

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

IN THE MATTER OF *THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, C. c-36, AS AMENDED*

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF First Leaside Wealth Management Inc., First Leaside Finance Inc., First Leaside Securities Inc., FL Securities Inc., First Leaside Management Inc., First Leaside Accounting and Tax Services Inc., First Leaside Holdings Inc., 2086056 Ontario Inc., First Leaside Realty Inc., First Leaside Capital Inc., First Leaside Realty II Inc., First Leaside Investments Inc., 965010 Ontario Inc., 1045517 Ontario Inc., 1024919 Ontario Inc., 1031628 Ontario Inc., 1056971 Ontario Inc., 1376095 Ontario Inc., 1437290 Ontario Ltd., 1244428 Ontario Ltd., PrestonOne Development (Canada) Inc., PrestonTwo Development (Canada) Inc., PrestonThree Development (Canada) Inc., PrestonFour Development (Canada) Inc., 2088543 Ontario Inc., 2088544 Ontario Inc., 2088545 Ontario Inc., 1331607 Ontario Inc., Queenston Manor General Partner Inc., 1408927 Ontario Ltd., 2107738 Ontario Inc., 1418361 Ontario Ltd., 2128054 Ontario Inc., 2069212 Ontario Inc., 1132413 Ontario Inc., 2067171 Ontario Inc., 2085306 Ontario Inc., 2059035 Ontario Inc., 2086218 Ontario Inc., First Leaside Visions Management Inc., 1049015 Ontario Inc., 1049016 Ontario Inc., 2007804 Ontario Inc., 2019418 Ontario Inc., FL Research Management Inc., 1031628 Ontario Inc., 1045516 Ontario Inc., 2004516 Ontario Inc., 2192341 Ontario Inc., and First Leaside Fund Management Inc.

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(RETURNABLE DECEMBER 7, 2012)**

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**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

IN THE MATTER OF *THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, C. c-36, AS AMENDED*

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF First Leaside Wealth Management Inc., First Leaside Finance Inc., First Leaside Securities Inc., FL Securities Inc., First Leaside Management Inc., First Leaside Accounting and Tax Services Inc., First Leaside Holdings Inc., 2086056 Ontario Inc., First Leaside Realty Inc., First Leaside Capital Inc., First Leaside Realty II Inc., First Leaside Investments Inc., 965010 Ontario Inc., 1045517 Ontario Inc., 1024919 Ontario Inc., 1031628 Ontario Inc., 1056971 Ontario Inc., 1376095 Ontario Inc., 1437290 Ontario Ltd., 1244428 Ontario Ltd., PrestonOne Development (Canada) Inc., PrestonTwo Development (Canada) Inc., PrestonThree Development (Canada) Inc., PrestonFour Development (Canada) Inc., 2088543 Ontario Inc., 2088544 Ontario Inc., 2088545 Ontario Inc., 1331607 Ontario Inc., Queenston Manor General Partner Inc., 1408927 Ontario Ltd., 2107738 Ontario Inc., 1418361 Ontario Ltd., 2128054 Ontario Inc., 2069212 Ontario Inc., 1132413 Ontario Inc., 2067171 Ontario Inc., 2085306 Ontario Inc., 2059035 Ontario Inc., 2086218 Ontario Inc., First Leaside Visions Management Inc., 1049015 Ontario Inc., 1049016 Ontario Inc., 2007804 Ontario Inc., 2019418 Ontario Inc., FL Research Management Inc., 1031628 Ontario Inc., 1045516 Ontario Inc., 2004516 Ontario Inc., 2192341 Ontario Inc., and First Leaside Fund Management Inc.

**MOTION RECORD OF THE APPLICANTS
(RETURNABLE DECEMBER 7, 2012)**

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TAB 1

**ONTARIO
SUPERIOR COURT OF JUSTICE
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**IN THE MATTER OF *THE COMPANIES' CREDITORS ARRANGEMENT ACT*,
*R.S.C. 1985, C. c-36, AS AMENDED***

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
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NOTICE OF MOTION

The Applicants will bring a Motion before a Judge presiding over the Commercial List on Friday, December 7, 2012 at 10:00 a.m., or as soon after that time as the Motion can be heard at the court house, 330 University Avenue, 8th Floor, Toronto, Ontario, M5G 1R7.

PROPOSED METHOD OF HEARING: The Motion is to be heard

[] in writing under subrule 37.12.1(1);

☐ in writing as an opposed motion under subrule 37.12.1(4);

☒ orally.

THE MOTION IS FOR

- (a) an Order, if necessary, validating and abridging the time for service of this Notice of Motion and Motion Record and directing that any further service of the Notice of Motion and the Motion Record be dispensed with such that this motion is properly returnable on Friday, December 7, 2012;
- (b) an Order approving the conduct of Grant Thornton Limited in its capacity as monitor of the Applicants ("**Monitor**") as described in the Sixth Report dated November 19, 2012 and the Seventh Report of the Monitor dated on or around December 4, 2012;
- (c) an Order approving the conduct of G.S. MacLeod & Associates Inc. in its capacity as chief restructuring officer of the Applicants ("**CRO**") as described in the Affidavits of Gregory MacLeod sworn November 13, 2012 and December 3, 2012;
- (d) an Order authorizing the CRO to execute on behalf of the Applicants a Custodial and Services Agreement with Fidelity Clearing Canada ULC ("**Fidelity**"), as successor custodian to Penson Financial Services Canada Inc. ("**Penson**"), to hold securities of clients of First Leaside Securities Inc., ("**FLSI**") including, without limitation, securities in registered accounts;

- (e) at the date and time that the appointment of Grant Thornton Limited as receiver of First Leaside (**"Receiver"**) pursuant to the receivership application being heard concurrently with this motion becomes effective,
- i. an Order terminating the stay of proceedings imposed by the Order of Mr. Justice David M. Brown made on February 23, 2012, as subsequently amended (collectively, **"Initial Order"**) in respect of the Applicants and the Included LPs (as defined in the Initial Order) (collectively, **"First Leaside"**) pursuant to the *Companies' Creditors Arrangement Act* (**"CCAA"**); and
 - ii. an Order terminating the CCAA proceedings in respect of First Leaside, subject to certain transitional provisions (**"Transitional Provisions"**), including, without limitation, an Order:
 - A. maintaining in effect the Directors' Charge and the Administration Charge (as defined in the Initial Order);
 - B. authorizing First Leaside and the CRO to complete transactions begun, but not completed, during the period of the CCAA proceedings;
 - C. authorizing the payment of unpaid professional fees accrued up to the date of termination of the CCAA proceedings;

- D. permitting cheques issued by First Leaside during the period of the CCAA proceedings to clear First Leaside's bank accounts; and
 - E. otherwise authorizing the Monitor to carry out such functions and duties as may be incidental to the termination of the CCAA proceedings and the transition to a receivership of First Leaside;
- (f) an Order discharging the Monitor upon the appointment of the Receiver, subject to the Transitional Provisions;
 - (g) an Order discharging the CRO, subject to the Transitional Provisions;
 - (h) an Order declaring that the Monitor and the CRO shall be released and discharged from any and all liability that they now have or may hereafter have by reason of, or in any way arising out of, the acts or omissions of the Monitor or the CRO while acting in such capacities in these CCAA proceedings, provided however that such releases shall not extend to liability resulting from gross negligence or wilful misconduct of the Monitor or CRO;
 - (i) an Order approving the fees and disbursements of (i) the Monitor, (ii) Blake Cassels & Graydon LLP as legal counsel to the Monitor ("**Monitor's Counsel**"), and (iii) Fraser Milner Casgrain LLP as representative counsel for investors in First Leaside ("**Representative Counsel**"), for the period

from February 23, 2012 to November 30, 2012, which fees shall be particularized in fee affidavits to be filed, and authorizing the Monitor, Monitor's Counsel and Representative Counsel to seek approval, upon further motion to this Court in the receivership proceedings, of any and all fees and disbursements incurred after November 30, 2012 in respect of these CCAA proceedings; and

- (j) such further and other relief as this Court may deem just.

THE GROUNDS FOR THE MOTION ARE AS FOLLOWS:

- (a) Pursuant to the Initial Order, First Leaside was granted protection from its creditors under the CCAA and an initial stay of proceedings to and including March 23, 2012. The stay of proceedings and other relief in the Initial Order were most recently extended to December 11, 2012;
- (b) At the time that the CCAA proceedings commenced, Penson acted as custodian for FLSI of securities in client accounts, primarily registered accounts. Although many First Leaside clients have transferred the assets in their accounts with Penson to another custodian, a number of Penson accounts still remain. However, since Penson announced on September 28, 2012 that it was ceasing operations in Canada, the remaining accounts will need to be transferred to a new custodian. First Leaside therefore seeks authorization to enter into a custodial agreement with Fidelity;
- (c) First Leaside's operations have ceased and most of its assets and property have been sold. In general, what remains now is for First Leaside to sell a

small number of remaining real property assets, run a claims process, and distribute proceeds to approved creditors ("**Final Activities**");

- (d) Concurrent with this motion, First Leaside has made an application under section 101 of the *Courts of Justice Act*—also returnable on December 7, 2012—seeking the appointment of a Receiver of many, but not all, of the corporations and limited partnerships constituting First Leaside;
- (e) The role of the Receiver will be to undertake and complete the Final Activities and then seek its discharge;
- (f) The Monitor and CRO believe that they have discharged their duties and obligations under the Initial Order, and that the administration of the remaining assets of First Leaside can be dealt with most expediently and effectively in a receivership proceeding;
- (g) The termination of the CCAA proceedings will simplify and reduce the costs associated with the administration of the remaining assets of First Leaside;
- (h) The Monitor has performed a variety of activities in furtherance of its responsibilities under the Initial Order and the CCAA during the period from February 23, 2012 to the present. The Monitor's conduct up to the time of its Fifth Report dated October 17, 2012 has been approved by prior Orders of this Court. First Leaside seeks approval of the Monitor's Sixth and Seventh Reports and the activities of the Monitor outlined therein;

- (i) The activities of the CRO as described in the Affidavits of Gregory MacLeod dated March 21, April 23, June 19, August 20, and October 15, 2012 have already been approved by the court. First Leaside now seeks approval of the conduct of the CRO as described in the Affidavits of Gregory MacLeod dated November 13, 2012 and December 3, 2012;
- (j) In performing the activities outlined in the Monitor's various reports, the Monitor and Monitor's Counsel have provided professional services and incurred disbursements;
- (k) Representative Counsel has also provided professional services and incurred disbursements in carrying out the duties prescribed to Representative Counsel in the Initial Order;
- (l) First Leaside seeks approval of the fees and disbursements of the Monitor, Monitor's Counsel and Representative Counsel for the period February 23, 2012 to November 30, 2012;
- (m) Sections 11, 11.02(2), 11.03, and 11.7 of the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended;
- (n) Paragraphs 39-41, 44, 60 and 61 of the Initial Order;
- (o) Rules 1.04, 2.01, 2.03, 3.02, 5.03, 16 and 37 of the *Rules of Civil Procedure*, R.R.O. 1990, reg. 194 as amended;

- (p) sections 11, 97, and 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C-43, as amended;
- (q) Such further and other grounds as the lawyers may advise.

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

- (a) Combined Seventh Report of the Monitor and Pre-Filing Report of the Proposed Receiver, separately filed;
- (b) The Affidavit of Gregory MacLeod sworn December 3, 2012; and
- (c) Such further and other evidence as the lawyers may advise and this Court may permit.

December 3, 2012

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Lawyers for the Applicants

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT, R.S.C. 1985, C. c-36 AS AMENDED;
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF FIRST LEASIDE WEALTH
MANAGEMENT INC.**

Court File No. CV-12-9617-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

IN THE MATTER OF

**PROCEEDING COMMENCED AT
TORONTO**

**NOTICE OF MOTION
(RETURNABLE DECEMBER 7, 2012)**

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TAB 2

Court File No. CV-12-9617-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF First Leaside Wealth Management Inc., First Leaside Finance Inc., First
Leaside Securities Inc., FL Securities Inc., First Leaside Management Inc.,
First Leaside Accounting and Tax Services Inc., First Leaside Holdings
Inc., 2086056 Ontario Inc., First Leaside Realty Inc., First Leaside Capital
Inc., First Leaside Realty II Inc., First Leaside Investments Inc., 965010
Ontario Inc., 1045517 Ontario Inc., 1024919 Ontario Inc., 1031628 Ontario
Inc., 1056971 Ontario Inc., 1376095 Ontario Inc., 1437290 Ontario Ltd.,
1244428 Ontario Ltd., PrestonOne Development (Canada) Inc., PrestonTwo
Development (Canada) Inc., PrestonThree Development (Canada) Inc.,
PrestonFour Development (Canada) Inc., 2088543 Ontario Inc., 2088544
Ontario Inc., 2088545 Ontario Inc., 1331607 Ontario Inc., Queenston Manor
General Partner Inc., 1408927 Ontario Ltd., 2107738 Ontario Inc., 1418361
Ontario Ltd., 2128054 Ontario Inc., 2069212 Ontario Inc., 1132413 Ontario
Inc., 2067171 Ontario Inc., 2085306 Ontario Inc., 2059035 Ontario Inc.,
2086218 Ontario Inc., 2085438 Ontario Inc., First Leaside Visions
Management Inc., 1049015 Ontario Inc., 1049016 Ontario Inc., 2007804
Ontario Inc., 2019418 Ontario Inc., FL Research Management Inc., 1031628
Ontario Inc., 1045516 Ontario Inc., 2004516 Ontario Inc., 2192341 Ontario
Inc., and First Leaside Fund Management Inc.**

**AFFIDAVIT OF GREGORY MACLEOD
(sworn December 3, 2012)**

I, **GREGORY MACLEOD**, of the City of Burlington, in the Province of
Ontario, **MAKE OATH AND SAY:**

1. I am the President of G.S. MacLeod & Associates Inc. ("**MacLeod & Associates**"), the Court-appointed chief restructuring officer ("**CRO**") of First Leaside Wealth Management Inc. ("**FLWM**"), as well as the corporations, and limited partnerships affiliated with FLWM in respect of which these proceedings have been

brought (collectively, “**First Leaside**” or “**Companies**”). As such, I have knowledge of the facts deposed to in this affidavit. To the extent that this affidavit describes events or facts of which I do not have personal knowledge, I have identified the source of the information and, in all cases, believe it to be true.

2. Capitalized terms not otherwise defined in this affidavit are defined in my affidavit sworn February 22, 2012 (“**Initial Affidavit**”).

BACKGROUND

3. At relevant times prior to February 23, 2012, the date of the Initial Order (defined below) in these proceedings, First Leaside operated numerous businesses and held assets including: (i) a wealth management firm; (ii) a securities dealer regulated by the Investment Industry Regulatory Organization of Canada; (iii) multiple limited partnerships which own multi-residential rental properties, retirement residences and real estate developments in Canada and the United States; and (iv) interests in several other businesses, including professional accounting firms in Alberta and British Columbia, a brewery and cidery operation in Ontario, and several technology start-up companies.

4. In February 2012, First Leaside applied for protection under the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36. (“**CCAA**”);

5. By order of Mr. Justice David M. Brown made February 23, 2012 (“**Initial Order**”), First Leaside applied for and was granted protection from its creditors under the CCAA. The stay of proceedings and other relief in the Initial Order was extended to include the Included LPs (as defined in the Initial Order), even though they are not

named applicants in the CCAA proceedings. A copy of the Initial Order is attached hereto and marked as **Exhibit “A”**. The Initial Order was subsequently amended by orders of this Court dated March 8, 2012 and June 28, 2012. A copy of Justice Brown’s reasons for decision dated February 26, 2012 is attached hereto and marked as **Exhibit “B”**.

6. Pursuant to the Initial Order, Grant Thornton Limited (“**GTL**”) was appointed as monitor (“**Monitor**”) of First Leaside, MacLeod & Associates was appointed as CRO, and Fraser Milner Casgrain LLP was appointed as representative counsel (“**Representative Counsel**”) to represent the interests of the nearly 1,200 investors (“**Investors**”) of First Leaside Securities Inc. (“**FLSI**”) in these proceedings.

7. A Stay Period, as defined in paragraph 19 of the Initial Order, was granted on February 23, 2012, and was most recently extended by an order of this Court on October 22, 2012. Attached hereto and marked as **Exhibit “C”** is a copy of the October 22, 2012 Stay Extension Order.

8. The Stay Period currently expires on December 11, 2012.

9. This affidavit is sworn in support of

- (a) a motion (the “**Motion**”) for an Order terminating the CCAA proceedings in respect of First Leaside, approving the conduct of the Monitor and the CRO, approving the fee accounts of the Monitor, Monitor’s counsel and Representative Counsel, discharging the Monitor and the CRO from their current functions, releasing the Monitor and CRO from liability arising out of their acts or omissions while acting in such capacities, and for other relief (including transitional relief) as set out in the Notice of Motion; and

- (b) a separate application (the “**Application**”) under section 101 of the *Courts of Justice Act* for an Order appointing a receiver over all of the property, assets and undertakings of certain First Leaside entities that are listed as applicants in the receivership proceedings (collectively, “**Applicants**”) and to complete the wind down of operations which began in the CCAA proceedings, as set out in more detail below.

10. The Motion and Application are being brought concurrently on December 7, 2012. First Leaside has determined that a receivership would be the most cost-effective and efficient method of completing the sale or other disposition of its remaining assets, conducting a claims process, and making distributions to First Leaside’s creditors.

EVENTS LEADING TO THE CCAA PROCEEDINGS

11. At the time the Initial Order was granted, First Leaside was facing serious cash flow and operational challenges. These financial problems largely resulted from

- (a) the negative impact of the recent economic recession on real estate markets in Canada and the United States which made it difficult for First Leaside to achieve the projected levels of revenue from numerous properties it held in Canada and the United States, resulting in operational losses;
- (b) aggressive and speculative investments in retirement residences and early stage business enterprises that required significant working capital support for operations and capital improvements; and
- (c) an over-leveraged capital structure that could not be fully serviced in the ordinary course without raising additional outside investment.

12. These circumstances left First Leaside with properties at various stages of development, but without access to funds to complete development of its properties and execute its business plan.

13. In December 2011, an independent committee of the board of directors of FLWM retained my corporation, MacLeod & Associates, to review First Leaside's operations and provide recommendations on how to deal with the various financial and regulatory issues that the Companies were facing. After careful consideration, I concluded that it was unlikely that First Leaside would be in a position to resolve its issues with the securities regulators and resume raising capital over the foreseeable future. On that basis and considering the Companies' limited cash reserves, I recommended that the best course of action for First Leaside was to undertake an orderly wind-down of its operations. In light of the complex corporate structure of the Companies, numerous assets, numerous inter-company debts and the fact that many First Leaside clients have debt and/or equity investments in multiple First Leaside entities, I concluded that the optimal way to deal with First Leaside's assets and liabilities was to bring the Companies within a court-supervised CCAA process

14. For these reasons, First Leaside sought and was granted CCAA protection in this Court to effect an orderly wind-down of the Companies' assets and undertakings with an effort to maximize recoveries for the interested stakeholders.

SUMMARY OF STEPS TAKEN IN THE CCAA PROCEEDINGS

15. Since the date of the Initial Order, First Leaside has worked closely with the Monitor, Representative Counsel, mortgagees, investors, and other stakeholders to

develop and implement a plan to effect the orderly wind-down of First Leaside's operations to efficiently preserve and maximize the value of its assets. The CRO has taken the following steps to date, among other things, in respect of First Leaside's CCAA wind-down plan:

- (a) engaged a core team of First Leaside managers to maintain the accounting and finance functions, investor relations and property management through the wind-down process; corporate operations were relocated to more suitable premises and corporate records were secured;
- (b) implemented a court-approved communications protocol to ensure that First Leaside Investors were given a reasonable opportunity to assess and respond to proposed asset transactions;
- (c) held meetings with, and provided information to, an investor steering committee organized by Representative Counsel ("**Steering Committee**") and provided regular updates to Representative Counsel concerning the sale of First Leaside's various properties and the status of other matters in the CCAA administration in accordance with the communications protocol approved by the Court;
- (d) participated in phone calls and meetings with a transaction sub-committee, which is a subset of the Steering Committee, to report on the current status of certain real property sales including offers received and likely counter-offers to be made by First Leaside;
- (e) obtained a Court order for an inter-company charge to ensure that if any First Leaside entity borrows money from a related entity in the course of the CCAA proceedings, such monies will be subject to a priority charge that secures its payment back to the entity that it borrowed from;
- (f) prepared, with the assistance of the Monitor, a court-approved realization

plan that sets out the timeframe for the sale of First Leaside assets, lists the actions that must be taken to realize the Companies' assets and establish target transaction timeframes;

- (g) listed for sale with a real estate broker the majority of the Ontario properties owned by First Leaside entities and obtained up-to-date appraisals for the properties;
- (h) marketed and completed the sale of First Leaside's Canadian properties and businesses including the following:
 - (i) a retirement residence in St. Catharines, Ontario resulting in gross proceeds of \$7.1 million;
 - (ii) a 70,000 square foot industrial building in Brampton, Ontario ("**Bramtree**") for the purchase price of \$5,600,000;
 - (iii) a 50-unit townhome complex in Tilbury, Ontario for the purchase price of \$2,600,000;
 - (iv) the sale of First Leaside's interests in certain accounting practices in western Canada;
 - (v) the release of First Leaside's interests in First Leaside Visions Limited Partnership, which owned a number of early stage research and development start-up companies, in exchange for First Leaside receiving payment of cash on hand;
 - (vi) a cidery and brewery as well as the land and building upon which the cidery is located upon, and a beer and spirits consulting company in Ontario for the purchase price of \$760,000; and
 - (vii) certain properties located in Uxbridge, Ontario in full and final satisfaction of the largest construction lien claim against said properties in the amount of approximately \$1.7 million dollars.

- (viii) several retirement residences in Ottawa, which sale was facilitated by the CRO in conjunction with a process managed by the mortgagees, resulting in gross proceeds of approximately \$58 million;
- (i) retained Grant Thornton Corporate Finance Inc. to market the following assets (collectively, "**Retirement Residence Assets**"): three retirement residences in British Columbia, a 50% interest in a Vernon, B.C. property, and a 50.1% interest in Prime Time Living Limited Partnership, which owns retirement residences in British Columbia and Ontario and manages other retirement residences, which resulted in a sale for aggregate proceeds of approximately \$51 million;
- (j) retained Waddingtons to sell First Leaside's art collection;
- (k) distributed monies from the net proceeds of sale of Bramtree to Investors that held an interest in the mortgage over the property through mortgage participation ownership certificates;
- (l) commenced a legal action (the "**Phillips Action**") against David Phillips ("**Phillips**") and Margaret Davis ("**Davis**") for recovery of monies advanced by First Leaside entities or that otherwise appear to be unauthorized payments or misappropriations of cash for the benefit of Phillips and Davis; and
- (m) in connection with the Phillips Action, obtained a Certificate of Pending Litigation against the residence of Phillips and Davis to prevent the sale of the property without regard to claims by First Leaside, until the Phillips Action is completed.

16. So far, the sales efforts undertaken during the time of the CCAA proceedings have resulted in net proceeds in excess of \$125 million for the benefit of creditors, including mortgagees.

17. In addition to the above-noted activities, I, as CRO, and with the assistance of the Monitor, retained legal counsel and real estate advisors in Texas to assist with preparing a strategy for Wimberly Apartments Limited Partnership ("**WALP**"). WALP, which is an Included LP (as defined in the Initial Order), holds equity interests in two limited partnerships in Texas—FL Master Texas Ltd. and FL Master Sherman Ltd.—which, in general terms, own the limited partnership units of 11 Texas-based limited partnerships ("**Texas LPs**"), each of which owns a multi-residential property situate in Dallas or Sherman, Texas. WALP also owns a condominium unit in each of two properties owned by the Texas LPs ("**Texas Condos**") and directly owns what is known as the Sherman Church property ("**Sherman Church Property**"), a small parcel of land with a former church building located adjacent to one of the multi-residential facilities in Sherman Texas. FL Master Sherman Ltd. also has a bank account with a balance of approximately \$160,000 ("**Sherman Bank Balance**"). (Hereafter, the LP Units, Texas Condos, Sherman Church Property, and Sherman Bank Balance shall be referred to collectively as the "**WALP Assets**".)

18. As part of this ongoing assessment, the Monitor, with the assistance of the CRO, prepared a report to investors which concluded that, if the properties owned by the Texas LPs (the "**Texas Properties**") were to be sold, there would be few net proceeds left after payment of closing costs, mortgage debt, and penalties. The report also concluded that the Texas Properties did not have sufficient capital or cash flow to continue operations over the long term without substantial additional funding.

19. Some of the operational funding for the Texas Properties came from investment funds (collectively, "**Funds**"), which are constituted as trusts. The Funds are Wimberly

Fund, First Leaside Fund, First Leaside Properties Fund, and First Leaside Mortgage Fund The Funds issued units to investors in exchange for money contributed by Investors. In turn, the Funds made loans to the Texas LPs, generally through F.L. Master Texas, Ltd. and F.L. Master Sherman, Ltd..

20. Although the Funds are legally separate from First Leaside (and therefore have never been part of these CCAA proceedings), First Leaside managed the Funds pursuant to management agreements.

21. The Funds are the most significant unsecured creditors of the Texas LPs.

22. First Leaside Mortgage Fund ("**Mortgage Fund**") held a first mortgage on one of the Texas Properties, owned by F.L. Sedona Creek, Ltd., known as the Family Tree Apartments ("**Sedona**"). The mortgage on Sedona which was given to Mortgage Fund went into default and Mortgage Fund exercised its foreclosure rights in August 2012 and thereby acquired ownership of Sedona. Sedona is currently being managed by Mortgage Fund and I was recently informed that a sale to a third party may be pending. Mortgage Fund also holds a mortgage on the Sherman Church Property and a security interest in a parcel of land that is included in the BayBridge transaction described below.

23. Wimberley Fund, First Leaside Fund and First Leaside Properties Fund have no direct security interests in any properties. They remain as unsecured creditors of F.L. Master Texas Ltd. and F.L. Master Sherman Ltd.

24. Over the summer of 2012, First Leaside retained a Texas based law firm to review the structure of the Texas LPs and determine whether they could be brought into

insolvency proceedings and sold as part of the ongoing orderly wind-down of First Leaside. The law firm ultimately concluded that First Leaside did not have the corporate authority to deal with the Texas Properties because the Texas LPs, which own the Texas Properties, were controlled by general partners that were controlled by Phillips, the former CEO of First Leaside. In consultation with the Monitor and Representative Counsel, I determined that the cost of seeking control of, and realizing upon, the Texas Properties would be disproportionately high relative to the potential net recovery for investors.

25. On August 31, 2012, the Court granted an order ("**August 31 Order**"), directing First Leaside not to take any steps to manage, administer or maintain any limited partnerships, corporations, trusts, or properties located or subsisting in the United States in which First Leaside had a direct or indirect equity or other interest, including WALP and the Texas LPs. Attached hereto and marked as **Exhibit "D"** is a copy of the August 31 Order.

UPDATE ON MATTERS SINCE LAST CCAA MOTION ON NOVEMBER 20, 2012

Closing of BayBridge Transaction

26. On October 22, 2012, Mr. Justice Pattillo issued an order ("**October 22 Order**") which authorized and directed the CRO, pursuant to a purchase agreement dated September 27, 2012 ("**Sale Agreement**") to complete the sale to BayBridge Seniors Housing Trust ("**Purchaser**") of the Companies' interest in retirement homes located in the Okanagan region of British Columbia as well as its interest in First Leaside

Primetime Living Partnership ("**Purchased Assets**"). A copy of the October 22 Order is attached hereto and marked as **Exhibit "E"**.

27. The details of the transaction are set out in my affidavit sworn October 15, 2012, a copy of which, without exhibits, is attached hereto and marked as **Exhibit "F"**.

28. On November 28, 2012, First Leaside obtained an Order from Justice Pattillo providing for minor amendments to the October 22 Order. In particular, the October 22 Order was amended to include the specific name of the entities through which the Purchaser would take title to real properties in British Columbia, namely Prime Time (Cherry Park) Inc., Prime Time (Orchard Valley) Inc. and Prime Time (Shores) Inc. ("**Nominees**"). This amendment was required in order to facilitate registration of the transfers in the British Columbia land registry office. The amended version of the October 22 Order is attached hereto and marked as **Exhibit "G"**.

29. As part of the Sale Agreement, First Leaside was required to use the proceeds from the transaction to settle the claims of certain creditors who had asserted construction liens on title to the Purchased Assets ("**B.C. Lien Claims**"). By Order dated November 20, 2012 ("**November 20 Order**"), Mr. Justice Newbould approved payment of the B.C. Lien Claims in accordance with the payment mechanism set out in the October 22 Order. A copy of the November 20 Order is attached hereto and marked as **Exhibit "H"**.

30. The transaction contemplated by the Sale Agreement ultimately closed on November 30, 2012. All other mortgages, claims, encumbrances or liens were discharged or assumed by the Purchaser on closing in accordance with the terms of the

Sale Agreement. Pursuant to the authorization granted in paragraph 6 of the November 20 Order, upon closing of the transaction, I executed discharges of a mortgage and an assignment of rents registered on title to certain of the lands which were conveyed as part of the BayBridge transaction and, as a result, such mortgage has been vested out of the Purchased Assets. On closing, I delivered a CRO's Certificate (as defined in the amended October 22 Order) to counsel to the Purchaser. A copy of the CRO's certificate is attached hereto as **Exhibit "I."** The closing of this transaction resulted in the receipt of net proceeds of approximately \$10.5 million, of which approximately \$1.2 million will be held in escrow, pending resolutions of items under the Sale Agreement. The draft receivership order empowers the receiver to deal with the escrowed funds.

Closing of Structform Transaction

31. As part of the November 20 Order, the Court approved the sale of certain properties owned by First Leaside Expansion Limited Partnership and First Leaside Entities Limited Partnership in Uxbridge, Ontario, which were being developed as the new head office complex for First Leaside ("**Uxbridge Properties**"). The purchaser, Structform International Limited ("**Structform**") acquired the Uxbridge Properties in exchange for the total forgiveness of lien claims filed by or assigned to Structform in the total amount of \$1,723,755 ("**Lien Claim**") and vested all of the Companies' right, title and interest in and to the Uxbridge Properties absolutely in Structform ("**Structform Transaction**"). The November 20 Order provides that the Companies' right, title and interest in and to the Uxbridge Properties shall vest absolutely on an "as is, where is" basis in Structform free and clear of and from all encumbrances or charges, except

those permitted under the sale agreement dated November 13, 2012 ("**Structform Agreement**").

32. All of the conditions to closing particularized under the Structform Agreement have been satisfied or waived by the Companies and Structform. First Leaside and Structform are in the in the process of registering title to the Uxbridge Properties in the name of Structform's assignee. In accordance with the terms of the Structform Agreement, all of Structform's claims against the Uxbridge Properties will be extinguished upon completion of this transaction.

33. The lien claims of other lien claimants which had been asserted against the Uxbridge Properties will be vested out in accordance with the November 20 Order.

Settlement with Visions LP

34. As part of the November 20 Order, First Leaside obtained Court approval of a transaction to: (a) settle the intercompany advances made between FLWM and First Leaside Visions I Limited Partnership and First Leaside Visions II Limited Partnership (collectively, "**Visions LP**"), and (b) forgive the remaining amount of Visions LP's advances to FLWM in exchange for payment to FLWM of the cash on hand in the bank accounts of Visions LP, all in accordance with full and final releases executed by myself on behalf of the CRO on November 13, 2012 ("**Visions Transaction**").

35. The November 20 Order contemplates that, at the date and time that the Visions Transaction is completed, the CCAA proceedings shall terminate with respect to 2085438 Ontario Inc., the general partner of Visions LP, and a number of limited partnerships shall no longer be entitled to the benefit of the Initial Order.

36. As at the date of this affidavit, the debts owing as between Visions LP and FLWM have been set off and Visions LP has paid to FLWM all monies in its bank accounts, in full and final satisfaction of the outstanding debt owing by Visions LP to FLWM, thereby completing the transaction.

OUTSTANDING CCAA MATTERS

Remaining First Leaside Canadian Real Property Assets

37. As a result of the activities of the CRO and Monitor discussed above, the CCAA proceedings to date have resulted in the sale of substantially all of First Leaside's realizable assets. There are only a few material assets that remain to be realized, which are as follows:

- (a) Erie Street Property - 123 Erie Street, Wheatley, Ontario ("**Erie Street**") is a development site owned by First Leaside Unity Limited Partnership which, in turn, is owned by First Leaside Expansion Limited Partnership;
- (b) Cemetery Road Property - 164 Cemetery Road, Uxbridge, Ontario ("**Cemetery Road**") is a 23 acre parcel of land (of which only 4 acres are developable) owned by Uxbridge Development Limited Partnership which, in turn, is owned by First Leaside Progressive Limited Partnership; and
- (c) Mill Street Property - 62 Mill Street, Uxbridge, Ontario ("**Mill Street**") is a 3.74 acre plot of land containing a small heritage home, which is owned by Mill Street Limited Partnership which, in turn, is owned by First Leaside Investors Limited Partnership.

Sale of First Leaside U.S. Properties

38. First Leaside's decision in August 2012 (which was approved by the court by the August 31 Order) to take no further steps in respect of the Texas LPs was motivated by the conclusion that WALP's equity interest in the Texas LPs had no likely realizable value after taking into account mortgage debt and realization costs. Although, apart from the Sherman Bank Balance of approximately \$160,000, the WALP Assets have no likely realizable value, those assets do have some potential non-monetary value to the Funds. Since the Funds are unsecured creditors of the Texas LPs (except for Mortgage Fund, which holds mortgages), but do not hold any equity interest, the Funds have no ready ability to take control of, or operate, the properties owned by the Texas LPs.

39. Following the August 31 Order, the trustees of the Funds instructed their counsel to enter into negotiations with First Leaside to purchase the WALP Assets. Negotiations have been underway since that time. Although negotiations have advanced significantly towards agreed terms of sale of the WALP Assets, no definitive form of agreement of purchase and sale has been reached.

40. Each of the Funds is governed by a number of trustees that make decisions and provide instructions to legal counsel. I have become aware that the Funds plan to hold meetings of unitholders of Wimberly Fund and First Leaside Fund on December 10, 2012 and of First Leaside Properties Fund on December 13, 2012. At these meetings, unitholders will be asked to appoint a new slate of trustees.

41. Further, some of the Funds' unitholders have come forward to express concerns to me about the restructuring proposal for the Texas LPs put forward by the current

trustees of the Funds and have questioned whether it is appropriate for the Funds to purchase the WALP Assets.

42. In light of these unitholder concerns, and the uncertainty about which trustees will be elected and what direction they may wish to pursue, First Leaside will not be entering into a binding agreement with the Funds (even an agreement subject to Court approval) prior to the dates of the unitholder meetings. To the extent that the new slate of trustees of the Funds still wish to pursue the purchase of the WALP Assets after the meetings, the receiver (if appointed) can continue negotiations and seek the appropriate Court approval during the period of the anticipated receivership.

Custodial and Services Agreement with Fidelity

43. As part of the motion to terminate the CCAA proceedings, First Leaside is also seeking authorization to enter into a Custodial and Services Agreement (the “**Custodial Agreement**”) with Fidelity Clearing Canada ULC (“**Fidelity**”). At the time of the CCAA proceedings, FLSI had engaged Penson Financial Services Canada Inc. (“**Penson**”) to act as custodian for securities held by Investors, the majority of which were registered accounts. Although many Investors have since transferred the assets in their accounts with Penson to another custodian, a number of Penson accounts still remain open.

44. On September 28, 2012, Penson announced that it would be ceasing its operations in Canada. Accordingly, the remaining First Leaside client accounts will need to be transferred to a new custodian. The deadline for transferring accounts is December 15, 2012.

45. At the time that this affidavit is being sworn, First Leaside is in the process of finalizing negotiations with Fidelity about the terms of the Custodial Agreement. I expect that negotiations will be completed prior to the hearing of this motion on December 7, 2012. As such, court approval of the Custodial Agreement can be sought at that time.

46. The Seventh Report of the Monitor will provide an update on the Custodial Agreement.

TERMINATION OF CCAA PROCEEDINGS AND DISCHARGE

47. Since the date of the Initial Order, the sole purpose of the CCAA proceedings has been to liquidate the assets of First Leaside, wind down the business, and distribute proceeds to creditors and investors. In less than 10 months, First Leaside has managed to sell most of its properties. In general terms, mortgagees of First Leaside's properties have had their mortgages paid around the time of the closing of the property sales. The proceeds that remain following the payment of such mortgages have been held for the benefit of other stakeholders, including unsecured creditors, noteholders, and equity holders, subject to a determination of the validity and priority of such claims through a claims process.

48. One of the main objectives of the CCAA process was to allow First Leaside some breathing room from its creditors and other stakeholders while asset sales occurred. Further, the CCAA allowed First Leaside to retain a complement of employees (albeit a reduced number) and continue operations while the properties were sold.

49. I believe that the circumstances have now changed. First, as I have noted above, First Leaside only holds three remaining properties. Second, since so many properties have been sold and thus no longer have to be managed, there is little practical need for First Leaside administrative staff to remain in their positions. As such, all remaining First Leaside staff will shortly depart. I intend to relinquish my role as CRO as soon as possible, with the proposed Receiver completing the administration of the estate with the input of Representative Counsel. Third, the main remaining task in the orderly wind-down, namely the running of a claims process and the distribution of proceeds, will not require the current debtor-in-possession regime under the CCAA to continue. The claims process can be run by an officer of the Court alone, under Court supervision.

50. For these reasons, First Leaside has brought a motion to terminate the CCAA proceedings, discharge the Monitor and the CRO and approve their conduct, and transition to receivership.

APPLICATION FOR APPOINTMENT OF RECEIVER

51. The realization of First Leaside's assets is substantially complete. CCAA proceedings are no longer necessary to complete the remaining steps in the wind down. It is now appropriate and more cost-effective, in my view, to complete the realization of the remaining assets, a claims process and distribution via a court-appointed receiver. The role of the CRO will not be integral to the process going forward.

52. Accordingly, concurrent with First Leaside's motion to terminate the CCAA proceedings, the Applicants have commenced an application for an Order appointing

GTL as receiver (“**Receiver**”) over the assets, property and undertakings of the Applicants. Since there are no secured creditors of most of the corporations and limited partnerships which constitute First Leaside, and certainly no secured creditors that have expressed an intention to appoint a receiver, there is likely no basis for a receivership application under the *Bankruptcy and Insolvency Act*. Instead, this application is being brought by the Applicants (and not a secured creditor) under section 101 of the *Courts of Justice Act* on the basis that it is just and convenient that a receiver be appointed.

