



No. S-244252

Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

**THE UNITED STATES LIFE INSURANCE COMPANY IN THE CITY OF NEW YORK, and
AMERICAN HOME ASSURANCE COMPANY**

PETITIONERS

AND:

SCREO I METROTOWN INC., and SCREO I METROTOWN L.P.

RESPONDENTS

**FIRST REPORT OF THE RECEIVER
ALVAREZ & MARSAL CANADA INC.
OCTOBER 30, 2024**

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1.0 INTRODUCTION

- 1.1 On July 8, 2024 (the “**Receivership Date**”), upon application of The United States Life Insurance Company In The City of New York and American Home Assurance Company (collectively, the “**Petitioners**”), Alvarez & Marsal Canada Inc. (“**A&M**”) was appointed as Receiver (the “**Receiver**”) pursuant to a receivership order (the “**Receivership Order**”) granted by the Honourable Justice Brongers on that day, of the real property legally described as PID 031-357-881, Lot 1 District Lot 153 Group 1 New Westminster District Plan EPP107270 (the “**Real Property**”) owned by (i) SCREO I Metrotown Inc. (the “**Legal Owner**”), and (ii) SCREO I Metrotown L.P. (the “**Beneficial Owner**”, and together with the Legal Owner, the “**Debtors**”), together with all of the assets, undertakings and property, both real and personal, located at, relating to or used in connection with the Real Property and all proceeds thereof (collectively, the “**Property**”), including the beneficial ownership interest in and to such property, whether held directly or indirectly by the Beneficial Owner for itself or for others. This matter is hereinafter referred to more generally as, the “**Receivership Proceedings**”.
- 1.2 The Debtors are special purpose vehicles that are affiliated with Slate Canadian Real Estate Opportunity Fund I L.P. (“**Slate CREO Fund**”). The Debtors were formed to acquire and develop two vacant office towers located in 4330 Kingsway Avenue and 5945 Kathleen Avenue, Burnaby, British Columbia (collectively, the “**Towers**”). The Debtors have no other business activity apart from being the owner of the Towers.
- 1.3 The Receivership Order along with select application materials and other documents filed in the Receivership Proceedings are available for review by interested parties and posted on the Receiver’s website at www.alvarezandmarsal.com/screometrotown.

2.0 PURPOSE OF THE FIRST REPORT

- 2.1 This is the first report of the Receiver (the “**First Report**”) and has been prepared to provide this Honourable Court with information regarding the following:
- a) background with respect to the Debtors and the Towers;
 - b) an update on the activities of the Receiver since commencement of the Receivership Proceedings;
 - c) the Receiver’s interim statement of receipts and disbursements for the period from July 8 to October 25, 2024;
 - d) the particulars and status of the sales process undertaken by the Receiver to solicit offers to purchase the Debtors’ assets (the “**Sales Process**”);

- e) proposed distributions to the Petitioners; and
- f) the recommendations of the Receiver.

3.0 BACKGROUND

Corporate Ownership

- 3.1 As noted earlier, the Debtors are special purpose vehicles that are affiliated with the Slate CREO Fund. Both SCREO I Metrotown Inc. (Legal Owner) and SCREO I Metrotown L.P. (Beneficial Owner) are Ontario corporations with registered head office at 121 King Street West, Suite 200, Toronto, Ontario.
- 3.2 It is the Receiver's understanding that the Beneficial Owner is the sole shareholder of the Legal Owner. The Legal Owner holds legal title to the Properties as a bare nominee for the Beneficial Owner.
- 3.3 SCREO I Metrotown GP Inc. (not a party to the Receivership Proceedings) is the sole general partner of the Beneficial Owner. Slate CREO Fund is the sole limited partner of the Beneficial Owner.

The Towers

- 3.4 The properties owned by the Debtors consist of the following:
 - a) 4330 Kingsway, Burnaby, B.C. ("**Tower 1**"); and
 - b) 5945 Kathleen Avenue, Burnaby, B.C. ("**Tower 3**").
- 3.5 Tower 1 and Tower 3 have been legally consolidated into one parcel identifier: PID 031-357-881, Lot 1 District Lot 153 Group 1 New Westminster District Plan EPP107270.

The Loan

- 3.6 On March 12, 2019, the Legal Owner entered into a loan agreement ("**Loan Agreement**") with availability in the aggregate principal amount of \$88,308,000 (the "**Loan**") for the acquisition of and for the proposed residential and commercial development of the Towers. The Loan was to be advanced by way of two tranches. The initial tranche was advanced on March 12, 2019 in the principal amount of \$63,308,000 and the full amount was used to fund the acquisition of the Towers. The second tranche of \$25,000,000 was not funded under the Loan Agreement as conditions to receive an advance were never met.
- 3.7 The Beneficial Owner has guaranteed the Loan and granted security interests for the payment and performance of the obligations of the Legal Owner under the Loan Agreement.

