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together with the Legal Owner, the “**Debtors**”), but solely in respect of all of each Beneficial Owner’s right, title and interest in and to the Legal Owner’s Property, including the Real Property and all proceeds thereof, whether held directly or indirectly by any Beneficial Owner for themselves or for others (together with the Legal Owner’s Property, the “**Receivership Assets**”), for an order, among other things:

- (i) authorizing the Receiver to pay commissions to CBRE Limited (the “**Broker**”);
- (ii) authorizing the Receiver to make distributions to the Applicants;
- (iii) procedurally consolidating the bankruptcy proceedings of the Legal Owner and certain related parties;
- (iv) approving the activities of the Receiver, as set out in the Receiver’s First Report to Court dated October 21, 2021 (the “**First Report**”), the Receiver’s Second Report to the Court dated October 22, 2021 (the “**Second Report**”) and the Receiver’s Third Report to Court dated May 13, 2022 (the “**Third Report**”, together with the First Report and the Second Report, the “**Reports**”);
- (v) dispensing with the requirement that the Receiver and its counsel, Blake, Cassels & Graydon LLP and Norton Rose Fulbright Canada LLP, obtain Court approval of their fees and disbursements (“**Accounts**”); and
- (vi) sealing Confidential Appendices “A” and “B” to the Third Report (collectively, the “**Confidential Appendices**”).

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

**ON READING** the Receiver’s Notice of Motion, the Reports and the appendices thereto, the Supplement to the Third Report of the Receiver dated May 20, 2022, and on hearing the submissions of counsel for the Receiver, the Applicants and those other counsel and parties listed

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on the Participant Information Form, no one else appearing although properly served with the Receiver's Motion Record as appears from the affidavit of Nancy Thompson sworn May 17, 2022 (the "**Thompson Affidavit**"):

### **SERVICE**

1. **THIS COURT ORDERS** that the time for service and filing of the Receiver's Notice of Motion and Motion Record as set out in the Thompson Affidavit is hereby abridged, and the method of service validated pursuant to the Order of Mr. Justice Koehnen granted on September 14, 2021, so that this motion is properly returnable today.

### **PAYMENT OF BROKER COMMISSIONS**

2. **THIS COURT ORDERS AND DECLARES** that the Receiver is authorized and directed to pay the Commissions (as defined in the Third Report) to the Broker as and when the sale transaction closes, out of the proceeds thereof, in each case in such amounts as are prescribed by the terms of the broker listing agreement dated as of October 20, 2021 among the Debtors and the Broker.

### **RESERVE AND DISTRIBUTIONS**

3. **THIS COURT ORDERS** that the Receiver is hereby authorized to:

- (a) repay all indebtedness outstanding under Receiver's Certificates (as defined in the Appointment Order) issued under the term sheet among the Applicants and the Receiver, dated July 9, 2021 from the Net Proceeds of Sale (as defined in the Third Report) and any other funds in the possession of the Receiver (the "**Receivership Cash**");

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- (b) distribute to the Applicants by way of one or more distributions from the Receivership Cash at the time or times determined by the Receiver, in its sole discretion;

subject to the maintenance of a reserve, in an amount satisfactory to the Receiver, in consultation with the Applicants, or in an amount otherwise ordered by the Court, to: (i) fund the fees and disbursements of the Receiver and its counsel, (ii) fund operating costs and expenses of the Debtors incurred in relation to the Receivership Assets since the date of the Appointment Order, (iii) secure the obligations under the Receiver's Charge (as defined in the Appointment Order), and (iv) fund the Bankruptcy Costs (defined below).

#### **PROCEDURAL CONSOLIDATION**

4. **THIS COURT ORDERS** that following any assignment in bankruptcy by or on behalf of (a) the Legal Owner and (b) 2478658 Ontario Ltd., 2009 Long Lake Holdings Inc., 65 Larch Holdings Inc., 100 Colborne Holdings Inc., and 240 Old Penetanguish Holdings Inc. (collectively, the "**Other Legal Owners**"), KPMG Inc., in its capacity as the bankruptcy trustee of the Legal Owner and the Other Legal Owners (the "**Trustee**") shall be entitled to administer the procedural matters relating to those bankruptcy proceedings on a consolidated basis (the "**Consolidated Proceedings**") and a copy of this order will be filed in the court file for each of the estates of the Legal Owner and the Other Legal Owners.

5. **THIS COURT ORDERS** that the Trustee is authorized to carry out its administrative duties and responsibilities as trustee in bankruptcy as if the Consolidated Proceedings were a single proceeding under the *Bankruptcy and Insolvency Act* (Canada), including without limitation:

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- a) the meetings of creditors of the Legal Owner and the Other Legal Owners may be convened and conducted jointly,
- b) the Trustee is authorized to issue consolidated reports in respect of the Legal Owner and the Other Legal Owners; and
- c) the Trustee is authorized to deal with all filings and notices relating to the bankruptcy on a consolidated basis.