53. If appointed, it is proposed that the Receiver would be authorized to, among other things,

- (a) continue to market First Leaside’s three remaining Canadian properties;
- (b) continue the Companies’ action as against David Phillips, Margaret Davis and 970877 Ontario Inc.;
- (c) sell or otherwise dispose of the remaining assets of the Companies;
- (d) administer the mortgage in respect of the property known municipally as 90 King Street East, Thornbury, Ontario (“**Thornbury Mortgage**”) for the unitholders of the Thornbury Mortgage, including distributing interest received to such unitholders, until such time as an alternate administrator can be engaged;
- (e) undertake a process to identify and solicit creditor and investor claims;
- (f) adjudicate claims; and
- (g) make distributions to approved creditors in accordance with their priority.

54. From my perspective, a receivership would be beneficial to stakeholders because

- (a) the orderly sale of the few remaining assets can be efficiently and effectively completed by the Receiver;
- (b) a stay can remain in place to prevent the chaos that would result from creditors individually exercising self-help remedies;
- (c) the receivership will include a comprehensive claims procedure; and
- (d) administrative costs can be minimized because:
 - (i) First Leaside will not need to retain any full-time employees; former employees can be hired on a contract basis if needed;
 - (ii) First Leaside and the CRO will no longer require representation in proceedings before this Court;
 - (iii) The CRO will have been discharged;
 - (iv) there will no longer be two sets of counsel (one for First Leaside and one for the Monitor) working full time in the proceedings;
 - (v) the role of Representative Counsel may be reduced given that First Leaside's assets have been substantially realized; and
 - (vi) First Leaside can eventually surrender the lease on its current premises, given that most functions will be handled from the Receiver's premises.

55. GTL has advised me that, if it is appointed as Receiver, it will attempt to find cost efficiencies during the course of the receivership. For example, since CBB has significant "institutional knowledge" about First Leaside and has handled the negotiation and closing of the transactions in the CCAA proceedings, the Receiver will be permitted to retain CBB to continue work on transactions during the course of the receivership.

56. Part of the relief being sought in the receivership application is approval of a claims process. In that regard, in addition to a receivership order, First Leaside is seeking a claims procedure order ("**Claims Procedure Order**") to, among other things,

- (a) provide notice to creditors of the claims process;
- (b) establish deadlines for mailing acknowledgements of claim forms to investors in First Leaside Securities Inc. and proof of claim forms to other potential First Leaside creditors;
- (c) establish a claims bar date for the submission of proofs of claim or amendments to acknowledgements of claim; and
- (d) develop a procedure for determining and adjudicating claims.

57. Further details of the proposed claims process will be contained in the draft Claims Procedure Order and Schedules attached thereto, and the Seventh Report of the Monitor, which will be filed and served separately.

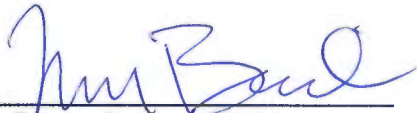
APPROVAL OF FEES AND DISBURSEMENTS

58. In connection with the proposed transition to receivership and discharge of the Monitor and CRO, First Leaside also seeks court approval of the accounts for the Monitor, its counsel and Representative Counsel for the period from February 23, 2012 to November 30, 2012.

59. Details of the fees of the Monitor, its counsel, and Representative Counsel, including fee affidavits, will form part of the Monitor's Seventh Report, which will be filed separately.

60. To the extent that fees and disbursements relating to these CCAA proceedings need to be approved for the period from and after December 1, 2012, First Leaside is seeking authorization to have such amounts approved by motion in the receivership proceeding.

SWORN before me at the City of Toronto,
In the Province of Ontario, this 3rd day of
December, 2012


A Commissioner, etc.

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GREGORY MACLEOD

**IN THE MATTER OF THE COMPANIES' CREDITORS
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDED**

Court File No: CV-12-9617-00CL

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF First Lease Wealth Management Inc. et al**

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

Proceeding commenced at Toronto

**AFFIDAVIT OF GREGORY MACLEOD
(sworn December 3, 2012)**

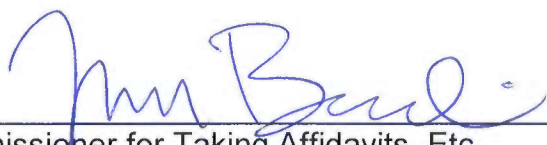
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dward@casselsbrock.com

Lawyers for the Applicants

THIS IS EXHIBIT "A" REFERRED TO IN THE
AFFIDAVIT OF GREGORY MACLEOD
SWORN BEFORE ME,
THIS 3rd DAY OF DECEMBER, 2012

A handwritten signature in blue ink, appearing to read "Jim Baul", is written over a horizontal line.

Commissioner for Taking Affidavits, Etc.

Court File No. CV-12-9617-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.

)

THURSDAY, THE 23RD

JUSTICE DAVID M. BROWN

)

DAY OF FEBRUARY, 2012

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**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF First Leaside Wealth Management Inc., First Leaside Finance Inc., First
Leaside Securities Inc., FL Securities Inc., First Leaside Management Inc.,
First Leaside Accounting and Tax Services Inc., First Leaside Holdings
Inc., 2086056 Ontario Inc., First Leaside Realty Inc., First Leaside Capital
Inc., First Leaside Realty II Inc., First Leaside Investments Inc., 965010
Ontario Inc., 1045517 Ontario Inc., 1024919 Ontario Inc., 1031628 Ontario
Inc., 1056971 Ontario Inc., 1376095 Ontario Inc., 1437290 Ontario Ltd.,
1244428 Ontario Ltd., PrestonOne Development (Canada) Inc., PrestonTwo
Development (Canada) Inc., PrestonThree Development (Canada) Inc.,
PrestonFour Development (Canada) Inc., 2088543 Ontario Inc., 2088544
Ontario Inc., 2088545 Ontario Inc., 1331607 Ontario Inc., Queenston Manor
General Partner Inc., 1408927 Ontario Ltd., 2107738 Ontario Inc., 1418361
Ontario Ltd., 2128054 Ontario Inc., 2069212 Ontario Inc., 1132413 Ontario
Inc., 2067171 Ontario Inc., 2085306 Ontario Inc., 2059035 Ontario Inc.,
2086218 Ontario Inc., 2085438 Ontario Inc., First Leaside Visions
Management Inc., 1049015 Ontario Inc., 1049016 Ontario Inc., 2007804
Ontario Inc., 2019418 Ontario Inc., FL Research Management Inc., 970877
Ontario Inc., 1031628 Ontario Inc., 1045516 Ontario Inc., 2004516 Ontario
Inc., 2192341 Ontario Inc., and First Leaside Fund Management Inc. (each,
an "Applicant" and collectively, the "Applicant")**

INITIAL ORDER

THIS APPLICATION, made by the Applicant, pursuant to the *Companies'
Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") was heard
this day at 330 University Avenue, Toronto, Ontario.

ON READING the affidavit of Gregory MacLeod sworn February 22, 2012 (the "MacLeod Affidavit") and the Exhibits thereto, and the Pre-filing Report of Grant Thornton Limited as the Proposed Monitor, and on hearing the submissions of counsel for the Applicant, the proposed Monitor, the proposed Representative Counsel, the Ontario Securities Commission, the Investment Industry Regulatory Organization of Canada, the Toronto-Dominion Bank, the Canadian Imperial Bank of Commerce, and KingSett Capital, no one appearing for the other parties on the service list although duly served as appears from the affidavit of service of Patricia Hoogenband sworn February 22, 2012 and on reading the consent of Grant Thornton Limited to act as the Monitor,

SERVICE

1. THIS COURT ORDERS that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPLICATION

2. THIS COURT ORDERS AND DECLARES that the Applicant is a company to which the CCAA applies. Although not an Applicant, the limited partnerships listed in Schedule "A" to this Order (the "LPs") shall enjoy the benefits of and the protections provided to the Applicant by this Order. (The Applicant and the LPs are hereinafter referred to collectively as "First Leaside".)

3. THIS COURT ORDERS that, for greater certainty, the terms of this order shall not apply to the following limited partnerships (collectively, the "Excluded LPs"):

- (a) First Leaside Retirement Residences (Ottawa) Limited Partnership
- (b) First Leaside Retirement Residences (Okanagan) Limited Partnership
- (c) Cherry Park Retirement Residences Limited Partnership
- (d) Orchard Valley Retirement Residences Limited Partnership
- (e) The Shores Retirement Residences Limited Partnership

(f) Redwood Retirement Residences (Ottawa) Limited Partnership

(g) 100 Isabella Street (Ottawa) Limited Partnership and

(h) 480 Metcalfe Street (Ottawa) Limited Partnership

(hereafter, the Excluded LPs identified in (a), (f), (g), and (h) above shall be referred to as the "Ottawa Excluded LPs" and the Excluded LPs identified in (b), (c), (d), and (e) above shall be referred to as the "Okanagan Excluded LPs").

4. THIS COURT ORDERS that the provisions of this order shall not extend to any general partner of the Excluded LPs to the extent that such general partner exercises powers for or on behalf of the Excluded LPs, holds property on behalf of the Excluded LPs, or owes liabilities in respect of the Excluded LPs

5. THIS COURT ORDERS that, for greater certainty, Canadian Imperial Bank of Commerce ("CIBC"), KingSett Mortgage Corporation ("KingSett") and Toronto-Dominion Bank ("TD") shall be unaffected creditors and not stayed by or otherwise subject to the terms of this Order in respect of the Excluded LPs.

6. THIS COURT ORDERS that that no payments, funds or other transfers of value shall be accepted or received by First Leaside from the Excluded LPs, save and except to the extent approved by agreement in writing by CIBC and KingSett with respect to the Ottawa Excluded LPs and by TD with respect to the Okanagan Excluded LPs.

7. THIS COURT ORDERS that the Applicant is at liberty, at any time, on seven days' notice to CIBC, KingSett, and TD, to seek an order extending the scope of these proceedings and the provisions of this order to include the Excluded LPs.

PLAN OF ARRANGEMENT

8. THIS COURT ORDERS that the Applicant shall have the authority to file and may, subject to further order of this Court, file with this Court a plan or plans of compromise or arrangement (hereinafter referred to as the "Plan").

POSSESSION OF PROPERTY AND OPERATIONS

9. THIS COURT ORDERS that First Leaside shall remain in possession and control of its current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the "Property"). Subject to further Order of this Court, First Leaside shall continue to carry on its business in a manner consistent with the preservation of its business (the "Business") and Property. First Leaside shall be authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively "Assistants") currently retained or employed by it, with liberty to retain such further Assistants as it deems reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

10. THIS COURT ORDERS that First Leaside shall be entitled to implement a central cash management system as described in the MacLeod Affidavit or replace it with another substantially similar central cash management system (the "Cash Management System") and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by First Leaside of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than First Leaside, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System. The bank accounts of First Leaside Securities Inc. ("FLSI") shall not form part of the Cash Management System.

11. THIS COURT ORDERS that First Leaside shall be entitled but not required to pay the following expenses whether incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, employee and pension benefits, vacation pay and expenses payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements; and
- (b) the fees and disbursements of any Assistants retained or employed by First Leaside in respect of these proceedings, at their standard rates and charges.

12. THIS COURT ORDERS that, except as otherwise provided to the contrary herein, First Leaside shall be entitled but not required to pay all reasonable expenses incurred by First Leaside in carrying on the Business in the ordinary course after this Order, and in carrying out the provisions of this Order, which expenses shall include, without limitation:

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services;
- (b) payment for goods or services actually supplied to First Leaside following the date of this Order; and
- (c) payments of principal and interest in respect of real property mortgages.

13. THIS COURT ORDERS that First Leaside shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;
- (b) all goods and services or other applicable sales taxes (collectively, "Sales Taxes") required to be remitted by First Leaside in connection with the sale of

goods and services by First Leaside, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order, and

- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by First Leaside.

14. THIS COURT ORDERS that until a real property lease is disclaimed in accordance with the CCAA, First Leaside shall pay all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease) or as otherwise may be negotiated between First Leaside and the landlord from time to time ("Rent"), for the period commencing from and including the date of this Order, in equal monthly payments on the first day of each month, in advance (but not in arrears). On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

15. THIS COURT ORDERS that, except as specifically permitted herein, First Leaside is hereby directed, until further Order of this Court: (a) to make no payments of principal, interest thereon or otherwise on account of amounts owing by First Leaside to any of its creditors as of this date; (b) to grant no security interests, trust, liens, charges or encumbrances upon or in respect of any of its Property; and (c) to not grant credit or incur liabilities except in the ordinary course of the Business.

RESTRUCTURING

16. THIS COURT ORDERS that First Leaside shall, subject to such requirements as are imposed by the CCAA, have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of its business or operations, and to dispose of redundant or non-material assets not exceeding \$50,000 in any one transaction or \$250,000 in the aggregate;
- (b) terminate the employment of such of its employees or temporarily lay off such of its employees as it deems appropriate;
- (c) pursue all avenues of refinancing of its Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing; and
- (d) pursue all avenues for the potential sale of the Business or Property, in whole or part, subject to further approval of such sale by this Court,

all of the foregoing to permit First Leaside to proceed with an orderly restructuring of the Business (the "Restructuring").

17. THIS COURT ORDERS that First Leaside shall provide each of the relevant landlords with notice of First Leaside's intention to remove any fixtures from any leased premises at least seven (7) days prior to the date of the intended removal. The relevant landlord shall be entitled to have a representative present in the leased premises to observe such removal and, if the landlord disputes First Leaside's entitlement to remove any such fixture under the provisions of the lease, such fixture shall remain on the premises and shall be dealt with as agreed between any applicable secured creditors, such landlord and First Leaside, or by further Order of this Court upon application by First Leaside on at least two (2) days notice to such landlord and any such secured creditors. If First Leaside disclaims the lease governing such leased premises in accordance with Section 32 of the CCAA, it shall not be required to pay Rent under such lease pending resolution of any such dispute (other than Rent payable for the notice period provided for in Section 32(5) of the CCAA), and the disclaimer of the lease shall be without prejudice to First Leaside's claim to the fixtures in dispute.

18. THIS COURT ORDERS that if a notice of disclaimer is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer, the landlord may show the affected leased premises to prospective

tenants during normal business hours, on giving First Leaside and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against First Leaside in respect of such lease or leased premises and such landlord shall be entitled to notify First Leaside of the basis on which it is taking possession and to gain possession of and re-lease such leased premises to any third party or parties on such terms as such landlord considers advisable, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

NO PROCEEDINGS AGAINST FIRST LEASIDE OR THE PROPERTY

19. THIS COURT ORDERS that until and including March 23, 2012, or such later date as this Court may order (the "Stay Period"), no proceeding or enforcement process in any court or tribunal (each, a "Proceeding") shall be commenced or continued against or in respect of First Leaside or the Monitor, or affecting the Business or the Property, except with the written consent of First Leaside and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of First Leaside or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

20. THIS COURT ORDERS that during the Stay Period, all rights and remedies of any individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "Persons" and each being a "Person") against or in respect of First Leaside or the Monitor, or affecting the Business or the Property, are hereby stayed and suspended except with the written consent of First Leaside and the Monitor, or leave of this Court, provided that nothing in this Order shall (i) empower First Leaside to carry on any business which First Leaside is not lawfully entitled to carry on, (ii) affect such investigations, actions, suits or proceedings by a regulatory body as are permitted by Section 11.1 of the CCAA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien.

NO INTERFERENCE WITH RIGHTS

21. THIS COURT ORDERS that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by First Leaside, except with the written consent of First Leaside and the Monitor, or leave of this Court.

CONTINUATION OF SERVICES

22. THIS COURT ORDERS that during the Stay Period, all Persons having oral or written agreements with First Leaside or statutory or regulatory mandates for the supply of goods and/or services, including without limitation all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to the Business or First Leaside, are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by First Leaside, and that First Leaside shall be entitled to the continued use of its current premises, telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by First Leaside in accordance with normal payment practices of First Leaside or such other practices as may be agreed upon by the supplier or service provider and each of First Leaside and the Monitor, or as may be ordered by this Court.

NON-DEROGATION OF RIGHTS

23. THIS COURT ORDERS that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of lease or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-advance any monies or otherwise extend any credit to First Leaside. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

PROCEEDINGS AGAINST DIRECTORS AND OFFICERS

24. THIS COURT ORDERS that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of First Leaside with respect to any claim against the directors or officers that arose before the date hereof and that relates to any obligations of the Applicant whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations, until a compromise or arrangement in respect of the Applicant, if one is filed, is sanctioned by this Court or is refused by the creditors of the Applicant or this Court.

CHIEF RESTRUCTURING OFFICER

25. THIS COURT ORDERS that the appointment of G.S. MacLeod & Associates Inc. as chief restructuring officer of First Leaside (the "CRO") is hereby confirmed and approved and the CRO is hereby authorized and empowered to operate and manage the affairs of First Leaside during the pendency of these CCAA proceedings.

26. THIS COURT ORDERS that the CRO shall be paid its fees and disbursements (the "CRO Fees") in accordance with the CRO's engagement letter with First Leaside dated December 21, 2011.

27. THIS COURT ORDERS that the CRO and its officers, directors, employees, and servants shall incur no liability or obligation as a result of the appointment of the CRO or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on their part.

TRANSFER OF CLIENT ACCOUNTS

28. THIS COURT ORDERS that, to the extent that any client of FLSI ("FLSI Client") holds a "security" as defined in section 253 of the *Bankruptcy and Insolvency Act* and/or cash in an account or accounts with Penson Financial Services Canada Inc. (each, a "Client Account"), such FLSI Client shall immediately have the right to transfer any such

security or cash or the entire Client Account with Penson Financial Services Canada Inc. to another licensed securities dealer (an "FLSI Client Account Transfer").

29. THIS COURT ORDERS that FLSI and Penson Financial Services Canada Inc. shall take all reasonable steps to facilitate an FLSI Client Account Transfer.

DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE

30. THIS COURT ORDERS that the Applicant shall indemnify its directors and officers against obligations and liabilities that they may incur as directors or officers of the Applicant after the commencement of the within proceedings, except to the extent that, with respect to any officer or director, the obligation or liability was incurred as a result of the director's or officer's gross negligence or wilful misconduct.

31. THIS COURT ORDERS that the directors and officers of the Applicant shall be entitled to the benefit of and are hereby granted a charge (the "Directors' Charge") on the Property, which charge shall not exceed an aggregate amount of \$250,000, as security for the indemnity provided in paragraph 30 of this Order as well as the fees and disbursements of counsel to the Independent Committee of the Board of Directors ("Independent Committee Counsel") to the extent that such fees and disbursements relate to services provided in respect of First Leaside. The Directors' Charge shall have the priority set out in paragraphs 50 and 52 herein. The Applicant is hereby authorized and directed to pay a \$50,000 retainer to Independent Committee Counsel.

32. THIS COURT ORDERS that, notwithstanding any language in any applicable insurance policy to the contrary, (a) no insurer shall be entitled to be subrogated to or claim the benefit of the Directors' Charge, and (b) the Applicant's directors and officers shall only be entitled to the benefit of the Directors' Charge to the extent that they do not have coverage under any directors' and officers' insurance policy, or to the extent that such coverage is insufficient to pay amounts indemnified in accordance with paragraph 30 of this Order.

APPOINTMENT OF MONITOR

33. THIS COURT ORDERS that Grant Thornton Limited is hereby appointed pursuant to the CCAA as the Monitor, an officer of this Court, to monitor the business and financial affairs of First Leaside with the powers and obligations set out in the CCAA or set forth herein and that First Leaside and its shareholders, officers, directors, and Assistants shall advise the Monitor of all material steps taken by First Leaside pursuant to this Order, and shall co-operate fully with the Monitor in the exercise of its powers and discharge of its obligations and provide the Monitor with the assistance that is necessary to enable the Monitor to adequately carry out the Monitor's functions.

34. THIS COURT ORDERS that the Monitor, in addition to its prescribed rights and obligations under the CCAA, is hereby directed and empowered to:

- (a) monitor First Leaside's receipts and disbursements;
- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) advise First Leaside in its preparation of First Leaside's cash flow statements;
- (d) advise and assist First Leaside concerning the potential sale of the Property and an orderly wind-down of the Business;
- (e) advise First Leaside in its development of the Plan and any amendments to the Plan;
- (f) assist First Leaside, to the extent required by First Leaside, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (g) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of First Leaside, to the extent that is necessary to adequately assess First

Leaside's business and financial affairs or to perform its duties arising under this Order;

- (h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable respecting the exercise of its powers and performance of its obligations under this Order;
- (i) perform such other duties as are required by this Order or by this Court from time to time; and
- (j) consult with and assist First Leaside in its negotiations and discussions with investors, creditors, and other stakeholders.

35. THIS COURT ORDERS that the Monitor shall not take possession of the Property and shall take no part whatsoever in the management or supervision of the management of the Business and shall not, by fulfilling its obligations hereunder, be deemed to have taken or maintained possession or control of the Business or Property, or any part thereof.

36. THIS COURT ORDERS that nothing herein contained shall require the Monitor to occupy or to take control, care, charge, possession or management (separately and/or collectively, "Possession") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "Environmental Legislation"), provided however that nothing herein shall exempt the Monitor from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Monitor shall not, as a result of this Order or anything done in pursuance of the Monitor's duties and powers under this Order, be deemed to

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

37. THIS COURT ORDERS that the Monitor shall provide any creditor of First Leaside with information provided by First Leaside in response to reasonable requests for information made in writing by such creditor addressed to the Monitor. The Monitor shall not have any responsibility or liability with respect to the information disseminated by it pursuant to this paragraph. In the case of information that the Monitor has been advised by First Leaside is confidential, the Monitor shall not provide such information to creditors unless otherwise directed by this Court or on such terms as the Monitor and First Leaside may agree.

38. THIS COURT ORDERS that, in addition to the rights and protections afforded the Monitor under the CCAA or as an officer of this Court, the Monitor shall incur no liability or obligation as a result of its appointment or the carrying out of the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part. Nothing in this Order shall derogate from the protections afforded the Monitor by the CCAA or any applicable legislation.

39. THIS COURT ORDERS that the Monitor, counsel to the Monitor, and counsel to First Leaside shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by First Leaside as part of the costs of these proceedings. First Leaside is hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for First Leaside on a bi-weekly basis and, in addition, First Leaside is hereby authorized to pay retainers of \$150,000 to the Monitor, \$100,000 to counsel to the Monitor, and \$150,000 to counsel to First Leaside, to be held by each of them as security for payment of their respective fees and disbursements outstanding from time to time.

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

41. THIS COURT ORDERS that the Monitor, counsel to the Monitor, First Leaside's counsel, and Representative Counsel (defined below) shall be entitled to the benefit of and are hereby granted a charge (the "Administration Charge") on the Property, which charge shall not exceed an aggregate amount of \$1,000,000, as security for their professional fees and disbursements incurred at the standard rates and charges of the Monitor and such counsel, both before and after the making of this Order in respect of these proceedings. The Administration Charge shall have the priority set out in paragraphs 50 and 52 hereof.

APPOINTMENT OF REPRESENTATIVE COUNSEL

42. THIS COURT ORDERS that Fraser Milner Casgrain LLP ("Representative Counsel") is appointed as representative counsel in these proceedings to represent the interests of clients of FLSI (the "Clients"), unless and until written notice is provided by a particular Client to Representative Counsel that such Client does not wish to be represented by Representative Counsel.

43. THIS COURT ORDERS that First Leaside shall provide to Representative Counsel the last known e-mail addresses (to the extent available) or other available contact information for each Client and, within ten days of the date of this Order, Representative Counsel shall provide the Clients with a copy of this Order, which shall constitute sufficient notice to Clients of this Order and the appointment of Representative Counsel and such step shall relieve the Monitor of its duty to provide notice to such Clients under section 23 of the CCAA.

44. THIS COURT ORDERS that Representative Counsel shall be paid its reasonable fees and disbursements by First Leaside, up to an initial maximum amount of \$150,000 (the "Representative Counsel Allowance") with any subsequent increases to the Representative Counsel Allowance being determined by further Order of this Court. Representative Counsel shall be paid by First Leaside in a timely manner for fulfilling its mandate in accordance with this Order, upon the provision of invoices to First Leaside, subject to such redactions to the invoices as are necessary to maintain solicitor-client privilege between Representative Counsel and the Clients.

45. THIS COURT ORDERS that First Leaside shall pay to Representative Counsel a retainer of \$25,000 to be held by it as security for payment of its fees and disbursements outstanding from time to time.

46. THIS COURT ORDERS that Representative Counsel is hereby authorized to take all steps and do all acts necessary or desirable to carry out the terms of this Order.

47. THIS COURT ORDERS that Representative Counsel shall be at liberty, and is hereby authorized, at any time, to apply to this Court for advice and directions in respect of its appointment or the fulfillment of its duties in carrying out the provisions of this Order or any variation of the powers and duties of Representative Counsel, which shall be brought on notice to First Leaside, the Monitor, and other interested parties, unless the Court orders otherwise.

48. THIS COURT ORDERS that Representative Counsel shall have no personal liability or obligations as a result of the performance of its duties in carrying out the provisions of this Order, save and except for liability arising out of gross negligence or wilful misconduct.

49. THIS COURT ORDERS that no action or other proceeding may be commenced against Representative Counsel in respect of the performance of its duties under this Order without leave of the Court on seven days' notice to Representative Counsel.

VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER

50. THIS COURT ORDERS that the priorities of the Directors' Charge and the Administration Charge, as between them, shall be as follows:

First – Administration Charge (to the maximum amount of \$1,000,000);

Second – Directors' Charge (to the maximum amount of \$250,000).

51. THIS COURT ORDERS that the filing, registration or perfection of the Directors' Charge or the Administration Charge (collectively, the "Charges") shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to

the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

52. THIS COURT ORDERS that each of the Directors' Charge and the Administration Charge (all as constituted and defined herein) shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "Encumbrances") in favour of any Person, provided, however, that

- (a) the Directors' Charge shall not attach to any monies or other Property of FLSI ("FLSI Property") including, without limitation, property which constitutes "risk adjusted capital" plus the \$250,000 "minimum capital requirement" in accordance with applicable securities laws and regulations; and
- (b) the Administration Charge shall not attach to the FLSI Property in an amount exceeding the lesser of (A) \$1 million and (B) the portion of costs secured by the Administration Charge which are attributable to, or for the benefit of, FLSI.

53. THIS COURT ORDERS that except as otherwise expressly provided for herein, or as may be approved by this Court, First Leaside shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Directors' Charge, or the Administration Charge, unless First Leaside also obtains the prior written consent of the Monitor and the beneficiaries of the Directors' Charge and the Administration Charge and further Order of this Court.

54. THIS COURT ORDERS that the Directors' Charge and the Administration Charge shall not be rendered invalid or unenforceable and the rights and remedies of the chargees entitled to the benefit of the Charges (collectively, the "Chargees") shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e)

any negative covenants, prohibitions or other similar provisions with respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an "Agreement") which binds First Leaside, and notwithstanding any provision to the contrary in any Agreement:

- (a) the creation of the Charges shall not create or be deemed to constitute a breach by First Leaside of any Agreement to which it is a party;
- (b) none of the Chargees shall have any liability to any Person whatsoever as a result of any breach of any Agreement caused by the creation of the Charges; and
- (c) the payments made by First Leaside pursuant to this Order, and the granting of the Charges, do not and will not constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

55. THIS COURT ORDERS that any Charge created by this Order over leases of real property in Canada shall only be a Charge in First Leaside's interest in such real property leases.

56. THIS COURT ORDERS that the CRO Fees and the professional fees and expenses of the Monitor, counsel to the Monitor, First Leaside's counsel and Representative Counsel paid or incurred in accordance with the provisions of this Order shall be allocated by First Leaside with the assistance of the Monitor to the various business units pursuant to a protocol to be proposed by First Leaside with the assistance of the Monitor, which protocol shall be approved upon motion to this Court. First Leaside and the Monitor shall endeavour to make recommendations in respect of a protocol on or before March 30, 2012.

SERVICE AND NOTICE

57. THIS COURT ORDERS that the Monitor shall (i) without delay, publish in the national edition of the *Globe and Mail* a notice containing the information prescribed

under the CCAA, (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against First Leaside of more than \$1000, and (C) prepare a list showing the aggregate amounts owed to equity investors, debt investors, and employees, but not names and addresses of those creditors, and the estimated amounts of those claims, and make it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

58. THIS COURT ORDERS that First Leaside, Representative Counsel, and the Monitor be at liberty to serve this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or electronic transmission to First Leaside's creditors or other interested parties at their respective addresses as last shown on the records of First Leaside and that any such service or notice by courier, personal delivery or electronic transmission shall be deemed to be received on the next business day following the date of forwarding thereof, or if sent by ordinary mail, on the third business day after mailing.

59. THIS COURT ORDERS that First Leaside, Representative Counsel, and the Monitor, and any party who has filed a Notice of Appearance may serve any court materials in these proceedings by e-mailing a PDF or other electronic copy of such materials to counsels' email addresses as recorded on the Service List from time to time, and the Monitor may post a copy of any or all such materials on its website at www.grantthornton.ca/firstleaside.

GENERAL

60. THIS COURT ORDERS that First Leaside or the Monitor may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.

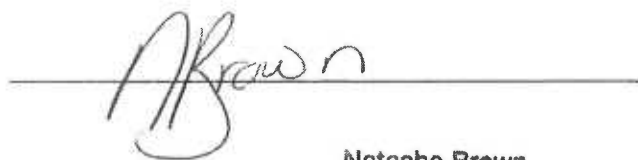
61. THIS COURT ORDERS that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of First Leaside, the Business or the Property.

62. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States, to give effect to this Order and to assist First Leaside, the Monitor and their respective 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 First Leaside and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist First Leaside and the Monitor and their respective agents in carrying out the terms of this Order.

63. THIS COURT ORDERS that each of First Leaside and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Monitor is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

64. THIS COURT ORDERS that any interested party (including First Leaside and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days notice to any other party or parties likely to be affected by the order sought or upon such other notice, if any, as this Court may order.

65. THIS COURT ORDERS that this Order and all of its provisions are effective as of 12:01 a.m. Eastern Standard Time on the date of this Order.



Natasha Brown
Registrar

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

FEB 24 2012



SCHEDULE "A"—PARTNERSHIPS ENTITLED TO THE BENEFIT OF THIS ORDER

Mill Street Limited Partnership	The Bluffs of Lakewood LP
Development Notes Limited Partnerships	First Leaside Spring Valley LP
Special Notes LP	First Leaside Partners LP
First Leaside Properties LP	First Leaside Opportunities LP
First Leaside Realty LP	Preston Racquet Club Real Estate Limited Partnership Series 910 PA
First Leaside Real Estate LP	Preston Racquet Club Real Estate Limited Partnership Series 910 PB
First Leaside Global LP	Preston Racquet Club Real Estate Limited Partnership Series 910 PC
First Leaside Income LP	Preston Racquet Club Real Estate Limited Partnership Series 910 PD
First Leaside Investors LP	FL Master Texas Ltd.
First Leaside Optimal LP	FLW Pond Master Ltd.
First Leaside Preferred LP	FLW Shores Master Ltd.
First Leaside Premier LP	First Leaside Acquisitions LP
First Leaside Progressive LP	Queenston Manor LP
First Leaside Quality LP	First Leaside Acquisitions 2000 LP
First Leaside Real Estate LP	First Leaside Advantage LP
First Leaside Realty II LP	First Leaside Developments LP
First Leaside Retirement Residences LP	First Leaside Elite LP
First Leaside Superior LP	First Leaside Select LP
First Leaside Ultimate LP	First Leaside Enterprises LP
First Leaside Universal LP	B&W LP
Uxbridge Development LP	First Leaside Entities LP
First Leaside Retirement Residences Limited Partnership	First Leaside Expansion LP
First Leaside Venture Limited Partnership	First Leaside Growth LP
Wimberly Apartments LP	First Leaside Operations LP
The Shores LP	First Leaside Unity LP
Old Mill Pond LP	

First Leaside Visions I LP

First Leaside Visions II LP

First Leaside Visions III LP

First Leaside Visions IV LP

Metabacus LP

Greencore LP

Marksman Cellject LP

OMISA LP

Dossierview LP

eSight LP

Tyromer LP

Place Concorde East LP

Place Concorde West LP

First Leaside Wealth Management LP

First Leaside Technologies LP

F.L. Beverages Group Limited

Partnership

F.L. Retirement Residences Limited
Partnership

First Leaside Global Limited Partnership

First Leaside Ventures Limited
Partnership

Special U.S. Notes Limited Partnership

FLWM Holdings Limited Partnership

THIS IS EXHIBIT "B" REFERRED TO IN THE
AFFIDAVIT OF GREGORY MACLEOD
SWORN BEFORE ME,
THIS 3rd DAY OF DECEMBER, 2012

A handwritten signature in blue ink, appearing to read "Jim B. [unclear]", written over a horizontal line.

Commissioner for Taking Affidavits, Etc.

CITATION: First Leaside Wealth Management Inc. (Re), 2012 ONSC 1299
COURT FILE NO.: CV-12-9617-00CL
DATE: 20120226

SUPERIOR COURT OF JUSTICE – ONTARIO

COMMERCIAL LIST

RE: IN THE MATTER OF a Plan of Compromise or Arrangement of First Leaside Wealth Management Inc., First Leaside Finance Inc., First Leaside Securities Inc., FL Securities Inc., First Leaside Management Inc., First Leaside Accounting and Tax Services Inc., First Leaside Holdings Inc., 2086056 Ontario Inc., First Leaside Realty Inc., First Leaside Capital Inc., First Leaside Realty II Inc., First Leaside Investments Inc., 965010 Ontario Inc., 1045517 Ontario Inc., 1024919 Ontario Inc., 1031628 Ontario Inc., 1056971 Ontario Inc., 1376095 Ontario Inc., 1437290 Ontario Ltd., 1244428 Ontario Ltd., PrestonOne Development (Canada) Inc., PrestonTwo Development (Canada) Inc., PrestonThree Development (Canada) Inc., PrestonFour Development (Canada) Inc., 2088543 Ontario Inc., 2088544 Ontario Inc., 2088545 Ontario Inc., 1331607 Ontario Inc., Queenston Manor General Partner Inc., 1408927 Ontario Ltd., 2107738 Ontario Inc., 1418361 Ontario Ltd., 2128054 Ontario Inc., 2069212 Ontario Inc., 1132413 Ontario Inc., 2067171 Ontario Inc., 2085306 Ontario Inc., 2059035 Ontario Inc., 2086218 Ontario Inc., 2085438 Ontario Inc., First Leaside Visions Management Inc., 1049015 Ontario Inc., 1049016 Ontario Inc., 2007804 Ontario Inc., 2019418 Ontario Inc., FL Research Management Inc., 970877 Ontario Inc., 1031628 Ontario Inc., 1045516 Ontario Inc., 2004516 Ontario Inc., 2192341 Ontario Inc., and First Leaside Fund Management Inc., Applicants

BEFORE: D. M. Brown J.

COUNSEL: J. Birch and D. Ward, for the Applicants

P. Huff and C. Burr, for the proposed Monitor, Grant Thornton Limited

D. Bish, for the Independent Directors

B. Empey, for Investment Industry Regulatory Organization of Canada

J. Grout, for the Ontario Securities Commission

R. Oliver, for Kenaidan Contracting Limited

J. Dietrich, the proposed Representative Counsel for the investors

E. Garbe, for Structform International Limited

N. Richter, for Gilbert Steel Limited

M. Sanford, for Janick Electrick Limited

M. Konyukhova, for Midland Loan Services Inc.

C. Prophet, for the Canadian Imperial Bank of Commerce

HEARD: February 23, 2012

REASONS FOR DECISION

I. Overview: CCAA Initial Order

[1] On Thursday, February 23, 2012, I granted an Initial Order under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, in respect of the Applicants. These are my Reasons for that decision.

II. The applicant corporations

[2] The Applicants are members of the First Leaside group of companies. They are described in detail in the affidavit of Gregory MacLeod, the Chief Restructuring Officer of First Leaside Wealth Management ("FLWM"), so I intend only refer in these Reasons to the key entities in the group. The parent corporation, FLWM, owns several subsidiaries, including the applicant, First Leaside Securities Inc. ("FLSI"). According to Mr. MacLeod, the Group's operations centre on FLWM and FLSI.

[3] FLSI is an Ontario investment dealer that manages clients' investment portfolios which, broadly speaking, consist of non-proprietary Marketable Securities as well as proprietary equity and debt securities issued by First Leaside (the so-called "FL Products"). All segregated Marketable Securities are held in segregated client accounts with Penson Financial Services Canada Inc.

[4] First Leaside designed its FL Products to provide investors with consistent monthly distributions. First Leaside acts as a real estate syndicate, purchasing real estate through limited partnerships with a view to rehabilitating the properties for lease at higher rates or eventual resale. First Leaside incorporated special-purpose corporations to act as general partners in the various LPs it set up. The general partners of First Leaside's Canadian LPs – i.e. those which own property in Canada – are applicants in this proceeding. First Leaside also seeks to extend the benefits of the Initial Order to the corresponding LPs.

[5] First Leaside has two types of LPs: individual LPs that acquire and operate a single property or development, and aggregator LPs that hold units of multiple LPs. Investors have invested in both kinds of LPs. In paragraph 49 of his affidavit Mr. MacLeod detailed the LPs within First Leaside. While most First Leaside LPs hold interests in identifiable properties, for a few, called "Blind Pool LPs", clients invest funds without knowing where the funds likely were to be invested. Those LPs are described in paragraph 51 of Mr. MacLeod's affidavit.

[6] The applicant, First Leaside Finance Inc. ("FL Finance"), acted as a "central bank" for the First Leaside group of entities.

III. The material events leading to this application

[7] In the fall of 2009 the Ontario Securities Commission began investigating First Leaside. In March, 2011, First Leaside retained the proposed Monitor, Grant Thornton Limited, to review and make recommendations about First Leaside's businesses. Around the same time First Leaside arranged for appraisals to be performed of various properties.

[8] Grant Thornton released its report on August 19, 2011. For purposes of this application Grant Thornton made several material findings:

- (i) There exist significant interrelationships between the entities in the FL Group which result in a complex corporate structure;
- (ii) Certain LPs have been a drain on the resources of the Group as a result of recurring operating losses and property rehabilitation costs; and,
- (iii) The future viability of the FL Group was contingent on its ability to raise new capital:

"If the FL Group was restricted from raising new capital, it would likely be unable to continue its operations in the ordinary course, as it would have insufficient revenue to support its infrastructure, staffing costs, distributions, and to meet their funding requirements for existing projects."

[9] As a result of the report First Leaside hired additional staff to improve accounting resources and financial planning. Last November the Board appointed an Independent Committee to assume all decision-making authority in respect of First Leaside; the Group's founder, David Phillips, was no longer in charge of its management.