- 3.8 The Loan had an original maturity date of April 1, 2022. As the original maturity date approached, the Debtors advised the Petitioners that they were not able to repay the Loan. Further extensions on the Loan maturity date were provide by the Petitioners to the Debtors, and on November 13, 2023, the parties entered into a forbearance agreement (the “**Forbearance Agreement**”), in order to facilitate the Debtors’ efforts in marketing and selling the Towers under a sales process (the “**Pre-Filing Sales Process**”, subsequently discussed). As part of the Forbearance Agreement, the Debtors, among other things, signed and delivered a Consent to Receivership Order to the Petitioners.
- 3.9 The Pre-Filing Sales Process did not ultimately result in a transaction, and accordingly, on June 8, 2024, the Petitioners delivered a Notice of Termination of Forbearance to the Debtors, advising them of the termination of the Forbearance Agreement.
- 3.10 On June 21, 2024, the Petitioners made the Receivership application to this Honourable Court.
- 3.11 As of the Receivership Date, the Debtors had a total of approximately \$59.1 million of liabilities comprised as follows:

| SCERO Metrotown Liabilities as at July 8, 2024 Per Company's records \$'000 | |
|--|--------------|
| Creditor Type | Claim Amount |
| Secured creditors | \$49,780 |
| Unsecured creditors | 9,334 |
| Total | \$59,114 |

- 3.12 As at June 20, 2024, the total outstanding principal balance under the Loan Agreement was \$48,962,830.73.
- 3.13 Other secured liabilities include unpaid property taxes of approximately \$817,000, and a security registration from Computershare Trust Company of Canada, in its capacity as agent, nominee and bare trustee for Timbercreek Mortgage Servicing Inc. (“**Timbercreek**”). As of the date of this First Report, the Receiver has yet to ascertain the validity and quantum of Timbercreek’s claim.
- 3.14 Unsecured liabilities include an amount due to Metro Vancouver Water Services for \$9 million, in relation to a Seismic Upgrade Variance Guarantee agreement dated March 12, 2019 between the Debtors, Slate Acquisitions Inc. and Great Vancouver Water District, and other liabilities that have arisen from site maintenance.

4.0 ACTIVITIES OF THE RECEIVER SINCE ITS APPOINTMENT

4.1 Since the Receivership Date and up to and including the date of this First Report, the Receiver's activities have included the following:

Possession, Preservation and Marketing of Assets

- a) attending on site at the Towers to inspect the properties;
- b) advising Colliers Macaulay Nicolls Inc. in their capacity as property manager, of the Receivership Proceedings, and requesting continuation of service;
- c) issuing notices to Canadian Imperial Bank of Commerce to freeze any account under the name of the Debtors and transfer balances to the Receiver's trust account;
- d) setting up the Receiver's website and updating it with pertinent information relating to the Receivership Proceedings;
- e) providing the Towers' insurance broker with a copy of the Receivership Order and upon review of the property and liability cover, directing the insurance broker to have the Receiver added as first named insured and loss payee on the Towers' insurance policies;
- f) attending to the maintenance of the Towers, including attending to a water damage that occurred on August 1, 2024, including but not limited to, reporting the incident to the insurance broker, taking steps to preserve the assets and obtaining a quote for repairs (and posting the quote in the virtual data room under the Sales Process);
- g) retaining CBRE Limited ("CBRE") to market the Towers and gathering due diligence and marketing materials for CBRE to be included in a brochure and in a virtual data room;
- h) attending to various inquiries from CBRE in respect of potential purchasers;
- i) attending periodic update calls with CBRE and communicating updates to the Petitioners;
- j) drafting general site and other updates to the Petitioners;
- k) reviewing and executing the Third Omnibus Amendment Agreement with the Petitioners, primarily in respect of the change in definition of "Interest Rate" due to the retirement of the Canadian Dollar Offered Rate (CDOR) on June 28, 2024 and the transition to the Canadian Overnight Repo Rate Average (CORRA);

Receiver's Borrowings and Receiver's Cash Receipts and Disbursements

- l) entering into a Term Sheet with the Petitioners and borrowing \$400,000 from the Petitioners to fund the cost of the Receivership Proceedings;
- m) reviewing invoices, making necessary payments and maintaining a ledger of cash receipts and disbursements;

Retention of Legal Counsel

- n) retaining Dentons Canada LLP (“**Dentons**”) as the Receiver’s independent legal counsel and instructing Dentons to assist with various matters, including but not limited to the sale process, and performing various security reviews; and

Statutory Duties

- o) attending to various statutory notices pursuant to the *Bankruptcy and Insolvency Act* and *Personal Property Security Act* (British Columbia) including mailing a Notice and Statement of Receiver to approximately 25 creditors identified in the books and records of the Debtors, posting a copy on the Receiver’s Website and publishing the Notice of Appointment of Receiver of Property in The Province on July 11, 2024.

