

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

B E T W E E N:

AMERICAN GENERAL LIFE INSURANCE COMPANY,
LEXINGTON INSURANCE COMPANY, AND
THE VARIABLE ANNUITY LIFE INSURANCE COMPANY

Applicants

- and -

SOUTHMOUNT HEALTHCARE CENTRE INC., 180 VINE INC., 2478658
ONTARIO LTD., 2009 LONG LAKE HOLDINGS INC., 65 LARCH
HOLDINGS INC., 100 COLBORNE HOLDINGS INC., 240 OLD
PENETANGUISH HOLDINGS INC., GROSS PROPERTIES INC., 180 VINE
PURCHASER INC., AND 2413667 ONTARIO INC.

Respondents

**APPLICATION UNDER section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985,
c. B-3, as amended, and under section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43**

**MOTION RECORD
(Approval of Broker Engagement, Sale Process and Ancillary Matters)
Returnable October 29, 2021**

October 22, 2021

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Barristers and Solicitors
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**ONTARIO
SUPERIOR COURT OF JUSTICE
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(as at October 22, 2021)

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MOTION RECORD

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TAB 1

Court File No. CV-21-00664273-00CL

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**NOTICE OF MOTION
(Approval of Broker Engagement, Sale Process and Ancillary Matters)
Returnable October 29, 2021**

KPMG INC., in its capacity as the receiver and manager (in such capacity, the “**Receiver**”), will make a motion to Mr. Justice Koehnen on **Friday, October 29, 2021 at 3:00 p.m. (Toronto time)**, or as soon after that time as the motion can be heard, by judicial videoconference via Zoom at Toronto, Ontario due to the COVID-19 pandemic. Please refer to the video conference details attached at Schedule “A” hereto in order to attend the motion, and advise if you plan to attend the motion by emailing Maia Jorgensen at maia.jorgensen@blakes.com.

THE MOTION IS FOR:

(a) An order, substantially in the form of the draft Order included in the Motion Record of the Receiver, *inter alia*:

- (i) approving the broker listing agreement dated as of October 20, 2021 (the “**Broker Engagement Agreement**”) with CBRE Limited (“**CBRE**” or the “**Broker**”) and the engagement of the Broker as exclusive real estate broker in accordance with the terms therein;
- (ii) approving the proposed Sale Process set out at Schedule “A” to the form of Order contained at Tab 3 of the Receiver’s Motion Record (the “**Sale Process**”) and described in the First Report of the Receiver dated October 21, 2021 (the “**First Report**”);
- (iii) approving the Lease Termination Settlement (as defined below);
- (iv) sealing Confidential Appendices “A”, “B” and “C” to the First Report (collectively, the “**Confidential Appendices**”); and
- (v) granting certain other ancillary relief; and

(b) such further and other relief as counsel may request and this Honourable court may permit.

THE GROUNDS FOR THE MOTION ARE:*Background*

1. Pursuant to the Order of the Honourable Mr. Justice Dunphy granted on June 29, 2021 of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”), KPMG Inc. was appointed

as Receiver of all of the Legal Owners' Property and the Beneficial Owners' Property (each as defined in the First Report), which are primarily made up of interests in seven medical office buildings (and one associated parking lot) located across Ontario and leases related thereto (defined in the First Report as the "**Real Property Assets**");

2. Forthwith after its appointment, the Receiver took possession and control of the Real Property Assets. A detailed update on the proceedings, including the Receiver's activities to date, is included in the First Report. The Receiver now seeks to commence a robust sale process to thoroughly market the Real Property Assets and maximize value;

Engagement of CBRE as Broker

3. On October 20, 2021, the Receiver entered into the Broker Listing Agreement with CBRE, to act as the exclusive listing agent and assist in developing and implementing the proposed Sale Process for the Real Property Assets, subject to Court approval;

4. Before engaging CBRE, the Receiver conducted a request for proposal process ("**RFP**") inviting a number of real estate brokerage firms to submit proposals to act as a listing broker for the Real Property Assets;

5. In response to the RFP, the Receiver obtained separate proposals from five real estate brokers, each setting out economic terms, marketing plans, and relevant expertise. The Receiver met with each of these five brokers to engage with them on the terms of their submitted proposal. After carefully considering the responses received to the RFP, the Receiver selected CBRE as Broker for, the reasons set out in the First Report;

6. From the Receiver's perspective, the CBRE fee arrangement is fair, reasonable and within a narrow competitive range of most of the responses received to the RFP;

7. The Broker Listing Agreement includes commercially sensitive terms and is expressly conditional on Court approval. The Receiver will serve and file, concurrently with this Motion, a copy of the First Report that includes a redacted copy of the Broker Listing Agreement but does not include the Confidential Appendices. The Receiver will also provide the Court with an unredacted copy of the First Report containing the Confidential Appendices, as discussed in greater detail below.

Approval of the Sale Process

8. Having selected CBRE as Broker (subject to Court approval), the Receiver is now seeking Court approval for the Sale Process;

9. The proposed Sale Process provides for the solicitation of potential purchases, marketing and advertising of the Real Property Assets, procedure and deadlines for the submissions of bids, the criteria by which bids will be assessed, and the procedure for accepting a successful bid or bids, in each case developed in consultation with the Broker, the Applicants and other registered mortgagees of the Real Property Assets;

10. From start to finish, the proposed Sale Process is anticipated to run for approximately 6 months, which period of time takes into account approximately 3-4 weeks around the December holiday period where a significantly lower level of market activity is anticipated. However, by the terms of the Sale Process, certain deadlines and timelines may be revised by the Receiver, in consultation with the Broker and on notice to interested parties;

11. The elements of the Sale Process, and the Receiver's views regarding them are discussed in detail in the First Report;
12. The proposed Sale Process requires the Receiver to make a motion to this Court to obtain approval of any successful bid(s) and one or more vesting orders with respect to the asset purchase agreement(s) with any successful bidder(s);
13. The Receiver is of the view that the Sale Process is reasonable and appropriate in the circumstances, for the reasons detailed in the First Report.

Approval of the Lease Termination Settlement

14. Prior to the receivership date of June 29, 2021 (the "**Receivership Date**"), a dispute had arisen between 2478658 Ontario Ltd. ("**247 Ontario**") and its former tenant, Peterborough Regional Health Centre ("**PRHC**") in respect of a purported termination of a lease by PRHC and as at the Receivership Date, the parties were well advanced in negotiation of a potential settlement (the "**Lease Termination Settlement**");
15. Following its appointment, the Receiver assessed and approved the terms of the proposed Lease Termination Settlement, having regard to (i) advice from its counsel, following a review of the matter with 247 Ontario's counsel, (ii) the proposed settlement amount of \$800,000 payable by PRHC to 247 Ontario relative to the total quantum of claim by 247 Ontario, and (iii) the resources, costs and risks associated with pursuing and, ultimately, litigating the claim.
16. On September 29, 2021, the Receiver, for and on behalf of 247 Ontario, entered into Minutes of Settlement with PRHC (the "**Minutes of Settlement**"), subject to Court approval. The parties have agreed to keep the Minutes of Settlement confidential.

17. The Receiver is supportive of the Lease Termination Settlement for the reasons set out in the First Report, including because it results in material proceeds accruing to the estate of 247 Ontario and limits the costs and resources associated with litigating the claim.

Sealing Order

18. The Minutes of Settlement contained in Confidential Appendix “A” to the First Report is subject to a confidentiality clause as among the parties and contains certain confidential and sensitive information relating to the matters in dispute that may adversely impact the parties.

19. Confidential Appendix “B” to the First Report contains a comparison of the proposals received from interested brokers and contains confidential, sensitive and competitive information, including pricing information. If such information were disclosed, it would have a detrimental impact on each of the interested brokers that submitted a Proposal, as well as any future efforts to engage a new broker (should the need arise);

20. Confidential Appendix “C” to the First Report contains an unredacted copy of the Broker Engagement Agreement which is subject to a confidentiality clause and also contains confidential, sensitive and competitive information, including pricing information of the Broker. If such information were disclosed, it would also have a detrimental impact on the Broker and any future efforts to engage a new broker (should the need arise);

21. Accordingly, in the Receiver’s view, it is necessary and appropriate for the Confidential Appendices to be sealed.

Additional Grounds

22. The grounds as more particularly set out in the First Report, filed;
23. Rules 1.04, 2.03, 3.02, 16 and 37 of the *Rules of Civil Procedure*, R.R.O 1990, Reg 194, as amended; and
24. Such further and other grounds as counsel may advise and this Honourable Court may permit.

THE FOLLOWING DOCUMENTARY EVIDENCE will be used at the hearing of the motion:

1. The First Report, filed;
2. The Affidavit of Service of Nancy Thompson and the exhibits thereto, to be filed;
3. Such further and other evidence as counsel may advise and this Honourable Court may permit.

October 22, 2021

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Lawyers for the Receiver

TO: SERVICE LIST

SCHEDULE “A”

Join Zoom Meeting

<https://us02web.zoom.us/j/89346682367?pwd=VDM5Ty9uR1dsN0lQS2JZRFlUxTGhQQT09>

Meeting ID: 893 4668 2367

Passcode: 879875

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+1 301 715 8592 US (Washington DC)

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+1 470 250 9358 US (Atlanta)

+1 470 381 2552 US (Atlanta)

+1 602 753 0140 US (Phoenix)

+1 646 518 9805 US (New York)

+1 651 372 8299 US (Minnesota)

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+1 720 928 9299 US (Denver)

+1 786 635 1003 US (Miami)

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+1 971 247 1195 US (Portland)

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Meeting ID: 893 4668 2367

Passcode: 879875

Find your local number: <https://us02web.zoom.us/u/kSyugmoHz>

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Join by H.323

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69.174.57.160 (Canada Toronto)

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Meeting ID: 893 4668 2367

Passcode: 879875

Court File No.: CV-21-00664273-00CL

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TAB 2

Court File No.: CV-21-00664273-00CL

**FIRST REPORT OF KPMG INC.,
IN ITS CAPACITY AS RECEIVER AND MANAGER OF**

Southmount Healthcare Centre Inc. *et al.*

OCTOBER 21, 2021

Court File No.: CV-21-00664273-00CL

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

**AMERICAN GENERAL LIFE INSURANCE COMPANY,
LEXINGTON INSURANCE COMPANY, AND
THE VARIABLE ANNUITY LIFE INSURANCE COMPANY**

Applicants

AND

**SOUTHMOUNT HEALTHCARE CENTRE INC.,
180 VINE INC.,
2478658 ONTARIO LTD.,
2009 LONG LAKE HOLDINGS INC.,
65 LARCH HOLDINGS INC.,
100 COLBORNE HOLDINGS INC.,
240 OLD PENETANGUISH HOLDINGS INC.,
GROSS PROPERTIES INC.,
180 VINE PURCHASER INC., AND
2413667 ONTARIO INC.**

Respondents

APPLICATION UNDER section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, and under Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43

**FIRST REPORT OF KPMG INC.
In its capacity as Receiver and Manager**

DATED OCTOBER 21, 2021

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I. INTRODUCTION

1. On June 29, 2021 (the “**Receivership Date**”), upon application by American General Life Insurance Company, Lexington Insurance Company, and The Variable Annuity Life Insurance Company (collectively, the “**Applicants**”), KPMG Inc. (“**KPMG**”) was appointed as receiver and manager (the “**Receiver**”) pursuant to an order (the “**Appointment Order**”) of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) under section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”), and section 101 of the *Courts of Justice Act* R.S.O. 1990 c. C. 43, as amended, without security, of (i) all of the assets, undertakings and properties, including the real property described in Schedule “A” to the Appointment Order (the “**Real Property**”) of Southmount Healthcare Centre Inc., 180 Vine Inc. (“**Vine**”), 2478658 Ontario Ltd., 2009 Long Lake Holdings Inc., 65 Larch Holdings Inc., 100 Colborne Holdings Inc., and 240 Old Penetanguish Holdings Inc. (collectively, the “**Legal Owners**”) acquired for, or used in relation to the Legal Owners’ business, including any interest held by Vine to which Her Majesty the Queen in Right of Ontario (the “**Crown**”) may have rights and any interest in the applicable Real Property conveyed by the Crown to 180 Vine Purchaser Inc. (collectively, the “**Legal Owners’ Property**”), and (ii) 180 Vine Purchaser Inc., Gross Properties Inc. and 2413667 Ontario Inc. (collectively, the “**Beneficial Owners**” and together with the Legal Owners, the “**Debtors**”) but solely in respect of all of the Beneficial Owners’ right, title and interest in and to the Legal Owners’ Property, including the Real Property and all proceeds thereof, whether held directly or indirectly by the Beneficial Owners for themselves or for others (collectively, the “**Beneficial Owners’ Property**” and together with the Legal Owners’ Property, the “**Property**”).
2. Prior to its appointment as Receiver, KPMG filed a report (the “**Pre-Filing Report**”) to provide information to the Court in connection with the Applicants’ application for the Appointment Order (the “**Application**”). An electronic copy of the Pre-Filing Report is available on the Receiver’s Website (as defined herein).

II. PURPOSE OF REPORT

3. The purpose of this first report of the Receiver (the “**First Report**”) is to provide this Honourable Court with information pertaining to:
 - (a) the status of these receivership proceedings (the “**Proceedings**”) generally, as at the date of this First Report;

- (b) the activities of the Receiver since the Receivership Date;
- (c) the proposed Lease Termination Settlement (defined below) and the Receiver's request that this Court approve such settlement and grant a sealing order in respect of the particulars of same;
- (d) the Receiver's proposed sale process in respect of the Property, a copy of which is attached hereto as **Appendix "A"** (the "**Sale Process**");
- (e) the interim statement of receipts and disbursements of the Receiver (the "**Interim R&D**") from the Receivership Date to and including September 30, 2021 (the "**Period**");
- (f) the Receiver's request that this Court approve an extension of the term of the Receiver Term Sheet, a copy of which is attached hereto as **Appendix "B"**, which is set to expire on December 29, 2021, pursuant to an amending agreement;
- (g) the results of the security review performed by the Receiver's independent counsel, Norton Rose Fulbright Canada LLP ("**Norton Rose**"); and
- (h) the Receiver's conclusions and recommendations.

III. QUALIFICATIONS & TERMS OF REFERENCE

4. In preparing this First Report and making the comments herein, the Receiver has been provided with, or has relied upon certain unaudited, draft, and/or internal financial information, the Legal Owners' records and financial information and information from other third-party sources (collectively, the "**Information**"). The Receiver has reviewed the Information for reasonableness, internal consistency and use in the context in which it was provided. The Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the Information in a manner that would wholly or partially comply with Canadian Auditing Standards ("**CAS**") pursuant to the Chartered Professional Accountants Canada Handbook, and accordingly, the Receiver expresses no opinion or other form of assurance in respect of the Information.
5. Some of the information referred to in this First Report consists of financial forecasts and projections. An examination or review of the financial forecasts and projections, as outlined in the Chartered Professional Accountants Canada Handbook, has not been performed.

6. Certain information referred to in this First Report is based on estimates and assumptions. Such estimates and assumptions are, by their nature, not ascertainable and as a consequence no assurance can be provided regarding the forecasted or projected results. The reader is cautioned that the actual results will likely vary from the forecasts or projections, even if the assumptions materialize, and the variations could be significant.
7. The Receiver has prepared this First Report in connection with the motion to be heard on October 29, 2021 (the “**October 29 Motion**”). This First Report should not be relied on for other purposes.
8. The information contained in this First Report is not intended to be relied upon by any prospective purchaser in any transaction with the Receiver.
9. Unless otherwise stated, all monetary amounts noted herein are expressed in Canadian dollars.

IV. BACKGROUND AND EVENTS LEADING TO THE APPOINTMENT OF THE RECEIVER

10. While this First Report summarizes some of the information contained in the Pre-Filing Report and the Applicants’ Application materials for the Appointment Order, certain information contained therein has not been included herein to avoid unnecessary duplication. Accordingly, for additional context, readers are directed to the Pre-Filing Report and the Affidavit of Jacob Baron sworn on June 18, 2021 (the “**Baron Affidavit**”) which is contained in the Applicants’ Application materials for the Appointment Order. A copy of such Application materials can be found on the Receiver’s website at home.kpmg/ca/SouthmountEtAl (the “**Receiver’s Website**”).

Background

11. Prior to the appointment of the Receiver, the Legal Owners operated seven (7) medical office buildings located in various cities and towns across Ontario, as follows:

Legal Owner	Location	Address	Square Feet
Southmount Healthcare Centre Inc.	Stoney Creek	35 Upper Centennial Parkway	98,317
180 Vine Inc.	St. Catharines	180 Vine St. South	27,255
2478658 Ontario Ltd.	Peterborough	849 Alexander Court	29,501
2009 Long Lake Holdings Inc.	Sudbury	2009 Long Lake Road	49,029
65 Larch Holdings Inc.	Sudbury	65 Larch Street	59,482
100 Colborne Holdings Inc.	Orillia	100 Colborne Street West	22,311

240 Old Penetanguish Holdings Inc.	Midland	240 Old Penetanguishene Road	26,300
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(collectively, the “**Buildings**”).

12. 100 Colborne Holdings Inc. also owns and operates a parking lot adjacent to the 100 Colborne Street West Building located at 77 Wyandotte Street, Orillia (and together with the Buildings and their related real property leases, the “**Real Property Assets**”).
13. The Buildings are tenanted primarily by doctors, clinics, and other medical-related occupants. The Legal Owners historically relied on Prime Real Estate Group Inc. (“**Prime**”), a property management company, to manage the day-to-day operations of the Buildings.
14. On August 3, 2021, upon application by American General Life Insurance Company and affiliated secured lenders, KPMG was appointed as receiver and manager (in such capacity, the “**Victoria Avenue Receiver**”) of, among other things, the properties of Victoria Avenue North Holdings Inc. (“**Victoria Avenue**”), pursuant to an order of this Court (Court file no. CV-21-00665375-00CL) (such proceedings being the “**Victoria Avenue Proceedings**”). The primary respondent in the Victoria Avenue Proceedings is Victoria Avenue, the legal owner of two (2) medical office buildings in the same asset class as the Buildings (the “**Victoria Avenue Real Property Assets**”). Victoria Avenue is affiliated with the Legal Owners, and they are all indirect subsidiaries of Gross Capital Inc. (“**Gross Capital**”), which, as further detailed below was assigned into bankruptcy on June 25, 2021. The Receiver understands that historically the Legal Owners and Victoria Avenue were each managed by representatives of Gross Capital.

Causes of Insolvency

15. As detailed in the Baron Affidavit, the Legal Owners had failed to make scheduled loan payments on their loan with the Applicants since December 2019. Beginning in early 2020, the Applicants began issuing a series of notices of default to the Legal Owners in respect of various defaults under the loan documents, including for failure to make payments as scheduled.
16. In May 2020, the Applicants, among other things, issued to each of the Legal Owners, demand letters and notices of intention to enforce their security under section 244 of the BIA.
17. Between May 2020 and June 2021, the Applicants and the Legal Owners entered into a series of forbearance agreements in order to provide the Legal Owners with time to pursue an out-of-court

refinancing and/or sale of the Real Property Assets which would permit them to repay the amounts owing to the Applicants. These efforts were ultimately unsuccessful and upon expiry of a final forbearance agreement on June 17, 2021, the Applicants proceeded with the Application for the Appointment Order.