[10] FLSI is regulated by both the OSC and the Investment Industry Regulatory Organization of Canada ("IIROC"). In October, 2011, IIROC issued FLSI a discretionary early warning level 2 letter prohibiting the company from reducing capital and placing other restrictions on its activities. At the same time the OSC told First Leaside that unless satisfactory arrangements were made to deal with its situation, the OSC almost certainly would take regulatory action, including seeking a cease trade order.

[11] First Leaside agreed to a voluntary cease trade, retained Grant Thornton to act as an independent monitor, informed investors about those developments, and made available the August Grant Thornton report.

[12] Because the cease trade restricted First Leaside's ability to raise capital, the Independent Committee decided in late November to cease distributions to clients, including distributions to LP unit holders, interest payments on client notes/debts, and dividends on common or preferred shares.

- Page 4 -

[13] In December the Independent Committee decided to retain Mr. MacLeod as CRO for First Leaside and asked him to develop a workout plan, which he finalized in late January, 2012. Mr. MacLeod deposed that the downturn in the economy has resulted in First Leaside realizing lower operating income while incurring higher operational costs. In his affidavit Mr. MacLeod set out his conclusion about a workout plan:

After carefully analyzing the situation, my ultimate conclusion was that it was too risky and uncertain for First Leaside to pursue a resumption of previous operations, including the raising of capital. My recommendation to the Independent Committee was that First Leaside instead undertake an orderly wind-down of operations, involving:

- (a) Completing any ongoing property development activity which would create value for investors;
- (b) Realizing upon assets when it is feasible to do so (even where optimal realization might occur over the next 12 to 36 months);
- (c) Dealing with the significant inter-company debts; and,
- (d) Distributing proceeds to investors.

Mr. MacLeod further deposed:

[T]he best way to promote this wind-down is through a filing under the CCAA so that all issues – especially the numerous investor and creditor claims and inter-company claims – can be dealt with in one forum under the supervision of the court.

The Independent Committee approved Mr. MacLeod's recommendations. This application resulted.

IV. Availability of CCAA

A. The financial condition of the applicants

[14] According to Mr. MacLeod, First Leaside has over \$370 million in assets under management. Some of those, however, are Marketable Securities. First Leaside is proposing that clients holding Marketable Securities (which are held in segregated accounts) be free to transfer them to another investment dealer during the CCAA process. As to the value of FL Products, Mr. MacLeod deposed that "it remains to be determined specifically how much value will be realized for investors on the LP units, debt instruments, and shares issued by the various First Leaside entities."

[15] First Leaside's debt totals approximately \$308 million: \$176 million to secured creditors (mostly mortgagees) and \$132 million to unsecured creditors, including investors holding notes or other debt instruments.

[16] Mr. MacLeod summarized his assessment of the financial status of the First Leaside Group as follows:

[S]ince GTL reported that the aggregate value of properties in the First Leaside exceeded the value of the properties, there will be net proceeds remaining to provide at least some return to subordinate creditors or equity holders (i.e., LP unit holders and corporation shareholders) in many of the First Leaside entities. The recovery will, of course, vary depending on the entity. At this stage, however, it is fair to conclude that there is a material equity deficit both in individual First Leaside entities and in the overall First Leaside group.

[17] In his affidavit Mr. MacLeod also deposed, with respect to the financial situation of First Leaside, that:

- (i) The cease trade placed severe financial constraints on First Leaside as almost every business unit depended on the ability of FLWM and its subsidiaries to raise capital from investors;
- (ii) There are immediate cash flow crises at FLWM and most LPs;
- (iii) FLWM's cash reserves had fallen from \$2.8 million in November, 2011 to \$1.6 million at the end of this January;
- (iv) Absent new cash from asset disposals, current cash reserves would be exhausted in April;
- (v) At the end of December, 2011 Ventures defaulted by failing to make a principal mortgage payment of \$4.25 million owing to KingSett;
- (vi) Absent cash flow from FLWM a default is imminent for Investor's Harmony property;
- (vii) First Leaside lacks the liquidity or refinancing options to rehabilitate a number of the properties and execute on its business plan; and,
- (viii) First Leaside generally has been able to make mortgage payments to its creditors, but in the future it will be difficult to do so given the need to expend monies on property development and upgrading activities

[18] In his description of the status of the employees of the Applicants, Mr. MacLeod did not identify any issue concerning a pension funding deficiency.¹ The internally-prepared 2010 FLWM financial statements did not record any such liability. Grant Thornton did not identify any such issue in its Pre-filing Report.

[19] First Leaside is not proposing to place all of its operations under court-supervised insolvency proceedings. It does not plan to seek Chapter 11 protection for its Texas properties

¹ MacLeod Affidavit, paras. 104 to 106.

since it believes they may be able to continue operations over the anticipated wind-up period using cash flows they generate and pay their liabilities as they become due. Nor does First Leaside seek to include in this CCAA proceeding the First Leaside Venture LP ("Ventures") which owns and operates several properties in Ontario and British Columbia. On February 15, 2012 Ventures and Bridge Gap Konsult Inc. signed a non-binding term sheet to provide some bridge financing for Ventures. First Leaside decided not to include certain Ventures-related limited partnerships in the CCAA application at this stage,² while reserving the right to later bring a motion to extend the Initial Order and stay to these Excluded LPs. The Initial Order which I signed reflected that reservation.

[20] As noted above, over the better part of the past year the proposed Monitor, Grant Thornton, has become familiar with the affairs of the First Leaside Group as a result of the review it conducted for its August, 2011 report. Last November First Leaside retained Grant Thornton as an independent monitor of its business.

[21] In its Pre-filing Report Grant Thornton noted that the last available financial statements for FLWM were internally prepared ones for the year ended December 31, 2010. They showed a net loss of about \$2.863 million. The Pre-filing Report contained a 10-week cash flow projection (ending April 27, 2012) prepared by the First Leaside Group. The Cash Flow Projection does not contemplate servicing interest and principal payments during the projection period. On that basis the Cash Flow Projection showed the Group's combined closing bank balance declining from \$6.97 million to \$4.144 million by the end of the projection period. Grant Thornton reviewed the Cash Flow Projection and stated that it reflected the probable and hypothetical assumptions on which it was prepared and that the assumptions were suitably supported and consistent with the plans of the First Leaside Group and provided a reasonable basis for the Cash Flow Projection.

[22] Grant Thornton reported that certain creditors, specifically construction lien claimants, had commenced enforcement proceedings and it concluded:

Given creditors' actions to date and due to the complicated nature of the FL Group's business, the complex corporate structure and the number of competing stakeholders, it is unlikely that the FL Group will be able to conduct an orderly wind-up or continue to rehabilitate properties without the stability provided by a formal Court supervised restructuring process.

...

As the various stakeholder interests are in many cases intertwined, including intercompany claims, the granting of the relief requested would provide a single forum for the numerous stakeholders of the FL Group to be heard and to deal with such parties' claims in an orderly manner, under the supervision of the Court, a CRO and a Court-appointed Monitor. In particular, a simple or forced divestiture of the properties of the

² The Excluded LPs were identified in paragraph 134 of Mr. MacLeod's affidavit.

FL Group would not only erode potential investor value, but would not provide the structure necessary to reconcile investor interests on an equitable and ratable basis.

A stay of proceedings for both the Applicants and the LPs is necessary if it is deemed appropriate by this Honourable Court to allow the FL Group to maintain its business and to allow the FL Group the opportunity to develop, refine and implement their restructuring/wind-up plan(s) in a stabilized environment.

B. Findings

[23] I am satisfied that the Applicants are "companies" within the meaning of the *CCAA* and that the total claims against the Applicants, as an affiliated group of companies, is greater than \$5 million.

[24] Are the Applicant companies "debtor companies" in the sense that they are insolvent? For the purposes of the *CCAA* a company may be insolvent if it falls within the definition of an insolvent person in section 2 of the *Bankruptcy and Insolvency Act* or if its financial circumstances fall within the meaning of insolvent as described in *Re Stelco Inc.* which include a financially troubled corporation that is "reasonably expected to run out of liquidity within reasonable proximity of time as compared with the time reasonably required to implement a restructuring".³

[25] When looked at as a group the Applicants fall within the extended meaning of "insolvent": as a result of the cease trade their ability to raise capital has been severely restricted; cash reserves fell significantly from November until the time of filing, and the Cash Flow Projection indicates that cash reserves will continue to decline even with the cessation of payments on mortgages and other debt; Mr. MacLeod estimated that cash reserves would run out in April; distributions to unit holders were suspended last November; and, some formal mortgage defaults have occurred.

[26] However, a secured creditor mortgagee, Midland Loan Services Inc., submitted that to qualify for *CCAA* protection each individual applicant must be a "debtor company" and that in the case of one applicant, Queenston Manor General Partner Inc., that company was not insolvent. In his affidavit Mr. MacLeod deposed that the Queenston Manor LP is owned by the First Leaside Expansion Limited Partnership ("FLEX"). Queenston owns and operates a 77-unit retirement complex in St. Catherines, has been profitable since 2008 and is expected to remain profitable through 2013. Queenston has been listed for sale, and management currently is considering an offer to purchase the property. Midland Loan submitted that in light of that financial situation, no finding could be made that the applicant, Queenston Manor General Partner Inc., was a "debtor company".

[27] Following that submission I asked Applicants' counsel where in the record one could find evidence about the insolvency of each individual Applicant. That prompted a break in the

³ (2004), 48 C.B.R. (4th) 299 (Ont. S.C.J.).

hearing, at the end of which the Applicants filed a supplementary affidavit from Mr. MacLeod. Indicating that one of the biggest problems facing the Applicants was the lack of complete and up-to-date records, in consultation with the Applicants' CFO Mr. MacLeod submitted a chart providing, to the extent possible, further information about the financial status of each Applicant. That chart broke down the financial status of each of the 52 Applicants as follows:

Insolvent	28
Dormant	15
Little or no realizable assets	5
More information to be made available to the court	3
Other: management revenue stopped in 2010; \$70,000 cash; \$270,000 in related-company receivables	1

Queenston Manor General Partner Inc. was one of the applicants for which "more information would be made available to the court".

[28] As I have found, when looked at as a group, the Applicants fall within the extended meaning of "insolvent". When one descends a few levels and looks at the financial situation of some of the aggregator LPs, such as FLEX, Mr. MacLeod deposed that FLEX is one of the largest net debtors – i.e. it is unable to repay inter-company balances from operating cash flows and lacks sufficient net asset value to settle the intercompany balances through the immediate liquidation of assets. The evidence therefore supports a finding that the corporate general partner of FLEX is insolvent. Queenston Manor is one of several assets owned by FLEX, albeit an asset which uses the form of a limited partnership.

[29] If an insolvent company owns a healthy asset in the form of a limited partnership does the health of that asset preclude it from being joined as an applicant in a CCAA proceeding? In the circumstances of this case it does not. The jurisprudence under the CCAA provides that the protection of the Act may be extended not only to a "debtor company", but also to entities who, in a very practical sense, are "necessary parties" to ensure that that stay order works. Morawetz J. put the matter the following way in *Prizm Income Fund (Re)*:

The CCAA definition of an eligible company does not expressly include partnerships. However, CCAA courts have exercised jurisdiction to stay proceedings with respect to partnerships and limited partnerships where it is just and convenient to do so. See *Lehndorff, supra*, and *Re Canwest Global Communications Corp.*, 2009 CarswellOnt 6184 (S.C.J.).

The courts have held that this relief is appropriate where the operations of the debtor companies are so intertwined with those of the partnerships or limited partnerships in question, that not extending the stay would significantly impair the effectiveness of a stay in respect of the debtor companies.⁴

[30] Although section 3(1) of the CCAA requires a court on an initial application to inquire into the solvency of any applicant, the jurisprudence also requires a court to take into account the relationship between any particular company and the larger group of which it is a member, as well as the need to place that company within the protection of the Initial Order so that the order will work effectively. On the evidence filed I had no hesitation in concluding that given the insolvency of the overall First Leaside Group and the high degree of inter-connectedness amongst the members of that group, the protection of the CCAA needed to extend both to the Applicants and the limited partnerships listed in Schedule "A" to the Initial Order. The presence of all those entities within the ambit of the Initial Order is necessary to effect an orderly winding-up of the insolvent group as a whole. Consequently, whether Queenston Manor General Partner Inc. falls under the Initial Order by virtue of being a "debtor company", or by virtue of being a necessary party as part of an intertwined whole, is, in the circumstances of this case, a distinction without a practical difference.

[31] In sum, I am satisfied that those Applicants identified as "insolvent" on the chart attached to Mr. MacLeod's supplementary affidavit are "debtor companies" within the meaning of the CCAA and that the other Applicants, as well as the limited partnerships listed on Schedule "A" of the Initial Order, are entities to which it is necessary and appropriate to extend CCAA protection.

C. "Liquidation" CCAA

[32] While in most circumstances resort is made to the CCAA to "permit the debtor to continue to carry on business and, where possible, avoid the social and economic costs of liquidating its assets" and to create "conditions for preserving the *status quo* while attempts are made to find common ground amongst stakeholders for a reorganization that is fair to all", the reality is that "reorganizations of differing complexity require different legal mechanisms."⁵ That reality has led courts to recognize that the CCAA may be used to sell substantially all of the assets of a debtor company to preserve it as a going concern under new ownership,⁶ or to wind-up or liquidate it. In *Lehndorff General Partner Ltd. (Re)*⁷ Farley J. observed:

It appears to me that the purpose of the CCAA is also to protect the interests of creditors and to enable an orderly distribution of the debtor company's affairs. This may involve a winding-up or liquidation of a company or simply a substantial downsizing of its

⁴ 2011 ONSC 2061, paras. 26-27.

⁵ *Century Services Inc. v. Canada (Attorney General)*, 2010 SCC 60, paras. 15, 77 and 78.

⁶ *Nortel Networks Corp. (Re)*, 2009 ONCA 833, para. 46; see Kevin P. McElcheran, *Commercial Insolvency in Canada, Second Edition* (Toronto: LexisNexis, 2011), pp. 284 et seq.

⁷ [1993] O.J. No. 14 (Gen. Div.). In *Brake Pro, Ltd. (Re)*, [2008] O.J. No. 2180 (S.C.J.), Wilton-Siegel J. stated, at paragraph 10: "While reservations are expressed from time to time regarding the appropriateness of a "liquidating" CCAA proceeding, such proceedings are permissible under the CCAA."

business operations, provided the same is proposed in the best interests of the creditors generally. See *Assoc. Investors, supra*, at p. 318; *Re Amiraault Co.* (1951), 32 C.B.R. 1986, (1951) 5 D.L.R. 203 (N.S.S.C.) at pp. 187-8 (C.B.R.).

[33] In the decision of *Associated Investors of Canada Ltd. (Re)* referred to by Farley J., the Alberta Court of Queen's Bench stated:

The realities of the modern marketplace dictate that courts of law respond to commercial problems in innovative ways without sacrificing legal principle. In my opinion, the Companies' Creditors Arrangement Act is not restricted in its application to companies which are to be kept in business. Moreover, the Court is not without the ability to address within its jurisdiction the concerns expressed in the Ontario cases. The Act may be invoked as a means of liquidating a company and winding-up its affairs but only if certain conditions precedent are met:

1. It must be demonstrated that benefits would likely flow to Creditors that would not otherwise be available if liquidation were effected pursuant to the Bankruptcy Act or the Winding-Up Act.
2. The Court must concurrently provide directions pursuant to compatible legislation that ensures judicial control over the liquidation process and an effective means whereby the affairs of the company may be investigated and the results of that investigation made available to the Court.
3. A Plan of Arrangement should not receive judicial sanction until the Court has in its possession, all of the evidence necessary to allow the Court to properly exercise its discretion according to standards of fairness and reasonableness, absent any findings of illegality.⁸

The editors of *The 2012 Annotated Bankruptcy and Insolvency Act* take some issue with the extent of those conditions:

With respect, these conditions may be too rigorous. If the court finds that the plan is fair and reasonable and in the best interests of creditors, and there are cogent reasons for using the statute rather than the *BIA* or *WURA*, there seems no reason why an orderly liquidation could not be carried out under the *CCAA*.⁹

[34] Mr. MacLeod, the CRO, deposed that no viable plan exists to continue First Leaside as a going concern and that the most appropriate course of action is to effect an orderly wind-down of First Leaside's operations over a period of time and in a manner which will create the opportunity to realize improved net asset value. In his professional judgment the *CCAA* offered the most appropriate mechanism by which to conduct such an orderly liquidation:

⁸ *First Investors Corp. (Re)* (1987), 46 D.L.R. (4th) 669 (Alta Q.B.), para. 36.

⁹ Houlden, Morawetz & Sarra, *The 2012 Annotated Bankruptcy and Insolvency Act*, N§1, p. 1099.

[T]he best way to promote this wind-down is through a filing under the *CCAA* so that all issues – especially the numerous investor and creditor claims and the inter-company claims – can be dealt with in one forum under the supervision of the court.

In its Pre-filing Report the Monitor also supported using the *CCAA* to implement the “restructuring/wind-up plan(s) in a stabilized environment”.

[35] Both the CRO and the proposed Monitor possess extensive knowledge about the workings of the Applicants. Both support a process conducted under the *CCAA* as the most practical and effective way in which to deal with the affairs of this insolvent group of companies. No party contested the availability of the *CCAA* to conduct an orderly winding-up of the affairs of the Applicants (although, as noted, some parties questioned whether certain entities should be included within the scope of the Initial Order). Given that state of affairs, I saw no reason not to accept the professional judgment of the CRO and the proposed Monitor that a liquidation under the *CCAA* was the most appropriate route to take.

[36] Moreover, I saw no prejudice to claimant creditors by permitting the winding-up of the First Leaside Group to proceed under the *CCAA* instead of under the *BIA* in view of the convergence which exists between the *CCAA* and *BIA* on the issue of priorities. As the Supreme Court of Canada pointed out in *Century Services*:

Because the *CCAA* is silent about what happens if reorganization fails, the *BIA* scheme of liquidation and distribution necessarily supplies the backdrop for what will happen if a *CCAA* reorganization is ultimately unsuccessful.¹⁰

As the British Columbia Court of Appeal observed in *Caterpillar Financial Services Ltd. v. 360networks corp.* interested parties also use that priorities backdrop to negotiate successful *CCAA* reorganizations:

While it might be suggested that *CCAA* proceedings may require those with a financial stake in the company, including shareholders and creditors, to compromise some of their rights in order to sustain the business, it cannot be said that the priorities between those with a financial stake are meaningless. The right of creditors to realize on any security may be suspended pending the final approval of the court, but this does not render their potential priority nugatory. Priorities are always in the background and influence the decisions of those who vote on the plan.¹¹

[37] I therefore concluded that the *CCAA* was available to the Applicants in the circumstances, and I so ordered.

¹⁰ *Century Services*, *supra.*, para. 23.

¹¹ (2007), 279 D.L.R. (4th) 701 (B.C.C.A.), para. 42.

V. Representative Counsel, CRO and Monitor

[38] The Applicants sought the appointment of Fraser Milner Casgrain ("FMC") as Representative Counsel to represent the interests of the some 1,200 clients of FLSI in this proceeding, subject to the right of any client to opt-out of such representation. The proposed Monitor expressed the view that it would be in the best interests of the FL Group and its investors to appoint Representative Counsel. No party objected to such an appointment. I reviewed the qualifications and experience of proposed Representative Counsel and its proposed fees, and I was satisfied that it would be appropriate to appoint FMC as Representative Counsel on the terms set out in the Initial Order.

[39] The Applicants sought the appointment of G.S. MacLeod & Associates Inc. as CRO of First Leaside. No party objected to that appointment. The Applicants included a copy of the CRO's December 21, 2011 Retention Agreement in their materials. The proposed Monitor stated that the appointment of a CRO was important to ensure an adequate level of senior corporate governance leadership. I agree, especially in light of the withdrawal of Mr. Phillips last November from the management of the Group. The proposed Monitor reported that the terms and conditions of the Retention Agreement were consistent with similar arrangements approved by other courts in CCAA proceedings and the remuneration payable was reasonable in the circumstances. As a result, I confirmed the appointment of G.S. MacLeod & Associates Inc. as CRO of First Leaside.

[40] Finally, I appointed Grant Thornton as Monitor. No party objected, and Grant Thornton has extensive knowledge of the affairs of the First Leaside Group.

VI. Administration and D&O Charges and their priorities**A. Charges sought**

[41] The Applicants sought approval, pursuant to section 11.52 of the CCAA, of an Administration Charge in the amount of \$1 million to secure amounts owed to the Estate Professionals – First Leaside's legal advisors, the CRO, the Monitor, and the Monitor's counsel.

[42] They also sought an order indemnifying the Applicants' directors and officers against any post-filing liabilities, together with approval, pursuant to section 11.51 of the CCAA, of a Director and Officer's Charge in the amount of \$250,000 as security for such an indemnity. Historically the First Leaside Group did not maintain D&O insurance, and the Independent Committee was not able to secure such insurance at reasonable rates and terms when it tried to do so in 2011.

[43] The Monitor stated that the amount of the Administration Charge was established based on the Estate Professionals' previous history and experience with restructurings of similar magnitude and complexity. The Monitor regarded the amount of the D&O Charge as reasonable under the circumstances. The Monitor commented that the combined amount of both charges (\$1.25 million) was reasonable in comparison with the amount owing to mortgagees (\$176 million).

- Page 13 -

[44] In its Pre-filing Report the Monitor did note that shortly before commencing this application the Applicants paid \$250,000 to counsel for the Independent Committee of the Board. The Monitor stated that the payment might "be subject to review by the Monitor, if/when it is appointed, in accordance with s. 36.1(1) of the CCAA". No party requested an adjudication of this issue, so I refer to the matter simply to record the Monitor's expression of concern.

[45] Based on the evidence filed, I concluded that it was necessary to grant the charges sought in order to secure the services of the Estate Professionals and to ensure the continuation of the directors in their offices and that the amounts of the charges were reasonable in the circumstances.

B. Priority of charges

[46] The Applicants sought super-priority for the Administration and D&O Charges, with the Administration Charge enjoying first priority and the D&O Charge second, with some modification with respect to the property of FLSI which the Applicants had negotiated with IROC.

[47] In its Pre-filing Report the proposed Monitor stated that the mortgages appeared to be well collateralized, and the mortgagees would not be materially prejudiced by the granting of the proposed priority charges. The proposed Monitor reported that it planned to work with the Applicants to develop a methodology which would allocate the priority charges fairly amongst the Applicants and the included LPs, and the allocation methodology developed would be submitted to the Court for review and approval.

[48] In *Indalex Limited (Re)*¹² the Court of Appeal reversed the super-priority initially given to a DIP Charge by the motions judge in an initial order and, instead, following the sale of the debtor company's assets, granted priority to deemed trusts for pension deficiencies. In reaching that decision Court of Appeal observed that affected persons – the pensioners – had not been provided at the beginning of the CCAA proceeding with an appropriate opportunity to participate in the issue of the priority of the DIP Charge.¹³ Specifically, the Court of Appeal held:

In this case, there is nothing in the record to suggest that the issue of paramountcy was invoked on April 8, 2009, when Morawetz J. amended the Initial Order to include the super-priority charge. The documents before the court at that time did not alert the court to the issue or suggest that the PBA deemed trust would have to be overridden in order for Indalex to proceed with its DIP financing efforts while under CCAA protection. To the contrary, the affidavit of Timothy Stubbs, the then CEO of Indalex, sworn April 3, 2009, was the primary source of information before the court. In para. 74 of his affidavit, Mr. Stubbs deposes that Indalex intended to comply with all applicable laws including "regulatory deemed trust requirements".

¹² 2011 ONCA 265.

¹³ *Ibid.*, para. 155.

While the super-priority charge provides that it ranks in priority over trusts, "statutory or otherwise", I do not read it as taking priority over the deemed trust in this case because the deemed trust was not identified by the court at the time the charge was granted and the affidavit evidence suggested such a priority was unnecessary. As no finding of paramountcy was made, valid provincial laws continue to operate: the super-priority charge does not override the *PBA* deemed trust. The two operate sequentially, with the deemed trust being satisfied first from the Reserve Fund.¹⁴

[49] In his recent decision in *Timminco Limited (Re)*¹⁵ ("Timminco I") Morawetz J. described the commercial reality underpinning requests for Administration and D&O Charges in *CCAA* proceedings:

In my view, in the absence of the court granting the requested super priority and protection, the objectives of the *CCAA* would be frustrated. It is not reasonable to expect that professionals will take the risk of not being paid for their services, and that directors and officers will remain if placed in a compromised position should the Timminco Entities continue *CCAA* proceedings without the requested protection. The outcome of the failure to provide these respective groups with the requested protection would, in my view, result in the overwhelming likelihood that the *CCAA* proceedings would come to an abrupt halt, followed, in all likelihood, by bankruptcy proceedings.¹⁶

[50] In its Pre-filing Report the proposed Monitor expressed the view that if the priority charges were not granted, the First Leaside Group likely would not be able to proceed under the *CCAA*.

[51] In my view, absent an express order to the contrary by the initial order applications judge, the issue of the priorities enjoyed by administration, D&O and DIP lending charges should be finalized at the commencement of a *CCAA* proceeding. Professional services are provided, and DIP funding is advanced, in reliance on super-priorities contained in initial orders. To ensure the integrity, predictability and fairness of the *CCAA* process, certainty must accompany the granting of such super-priority charges. When those important objectives of the *CCAA* process are coupled with the Court of Appeal's holding that parties affected by such priority orders be given an opportunity to raise any paramountcy issue, it strikes me that a judge hearing an initial order application should directly raise with the parties the issue of the priority of the charges sought, including any possible issue of paramountcy in respect of competing claims on the debtor's property based on provincial legislation.

[52] Accordingly I raised that issue at the commencement of the hearing last Thursday and requested submissions on the issues of priority and paramountcy from any interested party. Several parties made submissions on those points: (i) the Applicants, proposed Monitor and proposed Representative Counsel submitted that the Court should address any priority or

¹⁴ *Ibid.*, paras. 178 and 179.

¹⁵ 2012 ONSC 506.

¹⁶ *Ibid.*, para. 66.

paramountcy issues raised; (ii) IIROC advised that it did not see any paramountcy issue in respect of its interests; (iii) counsel for Midland Loan submitted that a paramountcy issue existed with respect to its client, a secured mortgagee, because it enjoyed certain property rights under provincial mortgage law; she also argued that the less than full day's notice of the hearing given by the Applicants was inadequate to permit the mortgagee to consider its position, and her client should be given seven days to do so; and, (iv) counsel for a construction lien claimant, Structform International, who spoke on behalf of a number of such lien claimants, made a similar submission, contending that the construction lien claimants required 10 days to determine whether they should make submissions on the relationship between their lien claims and any super-priority charge granted under the CCAA.

[53] I did not grant the adjournment requested by the mortgagee and construction lien claimants for the following reasons. First, the facts in *Indalex* were quite different from those in the present case, involving as they did considerations of what fiduciary duty a debtor company owed to pensioners in respect of underfunded pension liabilities. I think caution must be exercised before extending the holding of *Indalex* concerning CCAA-authorized priority charges to other situations, such as the one before me, which do not involve claims involving pension deficiencies, but claims by more "ordinary" secured creditors, such as mortgagees and construction lien claimants.

[54] Second, I have some difficulty seeing how constitutional issues of paramountcy arise in a CCAA proceeding as between claims to the debtor's property by secured creditors, such as mortgagees and construction lien claimants, and persons granted a super-priority charge by court order under sections 11.51 and 11.52 of the CCAA. At the risk of gross over-simplification, Canadian constitutional law places the issue of priorities of secured creditors in different legislative balliwicks depending on the health of the debtor company. When a company is healthy, secured creditor priorities usually are determined under provincial laws, such as personal property security legislation and related statutes, which result from provincial legislatures exercising their powers with respect to "property and civil rights in the province".¹⁷ However, when a company gets sick - becomes insolvent - our *Constitution* vests in Parliament the power to craft the legislative regimes which will govern in those circumstances. Exercising its power in respect of "bankruptcy and insolvency",¹⁸ Parliament has established legal frameworks under the *BIA* and *CCAA* to administer sick companies. Priority determinations under the *CCAA* draw on those set out in the *BIA*, as well as the provisions of the *CCAA* dealing with specific claims such as Crown trusts and other claims.

[55] As it has evolved over the years the constitutional doctrine of paramountcy polices the overlapping effects of valid federal and provincial legislation: "The doctrine applies not only to cases in which the provincial legislature has legislated pursuant to its ancillary power to trench on an area of federal jurisdiction, but also to situations in which the provincial legislature acts within its primary powers, and Parliament pursuant to its ancillary powers."¹⁹ Since 1960 the

¹⁷ *Constitution Act, 1867*, s. 92 ¶13.

¹⁸ *Ibid.*, s. 91 ¶21.

¹⁹ *Canadian Western Bank v. Alberta*, [2007] 2 S.C.R. 3, para. 69.

Supreme Court of Canada has travelled a "path of judicial restraint in questions of paramountcy".²⁰ That Court has not been prepared to presume that, by legislating in respect of a matter, Parliament intended to rule out any possible provincial action in respect of that subject,²¹ unless (and it is a big "unless"), Parliament used very clear statutory language to that effect.²²

[56] I have found that the Applicants have entered the world of the sick, or the insolvent, and are eligible for the protection of the federal *CCAA*. The federal legislation *expressly* brings mortgagees and construction lien claimants within its regime – the definition of "secured creditor" contained in section 2 of the *CCAA* specifically includes "a holder of a mortgage" and "a holder of a ...lien...on or against...all or any of the property of a debtor company as security for indebtedness of the debtor company". The federal legislation also *expressly* authorizes a court to grant priority to administration and D&O charges over the claims of such secured creditors of the debtor.²³ In light of those express provisions in sections 2, 11.51 and 11.52 of the *CCAA*, and my finding that the Applicants are eligible for the protection offered by the *CCAA*, I had great difficulty understanding what argument could be advanced by the mortgagees and construction lien claimants about the concurrent operation of provincial and federal law which would relieve them from the priority charge provisions of the *CCAA*. I therefore did not see any practical need for an adjournment.

[57] Finally, sections 11.51(1) and 11.52(1) of the *CCAA* both require that notice be given to secured creditors who are likely to be affected by an administration or D&O charge before a court grants such charges. In the present case I was satisfied that such notice had been given. Was the notice adequate in the circumstances? I concluded that it was. To repeat, making due allowance for the unlimited creativity of lawyers, I have difficulty seeing what concurrent operation argument could be advanced by mortgagee and construction lien claims against court-ordered super-priority charges under sections 11.51 and 11.52 of the *CCAA*. Second, as reported by the proposed Monitor, the quantum of the priority charges (\$1.25 million) is reasonable in comparison with the amount owing to mortgagees (\$176 million) and the mortgages appeared to be well collateralized based on available information. Third, the Applicant and Monitor will develop an allocation methodology for the priority charges for later consideration by this Court. The proposed Monitor reported:

It is the Proposed Monitor's view that the allocation of the proposed Priority Charges should be carried out on an equitable and proportionate basis which recognizes the separate interests of the stakeholders of each of the entities.

The secured creditors will be able to make submissions on any proposed allocation of the priority charges. Finally, while I understand why the secured creditors are focusing on their specific interests, it must be recalled that the work secured by the priority charges will be performed for

²⁰ *Rothmans, Benson & Hedges Inc. v. Saskatchewan*, [2005] 1 S.C.R. 188, para. 21

²¹ *Canadian Western Bank*, *supra*, para. 74.

²² *Rothmans*, *supra*, para. 21.

²³ *CCAA* ss. 11.51(2) and 11.52(2).

the benefit of all creditors of the Applicants, including the mortgagees and construction lien claimants. All creditors will benefit from an orderly winding-up of the affairs of the Applicants.

[58] In the event that I am incorrect that no paramountcy issue arises in this case in respect of the priority charges, I echo the statements made by Morawetz J. in *Timminco I* which I reproduced in paragraph 49 above. In *Indalex* the Court of Appeal accepted that "the CCAA judge can make an order granting a super-priority charge that has the effect of overriding provincial legislation".²⁴ I find that it is both necessary and appropriate to grant super priority to both the Administration and D&O Charges in order to ensure that the objectives of the CCAA are not frustrated.

[59] For those reasons I did not grant the adjournment requested by Midland Loan and the construction lien claimants, concluding that they had been given adequate notice in the circumstances, and I granted the requested Administration and D&O Charges.

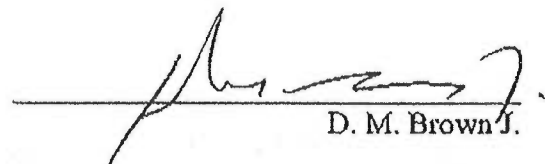
VII. Other matters

[60] At the hearing counsel for one of the construction lien claimants sought confirmation that by granting the Initial Order a construction lien claimant who had issued, but not served, a statement of claim prior to the granting of the order would not be prevented from serving the statement of claim on the Applicants. Counsel for the Applicants confirmed that such statements of claim could be served on it.

[61] At the hearing the Applicants submitted a modified form of the model Initial Order. Certain amendments were proposed during the hearing; the parties had an opportunity to make submissions on the proposed amendments.

VIII. Summary

[62] For the foregoing reasons I was satisfied that it was appropriate to grant the CCAA Initial Order in the form requested. I signed the Initial Order at 4:08 p.m. EST on Thursday, February 23, 2012.



D. M. Brown J.

Date: February 26, 2012

²⁴ *Indalex, supra.*, para. 176.

THIS IS EXHIBIT "C" REFERRED TO IN THE
AFFIDAVIT OF GREGORY MACLEOD
SWORN BEFORE ME,
THIS 3rd DAY OF DECEMBER, 2012

A handwritten signature in blue ink, appearing to read "Jim Baul", is written over a horizontal line.

Commissioner for Taking Affidavits, Etc.



Court File No. CV-12-9617-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

THE HONOURABLE MR.

)

MONDAY, THE 22nd

JUSTICE PATTILLO

)

DAY OF OCTOBER, 2012

)

**IN THE MATTER OF *THE COMPANIES' CREDITORS ARRANGEMENT ACT*,
*R.S.C. 1985, C. c-36, AS AMENDED***

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF First Leaside Wealth Management Inc., First Leaside Finance Inc., First
Leaside Securities Inc., FL Securities Inc., First Leaside Management Inc.,
First Leaside Accounting and Tax Services Inc., First Leaside Holdings
Inc., 2086056 Ontario Inc., First Leaside Realty Inc., First Leaside Capital
Inc., First Leaside Realty II Inc., First Leaside Investments Inc., 965010
Ontario Inc., 1045517 Ontario Inc., 1024919 Ontario Inc., 1031628 Ontario
Inc., 1056971 Ontario Inc., 1376095 Ontario Inc., 1437290 Ontario Ltd.,
1244428 Ontario Ltd., PrestonOne Development (Canada) Inc., PrestonTwo
Development (Canada) Inc., PrestonThree Development (Canada) Inc.,
PrestonFour Development (Canada) Inc., 2088543 Ontario Inc., 2088544
Ontario Inc., 2088545 Ontario Inc., 1331607 Ontario Inc., Queenston Manor
General Partner Inc., 1408927 Ontario Ltd., 2107738 Ontario Inc., 1418361
Ontario Ltd., 2128054 Ontario Inc., 2069212 Ontario Inc., 1132413 Ontario
Inc., 2067171 Ontario Inc., 2085306 Ontario Inc., 2059035 Ontario Inc.,
2086218 Ontario Inc., 2085438 Ontario Inc., First Leaside Visions
Management Inc., 1049015 Ontario Inc., 1049016 Ontario Inc., 2007804
Ontario Inc., 2019418 Ontario Inc., FL Research Management Inc., 1031628
Ontario Inc., 1045516 Ontario Inc., 2004516 Ontario Inc., 2192341 Ontario
Inc., and First Leaside Fund Management Inc.**

ORDER

(Stay Extension)

THIS MOTION, made by the Applicants and Included LPs (as defined in the Initial Order (defined below)) (collectively, "**First Leaside**") for an order extending the stay provided for in the Initial Order, approving the distribution of proceeds of sale in connection with certain properties in Canada owned by First Leaside, and other relief as

described in the Notice of Motion was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Affidavit of Gregory MacLeod Affidavit sworn October 15, 2012 (the "**MacLeod Affidavit**"), the Fifth Report of Grant Thornton Limited, in its capacity as court appointed monitor (the "**Monitor**") dated October 17, 2012 (the "**Report**") and on hearing the submissions of counsel for the Applicants, the Monitor, Toronto-Dominion Bank, ~~First Leaside Mortgage Fund, Brijon Real Estate Holdings Inc.~~ ^{IIROC, the Ontario Securities Commission}, Fraser Milner Casgrain LLP in its capacity as Court appointed Representative Counsel, no one appearing for any other person on the service list, although properly served as appears from the affidavits of service of Kelly Gerra sworn October 16, 2012, and Patricia Hoogenband sworn October 19, 2012, filed:

1. **THIS COURT ORDERS** that the time for service and filing of the notice of motion and the motion record is hereby abridged and validated so that the motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that the "Stay Period" as defined in paragraph 19 of the Initial Order of the Honourable Mr. Justice Brown dated February 23, 2012 (the "**Initial Order**") be and is hereby extended to December 11, 2012.
3. **THIS COURT ORDERS** that, effective at 12:01 a.m. on the date of closing of the Transaction (as defined in the MacLeod Affidavit), paragraph 3 of the Initial Order be and the same is hereby amended to delete the following limited partnerships from the "Excluded LPs" as defined in the Initial Order and to add such limited partnerships to Schedule "A" to the Initial Order as entities entitled to the benefit of the Initial Order (the "**Added LPs**"):
 - i. First Leaside Retirement Residences (Okanagan) Limited Partnership;
 - ii. Cherry Park Retirement Residence Limited Partnership;
 - iii. Orchard Valley Retirement Residence Limited Partnership; and

iv. The Shores Retirement Residence Limited Partnership.

4. **THIS COURT ORDERS** the Monitor shall not be required to provide notice pursuant to section 23 of the *Companies' Creditors Arrangement Act* to creditors of the Added LPs.

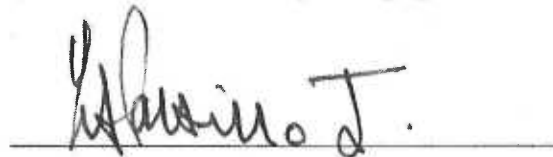
5. **THIS COURT ORDERS** that First Leaside is hereby authorized to withhold from any distribution of money or property which would otherwise be made to a First Leaside investor who is indebted to First Leaside (a "**Debtor Investor**"), such money or property (collectively, the "**Reserved Property**") with a value up to the total amount of any debt then owing to First Leaside by such Debtor Investor, pending the determination of set-off rights of First Leaside, if any, with respect to the Reserved Property, and subject to further Order of the Court.