5.0 RECEIVER’S INTERIM STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS

- 5.1 The Receiver’s interim statement of cash receipts and disbursements for the period July 8, 2024 to October 25, 2024 (the “**Reporting Period**”) is summarized in the table below:

| SCREO 1 Metrotown Inc. and SCREO 1 Metrotown LP Interim Statement of Cash Receipts and Disbursements For the period July 8, 2024 to October 25, 2024 \$000's | | |
|---|-----------|----------------|
| Receipts | | |
| Receiver's borrowings | \$ | 400,000 |
| Rent and other receipts | | 2,488 |
| Total receipts | | 402,488 |
| Disbursements | | |
| General and administrative | | 148 |
| Security | | 5,468 |
| Repairs and maintenance | | 43,153 |
| Utilities | | 561 |
| Insurance | | 57,717 |
| Property management | | 18,563 |
| Receiver's fees and disbursements | | 55,538 |
| Legal fees and disbursements | | 26,013 |
| Professional fees | | 17,504 |
| GST paid on disbursements | | 8,315 |
| PST paid on disbursements | | 1,746 |
| Total disbursements | | 234,727 |
| Net cash flow (deficit) | \$ | 167,761 |
| Cash position | | |
| Opening cash | | - |
| Net cash flow (deficit) | | 167,761 |
| Closing cash | \$ | 167,761 |

5.2 During the Reporting Period:

- a) total receipts of approximately \$402,488 were primarily comprised of the Receiver's borrowings (\$400,000) and parking rental receipts;
- b) total disbursements approximating \$234,727 consisted primarily of property management fees, utilities and security services to maintain the Towers, as well as the Receiver and its legal counsel fees to attend to, among other things, statutory and general matters in respect of the Receivership Proceedings and sales and marketing matters.

6.0 SALES PROCESS

6.1 Prior to the Receivership Proceedings, the Debtors had retained RBC Capital Markets Real Estate Group and Cushman & Wakefield ULC (the individuals responsible subsequently joined Jones Lang LaSalle) on July 28, 2023 to market the Towers. The Pre-Filing Sales Process was marketed to approximately 450 parties, and resulted in a binding purchase agreement (the "**Pre-Filing Purchase Agreement**") being entered into between the Beneficial Owner and an interested party (the "**Pre-Filing Purchaser**"). Ultimately, the Pre-Filing Purchaser did not waive its diligence conditions, and the Pre-Filing Purchase Agreement was terminated in June 2024.

6.2 Upon the Receiver's appointment, the Receiver sought proposals for a marketing process within the Receivership Proceedings from three marketing agents. Upon review of the proposals received, and in consultation with the Petitioners, the Receiver retained CBRE on August 1, 2024 to market the Towers. CBRE promptly set up a data room containing due diligence materials, which were made available to potential purchasers subsequent to executing a Non-Disclosure Agreement ("**NDA**").

6.3 The Sales Process commenced on August 9, 2024. During the marketing process, CBRE broadcast the offering to a total of 1,662 parties. 15 parties signed NDAs and 13 parties accessed the data room. A copy of the CBRE progress report dated October 22, 2024 (the "**CBRE Progress Report**") is attached to this First Report as Appendix "A".

7.0 THE APA

7.1 On September 26, 2024, CBRE received a non-binding letter of intent (the "**LOI**") from the City of Burnaby to purchase the Towers. Upon receiving the LOI and discussions with the Receiver, CBRE announced a bid date of October 3, 2024 at 5pm (PST) for all bids (the "**Bid Deadline**").

7.2 The LOI from the City of Burnaby remained the only LOI received as of the Bid Deadline. Upon negotiations between the Receiver, through CBRE, and the City of Burnaby, the City of Burnaby

further revised its LOI on October 4, 2024, and the revised LOI was accepted by the Receiver (in consultation with the Petitioners).

7.3 On October 22, 2024, the Receiver entered into an Asset Purchase Agreement (the “**APA**”) with the City of Burnaby for the sale of the Towers (the “**Transaction**”). A copy of the APA is attached to this First Report as Appendix “B”.

7.4 The key terms of the APA are summarized below. Capitalized terms not defined herein shall have meaning ascribed to them under the APA:

| APA – Key Terms | |
|--------------------------------|--|
| Purchaser | City of Burnaby |
| Purchaser’s Broker | W.P.J. McCarthy and Company Ltd. |
| Purchase Price | \$65 million, exclusive of GST and transfer taxes where applicable |
| Deposit | \$3.25 million |
| Purchaser’s Broker Fees | \$650,000 plus GST |
| Receiver’s Broker Fees | \$422,500 plus GST |
| Purchased Assets | The Debtors’ right, title and interest in and to the Towers, and all personal property located at the Towers, but exclude all Excluded Assets. |
| Excluded Assets | Excluded Assets include: a) all shares of capital stock or other equity interests in securities in any entity; b) all cash and cash equivalents; c) Accounts Receivable; d) all Intellectual Property; and e) Tax Returns and/or Tax installments paid by or on behalf of any of the Debtors. |
| Closing Date | 10 Business Days after the Approval and Vesting Order is granted, or such other dates as parties may agree, provided that such other date must be on or before the Outside Date. |
| Outside Date | November 28, 2024 |

7.5 The Transaction is being effected on an “as-is, where-is” basis, without any representation, warranty or covenant by the Receiver, CBRE, or the Debtors and their respective agents. It is a Mutual Condition that the Transaction is approved by this Honourable Court and that an Approval and Vesting Order is granted on or before the Closing Date.