V. STATUS OF THE RECEIVERSHIP PROCEEDINGS

Operations & Property Management

18. Forthwith after its appointment and as authorized by the Appointment Order, the Receiver took possession and control of the Legal Owners' Property, including the Real Property Assets. As at the date of this First Report, the day-to-day operations of the Real Property Assets have continued in the normal course.
19. The Receiver has engaged Prime on a month-to-month basis to continue to manage the Real Property Assets, liaise with tenants, and provide leasing services with a view to: (i) leasing up vacant units, and (ii) negotiating lease extensions with tenants who are on month-to-month lease agreements, or who have lease agreements expiring in the short-term, in each case as appropriate and at the direction of the Receiver. As of the date of this First Report, the Receiver has executed, or is in the process of executing, 10 lease agreements for and on behalf of the applicable Legal Owners in respect of either new tenants, or lease extensions with existing tenants.
20. The Receiver understands that Prime is 50%-owned by Gross Capital but that the former representatives of Gross Capital have not been involved in the day-to-day operations of Prime's business since prior to the Receivership Date. Prime's contractual commitments to the Receiver include a confidentiality clause that specifically prohibits Prime from disclosing the affairs of the Legal Owners or the Real Property Assets to certain parties, including the Legal Owners' principals or Gross Capital.
21. On or about August 3 and August 5, 2021, the Receiver distributed a request for proposal to certain property management companies and brokerage firms (the "**Property Management RFP**") requesting property management services proposals in respect of the Buildings by a deadline of August 27, 2021. The Receiver has reviewed the proposals received in response to the Property Management RFP and has determined that at this time, replacing Prime as property manager for the Buildings is not beneficial in the circumstances. In arriving at this view, the Receiver has taken into consideration the performance of Prime since the Receivership Date, the anticipated costs that would be incurred and

potential for operational complications that could arise as a result of replacing Prime in advance of the commencement of the proposed Sale Process.

Condition of the Real Property Assets

22. The Receiver has performed walkthroughs of each of the Real Property Assets and held discussions with Prime and the property superintendents in respect of the general condition of the Real Property Assets and any major repairs and maintenance required. The Receiver has also engaged Pinchin Ltd. to prepare building condition assessments for each of the Buildings and will evaluate what, if any, repairs or capital expenditures may be required or advisable in the short to medium term.

Funding of the Receivership Proceedings

23. Pursuant to the terms of the Appointment Order, the Receiver was authorized to borrow up to \$750,000 from the Applicants pursuant to the Receiver Term Sheet, and was granted a Receiver's Borrowings Charge (as defined in the Appointment Order) as security for such borrowings, which charge has the customary super-priority to other liens and encumbrances, as set out in the Appointment Order. As discussed in a later section of this First Report, to date the Receiver has borrowed \$500,000 pursuant to the Receiver Term Sheet.

Sale Process & Resolution of Non-Performing Leases

24. As noted in the Pre-Filing Report, the Receiver intends to thoroughly market the Property for sale by way of the proposed Sale Process and is seeking this Court's approval of same. Details of the proposed Sale Process are outlined further in Section VII below.
25. The Receiver, with the assistance of Prime, has identified a number of non-performing leases, primarily at the Buildings owned by Southmount Healthcare Centre Inc. and 180 Vine Inc., where tenants have not been remitting the full amount of monthly rents due pursuant to the terms of their lease agreements, and where there are substantial rent arrears relating to the period prior to the Receivership Date (the "**Non-Performing Leases**"). The majority of the head tenants to the Non-Performing Leases (the "**Head Tenants**") are affiliated with each other, and sublease their leased premises to subtenants.
26. On or about September 2, 2021, the Receiver's counsel, Blake, Cassels & Graydon LLP ("**Blakes**"), sent notices of default and demand letters to Head Tenants in respect of 15 Non-Performing Leases, providing notice that the Receiver intended to terminate the Non-Performing Leases if the rent arrears

were not paid by September 10, 2021. Following numerous discussions and correspondence between the Receiver, Blakes, the Head Tenants, and the Head Tenants' counsel, the Receiver has as at the date of this First Report terminated 8 of the Non-Performing Leases (almost all of which are occupied by subtenants) with the consent of the respective Head Tenants and is in the process of negotiating direct lease agreements with the applicable subtenants.

27. Discussions are continuing between the Receiver and the Head Tenants of the remaining 7 Non-Performing Leases (the “**Remaining Head Tenants**”). The Remaining Head Tenant of 2 of the 7 Non-Performing Leases has advised that it will not renew the applicable leases when they expire (both leases expire on their terms on December 31, 2021). The Receiver continues to be in discussions with the Head Tenants regarding payment of rent arrears, with a view to resolving the matter consensually. The Receiver will provide a further report to the Court regarding these efforts in a future report.

Bankruptcy of Gross Capital Inc.

28. As noted above, on June 25, 2021, Gross Capital (the ultimate parent of the Legal Owners) filed an assignment in bankruptcy under the BIA. KSV Restructuring Inc., a Licensed Insolvency Trustee, was appointed as bankruptcy trustee of Gross Capital (the “**Gross Capital Bankruptcy Trustee**”), which appointment was affirmed at the first meeting of creditors in the estate of Gross Capital.
29. The Receiver is in the process of reviewing the books and records of the Legal Owners to determine the extent of any claim(s) that the Debtors may have against Gross Capital. As such claim(s) are not yet known or quantified, the Receiver has filed a placeholder Proof of Claim against Gross Capital in respect of each of the Debtors in the amount of \$1, subject to further revision both in terms of quantity and priority. The Receiver attended the Gross Capital first meeting of creditors on July 15, 2021, in its capacity as a creditor of the estate of Gross Capital.

Books and Records

30. Shortly following its appointment, the Receiver met with representatives of the Legal Owners to take an inventory of the Legal Owners' books and records and understands that (i) the digital books and records of the Legal Owners are maintained by Prime (the “**Prime Records**”) and form the significant majority of the records, and (ii) certain financial documents and other books and records related to the Legal Owners were in possession of Gross Capital prior to its bankruptcy (the “**Gross Capital Records**”), and together with the Prime Records, the “**Records**”).

31. The Receiver has taken a backup of the Prime Records, which primarily consist of financial statements, rent rolls, lease agreements, and other documents associated with the ongoing management of the Real Property Assets. The Receiver understands that Prime's protocol is to take digital copies of all physical documents, and as such, physical documents and records are limited. All physical documents and records remain secured at Prime's offices.
32. The Receiver understands that the Gross Capital Records are comingled with books and records related to other Gross Capital-affiliated entities that are not part of these Proceedings and are not easily segregated, but that the Gross Capital Bankruptcy Trustee has taken a full backup of the Gross Capital Records as part of securing the Gross Capital books and records. The Receiver has taken copies of those records which have filenames associated with the Legal Owners. It has not attempted to identify, or take copies of, information that could relate to the Legal Owners but is comingled in files with filenames other than those associated with the Legal Owners. It has also not attempted to identify, or take copies of, any emails associated with the Legal Owners given the technical complexities associated with separating these records from the emails related to other legal entities.
33. As at the date of this First Report, the Receiver has in its possession the Records it requires to administer the next steps in these Proceedings. Given that the Gross Capital Records are in the Gross Capital Bankruptcy Trustee's possession, the Receiver has not taken possession of the Gross Capital Records that may be associated with the Legal Owners but not readily identifiable as they are either stored in comingled data files (if such data exists) or as emails at this time, and will determine if and when it is appropriate to do so in the future. The Receiver has, however, requested in writing that the Gross Capital Bankruptcy Trustee notify the Receiver in advance of any transfer or destruction of the Gross Capital Records.

Other Potential Parties of Interest

34. As set out in the Baron Affidavit, prior to its appointment as Receiver, KPMG was provided with unaudited financial statements in respect of the Real Property Assets which referenced certain entities and individuals as purportedly holding nominal "co-tenant equity" interests in the Real Property Assets (the "**FS Parties**"). The Receiver understands that the FS Parties were not provided notice of the Application as (i) in each forbearance agreement entered into with the Legal Owners, the Legal Owners represented and confirmed that the only beneficial owners of the Property were the Beneficial Owners, (ii) the Applicants were not aware of the nature of these purported interests (if any), and (iii)

neither the Applicants, nor KPMG prior to its appointment as Receiver, had been provided with any documentation to substantiate these purported interests.

35. In order to attempt to obtain information on these purported interests, Blakes sent letters to each of the directors of the Legal Owners and Beneficial Owners and to the FS Parties (based on contact information known to the Receiver), requesting that they provide the Receiver with all relevant information and supporting documentation relating to such purported interests. As of the date of this First Report, the Receiver has received certain responses to these requests for information, but no documentation which would appear to establish the nature of any interests of the FS Parties in the Real Property Assets.
36. While the nature and validity of any equity interests by any parties other than the Beneficial Owners in the Real Property Assets has not been confirmed, the Receiver will provide, by email, courtesy copies of the materials filed in support of the October 29 Motion to the FS Parties whose email contact information is known to the Receiver. Delivery of courtesy copies of such motion materials on the FS Parties by email is not, and should not be presumed to be, an acknowledgement by the Receiver that such FS Parties have any interest in the Real Property Assets or are entitled to service of court materials in the Proceedings.

Receiver's Counsel

37. Pursuant to the terms of the Appointment Order, the Receiver was authorized to and has engaged, (i) the Applicants' counsel, Blakes, as its counsel in the Proceedings, and (ii) Norton Rose as its independent counsel on certain legal matters requiring independent advice.
38. Norton Rose has provided the Receiver with an independent legal opinion confirming the validity and enforceability of the Applicants' security, the details of which are set out below in Section X.

Litigation Matters

39. The Receiver has become aware of certain legal proceedings or claims involving the Legal Owners which arose prior to the Receivership Date and which, in the Receiver's view, should be pursued as potential realizable assets in the estates of the Legal Owners.
40. These matters include the Lease Termination Settlement (described below) and certain litigation commenced by 65 Larch Holdings Inc. ("**65 Larch**") prior to the Receivership Date against a party in connection with the condition of its Building at the time that it was acquired. 65 Larch had previously

engaged Lax O’Sullivan Lissus Gottlieb LLP (“**Lax O’Sullivan**”) in this matter. Following its appointment, the Receiver reviewed the status of this litigation with Lax O’Sullivan and its counsel, Blakes, and determined that in the interest of efficiency and continuity, it would continue to engage Lax O’Sullivan to represent 65 Larch in connection with this matter. This litigation is currently in the discoveries and undertakings stage and the Receiver intends to provide an update on the status and progress of this matter in a future report to this Court.

VI. LEASE TERMINATION SETTLEMENT

41. Prior to the Receivership Date, a dispute had arisen between 2478658 Ontario Ltd. (“**247 Ontario**”) and its former tenant, Peterborough Regional Health Centre (“**PRHC**”) in respect of a purported termination of a lease by PRHC. 247 Ontario had engaged Tyr LLP (“**Tyr**”) as its counsel to represent it in respect of such dispute and the parties were well advanced in negotiation of a potential settlement (the “**Lease Termination Settlement**”).
42. Following its appointment, the Receiver assessed and approved the terms of the proposed Lease Termination Settlement, having regard to (i) advice from its counsel, Blakes, following a review of the matter with Tyr, (ii) the proposed settlement amount of \$800,000 payable by PRHC to 247 Ontario (the “**Settlement Amount**”) relative to the total quantum of claim by 247 Ontario, and (iii) the resources, costs and risks associated with pursuing and, ultimately, litigating the claim.
43. Given the familiarity of Tyr with the issues and its role to date in the Lease Termination Settlement negotiations, the Receiver continued to engage Tyr to finalize the proposed settlement and on September 29, 2021, the Receiver, for and on behalf of 247 Ontario, entered into Minutes of Settlement with PRHC (the “**Minutes of Settlement**”). A copy of the Minutes of Settlement, which the parties have agreed to be confidential, is attached hereto as **Confidential Appendix “A”**.
44. The key terms of the Lease Termination Settlement are as follows:
 - (a) In consideration for payment of the Settlement Amount by PRHC to 247 Ontario, the parties will enter into a mutual release, releasing each other of any liability or claims in connection with the lease and the leased premises, except for certain limited excluded claims; and
 - (b) Other than as set out above and for the purpose of seeking Court approval, both parties would agree to keep the terms of the Minutes of Settlement confidential and only disclose

the Minutes of Settlement to the Court on a confidential basis with a contemporaneous request for a sealing Order.

45. The Lease Termination Settlement results in material proceeds accruing to the estate of 247 Ontario and the Receiver recommends and seeks approval by the Court. Further, the Minutes of Settlement contain certain confidential and sensitive information relating to the matters in dispute that may adversely impact the parties and accordingly, the Receiver respectfully requests that this Court grant a sealing Order in respect thereof.

VII. SALE PROCESS

46. As noted in the Pre-Filing Report, the Receiver's primary stated objective in these proceedings, if appointed, was to conduct a thorough marketing and sale process for the Real Property Assets. This section provides the Receiver's description and analysis of the proposed Sale Process, by which the Receiver seeks to fulfil its primary objective.

Broker Selection Process

47. The Receiver distributed the request for proposal (the "**Broker RFP**") to seven (7) listing brokers (the "**Solicited Brokers**"), requesting that they submit to the Receiver a proposal to market and sell the Real Property Assets. The list of Solicited Brokers comprised listing brokers which, in the Receiver's view, were likely to have sufficient market presence and reach, and expertise in the asset class in order to appropriately market the Real Property Assets for sale.
48. Each of the Solicited Brokers executed a non-disclosure agreement in order to obtain information and consider submitting a proposal ("**Interested Brokers**"). The Broker RFP specifically requested that the Interested Brokers include in their proposals, among other things, information pertaining to:
- (a) estimated indications of value for the Real Property Assets;
 - (b) proposed marketing strategy, including commentary on marketing the Real Property Assets as an entire portfolio sale as compared to individually;
 - (c) proposed use of minimum listing period, bid deadlines, and any other relevant milestones and timelines;

- (d) anticipated time period required to obtain offers in respect of the Real Property Assets and close on any acceptable transactions;
 - (e) a detailed breakdown of the proposed broker fee structure; and
 - (f) relevant credentials and experience.
49. The Broker RFP requested that all proposals be delivered to the Receiver by no later than August 27, 2021 (the “**Proposal Deadline**”). Prior to the Proposal Deadline, the Receiver received proposals from five (5) Interested Brokers (the “**Proposals**”). The remaining two (2) Interested Brokers declined to submit proposals on the basis of possessing insufficient expertise in the asset class of the Real Property Assets. The Receiver reviewed the Proposals and engaged in discussions with each of the relevant Interested Brokers to review their respective Proposals and to clarify certain matters therein.
50. Given that the Proposals were submitted to the Receiver by competitor brokerage firms and contain sensitive commercial and competitive information, a schedule summarizing and comparing the key terms of the Proposals (including economic terms), redacted for the identity of the applicable Interested Brokers (other than the selected Broker) is attached hereto as **Confidential Appendix “B”** (the “**Broker Comparison Summary**”). In the Receiver’s view, the disclosure of the commercial terms and competitive information contained in the Broker Comparison Summary would have a detrimental impact on (i) each of the applicable Interested Brokers, as it would reveal confidential information, including pricing information, to their competitors, and (ii) efforts to engage a new broker in the future should the need arise.
51. Following a thorough review of the Proposals and clarifying discussions with each of the applicable Interested Brokers, the Receiver, in consultation with the Applicants selected CBRE Limited (“**CBRE**”, or the “**Broker**”) as the Receiver’s proposed exclusive listing agent to assist in developing and implementing the Sale Process. As apparent from the Broker Comparison Summary, the economic terms of CBRE’s Proposal were within a narrow competitive range of most of the Proposals received and in the Receiver’s view, CBRE’s proposed marketing strategy and its market reach, together with its experience with court-supervised sale processes make it best suited to assist the Receiver in conducting a robust and transparent Sale Process that will maximize value.
52. The Receiver has engaged the Broker pursuant to an engagement letter (the “**Broker Engagement Letter**”), subject to Court approval. A copy of the Broker Engagement Letter which has been redacted

for commercial terms is attached hereto as **Appendix “C”** and an unredacted copy of which is attached hereto as **Confidential Appendix “C”**.

53. Key terms of the Broker Engagement Letter are summarized below:

- (a) the Broker Engagement Letter is subject to approval of the Court;
- (b) the Broker will assist the Receiver in the marketing and sale of the Real Property Assets on an “as is, where is” and “free and clear” basis, in accordance with the Sale Process;
- (c) the Broker will assist the Receiver in conducting all negotiations; however, the Broker will not have the authority to make commitments or representations, enter into any agreements, or sign any documents on behalf of the Receiver;
- (d) the Broker has the exclusive right to list the Real Property Assets for sale for a six (6) month period commencing on October 30, 2021 and ending on April 29, 2022 (the “**Term**”);
- (e) the Broker will be compensated in the form of a commission based on the gross sale price of the Real Property Assets (the “**Commission**”);
- (f) the Commission is inclusive of all costs, fees and expenses associated with the Broker marketing the Real Property Assets and engaging or otherwise utilizing a local broker partner as necessary or desirable;
- (g) the Commission is payable to the Broker in the event that within 120 days after the expiration of the Term, (i) the Receiver enters into an agreement of purchase and sale for the Real Property Assets which is subsequently completed; or (ii) negotiations continue, resume or commence following the Term with any person or entity with whom the Broker has negotiated or introduced the Real Property Assets prior to the expiry of the Term and such negotiations result in the closing of a transaction; and
- (h) a third-party real estate brokerage, or a CBRE broker other than those parties named in the Broker Engagement Letter, may be permitted to cooperate in the sale of the Real Property Assets, and such cooperating brokerage or broker would be entitled to a commission (which will be paid out of the Broker’s Commission), in order to encourage participation in the Sale Process by the broker community.

54. In the Receiver's view, the terms of the Broker Engagement Letter are reasonable, provide the appropriate amount of control over the Sale Process for the Receiver, and properly incentivize both the Broker to achieve the best outcome in the Sale Process and any cooperating broker to participate in the Sale Process.
55. The Victoria Avenue Receiver is also seeking approval of a substantially similar Sale Process in the Victoria Avenue Proceedings and intends to concurrently market the Victoria Avenue Real Property Assets (which comprise two similar medical office buildings) and has also engaged the Broker in connection with same. In the Receiver's view, this provides for efficiencies and may potentially (i) result in greater market interest in the entire portfolio which will be larger in size, and (ii) result in greater market interest in a regional sub-portfolio as certain of the Real Property Assets and the Victoria Avenue Real Property Assets are located in the greater Hamilton, Ontario area.