6. **THIS COURT ORDERS AND DIRECTS** that, subject to the power to withhold Reserved Property as provided for in paragraph 4 herein, 2085306 Ontario Inc. in its capacity as general partner of First Leaside Growth Limited Partnership shall pay the sum of \$3,597,672.50 plus per diem interest of \$632.50 after September 24, 2012 less proper fees (collectively, the "**Mortgage Amount**") to Peoples Trust Company ("**Peoples**") or First Leaside Nominee Services Inc. ("**FL Nominee**"), from the proceeds of the sale of the property known municipally as 36 Bramtree Court, Brampton, Ontario (the "**Bramtree Property**"), which Mortgage Amount shall then be distributed by Peoples and/or FL Nominee to First Leaside investors who advanced the funds which were secured by the charge and assignment of rents over the Bramtree Property which were registered, respectively, as Instrument Numbers PR1959450 and PR1959451 (collectively, the "**Bramtree Mortgage**"). Upon completion of the payment of the Mortgage Amount, 2085306 Ontario Inc. and First Leaside Growth Limited Partnership shall have no further liability in respect of the Bramtree Mortgage.

7. **THIS COURT ORDERS AND DIRECTS** that, subject to the power to withhold Reserved Property as provided for paragraph 4 herein, First Leaside Wealth Management Inc. shall cause FL Nominee to distribute to investors in a syndicated mortgage in respect of the property known municipally as 90 King St. East, Thornbury,

- 4 -

Ontario (Parcel Identification Numbers 37140-0546 (LT) and 37140-0545(LT)) (the "**Thornbury Mortgage**") the current and future net proceeds on account of principal and interest received and held by FL Nominee in respect of the Thornbury Mortgage.



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

OCT 22 2012

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IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
P.S.C. 1985, c. C-36, AS AMENDED

Court File No: CV-12-9617-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
FIRST LEASIDE WEALTH MANAGEMENT INC. ET AL.

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

Proceeding commenced at Toronto

ORDER
(Stay Extension)

CASSELS BROCK & BLACKWELL LLP

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Toronto, Ontario M5H 3C2

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Fax: 416.360.3154

dward@casselsbrock.com

Lawyers for the Applicants

THIS IS EXHIBIT "D" REFERRED TO IN THE
AFFIDAVIT OF GREGORY MACLEOD
SWORN BEFORE ME,
THIS 3rd DAY OF DECEMBER, 2012



Commissioner for Taking Affidavits, Etc.

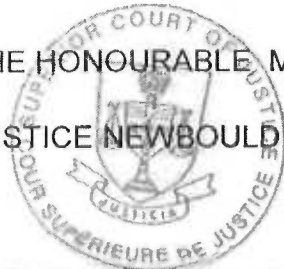
Court File No. CV-12-9617-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT
ACT, R.S.C. 1985, c. C-36, AS AMENDED**

THE HONOURABLE MR

JUSTICE NEWBOULD



)
)
)

FRIDAY, THE 31ST

DAY OF AUGUST, 2012

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF First Leaside Wealth Management Inc., First Leaside Finance Inc., First Leaside Securities Inc., FL Securities Inc., First Leaside Management Inc., First Leaside Accounting and Tax Services Inc., First Leaside Holdings Inc., 2086056 Ontario Inc., First Leaside Realty Inc., First Leaside Capital Inc., First Leaside Realty II Inc., First Leaside Investments Inc., 965010 Ontario Inc., 1045517 Ontario Inc., 1024919 Ontario Inc., 1031628 Ontario Inc., 1056971 Ontario Inc., 1376095 Ontario Inc., 1437290 Ontario Ltd., 1244428 Ontario Ltd., PrestonOne Development (Canada) Inc., PrestonTwo Development (Canada) Inc., PrestonThree Development (Canada) Inc., PrestonFour Development (Canada) Inc., 2088543 Ontario Inc., 2088544 Ontario Inc., 2088545 Ontario Inc., 1331607 Ontario Inc., Queenston Manor General Partner Inc., 1408927 Ontario Ltd., 2107738 Ontario Inc., 1418361 Ontario Ltd., 2128054 Ontario Inc., 2069212 Ontario Inc., 1132413 Ontario Inc., 2067171 Ontario Inc., 2085306 Ontario Inc., 2059035 Ontario Inc., 2086218 Ontario Inc., 2085438 Ontario Inc., First Leaside Visions Management Inc., 1049015 Ontario Inc., 1049016 Ontario Inc., 2007804 Ontario Inc., 2019418 Ontario Inc., FL Research Management Inc., 970877 Ontario Inc., 1031628 Ontario Inc., 1045516 Ontario Inc., 2004516 Ontario Inc., 2192341 Ontario Inc., and First Leaside Fund Management Inc. ("Applicants")

ORDER

(U.S. Entities Wind-down)

THIS MOTION, brought by the Applicants, for approval of the sale of certain assets of the Applicants, and such other relief as described in the amended notice of motion dated August 20, 2012, was heard in part on August 23, 2012, with the balance

of the relief sought adjourned on consent to be heard on August 30, 2012, and then further adjourned to a date to be coordinated with the Commercial List Office, was heard this day at the Court House, 330 University Avenue, Toronto, Ontario.

ON READING the amended notice of motion, the affidavit of Gregory MacLeod sworn August 20, 2012, the affidavit of Henry Wenekamp sworn August 22, 2012, and the Fourth Report of the Grant Thornton Limited, in its capacity as court appointed monitor ("**Monitor**") dated August 21, 2012, and upon hearing the submissions of counsel for the Applicants and G.S. MacLeod & Associates ("**CRO**"), counsel for the Monitor, Fraser Milner Casgrain LLP in its capacity as court appointed Representative Counsel, and counsel for the trustees ("**Trustees**") of certain First Leaside-affiliated investment funds, namely First Leaside Fund, Wimberly Fund, First Leaside Mortgage Fund and First Leaside Properties Fund (collectively, the "**Funds**"),

AND UPON BEING ADVISED by counsel for the Trustees that each of the Funds will call and hold a meeting of their respective trust unitholders within sixty (60) days of the date of this order for the purpose, among other things, of reporting to trust unitholders and electing trustees of the Funds and will provide a reporting letter to the Monitor with respect to such meeting,

AND UPON BEING FURTHER ADVISED that this order is made on consent of First Leaside and the Monitor and the Trustees,

1. **THIS COURT AUTHORIZES AND DIRECTS** that First Leaside (as defined in the initial order of Justice D. M. Brown dated February 23, 2012) ("**First Leaside**") take no steps to manage, administer or maintain any limited partnerships, corporations, trusts,

or properties located or subsisting in the United States in which First Leaside has a direct or indirect equity or other interest including, without limiting the generality of the foregoing, properties held directly or indirectly by Wimberly Apartments Limited Partnership, 2088544 Ontario Inc., 2088545 Ontario Inc., 2088543 Ontario Inc., FL Master Sherman GP, Inc., FL Master Texas, Ltd., FL Master Sherman Ltd., or F.L. US Holdings GP, Inc. but excepting the Sherman Church property municipally known as 920 South Heritage Parkway, Sherman, Texas and the Spring Valley Mall property municipally known as 7800-7798 Spring Valley Road, Dallas, Texas ("**US Entity**" or collectively the "**US Entities**").

2. **THIS COURT ORDERS** that, notwithstanding the terms of paragraph 1 of this order, First Leaside is authorized to attend to the preparation and filing of tax returns in respect of the US Entities for the 2011 taxation year.

3. **THIS COURT ORDERS** that First Leaside is authorized to deliver copies of any business or corporate records in its possession relating to the US Entities to an officer or director of the relevant US Entity.

4. **THIS COURT ORDERS AND DIRECTS** that the CRO forthwith transfer the funds available as at August 31, 2012 in the First Leaside Mortgage Fund Bank Account at the TD Bank, 55 King Street West, Toronto, account numbered 1020-5397336 to Torkin Manes LLP, In Trust, counsel for First Leaside Mortgage Fund.

ENTERED AT THE COURT OF COMMON PLEAS
ON / BOOK NO.
LE / DANS LE REGISTRE NO.:

AUG 31 2012

PER/PAR:



IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C-36, AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
First Leaside Wealth Management Inc. et al

Court File No: CV-12-9617-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

Proceeding commenced at Toronto

ORDER

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dward@casselsbrock.com

Lawyers for the Applicant

THIS IS EXHIBIT "E" REFERRED TO IN THE
AFFIDAVIT OF GREGORY MACLEOD
SWORN BEFORE ME,
THIS 3rd DAY OF DECEMBER, 2012

A handwritten signature in blue ink, appearing to read "Jim Buro", is written over a horizontal line.

Commissioner for Taking Affidavits, Etc.



Court File No. CV-12-9617-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

THE HONOURABLE MR.

)

MONDAY, THE 22nd

JUSTICE PATTILLO

)

DAY OF OCTOBER, 2012

)

**IN THE MATTER OF *THE COMPANIES' CREDITORS ARRANGEMENT ACT*,
*R.S.C. 1985, C. c-36, AS AMENDED***

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF First Leaside Wealth Management Inc., First Leaside Finance Inc., First
Leaside Securities Inc., FL Securities Inc., First Leaside Management Inc.,
First Leaside Accounting and Tax Services Inc., First Leaside Holdings
Inc., 2086056 Ontario Inc., First Leaside Realty Inc., First Leaside Capital
Inc., First Leaside Realty II Inc., First Leaside Investments Inc., 965010
Ontario Inc., 1045517 Ontario Inc., 1024919 Ontario Inc., 1031628 Ontario
Inc., 1056971 Ontario Inc., 1376095 Ontario Inc., 1437290 Ontario Ltd.,
1244428 Ontario Ltd., PrestonOne Development (Canada) Inc., PrestonTwo
Development (Canada) Inc., PrestonThree Development (Canada) Inc.,
PrestonFour Development (Canada) Inc., 2088543 Ontario Inc., 2088544
Ontario Inc., 2088545 Ontario Inc., 1331607 Ontario Inc., Queenston Manor
General Partner Inc., 1408927 Ontario Ltd., 2107738 Ontario Inc., 1418361
Ontario Ltd., 2128054 Ontario Inc., 2069212 Ontario Inc., 1132413 Ontario
Inc., 2067171 Ontario Inc., 2085306 Ontario Inc., 2059035 Ontario Inc.,
2086218 Ontario Inc., 2085438 Ontario Inc., First Leaside Visions
Management Inc., 1049015 Ontario Inc., 1049016 Ontario Inc., 2007804
Ontario Inc., 2019418 Ontario Inc., FL Research Management Inc., 1031628
Ontario Inc., 1045516 Ontario Inc., 2004516 Ontario Inc., 2192341 Ontario
Inc., and First Leaside Fund Management Inc.**

**SALE APPROVAL AND VESTING ORDER
(Re First Leaside Purchased Assets and Purchased Securities)**

This motion (the "**Motion**") made by the Applicants and Included LPs (as defined in the Initial Order (defined below)) (collectively, "**First Leaside**") for an order approving the sale transaction (the "**Transaction**") contemplated by the Purchase Agreement dated September 27, 2012, as amended by an Amending Agreement dated October 4, 2012, and further amended by an Amending Agreement dated October 5, 2012 (as amended, and as may be further amended in accordance with such agreement, the

"**Sale Agreement**") between BayBridge Seniors Housing Trust (the "**Purchaser**") and the following limited partnerships by their general partner First Leaside Realty II Inc. (collectively, the "**Vendors**"):

- (a) First Leaside Ventures Limited Partnership;
- (b) First Leaside Retirement Residences (Okanagan) Limited Partnership;
- (c) Cherry Park Retirement Residence Limited Partnership;
- (d) Orchard Valley Retirement Residence Limited Partnership;
- (e) The Shores Retirement Residence Limited Partnership; and
- (f) First Leaside Retirement Residences Limited Partnership

and attached as a confidential Exhibit to the Affidavit of Gregory MacLeod, sworn October 15, 2012 (the "**MacLeod Affidavit**") and filed under seal, and vesting in the Purchaser (or its permitted assigns or as it may otherwise direct) all of the Vendors' right, title and interest in and to the First Leaside Purchased Assets and the Purchased Securities (each as defined and set forth in the Sale Agreement, and together, the "**Purchased Assets**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the MacLeod Affidavit, the Fifth Report of Grant Thornton Limited, in its capacity as court appointed monitor (the "**Monitor**") dated October 17, 2012, and on hearing the submissions of counsel for the Applicants, the Monitor, Toronto-Dominion Bank, ~~First Leaside Mortgage Fund, Bruljon Real Estate Holdings Inc.,~~ ^{IIROC, The Ontario Securities Commission,} and Fraser Milner Casgrain LLP in its capacity as Court appointed Representative Counsel, no one appearing for any other person on the service list, although properly served as appears from the affidavits of service of Kelly Gerra sworn October 16, 2012 and Patricia Hoogenband sworn October 19, 2012, filed:

1. **THIS COURT ORDERS** that the time for service and filing of the Applicants' notice of the Motion and the Motion record is hereby abridged and validated so that the Motion is properly returnable today and hereby dispenses with any further or other service thereof.

2. **THIS COURT ORDERS AND DECLARES** that the Sale Agreement, the Vendors' entry into the Sale Agreement, and the Transaction contemplated thereunder are each hereby approved, and further that the execution of the Sale Agreement by G.S. MacLeod & Associates Inc. in its capacity as court-appointed chief restructuring officer of First Leaside (the "**CRO**") on behalf of the Vendors is hereby authorized and approved *nunc pro tunc* to September 27, 2012, with such minor amendments thereto as the CRO may deem appropriate. The CRO is hereby authorized and directed to take such additional steps and execute such additional documents on behalf of the Vendors as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

3. **THIS COURT ORDERS AND DECLARES** that the Sale Agreement is hereby sealed, kept confidential and shall not form part of the public record until such time as the CRO's Certificate (as defined below) is delivered to the Purchaser in accordance with paragraph 4 hereof.

4. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a CRO's certificate to the Purchaser substantially in the form attached as **Schedule "A"** hereto (the "**CRO'S Certificate**"), all of the Vendors' right, title and interest in and to the Purchased Assets, including, without limitation, the lands and premises (collectively, the "**Lands**") described on **Schedule "B"** hereto, and First Leaside Realty II Inc.'s interest in the Purchased Assets, shall vest absolutely in the Purchaser or any assignee thereof as permitted by the Sale Agreement, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens (including construction liens), executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of Mr. Justice Brown dated February 23, 2012 (the "**Initial Order**"); (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario), *Personal Property Security Act* (British Columbia) or any other personal property registry system (all of which are collectively referred to as the

"**Encumbrances**" and which term shall include the Encumbrances (as defined in the Sale Agreement)), but shall not include the Permitted Encumbrances on First Lease Purchased Assets (as defined in the Sale Agreement and set forth on **Schedules "C" and "D"** hereto), and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

5. **THIS COURT ORDERS** that upon filing of a certified copy of this Order, together with a letter from the Vendors' solicitor, Cassels Brock & Blackwell LLP, authorizing its registration with the Registrar of Titles in the New Westminster Land Title Office and Kamloops Land Title Office, all right, title, interest, estate and equity of redemption of the Vendors in and to the Lands be conveyed to and do vest in the Purchaser (or assignee or designee permitted by the Sale Agreement) free and clear of all right, title, interest, estate and equity of redemption or land claim of all parties to this proceeding, and in particular of the Applicants and Vendors, their successors and assigns, and all persons claiming by, through or under them, subject only to the reservations and exceptions set out in the original Crown Grant or Grants thereof. For the purposes of issuing title to the Purchaser (or assignee or designee permitted by the Sale Agreement) the following charges, liens and interests (collectively, the "**Lien Claims**") shall be released from the titles to the Lands:

<i>Lien Claims</i>	<i>Registration No.</i>
As to Orchard Valley Retirement Residences: Legal Description: PID: 015-305-775 Lot A, District Lot 72, Osoyoos Division Yale District, Plan 42205	Claim of Builders Lien CA2390138 Claim of Builders Lien CA2394578 Claim of Builders Lien CA2433061
As to Cherry Park Retirement Residence: Legal Description: PID: 016-044-355	Claim of Builders Lien CA2394579 Claim of Builders Lien

- 5 -

Lot A, District Lot 4, Group 7, Similkameen Division Yale (Formerly Yale-Lytton) District, Plan 43044	CA2433060
As to the Shores Retirement Residence: Legal Description: PID: 017-700-892 Lot A, District Lot 256, Kamloops Division Yale District, Plan KAP46785	Claim of Builders Lien CA2433059

6. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net cash proceeds from the sale of the Purchased Assets including after effecting payment of the PTL Debt and Related Party Debt (as defined in the MacLeod Affidavit) (collectively, the "**Proceeds**") shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the CRO's Certificate in accordance with paragraph 4 hereof, all Claims and Encumbrances shall attach to the Proceeds with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale, provided, however, that to the extent that the Purchaser assumes liability for the accounts payable and accrued liabilities forming part of the First Leaside Current Liabilities (as defined in the Purchase Agreement) in accordance with the Purchase Agreement, no claim of such creditor for such accounts payable and accrued liabilities may be asserted against the Proceeds.

7. **THIS COURT ORDERS** that if the Purchaser does not reach agreement in writing with the Toronto-Dominion Bank ("**TD**") prior to the closing of the Transaction ("**Closing**") to assume the obligations of the Vendors to TD (the "**TD Debt**") which are secured by a security interest or charge on the First Leaside Purchased Assets including, without limitation, the security listed in Schedule "C" hereto (collectively, the "**TD Mortgages**"),

- 6 -

- (a) the cash portion of the Purchase Price (as defined in the Sale Agreement) for the First Leaside Purchased Assets (as defined in the Sale Agreement) shall not be reduced by the amount of the TD Debt;
- (b) upon the Closing, the Purchaser shall pay the Purchase Price for the First Leaside Purchased Assets as follows:
 - (i) the Purchaser shall, and is hereby directed to, pay directly to TD, for and on behalf of the Vendors, an amount equal to the TD Debt, in repayment and full satisfaction of the TD Debt (the "**TD Loan Repayment**"); and
 - (ii) the Purchaser shall pay the balance of the Purchase Price, after subtracting the amount of the TD Loan Repayment, for the First Leaside Purchased Assets to the Vendors as provided for in the Sale Agreement; and
- (c) upon receipt of the TD Loan Repayment, TD shall as soon as reasonably possible discharge all of its security over the Vendors and the First Leaside Purchased Assets including, without limitation, the encumbrances set forth on Schedule "C" hereto.

8. **THIS COURT ORDERS** that debts of the Vendors may be paid by the Vendors at Closing from the net proceeds after payment of the TD Loan Repayment, if applicable pursuant to paragraph 7 hereof, if one of the following two conditions is met:

- (a) the Applicants, the Monitor, or the Purchaser, upon further motion, obtain authorization of the court to have the Vendors pay all or part of any unsecured liability of the Vendors or any liability evidenced by a Lien Claim (in either case, a "**Court Approved Debt**"), to the extent that such liabilities are not assumed or paid by the Purchaser in accordance with the working capital adjustment provided for in the Sale Agreement; or
- (b) the Monitor determines that a Lien Claim is validly registered and perfected and the Vendors acknowledge that a corresponding specified amount (which may be all or part of the sum claimed by the party asserting the Lien Claim) is owing (a "**Quantified Lien Debt**").

9. **THIS COURT ORDERS** that if the Vendors pay a Court Approved Debt or Quantified Lien Debt at Closing from the Proceeds (in either case, a "**Paid Debt**") and if the Paid Debt was included as a current liability in the Estimated Closing Working Capital Statement (as defined in the Purchase Agreement), such Estimated Closing Working Capital Statement shall be deemed amended so as to remove as a current liability such Paid Debt.

10. **THIS COURT ORDERS AND DIRECTS** the Applicants to file with the Court a copy of the CRO's Certificate, forthwith after delivery thereof.

11. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Vendors and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Vendors;

the vesting of the Purchased Assets in the Purchaser and the payments to TD pursuant to this Order and any payments to be made in connection with the Transaction shall be binding on any trustee in bankruptcy that may be appointed in respect of the Vendors and shall not be void or voidable by creditors of the Vendors, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

12. **THIS COURT ORDERS AND DECLARES** that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

13. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the CRO and Monitor and their 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 Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Monitor and its agents in carrying out the terms of this Order.

- 8 -

Massimo J.
Oct 22/12 .

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

OCT 22 2012

MB

Schedule "A"
Form of CRO's Certificate

Court File No. CV-12-9617-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

**IN THE MATTER OF *THE COMPANIES' CREDITORS ARRANGEMENT ACT*,
*R.S.C. 1985, C. c-36, AS AMENDED***

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF First Leaside Wealth Management Inc., First Leaside Finance Inc.,
First Leaside Securities Inc., FL Securities Inc., First Leaside Management
Inc., First Leaside Accounting and Tax Services Inc., First Leaside
Holdings Inc., 2086056 Ontario Inc., First Leaside Realty Inc., First
Leaside Capital Inc., First Leaside Realty II Inc., First Leaside Investments
Inc., 965010 Ontario Inc., 1045517 Ontario Inc., 1024919 Ontario Inc.,
1031628 Ontario Inc., 1056971 Ontario Inc., 1376095 Ontario Inc., 1437290
Ontario Ltd., 1244428 Ontario Ltd., PrestonOne Development (Canada)
Inc., PrestonTwo Development (Canada) Inc., PrestonThree Development
(Canada) Inc., PrestonFour Development (Canada) Inc., 2088543 Ontario
Inc., 2088544 Ontario Inc., 2088545 Ontario Inc., 1331607 Ontario Inc.,
Queenston Manor General Partner Inc., 1408927 Ontario Ltd., 2107738
Ontario Inc., 1418361 Ontario Ltd., 2128054 Ontario Inc., 2069212 Ontario
Inc., 1132413 Ontario Inc., 2067171 Ontario Inc., 2085306 Ontario Inc.,
2059035 Ontario Inc., 2086218 Ontario Inc., 2085438 Ontario Inc., First
Leaside Visions Management Inc., 1049015 Ontario Inc., 1049016 Ontario
Inc., 2007804 Ontario Inc., 2019418 Ontario Inc., FL Research
Management Inc., 1031628 Ontario Inc., 1045516 Ontario Inc., 2004516
Ontario Inc., 2192341 Ontario Inc., and First Leaside Fund Management
Inc.**

CRO's CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Brown of the Ontario Superior Court of Justice (the "Court") dated February 23, 2012, G.S. MacLeod & Associates Inc. was appointed as the chief restructuring officer (the "CRO") of the undertaking, property and assets of the Applicants.

B. Pursuant to an Order of the Court dated October 22, 2012 (the "**Approval Order**"), the Court approved the purchase agreement dated September 27, 2012 (the "**Sale Agreement**") between the Vendors and Purchaser (as defined in the Approval Order) and provided for the vesting in the Purchaser of the Vendors' right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the CRO to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the CRO and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the CRO.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE CRO CERTIFIES the following:

1. The Purchaser has paid and the Vendors have received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. All of the conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the CRO and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the CRO.
4. This Certificate was delivered by the CRO at _____ on November __, 2012.

**G.S. MacLeod & Associates Inc., in its
capacity as court appointed chief
restricting officer of the Applicants, and
not in its personal capacity**

Per: _____

Name: Greg MacLeod

Title: President

Schedule "B"
Lands

Cherry Park Retirement Residence

Land Title Office

Kamloops

Municipal Description:

317 Winnipeg Street, Penticton, BC V2A 8J9

Legal Description:

PID: 016-044-355

Lot A, District Lot 4, Group 7, Similkameen Division Yale (Formerly Yale-Lytton) District, Plan 43044

Orchard Valley Retirement Residences

Land Title Office

Kamloops

Municipal Description:

2829 34th Street, Vernon, BC V1T 9G4

Legal Description:

PID: 015-305-775

Lot A, District Lot 72, Osoyoos Division Yale District, Plan 42205

The Shores Retirement Residences (and the undeveloped portion of The Shores Land)

Land Title Office

Kamloops

Municipal Description:

870 Westminster Avenue, Kamloops, BC V2B 1N9

Legal Description:

PID: 017-700-892

Lot A, District Lot 256, Kamloops Division Yale District, Plan KAP46785

Schedule "C"

Permitted Encumbrances on Purchased Assets

I. Permitted Encumbrances on First Leasehold Purchased Assets

(a) Permitted Encumbrances on Lands

1. Instrument CA2181507, registered September 8, 2011, is a mortgage with respect to Parcel Identifier 016-044-355, granted by First Leasehold Realty II Inc. ("FL Realty") in favour of The Toronto-Dominion Bank ("TD") securing the original principal sum of \$19,440,000.
2. Instrument CA2181508, registered September 8, 2011, is an assignment of rents with respect to Parcel Identifier 016-044-355, granted by FL Realty to TD as additional security for its mortgage registered as CA2181507
3. Instrument CA2181509, registered September 8, 2011, is a mortgage with respect to Parcel Identifier 015-305-775, granted by FL Realty in favour of TD securing the original principal sum of \$19,440,000.
4. Instrument CA2181510, registered September 8, 2011, is an assignment of rents with respect to Parcel Identifier 015-305-775, granted by FL Realty to TD as additional security for its mortgage registered as CA2181509.
5. Instrument CA2181511, registered September 8, 2011, is a mortgage with respect to Parcel Identifier 017-700-892, granted by FL Realty in favour of TD securing the original principal sum of \$19,440,000.
6. Instrument CA2181512, registered September 8, 2011, is an assignment of rents with respect to Parcel Identifier 017-700-892, granted by FL Realty to TD as additional security for its mortgage registered as CA2181511.

(b) Permitted Encumbrances on Personal Property

Ontario

1. File no. 672443073; PPSA Registration No. 20110825 1031 1862 6989, in favour of TD (First Leasehold Retirement Residences (Okanagan) Limited Partnership)
2. File no. 672443127; PPSA Registration No. 20110825 1033 1862 6991, in favour of TD (First Leasehold Venture Limited Partnership)
3. File No. 672443226; PPSA Registration No. 20110825 1037 1862 6994, in favour of TD (Cherry Park)

4. File no. 672443262; PPSA Registration No. 20110825 1038 1862 6996, in favour of TD (Orchard Valley)
5. File No. 672443235; PPSA Registration No. 20110825 1037 1862 6995, in favour of TD (the Shores)
6. File no. 672443217; PPSA Registration No. 20110825 1036 1862 6993 (First Leaside Realty II Inc.)

British Columbia

1. PPSA Base Registration No. 318113G, in favour of TD (Orchard Valley)
2. PPSA Base Registration No. 318115G, in favour of TD (the Shores)
3. PPSA Base Registration No. 318111G, in favour of TD (Cherry Park)
4. PPSA Base Registration No. 318116G, in favour of TD (First Leaside Realty II Inc.)

Schedule D**II. Other Permitted Encumbrances on First Leaside Purchased Assets**

- (ii) B.C. PPSA Registration No. 994133D, in favour of MCAP Leasing Inc.
- (iii) B.C. PPSA Registration No. 655127F, in favour of National Leasing Group Inc.

III. Permitted Encumbrances on Purchased Securities

Nil.

101 IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
FIRST LEASIDE WEALTH MANAGEMENT INC. ET AL

Court File No: CV-12-9617-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

Proceeding commenced at Toronto

SALE APPROVAL AND VESTING ORDER
(RE FIRST LEASIDE PURCHASED ASSETS
AND PURCHASED SECURITIES)

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Lawyers for the Applicants

THIS IS EXHIBIT "F" REFERRED TO IN THE
AFFIDAVIT OF GREGORY MACLEOD
SWORN BEFORE ME,
THIS 3rd DAY OF DECEMBER, 2012

A handwritten signature in blue ink, appearing to read "John B. [unclear]", written over a horizontal line.

Commissioner for Taking Affidavits, Etc.

Court File No. CV-12-9617-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF First Leaside Wealth Management Inc., First Leaside Finance Inc., First
Leaside Securities Inc., FL Securities Inc., First Leaside Management Inc.,
First Leaside Accounting and Tax Services Inc., First Leaside Holdings
Inc., 2086056 Ontario Inc., First Leaside Realty Inc., First Leaside Capital
Inc., First Leaside Realty II Inc., First Leaside Investments Inc., 965010
Ontario Inc., 1045517 Ontario Inc., 1024919 Ontario Inc., 1031628 Ontario
Inc., 1056971 Ontario Inc., 1376095 Ontario Inc., 1437290 Ontario Ltd.,
1244428 Ontario Ltd., PrestonOne Development (Canada) Inc., PrestonTwo
Development (Canada) Inc., PrestonThree Development (Canada) Inc.,
PrestonFour Development (Canada) Inc., 2088543 Ontario Inc., 2088544
Ontario Inc., 2088545 Ontario Inc., 1331607 Ontario Inc., Queenston Manor
General Partner Inc., 1408927 Ontario Ltd., 2107738 Ontario Inc., 1418361
Ontario Ltd., 2128054 Ontario Inc., 2069212 Ontario Inc., 1132413 Ontario
Inc., 2067171 Ontario Inc., 2085306 Ontario Inc., 2059035 Ontario Inc.,
2086218 Ontario Inc., 2085438 Ontario Inc., First Leaside Visions
Management Inc., 1049015 Ontario Inc., 1049016 Ontario Inc., 2007804
Ontario Inc., 2019418 Ontario Inc., FL Research Management Inc., 1031628
Ontario Inc., 1045516 Ontario Inc., 2004516 Ontario Inc., 2192341 Ontario
Inc., and First Leaside Fund Management Inc. (collectively, the
"Applicants")**

**AFFIDAVIT OF GREGORY MACLEOD
(sworn October 15, 2012)**

I, **GREGORY MACLEOD**, of the City of Burlington, in the Province of
Ontario, **MAKE OATH AND SAY:**

1. I am the President of G.S. MacLeod & Associates Inc., the Court-appointed
restructuring officer ("**CRO**") of First Leaside Wealth Management Inc. ("**FLWM**"), and
the other applicants (collectively, the "**Applicants**") as well as the limited partnerships

affiliated with the Applicants that are listed in **Exhibit "A"** hereto (the **"Included LPs"**). (Hereafter, the Applicants and the Included LPs shall be referred to collectively as **"First Leaside"** or the **"Company"**). As such, I have knowledge of the facts deposed to in this affidavit. To the extent that this affidavit describes events or facts of which I do not have personal knowledge, I have identified the source of the information and, in all cases, believe it to be true.

2. Capitalized terms not otherwise defined in this affidavit are defined in my affidavit sworn February 22, 2012 (the **"Initial Affidavit"**).

A. Background

3. By order of the Honourable Mr. Justice Brown made February 23, 2012 (the **"Initial Order"**), the Applicants applied for and were granted protection from their creditors under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (**"CCAA"**). The stay of proceedings and other relief in the Initial Order was extended to include the Included LPs. A copy of the Initial Order is attached to this affidavit as **Exhibit "B"**. A copy of Justice Brown's reasons for decision dated February 26, 2012 is attached hereto and marked as **Exhibit "C"**.

4. Pursuant to the Initial Order, Grant Thornton Limited was appointed as monitor (**"Monitor"**) of First Leaside, and Fraser Milner Casgrain LLP was appointed as representative counsel (**"Representative Counsel"**) to represent the interests of the nearly 1,200 investors (the **"Investors"**) of First Leaside Securities Inc. (**"FLSI"**) in these proceedings.

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5. A Stay Period, as defined in paragraph 19 of the Initial Order, was granted on February 23, 2012, and was most recently extended by an order of this Court on June 28, 2012. Attached hereto and marked as **Exhibit "D"** is a copy of the June 28, 2012 order (the "**June 28 Order**"). The Stay Period currently expires on October 26, 2012.

6. This affidavit is sworn in support of the motion for, *inter alia*, the extension of the Stay Period to December 11, 2012, the approval of the sale of certain property owned by First Leaside Retirement Residences Limited Partnership ("**Retirement Residences LP**") and First Leaside Venture Limited Partnership ("**Venture LP**"), amending the Initial Order to include the Okanagan Excluded LPs (as defined in paragraph 3 of the Initial Order) as Included LPs, and for other relief.

B. Restructuring Efforts to Date

7. Since the extension of the Stay Period on June 28, 2012, First Leaside has continued to work with the Monitor, Representative Counsel, mortgagees, investors, and other stakeholders to develop and implement a plan to effect the orderly wind-down of the Company's operations and portfolio of assets over a period of time and in a manner that will maximize recoveries to creditors and investors.

8. First Leaside has also been participating in a communications program that includes conference calls and meetings with the Monitor and Representative Counsel. First Leaside has held meetings with, and provided information to, an investor steering committee organized by Representative Counsel (the "**Steering Committee**"). In accordance with a communications protocol which was approved by the court on June 28, 2012 (the "**Communications Protocol**"), First Leaside has been providing regular

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updates to Representative Counsel (and, in most cases, to the Steering Committee, as well) concerning the sale of First Leaside's various properties and the status of other matters in the CCAA administration.

9. On some matters, First Leaside has provided confidential information to a Transaction Sub-Committee, which is a subset of the Steering Committee. For example, I have participated in phone calls and meetings with the Transaction Sub-Committee during which I have reported about the current status of certain real property sales, including offers received and likely counter-offers to be made by First Leaside.

C. Remaining First Leaside Canadian Real Property Assets

10. Since August 20, 2012, the date of my last affidavit filed in these proceedings, First Leaside has continued to market the following properties in Canada:

- (a) 4 Victoria Street, Uxbridge, Ontario ("**Victoria Street**"), the site of a partially-constructed 58,182 square foot head office for First Leaside, which is ultimately owned by First Leaside Expansion Limited Partnership ("**FLEX**") and in respect of which construction was suspended in November 2011;
- (b) 168 Brock Street, Uxbridge, Ontario ("**Brock Street**"), two properties owned by First Leaside Entities Limited Partnership (in turn owned by FLEX) which are adjacent to Victoria Street and comprise a paved parking lot and a small commercial building;
- (c) 123 Erie Street, Wheatley, Ontario ("**Erie Street**"), a development site

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owned by First Leaside Unity Limited Partnership ("**Unity LP**"), which is in turn owned by FLEX;

- (d) 164 Cemetery Road, Uxbridge, Ontario ("**Cemetery Road**"), a 23 acre parcel of land (of which only 4 acres are developable) owned by Uxbridge Development Limited Partnership which limited partnership is owned by First Leaside Progressive Limited Partnership ("**Progressive LP**"); and
- (e) 62 Mill Street, Uxbridge, Ontario ("**Mill Street**"), a 3.74 acre plot of land containing a small heritage home, which is owned by Mill Street Limited Partnership which, in turn, is owned by First Leaside Investors Limited Partnership ("**Investors LP**").

11. Attached hereto and marked as **Exhibit "E"** is a chart listing the properties for sale, the First Leaside entity that owns each of the respective properties, and the listing price of each property.

12. So far, First Leaside has not received any offers for Victoria Street and Brock Street. This lack of offers may not be unusual given that some of the properties are development land (or, in the case of Victoria Street, a partially constructed building).

13. In respect of Erie Street, First Leaside received an offer dated August 15, 2012 that was substantially below the appraised value. First Leaside made a counter offer on August 31, 2012 but has not yet received a response.

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14. In respect of Cemetery Road, First Leaside received one offer on June 8, 2012 that was substantially below appraised value and negotiations did not result in an agreement.

15. In respect of Mill Street, First Leaside received an offer dated May 16, 2012 at a purchase price which exceeded the appraised value. The offer was conditional upon the purchaser conducting and being satisfied with due diligence. First Leaside accepted the offer. At the end of the conditional period, the purchaser informed First Leaside that it was not prepared to waive the due diligence condition and insisted that the price of the property be reduced by \$250,000. This price reduction would have brought the sale price below the appraised value of the property. After consultation with the listing agent, First Leaside did not agree to the price reduction and the agreement of purchase and sale lapsed. No further offers have been received.

16. The listing agreement for the above First Leaside properties has expired. Accordingly, First Leaside and the Monitor have been engaged in discussions to determine other means of marketing these properties.

D. Sale of Assets of Certain Excluded LPs and Interest in PrimeTime Living

17. At the time that First Leaside sought CCAA protection and the Initial Order was granted, a number of Canadian limited partnerships with properties in Ottawa, Ontario and the Okanagan area of British Columbia (respectively, the "**Ottawa Excluded LPs**" and the "**Okanagan Excluded LPs**") were excluded from the scope of proceedings.

18. The Ottawa Excluded LPs are as follows:

- (a) First Leaside Retirement Residences (Ottawa) Limited Partnership;
- (b) The Redwood Retirement Residences Limited Partnership;
- (c) 100 Isabella St. (Ottawa) Limited Partnership; and
- (d) 480 Metcalfe St. (Ottawa) Limited Partnership ("**480 Metcalfe**").

19. The Okanagan Excluded LPs are as follows:

- (a) First Leaside Retirement Residences (Okanagan) Limited Partnership ("**First Leaside Okanagan LP**");
- (b) Cherry Park Retirement Residences Limited Partnership ("**Cherry Park LP**");
- (c) Orchard Valley Retirement Residences Limited Partnership ("**Orchard Valley LP**"); and
- (d) The Shores Retirement Residences Limited Partnership ("**The Shores LP**")

20. The limited partnership units of the Okanagan Excluded LPs and the Ottawa Excluded LPs (collectively, the "**Excluded LPs**") are ultimately owned by Venture LP which is an Included LP and therefore subject to the CCAA proceedings.

21. Attached hereto and marked as **Exhibit "F"** is a copy of an organization chart outlining the organizational structure of the Okanagan Excluded LPs.

22. The Excluded LPs own property which comprises retirement residences (the "**Retirement Residences**"). The Retirement Residences are managed by PrimeTime

Living Limited Partnership ("**PrimeTime Living**"), in which First Leaside, through Retirement Residences LP, owns a 50.1% partnership interest (the "**PTL Interest**") with the remaining 49.9% being held by Brujjon Real Estate Holdings Inc. ("**Brujjon**"), a company not related to First Leaside.

23. In addition to its management responsibilities in relation to the Retirement Residences, PrimeTime Living owns four properties in Ontario and B.C. (the "**PrimeTime Properties**"):

- (a) the Abby Lane retirement residence and Whiterock Medical Centre in Surrey, B.C.;
- (b) a 50% ownership interest in the Birkhall property in Vernon, B.C. (the other 50% is owned by Venture LP);
- (c) the Heatherwood retirement residence in St. Catharines, Ontario; and
- (d) the St. Catharines Place retirement residence in St. Catharines, Ontario.