7.6 The Receiver is supportive of the APA for the following reasons:

- a) the APA offer of \$65 million is the only, and highest and best offer received by the Receiver's Sales Process;
- b) the Transaction will close shortly after Court approval;
- c) a deposit in the amount of \$3.25 million was received by Dentons in trust on October 24, 2024. The Transaction is not subject to financing conditions, and the Receiver understands that the City of Burnaby has the financial wherewithal to close the transaction; and
- d) the Petitioners are supportive of the APA.

7.7 Upon the closing of the Transaction, the Receiver intends to make a distribution to the Petitioners to settle their mortgage and security, provided that the Receiver shall at all times retain sufficient funds to pay any claims which rank in priority to the Petitioners' claim.

7.8 The Receiver's counsel, Dentons, has prepared an independent security opinion on the Petitioners' security against the Debtors. The Receiver has reviewed the security opinion and confirms it has no concerns with the Petitioners' security position.

8.0 RECEIVER'S CONCLUSION AND RECOMMENDATIONS

8.1 The Receiver respectfully recommends that this Honourable Court:


- a) approve the APA, including discharge of the Receiver;
- b) approve the activities of the Receiver; and
- c) approve the distributions to the Petitioners.

All of which is respectfully submitted to this Honourable Court this 30th day of October, 2024.

Alvarez & Marsal Canada Inc.,
in its capacity as Receiver of
SCREO I Metrotown Inc. and SCREO I Metrotown L.P.



Per: Anthony Tillman
Senior Vice President



Per: Pinky Law
Vice President

Appendix A – the CBRE Progress Report

Progress Report

CBRE

Metrotown Place I & III

4330 Kingsway and 5945 Kathleen Avenue
Burnaby, BC

October 22, 2024

Prepared For:

Alvarez & Marsal Canada Inc.

Prepared By:

CBRE National Investment Team – Vancouver
1021 West Hastings Street, Suite 2500
Vancouver, BC V6E 0C3



Dear Pinky,

We are pleased to present to you our progress report for Metrotown Place I & III. Through our proven marketing process, we have created a custom marketing campaign with email blast, and brochure highlighting the key investment points and property details for the property.

We launched our comprehensive marketing campaign via email blast on August 9, 2024 to 1,662 prospects selected from the extensive database of the Vancouver National Investment Team. We also relaunched our campaign after the Labor Day Long Weekend on September 3, 2024. Details of the marketing launch can be found on the following page.

Furthermore, groups that have signed a Confidentiality Agreement have been provided access to our secure online data room, which contains the Confidential Information Memorandum and all other pertinent property information.

Please see the detailed breakdown of our marketing efforts and prospective investor interest outlined in the pages following.

The Purchase Price of \$65mm is aligned with market rates for a property similar to the property to be sold. Since the execution of the Purchase Agreement, we have continued to market the property and seek competing bids pursuant to Practice Direction #62.

Should you have any questions, please contact us at your earliest convenience.

Sincerely,

Carter Kerzner

Senior Vice President
CBRE Limited Capital Markets
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Marketing Process Tracker

Marketing Details

The offering was launched to the market via email blast on August 9, and relaunched on September 3, 2024.

The eblasts included a link to the marketing brochure, and the confidentiality agreement.

The eblasts also included the high level data points outlining the offering, with a call to action (CTA) to download the brochure for further information. A CTA was also included to download and return the CA for dataroom access.

| MARKETING EMAIL BLAST | |
|--|-------------------|
| Launch Date | August 9, 2024 |
| Number of Recipients | 1,662 |
| Total Views (as of Oct 22) | 3,584 |
| Number of Unique Views (as of Oct 22) | 939 |
| Total Clicks (as of Oct 22) | 418 |
| Number of Brochure Clicks (as of Oct 22) | 322 |
| Number of CA Clicks (as of Oct 22) | 41 |
| Relaunch Date | September 3, 2024 |
| Number of Recipients | 1,643 |
| Total Views (as of Oct 22) | 2,497 |
| Number of Unique Views (as of Oct 22) | 883 |
| Total Clicks (as of Oct 22) | 257 |
| Number of Brochure Clicks (as of Oct 22) | 188 |
| Number of CA Clicks (as of Oct 22) | 29 |

Confidentiality Agreements Received

We have received 15 completed Confidentiality Agreements (CA).

Discussion Log

There are 25 interested proponents who have been in communication with us since the launch in August.

Data Room Activity

There are 13 groups of prospective purchasers in the data room, as of Oct 22.