Sale Process

56. Although the Receiver has obtained estimated indications of value from the Interested Brokers that participated in the Broker RFP, which will serve as a reference point throughout the Sale Process, it has not commissioned formal appraisals. In the Receiver's view, the best indicator of value for the Real Property Assets is a robust and transparent sale process which thoroughly tests the market, and not appraisals which are naturally premised on assumptions and may not materialize as estimated. Accordingly, the Receiver has, in consultation with CBRE, the Applicants and the other registered mortgagees of the Real Property Assets, focused on developing the Sale Process.
57. Parties interested in participating in the Sale Process are encouraged to read the Sale Process in its entirety. The key terms of the Sale Process as detailed in **Appendix "A"** are as follows (unless otherwise noted, defined terms are as defined in the Sale Process):

Marketing

- (a) The Receiver understands that there may be interest from parties seeking to purchase the Real Property Assets (i) on an individual Building basis, (ii) on a sub-portfolio basis (i.e. two or more Buildings), or (iii) on an entire portfolio basis. As such, the Sale Process contemplates a two-phased marketing approach, as follows:

- (i) **Phase I Marketing Period – Portfolio Marketing:** At the outset of the initial market launch, the Broker will market directly to potential interested parties that have already expressed interest, or in the view of the Broker and the Receiver, may be interested in purchasing the entire portfolio of the Real Property Assets (the “**Known Portfolio Buyers**”). This pool of Known Portfolio Buyers is anticipated to include a wide variety of private and institutional investors.
 - (ii) **Phase II Marketing Period – Sub-Portfolio Marketing:** Approximately four weeks following the initial market launch, the Broker will begin to broadly market to (i) local brokerage firms identified by the Broker, and (ii) parties that may be interested or that have expressed an interest in purchasing less than the entire portfolio of Real Property Assets (i.e. individual buildings or a sub-portfolio of the Real Property Assets) (the “**Known Sub-Portfolio Buyers**”). This pool of Known Sub-Portfolio Buyers is anticipated to include local investors, family offices, owner-occupiers, and other interested parties.
- (b) The overall active marketing period is anticipated to be 8-9 weeks in duration (excluding approximately 3-4 weeks around the December holiday period where a significantly lower level of market activity is anticipated).
- (c) The Phase II (Sub-Portfolio) marketing period is anticipated to be 4-5 weeks in duration, beginning approximately 4 weeks following the commencement of the Phase I (Portfolio) marketing period.
- (d) Although the active marketing period for Known Sub-Portfolio Buyers will not commence until after the marketing period is initiated for Known Portfolio Buyers, any parties interested in less than the entire portfolio of the Real Property Assets are free to express their interest, undertake diligence and participate in the Sale Process at any time.
- (e) It is anticipated that parties interested in the entire portfolio of Real Property Assets will generally require more time to assess the opportunity and conduct due diligence, while parties interested in less than the entire portfolio of Real Property Assets will be able to assess the opportunity and conduct due diligence more expeditiously. In the Receiver’s view, this two-phase marketing approach should permit the Broker to focus on active marketing to prospective purchasers who require more time to conduct diligence at the

outset and still provide all prospective purchasers with ample time to participate in the Sale Process.

- (f) The Real Property Assets will be listed on an unpriced basis.
- (g) A variety of marketing tools will be utilized, including marketing presentations, brochures, emails, phone calls, local signage, and listing the Real Property Assets on Multiple Listing Service (MLS) and social media platforms (i.e. LinkedIn).
- (h) The Broker intends to partner with local brokers in certain municipalities to ensure maximum market coverage in each of the regions in which the applicable Real Property Assets are located.
- (i) All interested parties who sign a confidentiality agreement (each a “**Potential Bidder**”) will be granted access to a confidential data room, which will contain financial and other information in respect of the Real Property Assets.

Solicitation and Review of Bids

- (a) Potential Bidders will be required to submit a non-binding letter of interest (each a “**Non-Binding LOI**”) by an initial bid deadline (the “**Initial Bid Deadline**”), which Initial Bid Deadline will be determined by the Receiver, in consultation with the Broker, and communicated broadly to all Potential Bidders and other interested parties on no less than 30 days’ notice.
- (b) The Initial Bid Deadline is anticipated to be: (i) determined in early December, 2021 based on the level of market activity, and (ii) set for mid-January, 2022.
- (c) Following the Initial Bid Deadline, the Receiver, in consultation with the Broker, will review each Non-Binding LOI to determine whether it sets out the key information (including the general deal structure, assets to be purchased, liabilities to be assumed, purchase price and material conditions) required to be considered a “Bid”.
- (d) Within 21 days of the Initial Bid Deadline, the Receiver, in consultation with the Broker may:

- (i) select one or more non-overlapping Bids as a “Lead Bid” and seek to negotiate and settle the terms of binding agreement(s); or
 - (ii) invite two or more bidders to participate in a second round of bidding to submit a binding offer by a “Qualified Bid Deadline”, to be set on no less than 10 days’ notice to such bidders, following which the Receiver will (in consultation with the Broker) evaluate each such binding offers and seek to negotiate and settle the terms of binding agreement(s) to the extent any of them are selected as a successful bid.
- (e) In either case, prior to the negotiation of binding agreement(s), (i) the applicable bidder will have to be determined to be a “Qualified Bidder” by the Receiver, having regard for its ability to consummate its proposed transaction (taking into account such factors as its financial wherewithal, availability of financing, market presence, etc.), and (ii) the applicable bid or binding offer will have to satisfy certain procedural requirements and set out certain information, including timeline to closing, identity of sponsors, contracts to be assumed, approvals to be obtained and any remaining due diligence to be conducted, as determined by the Receiver and communicated to such applicable bidders.
- (f) In evaluating whether to select a “Lead Bid” or a binding offer and proceed to negotiate binding agreement(s), the Receiver will consider, among other things, the following criteria: the purchase price and any proposed adjustments thereto, form of consideration offered, the Real Property Assets to be acquired, the liabilities to be assumed and the certainty and anticipated timing of closing.
- (g) The Receiver is under no obligation to continue negotiations with any particular party, accept any bid or binding offer (including the highest or best offer) or enter into any binding agreement(s).

Court Approval

- (a) If and when one or more binding agreement(s) are negotiated and executed, the Broker and Receiver will assist the parties to complete any remaining due diligence, seek this Court’s approval of the proposed transaction(s) and thereafter, seek to close the proposed transaction(s).

58. Since its appointment, the Receiver has received certain unsolicited offers to purchase, and other inquiries from prospective purchasers in respect of certain of the Real Property Assets. However, the Receiver has determined not to progress discussions with these parties outside of the Sale Process and has indicated to such parties that they may participate in the Sale Process, once approved by the Court.
59. In the Receiver's view, the proposed Sale Process provides the best opportunity to broadly market the Real Property Assets and maximize value. Further, the proposed Sale Process was developed in collaboration with the Broker, and the Broker is supportive of the Sale Process.

VIII. INTERIM STATEMENT OF RECEIPTS AND DISBURSMENTS

60. As detailed in the Pre-Filing Report, KPMG in its capacity as proposed receiver and based on its knowledge of the Legal Owners' business, had prepared a cash flow forecast (the "**Cash Flow Forecast**") for the purpose of projecting the Legal Owners' estimated liquidity needs for a period of approximately 6 months from the Receivership Date.
61. Based on the Cash Flow Forecast, it was anticipated that the Receiver would require borrowings in the amount of approximately \$650,000, and the Receiver Term Sheet contemplated an "Initial Advance" of \$500,000 as soon as reasonably practicable following the granting of the Appointment Order. Following its appointment, the Receiver requested, and the Applicants advanced, such amount on July 2, 2021.
62. As shown in the Interim R&D below, during the Period, the Receiver had cash receipts (including borrowings) of approximately \$2.5 million, and cash disbursements of approximately \$446,000. As at September 30, 2021, the Receiver's cash on hand was approximately \$2.0 million.

Interim Statement of Receipts and Disbursements
For the period June 29, 2021 to September 30, 2021
(C\$, unaudited)

Receipts	
Rent receipts ¹	1,307,244
Receiver's borrowings ²	500,000
Pre-filing bank balance ³	488,067
HST collected	172,079
Collection of other receivables ⁴	16,444
Total Receipts	2,483,835
Disbursements	
Property operating costs ⁵	225,204
Property management fees ⁶	96,827
Professional fees	63,568
HST paid	49,075
Critical vendor payments ⁷	11,719
Total disbursements	446,393
Balance in Receiver's accounts	2,037,442

Notes:

1. Monthly rent collections from tenants.
2. Borrowings in accordance with Receiver Term Sheet.
3. Cash transferred to the Receiver's estate bank accounts from the Legal Owners' bank accounts upon commencement of the receivership proceedings.
4. Collections of deferred rent arrears and outstanding common area maintenance.
5. General operating costs such as utilities, maintenance, insurance, etc.
6. Includes monthly property management fees paid to Prime for managing the properties, and leasing commissions for assisting the Receiver in negotiating new leases and lease extensions with existing tenants.
7. Payments to critical vendors for pre-receivership amounts owing.

63. The amount of cash on hand is primarily a result of favourable timing differences in disbursements as compared to the Cash Flow Forecast, the majority of which relate to payments of professional fees and property operating costs. As at September 30, 2021, the Receiver had accrued and unpaid disbursements in the amount of approximately \$810,000 (the “**Accrued Obligations**”), a portion of which has since been paid as at the date of this First Report. As the Proceedings progress, the Receiver expects that cash on hand will decrease significantly over the coming months, as Accrued Obligations are paid and the disbursement timing differences reverse.

IX. RECEIVER TERM SHEET

64. As set out above, pursuant to the terms of the Appointment Order, the Receiver was authorized to borrow up to \$750,000 from the Applicants pursuant to the Receiver Term Sheet (and to date has borrowed \$500,000). The Receiver's Term Sheet expires on December 29, 2021.
65. If the timelines associated with the Sale Process proceed as anticipated, the Receiver expects transactions involving the Real Property Assets to be closed by or around May 2022. Accordingly, the Receiver is seeking approval from the Court to extend the term of the Receiver Term Sheet to June 30, 2022 on substantially the same terms.
66. In the Receiver's view, extending the term of the Receiver Term Sheet is appropriate in the circumstances, as it preserves liquidity and provides additional access to funding (if necessary) while the Receiver implements the Sale Process and pursues any resulting transactions. While it is unknown at this time whether the Receiver will be required to draw on the balance of the facility made available by the Receiver Term Sheet, extending the term to June 30, 2022 and preserving such facility provides stability to the operations of these Proceedings in an efficient manner while the Sale Process is being implemented.

X. APPLICANTS' SECURITY

67. On January 25, 2016, the Applicants advanced a loan to the Legal Owners in the principal amount of \$70,000,000 (the "**Loan**") to advance the acquisition and refinance of the Real Property Assets. As detailed in the Baron Affidavit, the Loan is secured by mortgages, general security agreements, and general assignments of leases and rents granted by each of the Legal Owners as well as security granted by each of the Beneficial Owners. According to the Baron Affidavit, the amount owed by the Debtors to the Applicants as at May 31, 2021 is approximately \$68 million, plus all applicable costs, fees, expenses, additional interest and other amounts payable pursuant to the applicable loan and security documents (the "**Loan and Security Documents**").
68. The Receiver has obtained an independent legal opinion from its independent counsel, Norton Rose, with respect to the validity and enforceability of the security granted in favour of the Applicants under the laws of the Province of Ontario. Norton Rose has reviewed the Loan and Security Documents as well as applicable real property searches and personal property security registry searches in Ontario, and, subject to customary qualifications, assumptions and limitations included therein, is of the opinion that:

- (a) the Loan and Security Documents create a valid mortgage and charge of the Real Property Assets and a valid charge and security interest in the leases of the Real Property Assets and the rents thereunder (the “**Real Property Security**”);
 - (b) there are first in time registrations of the Real Property Security against each of the applicable Real Property Assets;
 - (c) the Loan and Security Documents create a valid security in the personal property of the Legal Owners and Beneficial Owners located at the Real Property Assets and the proceeds thereof (the “**Personal Property Security**”); and
 - (d) first in time registrations have been made under the Personal Property Security Act (Ontario) (“**PPSA**”) against all but one of the Debtors¹ and have all been perfected the Personal Property Security as against the Debtors.
69. A copy of the Norton Rose legal opinion will be made available to stakeholders on appropriate arrangements regarding confidentiality, reliance and privilege.

XI. ACTIVITIES OF THE RECEIVER

70. The Receiver’s activities since the Receivership Date have included:
- (a) attending at each of the Real Property Assets to take possession, perform site walkthroughs, inquire with site superintendents as to the condition of each Real Property Asset and any known potential environmental issues, and to take inventory of physical occupancy of the premises;
 - (b) procuring building condition assessments and Phase I environmental reports for each of the Real Property Assets in connection with the proposed Sale Process;
 - (c) liaising with an environmental consultant in respect of a scope of work to determine the extent, if any, of environmental remediation work that may be necessary or advisable at one of the Real Property Assets;

¹ With the only exception being the PPSA registration against Southmount Healthcare Centre Inc. where a first in time PPSA registration was made by the Applicants against Carriage Gate Group Inc. (its prior legal name). The Receiver and Norton Rose have been advised by counsel for the Applicants that the Applicants discovered this name change on February 13, 2020. The Applicants registered a PPSA financing change statement reflecting the name change on February 21, 2020.

- (d) discussions with Prime regarding potential repairs and maintenance expenditures related to the Real Property Assets;
- (e) engaging with Prime to analyze and consider the operation of the Real Property Assets and notifying applicable service providers of the appointment of the Receiver;
- (f) collecting rents;
- (g) comparing observed occupancy to the Legal Owners' rent rolls, noting any discrepancies;
- (h) reviewing, with the assistance of Prime, the Legal Owners' accounts receivable primarily related to (i) unbilled common area maintenance costs, (ii) deferred rents, and (iii) rents in arrears, in each case for the purpose of assessing the nature and basis for such outstanding amounts and collecting same;
- (i) compiling, with the assistance of Prime, the details of non-performing leases for the purposes of pursuing rents in arrears and bringing leases into good standing or taking other corrective action, as discussed further in earlier sections of this First Report;
- (j) arranging for the continuation of essential services at the Real Property Assets, and making payments to suppliers in respect of same;
- (k) entering into contractual arrangements with Prime, on a month-to-month basis, in respect of property management and leasing services for the Real Property Assets;
- (l) preparing the Property Management RFP for an alternative property manager and reviewing proposals submitted in respect of same;
- (m) freezing the Legal Owners' bank accounts, and opening new accounts in the name of the Receiver in respect of each of the Real Property Assets;
- (n) contacting Canada Revenue Agency to open new Harmonized Sales Tax (HST) accounts in the name of the Receiver;
- (o) reviewing the Legal Owners' existing insurance coverage, and arranging, with the assistance of the Legal Owners' insurance broker, for the Receiver to be added as a named insured and loss payee on the Legal Owners' policies;

- (p) securing a short-term extension of the Legal Owners' insurance policies (the "**Policies**") – which were initially set to expire on August 31, 2021 – through to October 31, 2021, as evidenced by a binder letter from the Legal Owners' insurance broker dated September 28, 2021. The Receiver understands that the insurance underwriter, Allianz Global Risks US Insurance Company, intends to continue to extend the Policies on a month-to-month basis while the Legal Owners are subject to these Proceedings, and the Receiver has made a request for further extension through November 30, 2021;
- (q) notifying the Legal Owners' tenants of, among other things, the appointment of the Receiver and the continued operation of the Real Property Assets, and liaising with tenants as necessary;
- (r) responding to calls and inquiries from the Legal Owners' stakeholders, including creditors, suppliers, tenants regarding the Proceedings;
- (s) establishing an email address for the Receiver at southmountetal@kpmg.ca for correspondence with creditors and other stakeholders of the Legal Owners as they pertain to the Proceedings;
- (t) establishing the Receiver's Website (at: home.kpmg/ca/SouthmountEtAl) where copies of all Court and other statutory materials are available in electronic format;
- (u) mailing, on July 9, 2021, the Notice and Statement of the Receiver pursuant to subsections 245(1) and 246(1) of the BIA;
- (v) preparing a virtual data room for the purposes of the Broker RFP that was delivered to the Solicited Brokers, providing access to Interested Brokers, and responding to inquiries from Interested Brokers;
- (w) reviewing the Proposals, conducting phone calls and interviews with the Interested Brokers and selecting the Broker;
- (x) negotiating the Broker Engagement Letter, and working with the Broker to develop the Sale Process;
- (y) reviewing the independent security opinion prepared by Norton Rose in respect of the Applicants' security and communicating with Norton Rose regarding same;

- (z) communicating with the Receiver's counsel, Blakes, Tyr, Lax O'Sullivan, and other third parties in respect of ongoing litigation matters and claims;
- (aa) communicating with the Gross Capital Bankruptcy Trustee, in respect of the Gross Capital Records, the Gross Capital bankruptcy proceedings, and these Proceedings;
- (bb) communicating with Receiver's counsels, Blakes and Norton Rose, in respect of various aspects of these Proceedings; and
- (cc) communicating with the Applicants and their counsel in respect of various aspects of these Proceedings.

XII. RECEIVER'S CONCLUSION AND RECOMMENDATION

71. Based on the foregoing, the Receiver respectfully requests that the Court grant an Order:

- (a) approving the Broker Engagement Letter and the engagement of the Broker as exclusive real estate broker in accordance with the terms therein;
- (b) approving the Sale Process;
- (c) approving the Lease Termination Settlement;
- (d) sealing the confidential appendices to this First Report; and
- (e) approving the extension of the term of the Receiver Term Sheet.

All of which is respectfully submitted this 21st day of October, 2021.

KPMG Inc.

In its capacity as Receiver of

Southmount Healthcare Centre Inc.

180 Vine Inc.

2478658 Ontario Ltd.,

2009 Long Lake Holdings Inc.

65 Larch Holdings Inc.

100 Colborne Holdings Inc.

240 Old Penetanguish Holdings Inc.


Gross Properties Inc.

180 Vine Purchaser Inc.

2413667 Ontario Inc.

And not in its personal or corporate capacity

Per:



Katherine Forbes
CPA, CA, CIRP, LIT
President



George Bourikas
CPA, CA, CIRP, LIT
Vice President

APPENDIX “A”

Procedures for the Sale Process

Background

1. On June 29, 2021, pursuant to an application by American General Life Insurance Company, Lexington Insurance Company, and The Variable Annuity Life Insurance Company (collectively, the “**Applicants**”), KPMG Inc. was appointed as Receiver and Manager (in such capacity, the “**Receiver**”) of all of the Property (as defined in Schedule “A” hereto), pursuant to an Order of the Superior Court of Justice (Commercial List) (the “**Court**”) granted in receivership proceedings bearing Court File No. CV-21-00664273-00CL (the “**Receivership Proceedings**”).
2. On October 29, 2021, the Court granted an Order, approving a sale process in accordance with the terms and conditions set forth herein (the “**Sale Process**”) and the engagement of CBRE Limited as listing broker (in such capacity, the “**Broker**”).
3. The Sale Process is to be conducted by the Receiver, with the assistance of the Broker. The purpose of the Sale Process is to identify one or more purchasers of the Real Property Assets and any other Property (as defined and listed in Schedule “A” hereto) and to complete one or more transactions as contemplated herein. Set forth below are the procedures that shall govern the Sale Process and any transactions consummated as a result thereof.