6. **THIS COURT ORDERS** that the Consolidated Proceeding will be in relation to procedural matters only and do not:

- a) affect the separate legal status of the corporate structure of the Legal Owner and the Other Legal Owners;
- b) cause any of the Legal Owner and the Other Legal Owners to be liable for any claim for which it is otherwise not liable, or cause any of the Legal Owner and the Other Legal Owners to have any interest in any asset which it otherwise would not have; or
- c) affect the Legal Owner's or the Other Legal Owners' filing obligations under the *Bankruptcy and Insolvency Act* (Canada).

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7. **THIS COURT ORDERS** that the Receiver shall be permitted to transfer to the Trustee from time to time funding for costs associated with the bankruptcy of the Legal Owner, as determined by the Receiver in consultation with the Applicants (the “**Bankruptcy Costs**”).

#### **APPROVAL OF REPORTS & ACTIVITIES**

8. **THIS COURT ORDERS** that the Reports and the activities of the Receiver described therein, be and are hereby approved, provided, however, that only the Receiver, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

#### **DISPENSING WITH REQUIREMENT TO PASS ACCOUNTS**

9. **THIS COURT ORDERS AND DECLARES** that the requirement of the Receiver and its legal counsel (including any independent counsel) pursuant to Paragraph 19 of the Appointment Order to pass their Accounts is hereby waived and dispensed with: (a) in respect of the period up to and including March 31, 2022, and (b) in respect of the period from and after March 31, 2022, provided that (i) the Receiver provides the Applicants with a written statement of the quantum of such Accounts from time to time, and (ii) none of the Applicants requests in writing that the Receiver or its counsel pass their Accounts for such period prior to the discharge of the Receiver.

#### **SEALING ORDER**

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

#### **MISCELLANEOUS**

11. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give

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



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## Schedule A

Individuals	Trusts
Allan Gross Errol Yim and Andrea Yim, jointly Ava Gross Karen Nakagawa and Calvin Nakagawa, jointly Carol Jaxon Carole Kai Onouye Diane Curtis Dwight Otani and Theresa Otani, jointly Edward Bugarin Ellen Fleishman Gemie Arakawa George Tamashiro Guy Pace and Caroline Berdusco, jointly Heidi Berger Henry Ko Hongwei Su James Brand Janis L. Lai Trustee Jean Morel Jian Zhang Johann Strasser John Dattomo and Daniela Dattomo Kelly Ann Hiraki and Jonathan Wah Hee Hee, jointly Randall Y.C. Ho Robert Atkinson Roberta Sunahara and Paul Sunahara, jointly Seymour Kazimirski Stanley Salcedo	Charlyn Shizue Honda Masini Trust, by and through its trustee(s) Fleishman Family Trust, by and through its trustee(s) J. Zachery Jones Trust, by and through its trustee(s) Jane Shigeta Revocable Living Trust, by and through its trustee(s) Jasen Takei Revocable Living Trust, by and through its trustee(s) Melvin Shigeta Revocable Living Trust, by and through its trustee(s) Ruth Hisaye Honda Trust, by and through its trustee(s) S. Bucky Revocable Living Trust & Bruce E. Bucky Revocable Living Trust, by and through its trustee(s) Wallace K. Tsuha Trust, by and through its trustee(s)
	<b>Corporations / Partnerships</b> 1236068 Ontario Limited 1649750 Ontario Inc. 1818019 Ontario Limited Citydrill Inc. Gross Capital Inc. Dirk and Dale IRA LLC Gross Medical Opportunities Fund LP Hybrid Activities Inc. Mark Craig Gross Holdings Inc. Randy 88, LLC Rastogi Medicine Professional Corporation RMK IRA LLC



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

- and -

VICTORIA AVENUE NORTH HOLDINGS INC., *et al.*  
Respondents

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

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**DISTRIBUTION AND ANCILLIARY**  
**MATTERS ORDER**

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**BLAKE, CASSELS & GRAYDON LLP**

Barristers and Solicitors

199 Bay Street

Suite 4000, Commerce Court West

Toronto, Ontario M5L 1A9

**Pamela L.J. Huff**, LSO #27344V

Tel: 416-863-2958

Email: [pamela.huff@blakes.com](mailto:pamela.huff@blakes.com)

**Aryo Shalviri**, LSO #63867A

Tel: 416-863-2962

Email: [aryo.shalviri@blakes.com](mailto:aryo.shalviri@blakes.com)

**Chris Burr**, LSO #55172H

Tel: 416-863-3261

Email: [chris.burr@blakes.com](mailto:chris.burr@blakes.com)

**Alexia Parente**, LSO #81927G

Tel: 416-863-2417

Fax: 416-863-2653

Email: [alexia.parente@blakes.com](mailto:alexia.parente@blakes.com)

Lawyers for the Receiver