Appendix

CBRE

Marketing Materials Metrotown Place I & III



Marketing Brochure


Front Cover



Back Cover



Inside Pages



EXECUTIVE SUMMARY

CBRE Limited, on behalf of Metro & Masco Canada Inc. (the "Owner"), is set forth in the Great Order, approved to present Metrotown Place I and Metrotown Place III (the "Site", the "Property", or "Metrotown Place") - a significant multi-phased investment and redevelopment opportunity, exceptionally located on Skytrain in the heart of Metrotown in Burnaby.

Metrotown Place presents investors with a flexible acquisition opportunity to either (1) own and occupy the existing office towers; (2) redevelop the Site into significant mixed-use residential density; or (3) pursue a combination of both preserving one existing office tower and redeveloping the other.

First, Metrotown Place presents an excellent owner-user opportunity to acquire and occupy the existing office towers. The Property is comprised of two office towers offering a total of 250,865 square feet in the Metrotown Core.

Second, the Site presents a significant redevelopment opportunity to construct a substantial mixed-use residential project. The Site offers 1.5 acres of developable land in one of Metro Vancouver's most significant and in-demand regional town centres.

Third, an investor may pursue an alternative value-add scenario, which would see the redevelopment of Metrotown Place I to multifamily, while repositioning and preserving Metrotown Place III as an existing office tower.

More details on each opportunity can be found in the following pages.

HIGHLIGHTS

A SIGNIFICANT 1.5-ACRE REDEVELOPMENT OPPORTUNITY

- More than 1.5 acres of developable land in the heart of Metrotown.
- Play a leading role in the transformation of the City of Burnaby through the development of a high-density mixed-use project.
- Future development will capitalize on the Site's proximity to transportation nodes, enhanced public spaces, and a host of commercial amenities.

STEPS TO TRANSIT AND AN ABUNDANCE OF COMMERCIAL AMENITIES

- Walking distance to Metropolis at Metrotown, offering over 400 shops and services.
- Steps to other shopping centres in this node, including Station Square, Crystal Mall and Old Orchard Mall.
- 5-minute walking distance to Patterson SkyTrain Station (Expo Line).
- 7-minute walking distance to Metrotown Station (Expo Line), the second busiest Skytrain station completing 50,000 trips per day.
- 20-minute drive, or 17-minute SkyTrain ride to Downtown Vancouver.

EXCELLENT CORE LOCATION

- Situated in Metrotown in Burnaby, B.C., the geographic centre of Metro Vancouver.
- Located directly off Kingway, Burnaby's primary vehicle thoroughfare and central commercial node.
- Easily accessible from downtown Vancouver, YVR, and all surrounding communities in Metro Vancouver.
- Walking distance to Burnaby's Central Park, an 85-hectare urban park known for its excellent sports and recreation facilities including Swangard Stadium.

SITE SUMMARY

| | |
|-------------------|--|
| Civic Address | 4330 Kingway & 5945 Kathleen Avenue, Burnaby, B.C. |
| PID | 031-257-881 |
| Site Size | 67,378 SF (1.55 Acres) |
| Current Zoning | CD |
| OCP Designation | RM5a & C3 |
| Frontage | 235 feet along Kingway 225 feet along Wilton Avenue 330 feet along Kemp Street |
| Improvements | Two vacant high-rise office towers |
| Net Rentable Area | 250,865 SF |
| Bed Date | Contact agents for details |

CURRENT IMPROVEMENTS

METROTOWN PLACE I

| | |
|--------------------|------------|
| Storeys | 19 |
| Year Built | 1984 |
| NRA | 194,229 SF |
| Average Floorplate | 10,370 SF |
| Parking | 375 Stalls |

METROTOWN PLACE III

| | |
|--------------------|------------|
| Storeys | 10 |
| Year Built | 1986 |
| NRA | 56,636 SF |
| Average Floorplate | 6,552 SF |
| Parking | 111 Stalls |

1.5-ACRE REDEVELOPMENT OPPORTUNITY

EXCELLENT OFFICE SCALE FOR AN OWNER-USER

ON TRANSIT IN THE HEART OF METROTOWN

STEPS TO ABUNDANCE OF AMENITIES

486 SHARED PARKING STALLS




Metrotown Place I & III 2 Burnaby, B.C.

CBRE Limited 3 For Sale

Rendering for visualization purposes only. Does not convey actual design plans or approved built form.

1





BURNABY 2050 LAND USE FRAMEWORK ENGAGEMENT PLAN



The City of Burnaby is currently working on an update to the existing OCP, called "Burnaby 2050", to better align its land use framework with anticipated population growth and Provincial development guidelines. The City is also working on a new zoning bylaw that would introduce new height-based development guidelines which would see land use designations based on height (in storeys) as opposed to density.

The City of Burnaby is currently reviewing this city-wide plan, with public engagement occurring in September 2024. If the plan is enacted, it has the ability to positively impact development potential for the Site. Contact agents for details.