24. Attached hereto and marked as **Exhibit "G"** is a copy of a diagram outlining the ownership structure of PrimeTime Living.

25. As of the date of the Initial Order, Venture LP had hoped to refinance the Excluded LPs. However, such refinancing efforts were unsuccessful and Venture LP, with the consent of the relevant mortgage lenders, decided to sell the properties and related assets that are held by the Ottawa Excluded LPs and the Okanagan Excluded LPs.

26. Since the date of the Initial Order, Venture LP has worked cooperatively with the mortgagees of the properties owned by both the Ottawa Excluded LPs and the Okanagan Excluded LPs to market these properties for sale.

27. First, the mortgagees of the Ottawa Excluded LPs are: (i) Canadian Imperial Bank of Commerce ("**CIBC**") who held a first and second mortgage, and (ii) KingSett Real Estate Growth Limited Partnership No. 2. ("**KingSett**") who held third mortgages and was a guarantor of the CIBC obligation. As discussed more fully below, the properties owned by the Ottawa Excluded LPs have been sold, in accordance with a transaction that was described to the court in my earlier affidavit dated August 20, 2012.

28. Second, the Toronto-Dominion Bank ("**TD**") holds the first mortgages on each of the three limited partnership properties owned by the Okanagan Excluded LPs. The mortgage debt owed to TD and registered against the properties owned by the Okanagan Excluded LPs (the "**Okanagan Properties**") as of October 4, 2012, was \$17,332,061 in aggregate (the "**Okanagan LP Debt**").

29. The Okanagan Excluded LPs are not meeting all of their obligations as they come due. For example, substantial renovation costs on the Okanagan Properties are unpaid and therefore multiple trade creditors have registered construction liens. Attached hereto and marked as **Exhibit "H"** is a list of the construction and building liens for the Okanagan Properties.

30. With the support of TD, CIBC, and KingSett, the assets of the Excluded LPs have been marketed in order to allow creditors (primarily those three mortgagees) to be paid. However, since the operations of PrimeTime Living are so closely connected with the

Retirement Residences (given PrimeTime Living's role as manager), First Leaside concurrently marketed for sale its ownership interest in PrimeTime Living.

E. Marketing and Sales Process of the Okanagan Excluded LPs

31. Retirement Residences LP, First Leaside Realty II Inc. ("**Realty II**"), FLWM, First Leaside Universal Limited Partnership, Progressive LP, F.L. PrimeTime Living and FLWM Holdings Limited Partnership engaged Grant Thornton Corporate Finance Inc. ("**GTCFI**") to act as a financial advisor in connection with the proposed divestiture of two parcels of assets:

- (a) The Retirement Residences owned by the Okanagan Excluded LPs (being "**Parcel A**"); and
- (b) The PTL Interest (or "**Parcel B**").

32. Pursuant to the June 28 Order, the court approved the retention of GTCFI as financial advisor.

33. GTCFI prepared confidential information memoranda (the "**CIMs**") for each of Parcel A and Parcel B and circulated them to potential purchasers that executed confidentiality agreements.

34. Parcel A and Parcel B were marketed separately because they represent different sets of assets in respect of which there are different stakeholder interests. Parcel A consists of assets of the Okanagan Excluded LPs which were not brought into these CCAA proceedings at the time of the Initial Order. In contrast, Parcel B represents an asset which has been subject to the CCAA proceedings since the time of the Initial Order. Furthermore, Parcel B carried with it the added complication of

requiring the consent of Brujjon under the terms of the limited partnership agreement. As I have noted above, as mortgagee of all of the real property related to the Retirement Residences, TD is the major secured creditor of the Okanagan Excluded LPs.

35. In contrast to the assets in Parcel A, those in Parcel B are not subject to the same third party encumbrances. However, as I have noted above, Retirement Residences LP is only a 50.1% owner of PrimeTime Living, with the remaining 49.9% being owned by Brujjon.

36. The sales process run by GTCFI was successful. By July 19, 2012, GTCFI had received a number of letters of interest ("**LOIs**") for the purchase of both Parcel A and Parcel B. The bidding group was made up of several Canadian industry participants and one financial investor. First Leaside then began negotiations with BayBridge Seniors Housing Inc., (a subsidiary of Ontario Teachers' Pension Plan Board), the bidder which provided the most promising LOI. BayBridge Seniors Housing Inc. proposed to acquire Parcel A and Parcel B in the name of BayBridge Seniors Housing Trust (the "**Purchaser**"). The Purchaser also had the support of Brujjon whose consent was required to sell Parcel B.

37. As a result of such negotiations, GTCFI was able to obtain an increase in the proposed purchase price on terms to the satisfaction of First Leaside. On August 1, 2012, First Leaside entered into a revised, confidential LOI with the Purchaser, which was non-binding and subject to a number of conditions, including due diligence and court approval. The extensive due diligence process concluded in late September 2012 after two short-term extensions.

38. First Leaside also worked with Brujjon to provide it with information about the sale of the PTL Interest.

F. Sale of the Okanagan Excluded LPs' Retirement Residences and the PTL Interest

39. After extensive and good faith discussions and negotiations, Venture LP, the Okanagan Excluded LPs (collectively, the "**BC Vendors**") and Retirement Residences LP (the "**LP Vendor**", and together with the BC Vendors, the "**Vendors**") entered into an Purchase Agreement dated September 27, 2012, as amended by and Amending Agreement dated October 4, 2012, and further amended by an Amending Agreement dated October 5, 2012, and as may be further amended from time to time (the "**BayBridge Agreement**"), with the Purchaser, pursuant to which the Purchaser agreed to acquire a whole or controlling interest in all of Parcel A and Parcel B (the "**Transaction**"). To protect the integrity of the sales process in the event the Transaction does not close, the details of the Transaction and underlying negotiations must be kept strictly confidential. Accordingly, the BayBridge Agreement will be made available to the Court at the hearing of the Applicant's motion and I request that it otherwise remain under seal to the public until further order of this Court.

40. The BayBridge Agreement provides for the purchase and sale of the following property and assets, subject to a working capital adjustment (collectively, referred to as the "**Purchased Assets**") and a hold back to secure certain indemnity obligations of the Vendors:

- (a) The sale by the BC Vendors to the Purchaser, of the assets used in the business of Cherry Park LP, Orchard Valley LP and The Shores LP and

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the 50.1% undivided interest in the lands, premises, building and improvements and all appurtenant interests thereto known municipally as 3211 Alexis Park Drive, Vernon, British Columbia (the "**Vernon Lands**");

- (b) The sale by the LP Vendor of: (i) the limited partnership units of PrimeTime Living and PrimeTime Living Management Limited Partnership ("**PrimeTime Management**") held by the LP Vendor (representing 50.1% of the total issued and outstanding limited partnership units) (the "**PrimeTime LP Units**"), and (ii) the shares of PrimeTime Living GP Inc. ("**PrimeTime GP**"), the sole general partner of PrimeTime Living and PrimeTime Management (collectively, the "**PrimeTime Entities**"), held by the LP Vendor (representing 50.1% of the total issued and outstanding shares) (the "**PrimeTime Shares**"); and
- (c) The sale of the shares of 0742962 B.C. Ltd., a British Columbia company (the "**Vernon Nominee**") held by Venture LP (representing 50% of the total issued and outstanding shares) (the "**First Leaside Shares**"), which represent the means by which the LP Vendor holds its 50% interest in the Vernon Lands.

41. The Purchased Assets comprise all of the property and assets used in connection with or otherwise relating to the Retirement Residences carried on by the Vendors. Certain assets such as any cash on hand are excluded from the Transaction.

42. The sale and purchase of the Purchased Assets is subject to a number of terms and conditions, which terms and conditions must be performed or fulfilled prior to closing. The key transaction terms and conditions under the BayBridge Agreement are as follows:

- (a) The BayBridge Agreement requires the Purchaser to obtain the consent of Brujjon to the transfer all of the First Leaside Shares, PrimeTime Shares

and PrimeTime LP Units. Such consent has already been obtained;

- (b) The BayBridge Agreement provides for the delivery of two deposits which deposits have already been paid;
- (c) The Transaction is conditional upon the Vendors obtaining an order of the court: (i) authorizing and approving the purchase and sale of the Purchased Assets pursuant to the BayBridge Agreement; (ii) vesting all of the Vendors' right, title, and interest in and to the Purchased Assets in the Purchaser free and clear of all encumbrances other than the encumbrances permitted under the BayBridge Agreement, which includes the assumption of certain mortgage obligations discussed more fully below; and (iii) exempting the transaction from the application of the *Bulk Sales Act* (Ontario); and
- (d) Subject to court approval, the Transaction is anticipated to close on or about November 26, 2012.

43. The BayBridge Agreement includes an exclusivity clause that restricts the Vendors from soliciting any offers for the sale of the Purchased Assets or participating in any discussions or negotiations regarding the sale of the Purchased Assets. There are also provisions requiring, in limited circumstances, the reimbursement of the Purchaser's out-of-pocket expenses in the event that the BayBridge Agreement is terminated through no fault of the Purchaser and First Leaside enters into and completes an alternative transaction within a specified period.

G. Assumption of Mortgages, Related Party Debt & Capital Gains Adjustment

44. There are two key sets of mortgages over the properties owned by the Okanagan Excluded LPs and Primetime Living (collectively, the "**Mortgages**"). Each of these sets of mortgages will be dealt with differently in the Baybridge Transaction.

45. First, the Okanagan Excluded LPs have given mortgages to TD to secure indebtedness amounting to \$17,332,061 as of October 4, 2012 (the "**TD Mortgages**"). The Purchaser intends to seek the consent of TD to assume the TD Mortgages upon closing of the BayBridge Transaction. If the TD Mortgages are assumed, they will be listed as Permitted Encumbrances in the sale approval and vesting order and will thus not be affected by such order. In the event that the TD Mortgages are not being assumed by the Purchaser, they will be paid on closing.

46. Second, Primetime Living's various properties are subject to the following mortgages (the "**PrimeTime Continuing Mortgages**");

- (a) Charge from St. Catharines Place Inc. registered on September 15, 2008 in favour of FirstOntario Credit Union Limited ("**FOCUL**") securing the original principal sum of \$26,000,000;
- (b) Charge from St. Catharines Place Inc. registered on December 22, 2011 in favour of Henry E. Hildebrand and Grace Hildebrand securing the original principal sum of \$3,000,000, which amount was increased to \$5,500,000 on May 15, 2012 by notice of agreement; and
- (c) Charge registered on August 10, 2011 with respect to certain parcels of land from 0714500 B.C. Ltd. and from Abby Lane, PrimeTime Living and PrimeTime GP in favour of Fisgard Capital Corporation securing the original principal sum of \$5,400,000.

47. Since the BayBridge Transaction represents a change of control of PrimeTime Living, the Purchaser will seek the consent of the mortgagees of the PrimeTime Continuing Mortgages with respect to the Transaction. However, since the property being transferred to the Purchaser in relation to the PrimeTime Living portion of the

BayBridge Transaction (i.e., Parcel B) consists of shares and limited partnership units—rather than the properties subject to the PrimeTime Continuing Mortgages, there is no need or intention to vest out the PrimeTime Continuing Mortgages. Such mortgages will remain in place and PrimeTime Living will continue to make payments after closing. However, claims and security relating to the PTL Interest (i.e., the shares and limited partnership units) will be vested out of such assets and the proceeds will stand in the place and stead.

48. The Monitor is currently reviewing the Mortgages to be assumed and/or discharged in order to satisfy itself that the security is valid and enforceable.

49. The Purchase Agreement provides that all other claims, encumbrances or liens which are not otherwise being assumed or discharged on closing of the BayBridge Transaction shall vest in the Purchaser. Accordingly, First Leaside is seeking an order as part of its motion that all of the Vendors' rights, title and interest in and to the Purchased Assets vest in the Purchaser free and clear of all encumbrances, other than the Mortgages and the permitted encumbrances under the Purchase Agreement.

50. First Leaside Mortgage Fund holds a pledge of the shares of the Vernon Nominee to secure a loan made to the Vendor LP to partially finance the purchase of its interest in the Vernon Lands. First Leaside intends to have this security vested out upon closing and to have the proceeds stand in the place and stead of such security. The Monitor will have to review the validity of this security and then determine whether proceeds should be paid out.

51. In addition to the Mortgages, there are two other relevant debts which will be satisfied upon the closing of the Transaction. First, there is a related party debt owing by Primetime Living to the LP Vendor in the outstanding principal amount of approximately \$1.7 million plus accrued interest as of September 27, 2012 ("**Related Party Debt**"). Second, the Okanagan LPs owe the remaining amount of approximately \$9.2 million (inclusive of accrued interest) to PrimeTime Living in connection with a promissory note dated September 8, 2011 given as part of the BC Vendors' acquisition of the Retirement Residences ("**PTL Debt**"). (The original principal amount of the note was \$12,106,032).

52. As part of the closing of the Transaction, both the Related Party Debt and the PTL Debt will be paid in full through the following mechanism. First, the Related Party Debt will be set off against the PTL Debt, leaving a net debt of approximately \$7.5 million which is owing to PrimeTime Living, which amount will be directed by the LP Vendor to be paid from the purchase price payable on closing to PrimeTime Living, in satisfaction of the PTL Debt. Second, since the LP Vendor has a 50.1% interest in PrimeTime Living, the Purchaser will pay to the LP Vendor an amount representing 50.1% of the net \$7.5 million debt repayment amount.

53. The properties owned by the Okanagan Excluded LPs were acquired by Venture LP from Primetime Living on September 8, 2011. That transaction resulted in a capital gain in PrimeTime Living in its 2011 taxation year. After the commencement of the CCAA proceedings, the full capital gain in the amount of \$3,540,397 (the "**Capital Gain**") was mistakenly allocated by PrimeTime Living to Brujjon, and the 2011 tax filings for PrimeTime Living were completed on this basis (the "**Capital Gain Allocation**").

The partnership agreement between Brujjon and Retirement Residences LP in respect of PrimeTime Living called for a *pro rata* allocation based on the partners' proportionate interests.

54. The Vendors have provided a proposal to Brujjon to re-allocate the Capital Gain between Brujjon and the LP Vendor (and other limited partners of PrimeTime Living) in proportion to their ownership interests (i.e. 49.9% and 50.1% respectively) in accordance with the existing partnership agreement. The Purchaser has agreed to pay to Brujjon the amount of \$409,439 in satisfaction of any tax liability Brujjon may incur in connection with the Capital Gain Allocation (the "**BayBridge Payment**"), which amount has been reflected in the purchase price. The effect of this adjustment on First Leaside investors will be the same as if the Capital Gain had originally been allocated *pro rata* as provided for in the partnership agreement.

H. **BayBridge Agreement Conclusion**

55. I believe that the BayBridge Agreement is in the best interest of First Leaside for the following reasons:

- (a) First Leaside and GTCFI have extensively and diligently canvassed the market to identify and solicit parties that would be interested in purchasing the Retirement Residences owned by the Okanagan Excluded LPs and the Purchased Securities it is my belief that the BayBridge Agreement represents the only commercially reasonable method to obtain the maximum realizable value for the Vendors' interests in the circumstances;
- (b) There is no basis to expect that the Vendors would be able to obtain a better realization on their investment than what is offered in the BayBridge Agreement;

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- (c) The purchase price negotiated under the BayBridge Agreement is in excess of the appraised value of each of the Purchased Assets; and
- (d) I have had discussions with the Monitor with respect to the BayBridge Agreement and understand that the Monitor supports the transaction.

I. Expanding Scope of CCAA Proceeding to Cover Okanagan Excluded LPs

56. Since the Vendors (with the exception of Venture LP) are also Excluded LPs, they are currently not subject to the CCAA proceedings and do not have the benefit of the Initial Order. Thus, as part of the motion to approve the Transaction and the above distribution of proceeds, the Applicants seek an order amending paragraph 3 of the Initial Order to delete the Okanagan Excluded LPs from the scope of the definition of "Excluded LPs" as defined in the Initial Order and to add the Okanagan Excluded LPs to Schedule "A" to the Initial Order as the "**Okanagan LPs**" entitled to the benefit of the Initial Order. Paragraph 7 of the Initial Order permits the Applicants at any time, on seven days' notice to CIBC, KingSett and TD to seek an order extending the scope of the CCAA proceedings and the provisions of the Initial Order to include the Excluded LPs.

57. At the time of the Initial Order, First Leaside made the decision not to bring the Excluded LPs within the scope of the Initial Order because of concerns raised by CIBC, KingSett and TD that the proposed Administrative Charge and Directors' and Officers' Charge would take priority over the lenders' mortgages. These concerns are no longer applicable in relation to the Okanagan Excluded LPs in that the consideration to be received in respect of Parcel A is sufficient to ensure that TD will not experience a deficiency on its mortgage, even after taking into account expenses secured by the

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Administrative Charge and the Directors' and Officers' Charge. Further, as I have stated above, the Okanagan Excluded LPs are not meeting all of their obligations as they come due, as evidenced by the fact that substantial construction liens have been filed.

J. Extension of the Stay Period

58. Since the granting of the Initial Order, as further detailed in this Affidavit, First Leaside has acted and continues to act in good faith and with due diligence.

59. I believe that an extension of the Stay Period (as defined in the Initial Order) to December 11, 2012, is necessary in order to provide stability to First Leaside's business while the company, with the assistance of its advisors and the Monitor, continues to work diligently on preparing and executing a liquidation strategy that will maximize the recoveries for all stakeholders.

60. During the extension of the Stay Period, First Leaside intends to complete the transaction contemplated by the BayBridge Agreement, finalize a proposed plan for the allocation of administration costs as amongst the Applicants and the Included LPs, and determine whether the CCAA Stay should be further continued beyond December 11, 2012 for some or all of the Applicants and Included LPs.

61. These CCAA proceedings have now been ongoing for approximately 7½ months. During that time, First Leaside has made significant progress in winding down operations and realizing on its assets. In particular, including the transaction contemplated by the BayBridge Agreement, First Leaside has achieved gross proceeds from property sales totalling approximately \$125 million. Where appropriate (based on

a security review by the Monitor's counsel and court authorization), First Leaside has distributed proceeds to mortgagees of real property that has been sold.

62. Upon the closing of the transaction contemplated by the BayBridge Agreement (assuming that court approval is obtained), a significant proportion of First Leaside's assets will have been sold and there will be only a much smaller number of remaining realizations to be achieved. During the contemplated period of extension of the CCAA stay, First Leaside intends to pursue the sale of the remaining five properties it has listed for sale. During this period, First Leaside will also give serious consideration to the method and timing of completion of CCAA proceedings and the potential use of other insolvency regimes such as bankruptcy or receivership to complete the realization of assets and the acceptance and adjudication of creditors' claims. It is entirely possible that First Leaside will not seek any further stay extensions beyond December 11, 2012 for a majority of the Applicants and the Included LPs.

63. I do not believe that any creditor will face significant prejudice if the Stay Period is extended to December 11, 2012.

K. The Applicants' August Motions

64. On August 23, 2012, the Court issued an Order (the "**August 23 Order**"), a copy of which is attached hereto as **Exhibit "I"**, granting the relief requested by First Leaside with respect to, among other things, the approval of the sale of certain businesses carried on by First Leaside and the sale of First Leaside's interests in certain businesses, including the following:

(a) **Bramtree Property.** The Court approved the proposed sale of the

property located at 36 Bramtree Court, Brampton, Ontario ("**Bramtree**"), a 70,000 square foot industrial building which is owned by First Leaside Growth LP ("**Growth LP**"), which is in turn owned by FLEX, to Outset Media Corporation ("**Outset**").

- (b) **Harmony Townhomes.** The Court approved the proposed sale of the property located at 65 Fort Street, Tilbury, Ontario ("**Harmony Townhomes**"), a 50-unit townhome complex which is owned by Harmony Town Homes Limited Partnership ("**Harmony LP**"), which is in turn owned by Investors LP to Skyline Real Estate Acquisitions Inc. ("**Skyline**") for the purchase price of \$2,600,000.
- (c) **First Leaside Accounting and Tax Services Inc.** The Court approved the proposed settlement of the interest of First Leaside Account and Tax Services Inc. ("**FLAT**") in certain accounting practices in western Canada, pursuant to two term sheets.
 - (i) **Hampton Term Sheet.** The first sale of FLAT's interest is pursuant to a term sheet entered into between FLAT, Joanna Hampton, TD Canada Trust ("**TD**") and Jim Brander ("**Brander**"), by which Hampton Holdings Inc. ("**Hampton Inc.**") will acquire FLAT's interest in McMillan Thorn & Co. Ltd., a B.C. accounting firm; D. McCormack & Company Inc., a B.C. accounting firm; and Allan Welsh & Company, an Alberta accounting firm, for \$734,000. This amount is composed of: (a) a cash payment to FLAT in the amount of \$150,000, and (ii) an assumption of approximately \$584,000 of the amount owing by FLAT to TD, in return for FLAT agreeing to the sale and surrendering its interest in the aforementioned firms, TD has agreed that FLAT is released from liability under a loan made by TD to FLAT in the amount of \$1,173,500.
 - (ii) **Brander Term Sheet.** The second sale of FLAT's interest is pursuant to a term sheet entered into between FLAT, Brander, Jim

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Brander Professional Corporation ("**JBPC**"), Brander Professional Corporation ("**BPC**"), TD Hampton Inc., Smart Books Accounting Services Inc. ("**SBAS**") and Matthew E. Bakker Professional Corporation ("**MEB**") by which FLAT will provide Brander, JPC, BPC and SBAS a release of its interests in the Rodney M. Coppcock Professional Corporation accounting practice. As consideration for the release of FLAT's interest, Brander, JBPC, and SBAS agree to compensate FLAT for \$374,000. This amount is comprised of: (a) a cash payment of \$150,000 by Brander to FLAT; and (b) an assumption of approximately \$224,000 of the amount owing by FLAT to TD.

- (d) **Sale of Ottawa Excluded LPs to Amica Acquisitions Inc.** The Court authorized and directed myself, as CRO, to execute on behalf of Realty II, as general partner of an Asset Purchase Agreement dated August 23, 2012 between the Ottawa Excluded LPs and Amica Acquisitions Inc., and authorizing and directing First Leaside Finance Inc. ("**FL Finance**") to discharge a mortgage in respect of the 480 Metcalfe property.
- (e) **Lifting of Stay to File Claim Against Davis and Phillips.** The Court permitted the lifting of the Stay Period provided for in paragraph 24 of the Initial Order to permit First Leaside to commence actions against David C. Phillips ("**Phillips**") and Margaret Davis ("**Davis**"), directors of certain of the Applicants.
- (f) **No Further Action Regarding U.S. Entities.** As part of the August 23 motion, the Court heard, in part, the Applicants' request to be relieved from taking any steps with respect to the wind-down of the First Leaside entities located in the United States. This matter was subsequently adjourned and on August 31, 2012 (the "**August 31 Order**") the Court authorized and directed First Leaside not to take any steps to manage, administer or maintain any limited partnerships, corporations, trusts, or

properties located or subsisting in the United States ("**U.S. Entities**") in which First Leaside has a direct or indirect equity or other interest (collectively, the "**U.S. Entities Wind-down**"). The Court also authorized First Leaside to take additional prescribed steps in furtherance of the U.S. Entities Wind-Down which are described in the August 31 Order attached hereto as **Exhibit "J."**

L. Update on Matters Arising From August Orders

Sale of Bramtree Property

65. In connection with the August 23 Order, the Court issued a sale approval and vesting order in respect of the sale of Bramtree (the "**Bramtree Vesting Order**"). A copy of the Bramtree Vesting Order is attached hereto as **Exhibit "K."**

66. At the time of the Bramtree Vesting Order, the Agreement and Purchase of Sale dated July 23, 2012 (the "**Outset APS**") between Outset and Growth LP by its general partner 2085306 Ontario Inc., remained conditional until August 23, 2012, giving Outset the right to terminate the offer up to that date. Subsequent to the Bramtree Vesting Order, Outset agreed to waive all remaining conditions under the Outset APS and informed the Applicants of its intention to complete the transactions.

67. On or about August 31, 2012, Outset executed an Assignment of the Outset APS in favour of a related company, 0947907 B.C. Ltd. ("**New Outset**") under which Outset assigned its right, title and interest in the Outset APS to New Outset (the "**Assignment**"). A copy of the Assignment is attached hereto as **Exhibit "L."** The Assignment was made in accordance with section 21 of the Outset APS, which gave Outset the right, at any time up to five (5) days before the date of closing, to assign the Outset APS to a corporation(s) and/or person(s).

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68. On September 19, 2012, First Leaside brought a motion to amend the definition of "Purchaser" in the Bramtree Vesting Order to properly reflect the Assignment of the Outset APS to New Outset. Apart from this minor amendment the terms of the Outset APS remained the same. The Court granted First Leaside's motion to amend the Bramtree Vesting Order on September 19, 2012. A copy of the Amended Bramtree Vesting Order is attached hereto as **Exhibit "M."**

69. The Bramtree sale was completed on September 20, 2012. On closing, I delivered a CRO's Certificate (as defined in paragraph 3 of Amended Vesting Order) to the purchaser of the property, New Outset. A copy of the CRO's certificate is attached hereto as **Exhibit "N."**

70. The closing of the sale of Bramtree resulted in the receipt of net proceeds of approximately \$5,322,914 (the "**Bramtree Sale Proceeds**"). This amount has been paid to the account of Growth LP, the owner of Bramtree, which account is managed by me, as CRO for the Applicants.

71. On January 24, 2011, Growth LP, as borrower and First Leaside Nominee Services Inc. ("**FLNS**"), as servicing agent on behalf of the mortgagee entered into a mortgage in the principal amount of \$3,450,000 plus interest at a rate of 6.6% per annum. The mortgage was registered against the Bramtree property on or about February 7, 2011 (the "**Bramtree Mortgage**"). As servicing agent, FLNS is authorized under the Mortgage to act for and on behalf of the mortgagee. The Mortgage provides that all payments of principal and interest in connection with the Mortgage are to be made payable to Peoples Trust Company ("**Peoples**"), who has been retained as sub-

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servicer for the purposes of overseeing the collection and remittance of payments made by the mortgagor.

72. The Bramtree Mortgage, which had a outstanding balance of \$3,598,305 as of September 24, 2012, is a syndicated mortgage. In particular, numerous First Leaside investors advanced funds to fund such mortgage and (subject to confirmation of the validity of the mortgage and the set-off issues described below) they are entitled to receive payment of their investment.

73. First Leaside has asked the Monitor to review the security over the property, including the Bramtree Mortgage. I understand that the Monitor has satisfied itself concerning the enforceability of the Bramtree Mortgage.

Sale of Harmony Townhomes

74. Pursuant to a sale approval and vesting order issued by the Court on August 23, 2012 (the "**Harmony Vesting Order**"), First Leaside completed the sale of the Company's interest in Harmony Townhomes. The Harmony Vesting Order approved the sale transaction contemplated by the Agreement of Purchase and Sale dated July 23, 2012 (the "**Harmony APS**") between Harmony LP, by its general partner F.L. Securities Inc. ("**FL Securities**") and Skyline. A copy of the Harmony Vesting Order is attached as **Exhibit "O"**.

75. At the time the Harmony Vesting Order was granted, the Harmony APS remained conditional on due diligence. The conditional period expired on August 28, 2012 and Skyline subsequently waived all remaining conditions.

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76. On August 29, 2012, General Counsel for Skyline advised counsel for the Applicants, Cassels Brock & Blackwell LLP, that it would be assigning the Harmony APS to a related company, Skyline Real Estate Holdings Inc. (the "**New Skyline**") in accordance with section 11.2 of the Harmony APS. Attached as **Exhibit "P"** is a copy of the letter from General Counsel for Skyline to Cassels Brock & Blackwell LLP dated August 29, 2012.

77. Since the Harmony Vesting Order defined the "Purchaser" as Skyline, on September 19, 2012, the Applicants brought a motion to amend the Harmony Vesting Order to reflect the assignment of the Harmony APS to New Skyline. Apart from the amendment to the definition of "Purchaser" in the Harmony Vesting Order, the terms of the Harmony APS remained the same. The Court granted the Applicants' motion and issued an Amended Vesting Order on September 19, 2012, a copy of which is attached hereto as **Exhibit "Q."**

78. The sale of Harmony Townhomes was completed on September 20, 2012. On closing, I delivered a CRO's Certificate (as defined in paragraph 3 of Amended Vesting Order) to the purchaser of the property, New Skyline. A copy of the CRO's certificate is attached hereto as **Exhibit "R."**

79. The closing of the sale of Harmony Townhomes resulted in net sale proceeds of \$2,600,000, of which \$1,378,615.01 has been paid to TD, the only secured creditor and first mortgagee of Harmony Townhomes. The Monitor's counsel has independently reviewed TD's security and has concluded, subject to the usual assumptions and qualifications, that the security is valid, enforceable and first registered.

Marketing and Sale of the Ottawa Excluded LPs to Amica Acquisitions Inc.

80. Since approximately March 2012, First Leaside has cooperated with KingSett and CIBC, who have overseen a sales process for the assets of the Ottawa Excluded LPs. With the consent of KingSett and CIBC, TD Securities Inc. ("TDSI") was retained as broker to conduct a sales process and solicit offers for the assets of the Ottawa Excluded LP's.

81. As a result of the sales process, an offer was received from Amica Acquisitions Inc. ("**Amica**") for the assets held by the Ottawa Excluded LPs. The offer was in an amount sufficient to pay CIBC in full, but was not sufficient to pay KingSett in full. However, KingSett advised that it was prepared to permit the sale notwithstanding that this deficiency.

82. Since the Ottawa Excluded LPs were not subject to the CCAA proceedings at the time of the August 23 Order, First Leaside sought and obtained court authorization on August 23, 2012 to execute the Amica APA on behalf of Realty II, the general partner of the Ottawa Excluded LPs.

83. As part of the August 23 Order, the Court also authorized and directed FL Finance to discharge a fourth mortgage in the amount of \$7,500,000 (the "**FL Finance Mortgage**") which it holds over the property owned by 480 Metcalfe.

Assignment of Amica APA to KingSett

84. Shortly after the August 23 Order was granted to approve the discharge of the mortgage and authorize the CRO to execute the Amica APA, Amica advised KingSett

that it would not waive the inspection condition in section 7.02 of the Amica APA, but that it was prepared to assign the Amica APA to KingSett as permitted under the terms of the Amica APA.

85. On September 5, 2012, Amica executed an Assignment of Asset Purchase Agreement in favour of KingSett wherein it assigned absolutely all of its right, title and interest in the Amica APA (the "**Amica Assignment**"). KingSett subsequently executed a notice waiving the inspection conditions under the Amica APA (the "**Amica Waiver**"). Attached hereto as **Exhibits "S" and "T"**, is a copy of the Amica Assignment and Amica Waiver, respectively.

86. The transaction ultimately closed, with KingSett as purchaser, around October 5, 2012. KingSett has agreed to provide funding of up to \$10,000 plus HST and disbursements on account of the legal fees that First Leaside incurred in reviewing closing documents and completing the transaction.

M. Meetings of Unitholders of First Leaside Funds

87. As noted above, on August 31, 2012, the Court authorized First Leaside not to take any steps to manage the U.S. Entities. A recital to the August 31 Order stated that the trustees for each of the First Leaside-affiliated investment funds, namely First Leaside Fund, Wimberly Fund, First Leaside Mortgage Fund and First Leaside Properties Fund (collectively, the "**Funds**") had agreed to call and hold a meeting of their respective trust unitholders within 60 days of August 31, 2012. The purpose of the meetings was, among other things, to provide a report to the trust unitholders and to elect trustees.

88. The trustees subsequently sought and were granted two court authorized extensions of the time to hold the unitholder meetings. The unitholder meetings are now required to take place by no later than January 4, 2013. A copy of the extension endorsement of Justice Morawetz dated September 26, 2012 is attached as **Exhibit "U"**. A copy of the extension endorsement of Justice Campbell dated October 5, 2012 is attached as **Exhibit "V"**.

N. Reserve of Proceeds Re: Investor Loans from First Leaside

89. As I described in my August 20, 2012 affidavit, several First Leaside entities (most notably FLWM) made loans to various investors to allow them to acquire equity and debt instruments issued by First Leaside ("**Investment Loans**"). At the time that the CCAA proceedings began, and to this date, the Investment Loans have not been repaid. In the course of reviewing the list of syndicated investors who advanced funds for the Bramtree Mortgage, First Leaside has determined that four of those investors have unpaid Investment Loans due to First Leaside entities in the total amount of \$45,899.03. In respect of the Thornbury Mortgage, there are two investors with unpaid Investment Loans.

90. I am concerned that persons with outstanding Investment Loans may receive proceeds from realizations on certain First Leaside assets but then fail to repay the other First Leaside entity which granted the Investment Loans. Such failure to repay the Investment Loan would prejudice creditors of the entity which made the loan.

91. Accordingly, First Leaside seeks the court's authorization, on an interim basis, to withhold all First Leaside distributions of money or property to any investor which has an

outstanding Investment Loan (the "**Reserved Property**"). The maximum aggregate amount that would be withheld is the amount of the Investment Loan. At this point, First Leaside is not seeking court authorization to set-off distributions against Investment Loans but such authorization may be sought in the future, after due consideration by the Company and the Monitor as to First Leaside's set-off rights, if any, and further Order of the Court.

O. Request to Distribute Certain Proceeds of Thornbury Mortgage

92. At this motion, First Leaside is seeking authorization to distribute certain proceeds received from a syndicated mortgage held beneficially by First Leaside investors over a property located at 90 King St. East, Thornbury, Ontario (Parcel Identification Number 37140-0546 (LT)) (the "**Thornbury Property**").

93. The Thornbury Property is the operating premises for the Thornbury Cidery, a cider manufacturer which was, at relevant times, one of the businesses owned by First Leaside Beverages Limited Partnership ("**Beverages LP**"). First Leaside held a majority interest in Beverages LP, as follows:

- (a) 10.9% was held by First Leaside Wealth Management Holdings Limited Partnership;
- (b) 8.3% was held by First Leaside Progressive Limited Partnership; and
- (c) 34.9% was held by FLWM.

94. The remaining 45.9% interest in Beverages LP was held by third party investors.

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95. Pursuant to a court order dated May 3, 2012, First Leaside obtained approval to sell the above-noted 54.1% interest in Beverages LP to Provincial Beverages of Canada Inc. ("**Provincial Beverages**").

96. As part of the sale, Provincial Beverages agreed to assume the existing syndicated mortgage over the Thornbury Property and to continue to make monthly payments of principal and interest. Since this was a syndicated mortgage made by First Leaside investors and administered by First Leaside, FLNS has continued to collect monthly mortgage payments from Provincial Beverages since the time that the transaction closed. The total amount on hand is now \$38,500. First Leaside seeks authorization to distribute the current money on hand as well as future receipts from the mortgage on the Thornbury Property (collectively, "**Thornbury Mortgage Proceeds**") to investors. The Monitor is in the process of reviewing the validity and enforceability of the mortgage over the Thornbury Property and the entitlement of individual investors to receive proceeds.

97. There will be no prejudice to First Leaside associated with the distribution of the Thornbury Mortgage Proceeds, since this represents proceeds of a portfolio investment where First Leaside no longer owns or operates the underlying property or business. Any distributions will be subject to the right of First Leaside (if the court grants such authority) to withhold the Reserved Property in respect of investors with Investment Loans. The Company and the Monitor continue to investigate ways on administering the Thornbury Mortgage on a going forward basis.

P. First Leaside's Claim Against Phillips and Davis

98. As I deposed in my August 20, 2012 affidavit, I have concluded that Phillips and Davis received certain monetary and other benefits from First Leaside which were not properly approved and that Phillips and Davis also obtained a number of loans which have not been repaid. Pursuant to the August 23 Order, First Leaside was granted leave, despite the CCAA stay preventing claims against directors, to commence an action against Phillips and Davis to seek repayment of these benefits and Investor Loans. In that regard, First Leaside issued a Statement of Claim against Phillips and Davis on August 28, 2012, a copy of which is attached hereto as **Exhibit "W."**

99. Among other things, the Statement of Claim alleges as a result of fraudulent misrepresentation, breach of contract, breach of fiduciary duty, oppression, conversion, conspiracy and unjust enrichment by Phillips and Davis the following sums (among others) are owed to First Leaside:

- (a) \$202,420 for loans made by FLWM to Phillips;
- (b) \$160,000 for loans made by FLWM to Davis;
- (c) \$3,843,549.92 for funds allegedly diverted from First Leaside by Phillips to himself and Davis; and
- (d) \$2,541,419.50 for funds allegedly diverted from FL Securities and FLSI by Phillips and Davis directly, or to benefit and improve the personal residence of Phillips and Davis located at 430 Regional Road #8 in Uxbridge, Ontario (the "**Uxbridge Property**").

100. The Statement of Claim also requests, among other things, the following relief from the Court:

- (a) An interim, interlocutory and permanent injunction enjoining Davis and any corporations controlled or owned by her, or anyone acting on her behalf or at her direction from dissipating, depleting or otherwise interfering with any funds resulting from the sale of the Uxbridge Property or any of its related assets;
- (b) An order permitting a Certificate of Pending Litigation to be issued and registered against the Uxbridge Property;
- (c) A declaration that Davis holds the Uxbridge Property in trust and on behalf of First Leaside; and
- (d) An order to preserve, trace, locate and account for all funds which Phillips and Davis have taken from First Leaside.

Q. First Leaside Obtains a Certificate of Pending Litigation

101. FLWM, FL Finance, FLSI and FL Securities (the “**FL Plaintiffs**”) brought a motion against Phillips and Davis pursuant to section 103 of the *Courts of Justice Act* for leave to file a Certificate of Pending Litigation (“**CPL**”) against the Uxbridge Property. Davis brought a cross-motion to strike out certain paragraphs of my affidavit sworn on September 14, 2012 in support of the FL Plaintiffs’ motion. The matter was heard by Justice Cumming on September 27, 2012.

102. On June 20, 2102, Davis had listed the Uxbridge Property for sale and an Agreement of Purchase and Sale was entered into on August 7, 2012 with a closing date of October 1, 2012. The motion brought by the FL Plaintiffs sought to preserve their claimed rights in the Uxbridge Property as set out in the Statement of Claim and

claimed a tracing order and a constructive trust in respect of the alleged improper payments made in respect of the Uxbridge Property. On the motion, Davis and Phillips claimed that they were impecunious and required the sale of the Uxbridge Property for ongoing living expenses.