Sale Process Overview and Timeline

4. The Sale Process procedures set forth herein describe: (i) the manner in which prospective bidders may gain or continue to have access to due diligence materials and information concerning the Property, including the Real Property Assets, (ii) the process for the receipt and negotiation of Non-Binding LOIs, Bids, Successful Bids and Binding Agreements (each as defined below), (iii) the process and criteria by which Qualified Bids (defined below) are determined, and (iv) the process and criteria by which a Qualified Bid may be evaluated and selected as a Successful Bid (defined below).
5. The Sale Process shall be implemented by the Receiver, with the assistance of the Broker.
6. The following table sets out a summary and approximate timeline of key milestones under this Sale Process, subject to any amendments by the Receiver pursuant to and in accordance with the terms herein (all capitalized terms are defined below):

Milestone	Anticipated Date / Timeline
Commencement of Sale Process	November 1, 2021
Commencement of Phase I (Portfolio) Marketing Period	November 1, 2021
Commencement of Phase II (Sub-Portfolio) Marketing Period	November 30, 2021
Determination of Initial Bid Deadline by the Receiver, and communication to prospective bidders (<i>on no less than 30 days’ notice</i>)	December, 2021
Initial Bid Deadline	To be determined by Receiver as set out above and paragraph 13 herein

Review of Non-Binding LOIs, selection of any Lead Bid(s) and determination by Receiver to proceed with a Qualified Bid Deadline	21 days following Initial Bid Deadline
Qualified Bid Deadline, if applicable (<i>on no less than 10 days' notice</i>)	Within 31 days following Initial Bid Deadline
Negotiation of Binding Agreement(s)	2 weeks following selection of Lead Bid (if applicable) or Qualified Bid Deadline (if applicable)
Satisfaction or waiver of due diligence conditions in Binding Agreement(s)	4 to 6 weeks following execution of such Binding Agreement(s) (exact timeline to be agreed upon therein)
Court approval of any Successful Bid(s)	As soon as reasonably practicable following satisfaction of any due diligence conditions in applicable Binding Agreement(s)
Closing of any Successful Bid(s)	As soon as reasonably practicable following Court approval

Marketing Period

Phase I (Portfolio) Marketing Period

7. The Broker, in consultation with the Receiver, will prepare a list of parties that may have an interest in a potential transaction to acquire the entire portfolio of the Real Property Assets (the “**Identified Portfolio Buyers**”). As soon as reasonably practicable following the commencement of the Sale Process, the Broker shall: (i) notify the Identified Portfolio Buyers and any other parties who reach out to the Broker or the Receiver and express an interest in acquiring the entire portfolio of Real Property Assets (together with the Identified Portfolio Buyers, the “**Known Portfolio Buyers**”) of the existence of the Sale Process, and invite the Known Portfolio Buyers to participate in the Sale Process in accordance with the terms of the Sale Process, (ii) market the entire portfolio of Real Property Assets on such social media platforms as the Broker, in consultation with the Receiver, deems advisable including, without limitation, LinkedIn, and (iii) take any other steps to advertise the Real Property Assets as the Receiver, in consultation with the Broker, deems appropriate.

8. A non-confidential marketing presentation prepared by the Broker, in consultation with the Receiver, (the “**Marketing Presentation**”) describing the opportunity to acquire the entire portfolio of Real Property Assets will be made available by the Broker to all Known Portfolio Buyers as soon as reasonably practicable following the commencement of the Sale Process.

Phase II (Sub-Portfolio) Marketing Period

9. The Broker, in consultation with the Receiver, will prepare a list of parties that may have an interest in a potential transaction to acquire less than the entire portfolio of Real Property Assets (the “**Identified Sub-Portfolio Buyers**”). As soon as reasonably practicable following November 30, 2021 (or such earlier date that the Receiver deems appropriate, in consultation with the Broker), the Broker shall: (i) notify local brokerage firms identified by the Broker (the “**Local Brokers**”), (ii) notify Identified Sub-Portfolio Buyers and any other parties who reach out to the Broker or the Receiver and express an interest in acquiring less than the entire portfolio of Real Property Assets (collectively, the “**Known Sub-Portfolio Buyers**” and together with the Known Portfolio Buyers, the “**Known Buyers**”) of the existence of the Sale Process, and invite the Known Sub-Portfolio Buyers to express their interest and participate in the Sale Process in accordance with the terms of the Sale Process, (iii) erect “For Sale” signage in respect of any one or more Real Property Asset that the Broker may determine, (iv) list each Real Property Asset on the Multiple Listing Service (MLS) and (v) take any other steps to advertise the Real Property Assets as the Receiver, in consultation with the Broker, deem appropriate.

10. A non-confidential marketing brochure for each Real Property Asset describing the opportunity to acquire each Real Property Asset (each, a “**Brochure**”) will be made available by the Broker to all Known Sub-Portfolio Buyers and Local Brokers as soon as practicable following November 30, 2021 (or such earlier date that the Receiver deems appropriate, in consultation with the Broker).

Access to Dataroom & Site Visits

11. In order for any party that is interested in participating in the Sale Process to: (i) participate in the Sale Process, (ii) be granted access to the electronic dataroom that contains confidential information concerning the Property, including the Real Property Assets (the “**Dataroom**”), and (iii) be provided with any other confidential information by the Broker or the Receiver, such party must deliver to the Receiver, an executed confidentiality agreement, in form and substance satisfactory to Receiver (“**Confidentiality Agreement**”, with a party who executes a Confidentiality Agreement becoming a “**Potential Bidder**”).

12. Potential Bidders shall be provided with access to the Dataroom, together with the Marketing Presentation, Brochures and such further information and marketing materials (collectively, the “**Marketing Materials**”) as the Receiver or Broker may deem appropriate. The Receiver, Broker, Legal Owners and Beneficial Owners and their respective representatives and advisors make no representation or warranty as to the accuracy or completeness of any information provided to Potential Bidders, including the information contained in any Marketing Materials or the Dataroom. The Receiver and Broker will coordinate all reasonable requests from Potential Bidders for additional information and due diligence access to the Real Property Assets. The Receiver, Broker, Legal Owners and Beneficial Owners and their respective representatives and advisors are not responsible for, and will bear no liability with respect to, any information obtained by any party in connection with the sale of the Property, whether provided during site visits or obtained from the Dataroom or otherwise.

Bidding Process

Initial Bid Deadline

13. The Receiver, in consultation with the Broker, will determine and designate an initial bid deadline (the “**Initial Bid Deadline**”) and provide no less than 30 days’ notice of same by:

- (a) Email and/or telephone to all Potential Bidders;
- (b) Email to all Known Buyers (other than Potential Bidders notified pursuant to subparagraph 13(a) above);
- (c) Updating any applicable social media and/or MLS postings; and
- (d) Publication in the Dataroom and the website established by the Receiver for the Receivership Proceedings.

Non-Binding LOIs & Bids

14. A Potential Bidder that wishes to make a formal offer to consummate a potential transaction must deliver a non-binding letter of intent ("**Non-Binding LOI**") to the Broker and the Receiver by sending an email attaching same to the email addresses set out for each in Schedule "A" hereto. A Non-Binding LOI shall only be considered a "**Bid**" (and such Potential Bidder submitting the Bid, a "**Bidder**") and reviewed by the Receiver in the Sale Process if it is received by the Broker and Receiver by no later than the Initial Bid Deadline, and meets the requirements set by the Receiver and/or the Broker, which shall include all of the following:

- (a) General Deal Structure: Clear identification of: (i) the Property (including Real Property Assets) proposed to be acquired (the "**Purchased Assets**"), (ii) any liabilities anticipated to be assumed, and (iii) the total proposed purchase price for the Purchased Assets (the "**Purchase Price**");
- (b) Material Conditions: Clear identification of all material conditions to closing that the Bidder may wish to impose and the process and expected timing for satisfaction of same;
- (c) Overview of Bidder: The identity and background of all parties submitting the Bid;
- (d) No Reliance: An acknowledgement and representation that the Bidder: (i) has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Purchased Assets and liabilities to be assumed; and (ii) has not relied upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express or implied regarding the Purchased Assets to be acquired or liabilities to be assumed or the completeness of any information provided in connection therewith;
- (e) As is/Where is: A confirmation that the Purchased Assets to be acquired and liabilities to be assumed are to be acquired and assumed substantially on an "as, is, where is" and without recourse basis; and
- (f) Additional Information: Such other information as may reasonably be requested by the Receiver and/or the Broker.

Review of Non-Binding LOIs & Bids

15. The Receiver, in consultation with the Broker, will review each Non-Binding LOI. The Receiver and/or the Broker may request clarification of the terms of any Non-Binding LOI and, for greater certainty, may hold clarifying discussion with any Bidder regarding its Non-Binding LOI, including to request that such Bidder submit a revised and clarified Non-Binding LOI, provided the initial Non-Binding LOI was submitted by the Initial Bid Deadline.

16. As soon as reasonably practicable following the Initial Bid Deadline, the Receiver, in consultation with the Broker, will assess the Non-Binding LOIs received and determine which Non-Binding LOIs constitute Bids. To the extent that a Non-Binding LOI is not compliant with any one or more of the requirements specified in paragraph 14, the Receiver, in consultation with the Broker, may waive such non-compliance, in the Receiver's sole discretion.

17. Within 21 days of the Initial Bid Deadline, the Receiver, following consultation with the Broker may:

- (a) Select one or more non-overlapping Bids as a lead bid (a "**Lead Bid**"), if the Bidder submitting such Lead Bid is determined to be a Qualified Bidder and such Bid is determined to satisfy the requirements of a Qualified Bid set out in paragraph 19 (with the exception of it being irrevocable and binding, and provided that it has been submitted by the Initial Bid Deadline) and negotiate and settle the terms of Binding Agreement(s) with such Qualified Bidder(s).

- (b) Initiate a second round of bidding and request that two or more Bidders submit qualifications to become Qualified Bidders and submit a “**Binding Offer**” in the form of a markup of a form of purchase and sale agreement prepared by the Receiver (“**Form of Binding Agreement**”) and deliver a copy thereof, together with a blackline against the Form of Binding Agreement (or such other form of binding agreement that the Receiver, in its sole discretion, determines is satisfactory), by a deadline to be designated by the Receiver in consultation with the Broker, and communicated to such Bidders on no less than 10 days’ notice (the “**Qualified Bid Deadline**”), in which case the Receiver may, following consultation with the Broker, select any one or more non-overlapping Binding Offers as a successful bid and negotiate and settle the terms of Binding Agreement(s).

18. Any Binding Agreement that is settled in accordance with paragraph 17(a) and executed or any Binding Offer that is selected as a successful bid in accordance with paragraph 17(b) shall be a “**Successful Bid**”.

Qualified Bids

19. As soon as reasonably practicable following the Qualified Bid Deadline, the Receiver, in consultation with the Broker, will assess the Binding Offers received and determine which Binding Offers constitute Qualified Bids. A Binding Offer shall only be considered a “**Qualified Bid**” if it meets the requirements set by the Receiver and/or the Broker, which shall include all of the following:

- (a) Qualified Bidder: The Binding Offer is submitted by a Qualified Bidder (as defined and described below) and meets all of the criteria of a Bid as set out in paragraph 14;
- (b) Deadline: The Binding Offer is received by the Broker and Receiver by no later than the Qualified Bid Deadline;
- (c) Irrevocability: The Binding Offer is irrevocable for a period of not less than 5 days;
- (d) Identity of Sponsors: The identity of all parties that will be sponsoring or participating in the proposed transaction, including all direct and indirect principals of the Qualified Bidder and information about any sources of debt or equity capital sufficient for the Receiver to determine which individuals have a direct or indirect economic interest in the proposed transaction;
- (e) Approval: Evidence, in form and substance reasonably satisfactory to the Receiver, of corporate authorization and approval from the Qualified Bidder’s board of directors (or comparable governing body) with respect to the submission, execution, and delivery of the Binding Offer, which clearly identifies any anticipated shareholder, regulatory or other approvals outstanding (and the anticipated time frame and any anticipated impediments for obtaining such approvals);
- (f) Assumed Contracts: Clear identification of the contracts, agreements or other arrangements that are to be assumed by the Qualified Bidder;
- (g) Due Diligence: To the extent that the proposed transaction is conditional upon additional confirmatory due diligence, clear identification of the scope and nature of such confirmatory due diligence and timing for satisfaction of same;
- (h) Timeline to Closing: A timeline to closing with critical milestones; and
- (i) Additional Information: Such other information as may reasonably be requested by the Receiver and/or the Broker.

20. To the extent that a Binding Offer is not compliant with any one or more of the requirements specified in paragraph 19, the Receiver, in consultation with the Broker, may waive such non-compliance, in the Receiver’s sole discretion.

Qualified Bidder Requirements

21. The Receiver, in consultation with the Broker, shall assess each Bidder to determine whether such Bidder is likely to be able to consummate its proposed transaction (a “**Qualified Bidder**”), taking into account such factors as, without limitation, the Bidder’s financial wherewithal, availability of financing, existing market presence (if any), experience with comparable transactions to the proposed transaction and any other factors that may be relevant, in the sole discretion of the Receiver. The Receiver shall promptly notify any Bidder which has been determined to be a Qualified Bidder.

22. At any time during the Sale Process, the Receiver may, in consultation with the Broker, eliminate a Potential Bidder or Bidder from the Sale Process, including if: (i) such party does not submit a Bid by the Initial Bid Deadline, (ii) such party does not submit a Qualified Bid by the Qualified Bid Deadline (if applicable), or (iii) the Receiver determines that a previously designated Qualified Bidder ceases to meet the criteria of a Qualified Bidder. Any Potential Bidder or Bidder who is disqualified from the Sale Process will be notified as such by the Receiver, and shall (i) have its access to the Dataroom terminated, and (ii) no longer be entitled to further correspondence or updates regarding the Sale Process, in each case unless and until the Receiver determines, in its sole discretion, that the Bidder qualifies (or re-qualifies) as a Qualified Bidder.

Successful Bids

23. Evaluation criteria with respect to whether a Bid or Qualified Bid constitutes a Successful Bid may include, but are not limited to factors such as: (i) the Purchase Price and net value (including assumed liabilities and other obligations to be performed by the Qualified Bidder), (ii) the form of consideration being offered, including any Purchase Price adjustments and/or any non-cash consideration, (iii) whether there is a firm irrevocable commitment for financing or whether the Qualified Bidder has demonstrated access to sufficient capital resources to consummate its proposed transaction, (iv) the claims likely to be created by such bid in relation to other bids, (v) the counterparties to its proposed transaction, (vi) the terms of its proposed Binding Agreement, (vii) the scope, nature and anticipated length of any remaining due diligence that remains to be carried out, (viii) other factors affecting the speed, certainty and value of its proposed transaction (including any regulatory approvals required to close its proposed transaction), (ix) the Property and liabilities included or excluded from the bid, and (x) the likelihood and timing of consummating the proposed transaction.

Court Approval

24. The acceptance of the Successful Bid(s) by the Receiver will be subject to approval of the Court. The Receiver shall use reasonable efforts to apply to the Court for approval of any Successful Bid(s) as soon as practical following the determination by it of any such Successful Bid(s).

25. On closing of a Successful Bid, all overlapping Binding Offers (other than such Successful Bid) shall be deemed rejected by the Receiver as of the date of the closing of such Successful Bid.

Modification, Termination & Waiver

26. The Receiver shall have the right, at any time and in its sole discretion, to: (i) waive strict compliance with the terms of this Sale Process by any person (including missed deadlines or late submission of materials), and (ii) modify the procedures set out herein (including altering the deadlines set out herein), and/or adopt such other procedures that will better promote the sale of any part of the Property (or any portion thereof), provided that material modifications to, or the termination of, the Sale Process shall require Court approval. For certainty, any waiver of or amendments to the deadlines set out herein shall not constitute a material modification.

“As Is, Where Is”

27. Any sale of the Property will be on an “as is, where is” and without recourse basis and without surviving representations or warranties of any kind, nature, or description by the Receiver, the Broker, the Legal Owners, the Beneficial Owners (as defined in Schedule “A” hereto) or their respective representatives or advisors, except to the extent otherwise expressly provided under a Binding Agreement.

Free of Any and All Claims and Interests

28. In the event of a sale of Purchased Assets, to the extent permitted by law, all of the rights, title and interests of the Legal Owners and Beneficial Owners in such Purchased Assets will be sold free and clear of all pledges, liens, security interests, encumbrances, claims, charges and interests on or against such Purchased Assets (collectively, the “**Claims and Interests**”), other than those permitted encumbrances expressly set out in any applicable Binding Agreement, and such Claims and Interests are only to attach to the net proceeds of the sale of Purchased Assets (without prejudice to any claims or causes of action regarding the priority, validity or enforceability thereof).

No Obligation to Conclude a Transaction

29. Neither the Receiver nor the Broker shall be under any obligation to (i) continue negotiations with any Qualified Bidder, and/or (ii) accept any Qualified Bid or other offer (including the highest or best offer), or to select any Successful Bid(s). Without limiting the generality of the foregoing and for greater certainty, the Receiver, in consultation with the Broker, shall have the discretion to determine that a Qualified Bid is not a Successful Bid, even if such Qualified Bid has the highest gross Purchase Price, having regard in all circumstances to the criteria set out in paragraph 23 above.

No Liability

30. The Receiver, Broker, Legal Owners and Beneficial Owners and their respective representatives and advisors shall have no liability or obligations whatsoever to any party or person in connection the Sale Process, including but not limited to arising from any rejection of any Bid, Qualified Bid or Binding Offer. No party or person shall have any entitlement for any reason (including in the event of any modification or termination of the Sale Process) to reimbursement for any costs or expenses incurred.

Notice

31. Any documents, notices, communication or deliverables to be provided to the Receiver or Broker hereunder shall be provided in accordance with and in the manner specified in Schedule “A” hereto.

General

32. The Receiver shall be at liberty, throughout the duration of the Sale Process, to consult with any mortgagee of Real Property Assets (including the Applicants) in respect of matters related to the Sale Process and provide such party with a copy of all Non-Binding LOIs, Binding Offers and Binding Agreements, provided that: (i) such party confirms to the Receiver in advance of such consultation and in writing that, neither it nor its affiliates, related parties or principles will be participating in the Sale Process as a Potential Bidder or Bidder, and (ii) the Receiver has reached confidentiality arrangements that are satisfactory to it with such party.

33. Nothing in this Sale Process or in any court order approving this Sale Process shall create any rights in any person other than the Receiver and the Broker.

