORPORATE CAPACITY**



Per: Mitch Vininsky

MV:lq
Encl.

The undersigned acknowledges receipt of the enclosed cheque in the amount of \$167,402.39 this ____ day of May, 2022.

CITY OF BRANTFORD

By: _____
Name:
Title:

SCHEDULE "A"

LEGAL DESCRIPTION

Municipal Address: 155 Adams Boulevard, Brantford, Ontario

PIN: 32281-0177(LT)

Legal Description:

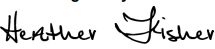
PT LT 38 CON 3 GEOGRAPHIC TWP OF BRANTFORD, BEING PT 2 ON 2R4137;
BRANTFORD CITY; T/W EASEMENT OVER PART LOTS 37 & 38, CON 3
GEOGRAPHIC TWP OF BRANTFORD, PT 24,25,26,30,31,32,36,37,38,42,43,44, 2R6421
AS IN BC66565 AND PT RELEASE IN BC96373

PIN: 32281-0309(LT)

Legal Description:

FIRSTLY: PART LOTS 38, 39, CONCESSION 3 BRANTFORD CITY DESIGNATED AS
PARTS 1, 2, PLAN 2R6545; SUBJECT TO EASEMENT OVER PART 2, PLAN 2R6545 AS
IN BC304245; SECONDLY: PART LOTS 38, 39, CONCESSION 3 BRANTFORD CITY
DESIGNATED AS PARTS 1, 2, 3, PLAN 2R1332 AND PART 1, PLAN 2R4747; CITY OF
BRANTFORD

This is Exhibit "C" referred to in the Affidavit of Dale Snider affirmed by Dale Snider of the Town of Elmira, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on April 25, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:


2F7B29C94CC6424...

Commissioner for Taking Affidavits (or as may be)

HEATHER FISHER



TAX CERTIFICATE

Property Tax Office: 58 Dalhousie St. (N3T 2J2)
 (Mail To) P.O. Box 515, Brantford, ON N3T 6L6
 Phone: (519) 759-4150 Email: tax.info@brantford.ca
www.brantford.ca

CERTIFICATION DATE	ROLL NUMBER
June 1, 2023	2906-030-007-07200-0000

CERTIFICATE NUMBER	FEE PAID	ACCOUNT NO.	REFERENCE #
260854	\$80.00	00167800	T-1028737

REQUESTED BY:	PROPERTY OWNER & LEGAL DESCRIPTION
GOWLING WLG 1 FIRST CANADIAN PLACE 100 KING ST W SUITE 1600 TORONTO ON M5X 1G5	12175622 CANADA LTD 155 ADAMS BLVD BRANTFORD CON 3 PT LOTS 38 AND 39 RP 2R6545 PARTS 1 AND 2 RP 2R4747 PART 1 RP 2R1332 PARTS 1 TO 3

(Certificate authorized by Section 352 of the Municipal Act, 2001, S.O. 2001, c.25)

CURRENT LEVY:	INTERIM	FINAL	SUPP/OMIT/ OTHER	ADJUSTMENT FOR CAP/CLAWBACK	TOTAL LEVY
	\$202,462.02	\$329,830.01	\$0.00	0.00	\$532,292.03

INSTALMENTS	TAXES LEVIED	TAXES PAST DUE	PENALTY / INTEREST	TOTAL OUTSTANDING
Interim Inst. 1. Feb 24, 23	\$101,231.02	\$101,231.02	\$5,061.56	\$106,292.58
Interim Inst. 2. Apr 26, 23	\$101,231.00	\$101,231.00	\$2,530.78	\$103,761.78
Final Inst. 1. Jun 30, 23	\$164,915.01	\$0.00	\$0.00	\$164,915.01
Final Inst. 2. Sep 06, 23	\$164,915.00	\$0.00	\$0.00	\$164,915.00
Supp/Omit/Other	\$0.00	\$0.00	\$0.00	\$0.00

PRIOR YEAR LEVY	\$409,527.73
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(YEARS NOT DETAILED BELOW ARE PAID IN FULL)