103. By endorsement dated October 1, 2012 Justice Cumming dismissed Davis's cross-motion as lacking in merit and granted the FL Plaintiffs' request for leave to file a CPL. Justice Cumming found that there was an interest in the Uxbridge Property on the part of the FL Plaintiffs such as to support their request for a CPL. Justice Cumming noted that the FL Plaintiffs had established that there were triable issues, as asserted in the Statement of Claim, including, among other things, that there has been a misappropriation of the FL Plaintiffs' monies through unauthorized payments in respect of rent, maintenance and improvements relating to the Uxbridge Property so as to constitute an unjust enrichment and subject to a constructive trust. Attached hereto as **Exhibit "X"** is a copy of the Endorsement of Justice Cumming's dated October 1, 2012.

R. Update on Other Activities and Proceedings

The Ontario Securities Commission Proceedings

104. On June 4, 2012 the Ontario Securities Commission ("**OSC**") commenced proceedings against Phillips and John Wilson ("**Wilson**"), a former officer of First Leaside. The OSC asserts in its Statement of Allegations that Phillips and Wilson engaged or participated in an act, practice or course of conduct relating to securities which they knew, or reasonably ought to have known, would perpetrate a fraud on investors, contrary to the *Securities Act*, R.S.O. 1990, c. S.5. The OSC also alleges that they made statements a reasonable investor would consider relevant in deciding

whether to enter into or maintain a trading or advising relationship, which statements were untrue, false, or misleading contrary to the *Securities Act*.

105. The hearing in this matter was scheduled to be held on August 28, 2012 but has since been adjourned to February 11, 2013.

106. Phillips is also subject to a temporary order issued by the OSC on May 30, 2012, which prevents him from trading in securities (the "**Cease Trade Order**"). Attached hereto as **Exhibit "Y"** is a copy of the Cease Trade Order. The Cease Trade Order could effectively prevent Phillips from taking certain steps on behalf of the Funds, including the raising of additional capital.

107. On June 6, 2012, the OSC extended the Cease Trade Order until September 28, 2012, and on September 26, 2012 it was extended further until the conclusion of the OSC's hearing into the allegations against Phillips and Wilson (the "**Extended Cease Trade Order**"). A copy of the Extended Cease Trade Order is attached hereto as **Exhibit "Z."** During this time, Phillips is prohibited from trading in all securities.

108. First Leaside Properties Fund was also directed by the OSC and the Alberta Securities Commission to cease trading in all securities as of May 18, 2012 (collectively, the "**First Leaside Cease Trade Orders**"). Attached hereto as **Exhibit "AA"** is a copy of the First Leaside Cease Trade Orders.

The Investment Industry Regulatory Organization of Canada Proceedings

109. In November 2011, the Investment Industry Regulatory Organization of Canada ("**IIROC**") initiated a formal investigation into Phillips and Wilson's conduct in respect of

alleged violations that occurred when both Phillips and Wilson were Registered Representatives with FLSI, a regulated member of IIROC.

110. On October 2, 2012 IIROC issued a Notice of Hearing alleging that Phillips and Wilson

- (a) misrepresented the risk level of certain securities;
- (b) issued and distributed misleading marketing materials;
- (c) failed to ensure that recommendations were made and orders accepted in accordance with their clients' risk tolerances; and
- (d) preferred their own interests ahead of their clients' interests in soliciting sales of certain securities.

111. The Notice of Hearing also concerns allegations that Phillips failed to address a conflict of interest with his clients in a fair and equitable manner and in a manner in the best interest of his clients. The hearing is scheduled to be heard before IIROC's Hearing Panel on October 17, 2012. Attached hereto and marked as **Exhibit "BB"** is a copy of the Notice of Hearing.

Phillips' Claim for Legal Fees of Collection Action and the OSC Proceeding

112. On September 6, 2012, Phillips counsel advised the Company that he was seeking to be reimbursed for legal fees associated with: (a) the Collection Action; and (b) the regulatory proceedings brought by Staff of the OSC. In response, counsel for the Company advised Phillips that any claims against the Company for indemnification were unsecured pre-filing claims which are stayed by the Initial Order as both the OSC proceedings and the Collection Action relate to events which occurred prior to the

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granting of the Initial Order. A copy of the correspondence between counsel for Phillips dated September 6, 2012 and counsel for the Company dated September 11, 2012 are attached hereto as **Exhibits "CC" and "DD"**, respectively.

113. The directors' and officers' indemnification provisions and the Directors' Charge which are provided for in the Initial Order only deal with liability arising out of the conduct occurring after the date of the Initial Order. As such, I believe that those provisions are not applicable to Phillips's request for indemnification.

SWORN before me at the City of Burlington,
In the Province of Ontario, this 15th day of
October, 2012



A Commissioner, etc.

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Gregory MacLeod

Patrick Joseph MacDonald, a Commissioner, etc.,
Province of Ontario, while a Student-at-Law.
Expires April 6, 2014.

THIS IS EXHIBIT "G" REFERRED TO IN THE
AFFIDAVIT OF GREGORY MACLEOD
SWORN BEFORE ME,
THIS 3rd DAY OF DECEMBER, 2012



Commissioner for Taking Affidavits, Etc.

Court File No. CV-12-9617-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

THE HONOURABLE MR.	)	MONDAY, THE 22 nd
	)	
JUSTICE PATTILLO	)	DAY OF OCTOBER, 2012

**IN THE MATTER OF *THE COMPANIES' CREDITORS ARRANGEMENT ACT*,
*R.S.C. 1985, C. c-36, AS AMENDED***

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
 OF First Leaside Wealth Management Inc., First Leaside Finance Inc., First
 Leaside Securities Inc., FL Securities Inc., First Leaside Management Inc.,
 First Leaside Accounting and Tax Services Inc., First Leaside Holdings
 Inc., 2086056 Ontario Inc., First Leaside Realty Inc., First Leaside Capital
 Inc., First Leaside Realty II Inc., First Leaside Investments Inc., 965010
 Ontario Inc., 1045517 Ontario Inc., 1024919 Ontario Inc., 1031628 Ontario
 Inc., 1056971 Ontario Inc., 1376095 Ontario Inc., 1437290 Ontario Ltd.,
 1244428 Ontario Ltd., PrestonOne Development (Canada) Inc., PrestonTwo
 Development (Canada) Inc., PrestonThree Development (Canada) Inc.,
 PrestonFour Development (Canada) Inc., 2088543 Ontario Inc., 2088544
 Ontario Inc., 2088545 Ontario Inc., 1331607 Ontario Inc., Queenston Manor
 General Partner Inc., 1408927 Ontario Ltd., 2107738 Ontario Inc., 1418361
 Ontario Ltd., 2128054 Ontario Inc., 2069212 Ontario Inc., 1132413 Ontario
 Inc., 2067171 Ontario Inc., 2085306 Ontario Inc., 2059035 Ontario Inc.,
 2086218 Ontario Inc., 2085438 Ontario Inc., First Leaside Visions
 Management Inc., 1049015 Ontario Inc., 1049016 Ontario Inc., 2007804
 Ontario Inc., 2019418 Ontario Inc., FL Research Management Inc., 1031628
 Ontario Inc., 1045516 Ontario Inc., 2004516 Ontario Inc., 2192341 Ontario
 Inc., and First Leaside Fund Management Inc.**

AMENDED SALE APPROVAL AND VESTING ORDER
(Re First Leaside Purchased Assets and Purchased Securities)

This motion (the "**Motion**") made by the Applicants and Included LPs (as defined in the Initial Order (defined below)) (collectively, "**First Leaside**") for an order approving the sale transaction (the "**Transaction**") contemplated by the Purchase Agreement dated September 27, 2012, as amended by an Amending Agreement dated October 4, 2012, and further amended by an Amending Agreement dated October 5, 2012 (as amended, and as may be further amended in accordance with such agreement, the

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"**Sale Agreement**") between BayBridge Seniors Housing Trust (the "**Purchaser**") and the following limited partnerships by their general partner First Leaside Realty II Inc. (collectively, the "**Vendors**"):

- (a) First Leaside Ventures Limited Partnership;
- (b) First Leaside Retirement Residences (Okanagan) Limited Partnership;
- (c) Cherry Park Retirement Residence Limited Partnership;
- (d) Orchard Valley Retirement Residence Limited Partnership;
- (e) The Shores Retirement Residence Limited Partnership; and
- (f) First Leaside Retirement Residences Limited Partnership

and attached as a confidential Exhibit to the Affidavit of Gregory MacLeod, sworn October 15, 2012 (the "**MacLeod Affidavit**") and filed under seal, and vesting in the Purchaser (or its permitted assigns or as it may otherwise direct) all of the Vendors' right, title and interest in and to the First Leaside Purchased Assets and the Purchased Securities (each as defined and set forth in the Sale Agreement, and together, the "**Purchased Assets**"), was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the MacLeod Affidavit, the Fifth Report of Grant Thornton Limited, in its capacity as court appointed monitor (the "**Monitor**") dated October 17, 2012, and on hearing the submissions of counsel for the Applicants, the Monitor, Toronto-Dominion Bank, IIROC, the Ontario Securities Commission, and Fraser Milner Casgrain LLP in its capacity as Court appointed Representative Counsel, no one appearing for any other person on the service list, although properly served as appears from the affidavits of service of Kelly Gerra sworn October 16, 2012 and Patricia Hoogenband sworn October 19, 2012, filed;

AND UPON the Applicants and Included LPs reappearing before the Court on November 28, 2012 to seek an amendment to the form of this Order as set forth in paragraphs 4 and 5 below:

1. **THIS COURT ORDERS** that the time for service and filing of the Applicants' notice of the Motion and the Motion record is hereby abridged and validated so that the

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Motion is properly returnable today and hereby dispenses with any further or other service thereof.

2. **THIS COURT ORDERS AND DECLARES** that the Sale Agreement, the Vendors' entry into the Sale Agreement, and the Transaction contemplated thereunder are each hereby approved, and further that the execution of the Sale Agreement by G.S. MacLeod & Associates Inc. in its capacity as court-appointed chief restructuring officer of First Leaside (the "**CRO**") on behalf of the Vendors is hereby authorized and approved *nunc pro tunc* to September 27, 2012, with such minor amendments thereto as the CRO may deem appropriate. The CRO is hereby authorized and directed to take such additional steps and execute such additional documents on behalf of the Vendors as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Purchased Assets to the Purchaser.

3. **THIS COURT ORDERS AND DECLARES** that the Sale Agreement is hereby sealed, kept confidential and shall not form part of the public record until such time as the CRO's Certificate (as defined below) is delivered to the Purchaser in accordance with paragraph 4 hereof.

4. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a CRO's certificate to the Purchaser substantially in the form attached as **Schedule "A"** hereto (the "**CRO'S Certificate**"): (i) all of the Vendors' right, title and interest in and to the Purchased Assets, including, without limitation, their beneficial interest in and to the lands and premises (collectively, the "**Lands**") described on **Schedule "B"** hereto, shall vest absolutely in the Purchaser or any assignee or designee thereof as permitted by the Sale Agreement; and (ii) all of First Leaside Realty II Inc.'s right, title and interest in and to the Lands, shall vest absolutely as follows:

- (a) in Prime Time (Cherry Park) Inc. as to PID: 016-044-355 Lot A, District Lot 4, Group 7, Similkameen Division Yale (Formerly Yale-Lytton) District, Plan 43044;
- (b) in Prime Time (Orchard Valley) Inc. as to PID: 015-305-775 Lot A, District Lot 72, Osoyoos Division Yale District, Plan 42205; and

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- (c) in Prime Time (Shores) Inc. as to PID: 017-700-892
Lot A, District Lot 256, Kamloops Division Yale District, Plan
KAP46785

(the Purchaser and any permitted assignee or designee thereof, Prime Time (Cherry Park) Inc., Prime Time (Orchard Valley) Inc., and Prime Time (Shores) Inc., hereinafter referred to for the purposes of this Order as the "Purchaser"), free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens (including construction liens), executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of Mr. Justice Brown dated February 23, 2012 (the "**Initial Order**"); (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario), *Personal Property Security Act* (British Columbia) or any other personal property registry system (all of which are collectively referred to as the "**Encumbrances**" and which term shall include the Encumbrances (as defined in the Sale Agreement)), but shall not include the Permitted Encumbrances on First Leaside Purchased Assets (as defined in the Sale Agreement and set forth on **Schedules "C" and "D"** hereto), and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Purchased Assets are hereby expunged and discharged as against the Purchased Assets.

5. **THIS COURT ORDERS** that upon filing of a certified copy of this Order, together with a letter from the Vendors' solicitor, Cassels Brock & Blackwell LLP, authorizing its registration with the Registrar of Titles in the New Westminster Land Title Office and Kamloops Land Title Office, all right, title, interest, estate and equity of redemption of the Vendors and First Leaside Realty II Inc. in and to the Lands be conveyed to and do vest in the Purchaser in accordance with paragraph 4 above free and clear of all right, title, interest, estate and equity of redemption or land claim of all parties to this proceeding, and in particular of the Applicants and Vendors, their successors and assigns, and all persons claiming by, through or under them, subject only to the reservations and exceptions set out in the original Crown Grant or Grants thereof. For

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the purposes of issuing title to the Purchaser the following charges, liens and interests (collectively, the "**Lien Claims**") shall be released from the titles to the Lands:

<i>Lien Claims</i>	<i>Registration No.</i>
As to Orchard Valley Retirement Residences: Legal Description: PID: 015-305-775 Lot A, District Lot 72, Osoyoos Division Yale District, Plan 42205 <u>which property shall vest absolutely in Prime Time (Cherry Park) Inc., in accordance with paragraph 4 above</u>	Claim of Builders Lien CA2390138 Claim of Builders Lien CA2394578 Claim of Builders Lien CA2433061
As to Cherry Park Retirement Residence: Legal Description: PID: 016-044-355 Lot A, District Lot 4, Group 7, Similkameen Division Yale (Formerly Yale-Lytton) District, Plan 43044 <u>which property shall vest absolutely in Prime Time (Orchard Valley) Inc., in accordance with paragraph 4 above</u>	Claim of Builders Lien CA2394579 Claim of Builders Lien CA2433060
As to the Shores Retirement Residence: Legal Description: PID: 017-700-892 Lot A, District Lot 256, Kamloops Division Yale District, Plan KAP46785 <u>which property shall vest absolutely in Prime Time (Shores) Inc., in accordance with paragraph 4 above</u>	Claim of Builders Lien CA2433059

6. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims, the net cash proceeds from the sale of the Purchased Assets including after effecting payment of the PTL Debt and Related Party Debt (as defined in the MacLeod Affidavit) (collectively, the "**Proceeds**") shall stand in the place and stead of the Purchased Assets, and that from and after the delivery of the CRO's Certificate in accordance with paragraph 4 hereof, all Claims and Encumbrances shall attach to the Proceeds with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale, provided, however, that to the extent that the Purchaser assumes liability for the accounts payable and accrued liabilities forming part of the First Leaside Current Liabilities (as defined in the Purchase Agreement) in accordance with the Purchase Agreement, no claim of such creditor for such accounts payable and accrued liabilities may be asserted against the Proceeds.

7. **THIS COURT ORDERS** that if the Purchaser does not reach agreement in writing with the Toronto-Dominion Bank ("**TD**") prior to the closing of the Transaction ("**Closing**") to assume the obligations of the Vendors to TD (the "**TD Debt**") which are secured by a security interest or charge on the First Leaside Purchased Assets including, without limitation, the security listed in Schedule "C" hereto (collectively, the "**TD Mortgages**"),

- (a) the cash portion of the Purchase Price (as defined in the Sale Agreement) for the First Leaside Purchased Assets (as defined in the Sale Agreement) shall not be reduced by the amount of the TD Debt;
- (b) upon the Closing, the Purchaser shall pay the Purchase Price for the First Leaside Purchased Assets as follows:
 - (i) the Purchaser shall, and is hereby directed to, pay directly to TD, for and on behalf of the Vendors, an amount equal to the TD Debt, in repayment and full satisfaction of the TD Debt (the "**TD Loan Repayment**"); and
 - (ii) the Purchaser shall pay the balance of the Purchase Price, after subtracting the amount of the TD Loan Repayment, for the First Leaside Purchased Assets to the Vendors as provided for in the Sale Agreement; and

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- (c) upon receipt of the TD Loan Repayment, TD shall as soon as reasonably possible discharge all of its security over the Vendors and the First Leaside Purchased Assets including, without limitation, the encumbrances set forth on Schedule "C" hereto.

8. **THIS COURT ORDERS** that debts of the Vendors may be paid by the Vendors at Closing from the net proceeds after payment of the TD Loan Repayment, if applicable pursuant to paragraph 7 hereof, if one of the following two conditions is met:

- (a) the Applicants, the Monitor, or the Purchaser, upon further motion, obtain authorization of the court to have the Vendors pay all or part of any unsecured liability of the Vendors or any liability evidenced by a Lien Claim (in either case, a "**Court Approved Debt**"), to the extent that such liabilities are not assumed or paid by the Purchaser in accordance with the working capital adjustment provided for in the Sale Agreement; or
- (b) the Monitor determines that a Lien Claim is validly registered and perfected and the Vendors acknowledge that a corresponding specified amount (which may be all or part of the sum claimed by the party asserting the Lien Claim) is owing (a "**Quantified Lien Debt**").

9. **THIS COURT ORDERS** that if the Vendors pay a Court Approved Debt or Quantified Lien Debt at Closing from the Proceeds (in either case, a "**Paid Debt**") and if the Paid Debt was included as a current liability in the Estimated Closing Working Capital Statement (as defined in the Purchase Agreement), such Estimated Closing Working Capital Statement shall be deemed amended so as to remove as a current liability such Paid Debt.

10. **THIS COURT ORDERS AND DIRECTS** the Applicants to file with the Court a copy of the CRO's Certificate, forthwith after delivery thereof.

11. **THIS COURT ORDERS** that, notwithstanding:

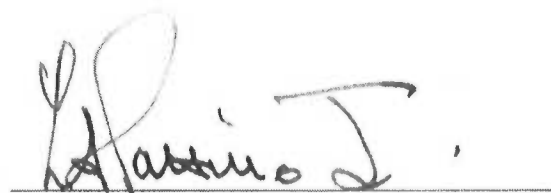
- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) in respect of the Vendors and any bankruptcy order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of the Vendors;

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the vesting of the Purchased Assets in the Purchaser and the payments to TD pursuant to this Order and any payments to be made in connection with the Transaction shall be binding on any trustee in bankruptcy that may be appointed in respect of the Vendors and shall not be void or voidable by creditors of the Vendors, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

12. **THIS COURT ORDERS AND DECLARES** that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario).

13. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the CRO and Monitor and their 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 Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Monitor and its agents in carrying out the terms of this Order.



ENTERED AT / INSCRIT A TORONTO
ON / BOOK NO.
LE / DANS LE REGISTRE NO.

NOV 28 2012 MB

MB

Schedule "A"
Form of CRO's Certificate

Court File No. CV-12-9617-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

**IN THE MATTER OF *THE COMPANIES' CREDITORS ARRANGEMENT ACT*,
*R.S.C. 1985, C. c-36, AS AMENDED***

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF First Leaside Wealth Management Inc., First Leaside Finance Inc.,
First Leaside Securities Inc., FL Securities Inc., First Leaside Management
Inc., First Leaside Accounting and Tax Services Inc., First Leaside
Holdings Inc., 2086056 Ontario Inc., First Leaside Realty Inc., First
Leaside Capital Inc., First Leaside Realty II Inc., First Leaside Investments
Inc., 965010 Ontario Inc., 1045517 Ontario Inc., 1024919 Ontario Inc.,
1031628 Ontario Inc., 1056971 Ontario Inc., 1376095 Ontario Inc., 1437290
Ontario Ltd., 1244428 Ontario Ltd., PrestonOne Development (Canada)
Inc., PrestonTwo Development (Canada) Inc., PrestonThree Development
(Canada) Inc., PrestonFour Development (Canada) Inc., 2088543 Ontario
Inc., 2088544 Ontario Inc., 2088545 Ontario Inc., 1331607 Ontario Inc.,
Queenston Manor General Partner Inc., 1408927 Ontario Ltd., 2107738
Ontario Inc., 1418361 Ontario Ltd., 2128054 Ontario Inc., 2069212 Ontario
Inc., 1132413 Ontario Inc., 2067171 Ontario Inc., 2085306 Ontario Inc.,
2059035 Ontario Inc., 2086218 Ontario Inc., 2085438 Ontario Inc., First
Leaside Visions Management Inc., 1049015 Ontario Inc., 1049016 Ontario
Inc., 2007804 Ontario Inc., 2019418 Ontario Inc., FL Research
Management Inc., 1031628 Ontario Inc., 1045516 Ontario Inc., 2004516
Ontario Inc., 2192341 Ontario Inc., and First Leaside Fund Management
Inc.**

CRO's CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Brown of the Ontario Superior Court of Justice (the "Court") dated February 23, 2012, G.S. MacLeod & Associates Inc. was appointed as the chief restructuring officer (the "CRO") of the undertaking, property and assets of the Applicants.

B. Pursuant to an Order of the Court dated October 22, 2012 as amended (the "**Approval Order**"), the Court approved the purchase agreement dated September 27, 2012 (the "**Sale Agreement**") between the Vendors and Purchaser (as defined in the Approval Order) and provided for the vesting in the Purchaser of the Vendors' right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the CRO to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the CRO and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the CRO.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE CRO CERTIFIES the following:

1. The Purchaser has paid and the Vendors have received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. All of the conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the CRO and the Purchaser; and
3. The Transaction has been completed to the satisfaction of the CRO.
4. This Certificate was delivered by the CRO at _____ on November __, 2012.

**G.S. MacLeod & Associates Inc., in its
capacity as court appointed chief
restricting officer of the Applicants, and
not in its personal capacity**

Per: _____

Name: Greg MacLeod

Title: President

Schedule "B"
Lands

Cherry Park Retirement Residence

Land Title Office

Kamloops

Municipal Description:

317 Winnipeg Street, Penticton, BC V2A 8J9

Legal Description:

PID: 016-044-355

Lot A, District Lot 4, Group 7, Similkameen Division Yale (Formerly Yale-Lytton) District, Plan 43044

Orchard Valley Retirement Residences

Land Title Office

Kamloops

Municipal Description:

2829 34th Street, Vernon, BC V1T 9G4

Legal Description:

PID: 015-305-775

Lot A, District Lot 72, Osoyoos Division Yale District, Plan 42205

The Shores Retirement Residences (and the undeveloped portion of The Shores Land)

Land Title Office

Kamloops

Municipal Description:

870 Westminster Avenue, Kamloops, BC V2B 1N9

Legal Description:

PID: 017-700-892

Lot A, District Lot 256, Kamloops Division Yale District, Plan KAP46785

Schedule "C"

Permitted Encumbrances on Purchased Assets

I. Permitted Encumbrances on First Leaside Purchased Assets

(a) Permitted Encumbrances on Lands

1. Instrument CA2181507, registered September 8, 2011, is a mortgage with respect to Parcel Identifier 016-044-355, granted by First Leaside Realty II Inc. ("FL Realty") in favour of The Toronto-Dominion Bank ("TD") securing the original principal sum of \$19,440,000.
2. Instrument CA2181508, registered September 8, 2011, is an assignment of rents with respect to Parcel Identifier 016-044-355, granted by FL Realty to TD as additional security for its mortgage registered as CA2181507
3. Instrument CA2181509, registered September 8, 2011, is a mortgage with respect to Parcel Identifier 015-305-775, granted by FL Realty in favour of TD securing the original principal sum of \$19,440,000.
4. Instrument CA2181510, registered September 8, 2011, is an assignment of rents with respect to Parcel Identifier 015-305-775, granted by FL Realty to TD as additional security for its mortgage registered as CA2181509.
5. Instrument CA2181511, registered September 8, 2011, is a mortgage with respect to Parcel Identifier 017-700-892, granted by FL Realty in favour of TD securing the original principal sum of \$19,440,000.
6. Instrument CA2181512, registered September 8, 2011, is an assignment of rents with respect to Parcel Identifier 017-700-892, granted by FL Realty to TD as additional security for its mortgage registered as CA2181511.

(b) Permitted Encumbrances on Personal Property

Ontario

1. File no. 672443073; PPSA Registration No. 20110825 1031 1862 6989, in favour of TD (First Leaside Retirement Residences (Okanagan) Limited Partnership)
2. File no. 672443127; PPSA Registration No. 20110825 1033 1862 6991, in favour of TD (First Leaside Venture Limited Partnership)
3. File No. 672443226; PPSA Registration No. 20110825 1037 1862 6994, in favour of TD (Cherry Park)

4. File no. 672443262; PPSA Registration No. 20110825 1038 1862 6996, in favour of TD (Orchard Valley)
5. File No. 672443235; PPSA Registration No. 20110825 1037 1862 6995, in favour of TD (the Shores)
6. File no. 672443217; PPSA Registration No. 20110825 1036 1862 6993 (First Leaside Realty II Inc.)

British Columbia

1. PPSA Base Registration No. 318113G, in favour of TD (Orchard Valley)
2. PPSA Base Registration No. 318115G, in favour of TD (the Shores)
3. PPSA Base Registration No. 318111G, in favour of TD (Cherry Park)
4. PPSA Base Registration No. 318116G, in favour of TD (First Leaside Realty II Inc.)

Schedule D**II. Other Permitted Encumbrances on First Leaside Purchased Assets**

- (ii) B.C. PPSA Registration No. 994133D, in favour of MCAP Leasing Inc.
- (iii) B.C. PPSA Registration No. 655127F, in favour of National Leasing Group Inc.

III. Permitted Encumbrances on Purchased Securities

Nil.

IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C-36, AS AMENDED

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
FIRST LEASIDE WEALTH MANAGEMENT INC. ET AL

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

Proceeding commenced at Toronto

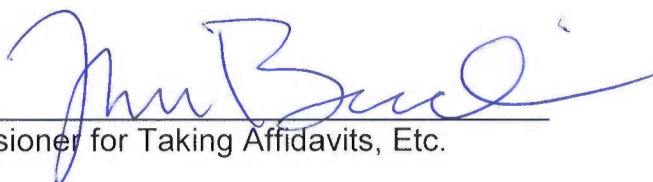
**AMENDED SALE APPROVAL AND
VESTING ORDER
(RE FIRST LEASIDE PURCHASED ASSETS
AND PURCHASED SECURITIES)**

CASSELLS BROCK & BLACKWELL LLP
2100 Scotia Plaza
40 King Street West
Toronto, Ontario M5H 3C2

John N. Birch LSUC #: 38968U
Tel: 416.860.5225
Fax: 416.640.3057
jlbirch@casselsbrock.com
David S. Ward LSUC#: 33541W
Tel: 416.869.5960
Fax: 416.360.3154
dward@casselsbrock.com

Lawyers for the Applicants

THIS IS EXHIBIT "H" REFERRED TO IN THE
AFFIDAVIT OF GREGORY MACLEOD
SWORN BEFORE ME,
THIS 3rd DAY OF DECEMBER, 2012



Commissioner for Taking Affidavits, Etc.

Court File No. CV-12-9617-00CL



**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

THE HONOURABLE MR.

)

TUESDAY, THE 20th

JUSTICE F. J. C. NEWBOULD

)

DAY OF NOVEMBER, 2012

)

**IN THE MATTER OF *THE COMPANIES' CREDITORS ARRANGEMENT ACT*,
*R.S.C. 1985, C. c-36, AS AMENDED***

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF First Leaside Wealth Management Inc., First Leaside Finance Inc., First
Leaside Securities Inc., FL Securities Inc., First Leaside Management Inc.,
First Leaside Accounting and Tax Services Inc., First Leaside Holdings
Inc., 2086056 Ontario Inc., First Leaside Realty Inc., First Leaside Capital
Inc., First Leaside Realty II Inc., First Leaside Investments Inc., 965010
Ontario Inc., 1045517 Ontario Inc., 1024919 Ontario Inc., 1031628 Ontario
Inc., 1056971 Ontario Inc., 1376095 Ontario Inc., 1437290 Ontario Ltd.,
1244428 Ontario Ltd., PrestonOne Development (Canada) Inc., PrestonTwo
Development (Canada) Inc., PrestonThree Development (Canada) Inc.,
PrestonFour Development (Canada) Inc., 2088543 Ontario Inc., 2088544
Ontario Inc., 2088545 Ontario Inc., 1331607 Ontario Inc., Queenston Manor
General Partner Inc., 1408927 Ontario Ltd., 2107738 Ontario Inc., 1418361
Ontario Ltd., 2128054 Ontario Inc., 2069212 Ontario Inc., 1132413 Ontario
Inc., 2067171 Ontario Inc., 2085306 Ontario Inc., 2059035 Ontario Inc.,
2086218 Ontario Inc., 2085438 Ontario Inc., First Leaside Visions
Management Inc., 1049015 Ontario Inc., 1049016 Ontario Inc., 2007804
Ontario Inc., 2019418 Ontario Inc., FL Research Management Inc., 1031628
Ontario Inc., 1045516 Ontario Inc., 2004516 Ontario Inc., 2192341 Ontario
Inc., and First Leaside Fund Management Inc.**

ORDER

This motion (the "**Motion**") made by the Applicants and Included LPs (as defined in the Initial Order (defined below)) (collectively, "**First Leaside**") for an order

(a) approving certain conduct and activities of G.S. MacLeod & Associates Inc. in its capacity as the court-appointed restructuring officer of First Leaside (the "**CRO**") and of Grant Thornton Limited, in its capacity as court-appointed monitor of First Leaside (the "**Monitor**");

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(b) approving the payment of obligations in connection with the closing of the Transaction (as defined below) to settle claims of two creditors who have asserted construction lien claims in accordance with the Court's October 22 Order (defined below);

(c) authorizing the CRO to execute a discharge of a mortgage and assignment of rents in respect of the Vernon Property (defined below);

(d) approving and implementing the Visions Transaction (as defined in the Affidavit of Gregory MacLeod, sworn November 13, 2012 ("**MacLeod Affidavit**"));

(e) approving the sale transaction ("**Structform Transaction**") contemplated by the Agreement of Purchase and Sale ("**Structform Agreement**") between Structform International Limited ("**Structform**") and 2067171 Ontario Inc. (in its capacity as general partner of First Leaside Expansion Limited Partnership ("**FLEX**")), 1132413 Ontario Inc. (in its capacity as general partner of First Leaside Entities Limited Partnership), and First Leaside Realty II Inc. ("**Realty II**") (in its capacity as the sole shareholder of 1132413 Ontario Inc.) (collectively, "**Vendors**"), and attached as Exhibit "L" to the MacLeod Affidavit and vesting in Structform (or its permitted assigns or as it may otherwise direct) all of the Vendors' right, title and interest in and to the Uxbridge Properties (as defined in the MacLeod Affidavit); and

(f) for certain other relief as described in the Notice of Motion

was heard this day at 333 University Avenue, Toronto, Ontario.

ON READING the MacLeod Affidavit, the Sixth Report of the Monitor dated November 19, 2012, and on hearing the submissions of counsel for the Applicants, the Monitor, Structform International Limited, ~~First Leaside Mortgage Fund~~, and Fraser Milner Casgrain LLP in its capacity as Court appointed Representative Counsel, no one appearing for any other person on the service list, although properly served as appears from the affidavit of service of Patricia Hoogenband sworn November 14, 2012, filed:

1. **THIS COURT ORDERS** that the time for service and filing of the Applicants' Notice of the Motion and the Motion record is hereby abridged and validated so that the Motion is properly returnable today and hereby dispenses with any further or other service thereof.
2. **THIS COURT ORDERS AND DECLARES** that the conduct and activities of CRO as disclosed in the Affidavit of Gregory MacLeod dated October 15, 2012 be and are hereby approved.
3. **THIS COURT ORDERS AND DECLARES** that the conduct and activities of the Monitor as set out in the Monitor's Fifth Report dated October 17, 2012 be and are hereby approved.
4. **THIS COURT ORDERS AND DIRECTS** that pursuant to paragraph 8(a) of the Sale Approval and Vesting Order granted by the Honourable Mr. Justice Pattillo on October 22, 2012 ("**October 22 Order**"), First Leaside is hereby authorized to pay the following amounts (respectively, the "**Gienow Payment**" and the "**Scuka Payment**"):
 - (a) \$45,713.52 to Gienow Windoor Ltd. ("**Gienow**") and
 - (b) \$709,963.92 to Scuka Enterprises Ltd. ("**Scuka**")from the Proceeds received upon the completion of the Transaction (as defined in the October 22 Order) in respect of construction lien claims filed by Gienow and Scuka ("**Lien Claims**").
5. **THIS COURT ORDERS** that, to the extent that Gienow or Scuka wish to assert claims in amounts in excess of the Gienow Payment and the Scuka Payment, they are at liberty to assert such claims solely against the Proceeds of those Purchased Assets (as defined in the October 22 Order) against which the Lien Claims had been asserted, in accordance with any claims process that will be implemented in these proceedings.
6. **THIS COURT ORDERS** that the CRO, and its president, Gregory MacLeod, are hereby authorized and directed, upon the closing of the Transaction ("**Closing**"), to execute and file in the name of Realty II such instruments as are necessary to discharge the mortgage and assignment of rents (collectively, the "**Vernon**

Encumbrances") given by 0742962 B.C. Ltd. in favour of Realty II in respect of British Columbia Parcel Identifier 026-879-083, described as Lot 1 District Lot 72 Osoyoos Division Yale District Plan KAP82507 (the "**Vernon Lands**"), which are registered as Instrument Numbers LB480437 and LB480436 and, following the Closing, the Proceeds of the Vendors' interest in the Vernon Lands (the "**Vernon Proceeds**") shall stand in the place and stead of the Vendors' interest in the Vernon Lands and the Vernon Encumbrances shall attach to the Vernon Proceeds as provided in paragraph 6 of the October 22 Order.

7. **THIS COURT ORDERS AND DECLARES** that the Structform Transaction is hereby approved. The CRO is hereby authorized and directed to execute on behalf of the Vendors the Structform Agreement dated November 13, 2012, with such minor amendments as the CRO may deem necessary and take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Structform Transaction and for the conveyance of the Uxbridge Properties to Structform or its nominee.

8. **THIS COURT ORDERS AND DECLARES** that upon delivery of a CRO's Certificate to Structform substantially in the form attached as **Schedule "A"** hereto, all of the Vendors' right, title and interest in and to the Uxbridge Properties described in the MacLeod Affidavit and set forth in **Schedule "B"** hereto, shall vest absolutely on an "as is, where is" basis in Structform or its nominee free and clear of and from any and all security interests (whether contractual, statutory or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, "**Claims**") including, without limited the generality of the foregoing: (i) any encumbrances or charges created by the Order of Mr. Justice Brown dated February 23, 2012 ("**Initial Order**"); (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system (all of which are collectively referred to as "**Encumbrances**") and which term shall include the Encumbrances (as defined in the Structform Agreement), but shall not include the Permitted Encumbrances on the

Uxbridge Properties (as defined in the Structform Agreement and set forth in **Schedule "C"** hereto), and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Uxbridge Properties are hereby expunged and discharged as against the Uxbridge Properties.

9. **THIS COURT ORDERS** that concurrent with the completion of the Structform Transaction and the vesting of title to the Uxbridge Properties in favour of Structform, all claims that Structform has or may have against First Leaside, including without limitation, the construction lien claim in the amount of \$1,723,755 in respect of the Uxbridge Properties, and sub-contractor claims of LaFarge Canada Inc. ("**LaFarge**") and Gilbert Steel Limited ("**Gilbert**"), be and the same are hereby released and extinguished and Structform, LaFarge, and Gilbert are forever barred from asserting any claims (including, without limitation, trust claims and lien claims) against First Leaside or any of its property including, without limitation, monies held in bank accounts in the name of FLEX (the "**FLEX Bank Accounts**").

10. **THIS COURT ORDERS** that the Visions Transaction (as defined in the MacLeod Affidavit) be and the same is hereby approved and the CRO is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable to complete the Visions Transaction.

11. **THIS COURT ORDERS AND DECLARES** that, at the date and time that the Visions Transaction is completed,

- (a) these proceedings shall terminate with respect to 2085438 Ontario Inc., it shall no longer be an Applicant in these proceedings, and the title of proceedings shall be amended to delete reference to 2085438 Ontario Inc.; and
- (b) the following limited partnerships shall no longer be entitled to the benefit of the Initial Order and Schedule "A" to the Initial Order shall be amended to delete reference to them:
 - (i) First Leaside Visions I Limited Partnership,
 - (ii) First Leaside Visions II Limited Partnership,
 - (iii) First Leaside Visions III Limited Partnership,

- 6 -

- (iv) First Leaside Visions IV Limited Partnership,
- (v) Metabacus Limited Partnership,
- (vi) Greencore Limited Partnership,
- (vii) Marksman Celiject Limited Partnership,
- (viii) OMISA Limited Partnership,
- (ix) Dossierview Limited Partnership,
- (x) eSight Limited Partnership, and
- (xi) Tyromer Limited Partnership.

12. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the CRO and Monitor and their 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 Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Monitor and its agents in carrying out the terms of this Order.



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

NOV 20 2012



Schedule "A"
Form of CRO's Certificate

Court File No. CV-12-9617-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

**IN THE MATTER OF *THE COMPANIES' CREDITORS ARRANGEMENT ACT*,
*R.S.C. 1985, C. c-36, AS AMENDED***

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF First Leaside Wealth Management Inc., First Leaside Finance Inc.,
First Leaside Securities Inc., FL Securities Inc., First Leaside Management
Inc., First Leaside Accounting and Tax Services Inc., First Leaside
Holdings Inc., 2086056 Ontario Inc., First Leaside Realty Inc., First
Leaside Capital Inc., First Leaside Realty II Inc., First Leaside Investments
Inc., 965010 Ontario Inc., 1045517 Ontario Inc., 1024919 Ontario Inc.,
1031628 Ontario Inc., 1056971 Ontario Inc., 1376095 Ontario Inc., 1437290
Ontario Ltd., 1244428 Ontario Ltd., PrestonOne Development (Canada)
Inc., PrestonTwo Development (Canada) Inc., PrestonThree Development
(Canada) Inc., PrestonFour Development (Canada) Inc., 2088543 Ontario
Inc., 2088544 Ontario Inc., 2088545 Ontario Inc., 1331607 Ontario Inc.,
Queenston Manor General Partner Inc., 1408927 Ontario Ltd., 2107738
Ontario Inc., 1418361 Ontario Ltd., 2128054 Ontario Inc., 2069212 Ontario
Inc., 1132413 Ontario Inc., 2067171 Ontario Inc., 2085306 Ontario Inc.,
2059035 Ontario Inc., 2086218 Ontario Inc., 2085438 Ontario Inc., First
Leaside Visions Management Inc., 1049015 Ontario Inc., 1049016 Ontario
Inc., 2007804 Ontario Inc., 2019418 Ontario Inc., FL Research
Management Inc., 1031628 Ontario Inc., 1045516 Ontario Inc., 2004516
Ontario Inc., 2192341 Ontario Inc., and First Leaside Fund Management
Inc.**

CRO's CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Brown of the Ontario Superior Court of Justice ("**Court**") dated February 23, 2012, G.S. MacLeod & Associates Inc. was appointed as the chief restructuring officer ("**CRO**") of the undertaking, property and assets of the Applicants.