Alternative Value-Add Opportunity

- Metrotown Place provides the opportunity to explore an alternative scenario, which would include a combination of the previous two opportunities.
- A purchaser may retain Metrotown Place I for redevelopment to a high-rise multifamily tower, while subdividing Metrotown Place III to preserve as the existing office tower.
- This hybrid opportunity would benefit from a more streamlined redevelopment process of Metrotown Place I, as the existing easement between Metrotown Place III and the adjacent RBC would be maintained.
- This scenario would present an excellent value-add opportunity for the purchaser, who may subdivide the existing Metrotown Place III and reposition to sell.

Metrotown Place I & III 8 Burnaby, B.C.

CBRE Limited 9 For Sale

LOCATION OVERVIEW

LOCATED IN THE HEART OF METROTOWN'S CORE

- Metrotown Place is located in the heart of Burnaby, at the intersection of Kingsway and Kathleen Avenue in the core of Metrotown.
- The Property benefits from its direct frontage on Kingsway, Burnaby's primary vehicle thoroughfare and central commercial node, in an incredibly central location that is well connected to all areas of Metro Vancouver.

LOCATED WITHIN A HUB OF SIGNIFICANT ACTIVE DEVELOPMENT



- The Subject Site is located within the high-density mixed-use Metro Downtown neighbourhood, and will see the surrounding areas further transform into a comprehensive urban hub with high-density residential and commercial development projects.
- The Metropolis at Metrotown site is also currently undergoing planning, with proposed plans to demolish the existing mall and transform the site into a 35-acre master-planned community with 24 mixed-use towers dedicated to condo, multifamily rental, office, and other commercial uses.
- These projects will spur increased economic activity and population growth in the immediate proximity of the Site.





TRANSIT-ORIENTED

- Fast and convenient rapid transit access to all areas around Metro Vancouver, making it an attractive location for new residents and potential tenants.
- A 5-minute walk to Patterson SkyTrain Station and a 7-minute walk to Metrotown Station.
- Metrotown Station is the second busiest Skytrain station completing more than 50,000 trips per day plus another 25,000 trips from its bus exchange.
- 20 minutes drive, or 17 minutes SkyTrain ride from downtown Vancouver.

SURROUNDED BY AN OUTSTANDING SELECTION OF RETAIL, SERVICE AND RECREATIONAL AMENITIES

- Walking distance to Metropolis at Metrotown Shopping Centre – the largest shopping centre in British Columbia with over 400 shops and services, such as Cineplex Cinemas, Hudson's Bay, and Real Canadian Superstore, providing an outstanding selection of amenities for residents and office tenants.
- Part of Metrotown's bustling retail node, which includes a variety of other shopping centres such as Station Square, Crystal Mall and Old Orchard Mall.
- Walking distance to Burnaby's Central Park, an 85-hectare urban park known for its excellent sports and recreation facilities including Swangard Stadium.

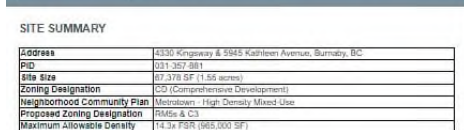



Metrotown Place I & III 10 Burnaby, B.C.

CBRE Limited 11 For Sale

Click the thumbnail to see the email campaign.



Contact Us

CBRE

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Appendix B – the APA

ASSET PURCHASE AGREEMENT

This Asset Purchase Agreement made as of October 22, 2024,

BETWEEN:

ALVAREZ & MARSAL CANADA INC.
in its capacity as Court Appointed Receiver for
SCREO I METROTOWN INC. and SCREO I METROTOWN L.P. and not in its personal
capacity

(the "**Receiver**")

AND:

CITY OF BURNABY

(the "**Purchaser**")

WHEREAS:

- A. Pursuant to the order of the Supreme Court of British Columbia (the "**Court**"), dated July 8, 2024 (the "**Receivership Order**"), Alvarez & Marsal Canada Inc. was appointed receiver and manager over all assets, undertakings and property of SCREO I Metrotown Inc. ("**SCREO I**") and SCREO I Metrotown L.P. ("**SCREO LP**", and together with SCREO I, the "**Debtors**"), with authority to, *inter alia*, sell the assets of the Debtors;
- B. Subject to approval of the Court ("**Court Approval**"), the Purchaser has agreed to purchase from the Receiver, and the Receiver has agreed to sell to the Purchaser, the Purchased Assets (as defined herein), upon and subject to the terms and conditions of this Agreement (the "**Transaction**").

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties intending to be legally bound agree as follows:

ARTICLE 1 **DEFINITIONS**

1.1 Certain Defined Terms

As used in this Agreement, the following terms shall have the following meanings and grammatical variations of such terms shall have corresponding meanings:

"**Accounts Receivable**" means all accounts, notes, bills, trade accounts, holdbacks, book debts, deposits, insurance claims, volume rebates and trade receivables of the Debtors, or such portion as remains owing to the Debtors on the Closing Date, in each case, together with any unpaid interest or fees accrued thereon.

"Agreement" means this asset purchase agreement including all exhibits and schedules and all amendments or restatements, as permitted.