PRIOR YEARS	TAXES PAST DUE	PENALTY / INTEREST	TOTAL OUTSTANDING
2022	\$379,192.32	\$23,498.33	\$402,690.65
2021	\$347,819.93	\$19,564.89	\$367,384.82
2020 and Prior	\$391,116.18	\$22,000.32	\$413,116.50
DEFERRED TAXES			\$0.00
ON ACCOUNT CREDIT			\$0.00
GRAND TOTAL OUTSTANDING (ALL YEARS):			\$1,723,076.34

I HEREBY CERTIFY THAT THE ABOVE STATEMENTS RESPECTIVELY SHOW:

- The current amount of taxes on Real Property and whether any or all of the taxes have been paid as at this date in connection with the above lands, and that the Interim and/or Final taxes as described above, for The Corporation of the City of Brantford have been levied for the current year; and
- All arrears of taxes returned to this office and due and owing against the above lands.

(FOR) CITY TREASURER



TAX CERTIFICATE

Property Tax Office: 58 Dalhousie St. (N3T 2J2)
 (Mail To) P.O. Box 515, Brantford, ON N3T 6L6
 Phone: (519) 759-4150 Email: tax.info@brantford.ca
www.brantford.ca

LOCAL IMPROVEMENTS ASSESSED TO THE PROPERTY TO DATE INCLUDE:

<u>BY LAW</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>	<u>EXPIRY</u>
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Note: The City of Brantford does not have any properties with local improvement charges added to property tax accounts.

- Water and Sewer Arrears should be checked with Customer Services, at P.O. Box 515, Brantford, ON. N3T 6L6. Phone 519-756-1360.
- This Certificate reflects only those charges added to the Tax Collectors Roll up to the date of Certification.
- Any Credit Balance appearing on this Certificate is not verified. No adjustment should be made unless the credit balance is a known and acknowledged overpayment.
- The Tax Levy to date does not include subsequent supplementary taxes that may be levied and added under Section 33 or 34 of the Assessment Act, R.S.O. 1990, c.A.31, as amended, nor does it include adjustments that may be made under Section 357, 358 and 359 of the Municipal Act, and Section 39.1 and 40 of the Assessment Act.
- Supplementary tax bills for new buildings and additions/improvements to existing buildings, etc., have various due dates depending on when the billing is issued. They are normally payable in two installments with 21 days notice.
- Tax due dates for regular billings are normally during the months of February, April, June and September. Please call to verify this years due dates.
- If the taxes on this property are paid by **Pre-Authorized Payment (PAP)**, the owner is responsible for notifying the Tax Office when to cancel the PAP deductions. Deductions can be stopped up to the day before the PAP file is transmitted to our bank. Once the file is transmitted, the payments will be processed. We will not refund any payments that have been processed prior to notice being given to cancel the deductions. Taxes can be adjusted on closing to include the final PAP deduction.

This is Exhibit "D" referred to in the Affidavit of Dale Snider affirmed by Dale Snider of the Town of Elmira, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on April 25, 2024 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

DocuSigned by:

Heather Fisher

Commissioner for Taking Affidavits (or as may be)

HEATHER FISHER



June 9, 2023

Thomas Gertner
Direct 416 369 4618
Thomas.gertner@gowlingwlg.com

SENT BY COURIER AND ELECTRONIC MAIL

CITY OF BRANTFORD

Property Tax Office
P.O. Box 515
Brantford, ON N3T 6L6
tax.info@brantford.ca

CITY OF BRANTFORD

Property Tax Office
58 Dalhousie St.
Brantford, ON N3T 2J2

**Re: ROLL NUMBER - 2906-030-007-07200-0000
155 ADAMS BLVD – BRANTFORD, ONTARIO, LEGALLY DESCRIBED AS BRANTFORD
CON 3 PT LOTS 38 AND 39 RP 2R6545 PARTS 1 AND 2 RP 2R4747 PART 1 RP 2R1332
PARTS 1 TO 3**

We are counsel to Farm Credit Canada Inc. ("FCC").

FCC is the senior secured lender to 12175622 Canada Ltd. (the "Owner") and holds a first mortgage against the above noted lands (the "Lands") in the principal amount of \$30,000,000.