B. Pursuant to an Order of the Court dated November 20, 2012 (the "**Approval Order**"), the Court approved the Agreement of Purchase and Sale (the "**Structform Agreement**") between the Vendors and Structform (as defined in the Approval Order) and provided for the vesting in Structform or its nominee of the Vendors' right, title and interest in and to the Uxbridge Properties, which vesting is to be effective with respect to the Uxbridge Properties upon the delivery by the CRO to Structform of a certificate confirming: (i) that the conditions to Closing as set out in the Structform Agreement have been satisfied or waived by the CRO and Structform; and (ii) the Structform Transaction has been completed to the satisfaction of the CRO.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Structform Agreement.

THE CRO CERTIFIES the following:

1. All of the conditions to Closing as set out in the Structform Agreement have been satisfied or waived by the Vendors and Structform; and
3. The Structform Transaction has been completed to the satisfaction of the CRO.
4. This Certificate was delivered by the CRO at _____ on November __, 2012.

G.S. MacLeod & Associates Inc., in its capacity as court-appointed chief restructuring officer of the Applicants, and not in its personal capacity

Per: _____

Name: Gregory MacLeod

Title: President

Schedule "B"

Uxbridge Properties

Municipal Address	Legal Description
4 Victoria Street, Uxbridge, Ontario	PIN 26850-0062 (LT): Lt 307, Pt Lts 304, 305, 306, 308, 309, 311 & 312, Blk HH, PI 83, Pt 1, 40R15228
144 Brock Street West, Uxbridge, Ontario	PIN 26850-0060 (LT): Pt Lts 303 & 304, Blk HH, PI 83 & Pt Mary St., as in C075874
170 Brock Street West, Uxbridge, Ontario	PIN 26850-0058(LT): Lts 294, 295 & Pt Lts 296, 297, 298, 299, 300, 301 & 302, Blk GG, PI 83 in D527125
address unassigned, Uxbridge, Ontario	PIN 26850-0059 (LT): Pt Lts. 296, 300, 301 & 302, Blk GG, PI 83, PT 1, 40R18184

Schedule "C"

Permitted Encumbrances on Uxbridge Properties

General Encumbrances

1. The reservations, limitations, exceptions, provisos and conditions, if any, expressed in any original grants from the Crown including, without limitation, the reservation of any mines and minerals in the Crown or in any other person.
2. Subdivision agreements, site plan control agreements, servicing or industrial agreements, utility agreements, airport zoning regulations and other similar agreements with government authorities or private or public utilities affecting the development or use of the Lands.
3. Encumbrances respecting minor encroachments by the Lands over neighbouring lands or by improvements on neighbouring lands and/or permitted under agreements with the owners of such other lands.
4. Title defects or irregularities which are of a minor nature and in the aggregate will not materially impair the use or marketability of the Lands for the purposes for which it is presently used.
5. Any easements or rights of way in favour of any governmental authority, any private or public utility, any railway company or any adjoining owner.
6. The exceptions and qualifications contained in Section 44(1) of the *Land Titles Act* (Ontario), except paragraphs 1, 2, 3, 5, 6, 8, 9, 11 and 14, provincial succession duties and escheats and forfeiture to the Crown.
7. Liens for taxes, rates, assessments or governmental charges or levies not yet due and payable.
8. Any unregistered easements, rights-of-way or other unregistered interests or claims not disclosed by registered title in respect of the provision of utilities to the Lands.
9. Any rights of expropriation, access or use or any other similar rights conferred or reserved by or in any statutes of Canada or the Province of Ontario.

Specific Encumbrances

A. Firstly Lands:

PIN 26850-0058 (LT): Lots 294, 295 and part of Lots 296, 297, 298, 299, 300, 301 and 302, Block GG on Plan 83, Township of Uxbridge, Regional Municipality of Durham

1. Instrument No. CO192201, registered on December 12, 1969 is a by-law.

2. Instrument No. DR942839, registered on October 18, 2010, is a notice between The Corporation of the Township of Uxbridge (the "**Township**"), First Leaside Realty II Inc. ("**First Leaside**"), 1132413 Ontario Inc. ("**1132413**") and 2067171 Ontario Inc. ("**2067171**").
3. Instrument No. DR951602, registered on November 19, 2010, is a notice between the Township and First Leaside, 1132413 and 2067171.
4. Instrument No. DR958212, registered on December 15, 2010, is a notice with The Regional Municipality of Durham (the "**Region**").
5. Instrument No. DR988999, registered on May 6, 2011, is a notice between the Township, First Leaside, 1132413 and 2067171, with respect to notice No. DR951602.
6. Instrument No. DR1049224, registered on December 13, 2011, is a construction lien in favour of Lafarge Canada Inc. ("**Lafarge**").
7. Instrument No. DR1053322, registered on December 30, 2011, is a construction lien in favour of Gilbert Steel Limited ("**Gilbert**").
8. Instrument No. DR1056472, registered on January 16, 2012, is a construction lien in favour of Structform International Limited ("**Structform**").
9. Instrument No. DR1059717, registered on January 27, 2012, is a certificate of action in favour of Lafarge with respect to construction lien No. DR1049224.
10. Instrument No. DR1061121, registered on February 2, 2012, is a certificate of action in favour of Gilbert with respect to construction lien No. DR1053322.
11. Instrument No. DR1065269, registered on February 22, 2012, is a certificate of action in favour of Structform with respect to construction lien No. DR1056472.

B. Secondly Lands:

PIN 26850-0059 (LT): Part of Lots 296, 300, 301 and 302, Block GG on Plan 83, designated as Part 1 on Plan 40R-18184, Township of Uxbridge, Regional Municipality of Durham.

1. Instrument No. CO192201, registered on December 12, 1969 is a by-law.
2. Instrument No. DR447892, registered on February 14, 1995 is a notice.
3. Instrument No. DR942838, registered on October 18, 2010, is a notice of option to purchase in favour of the Township.
4. Instrument No. DR942839, registered on October 18, 2010, is a notice between the Township, First Leaside, 1132413 and 2067171.

5. Instrument No. DR951602, registered on November 19, 2010, is a notice between the Township and First Leaside, 1132413 and 2067171.
6. Instrument No. DR958212, registered on December 15, 2010, is a notice with the Region.
7. Instrument No. DR988999, registered on May 6, 2011, is a notice between the Township, First Leaside, 1132413 and 2067171, with respect to notice No. DR951602.
8. Instrument No. DR1049224, registered on December 13, 2011, is a construction lien in favour of Lafarge.
9. Instrument No. DR1053322, registered on December 30, 2011, is a construction lien in favour of Gilbert.
10. Instrument No. DR1056472, registered on January 16, 2012, is a construction lien in favour of Structform.
11. Instrument No. DR1059717, registered on January 27, 2012, is a certificate of action in favour of Lafarge with respect to construction lien No. DR1049224.
12. Instrument No. DR1061121, registered on February 2, 2012, is a certificate of action in favour of Gilbert with respect to construction lien No. DR1053322.
13. Instrument No. DR1065269, registered on February 22, 2012, is a certificate of action in favour of Structform with respect to construction lien No. DR1056472.

C. Thirdly Lands:

PIN 26850-0060 (LT): Part of Lots 303 and 304, Block HH on Plan 83 and part of Mary Street, as in Instrument No. CO75874, Township of Uxbridge, Regional Municipality of Durham.

1. Instrument No. CO192201, registered on December 12, 1969 is a by-law.
2. Instrument No. DR942839, registered on October 18, 2010, is a notice between the Township, First Leaside, 1132413 and 2067171.
3. Instrument No. DR951602, registered on November 19, 2010, is a notice between the Township and First Leaside, 1132413 and 2067171.
4. Instrument No. DR958212, registered on December 15, 2010, is a notice with the Region.
5. Instrument No. DR988999, registered on May 6, 2011, is a notice between the Township, First Leaside, 1132413 and 2067171, with respect to notice No. DR951602.
6. Instrument No. DR1049224, registered on December 13, 2011, is a construction lien in favour of Lafarge.

7. Instrument No. DR1053322, registered on December 30, 2011, is a construction lien in favour of Gilbert.
8. Instrument No. DR1056472, registered on January 16, 2012, is a construction lien in favour of Structform.
9. Instrument No. DR1059717, registered on January 27, 2012, is a certificate of action in favour of Lafarge with respect to construction lien No. DR1049224.
10. Instrument No. DR1061121, registered on February 2, 2012, is a certificate of action in favour of Gilbert with respect to construction lien No. DR1053322.
11. Instrument No. DR1065269, registered on February 22, 2012, is a certificate of action in favour of Structform with respect to construction lien No. DR1056472.

D. Fourthly Lands:

PIN 26850-0062 (LT): Lot 307, part of Lots 304, 305, 306, 308, 309, 311 and 312, Block HH on Plan 83, designated as Part 1 on Reference Plan 40R-15228, Township of Uxbridge, Regional Municipality of Durham

1. Instrument No. CO192201, registered on December 12, 1969 is a by-law.
2. Instrument No. DR942839, registered on October 18, 2010, is a notice between the Township, First Leaside, 1132413 and 2067171.
3. Instrument No. DR951602, registered on November 19, 2010, is a notice between the Township and First Leaside, 1132413 and 2067171.
4. Instrument No. DR958212, registered on December 15, 2010, is a notice with the Region.
5. Instrument No. DR988999, registered on May 6, 2011, is a notice between the Township, First Leaside, 1132413 and 2067171, with respect to notice No. DR951602.
6. Instrument No. DR1049224, registered on December 13, 2011, is a construction lien in favour of Lafarge.
7. Instrument No. DR1053322, registered on December 30, 2011, is a construction lien in favour of Gilbert.
8. Instrument No. DR1056472, registered on January 16, 2012, is a construction lien in favour of Structform.
9. Instrument No. DR1059717, registered on January 27, 2012, is a certificate of action in favour of Lafarge with respect to construction lien No. DR1049224.
10. Instrument No. DR1061121, registered on February 2, 2012, is a certificate of action in favour of Gilbert with respect to construction lien No. DR1053322.

11. Instrument No. DR1065269, registered on February 22, 2012, is a certificate of action in favour of Structform with respect to construction lien No. DR1056472.

IN THE MATTER OF THE COMPANIES' CREDITORS' ARRANGEMENT ACT,
R.S.C. 1985, c. C-36, AS AMENDED

Court File No: CV-12-9617-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
FIRST LEASIDE WEALTH MANAGEMENT INC. ET AL

ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)

Proceeding commenced at Toronto

ORDER

CASSELS BROCK & BLACKWELL LLP
2100 Scotia Plaza
40 King Street West
Toronto, Ontario M5H 3C2

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Kelly A. Gerra LSUC#: 57436H
Tel: 416.869.5324
Fax: 416.360.3111
kgerra@casselsbrock.com

Lawyers for the Applicants

THIS IS EXHIBIT "I" REFERRED TO IN THE
AFFIDAVIT OF GREGORY MACLEOD
SWORN BEFORE ME,
THIS 3rd DAY OF DECEMBER, 2012



Commissioner for Taking Affidavits, Etc.

Court File No. CV-12-9617-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, C. c-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT
OF First Leaside Wealth Management Inc., First Leaside Finance Inc.,
First Leaside Securities Inc., FL Securities Inc., First Leaside Management
Inc., First Leaside Accounting and Tax Services Inc., First Leaside
Holdings Inc., 2086056 Ontario Inc., First Leaside Realty Inc., First
Leaside Capital Inc., First Leaside Realty II Inc., First Leaside Investments
Inc., 965010 Ontario Inc., 1045517 Ontario Inc., 1024919 Ontario Inc.,
1031628 Ontario Inc., 1056971 Ontario Inc., 1376095 Ontario Inc., 1437290
Ontario Ltd., 1244428 Ontario Ltd., PrestonOne Development (Canada)
Inc., PrestonTwo Development (Canada) Inc., PrestonThree Development
(Canada) Inc., PrestonFour Development (Canada) Inc., 2088543 Ontario
Inc., 2088544 Ontario Inc., 2088545 Ontario Inc., 1331607 Ontario Inc.,
Queenston Manor General Partner Inc., 1408927 Ontario Ltd., 2107738
Ontario Inc., 1418361 Ontario Ltd., 2128054 Ontario Inc., 2069212 Ontario
Inc., 1132413 Ontario Inc., 2067171 Ontario Inc., 2085306 Ontario Inc.,
2059035 Ontario Inc., 2086218 Ontario Inc., 2085438 Ontario Inc., First
Leaside Visions Management Inc., 1049015 Ontario Inc., 1049016 Ontario
Inc., 2007804 Ontario Inc., 2019418 Ontario Inc., FL Research
Management Inc., 1031628 Ontario Inc., 1045516 Ontario Inc., 2004516
Ontario Inc., 2192341 Ontario Inc., and First Leaside Fund Management
Inc.**

CRO's CERTIFICATE

RECITALS

A. Pursuant to an Order of the Honourable Justice Brown of the Ontario Superior Court of Justice (the "**Court**") dated February 23, 2012, G.S. MacLeod & Associates Inc. was appointed as the chief restructuring officer (the "**CRO**") of the undertaking, property and assets of the Applicants.

B. Pursuant to an Order of the Court dated October 22, 2012, as amended on November 28, 2012 (collectively, the "**Approval Order**"), the Court approved the purchase agreement dated September 27, 2012 (as amended, and as may be further amended from time to time, the "**Sale Agreement**") between the Vendors and Purchaser (as defined in the Approval Order) and provided for the vesting in the Purchaser of the Vendors' right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the CRO to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the

- 2 -

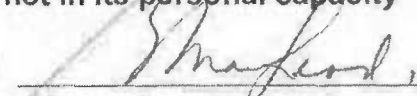
Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Vendors and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the CRO.

C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Sale Agreement.

THE CRO CERTIFIES the following:

1. The Purchaser has paid and the Vendors have received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;
2. All of the conditions to Closing as set out in the Sale Agreement have been satisfied or waived by the Vendors and the Purchaser;
3. The Transaction has been completed to the satisfaction of the CRO; and
4. This Certificate was delivered by the CRO at 2:30 a.m./p.m. on November 30, 2012.

**G.S. MacLeod & Associates Inc., in its
capacity as court appointed chief
restructuring officer of the Applicants,
and not in its personal capacity**

Per: 

Name: Greg MacLeod

Title: President

TAB 3

Court File No. CV-12-9617-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE	)	FRIDAY, THE 7th
	)	
JUSTICE	)	DAY OF DECEMBER, 2012

**IN THE MATTER OF THE COMPANIES' CREDITORS ARRANGEMENT ACT,
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
First Leaside Wealth Management Inc., First Leaside Finance Inc., First
Leaside Securities Inc., FL Securities Inc., First Leaside Management Inc.,
First Leaside Accounting and Tax Services Inc., First Leaside Holdings Inc.,
2086056 Ontario Inc., First Leaside Realty Inc., First Leaside Capital Inc., First
Leaside Realty II Inc., First Leaside Investments Inc., 965010 Ontario Inc.,
1045517 Ontario Inc., 1024919 Ontario Inc., 1031628 Ontario Inc., 1056971
Ontario Inc., 1376095 Ontario Inc., 1437290 Ontario Ltd., 1244428 Ontario Ltd.,
PrestonOne Development (Canada) Inc., PrestonTwo Development (Canada)
Inc., PrestonThree Development (Canada) Inc., PrestonFour Development
(Canada) Inc., 2088543 Ontario Inc., 2088544 Ontario Inc., 2088545 Ontario Inc.,
1331607 Ontario Inc., Queenston Manor General Partner Inc., 1408927 Ontario
Ltd., 2107738 Ontario Inc., 1418361 Ontario Ltd., 2128054 Ontario Inc., 2069212
Ontario Inc., 1132413 Ontario Inc., 2067171 Ontario Inc., 2085306 Ontario Inc.,
2059035 Ontario Inc., 2086218 Ontario Inc., 2085438 Ontario Inc., First Leaside
Visions Management Inc., 1049015 Ontario Inc., 1049016 Ontario Inc., 2007804
Ontario Inc., 2019418 Ontario Inc., FL Research Management Inc., 1031628
Ontario Inc., 1045516 Ontario Inc., 2004516 Ontario Inc., 2192341 Ontario Inc.,
and First Leaside Fund Management Inc.**

DISCHARGE AND TRANSITION ORDER

This motion ("**Motion**"), made by the Applicants and the entities listed on Schedule "A" (collectively, "**First Leaside**") to the Initial Order of the Honourable Mr. Justice Brown dated February 23, 2012, as amended on March 8, 2012, and June 28, 2012 ("**Initial Order**"), for an order

- (a) approving a Custodial and Services Agreement (the “**Custodial Agreement**”) between First Leaside Securities Inc. (“**FLSI**”) and Fidelity Clearing Canada ULC (“**Fidelity**”), and authorizing and directing the CRO (as defined below) to execute and carry out the terms of the Custodial Agreement;
- (b) terminating and discharging these CCAA proceedings forthwith and providing for the transition of these proceedings to a receivership of First Leaside by order of this Court (“**Receivership Order**”), pursuant to section 101 of the *Courts of Justice Act*, R.S.C. 1990, c. C.43, as amended (“**CJA**”);
- (c) approving the activities of G.S. MacLeod & Associates Inc. (“**MacLeod & Associates**”), the Chief Restructuring Officer (“**CRO**”) and Grant Thornton Limited (“**GTL**”), the Court-appointed monitor (the “**Monitor**”), to date;
- (d) approving the fees and disbursements of the Monitor, the Monitor’s independent counsel and representative counsel (“**Representative Counsel**”) for the interests of the nearly 1,200 investors of First Leaside Securities Inc. in these proceedings, for the period up to and including November 30, 2012;
- (e) releasing and discharging MacLeod & Associates and GTL from any and all liability that they may have arising out of their acts or omissions while acting in their capacities as, respectively, CRO and Monitor, save and except for any gross negligence or wilful misconduct on their part; and
- (f) such further and other relief as this Honourable Court may deem just

was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING the Affidavit of Gregory MacLeod, sworn December 3, 2012, the Seventh Report (the “**Seventh Report**”), of GTL, as Monitor of First Leaside, dated December 4, 2012, and on hearing the submissions of counsel to First Leaside, the Monitor and Fraser Milner Casgrain LLP in its capacity as Court-appointed Representative Counsel, no one appearing for any other person on the service list, although properly served as appears from the affidavits of service of ● sworn December ● 2012, filed:

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record shall be and is hereby abridged and that the Motion is properly returnable today and that service thereof upon any interested party other than the persons served with the Motion Record is hereby dispensed with.

2. **THIS COURT ORDERS** that the Custodial Agreement between FLSI and Fidelity, as described in the Seventh Report, be and is hereby approved, and the CRO is hereby authorized and directed to execute and carry out the terms of the Custodian Agreement in the name of FLSI.

3. **THIS COURT ORDERS** that paragraphs 4, 10, 11, 12, 13, 14, 15 and 16 of this Order shall become effective upon the issuance of the Receivership Order appointing GTL as receiver and manager (the “**Receiver**”) of First Leaside and shall bind

(a) the Receiver or any other receiver appointed pursuant to the Receivership Order or otherwise; and

(b) any trustee in bankruptcy of any of the corporations or limited partnerships which constitute First Leaside.

4. **THIS COURT ORDERS** that these CCAA proceedings and the Stay Period (as defined in the Initial Order and amended most recently on October 22, 2012) shall be terminated.

APPROVAL OF CRO'S AND MONITOR'S ACTIVITIES

5. **THIS COURT ORDERS** that the activities of MacLeod & Associates as Court-appointed CRO and GTL, as Monitor, as disclosed in the affidavits of Gregory MacLeod sworn November 13, 2012 and December 3, 2012 and the Sixth Report of the Monitor and the Seventh Report of the Monitor be and are hereby approved.

APPROVAL OF FEES

6. **THIS COURT ORDERS** that the fees and disbursements of the Monitor, in the amount of \$●, inclusive of HST, for the period from February 23, 2012 through November 30, 2012, as disclosed in the Affidavit of Jonathan Krieger sworn December 4, 2012, be and are hereby approved.

7. **THIS COURT ORDERS** that the fees and disbursements of counsel to the Monitor, Blake, Cassels & Graydon LLP ("**Monitor's Counsel**"), in the amount of \$●, inclusive of HST, for the period from February 23, 2012 through November 30, 2012, as disclosed in the Affidavit of Pamela L. J. Huff sworn December 4, 2012, be and are hereby approved.

8. **THIS COURT ORDERS** that the fees and disbursements of Representative Counsel, Fraser Milner Casgrain LLP, in the amount of \$●, inclusive of HST, for the period from February 23, 2012 through November 30, 2012, as disclosed in the Affidavit of Shayne Kukulowicz sworn December 4, 2012, be and are hereby approved.

9. **THIS COURT ORDERS** that the Monitor, Monitor's Counsel and Representative Counsel shall be at liberty, upon further motion brought in the receivership proceedings bearing Commercial List File No. CV-12-9930-00CL, to seek approval of their fees and disbursements for the period from and after December 1, 2012.

RELEASE AND DISCHARGE OF CRO AND MONITOR

10. **THIS COURT ORDERS AND DECLARES** that upon the appointment of the Receiver, the appointment of MacLeod & Associates as CRO of First Leaside and the appointment of GTL as Monitor be and is hereby discharged and terminated. MacLeod & Associates and GTL, together with their officers, directors, partners, employees and agents (collectively, the “**Released Parties**”) shall be released and discharged from any and all liability that the Released Parties now have or may hereafter have by reason of, or in any way arising out of, the acts or omissions of the Released Parties while acting in their respective capacities herein, save and except for any gross negligence or wilful misconduct on the part of the Released Parties. Without limiting the generality of the foregoing, the Released Parties shall be forever released and discharged from any and all liability relating to matters that were raised, or which could have been raised, in these CCAA proceedings, save and except for any gross negligence or wilful misconduct on the part of the Released Parties.

11. **THIS COURT ORDERS** that no action or other proceeding shall be commenced against MacLeod & Associates, GTL or any of the other Released Parties in any way arising from or related to their capacity or conduct as, respectively, CRO or Monitor in connection with First Leaside, except with prior leave of this Court on at least seven days’ prior written notice to the CRO or Monitor, as applicable.

12. **THIS COURT ORDERS** that notwithstanding any provisions of this Order or the termination of the CCAA proceedings, MacLeod & Associates may continue, as a consultant, to assist the Receiver with respect to any matters the Receiver may request on such terms as the Receiver and MacLeod & Associates may agree, without further order or approval of this Court, and MacLeod & Associates may carry out such functions and duties as may be incidental to the termination of the CCAA proceedings and the transition to a receivership of First Leaside pursuant to the Receivership Order. In carrying out such functions and duties, MacLeod & Associates shall continue to have the benefit of all orders made in these CCAA proceedings (including all protections and stays of proceedings) and nothing

contained in this Order shall affect, vary, derogate from or amend any of the protections in favour of the CRO pursuant to paragraphs 27, 30, 31 and 32 of the Initial Order, which paragraph shall continue to apply in the receivership, *mutatis mutandis*.

13. **THIS COURT ORDERS** that notwithstanding any provisions of this Order or the termination of the CCAA proceedings, the Monitor may carry out such functions and duties as may be incidental to the termination of the CCAA proceedings and the transition to a receivership of First Leaside pursuant to the Receivership Order. In carrying out such functions and duties, the Monitor shall continue to have the benefit of all orders made in these CCAA proceedings (including all protections and stays of proceedings) and nothing contained in this Order shall affect, vary, derogate from or amend any of the protections in favour of the CRO pursuant to paragraphs 36, 37 and 38 of the Initial Order, which paragraphs shall continue to apply in the receivership, *mutatis mutandis*.

COURT-ORDERED CHARGES

14. **THIS COURT ORDERS** that notwithstanding any provisions of this Order or the termination of the CCAA proceedings, the Directors' Charge, the Administration Charge and the Inter-Company Charge, created by paragraphs 31, 41 and 49A(b) of the Initial Order, shall continue to constitute a charge on all of the assets, undertakings and remaining properties of First Leaside acquired for, or used in relation to a business carried on by First Leaside, including all proceeds thereof in accordance with the terms and with the priority provided in the Initial Order.

COMPLETION OF EXISTING TRANSACTIONS AND PAYMENTS

15. **THIS COURT ORDERS** that notwithstanding any provisions of this Order or the issuance of the Receivership Order, First Leaside and/or the Receiver are authorized and directed to pay the following on behalf of, or in the name of, First Leaside:

- (a) amounts that may be payable as post-filing obligations, including payroll obligations, in the CCAA proceedings;
- (b) cheques that have been issued by First Leaside, but which are outstanding and have not cleared First Leaside's bank accounts as of December 7, 2012; and
- (c) unpaid professional fees that have been incurred by the Monitor, its independent counsel, Representative Counsel, the CRO and counsel to First Leaside as approved by this Order.

16. **THIS COURT ORDERS** that notwithstanding any provisions of this Order and the issuance of the Receivership Order, certain transactions begun during the CCAA proceedings but not fully completed may be completed by First Leaside and the CRO, as appropriate, including the following:

- (a) the sale of First Leaside Tax and Accounting Services Inc.'s interest in four accounting firms in Western Canada to Joanna L. Hampton Holdings Inc. and Jim Brander Professional Corporation, as approved by this Court on August 23, 2012 and
 - (b) the entry into, and implementation of, the Custodial Agreement;
 - (c) the completion of the Structform Transaction (as defined in the order of Mr. Justice Newbould dated November 20, 2012); and
 - (d) post-closing activities and adjustments arising out of the Transaction (as defined in the Amended Sale and Vesting Order of Mr. Justice Pattillo dated October 22, 2012, as amended on November 28, 2012).
-

IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,
R.S.C. 1985, c. C-36, AS AMENDED

Court File No: CV-12-9617-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF
FIRST LEASIDE WEALTH MANAGEMENT *ET AL.*

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

Proceeding commenced at Toronto

DISCHARGE AND TRANSITION ORDER

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AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF FIRST LEASIDE WEALTH
MANAGEMENT INC.

Court File No. CV-12-9617-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

IN THE MATTER OF
PROCEEDING COMMENCED AT
TORONTO

**MOTION RECORD OF THE APPLICANTS
(RETURNABLE DECEMBER 7, 2012)**

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APPLICATION UNDER section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended.

**APPLICATION RECORD
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Lawyers for Kingstreet Real Estate Growth LP No. 2

AND TO:

TOYOTA CREDIT CANADA INC.

80 Micro Court
Markham, Ontario L3R 9Z5

Tel: 905-513-8200

Fax: 905-513-9776

AND TO:

MCAP LEASING INC.

Equipment Finance and Leasing
5575 North Service Road, Suite 300
Burlington, ON L7L 6M1

Tel: 905-639-3995

Fax: 1-800-436-0884

AND TO:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA as Represented by the Minister of Small Business and Revenue (PST-BC/Income Tax)

Revenue Programs Division
Ministry of Finance
1802 Douglas Street
Victoria, BC
V8T 4K6

Fax: (250) 952-0712

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

IN THE MATTER OF THE RECEIVERSHIP OF First Leaside Wealth Management Inc., First Leaside Finance Inc., First Leaside Securities Inc., FL Securities Inc., Mill Street Limited Partnership, First Leaside Management Inc., Development Notes Limited Partnership, Special Notes Limited Partnership, First Leaside Accounting and Tax Services Inc., 2086056 Ontario Inc., First Leaside Properties Limited Partnership, First Leaside Realty Inc., First Leaside Realty Limited Partnership, First Leaside Realty II Inc., First Leaside Investors Limited Partnership, First Leaside Premier Limited Partnership, First Leaside Progressive Limited Partnership, First Leaside Realty II Limited Partnership, First Leaside Ultimate Limited Partnership, First Leaside Universal Limited Partnership, Uxbridge Development Limited Partnership, First Leaside Venture Limited Partnership, 965010 Ontario Inc., Wimberly Apartments Limited Partnership, 1045517 Ontario Inc., The Shores Limited Partnership, 1024919 Ontario Inc., Old Mill Pond Apartments Limited Partnership, 1031628 Ontario Inc., 1056971 Ontario Inc., The Bluffs of Lakewood Limited Partnership, 1376095 Ontario Inc., F.L. Spring Valley Limited Partnership, 1437290 Ontario Ltd., First Leaside Partners Limited Partnership, First Leaside Opportunities Limited Partnership, 1244428 Ontario Ltd., Preston Racquet Club Real Estate Limited Partnership Series 910PA, Preston Racquet Club Real Estate Limited Partnership Series 910PB, Preston Racquet Club Real Estate Limited Partnership Series 910PC, Preston Racquet Club Real Estate Limited Partnership Series 910PD, PrestonOne Development (Canada) Inc., PrestonTwo Development (Canada) Inc., PrestonThree Development (Canada) Inc., PrestonFour Development (Canada) Inc., 2088543 Ontario Inc., 2088544 Ontario Inc., F.L.W. Pond Master Ltd., 2088545 Ontario Inc., F.L.W. Shores Master Ltd., 1331607 Ontario Inc., First Leaside Acquisitions Limited Partnership, Queenston Manor General Partner Inc., Queenston Manor Limited Partnership, 2107738 Ontario Inc., First Leaside Advantage Limited Partnership, 2128054 Ontario Inc., First Leaside Elite Limited Partnership, 1132413 Ontario Inc., First Leaside Entities Limited Partnership, 2067171 Ontario Inc., First Leaside Expansion Limited Partnership, 2085306 Ontario Inc., First Leaside Growth Limited Partnership, 2086218 Ontario Inc., First Leaside Unity Limited Partnership, First Leaside Visions Management Inc., 2007804 Ontario Inc., First Leaside Wealth Management Limited Partnership, First Leaside Fund Management Inc., F.L. Beverages Group Limited Partnership, First Leaside Global Limited Partnership, Special U.S. Notes Limited Partnership, FLWM Holdings Limited Partnership, First Leaside Select Limited Partnership, Cherry Park Retirement Residences Limited Partnership, First Leaside Retirement Residences (Okanagan) Limited Partnership, Orchard Valley Retirement Residences Limited Partnership, The Shores Retirement Residences Limited Partnership (collectively, "Applicants")

APPLICATION UNDER section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended.

**APPLICATION RECORD
(RETURNABLE DECEMBER 7, 2012)**

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TAB 1

Court File No. *Cv12-9930-0002*



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

IN THE MATTER OF THE RECEIVERSHIP OF First Leaside Wealth Management Inc., First Leaside Finance Inc., First Leaside Securities Inc., FL Securities Inc., Mill Street Limited Partnership, First Leaside Management Inc., Development Notes Limited Partnership, Special Notes Limited Partnership, First Leaside Accounting and Tax Services Inc., 2086056 Ontario Inc., First Leaside Properties Limited Partnership, First Leaside Realty Inc., First Leaside Realty Limited Partnership, First Leaside Realty II Inc., First Leaside Investors Limited Partnership, First Leaside Premier Limited Partnership, First Leaside Progressive Limited Partnership, First Leaside Realty II Limited Partnership, First Leaside Ultimate Limited Partnership, First Leaside Universal Limited Partnership, Uxbridge Development Limited Partnership, First Leaside Venture Limited Partnership, 965010 Ontario Inc., Wimberly Apartments Limited Partnership, 1045517 Ontario Inc., The Shores Limited Partnership, 1024919 Ontario Inc., Old Mill Pond Apartments Limited Partnership, 1031628 Ontario Inc., 1056971 Ontario Inc., The Bluffs of Lakewood Limited Partnership, 1376095 Ontario Inc., F.L. Spring Valley Limited Partnership, 1437290 Ontario Ltd., First Leaside Partners Limited Partnership, First Leaside Opportunities Limited Partnership, 1244428 Ontario Ltd., Preston Racquet Club Real Estate Limited Partnership Series 910PA, Preston Racquet Club Real Estate Limited Partnership Series 910PB, Preston Racquet Club Real Estate Limited Partnership Series 910PC, Preston Racquet Club Real Estate Limited Partnership Series 910PD, PrestonOne Development (Canada) Inc., PrestonTwo Development (Canada) Inc., PrestonThree Development (Canada) Inc., PrestonFour Development (Canada) Inc., 2088543 Ontario Inc., 2088544 Ontario Inc., F.L.W. Pond Master Ltd., 2088545 Ontario Inc., F.L.W. Shores Master Ltd., 1331607 Ontario Inc., First Leaside Acquisitions Limited Partnership, Queenston Manor General Partner Inc., Queenston Manor Limited Partnership, 2107738 Ontario Inc., First Leaside Advantage Limited Partnership, 2128054 Ontario Inc., First Leaside Elite Limited Partnership, 1132413 Ontario Inc., First Leaside Entities Limited Partnership, 2067171 Ontario Inc., First Leaside Expansion Limited Partnership, 2085306 Ontario Inc., First Leaside Growth Limited Partnership, 2086218 Ontario Inc., First Leaside Unity Limited Partnership, First Leaside Visions Management Inc., 2007804 Ontario Inc., First Leaside Wealth Management Limited Partnership, First Leaside Fund Management Inc., F.L. Beverages Group Limited Partnership, First Leaside Global Limited Partnership, Special U.S. Notes Limited Partnership, FLWM Holdings Limited Partnership, First Leaside Select Limited Partnership, Cherry Park Retirement Residences Limited Partnership, First Leaside Retirement Residences (Okanagan) Limited Partnership, Orchard Valley Retirement Residences Limited Partnership, The Shores Retirement Residences Limited Partnership (collectively, "Applicants")

APPLICATION UNDER section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended.

NOTICE OF APPLICATION

TO THE RESPONDENTS

A LEGAL PROCEEDING HAS BEEN COMMENCED by the Applicants. The claim made by the Applicants appears on the following page.

THIS APPLICATION will come on for a hearing on Friday, the 7th day of December, 2012, at 10:00 a.m., or as soon after that time as the application can be heard before a judge presiding over the Commercial List at 330 University Avenue, 8th Floor, in the City of Toronto, in the Province of Ontario.

IF YOU WISH TO OPPOSE THIS APPLICATION, to receive notice of any step in the application or to be served with any documents in the application you or an Ontario lawyer acting for you must forthwith prepare a notice of appearance in Form 38A prescribed by the *Rules of Civil Procedure*, serve it on the Applicants' lawyer or, where the Applicants does not have a lawyer, serve it on the Applicants, and file it, with proof of service, in this court office, and you or your lawyer must appear at the hearing.

IF YOU WISH TO PRESENT AFFIDAVIT OR OTHER DOCUMENTARY EVIDENCE TO THE COURT OR TO EXAMINE OR CROSS-EXAMINE WITNESSES ON THE APPLICATION, you or your lawyer must, in addition to serving your notice of appearance, serve a copy of the evidence on the Applicants' lawyer or, where the Applicants do not have a lawyer, serve it on the Applicants, and file it, with proof of service, in the court office where the application is to be heard as soon as possible, but at least four (4) days before the hearing.

IF YOU FAIL TO APPEAR AT THE HEARING, JUDGMENT MAY BE GIVEN IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO OPPOSE THIS APPLICATION BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date December 3, 2012

Issued by

Local Registrar

Address of

court office: 330 University Avenue, 7th floor
Toronto, Ontario
M5G 1R7

A. Anissimova
Registrar

TO: THE SERVICE LIST

APPLICATION

1. The applicant, First Leaside Wealth Management Inc. ("**FLWM**") and certain other related corporations and limited partnerships (collectively, "**Applicants**"), make an application for:

- (a) an Order validating the manner of service of the Application Record and declaring that the time for service of this Notice of Application and the Application Record herein be abridged so that this application is properly returnable today and that further service thereof is dispensed with;
- (b) an Order pursuant to section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended, appointing Grant Thornton Limited as receiver (in such capacity, "**Receiver**"), without security, over all of the property, assets and undertakings of the Applicants ("**Property**") substantially in the form of the draft Order attached hereto as **Schedule "A"**;
- (c) an Order granting the Receiver, its counsel and representative counsel ("**Representative Counsel**") of the nearly 1,200 investors in First Leaside Securities Inc., a first priority charge on the assets, undertakings and properties of the Applicants as security for fees and disbursements incurred in the administration of the Applicants' estate;
- (d) an Order authorizing the Receiver to conduct a claims bar process covering all claims ("**Claims**") that may be asserted against the Applicants based on acts, omissions, facts or circumstances existing up to December 7, 2012 ("**Claims Bar Process**") and, in particular, an Order

- (i) approving a form of notice to creditors in relation to the Claims Bar Process ("**Notice to Creditors**");
- (ii) establishing deadlines for
 - (A) posting the Claims Bar Process on the Receiver's website;
 - (B) giving notice of the Claims Bar Process to investors and creditors;
 - (C) filing proofs of claim against the Applicants; and
 - (D) responding to the Receiver's revision or disallowance of any Claim.
- (iii) implementing a process for adjudicating Claims; and
- (e) Such further and other relief as this Court deems just.

2. The grounds for the application are as follows:

- (a) At relevant times prior to February 23, 2012, the Applicants and certain other corporations and limited partnerships (collectively, "**First Leaside**") operated numerous businesses and held assets including: (i) a wealth management firm; (ii) a securities dealer regulated by the Investment Industry Regulatory Organization of Canada; (iii) multiple limited partnerships which own residential rental properties, nursing homes, and real estate developments in Canada and the United States; and (iv)

interests in several miscellaneous businesses, including Alberta accounting firms and a brewery;

- (b) In late 2011 and early 2012, First Leaside was facing serious cash flow and operational challenges;
- (c) In December 2011, First Leaside engaged the services of G.S. MacLeod & Associates Inc. ("**MacLeod & Associates**") to review its operations and provide recommendations on how to deal with the various financial issues it was facing. MacLeod & Associates ultimately determined that the best course of action was to undertake an orderly wind-down of the First Leaside operations under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36. ("**CCAA**");
- (d) In February 2012, First Leaside applied for protection under the CCAA;
- (e) By order of Mr. Justice David M. Brown dated February 23, 2012 ("**Initial Order**"), First Leaside was granted protection from its creditors under the CCAA. The Stay Period (as defined in the Initial Order) was extended on several subsequent occasions and currently expires on December 11, 2012;
- (f) Pursuant to the Initial Order, Grant Thornton Limited was appointed as monitor of First Leaside ("**Monitor**"), MacLeod & Associates was appointed as chief restructuring officer of First Leaside ("**CRO**") and Fraser Milner Casgrain LLP was appointed as Representative Counsel;

- (g) From the beginning, the clear stated purpose of the CCAA proceedings was to facilitate an orderly liquidation of First Leaside's assets to maximize value for creditors and investors;
- (h) The wind-down plan for First Leaside's operations and assets under the CCAA has been a success and has resulted in the sale of substantially all of First Leaside's assets;
- (i) What remains now is for First Leaside to sell a small number of its remaining real property assets, run a court-supervised Claims Bar Process, and distribute proceeds to approved creditors and investors on further direction from the Court ("**Final Activities**");
- (j) Given the narrow scope of the Final Activities, a CCAA proceeding is no longer necessary;
- (k) Instead, the Final Activities can be dealt with most expediently and effectively in a receivership proceeding;
- (l) The appointment of a Receiver is necessary in the circumstances to undertake the Final Activities and thereby complete the remaining steps in the liquidation of First Leaside's business for the benefit of creditors and investors;
- (m) The appointment of a Receiver is just and convenient;

- (n) Accordingly, concurrent with this application, First Leaside has brought a motion—also returnable on December 7, 2012—to terminate the CCAA proceedings, discharge the Monitor and CRO, and approve the fees and disbursements of the Monitor, its counsel and Representative Counsel;
 - (o) First Leaside will also seek an order containing provisions to permit a smooth transition from the existing CCAA proceedings to this receivership;
 - (p) Section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
 - (q) Rules 2.01, 2.03, 3.02 and 38 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194; and
 - (r) Such further and other grounds as counsel may advise and this Court may permit.
3. The following documentary evidence will be used at the hearing of the application:
- (a) The Affidavit of Gregory MacLeod, sworn December 3, 2012;
 - (b) The combined Seventh Report of the Monitor and Pre-Filing Report of the Proposed Receiver, filed separately; and
 - (c) The Consent of the Receiver dated December 7, 2012 (to be filed).