"Applicable Law" means any domestic or foreign statute, law (including the common law), ordinance, rule, regulation, restriction, by-law (zoning or otherwise), order, or any consent, exemption, approval or licence of any Governmental Authority, that applies in whole or in part to the Transaction, the Receiver, the Purchaser, the business of the Debtors, or any of the Purchased Assets.

"Approval and Vesting Order" means a Court order substantially in the form of the BC Model Order, with any amendments thereto to be acceptable to the Receiver and the Purchaser, each acting reasonably, which shall, among other things:

- (a) authorize and approve this Agreement and the execution and delivery thereof by the Receiver on behalf of the Debtors;
- (b) authorize and direct the Receiver to complete the Transaction;
- (c) upon the delivery of a Receiver's Certificate to the Purchaser:
 - (i) vest title to the Purchased Assets in the Purchaser;
 - (ii) vest off of title to the Purchased Assets all Encumbrances other than Permitted Encumbrances; and
- (d) provide for the assignment of the Debtors into bankruptcy and/or distribution of all or substantially all of the net sale proceeds to secured creditors.

"Buildings" means, all of the buildings, structures and fixed improvements located on, in or under the Real Property, and improvements and fixtures contained in or on such buildings and structures used in the operation of same, but excluding: (i) improvements and fixtures not owned by the Debtors; and (ii) those improvements and fixtures that are removable by a tenant pursuant to a lease.

"Business Day" means any day other than a Saturday or Sunday, and which is not a statutory holiday in Canada and/or the Province of British Columbia.

"Claims" means any claims, obligations, demands, costs, damages, expenses, losses, damages (including special, punitive, exemplary, consequential and indirect damages), charges, suits, orders, actions, proceedings (governmental, administrative or otherwise), judgments, reviews, inquiries, investigations, audits, obligations and debts, including interest, penalties, fines, court costs and reasonable lawyer's fees and disbursements.

"Closing" means the closing of the Transaction contemplated by this Agreement.

"Closing Date" means 10 Business Days after the Approval and Vesting Order is granted, or such other date as the parties may agree, provided that such other date must be on or before the Outside Date;

"Closing Documents" means the documents referred to in Sections 7.1 and 7.2 hereof.

"Conditions Precedent" means the Mutual Conditions, the Purchaser's Conditions and the Receiver's Conditions.

"**Court**" has the meaning given to it in the Recitals hereto.

"**Court Approval**" has the meaning given to it in the Recitals hereto.

"**Debtors**" has the meaning given to it in the Recitals hereto.

"**Deposit**" has the meaning specified in Section 3.1.

"**Documents**" has the meaning specified in Section 10.6.

"**Election Notice**" has the meaning specified in Section 8.2(b).

"**Encumbrances**" means with respect to the Purchased Assets any financial charge or encumbrance of whatever kind or nature, regardless of form, whether or not registered or registrable and whether or not consensual or arising by law (statutory or otherwise), including any mortgage, charge, pledge, hypothecation, security interest, lien, restrictive or statutory covenant, lease, licence, assignment, option or claim, or right of any Person of any kind or nature whatsoever or howsoever arising which may constitute or become by operation of law or otherwise an encumbrance on any of the Purchased Assets.

"**Environmental Laws**" means any law, bylaw, order, ordinance, ruling, regulation or directive of any applicable federal, provincial, territorial, municipal, local or other government or governmental department agency or regulatory authority or any court of competent jurisdiction relating to environmental matters and/or regulating the import, manufacture, storage, distribution, labelling, sale, use, handling, transport or disposal of Hazardous Substances, as are in force as of the Closing Date.

"**ETA**" has the meaning specified in Section 3.4(a).

"**Excluded Assets**" means all of the Debtors' right, title and interest in and to the following:

- (a) all shares of capital stock or other equity interests in securities in any entity;
- (a) all cash and cash equivalents;
- (b) Accounts Receivable;
- (c) all Intellectual Property;
- (d) Tax Returns and/or Tax installments paid by or on behalf of any of the Debtors.

"**Governmental Authority**" means any Canadian federal, provincial, municipal or local or governmental, regulatory or administrative authority, agency or commission or any court, tribunal, or judicial or arbitral body or any other public agency.

"**GST**" has the meaning specified in Section 3.4(a).

"**GST Certificate**" has the meaning specified in Section 3.4(a).

"**Hazardous Substances**" means any underground storage tanks, any explosive or radioactive materials, pollutants, contaminants, hazardous, corrosive or toxic substances, special waste or waste of any kind, including, without limitation, compounds known as chlorobiphenyl, petroleum and any other substance or material, the storage, manufacture, disposal, treatment, generation, use, transportation, remediation or

release into the environment of which is prohibited, controlled, regulated or licensed under Environmental Laws.

"Intellectual Property" means all trademarks, trade names, business names, service names, copyrights, patents, technology rights, inventions, computer software, Internet protocol addresses and domain names associated with the business of the Debtors including, trade secrets, know-how, industrial designs and other industrial or intellectual property and all applications therefor including, all licences or similar rights used by or granted to the Debtors in connection therewith.