The Owner acquired the Lands pursuant to the terms of an approval and vesting order (the "Sale Transaction") issued by the Ontario Superior Court of Justice [Commercial List] (the "Court") dated April 11, 2022 (the "2022 AVO") in the receivership proceedings of Mahal Venture Capital Inc. (the prior owner) ("MVCI"). A copy of the AVO attached as **Schedule A** to this Letter.

FCC financed the acquisition of the Lands by the Owner. In advance of closing the Transaction, the City of Brantford issued a tax certificate in respect of the Lands dated as March 21, 2022 (the "2022 Tax Certificate"). The 2022 Tax Certificate certified that there were outstanding taxes against the Lands in the amount of \$156,501.53. A copy of the 2022 Tax Certificate is attached as **Schedule B**.

On May 25, 2022, the Receiver of the property, assets, and undertakings of MVCI couriered a cheque to the City of Brantford paying in full the amount certified as owing in the 2022 Tax Certificate. The City of Brantford acknowledged receipt of this payment on May 30, 2022. A copy of the Receiver's letter enclosing the cheque and the city's corresponding acknowledgement of payment are attached as **Schedule C**.

On June 1, 2023, FCC obtained an updated tax certificate in respect of the Lands (the "2023 Tax Certificate"). The 2023 Tax Certificate is attached as **Schedule D**.



To FCC's surprise the 2023 Tax Certificate indicates that there are significant tax arrears that were not previously disclosed in the 2022 Tax Certificate and which are for periods that pre-date the 2022 Tax Certificate (including prior to 2020). The amount now shown as outstanding totals over \$1,723,076.34.

We are writing to you to formally request that the City of Brantford confirm as soon as possible, and by no later than June 20, 2023, the reason for the discrepancy in the 2022 Tax Certificate and the 2023 Tax Certificate. In particular, we would ask that the City confirm why amounts are being shown as owing that weren't included in the 2022 Tax Certificate relied upon for the Transaction.

We further note that pursuant to paragraph 4 of the terms of the 2022 AVO, the owner acquired the Lands free and clear of and from any and all, liens, executions, levies, charges, or other financial or monetary claims, whether or not they had attached or been perfected, registered or filed and whether secured, unsecured or otherwise. Further, FCC relied on these and other terms of the 2022 AVO and on the 2022 Tax Certificate in advancing funds to the Owner and in registering its mortgage against the Lands.

In conclusion, the 2023 Tax Certificate appears to indicate that the City of Brantford is seeking to collect on taxes which have been vested out as a claim against the Lands pursuant to the terms of the 2022 AVO issued by the Court, contrary to its prior tax certificate and to the prejudice of FCC's reasonable expectations.

Sincerely,

Gowling WLG (Canada) LLP

A handwritten signature in black ink, appearing to read "T. Gertner", positioned above the printed name.

Thomas Gertner

Enclosure

SKYMARK FINANCE CORPORATION
Applicant

Court File No. CV-21-00664778-00CL
- and - MAHAL VENTURE CAPITAL INC., et al.
Respondents

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

PROCEEDING COMMENCED AT
TORONTO

**AFFIDAVIT OF DALE SNIDER
AFFIRMED APRIL 25, 2023**

GOWLING WLG (CANADA) LLP

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Clifton Prophet (LSO#34845K)

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Fax: 416-862-7661

clifton.prophet@gowlingwlg.com

Heather Fisher (LSO#75006L)

Tel: 416-369-7202

Fax: 416-862-7661

heather.fisher@gowlingwlg.com

Lawyers for the MNP Ltd., in its capacity as Court Appointed
Receiver of 12175622 Canada Inc. and GPM Food Inc. and
without personal or corporate liability

File Number: T1033017

SKYMARK FINANCE CORPORATION
Applicant

Court File No. CV-21-00664778-00CL
- and - MAHAL VENTURE CAPITAL INC., et al.
Respondents

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

PROCEEDING COMMENCED AT
TORONTO

RESPONDING MOTION RECORD OF MNP LTD.

GOWLING WLG (CANADA) LLP

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100 King Street West, Suite 1600
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heather.fisher@gowlingwlg.com

Lawyers for MNP Ltd.

File Number: T1033017