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December 3, 2012

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Lawyers for the Applicants

SCHEDULE "A"

Court File No. _____

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

THE HONOURABLE	)	FRIDAY, THE 7th
	)	
JUSTICE	)	DAY OF DECEMBER, 2012

IN THE MATTER OF THE RECEIVERSHIP OF First Leaside Wealth Management Inc., First Leaside Finance Inc., First Leaside Securities Inc., FL Securities Inc., Mill Street Limited Partnership, First Leaside Management Inc., Development Notes Limited Partnership, Special Notes Limited Partnership, First Leaside Accounting and Tax Services Inc., 2086056 Ontario Inc., First Leaside Properties Limited Partnership, First Leaside Realty Inc., First Leaside Realty Limited Partnership, First Leaside Realty II Inc., First Leaside Investors Limited Partnership, First Leaside Premier Limited Partnership, First Leaside Progressive Limited Partnership, First Leaside Realty II Limited Partnership, First Leaside Ultimate Limited Partnership, First Leaside Universal Limited Partnership, Uxbridge Development Limited Partnership, First Leaside Venture Limited Partnership, 965010 Ontario Inc., Wimberly Apartments Limited Partnership, 1045517 Ontario Inc., The Shores Limited Partnership, 1024919 Ontario Inc., Old Mill Pond Apartments Limited Partnership, 1031628 Ontario Inc., 1056971 Ontario Inc., The Bluffs of Lakewood Limited Partnership, 1376095 Ontario Inc., F.L. Spring Valley Limited Partnership, 1437290 Ontario Ltd., First Leaside Partners Limited Partnership, First Leaside Opportunities Limited Partnership, 1244428 Ontario Ltd., Preston Racquet Club Real Estate Limited Partnership Series 910PA, Preston Racquet Club Real Estate Limited Partnership Series 910PB, Preston Racquet Club Real Estate Limited Partnership Series 910PC, Preston Racquet Club Real Estate Limited Partnership Series 910PD, PrestonOne Development (Canada) Inc., PrestonTwo Development (Canada) Inc., PrestonThree Development (Canada) Inc., PrestonFour Development (Canada) Inc., 2088543 Ontario Inc., 2088544 Ontario Inc., F.L.W. Pond Master Ltd., 2088545 Ontario Inc., F.L.W. Shores Master Ltd., 1331607 Ontario Inc., First Leaside Acquisitions Limited Partnership, Queenston Manor General Partner Inc., Queenston Manor Limited Partnership, 2107738 Ontario Inc., First Leaside Advantage Limited Partnership, 2128054 Ontario Inc., First Leaside Elite Limited Partnership, 1132413 Ontario Inc., First Leaside Entities Limited Partnership, 2067171 Ontario Inc., First Leaside Expansion Limited Partnership, 2085306 Ontario Inc., First Leaside Growth Limited Partnership, 2086218 Ontario Inc., First Leaside Unity Limited Partnership, First Leaside Visions Management Inc., 2007804 Ontario Inc., First Leaside Wealth Management Limited Partnership, First Leaside Fund Management Inc., F.L. Beverages Group Limited Partnership, First Leaside Global Limited Partnership, Special U.S. Notes Limited Partnership, FLWM Holdings Limited Partnership, First Leaside Select Limited Partnership, Cherry Park Retirement Residences Limited Partnership, First Leaside Retirement Residences (Okanagan) Limited Partnership, Orchard Valley Retirement Residences Limited Partnership, The Shores Retirement Residences Limited Partnership (collectively, "Applicants")

RECEIVERSHIP ORDER

This application (the "**Application**") made by the above-noted Applicants (each, an "**Applicant**" and, collectively, "**First Leaside**") for an Order pursuant to section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**") appointing Grant Thornton Limited as receiver (in such capacities, the "**Receiver**") without security, of all of the assets, undertakings and properties of First Leaside acquired for, or used in relation to a business carried on by First Leaside, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING First Leaside's Notice of Application, the Affidavit of Gregory MacLeod, sworn December 3, 2012 and filed in Commercial List File No. CV-12-9617-00CL (the "**MacLeod Affidavit**"), the combined Seventh Report of Grant Thornton Limited, in its capacity as Court-appointed monitor, and pre-filing report of Grant Thornton Limited (as combined, the "**Seventh Report**"), in its capacity as proposed Receiver and on hearing the submissions of counsel for First Leaside, the Receiver and Fraser Milner Casgrain LLP in its capacity as Court-appointed representative counsel ("**Representative Counsel**") representing the interests of the nearly 1,200 clients of First Leaside Securities Inc. ("**FLSI**"), no one appearing for any other person on the service list, although properly served as appears from the affidavits of service of ● sworn December ●, 2012, filed:

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT OF RECEIVER

2. **THIS COURT ORDERS** that pursuant to section 101 of the CJA, Grant Thornton Limited is hereby appointed Receiver, without security, of all of the assets, undertakings and remaining properties of First Leaside acquired for, or used in relation to a business carried on by First Leaside, including all proceeds thereof (the "**Property**").

3. **THIS COURT DECLARES** that the Receiver is a receiver within the meaning of Section 243(2)(b) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "BIA").

4. **THIS COURT ORDERS** that the Receiver be and is hereby relieved from compliance with the provisions of Sections 245(1), 245(2) and 246 of the BIA; provided that the Receiver shall provide notice of its appointment by way of a copy of this Order to the Superintendent of Bankruptcy, accompanied by the prescribed fee.

RECEIVER'S POWERS

5. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property, including all monies (i) currently held in accounts in the name of and/or controlled by First Leaside, and (ii) received by First Leaside or the Receiver on behalf of First Leaside after the date hereof (collectively, the "Funds");
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of First Leaside, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all

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or any part of the business, or cease to perform any contracts of First Leaside;

- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons, including G.S. MacLeod & Associates Inc., Blake Cassels & Graydon LLP and Cassels Brock & Blackwell LLP, from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to seek Court approval of a claims procedure order (the "**Claims Procedure Order**") for purposes of establishing a process of determining the claims of creditors, investors and other stakeholders (the "**Claims Process**"), to conduct the Claims Process pursuant to the Claims Procedure Order, and to take such further steps and seek such additional orders as the Receiver considers necessary or appropriate to fully determine, resolve or deal with any claims in these receivership proceedings;
- (f) to settle, extend or compromise any indebtedness owing to First Leaside in the name of and on behalf of First Leaside, whether in connection with the Claims Procedure Order or otherwise;
- (g) to apply for one or more orders of the Court authorizing the distribution of Funds and any other proceeds of the Property upon the completion of all realization steps and the determination of all claims pursuant to the Claims Procedure Order or otherwise;
- (h) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of First Leaside or any part or parts thereof;

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- (i) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of First Leaside, for any purpose pursuant to this Order;
- (j) to receive and collect all monies and accounts now owed or hereafter owing to First Leaside and to exercise all remedies of First Leaside in collecting such monies, including, without limitation, to enforce any security held by First Leaside;
- (k) to undertake environmental or workers' health and safety assessments of the Property and operations of First Leaside;
- (l) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to First Leaside, the Property or the Receiver, including, without limitation, the action styled *First Leaside Wealth Management Inc., First Leaside Finance Inc., First Leaside Securities Inc. and FL Securities Inc. v. Phillips, Davis and 970877 Ontario Inc.*, Court File No. CV-12-9821-00CL, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding and to the giving of evidence or participating in any hearings or proceedings involving the Ontario Securities Commission or Investment Industry Regulatory Organization of Canada;
- (m) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;

- (n) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
 - (i) upon consultation with Representative Counsel but without the approval of this Court, in respect of any transaction not exceeding \$250,000, provided that the aggregate consideration for all such transactions does not exceed \$1,000,000; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;

and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply;

- (o) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (p) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (q) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;

- (r) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of any Applicant;
- (s) to enter into agreements with any trustee in bankruptcy appointed in respect of any Applicant, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by any Applicant.
- (t) to exercise any shareholder, partnership, joint venture or other rights which First Leaside may have;
- (u) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations;
- (v) to pay the costs and expenses of the receivership out of the Funds;
and
- (w) to apply for advice and directions from the Court with respect to any matter outstanding in these proceedings;

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including First Leaside, and without interference from any other Person.

6. **THIS COURT ORDERS** that the Receiver be authorized and empowered to

- (a) cause First Leaside Nominee Services Inc. ("**FL Nominee**"), as a wholly-owned subsidiary of First Leaside Wealth Management Inc., to distribute to investors in a syndicated mortgage in respect of the property known municipally as 90 King Street East, Thornbury, Ontario (Parcel Identification Numbers 37140-0546 (LT) and 37140-0546 (LT)) (the "**Thornbury Mortgage**") the current and net

future proceeds on account of principal and interest received and held by FL Nominee in respect of the Thornbury Mortgage, as approved by this Court on October 22, 2012;

- (b) sell or otherwise dispose of the property known municipally as 123 Erie Street, Wheatley, Ontario, a development site owned by First Leaside Unity Limited Partnership which limited partnership is owned by First Leaside Expansion Limited Partnership, subject to further Court approval;
- (c) sell or otherwise dispose of the property known municipally as 164 Cemetery Road, Uxbridge, Ontario, a 23 acre parcel of land (of which only 4 acres are developable) owned by Uxbridge Development Limited Partnership which limited partnership is owned by First Leaside Progressive Limited Partnership, subject to further Court approval; and
- (d) sell or otherwise dispose of the property known municipally as 62 Mill Street, Uxbridge, Ontario, a 3.74 acre plot of land containing a small heritage home, which is owned by Mill Street Limited Partnership which limited partnership is owned by First Leaside Investors Limited Partnership, subject to further Court approval.

7. **THIS COURT ORDERS** that, with respect to funds placed into escrow (the "**Escrowed Funds**") pursuant to sale agreements entered into by First Leaside prior to the date of this Receivership Order and related escrow agreements (collectively, a "**Sale Agreement**"), including, without limitation, funds placed into escrow pursuant to the BayBridge Agreement (as defined in the Affidavit of Gregory MacLeod, sworn October 15, 2012 and filed in Commercial List File No. CV-12-9617-00CL) and the related escrow agreement, the Receiver shall have the power to

- (a) negotiate with a counterparty to a sale agreement (a "**Counterparty**") to permit the consensual distribution of the

Escrowed Funds as permitted by the Sale Agreement ("**Consensual Distribution**");

- (b) seek approval of the Court concerning a settlement respecting a claim of the Counterparty or any other party to the Escrowed Funds (an "**Escrow Funds Claim**");
- (c) prepare statements and other documents relating to the Escrowed Funds and any Escrow Funds Claim;
- (d) mediate, arbitrate (if required by a Sale Agreement), or seek an adjudication by the Court of an Escrow Funds Claim;
- (e) otherwise seek directions of the Court concerning the Escrowed Funds and any Escrow Funds Claim;
- (f) direct any party holding Escrowed Funds (the "**Escrow Agent**") to pay all or part of funds to the Receiver, the Counterparty, or any third party pursuant to a Consensual Distribution or Court order (collectively, a "**Mandatory Payment**") and, upon making such Mandatory Payment, the Escrow Agent shall be discharged from any liability in relation to the Escrowed Funds so paid.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

8. **THIS COURT ORDERS** that (i) the Applicants, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being "**Persons**" and each being a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

9. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of any Applicant, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 9 or in paragraph 10 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

10. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE RECEIVER

11. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST FIRST LEASIDE OR THE PROPERTY

12. **THIS COURT ORDERS** that no Proceeding against or in respect of any Applicant or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of any Applicant or the Property and stayed pursuant to the Initial Order in Court File No. CV-12-9617-00CL, dated February 23, 2012 (the "**Initial Order**") and the Stay Period (as defined in the Initial Order and most recently extended through December 11, 2012) continue to be stayed and suspended pending further Order of this Court.

NO PROCEEDINGS AGAINST FIRST LEASIDE'S DIRECTORS AND OFFICERS

13. **THIS COURT ORDERS** that the stay of proceedings in respect of any current or former director or officer of any of the Applicants (each, a "**Director or Officer**"), provided in paragraph 24 of the Initial Order is hereby continued with respect to any claim against any Director or Officer that arose before the date hereof and that relates to any obligations of the Applicant whereby such Director or Officer is alleged to be liable in their capacity as Director or Officer for the payment or performance of such obligations, shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of any Director or Officer stayed pursuant to the Initial Order and the Stay Period, other than those Proceedings where leave of the Court to commence or continue such Proceedings has been granted, shall continue to be stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

14. **THIS COURT ORDERS** that all rights and remedies against any Applicant, the Receiver, or affecting the Property, are hereby and continue to be stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the *Bankruptcy and Insolvency Act* R.S.C. 1985, c. B-3, and further provided that nothing in this paragraph shall (a) empower the Receiver or First Leaside to carry on any business which First Leaside is not lawfully entitled to carry on, (b) exempt the Receiver or any Applicant from compliance with statutory or regulatory provisions relating to health, safety or the environment, (c) prevent the filing of any registration to preserve or perfect a security interest, or (d) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

15. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by any Applicant, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

16. **THIS COURT ORDERS** that all Persons having oral or written agreements with any Applicant or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to First Leaside are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of First Leaside's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of

First Leaside or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

17. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the "**Post Receivership Accounts**") and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

18. **THIS COURT ORDERS** that all employees of First Leaside shall remain the employees of First Leaside until such time as the Receiver, on First Leaside's behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

19. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a "**Sale**"). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such

information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property 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 First Leaside, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

20. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

21. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner*

Protection Program Act. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

22. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a charge on the Property ranking *pari passu* with the Administrative Charge established pursuant to the Initial Order and continued by the Discharge and Transition Order, dated December 7, 2012, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

24. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the normal rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

APPOINTMENT AND FEES OF REPRESENTATIVE COUNSEL

25. **THIS COURT ORDERS** that Fraser Milner Casgrain LLP's appointment as Representative Counsel for the clients of FLSI, as approved by paragraph 42 of the Initial Order, as amended by this Court on June 28, 2012, be and is hereby continued with respect to these receivership proceedings.

26. **THIS COURT ORDERS** that Representative Counsel are authorized to take all steps and do all acts necessary or desirable to carry out the terms of their appointment, including dealing with any Court, regulatory body or other government ministry, department or agency, and to take all such steps as are necessary or incidental thereto.

27. **THIS COURT ORDERS** that Representative Counsel shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, and that Representative Counsel shall be entitled to and is hereby granted a charge (the "**Representative Counsel Charge**") on the Property, which charge shall not exceed an aggregate amount of \$50,000, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Representative Counsel Charge shall form a charge on the Property ranking *pari passu* with the Receiver's Charge and the Administrative Charge established pursuant to the Initial Order and continued by the Discharge and Transition Order, dated December 7, 2012, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

28. **THIS COURT ORDERS** that Representative Counsel shall pass its accounts from time to time, and for this purpose the accounts of Representative Counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

GENERAL

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

30. **THIS COURT ORDERS** that, subject to paragraphs 22 and 27 above and subject to sections 14.07(7), 81.4(4) and 81.6(2) of the BIA, the Administration Charge, the Directors' Charge, the CRO Charge, and the Inter-Company Charge, (all as defined in the Initial Order) shall continue to apply to the Property in accordance with their priorities as established by the Initial Order.

31. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of any Applicant.

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

33. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

**IN THE MATTER OF THE RECEIVERSHIP OF FIRST LEASIDE
WEALTH MANAGEMENT INC. ET AL.**

Court File No:

Applicants

**ONTARIO
SUPERIOR COURT OF JUSTICE
(Commercial List)**

Proceeding commenced at Toronto

RECEIVERSHIP ORDER

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Lawyers for the Applicants

22309982.8

Court File No. *CV12-9930-0002*

**ONTARIO
SUPERIOR COURT OF JUSTICE
PROCEEDING COMMENCED AT
TORONTO**

NOTICE OF APPLICATION

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Lawyers for the Applicants

TAB 2

Court File No. CV12-9930-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE

)

FRIDAY, THE 7th

JUSTICE

)

DAY OF DECEMBER, 2012

)

IN THE MATTER OF THE RECEIVERSHIP OF First Leaside Wealth Management Inc., First Leaside Finance Inc., First Leaside Securities Inc., FL Securities Inc., Mill Street Limited Partnership, First Leaside Management Inc., Development Notes Limited Partnership, Special Notes Limited Partnership, First Leaside Accounting and Tax Services Inc., 2086056 Ontario Inc., First Leaside Properties Limited Partnership, First Leaside Realty Inc., First Leaside Realty Limited Partnership, First Leaside Realty II Inc., First Leaside Investors Limited Partnership, First Leaside Premier Limited Partnership, First Leaside Progressive Limited Partnership, First Leaside Realty II Limited Partnership, First Leaside Ultimate Limited Partnership, First Leaside Universal Limited Partnership, Uxbridge Development Limited Partnership, First Leaside Venture Limited Partnership, 965010 Ontario Inc., Wimberly Apartments Limited Partnership, 1045517 Ontario Inc., The Shores Limited Partnership, 1024919 Ontario Inc., Old Mill Pond Apartments Limited Partnership, 1031628 Ontario Inc., 1056971 Ontario Inc., The Bluffs of Lakewood Limited Partnership, 1376095 Ontario Inc., F.L. Spring Valley Limited Partnership, 1437290 Ontario Ltd., First Leaside Partners Limited Partnership, First Leaside Opportunities Limited Partnership, 1244428 Ontario Ltd., Preston Racquet Club Real Estate Limited Partnership Series 910PA, Preston Racquet Club Real Estate Limited Partnership Series 910PB, Preston Racquet Club Real Estate Limited Partnership Series 910PC, Preston Racquet Club Real Estate Limited Partnership Series 910PD, PrestonOne Development (Canada) Inc., PrestonTwo Development (Canada) Inc., PrestonThree Development (Canada) Inc., PrestonFour Development (Canada) Inc., 2088543 Ontario Inc., 2088544 Ontario Inc., F.L.W. Pond Master Ltd., 2088545 Ontario Inc., F.L.W. Shores Master Ltd., 1331607 Ontario Inc., First Leaside Acquisitions Limited Partnership, Queenston Manor General Partner Inc., Queenston Manor Limited Partnership, 2107738 Ontario Inc., First Leaside Advantage Limited Partnership, 2128054 Ontario Inc., First Leaside Elite Limited Partnership, 1132413 Ontario Inc., First Leaside Entities Limited Partnership, 2067171 Ontario Inc., First Leaside Expansion Limited Partnership, 2085306 Ontario Inc., First Leaside Growth Limited Partnership, 2086218 Ontario Inc., First Leaside Unity Limited Partnership, First Leaside Visions Management Inc., 2007804 Ontario Inc., First Leaside Wealth Management Limited Partnership, First Leaside Fund Management Inc., F.L. Beverages Group Limited Partnership, First Leaside Global Limited Partnership, Special U.S. Notes Limited Partnership, FLWM Holdings Limited Partnership, First Leaside Select Limited Partnership, Cherry Park Retirement Residences Limited Partnership, First Leaside Retirement Residences (Okanagan) Limited Partnership, Orchard Valley Retirement Residences Limited Partnership, The Shores Retirement Residences Limited Partnership (collectively, "Applicants")

RECEIVERSHIP ORDER

This application (the "**Application**") made by the above-noted Applicants (each, an "**Applicant**" and, collectively, "**First Leaside**") for an Order pursuant to section 101 of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended (the "**CJA**") appointing Grant Thornton Limited as receiver (in such capacities, the "**Receiver**") without security, of all of the assets, undertakings and properties of First Leaside acquired for, or used in relation to a business carried on by First Leaside, was heard this day at 330 University Avenue, Toronto, Ontario.

ON READING First Leaside's Notice of Application, the Affidavit of Gregory MacLeod, sworn December 3, 2012 and filed in Commercial List File No. CV-12-9617-00CL (the "**MacLeod Affidavit**"), the combined Seventh Report of Grant Thornton Limited, in its capacity as Court-appointed monitor, and pre-filing report of Grant Thornton Limited (as combined, the "**Seventh Report**"), in its capacity as proposed Receiver and on hearing the submissions of counsel for First Leaside, the Receiver and Fraser Milner Casgrain LLP in its capacity as Court-appointed representative counsel ("**Representative Counsel**") representing the interests of the nearly 1,200 clients of First Leaside Securities Inc. ("**FLSI**"), no one appearing for any other person on the service list, although properly served as appears from the affidavits of service of ● sworn December ●, 2012, filed:

SERVICE

1. **THIS COURT ORDERS** that the time for service of the Notice of Application and the Application Record is hereby abridged and validated so that this Application is properly returnable today and hereby dispenses with further service thereof.

APPOINTMENT OF RECEIVER

2. **THIS COURT ORDERS** that pursuant to section 101 of the CJA, Grant Thornton Limited is hereby appointed Receiver, without security, of all of the assets, undertakings and remaining properties of First Leaside acquired for, or used in relation to a business carried on by First Leaside, including all proceeds thereof (the "**Property**").

3. **THIS COURT DECLARES** that the Receiver is a receiver within the meaning of Section 243(2)(b) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**").

4. **THIS COURT ORDERS** that the Receiver be and is hereby relieved from compliance with the provisions of Sections 245(1), 245(2) and 246 of the BIA; provided that the Receiver shall provide notice of its appointment by way of a copy of this Order to the Superintendent of Bankruptcy, accompanied by the prescribed fee.

RECEIVER'S POWERS

5. **THIS COURT ORDERS** that the Receiver is hereby empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is hereby expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable:

- (a) to take possession of and exercise control over the Property and any and all proceeds, receipts and disbursements arising out of or from the Property, including all monies (i) currently held in accounts in the name of and/or controlled by First Leaside, and (ii) received by First Leaside or the Receiver on behalf of First Leaside after the date hereof (collectively, the "**Funds**");
- (b) to receive, preserve, and protect the Property, or any part or parts thereof, including, but not limited to, the changing of locks and security codes, the relocating of Property to safeguard it, the engaging of independent security personnel, the taking of physical inventories and the placement of such insurance coverage as may be necessary or desirable;
- (c) to manage, operate, and carry on the business of First Leaside, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all

or any part of the business, or cease to perform any contracts of First Leaside;

- (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons, including G.S. MacLeod & Associates Inc., Blake Cassels & Graydon LLP and Cassels Brock & Blackwell LLP, from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including without limitation those conferred by this Order;
- (e) to seek Court approval of a claims procedure order (the "**Claims Procedure Order**") for purposes of establishing a process of determining the claims of creditors, investors and other stakeholders (the "**Claims Process**"), to conduct the Claims Process pursuant to the Claims Procedure Order, and to take such further steps and seek such additional orders as the Receiver considers necessary or appropriate to fully determine, resolve or deal with any claims in these receivership proceedings;
- (f) to settle, extend or compromise any indebtedness owing to First Leaside in the name of and on behalf of First Leaside, whether in connection with the Claims Procedure Order or otherwise;
- (g) to apply for one or more orders of the Court authorizing the distribution of Funds and any other proceeds of the Property upon the completion of all realization steps and the determination of all claims pursuant to the Claims Procedure Order or otherwise;
- (h) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of First Leaside or any part or parts thereof;

- (i) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of First Leaside, for any purpose pursuant to this Order;
- (j) to receive and collect all monies and accounts now owed or hereafter owing to First Leaside and to exercise all remedies of First Leaside in collecting such monies, including, without limitation, to enforce any security held by First Leaside;
- (k) to undertake environmental or workers' health and safety assessments of the Property and operations of First Leaside;
- (l) to initiate, prosecute and continue the prosecution of any and all proceedings and to defend all proceedings now pending or hereafter instituted with respect to First Leaside, the Property or the Receiver, including, without limitation, the action styled *First Leaside Wealth Management Inc., First Leaside Finance Inc., First Leaside Securities Inc. and FL Securities Inc. v. Phillips, Davis and 970877 Ontario Inc.*, Court File No. CV-12-9821-00CL, and to settle or compromise any such proceedings. The authority hereby conveyed shall extend to such appeals or applications for judicial review in respect of any order or judgment pronounced in any such proceeding and to the giving of evidence or participating in any hearings or proceedings involving the Ontario Securities Commission or Investment Industry Regulatory Organization of Canada;
- (m) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver in its discretion may deem appropriate;

- (n) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business,
 - (i) upon consultation with Representative Counsel but without the approval of this Court, in respect of any transaction not exceeding \$250,000, provided that the aggregate consideration for all such transactions does not exceed \$1,000,000; and
 - (ii) with the approval of this Court in respect of any transaction in which the purchase price or the aggregate purchase price exceeds the applicable amount set out in the preceding clause;
- and in each such case notice under subsection 63(4) of the Ontario *Personal Property Security Act*, or section 31 of the Ontario *Mortgages Act*, as the case may be, shall not be required, and in each case the Ontario *Bulk Sales Act* shall not apply;
- (o) to apply for any vesting order or other orders necessary to convey the Property or any part or parts thereof to a purchaser or purchasers thereof, free and clear of any liens or encumbrances affecting such Property;
- (p) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver deems appropriate on all matters relating to the Property and the receivership, and to share information, subject to such terms as to confidentiality as the Receiver deems advisable;
- (q) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;

- (r) to apply for any permits, licences, approvals or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if thought desirable by the Receiver, in the name of any Applicant;
- (s) to enter into agreements with any trustee in bankruptcy appointed in respect of any Applicant, including, without limiting the generality of the foregoing, the ability to enter into occupation agreements for any property owned or leased by any Applicant.
- (t) to exercise any shareholder, partnership, joint venture or other rights which First Leaside may have;
- (u) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations;
- (v) to pay the costs and expenses of the receivership out of the Funds; and
- (w) to apply for advice and directions from the Court with respect to any matter outstanding in these proceedings;

and in each case where the Receiver takes any such actions or steps, it shall be exclusively authorized and empowered to do so, to the exclusion of all other Persons (as defined below), including First Leaside, and without interference from any other Person.

6. **THIS COURT ORDERS** that the Receiver be authorized and empowered to

- (a) cause First Leaside Nominee Services Inc. ("**FL Nominee**"), as a wholly-owned subsidiary of First Leaside Wealth Management Inc., to distribute to investors in a syndicated mortgage in respect of the property known municipally as 90 King Street East, Thornbury, Ontario (Parcel Identification Numbers 37140-0546 (LT) and 37140-0546 (LT)) (the "**Thornbury Mortgage**") the current and net

future proceeds on account of principal and interest received and held by FL Nominee in respect of the Thornbury Mortgage, as approved by this Court on October 22, 2012;

- (b) sell or otherwise dispose of the property known municipally as 123 Erie Street, Wheatley, Ontario, a development site owned by First Leaside Unity Limited Partnership which limited partnership is owned by First Leaside Expansion Limited Partnership, subject to further Court approval;
- (c) sell or otherwise dispose of the property known municipally as 164 Cemetery Road, Uxbridge, Ontario, a 23 acre parcel of land (of which only 4 acres are developable) owned by Uxbridge Development Limited Partnership which limited partnership is owned by First Leaside Progressive Limited Partnership, subject to further Court approval; and
- (d) sell or otherwise dispose of the property known municipally as 62 Mill Street, Uxbridge, Ontario, a 3.74 acre plot of land containing a small heritage home, which is owned by Mill Street Limited Partnership which limited partnership is owned by First Leaside Investors Limited Partnership, subject to further Court approval.

7. **THIS COURT ORDERS** that, with respect to funds placed into escrow (the “**Escrowed Funds**”) pursuant to sale agreements entered into by First Leaside prior to the date of this Receivership Order and related escrow agreements (collectively, a “**Sale Agreement**”), including, without limitation, funds placed into escrow pursuant to the BayBridge Agreement (as defined in the Affidavit of Gregory MacLeod, sworn October 15, 2012 and filed in Commercial List File No. CV-12-9617-00CL) and the related escrow agreement, the Receiver shall have the power to

- (a) negotiate with a counterparty to a sale agreement (a “**Counterparty**”) to permit the consensual distribution of the

Escrowed Funds as permitted by the Sale Agreement (**"Consensual Distribution"**);

- (b) seek approval of the Court concerning a settlement respecting a claim of the Counterparty or any other party to the Escrowed Funds (an **"Escrow Funds Claim"**);
- (c) prepare statements and other documents relating to the Escrowed Funds and any Escrow Funds Claim;
- (d) mediate, arbitrate (if required by a Sale Agreement), or seek an adjudication by the Court of an Escrow Funds Claim;
- (e) otherwise seek directions of the Court concerning the Escrowed Funds and any Escrow Funds Claim;
- (f) direct any party holding Escrowed Funds (the **"Escrow Agent"**) to pay all or part of funds to the Receiver, the Counterparty, or any third party pursuant to a Consensual Distribution or Court order (collectively, a **"Mandatory Payment"**) and, upon making such Mandatory Payment, the Escrow Agent shall be discharged from any liability in relation to the Escrowed Funds so paid.

DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER

8. **THIS COURT ORDERS** that (i) the Applicants, (ii) all of their current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf, and (iii) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (all of the foregoing, collectively, being **"Persons"** and each being a **"Person"**) shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, and shall deliver all such Property to the Receiver upon the Receiver's request.

9. **THIS COURT ORDERS** that all Persons shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs of any Applicant, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (the foregoing, collectively, the "**Records**") in that Person's possession or control, and shall provide to the Receiver or permit the Receiver to make, retain and take away copies thereof and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities relating thereto, provided however that nothing in this paragraph 9 or in paragraph 10 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to the privilege attaching to solicitor-client communication or due to statutory provisions prohibiting such disclosure.

10. **THIS COURT ORDERS** that if any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information onto paper or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may in its discretion require including providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

NO PROCEEDINGS AGAINST THE RECEIVER

11. **THIS COURT ORDERS** that no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**"), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

NO PROCEEDINGS AGAINST FIRST LEASIDE OR THE PROPERTY

12. **THIS COURT ORDERS** that no Proceeding against or in respect of any Applicant or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of any Applicant or the Property and stayed pursuant to the Initial Order in Court File No. CV-12-9617-00CL, dated February 23, 2012 (the "**Initial Order**") and the Stay Period (as defined in the Initial Order and most recently extended through December 11, 2012) continue to be stayed and suspended pending further Order of this Court.

NO PROCEEDINGS AGAINST FIRST LEASIDE'S DIRECTORS AND OFFICERS

13. **THIS COURT ORDERS** that the stay of proceedings in respect of any current or former director or officer of any of the Applicants (each, a "**Director or Officer**"), provided in paragraph 24 of the Initial Order is hereby continued with respect to any claim against any Director or Officer that arose before the date hereof and that relates to any obligations of the Applicant whereby such Director or Officer is alleged to be liable in their capacity as Director or Officer for the payment or performance of such obligations, shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of any Director or Officer stayed pursuant to the Initial Order and the Stay Period, other than those Proceedings where leave of the Court to commence or continue such Proceedings has been granted, shall continue to be stayed and suspended pending further Order of this Court.

NO EXERCISE OF RIGHTS OR REMEDIES

14. **THIS COURT ORDERS** that all rights and remedies against any Applicant, the Receiver, or affecting the Property, are hereby and continue to be stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that this stay and suspension does not apply in respect of any "eligible financial contract" as defined in the *Bankruptcy and Insolvency Act* R.S.C. 1985, c. B-3, and further provided that nothing in this paragraph shall (a) empower the Receiver or First Leaside to carry on any business which First Leaside is not lawfully entitled to carry on, (b) exempt the Receiver or any Applicant from compliance with statutory or regulatory provisions relating to health, safety or the environment, (c) prevent the filing of any registration to preserve or perfect a security interest, or (d) prevent the registration of a claim for lien.

NO INTERFERENCE WITH THE RECEIVER

15. **THIS COURT ORDERS** that no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by any Applicant, without written consent of the Receiver or leave of this Court.

CONTINUATION OF SERVICES

16. **THIS COURT ORDERS** that all Persons having oral or written agreements with any Applicant or statutory or regulatory mandates for the supply of goods and/or services, including without limitation, all computer software, communication and other data services, centralized banking services, payroll services, insurance, transportation services, utility or other services to First Leaside are hereby restrained until further Order of this Court from discontinuing, altering, interfering with or terminating the supply of such goods or services as may be required by the Receiver, and that the Receiver shall be entitled to the continued use of First Leaside's current telephone numbers, facsimile numbers, internet addresses and domain names, provided in each case that the normal prices or charges for all such goods or services received after the date of this Order are paid by the Receiver in accordance with normal payment practices of

First Leaside or such other practices as may be agreed upon by the supplier or service provider and the Receiver, or as may be ordered by this Court.

RECEIVER TO HOLD FUNDS

17. **THIS COURT ORDERS** that all funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever, including without limitation the sale of all or any of the Property and the collection of any accounts receivable in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the “**Post Receivership Accounts**”) and the monies standing to the credit of such Post Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further Order of this Court.

EMPLOYEES

18. **THIS COURT ORDERS** that all employees of First Leaside shall remain the employees of First Leaside until such time as the Receiver, on First Leaside’s behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities, including any successor employer liabilities as provided for in section 14.06(1.2) of the BIA, other than such amounts as the Receiver may specifically agree in writing to pay, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*.

PIPEDA

19. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, the Receiver shall disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a “**Sale**”). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such

information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property 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 First Leaside, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

LIMITATION ON ENVIRONMENTAL LIABILITIES

20. **THIS COURT ORDERS** that nothing herein contained shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, "**Possession**") of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release or deposit of a substance contrary to any federal, provincial or other law respecting the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination including, without limitation, the *Canadian Environmental Protection Act*, the *Ontario Environmental Protection Act*, the *Ontario Water Resources Act*, or the *Ontario Occupational Health and Safety Act* and regulations thereunder (the "**Environmental Legislation**"), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver's duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless it is actually in possession.

LIMITATION ON THE RECEIVER'S LIABILITY

21. **THIS COURT ORDERS** that the Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except for any gross negligence or wilful misconduct on its part, or in respect of its obligations under sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner*

Protection Program Act. Nothing in this Order shall derogate from the protections afforded the Receiver by section 14.06 of the BIA or by any other applicable legislation.

RECEIVER'S ACCOUNTS

22. **THIS COURT ORDERS** that the Receiver and counsel to the Receiver shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, and that the Receiver and counsel to the Receiver shall be entitled to and are hereby granted a charge (the "**Receiver's Charge**") on the Property, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Receiver's Charge shall form a charge on the Property ranking *pari passu* with the Administrative Charge established pursuant to the Initial Order and continued by the Discharge and Transition Order, dated December 7, 2012, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

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

24. **THIS COURT ORDERS** that prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the normal rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

APPOINTMENT AND FEES OF REPRESENTATIVE COUNSEL

25. **THIS COURT ORDERS** that Fraser Milner Casgrain LLP's appointment as Representative Counsel for the clients of FLSI, as approved by paragraph 42 of the Initial Order, as amended by this Court on June 28, 2012, be and is hereby continued with respect to these receivership proceedings.

26. **THIS COURT ORDERS** that Representative Counsel are authorized to take all steps and do all acts necessary or desirable to carry out the terms of their appointment, including dealing with any Court, regulatory body or other government ministry, department or agency, and to take all such steps as are necessary or incidental thereto.

27. **THIS COURT ORDERS** that Representative Counsel shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, and that Representative Counsel shall be entitled to and is hereby granted a charge (the "**Representative Counsel Charge**") on the Property, which charge shall not exceed an aggregate amount of \$50,000, as security for such fees and disbursements, both before and after the making of this Order in respect of these proceedings, and that the Representative Counsel Charge shall form a charge on the Property ranking *pari passu* with the Receiver's Charge and the Administrative Charge established pursuant to the Initial Order and continued by the Discharge and Transition Order, dated December 7, 2012, but subject to sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

28. **THIS COURT ORDERS** that Representative Counsel shall pass its accounts from time to time, and for this purpose the accounts of Representative Counsel are hereby referred to a judge of the Commercial List of the Ontario Superior Court of Justice.

GENERAL

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

30. **THIS COURT ORDERS** that, subject to paragraphs 22 and 27 above and subject to sections 14.07(7), 81.4(4) and 81.6(2) of the BIA, the Administration Charge, the Directors' Charge, the CRO Charge, and the Inter-Company Charge, (all as defined in the Initial Order) shall continue to apply to the Property in accordance with their priorities as established by the Initial Order.

31. **THIS COURT ORDERS** that nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of any Applicant.

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

33. **THIS COURT ORDERS** that the Receiver be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order, and that the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.

**IN THE MATTER OF THE RECEIVERSHIP OF FIRST LEASIDE
WEALTH MANAGEMENT INC. ET AL.**

Court File No: CV12-9930-00CL

Applicants

ONTARIO SUPERIOR COURT OF JUSTICE (Commercial List)	
Proceeding commenced at Toronto	
RECEIVERSHIP ORDER	
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**IN THE MATTER OF THE RECEIVERSHIP OF FIRST LEASIDE WEALTH MANAGEMENT
INC. ET AL.**

Court File No. CV-12-9930-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

IN THE MATTER OF

**PROCEEDING COMMENCED AT
TORONTO**

**APPLICATION RECORD
(RETURNALE DECEMBER 7, 2012)**

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