34. All inquiries from parties interested in participating in the Sale Process (including any Potential Bidders) shall be directed to the Receiver or the Broker. For greater certainty, no party interested in

participating in the Sale Process (including any Potential Bidder) shall have any discussions regarding any transaction, Real Property Assets or other Property with representatives of the Legal Owners, Beneficial Owners or any tenants of any of the Real Property Assets without the advance written consent of the Receiver.

35. At any time during this Sale Process, the Receiver may apply to the Court for advice and directions with respect to the matters contemplated hereby.

Schedule "A" to Sale Process

Defined Terms:

Capitalized terms used but not otherwise defined in the Sale Process procedures shall have the following meanings:

"Beneficial Owners" means, collectively, 180 Vine Purchaser Inc., Gross Properties Inc. and 2413667 Ontario Inc.

"Binding Agreement" means a definitive and binding agreement of purchase and sale.

"Business Day" means a day, other than a Saturday or Sunday, on which banks are open for business in the City of Toronto.

"Legal Owners" means, collectively, Southmount Healthcare Centre Inc., 240 Old Penetanguish Holdings Inc., 100 Colborne Holdings Inc., 2478658 Ontario Ltd., 65 Larch Holdings Inc., 2009 Long Lake Holdings Inc. and 180 Vine Inc.

"Legal Owners' Property" means all of the assets, undertakings and properties, including the Real Property Assets of the Legal Owners, including any interest held by 180 Vine Inc. to which Her Majesty in Right of Ontario ("**Crown**") may have rights and any interest in any of the Real Property Assets conveyed by the Crown to 180 Vine Purchaser Inc.

"Property" means, collectively, all of the Legal Owners' Property and all of the Beneficial Owners' right, title and interest to the Legal Owners' Property, whether held directly or indirectly by the Beneficial Owners for themselves or for others.

"Real Property Assets" means the medical office buildings and other real property located at the following municipal addresses and the real property leases related thereto:

- 35 Upper Centennial Parkway, Hamilton Ontario
- 180 Vine Street South, St. Catharines Ontario
- 849 Alexander Court, Peterborough Ontario
- 2009 Long Lake Road, Sudbury Ontario
- 65 Larch Street, Sudbury Ontario
- 100 Colborne Street, Orillia Ontario
- 77 Wyandotte Street, Orillia Ontario (parking lot adjoining 100 Colborne Street)
- 240 Penetanguishene Road, Midland Ontario

Notice:

Any notice, document, communication or other deliverable permitted or required to be given under the Sale Process (including the submission of Non-Binding LOIs and/or any Binding Offers) shall be given by electronic mail to the below recipients, and shall be deemed to be sent: (i) on the day that it is sent, if it is sent prior to 5:00 pm (Toronto Time) on a Business Day, or (ii) on the next following Business Day, if it is sent after 5:00 pm (Toronto Time) on a Business Day, or on a non-Business Day.

TO THE RECEIVER:

KPMG INC.

Attention: Katherine Forbes / George Bourikas

Email: katherineforbes@kpmg.ca / gbourikas@kpmg.ca

TO THE BROKER:

CBRE Limited

Attention: Michael Bellissimo / Jordan Lunan

Email: Michael.Bellissimo@cbre.com / Jordan.Lunan@cbre.com

WITH A COPY TO:

Blake, Cassels & Graydon LLP

Attention: Aryo Shalviri / Chris Burr

Email: aryo.shalviri@blakes.com / chris.burr@blakes.com

APPENDIX “B”

TERM SHEET

Dated as of JUNE 18, 2021

WHEREAS American General Life Insurance Company, Lexington Insurance Company, and The Variable Annuity Life Insurance Company (collectively, the “**Lenders**”) have sought the appointment of KPMG Inc. (“**KPMG**”), pursuant to section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 and section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as receiver and manager (in such capacity and not in its personal or corporate capacity, the “**Receiver**”) of: (i) all of the assets, undertakings and properties, including the real property described in Schedule “A” hereto (the “**Real Property**”) of Southmount Healthcare Centre Inc., 180 Vine Inc. (“**Vine**”), 2478658 Ontario Ltd., 2009 Long Lake Holdings Inc., 65 Larch Holdings Inc., 100 Colborne Holdings Inc., and 240 Old Penetanguish Holdings Inc. (collectively, the “**Legal Owners**”) acquired for, or used in relation to the Legal Owners’ business, including any interest held by Vine to which the Crown may have rights (collectively, the “**Legal Owners’ Property**”), and (ii) 180 Vine Purchaser Inc., Gross Properties Inc. and 2413667 Ontario Inc. (collectively, the “**Beneficial Owners**”) but solely in respect of all of the Beneficial Owners’ right, title and interest in and to Legal Owners’ Property, including the Real Property and all proceeds thereof, whether held directly or indirectly by the Beneficial Owners for themselves or for others (collectively, the “**Beneficial Owners’ Property**” and together with the Legal Owners’ Property, the “**Property**”).

AND WHEREAS the Receiver is to be appointed by Order of the Ontario Superior Court of Justice (the “**Court**”) pursuant to a hearing scheduled on June 29, 2021 (as may be modified, amended or supplemented with consent of the Receiver and the Lenders, the “**Receivership Order**”) to, among other things, conduct a Court-approved sale process for all or substantially all of the Property;

AND WHEREAS the Receiver will incur certain costs and obligations in relation to its appointment as Receiver;

AND WHEREAS the Lenders have agreed to fund such costs and obligations of the Receiver in accordance with the terms set out herein (such funding facility, the “**Facility**”);

NOW THEREFORE, in consideration of the mutual agreements herein contained, the parties hereto agree as follows:

1. **PURPOSE OF FACILITY:** To fund the costs of the receivership proceedings, including, without limitation, (i) the exercise of the powers and duties conferred upon the Receiver by the Receivership Order; (ii) the cost associated with maintaining, preserving and safeguarding of the Property; (iii) the Receiver’s assessment of realization strategies for the Property, including conducting a sale process with respect to same, in consultation with the Lenders; and (iv) the fees and disbursements of the Receiver and its legal counsel in connection with the foregoing and in connection with the application for the Receivership Order; all substantially in accordance with the receivership budget appended hereto as Schedule “**B**” (as may be amended, modified or supplemented from time to time on agreement of the Lenders and the Receiver, the “**Budget**”).

Notwithstanding any provision to the contrary herein, the Lenders shall not be obligated to fund any Advances (as defined below) which, in the aggregate, exceed \$750,000 and, accordingly, the total amount advanced under the Facility shall not exceed \$750,000, unless the Lenders otherwise agree.

2. AVAILABILITY: Promptly following the granting of the Receivership Order, the Lenders will make an initial advance under the Facility to the Receiver in the amount of \$500,000 (all figures CAD) (the “**Initial Advance**”).

Thereafter, the Facility may be drawn down by the Receiver in weekly advances in amounts determined by the Receiver (each, an “**Advance**”) to cover anticipated costs and expenses of the receivership. The Receiver shall be entitled to submit a weekly written request (an “**Advance Request**”) for an Advance. Such Advances are to be made substantially in accordance with the Budget, unless otherwise agreed by the Lenders.

Upon receipt of an Advance Request, the Lenders (or their designee) will provide the requested Advance to the Receiver by wire transfer to an account stipulated by the Receiver by the end of the business day that is five (5) business days following the day on which the Advance Request is received by the Lenders. For greater certainty, the Advances (i) may be made from the earnout reserve in respect of the loans previously advanced by the Lenders to the Legal Owners, and (ii) are to be made prior to the time that liability for the anticipated costs and expenses are to be incurred by the Receiver in accordance with the Budget and the Receiver will use reasonable efforts not to incur any material obligation to any party unless and until the Receiver is in receipt of sufficient funds to satisfy such obligation in full.

3. EXPENSES The Lenders shall be entitled to reimbursement of all of their reasonable costs and expenses (including the fees and expenses of their counsel, appraisers and other advisors) incurred in connection with this Facility (collectively, the “**Expenses**”).

4. INTEREST & FEES AND EXPENSES: Interest shall accrue from the date of the Initial Advance on the outstanding balance of the Initial Advance and any Advance thereafter (collectively and together with all Expenses, the “**Obligations**”) at an annual interest rate of 8.95 %. All interest shall be computed on the basis of a year of 365 days for the actual number of days (including the first day but excluding the last day) elapsed.

5. REPAYMENT: The Obligations (including interest thereon) shall be repaid to the Lenders upon the realization of net proceeds from the sale of any Property, in accordance with the Receivership Order and the Receiver’s Borrowings Charge (as defined in the Receivership Order) or any subsequent order of the Court.

For greater certainty, KPMG in its personal or corporate capacity will not have any liability to repay the Obligations (including interest thereon).

6. TERM: The Facility will be available to the Receiver for an initial six (6) month period ending December 29, 2021 (the “**Initial Term**”). Prior to the expiry of the Initial Term, the Lenders shall determine, at their sole discretion in consultation with the Receiver, the need to provide additional availability under the Facility for the purposes of continuing to pursue a Court-approved sale process for the Property (or any portion thereof) and/or consummating any successful bid(s) for the Property (or any portion thereof). If the Lenders

so elect to provide additional funding, such additional funding is to be provided for a period of time to be agreed upon by the Lenders and the Receiver in accordance with a revised budget to be agreed upon between the Lenders and the Receiver.

Notwithstanding the foregoing, the Lenders may terminate the Facility at any time following the occurrence of an Event of Default (as defined below) at which point the Initial Term shall be deemed to have expired.

7. CONDITIONS PRECEDENT:

The Lenders will not be obligated to make any Advance (including the Initial Advance) under the Facility unless the following conditions precedent have been satisfied or waived by the Lenders in writing:

1. The Receivership Order has been issued by no later than June 29, 2021, in form and substance satisfactory to the Lenders.
2. The Receiver has executed and returned a copy of this Term Sheet.
3. Other than the Initial Advance, the Receiver has delivered an Advance Request to the Lenders by no later than 5:00 pm Toronto time on the day that is five (5) business days prior to the day on which an Advance is to be made.
4. No Event of Default has occurred.

8. EVENTS OF DEFAULT:

The occurrence of any one or more of the following constitutes an “Event of Default” under this Term Sheet:


1. Any termination of the stay of proceedings contained in the Receivership Order.
2. Any termination of the appointment of the Receiver.
3. Any order is issued by the Court:
 - (i) granting any other claim or lien in respect of the Property that is *pari passu* with or in priority to the Receiver’s Borrowings Charge (as defined in the Receivership Order);
 - (ii) modifying this Term Sheet, without the prior written consent of the Lenders;
 - (iii) approving any sale of the Property (or any portion thereof) without the prior written consent of the Lenders which does not provide for sufficient proceeds to fully repay all of the Obligations; or
 - (iv) reversing, modifying, staying or amending the Receivership Order, without the written consent of the Lenders.

- 9. REMEDIES:** Upon the occurrence of an Event of Default, and at any time thereafter while an Event of Default is continuing, the Lenders may declare, after giving notice to the Receiver, that the Facility is terminated and cancelled. For greater certainty, the Receiver shall be entitled to pay any obligations incurred by the Receiver from the Advances (including the Initial Advance), notwithstanding any Event of Default.
- 10. REIMBURSEMENT:** At the termination of the receivership, the Receiver shall, after paying all obligations incurred by it, reimburse to the Lenders any excess or residual funds in its possession from the Advances (including the Initial Advance).
- 11. GOVERNING LAW:** Ontario and the federal laws of Canada applicable therein.
- 12. SECURITY:** The Receiver's Borrowings Charge (as defined in the Receivership Order), being a court-ordered receiver's borrowings charge over all of the Property as provided for in the Receivership Order, in form and substance satisfactory to the Lenders and the Receiver, as evidenced by Receiver's Certificates (as defined in the Receivership Order). For greater certainty, following the Initial Advance, the Receivership Order shall be registered on title against the real property described on Schedule "A".
- 13. FURTHER ASSURANCES** The Receiver shall, from time to time do, execute and deliver, or cause to be done, executed and delivered, such further acts, documents and things as the Lenders may reasonably request for the purpose of giving effect to this Term Sheet.
- 14. NOTICE:** Any notice or request required or permitted to be given in connection with this Term Sheet shall be in writing and shall be sufficiently given if delivered by email:
- (a) in the case of the Receiver at:
- KPMG Inc.**, as Receiver of Southmount Healthcare Inc., *et al*
333 Bay Street, Suite 4600
Bay Adelaide Centre
Toronto ON M5H 2S5
- Attention: Nick Brearton / George Bourikas
Email: nbrearton@kpmg.ca / gbourikas@kpmg.ca
- (b) in the case of the Lenders at:
- AIG Asset Management (U.S.), LLC**
777 S. Figueroa Street, 16th Floor
Los Angeles, CA 90017
- Attention: Michelle Campion / Jacob Baron
Email: michelle.campion@aig.com / jacob.baron@aig.com


[Signature Page Follows]

If the above terms and conditions contained herein are acceptable to the proposed Receiver, please execute and return a copy of this Term Sheet.


AMERICAN GENERAL LIFE INSURANCE COMPANY by its investment advisor, AIG Asset Management (U.S.), LLC, a Delaware limited liability company

Per: 
Name: Jacob Baron
Title: vice president

THE VARIABLE ANNUITY LIFE INSURANCE COMPANY by its investment advisor, AIG Asset Management (U.S.), LLC, a Delaware limited liability company

Per: 
Name: Jacob Baron
Title: Vice president

LEXINGTON INSURANCE COMPANY by its investment advisor, AIG Asset Management (U.S.), LLC a Delaware limited liability company

Per: 
Name: Jacob Baron
Title: vice president

Acknowledged and accepted as of the ____ day of June, 2021.

KPMG INC., solely in its capacity as proposed court-appointed receiver and manager and not in its personal or corporate capacity, and without personal or corporate liability

Per: _____
Name:
Title:

If the above terms and conditions contained herein are acceptable to the proposed Receiver, please execute and return a copy of this Term Sheet.

AMERICAN GENERAL LIFE INSURANCE COMPANY by its investment advisor, **AIG Asset Management (U.S.), LLC**, a Delaware limited liability company

Per: _____
Name:
Title:

THE VARIABLE ANNUITY LIFE INSURANCE COMPANY by its investment advisor, **AIG Asset Management (U.S.), LLC**, a Delaware limited liability company

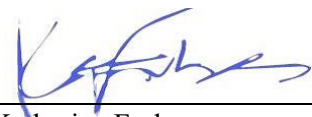
Per: _____
Name:
Title:

LEXINGTON INSURANCE COMPANY by its investment advisor, **AIG Asset Management (U.S.), LLC** a Delaware limited liability company

Per: _____
Name:
Title:

Acknowledged and accepted as of the 18th day of June, 2021.

KPMG INC., solely in its capacity as proposed court-appointed receiver and manager and not in its personal or corporate capacity

Per:  _____
Name: Katherine Forbes
Title: Senior Vice President

SCHEDULE "A"**Real Property**

Municipal Address: 35 Upper Centennial Parkway, Hamilton

Legal Descriptions: PIN 17088-0748(LT): PT LT 25, CON 8 SALTFLEET, PART 7, PLAN 62R-18917; STONEY CREEK; TOGETHER WITH AN EASEMENT OVER PT LT 25, CON 8 SALTFLEET, PARTS 9, 11, 12 AND 13 ON 62R18917 AS IN WE749696; CITY OF HAMILTON; and PIN 17088-0762(LT): PT LT 25 CON 8 SALTFLEET BEING PARTS 1, 2, 3, 4, 5 AND 10 ON 62R18917; S/T AN EASEMENT OVER PART 3 ON 62R18917 IN FAVOUR OF PARTS 1-5 INCL, 12-15 INCL, 18, 21, 30, 31, 32, 36, 38, 42, 48, 53 ON 62R14684 AS IN LT562193; T/W AN EASEMENT OVER PARTS 2, 4, 14, 21, 30, 31, 32, 36, 38, 48 ON 62R14684 AS IN LT562194; SUBJECT TO AN EASEMENT OVER PART 5 ON 62R18917 IN FAVOUR OF PT LT 25 CON 8 SALTFLEET BEING PARTS 3, 5, 6 ON 62R18292 AND PARTS 9, 10, 11, 39, 40, 41, 43, 44, 45, 46, 47, 49, 50, 51, 52, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78 ON 62R14684 SAVE AND EXCEPT PARTS 1, 2, 3, 4, 5, 10 ON 62R18917 AS IN WE749696; SUBJECT TO AN EASEMENT OVER PART 10 ON 62R18917 IN FAVOUR OF PT LT 25 CON 8 SALTFLEET BEING PARTS 3, 5, 6 ON 62R18292 AND PARTS 9, 10, 11, 39, 40, 41, 43, 44, 45, 46, 47, 49, 50, 51, 52, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78 ON 62R14684 SAVE AND EXCEPT PARTS 1, 2, 3, 4, 5, 10 ON 62R18917 AS IN WE749696; SUBJECT TO AN EASEMENT OVER PART 2 ON 62R18917 IN FAVOUR OF PT LT 25 CON 8 SALTFLEET BEING PARTS 3, 5, 6 ON 62R18292 AND PARTS 9, 10, 11, 39, 40, 41, 43, 44, 45, 46, 47, 49, 50, 51, 52, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78 ON 62R14684 SAVE AND EXCEPT PARTS 1, 2, 3, 4, 5, 10 ON 62R18917 AS IN WE749696; SUBJECT TO AN EASEMENT OVER PART 3 ON 62R18917 IN FAVOUR OF PT LT 25 CON 8 SALTFLEET BEING PARTS 3, 5, 6 ON 62R18292 AND PARTS 9, 10, 11, 39, 40, 41, 43, 44, 45, 46, 47, 49, 50, 51, 52, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78 ON 62R14684 SAVE AND EXCEPT PARTS 1, 2, 3, 4, 5, 10 ON 62R18917 AS IN WE749696; STONEY CREEK; TOGETHER WITH AN EASEMENT OVER PARTS 9, 11, 12 AND 13 ON 62R18917 AS IN WE749696; CITY OF HAMILTON

Municipal Address: 240 Old Penetang Road North, Midland

Legal Description: PIN 58454-0029(LT): PT E1/2 LT 106 CON 1 WPR TINY; PT LT 107 CON 1 WPR TINY PT 3 & 4, 51R18477 & PT 4, 5, 6, 7 & 10 R1026 EXCEPT 51R3985; T/W & S/T RO1045345; MIDLAND

Municipal Address: 100 Colborne Street West, Orillia

Legal Description: PIN 58650-0115(LT): PT LT 10-15, 17 BLK C PL 228 ORILLIA PT 3, 4 & 5, 51R10372; ORILLIA

Municipal Address: 77 Wyandotte Street, Orillia

Legal Description: PIN 58644-0014(LT): LT 16 BLK G PL 228 ORILLIA; PT LT 15 BLK G PL 228 ORILLIA AS IN RO1453448; ORILLIA

Municipal Address: 849 Alexander Court, Peterborough

Legal Description: PIN 28061-0157(LT):PT LTS 3 & 4, PL 23Q, PART 1&2, 45R647, NORTH MONAGHAN; PETERBOROUGH

Municipal Address: 65 Larch Street, Sudbury

Legal Descriptions: PIN 73584-0077(LT): LT 23 BLK A PL 3SA MCKIM; GREATER SUDBURY; and

PIN 73584-0078(LT): LT 20-22 BLK A PL 3SA MCKIM; GREATER SUDBURY; and
PIN 73584-0097(LT): PT N1/2 LT 5 CON 3 MCKIM AS IN S81426 (SECONDLY & THIRDLY);
GREATER SUDBURY

Municipal Address: 2009 Long Lake Road, Sudbury

Legal Descriptions: PIN 73595-0102(LT): PCL 8259 SEC SES; PT LT 6 CON 1 MCKIM EXCEPT
LT52588, LT53059, LT109847, PT 7 53R4520 & PT 4 53R13501; S/T LT25019; GREATER
SUDBURY; and

PIN 73595-0174(LT): PCL 39445 SEC SES; PT LT 6 CON 1 MCKIM PT 3 TO 7 & 12 TO 15 53R5036;
PT LT 6 CON 1 MCKIM PT 5 53R13501; S/T PT 2 & 3 53R13501 AS IN LT717184; S/T LT25019,
LT735739; GREATER SUDBURY; and

PIN 73595-0333 (LT): PCL 39000 SEC SES; PT LT 6 CON 1 MCKIM PT 9 TO 11 53R5036; T/W A
ROW OVER PT 1 & 2 53R5036; S/T LT25019; GREATER SUDBURY

Municipal Address: 180 Vine Street South, City of St. Catharines

Legal Description: PIN 46272-0086 (LT): PT LT 7, 9-10 BLK D CY PL 46 GRANTHAM; PT BLK A
CY PL 79 GRANTHAM; PT BLK A, B CY PL 80 GRANTHAM; PT UNNAMED ST CY PL 46
GRANTHAM , CLOSED BY RO407053, PT 1 30R2209 EXCEPT PT 1 30R3734, PT 1 30R6493, & PT
1 30R7456; ST. CATHARINES

SCHEDULE "B"

(attached)

Loan 5														
Cash Flow Forecast (\$CAD)														
Semi-Monthly Period Ending	Notes	14-Jul-21	31-Jul-21	14-Aug-21	31-Aug-21	14-Sep-21	30-Sep-21	14-Oct-21	31-Oct-21	14-Nov-21	30-Nov-21	14-Dec-21	31-Dec-21	Total
Receipts	1													
Rent receipts (net)	2	356,244	75,839	356,244	75,839	351,651	75,839	351,651	75,839	351,651	75,839	346,963	75,839	2,569,437
Collection of deferred rent	3	-	-	-	-	-	-	-	-	-	-	-	-	-
HST collected	4	46,312	9,859	46,312	9,859	45,715	9,859	45,715	9,859	45,715	9,859	45,105	9,859	334,027
Total Receipts		402,556	85,698	402,556	85,698	397,366	85,698	397,366	85,698	397,366	85,698	392,068	85,698	2,903,464
Disbursements	1													
Property operating expenses	5	(129,259)	-	(149,343)	-	(129,259)	-	(128,843)	-	(166,616)	-	(149,696)	-	(853,017)
Management fee	6	(28,881)	-	(28,881)	-	(28,881)	-	(28,881)	-	(28,881)	-	(28,881)	-	(173,288)
Initial possession cost	7	(100,000)	-	-	-	-	-	-	-	-	-	-	-	(100,000)
Repairs and maintenance	8	(37,219)	-	(35,514)	-	(51,364)	-	(35,814)	-	(37,014)	-	(49,557)	-	(246,480)
Environmental and building condition reports	9	(35,000)	-	-	-	-	-	-	-	-	-	-	-	(35,000)
HST paid on operating disbursements	10	(42,947)	-	(27,786)	-	(27,236)	-	(25,160)	-	(30,226)	-	(29,657)	-	(183,012)
HST refund / (remittance)	11	-	-	-	-	-	53,025	-	5,843	-	3,029	-	(4,898)	56,999
Municipal realty taxes	12	-	-	-	-	-	-	-	-	-	-	-	-	-
Contingency	13	(35,000)	-	(35,000)	-	(35,000)	-	(35,000)	-	(35,000)	-	(35,000)	-	(210,000)
Total Operating Disbursements		(408,306)	-	(276,524)	-	(271,740)	53,025	(253,698)	5,843	(297,737)	3,029	(292,791)	(4,898)	(1,743,798)
Net Operating Cash Flow		(5,750)	85,698	126,032	85,698	125,626	138,723	143,667	91,541	99,628	88,727	99,276	80,800	1,159,666
Professional fees	14	-	(509,608)	-	(263,289)	-	(241,286)	-	(196,276)	-	(196,276)	-	(196,276)	(1,603,009)
HST paid on professional fees	15	-	(66,249)	-	(34,228)	-	(31,367)	-	(25,516)	-	(25,516)	-	(25,516)	(208,391)
Total Professional Fees		-	(575,857)	-	(297,516)	-	(272,653)	-	(221,791)	-	(221,791)	-	(221,791)	(1,811,400)
Net Cash Flow		(5,750)	(490,159)	126,032	(211,819)	125,626	(133,930)	143,667	(130,251)	99,628	(133,064)	99,276	(140,991)	(651,734)
Opening Cash Balance	16	29,122	523,373	33,214	159,246	47,427	173,053	39,123	182,791	52,540	152,168	19,104	118,380	29,122
Net Cash Flow		(5,750)	(490,159)	126,032	(211,819)	125,626	(133,930)	143,667	(130,251)	99,628	(133,064)	99,276	(140,991)	(651,734)
Advances under Receiver Term Sheet		500,000	-	-	100,000	-	-	-	-	-	-	-	50,000	650,000
Closing Cash Balance		523,373	33,214	159,246	47,427	173,053	39,123	182,791	52,540	152,168	19,104	118,380	27,389	27,389

Notes:

- The Cash Flow Forecast assumes that none of the Properties will be sold within the 6-month forecast period.
Actual cash flow may vary significantly from the Cash Flow Forecast depending on if and when some or all Properties are sold.
- Projected using May 2021 Rent Rolls as a baseline, adjusted based on actual receipts in May 2021 and additional details provided by property management, as necessary.
- We have assumed no receipts associated with deferred rents given the uncertainty around collections.
- 13% of projected rent receipts (net) and collection of deferred rent.
- Projected using 2021 operating budgets (include utilities, cleaning etc.) obtained from property management, and adjusted as required.
- Projected using 2021 operating budgets obtained from property management.
- One-time costs associated with the Receiver taking possession of the assets.
- Projected using 2021 operating budgets obtained from property management. Figures do not include contingent capital expenditures of \$722k that may be required after the Receiver performs a fulsome assessment of the properties.
- Assumes Phase I environmental assessment and building condition reports are required as part of sale process, projected cost for is \$5k per building.
- 13% of projected operating disbursements.
- Assumes that HST filings are completed on a monthly basis, with amounts owing paid/received one month thereafter. Includes ITCs on professional fees.
- All outstanding municipal realty taxes to be remitted in full to municipalities on closing of asset sales from sale proceeds.
- Contingency for unanticipated disbursements.
- Professional fees include fees for the Receiver, counsel to the Receiver (Blake, Cassels & Graydon LLP), and independent counsel to the Receiver (Norton Rose Fulbright LLP).
Fee estimates for the Receiver and counsel to the Receiver do not include additional costs associated with transactions related to sale of Properties.
- HST is calculated as 13% of total professional fees.
- Opening cash balance is an estimated balance as at June 29, 2021.

APPENDIX “C”

THIS EXCLUSIVE ENGAGEMENT AGREEMENT made the 20th day of October 2021
(the "**Agreement**")

BETWEEN

SOUTHMOUNT HEALTHCARE CENTRE INC., 240 OLD PENETANGUIISH HOLDINGS INC., 100 COLBORNE HOLDINGS INC., 2478658 ONTARIO LTD., 65 LARCH HOLDINGS INC., 2009 LONG LAKE HOLDINGS INC. AND 180 VINE INC., 180 VINE PURCHASER INC., GROSS PROPERTIES INC. AND 2413667 ONTARIO INC. (collectively, the "**Owners**"), **BY KPMG INC., IN ITS CAPACITY AS COURT-APPOINTED RECEIVER AND MANAGER (AND NOT IN ITS PERSONAL OR CORPORATE CAPACITY) (the "Receiver")**

-and-

CBRE LIMITED ("CBRE")

WHEREAS the Owners are the legal and beneficial owners of the property located at:

- 35 Upper Centennial Parkway, Stoney Creek, Ontario
- 180 Vine Street S, St. Catharines, Ontario
- 849 Alexander Court, Peterborough, Ontario
- 2009 Long Lake Road, Sudbury, Ontario
- 65 Larch Street, Sudbury, Ontario
- 100 Colborne Street, Orillia, Ontario
- 77 Wyandotte Street, Orillia, Ontario
- 240 Old Penetanguishene Road, Midland, Ontario (collectively, the "**Property**");

AND WHEREAS CBRE is a real estate brokerage, licensed to carry on business in the Province of Ontario;

AND WHEREAS the Receiver was appointed pursuant to an order of the Ontario Superior Court of Justice [Commercial List] (the "**Court**") granted on June 29, 2021;

AND WHEREAS pursuant to the terms of this Agreement, the Owners intend to appoint CBRE as the Owners' exclusive commercial real estate brokerage (the "**Appointment**") to provide the Owners with CBRE's commercial real estate brokerage services (the "**Services**") in listing the Property for sale pursuant to a sale process and related sale procedure to be approved by the Court;

AND WHEREAS the CBRE listing team representing the Owners in the sale of the Property shall consist of Michael Bellissimo, Jordan Lunan, Tim E A Pacaud and Scott MacKenzie (local agent) (the "**Listing Team**");

NOW THEREFORE in consideration of the Appointment and the Services, and for other good and valuable consideration, the receipt and sufficiency of which is hereby

acknowledged by each of the Owner and CBRE, the Owner and CBRE hereby agree as follows:

ARTICLE 1 – RECITALS

1.1 The above recitals are true and accurate in all respects.

ARTICLE 2 – TERM

- 2.1 This Agreement is subject to the Court granting an Order (in form and substance satisfactory to the Receiver, in its sole and absolute discretion) (“**Approval Order**”) in the receivership proceedings bearing Court File No. CV-21-00664273-00CL (the “**Receivership Proceedings**”) approving: (i) a sale process and related sale procedure in connection with the sale of the Property (“**Sale Process**”), and (ii) this Agreement and the terms hereof.
- 2.2 Subject to the granting of the Approval Order, the Owners grants to CBRE the exclusive right to list the Property for sale for a period commencing October 30th, 2021 and ending on April 29th, 2022 (the “**Term**”), at a price and terms which are satisfactory to the Owners.
- 2.3 Unless otherwise agreed by the undersigned in writing, this Agreement shall automatically terminate without any further step or notice should an Approval Order not be granted by the Court by November 8, 2021. Upon termination of this Agreement, the Owners shall have no further liability or obligation to CBRE whatsoever, other than to pay CBRE’s reasonable fees and documented out of pocket expenses incurred prior to November 8, 2021, up to a maximum aggregate total amount of CAD \$ [REDACTED] (or such greater amount as the Receiver may agree in writing).

ARTICLE 3 – CBRE REMUNERATION

3.1 The Owners agree to pay CBRE a commission based on the gross sale price of the Property as follows (the “**Commission**”):

Exclusive Bulk Portfolio Sale of Property	[REDACTED] %
Individual Building Sales (buildings sold on an individual basis by the Listing Team):	
100 Colborne Street, Orillia, Ontario	[REDACTED] %
77 Wyandotte Street, Orillia, Ontario	[REDACTED] %
240 Old Penetanguishene Road, Midland, Ontario	[REDACTED] %
849 Alexander Court, Peterborough, Ontario	[REDACTED] %
2009 Long Lake Road, Sudbury, Ontario	[REDACTED] %
65 Larch Street, Sudbury, Ontario	[REDACTED] %
35 Upper Centennial Parkway, Stoney Creek, Ontario	[REDACTED] %
180 Vine Street South Street, Catharines, Ontario	[REDACTED] %

Commissions are inclusive of all costs, fees and expenses associated with CBRE marketing the Property, and engaging or otherwise utilizing a local broker partner, and shall be payable if and only if a closing occurs pursuant to a contract of purchase

and sale executed and delivered by the Owners for the Property during the Term or the Holdover Period (but for greater certainty, such closing can occur outside of the Term or Holdover Period provided that the applicable contract of purchase and sale is executed and delivered during the Term or Holdover Period).

- 3.2 The Commission shall be payable to CBRE immediately upon the closing of the agreement of purchase and sale referred to in section 3.1 above, notwithstanding that the sale may close, or the transfer may be completed, following the expiry of the Term.
- 3.3 The Commission payable herein shall be subject to the payment of Harmonized Sales Tax (HST) thereon by the Owners.
- 3.4 CBRE is authorized to accept a deposit from any prospective purchaser. The Owners agree that all deposit monies payable hereunder shall be paid into the trust account of CBRE. CBRE shall have the right to deduct any Commission payable hereunder from the deposit monies CBRE holds in its trust account; and any remaining balance of Commission due and payable to CBRE shall be paid by the Owners forthwith to CBRE.
- 3.5 In the event a purchaser fails to complete the purchase and the deposit or any part thereof becomes forfeited, awarded, directed or released to the Owners, then the Owners authorize CBRE to retain, up to a maximum aggregate total amount of fifty percent (50%) not to exceed CAD \$ [REDACTED] per Property or an aggregate total of CAD \$ [REDACTED] of such deposit in satisfaction of CBRE's reasonable fees and documented out of pocket expenses incurred prior to such deposit having been forfeited, awarded, directed or released to the Owners and to pay the balance of the deposit to the Receiver, for the Owners, without any setoff or deduction.

ARTICLE 4 – HOLDOVER

- 4.1 The Owners further agree to pay CBRE the Commission if, within one hundred and twenty (120) days after the expiration of the Term (the "**Holdover Period**"), with or without the involvement of CBRE: (i) the Owners enter into an agreement of purchase and sale for the Property, which is subsequently completed whether within or outside of the Holdover Period; or (ii) negotiations continue, resume or commence with any person or entity (including his/her/its successors, assigns or affiliates) with whom CBRE has negotiated (either directly or through another agent) or to whom the Owners or the Property were introduced or submitted, from any source whatsoever prior to the expiration of the Term and such negotiations lead to the execution of an agreement of purchase and sale for the Property which is subsequently completed, whether within or outside of the Holdover Period.
- 4.2 CBRE agrees to submit a list to the Receiver of all persons or entities which have submitted an offer or expressed interest in any Property within ten (10) business days following the expiration of the Term, provided, however, that if a written offer has been submitted, then it shall not be necessary to include the offeror's name on the list.

- 4.3 The Commission contemplated by this Article 4 shall be payable immediately upon the closing of the agreement of purchase and sale; regardless of whether the closing occurs during or outside the Holdover Period.

ARTICLE 5 – EXCLUSIVE ENGAGEMENT

- 5.1 Each Owner warrants to CBRE that, as at the execution of this Agreement, it is not a party to any valid listing agreement with any other real estate brokerage with respect to the sale of the Property. The Owners shall not engage the services of another real estate brokerage during the Term with respect to the sale of the Property.
- 5.2 CBRE shall assist the Receiver in formulating a Sale Process and provided that the Approval Order has been granted by the Court, market and list the Property, on an “as is, where is” basis in accordance with such Sale Process.
- 5.3 The Receiver shall, as soon as reasonably practicable following the execution and delivery of this Agreement, seek the Court’s issuance of the Approval Order and CBRE shall cooperate with the Receiver in its efforts to obtain the issuance of the Approval Order.
- 5.4 Subject to the Sale Process, the Receiver agrees (i) to cooperate with CBRE in bringing about a sale of the Property, and (ii) to refer all inquiries of anyone interested in the Property to CBRE as soon as reasonably practicable.
- 5.5 The status of the marketing efforts, discussions, and terms and conditions of any and all offers received in connection with the Sale Process shall be promptly communicated to and discussed with the Receiver. CBRE will assist the Owners and the Receiver’s lawyers in conducting all negotiations; provided, however, that CBRE shall not have the authority to make any commitments or representations, enter into any agreements, or sign any documents on behalf of the Receiver or Owners. All final terms and conditions of any transaction will be subject to the approval of the Receiver in its sole discretion, and CBRE acknowledges that any transaction will be subject to the terms of the Sale Process and any subsequent orders of the Court. The Receiver shall have the sole discretion to accept or reject any offer, or to withdraw any Property from the market, and the undersigned acknowledge that any transaction relating to the Property will be subject to Court approval.
- 5.6 The Owners and CBRE hereby acknowledge that this is an exclusive listing and that CBRE shall not be required to cooperate with any other brokerage or team in connection with this exclusive listing. At the sole discretion of CBRE, a third-party real estate brokerage or another CBRE broker may be permitted to cooperate in the sale of the Property on terms which shall be established by the Listing Team and such cooperating brokerage or broker at a commission rate of █%; and, which terms shall not require the Owners to pay any commission in addition to the Commission set out herein.
- 5.7 CBRE is authorized to advertise the Property and to place a "For Sale" sign or signs on the Property if, in CBRE’s opinion, such advertisement and signage would

facilitate the sale of the Property. CBRE shall provide the Receiver with advance notice of any such sign or signs being placed on the Property.

ARTICLE 6 – DUAL AGENCY

- 6.1 The Owners acknowledge and agree that CBRE may represent the Owners and a purchaser in a dual agency relationship. The Owners hereby consent to the possibility of limited dual agency wherein CBRE maintains confidentiality with respect to pricing intentions, participation of other prospective parties in the Sale Process, corporate objectives and motivation for both principals to the transaction.
- 6.2 Notwithstanding the foregoing, the members of the Listing Team shall not act adverse in interest to the Owners during the Term.

ARTICLE 8 – GENERAL PROVISIONS

- 8.1 *Authority:* The Owners and CBRE represent and warrant to the other of them that each has the authority to execute this Agreement; and that this Agreement, shall be legally binding upon the Owners and CBRE and their successors and permitted assigns once the Approval Order is granted.
- 8.2 *Entire Agreement:* This Agreement constitutes the entire agreement between the Owners and CBRE, and supersedes all prior discussions, negotiations and agreements, whether oral or written. In case of any inconsistencies between this Agreement and any commission provisions in the agreement of purchase and sale, the provisions of this Agreement shall govern and be paramount.
- 8.3 *Amendments:* No amendment or alteration of this Agreement shall be valid or binding unless made in writing and signed by the Receiver for and on behalf of the Owners and CBRE.
- 8.4 *Severability:* Should any provision of this Agreement be unenforceable at law, it shall be considered separate and severable from the remaining provisions of this Agreement, which shall continue in force and shall be binding as though such provision had not been included.
- 8.5 *Interpretation:* The headings inserted in this Agreement are for convenience of reference only and, in no way define, limit or enlarge the scope or meaning of any of the terms and conditions contained in this Agreement. The preamble to this Agreement forms an integral part of this Agreement and shall be used in its interpretation.
- 8.6 *Confidentiality:* Notwithstanding the foregoing or any other provision of this Agreement: (i) CBRE and its representatives shall treat as confidential and shall not, unless such information is otherwise publicly disclosed, unless the Receiver has provided prior written consent (which may be by way of email) or unless required by applicable law, disclose any communications with the Receiver, any communications with any prospective purchaser, any proposals, offers or bids

(including the terms thereof) received in connection with the Property or the Sale Process or any information relating to the Property to any person or party which has not been expressly approved by the Receiver in writing (which may be by way of email); and (ii) the Receiver shall be entitled to (a) share unredacted copies of this Agreement with any stakeholder in the Receivership Proceedings with whom the Receiver intends to consult who undertake to keep such Agreement and the terms thereof confidential, and (b) file a copy of this Agreement, redacted for financial terms, with the Court in connection with the Motion for the Approval Order and set out such economic terms and/or unredacted copy of this Agreement in a confidential appendix, provided that the Receiver also seeks an Order from the Court sealing such confidential appendix.

- 8.7 *Receiver's Capacity:* CBRE acknowledges and agrees that the Receiver, acting in its capacity as court-appointed receiver, will have no liability in connection with this Agreement whatsoever, whether in its capacity as Receiver, personal or corporate capacity or otherwise.
- 8.8 *Jurisdiction:* This Agreement shall be governed by, and shall be subject to, the laws of the Province of Ontario; and the Owners and CBRE hereby attorn to the jurisdiction of the courts of the Province of Ontario with respect to any dispute concerning the interpretation, application and enforcement of this Agreement.
- 8.9 *Legally Required Verifications:* CBRE is bound by the Proceeds of Crime (Money Laundering) and Terrorist Financing Act (the "Act") to verify the identity of the clients and companies that are involved in a real estate transaction.

By its signature hereon, the Owners hereby acknowledge receipt of an executed copy of this Agreement.

IN WITNESS WHEREOF the Owners and CBRE agree to the terms and conditions as set out herein; and have executed this Agreement as of the date first written above.

SOUTHMOUNT HEALTHCARE CENTRE INC., 240 OLD PENETANGUISSH HOLDINGS INC., 100 COLBORNE HOLDINGS INC., 2478658 ONTARIO LTD., 65 LARCH HOLDINGS INC., 2009 LONG LAKE HOLDINGS INC. AND 180 VINE INC., 180 VINE PURCHASER INC., GROSS PROPERTIES INC. AND 2413667 ONTARIO INC., BY KPMG INC., IN ITS CAPACITY AS COURT-APPOINTED RECEIVER AND MANAGER (AND NOT IN ITS PERSONAL OR CORPORATE CAPACITY)

Per:

Katherine Forbes

Print Name: Katherine Forbes

CBRE LIMITED

Per:

DocuSigned by:
Adrian Lee

48434038F3E44F7...

I have authority to bind the company

Print Name: Adrian Lee

7 CB: ~~89BH5~~ @APPENDIX "A"

Court File No. CV-21-00664273-00CL

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

B E T W E E N:

AMERICAN GENERAL LIFE INSURANCE COMPANY,
LEXINGTON INSURANCE COMPANY, AND
THE VARIABLE ANNUITY LIFE INSURANCE COMPANY

Applicants

- and -

SOUTHMOUNT HEALTHCARE CENTRE INC., 180 VINE INC., 2478658
ONTARIO LTD., 2009 LONG LAKE HOLDINGS INC., 65 LARCH
HOLDINGS INC., 100 COLBORNE HOLDINGS INC., 240 OLD
PENETANGUISH HOLDINGS INC., GROSS PROPERTIES INC., 180 VINE
PURCHASER INC. AND 2413667 ONTARIO INC.

Respondents

**APPLICATION UNDER section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985,
c. B-3, as amended, and under section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43**

CONFIDENTIAL APPENDIX

**CONFIDENTIAL APPENDIX “A” –
MINUTES OF SETTLEMENT
TO THE FIRST REPORT OF THE RECEIVER
DATED OCTOBER 21, 2021**

TO BE FILED SEPARATE WITH THE COURT

7 CB: ~~89BH5~~ @APPENDIX "6"

Court File No. CV-21-00664273-00CL

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

B E T W E E N:

AMERICAN GENERAL LIFE INSURANCE COMPANY,
LEXINGTON INSURANCE COMPANY, AND
THE VARIABLE ANNUITY LIFE INSURANCE COMPANY

Applicants

- and -

SOUTHMOUNT HEALTHCARE CENTRE INC., 180 VINE INC., 2478658
ONTARIO LTD., 2009 LONG LAKE HOLDINGS INC., 65 LARCH
HOLDINGS INC., 100 COLBORNE HOLDINGS INC., 240 OLD
PENETANGUISH HOLDINGS INC., GROSS PROPERTIES INC., 180 VINE
PURCHASER INC. AND 2413667 ONTARIO INC.

Respondents

**APPLICATION UNDER section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985,
c. B-3, as amended, and under section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43**

CONFIDENTIAL APPENDIX

**CONFIDENTIAL APPENDIX “B” –
BROKER COMPARISON SUMMARY
TO THE FIRST REPORT OF THE RECEIVER
DATED OCTOBER 21, 2021**

TO BE FILED SEPARATELY WITH THE COURT

7 CB: ~~89BH5~~ @APPENDIX "7"

Court File No. CV-21-00664273-00CL

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

B E T W E E N:

AMERICAN GENERAL LIFE INSURANCE COMPANY,
LEXINGTON INSURANCE COMPANY, AND
THE VARIABLE ANNUITY LIFE INSURANCE COMPANY

Applicants

- and -

SOUTHMOUNT HEALTHCARE CENTRE INC., 180 VINE INC., 2478658
ONTARIO LTD., 2009 LONG LAKE HOLDINGS INC., 65 LARCH
HOLDINGS INC., 100 COLBORNE HOLDINGS INC., 240 OLD
PENETANGUISH HOLDINGS INC., GROSS PROPERTIES INC., 180 VINE
PURCHASER INC. AND 2413667 ONTARIO INC.

Respondents

**APPLICATION UNDER section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985,
c. B-3, as amended, and under section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43**

CONFIDENTIAL APPENDIX

**CONFIDENTIAL APPENDIX “C” –
UNREDACTED BROKER ENGAGEMENT LETTER
TO THE FIRST REPORT OF THE RECEIVER
DATED OCTOBER 21, 2021**

TO BE FILED SEPARATELY WITH THE COURT

TAB 3

Court File No. CV-21-00664273-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE)	FRIDAY, THE 29 th
)	
JUSTICE KOEHNEN)	DAY OF OCTOBER, 2021

B E T W E E N:

AMERICAN GENERAL LIFE INSURANCE COMPANY,
LEXINGTON INSURANCE COMPANY, AND
THE VARIABLE ANNUITY LIFE INSURANCE COMPANY

Applicants

- and -

SOUTHMOUNT HEALTHCARE CENTRE INC., 180 VINE INC., 2478658
ONTARIO LTD., 2009 LONG LAKE HOLDINGS INC., 65 LARCH
HOLDINGS INC., 100 COLBORNE HOLDINGS INC., 240 OLD
PENETANGUISH HOLDINGS INC., GROSS PROPERTIES INC., 180 VINE
PURCHASER INC., AND 2413667 ONTARIO INC.

Respondents

APPLICATION UNDER section 243 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, and under section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43

ORDER

(Approval of Broker Engagement, Sale Process and Ancillary Matters)

THIS MOTION, made by KPMG Inc., in its capacity as Court-appointed receiver and manager (the “**Receiver**”) without security of the assets, undertakings and properties, including, without limitation, the real properties (collectively, the “**Real Property Assets**”) with legal descriptions set out in **Schedule “A”** of the Appointment Order granted on June 29, 2021 (the “**Appointment Order**”) of: (i) Southmount Healthcare Centre Inc. (formerly Carriage Gate Group Inc.), 180 Vine Inc. (“**Vine Co.**”), 2478658 Ontario Ltd., 2009 Long Lake Holdings Inc., 65 Larch Holdings Inc., 100 Colborne Holdings Inc., and 240 Old Penetanguish Holdings Inc. (collectively, the “**Legal Owners**”) acquired for, or used in relation to the Legal Owners’ business, including

any interest held by Vine Co. to which Her Majesty the Queen in Right of Ontario (the “**Crown**”) may have rights and any interest in the applicable real property conveyed by the Crown to 180 Vine Purchaser Inc. (collectively, the “**Legal Owners’ Property**”), and (ii) 180 Vine Purchaser Inc., Gross Properties Inc. and 2413667 Ontario Inc. (collectively, the “**Beneficial Owners**”, and together with the Legal Owners, the “**Debtors**”), but solely in respect of all of the Beneficial Owners’ right, title and interest in and to the Legal Owners’ Property, including the Real Property Assets and all proceeds thereof, whether held directly or indirectly by the Beneficial Owners for themselves or for others (the “**Beneficial Owners’ Property**” and together with the Legal Owners’ Property, the “**Property**”) for an Order, among other things:

- (i) approving the broker listing agreement dated as of October 20, 2021 (the “**Broker Engagement Agreement**”) among the Debtors and CBRE Limited (the “**Broker**”) and the engagement of the Broker as exclusive real estate broker in accordance with the terms therein;
- (ii) approving the proposed sale process set out at Schedule “A” hereto (the “**Sale Process**”);
- (iii) sealing Confidential Appendices “A”, “B” and “C” (collectively, the “**Confidential Appendices**”) to the Receiver’s First Report to the Court dated October 21, 2021 (the “**First Report**”); and
- (iv) approving the Lease Termination Settlement (as defined below),

was heard this day by judicial videoconference via Zoom in Toronto, Ontario.

ON READING the Receiver’s Notice of Motion, the First Report and the appendices thereto, the affidavit of Nancy Thompson sworn October [●], 2021 (the “**Thompson Affidavit**”), and on hearing the submissions of counsel for the Receiver and the Applicants and those other counsel and parties listed on the Participant Information Form, no one else appearing although properly served with the Receiver’s motion record as appears from the Thompson Affidavit:

SERVICE

1. **THIS COURT ORDERS** that the manner and time for service and filing of the Receiver’s Notice of Motion and Motion Record as set out in the Thompson Affidavit be and are hereby

abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

ENGAGEMENT OF BROKER

2. **THIS COURT ORDERS** that the Broker Engagement Agreement, a redacted copy of which is attached as Appendix “C” to the First Report and an unredacted copy of which is attached as a Confidential Appendix “C” to the First Report, is hereby approved and (i) the Receiver is hereby authorized to execute, on behalf of the Debtors, such other ancillary agreements or documents as may be necessary or desirable in connection with the Broker’s mandate, and (ii) the Broker is authorized to act as the exclusive real estate broker to market the Property in accordance with the Sale Process.

SALE PROCESS

3. **THIS COURT ORDERS** that the Sale Process be and is hereby approved.

4. **THIS COURT ORDERS** that the Receiver and the Broker are hereby authorized and directed to perform their obligations under the Sale Process and to do all such things as are necessary or desirable to implement and carry out the Sale Process.

5. **THIS COURT ORDERS** that the Receiver and the Broker and their respective representatives and advisors shall have no corporate or personal liability in connection with conducting the Sale Process, save and except for any gross negligence or wilful misconduct on their part, as determined by this Court. Nothing in this Order shall derogate from the protections afforded to the Receiver by section 14.06 of the *Bankruptcy and Insolvency Act* (Canada) or the Appointment Order.

6. **THIS COURT ORDERS** that, in connection with the Sale Process and pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, the Receiver and Broker are authorized and permitted to disclose personal information of identifiable individuals to prospective purchasers or bidders and to their advisors, but only to the extent desirable or required (in the sole discretion of the Receiver) to negotiate and attempt to complete one or more sale transaction (each, a “**Transaction**”). Each prospective purchaser or bidder to whom such information is disclosed shall maintain and protect the privacy of such information and shall limit the use of such information to its evaluation of the Transaction, and if it does not

complete a Transaction, shall: (i) return all such information to the Receiver or Broker (as applicable); or (ii) destroy all such information that is not electronically stored and, in the case of such information that is electronically stored, destroy all such information to the extent it is reasonably practical to do so. The purchaser in any Transaction shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the Debtors or the Receiver, and shall return all other personal information to the Receiver or Broker (as applicable), or ensure that all other personal information is destroyed.

LEASE TERMINATION SETTLEMENT

7. **THIS COURT ORDERS** that the Minutes of Settlement between 2478658 Ontario Ltd. (by the Receiver) and Peterborough Regional Health Centre dated as of September 29, 2021, a copy of which is attached as Confidential Appendix “A” to the First and the settlement contemplated therein (the “**Lease Termination Settlement**”) are hereby approved and the Receiver is authorized to take or cause to be taken such steps and execute such additional documents as may be necessary or desirable for the performance thereof.

RECEIVER TERM SHEET

8. **THIS COURT ORDERS** that the Receiver is hereby authorized to execute an amending agreement with the Applicants, amending the definition of “Initial Term” in the Receiver Term Sheet (as defined in the Appointment Order) to “June 30, 2022” and that the Receiver’s Borrowings Charge (as defined in the Appointment Order) shall continue to secure all amounts owing pursuant to the Receiver Term Sheet, as amended, with the same priority provided for in the Appointment Order.

SEALING ORDER

9. **THIS COURT ORDERS** that the Confidential Appendices are hereby sealed and shall not form part of the public record.

GENERAL

10. **THIS COURT ORDERS** the Receiver is at liberty to apply to the Court for advice and directions with respect to this Order and/or the Sale Process.

11. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or outside of Canada to give effect to this Order and to assist the Receiver 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 may be necessary or desirable to give effect to this Order and to assist the Receiver in carrying out the terms of this Order.

Schedule "A"
SALE PROCESS

Procedures for the Sale Process

Background

1. On June 29, 2021, pursuant to an application by American General Life Insurance Company, Lexington Insurance Company, and The Variable Annuity Life Insurance Company (collectively, the “**Applicants**”), KPMG Inc. was appointed as Receiver and Manager (in such capacity, the “**Receiver**”) of all of the Property (as defined in Schedule “A” hereto), pursuant to an Order of the Superior Court of Justice (Commercial List) (the “**Court**”) granted in receivership proceedings bearing Court File No. CV-21-00664273-00CL (the “**Receivership Proceedings**”).
2. On October 29, 2021, the Court granted an Order, approving a sale process in accordance with the terms and conditions set forth herein (the “**Sale Process**”) and the engagement of CBRE Limited as listing broker (in such capacity, the “**Broker**”).
3. The Sale Process is to be conducted by the Receiver, with the assistance of the Broker. The purpose of the Sale Process is to identify one or more purchasers of the Real Property Assets and any other Property (as defined and listed in Schedule “A” hereto) and to complete one or more transactions as contemplated herein. Set forth below are the procedures that shall govern the Sale Process and any transactions consummated as a result thereof.

Sale Process Overview and Timeline

4. The Sale Process procedures set forth herein describe: (i) the manner in which prospective bidders may gain or continue to have access to due diligence materials and information concerning the Property, including the Real Property Assets, (ii) the process for the receipt and negotiation of Non-Binding LOIs, Bids, Successful Bids and Binding Agreements (each as defined below), (iii) the process and criteria by which Qualified Bids (defined below) are determined, and (iv) the process and criteria by which a Qualified Bid may be evaluated and selected as a Successful Bid (defined below).
5. The Sale Process shall be implemented by the Receiver, with the assistance of the Broker.
6. The following table sets out a summary and approximate timeline of key milestones under this Sale Process, subject to any amendments by the Receiver pursuant to and in accordance with the terms herein (all capitalized terms are defined below):

Milestone	Anticipated Date / Timeline
Commencement of Sale Process	November 1, 2021
Commencement of Phase I (Portfolio) Marketing Period	November 1, 2021
Commencement of Phase II (Sub-Portfolio) Marketing Period	November 30, 2021
Determination of Initial Bid Deadline by the Receiver, and communication to prospective bidders (<i>on no less than 30 days’ notice</i>)	December, 2021
Initial Bid Deadline	To be determined by Receiver as set out above and paragraph 13 herein

Review of Non-Binding LOIs, selection of any Lead Bid(s) and determination by Receiver to proceed with a Qualified Bid Deadline	21 days following Initial Bid Deadline
Qualified Bid Deadline, if applicable (<i>on no less than 10 days' notice</i>)	Within 31 days following Initial Bid Deadline
Negotiation of Binding Agreement(s)	2 weeks following selection of Lead Bid (if applicable) or Qualified Bid Deadline (if applicable)
Satisfaction or waiver of due diligence conditions in Binding Agreement(s)	4 to 6 weeks following execution of such Binding Agreement(s) (exact timeline to be agreed upon therein)
Court approval of any Successful Bid(s)	As soon as reasonably practicable following satisfaction of any due diligence conditions in applicable Binding Agreement(s)
Closing of any Successful Bid(s)	As soon as reasonably practicable following Court approval

Marketing Period

Phase I (Portfolio) Marketing Period

7. The Broker, in consultation with the Receiver, will prepare a list of parties that may have an interest in a potential transaction to acquire the entire portfolio of the Real Property Assets (the “**Identified Portfolio Buyers**”). As soon as reasonably practicable following the commencement of the Sale Process, the Broker shall: (i) notify the Identified Portfolio Buyers and any other parties who reach out to the Broker or the Receiver and express an interest in acquiring the entire portfolio of Real Property Assets (together with the Identified Portfolio Buyers, the “**Known Portfolio Buyers**”) of the existence of the Sale Process, and invite the Known Portfolio Buyers to participate in the Sale Process in accordance with the terms of the Sale Process, (ii) market the entire portfolio of Real Property Assets on such social media platforms as the Broker, in consultation with the Receiver, deems advisable including, without limitation, LinkedIn, and (iii) take any other steps to advertise the Real Property Assets as the Receiver, in consultation with the Broker, deems appropriate.

8. A non-confidential marketing presentation prepared by the Broker, in consultation with the Receiver, (the “**Marketing Presentation**”) describing the opportunity to acquire the entire portfolio of Real Property Assets will be made available by the Broker to all Known Portfolio Buyers as soon as reasonably practicable following the commencement of the Sale Process.

Phase II (Sub-Portfolio) Marketing Period

9. The Broker, in consultation with the Receiver, will prepare a list of parties that may have an interest in a potential transaction to acquire less than the entire portfolio of Real Property Assets (the “**Identified Sub-Portfolio Buyers**”). As soon as reasonably practicable following November 30, 2021 (or such earlier date that the Receiver deems appropriate, in consultation with the Broker), the Broker shall: (i) notify local brokerage firms identified by the Broker (the “**Local Brokers**”), (ii) notify Identified Sub-Portfolio Buyers and any other parties who reach out to the Broker or the Receiver and express an interest in acquiring less than the entire portfolio of Real Property Assets (collectively, the “**Known Sub-Portfolio Buyers**” and together with the Known Portfolio Buyers, the “**Known Buyers**”) of the existence of the Sale Process, and invite the Known Sub-Portfolio Buyers to express their interest and participate in the Sale Process in accordance with the terms of the Sale Process, (iii) erect “For Sale” signage in respect of any one or more Real Property Asset that the Broker may determine, (iv) list each Real Property Asset on the Multiple Listing Service (MLS) and (v) take any other steps to advertise the Real Property Assets as the Receiver, in consultation with the Broker, deem appropriate.

10. A non-confidential marketing brochure for each Real Property Asset describing the opportunity to acquire each Real Property Asset (each, a “**Brochure**”) will be made available by the Broker to all Known Sub-Portfolio Buyers and Local Brokers as soon as practicable following November 30, 2021 (or such earlier date that the Receiver deems appropriate, in consultation with the Broker).

Access to Dataroom & Site Visits

11. In order for any party that is interested in participating in the Sale Process to: (i) participate in the Sale Process, (ii) be granted access to the electronic dataroom that contains confidential information concerning the Property, including the Real Property Assets (the “**Dataroom**”), and (iii) be provided with any other confidential information by the Broker or the Receiver, such party must deliver to the Receiver, an executed confidentiality agreement, in form and substance satisfactory to Receiver (“**Confidentiality Agreement**”, with a party who executes a Confidentiality Agreement becoming a “**Potential Bidder**”).

12. Potential Bidders shall be provided with access to the Dataroom, together with the Marketing Presentation, Brochures and such further information and marketing materials (collectively, the “**Marketing Materials**”) as the Receiver or Broker may deem appropriate. The Receiver, Broker, Legal Owners and Beneficial Owners and their respective representatives and advisors make no representation or warranty as to the accuracy or completeness of any information provided to Potential Bidders, including the information contained in any Marketing Materials or the Dataroom. The Receiver and Broker will coordinate all reasonable requests from Potential Bidders for additional information and due diligence access to the Real Property Assets. The Receiver, Broker, Legal Owners and Beneficial Owners and their respective representatives and advisors are not responsible for, and will bear no liability with respect to, any information obtained by any party in connection with the sale of the Property, whether provided during site visits or obtained from the Dataroom or otherwise.

Bidding Process

Initial Bid Deadline

13. The Receiver, in consultation with the Broker, will determine and designate an initial bid deadline (the “**Initial Bid Deadline**”) and provide no less than 30 days’ notice of same by:

- (a) Email and/or telephone to all Potential Bidders;
- (b) Email to all Known Buyers (other than Potential Bidders notified pursuant to subparagraph 13(a) above);
- (c) Updating any applicable social media and/or MLS postings; and
- (d) Publication in the Dataroom and the website established by the Receiver for the Receivership Proceedings.

Non-Binding LOIs & Bids

14. A Potential Bidder that wishes to make a formal offer to consummate a potential transaction must deliver a non-binding letter of intent ("**Non-Binding LOI**") to the Broker and the Receiver by sending an email attaching same to the email addresses set out for each in Schedule "A" hereto. A Non-Binding LOI shall only be considered a "**Bid**" (and such Potential Bidder submitting the Bid, a "**Bidder**") and reviewed by the Receiver in the Sale Process if it is received by the Broker and Receiver by no later than the Initial Bid Deadline, and meets the requirements set by the Receiver and/or the Broker, which shall include all of the following:

- (a) General Deal Structure: Clear identification of: (i) the Property (including Real Property Assets) proposed to be acquired (the "**Purchased Assets**"), (ii) any liabilities anticipated to be assumed, and (iii) the total proposed purchase price for the Purchased Assets (the "**Purchase Price**");
- (b) Material Conditions: Clear identification of all material conditions to closing that the Bidder may wish to impose and the process and expected timing for satisfaction of same;
- (c) Overview of Bidder: The identity and background of all parties submitting the Bid;
- (d) No Reliance: An acknowledgement and representation that the Bidder: (i) has relied solely upon its own independent review, investigation and/or inspection of any documents and/or the Purchased Assets and liabilities to be assumed; and (ii) has not relied upon any written or oral statements, representations, promises, warranties or guaranties whatsoever, whether express or implied regarding the Purchased Assets to be acquired or liabilities to be assumed or the completeness of any information provided in connection therewith;
- (e) As is/Where is: A confirmation that the Purchased Assets to be acquired and liabilities to be assumed are to be acquired and assumed substantially on an "as, is, where is" and without recourse basis; and
- (f) Additional Information: Such other information as may reasonably be requested by the Receiver and/or the Broker.

Review of Non-Binding LOIs & Bids

15. The Receiver, in consultation with the Broker, will review each Non-Binding LOI. The Receiver and/or the Broker may request clarification of the terms of any Non-Binding LOI and, for greater certainty, may hold clarifying discussion with any Bidder regarding its Non-Binding LOI, including to request that such Bidder submit a revised and clarified Non-Binding LOI, provided the initial Non-Binding LOI was submitted by the Initial Bid Deadline.

16. As soon as reasonably practicable following the Initial Bid Deadline, the Receiver, in consultation with the Broker, will assess the Non-Binding LOIs received and determine which Non-Binding LOIs constitute Bids. To the extent that a Non-Binding LOI is not compliant with any one or more of the requirements specified in paragraph 14, the Receiver, in consultation with the Broker, may waive such non-compliance, in the Receiver's sole discretion.

17. Within 21 days of the Initial Bid Deadline, the Receiver, following consultation with the Broker may:

- (a) Select one or more non-overlapping Bids as a lead bid (a "**Lead Bid**"), if the Bidder submitting such Lead Bid is determined to be a Qualified Bidder and such Bid is determined to satisfy the requirements of a Qualified Bid set out in paragraph 19 (with the exception of it being irrevocable and binding, and provided that it has been submitted by the Initial Bid Deadline) and negotiate and settle the terms of Binding Agreement(s) with such Qualified Bidder(s).

- (b) Initiate a second round of bidding and request that two or more Bidders submit qualifications to become Qualified Bidders and submit a “**Binding Offer**” in the form of a markup of a form of purchase and sale agreement prepared by the Receiver (“**Form of Binding Agreement**”) and deliver a copy thereof, together with a blackline against the Form of Binding Agreement (or such other form of binding agreement that the Receiver, in its sole discretion, determines is satisfactory), by a deadline to be designated by the Receiver in consultation with the Broker, and communicated to such Bidders on no less than 10 days’ notice (the “**Qualified Bid Deadline**”), in which case the Receiver may, following consultation with the Broker, select any one or more non-overlapping Binding Offers as a successful bid and negotiate and settle the terms of Binding Agreement(s).

18. Any Binding Agreement that is settled in accordance with paragraph 17(a) and executed or any Binding Offer that is selected as a successful bid in accordance with paragraph 17(b) shall be a “**Successful Bid**”.

Qualified Bids

19. As soon as reasonably practicable following the Qualified Bid Deadline, the Receiver, in consultation with the Broker, will assess the Binding Offers received and determine which Binding Offers constitute Qualified Bids. A Binding Offer shall only be considered a “**Qualified Bid**” if it meets the requirements set by the Receiver and/or the Broker, which shall include all of the following:

- (a) Qualified Bidder: The Binding Offer is submitted by a Qualified Bidder (as defined and described below) and meets all of the criteria of a Bid as set out in paragraph 14;
- (b) Deadline: The Binding Offer is received by the Broker and Receiver by no later than the Qualified Bid Deadline;
- (c) Irrevocability: The Binding Offer is irrevocable for a period of not less than 5 days;
- (d) Identity of Sponsors: The identity of all parties that will be sponsoring or participating in the proposed transaction, including all direct and indirect principals of the Qualified Bidder and information about any sources of debt or equity capital sufficient for the Receiver to determine which individuals have a direct or indirect economic interest in the proposed transaction;
- (e) Approval: Evidence, in form and substance reasonably satisfactory to the Receiver, of corporate authorization and approval from the Qualified Bidder’s board of directors (or comparable governing body) with respect to the submission, execution, and delivery of the Binding Offer, which clearly identifies any anticipated shareholder, regulatory or other approvals outstanding (and the anticipated time frame and any anticipated impediments for obtaining such approvals);
- (f) Assumed Contracts: Clear identification of the contracts, agreements or other arrangements that are to be assumed by the Qualified Bidder;
- (g) Due Diligence: To the extent that the proposed transaction is conditional upon additional confirmatory due diligence, clear identification of the scope and nature of such confirmatory due diligence and timing for satisfaction of same;
- (h) Timeline to Closing: A timeline to closing with critical milestones; and
- (i) Additional Information: Such other information as may reasonably be requested by the Receiver and/or the Broker.

20. To the extent that a Binding Offer is not compliant with any one or more of the requirements specified in paragraph 19, the Receiver, in consultation with the Broker, may waive such non-compliance, in the Receiver’s sole discretion.

Qualified Bidder Requirements

21. The Receiver, in consultation with the Broker, shall assess each Bidder to determine whether such Bidder is likely to be able to consummate its proposed transaction (a “**Qualified Bidder**”), taking into account such factors as, without limitation, the Bidder’s financial wherewithal, availability of financing, existing market presence (if any), experience with comparable transactions to the proposed transaction and any other factors that may be relevant, in the sole discretion of the Receiver. The Receiver shall promptly notify any Bidder which has been determined to be a Qualified Bidder.

22. At any time during the Sale Process, the Receiver may, in consultation with the Broker, eliminate a Potential Bidder or Bidder from the Sale Process, including if: (i) such party does not submit a Bid by the Initial Bid Deadline, (ii) such party does not submit a Qualified Bid by the Qualified Bid Deadline (if applicable), or (iii) the Receiver determines that a previously designated Qualified Bidder ceases to meet the criteria of a Qualified Bidder. Any Potential Bidder or Bidder who is disqualified from the Sale Process will be notified as such by the Receiver, and shall (i) have its access to the Dataroom terminated, and (ii) no longer be entitled to further correspondence or updates regarding the Sale Process, in each case unless and until the Receiver determines, in its sole discretion, that the Bidder qualifies (or re-qualifies) as a Qualified Bidder.

Successful Bids

23. Evaluation criteria with respect to whether a Bid or Qualified Bid constitutes a Successful Bid may include, but are not limited to factors such as: (i) the Purchase Price and net value (including assumed liabilities and other obligations to be performed by the Qualified Bidder), (ii) the form of consideration being offered, including any Purchase Price adjustments and/or any non-cash consideration, (iii) whether there is a firm irrevocable commitment for financing or whether the Qualified Bidder has demonstrated access to sufficient capital resources to consummate its proposed transaction, (iv) the claims likely to be created by such bid in relation to other bids, (v) the counterparties to its proposed transaction, (vi) the terms of its proposed Binding Agreement, (vii) the scope, nature and anticipated length of any remaining due diligence that remains to be carried out, (viii) other factors affecting the speed, certainty and value of its proposed transaction (including any regulatory approvals required to close its proposed transaction), (ix) the Property and liabilities included or excluded from the bid, and (x) the likelihood and timing of consummating the proposed transaction.

Court Approval

24. The acceptance of the Successful Bid(s) by the Receiver will be subject to approval of the Court. The Receiver shall use reasonable efforts to apply to the Court for approval of any Successful Bid(s) as soon as practical following the determination by it of any such Successful Bid(s).

25. On closing of a Successful Bid, all overlapping Binding Offers (other than such Successful Bid) shall be deemed rejected by the Receiver as of the date of the closing of such Successful Bid.

Modification, Termination & Waiver

26. The Receiver shall have the right, at any time and in its sole discretion, to: (i) waive strict compliance with the terms of this Sale Process by any person (including missed deadlines or late submission of materials), and (ii) modify the procedures set out herein (including altering the deadlines set out herein), and/or adopt such other procedures that will better promote the sale of any part of the Property (or any portion thereof), provided that material modifications to, or the termination of, the Sale Process shall require Court approval. For certainty, any waiver of or amendments to the deadlines set out herein shall not constitute a material modification.

“As Is, Where Is”

27. Any sale of the Property will be on an “as is, where is” and without recourse basis and without surviving representations or warranties of any kind, nature, or description by the Receiver, the Broker, the Legal Owners, the Beneficial Owners (as defined in Schedule “A” hereto) or their respective representatives or advisors, except to the extent otherwise expressly provided under a Binding Agreement.

Free of Any and All Claims and Interests

28. In the event of a sale of Purchased Assets, to the extent permitted by law, all of the rights, title and interests of the Legal Owners and Beneficial Owners in such Purchased Assets will be sold free and clear of all pledges, liens, security interests, encumbrances, claims, charges and interests on or against such Purchased Assets (collectively, the “**Claims and Interests**”), other than those permitted encumbrances expressly set out in any applicable Binding Agreement, and such Claims and Interests are only to attach to the net proceeds of the sale of Purchased Assets (without prejudice to any claims or causes of action regarding the priority, validity or enforceability thereof).

No Obligation to Conclude a Transaction

29. Neither the Receiver nor the Broker shall be under any obligation to (i) continue negotiations with any Qualified Bidder, and/or (ii) accept any Qualified Bid or other offer (including the highest or best offer), or to select any Successful Bid(s). Without limiting the generality of the foregoing and for greater certainty, the Receiver, in consultation with the Broker, shall have the discretion to determine that a Qualified Bid is not a Successful Bid, even if such Qualified Bid has the highest gross Purchase Price, having regard in all circumstances to the criteria set out in paragraph 23 above.

No Liability

30. The Receiver, Broker, Legal Owners and Beneficial Owners and their respective representatives and advisors shall have no liability or obligations whatsoever to any party or person in connection the Sale Process, including but not limited to arising from any rejection of any Bid, Qualified Bid or Binding Offer. No party or person shall have any entitlement for any reason (including in the event of any modification or termination of the Sale Process) to reimbursement for any costs or expenses incurred.

Notice

31. Any documents, notices, communication or deliverables to be provided to the Receiver or Broker hereunder shall be provided in accordance with and in the manner specified in Schedule “A” hereto.

General

32. The Receiver shall be at liberty, throughout the duration of the Sale Process, to consult with any mortgagee of Real Property Assets (including the Applicants) in respect of matters related to the Sale Process and provide such party with a copy of all Non-Binding LOIs, Binding Offers and Binding Agreements, provided that: (i) such party confirms to the Receiver in advance of such consultation and in writing that, neither it nor its affiliates, related parties or principles will be participating in the Sale Process as a Potential Bidder or Bidder, and (ii) the Receiver has reached confidentiality arrangements that are satisfactory to it with such party.

33. Nothing in this Sale Process or in any court order approving this Sale Process shall create any rights in any person other than the Receiver and the Broker.

34. All inquiries from parties interested in participating in the Sale Process (including any Potential Bidders) shall be directed to the Receiver or the Broker. For greater certainty, no party interested in

participating in the Sale Process (including any Potential Bidder) shall have any discussions regarding any transaction, Real Property Assets or other Property with representatives of the Legal Owners, Beneficial Owners or any tenants of any of the Real Property Assets without the advance written consent of the Receiver.

35. At any time during this Sale Process, the Receiver may apply to the Court for advice and directions with respect to the matters contemplated hereby.

Schedule "A" to Sale Process

Defined Terms:

Capitalized terms used but not otherwise defined in the Sale Process procedures shall have the following meanings:

"Beneficial Owners" means, collectively, 180 Vine Purchaser Inc., Gross Properties Inc. and 2413667 Ontario Inc.

"Binding Agreement" means a definitive and binding agreement of purchase and sale.

"Business Day" means a day, other than a Saturday or Sunday, on which banks are open for business in the City of Toronto.

"Legal Owners" means, collectively, Southmount Healthcare Centre Inc., 240 Old Penetanguish Holdings Inc., 100 Colborne Holdings Inc., 2478658 Ontario Ltd., 65 Larch Holdings Inc., 2009 Long Lake Holdings Inc. and 180 Vine Inc.

"Legal Owners' Property" means all of the assets, undertakings and properties, including the Real Property Assets of the Legal Owners, including any interest held by 180 Vine Inc. to which Her Majesty in Right of Ontario ("**Crown**") may have rights and any interest in any of the Real Property Assets conveyed by the Crown to 180 Vine Purchaser Inc.

"Property" means, collectively, all of the Legal Owners' Property and all of the Beneficial Owners' right, title and interest to the Legal Owners' Property, whether held directly or indirectly by the Beneficial Owners for themselves or for others.

"Real Property Assets" means the medical office buildings and other real property located at the following municipal addresses and the real property leases related thereto:

- 35 Upper Centennial Parkway, Hamilton Ontario
- 180 Vine Street South, St. Catharines Ontario
- 849 Alexander Court, Peterborough Ontario
- 2009 Long Lake Road, Sudbury Ontario
- 65 Larch Street, Sudbury Ontario
- 100 Colborne Street, Orillia Ontario
- 77 Wyandotte Street, Orillia Ontario (parking lot adjoining 100 Colborne Street)
- 240 Penetanguishene Road, Midland Ontario

Notice:

Any notice, document, communication or other deliverable permitted or required to be given under the Sale Process (including the submission of Non-Binding LOIs and/or any Binding Offers) shall be given by electronic mail to the below recipients, and shall be deemed to be sent: (i) on the day that it is sent, if it is sent prior to 5:00 pm (Toronto Time) on a Business Day, or (ii) on the next following Business Day, if it is sent after 5:00 pm (Toronto Time) on a Business Day, or on a non-Business Day.

TO THE RECEIVER:

KPMG INC.

Attention: Katherine Forbes / George Bourikas

Email: katherineforbes@kpmg.ca / gbourikas@kpmg.ca

TO THE BROKER:

CBRE Limited

Attention: Michael Bellissimo / Jordan Lunan

Email: Michael.Bellissimo@cbre.com / Jordan.Lunan@cbre.com

WITH A COPY TO:

Blake, Cassels & Graydon LLP

Attention: Aryo Shalviri / Chris Burr

Email: aryo.shalviri@blakes.com / chris.burr@blakes.com

AMERICAN GENERAL LIFE INSURANCE COMPANY, *et al.* - and -
Applicants

SOUTHMOUNT HEALTHCARE CENTRE INC., *et al.*
Respondents

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceeding Commenced at Toronto

ORDER
(Approval of Broker Engagement,
Sale Process and Ancillary Matters)

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AMERICAN GENERAL LIFE INSURANCE COMPANY, *et al.*
Applicants

- and -

SOUTHMOUNT HEALTHCARE CENTRE INC., *et al.*
Respondents

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)
Proceeding Commenced at Toronto

MOTION RECORD
(Approval of Broker Engagement, Sale Process and
Ancillary Matters)
Returnable October 29, 2021

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