"Interim Period" has the meaning specified in Section 8.1.

"Liabilities" means all costs, expenses, charges, debts, liabilities, amounts owing, claims, demands and obligations, whether primary or secondary, direct or indirect, fixed, secured or unsecured, accrued, contingent, known or unknown, absolute or otherwise.

"Mutual Conditions" has the meaning specified in Section 4.1.

"Outside Date" means November 28, 2024.

"Parties" means the parties to this Agreement and "Party" means any one of the parties to this Agreement, as the context requires.

"Permitted Encumbrances" means those Encumbrances that are registered against title to the Purchased Assets, specified as such in **SCHEDULE B**, and such further and other Encumbrances as the Purchaser agrees in writing to accept on Closing.

"Person" means any individual, partnership, firm, corporation, association, trust, unincorporated organization or other entity.

"Property Conditions" has the meaning specified in Section 1.8(b).

"Purchase Price" means \$65,000,000, which shall be exclusive of GST and transfer taxes where applicable.

"Purchaser's Broker" means W.P.J. McCarthy and Company Ltd.

"Purchaser's Conditions" has the meaning specified in Section 4.3.

"Purchaser's Lawyers" means Farris LLP.

"Purchased Assets" means all of the Debtors' right, title and interest in and to the Real Property; and all personal property located at the Real Property, but excluding all Excluded Assets.

"Real Property" means the real property described in **SCHEDULE A** hereto including all Buildings and improvements located thereon, and the benefit of all easements, permits, and other appurtenances to the Real Property.

"Receiver's Broker" means CBRE Limited.

"Receiver's Certificate" means the certificate contemplated in the Approval and Vesting Order to be filed with the Court by the Receiver certifying that the Receiver confirms, and has received written confirmation

in form and substance satisfactory to the Receiver from the Purchaser that it confirms, that all conditions to Closing have been satisfied or waived by the applicable Parties and that the Purchase Price and all applicable taxes payable by the Purchaser to the Receiver have been received by the Receiver's Lawyers.

"Receiver's Conditions" has the meaning specified in Section 4.2.

"Receiver's Lawyers" means Dentons Canada LLP.

"Sales Team" has the meaning specified in Section 2.2.

"Taxes" means, with respect to any Person, all supranational, national, federal, provincial, state, local or other taxes, including income taxes, branch taxes, profits taxes, capital gains taxes, gross receipts taxes, windfall profits taxes, value added taxes, severance taxes, *ad valorem* taxes, property taxes, capital taxes, net worth taxes, production taxes, sales taxes, use taxes, licence taxes, excise taxes, franchise taxes, environmental taxes, transfer taxes, withholding or similar taxes, payroll taxes, employment taxes, employer health taxes, government pension plan premiums and contributions, social security premiums, workers' compensation premiums, employment/ unemployment insurance or compensation premiums and contributions, stamp taxes, occupation taxes, premium taxes, alternative or add-on minimum taxes, GST/HST, customs duties or other taxes of any kind whatsoever imposed or charged by any Governmental Authority and any instalments in respect thereof of another taxpayer or entity, together with any interest, penalties, or additions with respect thereto and any interest in respect of such additions or penalties, and whether disputed or not, and **"Tax"** means any one of such Taxes.

"Tax Returns" means all returns, reports, declarations, elections, notices, filings, information returns, statements and forms in respect of taxes that are filed or required to be filed with any applicable Governmental Authority, including all amendments, schedules, attachments or supplements thereto and whether in tangible or electronic form.

"Transaction" has the meaning given to it in the Recitals hereto.

1.2 List of Schedules

The following Schedules are incorporated in and form an integral part of this Agreement:

SCHEDULE A Real Property

SCHEDULE B Permitted Encumbrances

SCHEDULE C Purchase Price Allocation

1.3 Terms of Reference

References to a specific article or section, unless something in the subject matter or context is inconsistent therewith, shall be construed as references to that specific article or section of this Agreement. The terms "this Agreement", "hereof", "herein", "hereto", "hereunder" and similar expressions shall be deemed to refer: (i) generally to this Agreement and not to any particular article, section or other portion of this Agreement; and (ii) to any documents supplemental hereto.

1.4 Interpretation Not Affected by Headings

The division of this Agreement into articles, sections, subsections, clauses and paragraphs and other portions, and the insertion of headings and a table of contents, are for convenience of reference only and shall not affect the construction or interpretation of this Agreement.

1.5 Currency

Unless otherwise stated, all references in this Agreement to sums of money are expressed in, and all payments provided for herein shall be made in, Canadian dollars.

1.6 Gender and Number

All words importing the singular include the plural and vice versa. All words importing gender include all genders.

1.7 Date for Any Action

Unless otherwise specified, references to "days" shall refer to calendar days, provided, however, that if the date on which any action is required to be taken hereunder by a Person is not a Business Day, such action shall be required to be taken on the next succeeding day that is a Business Day.

1.8 Time

Unless otherwise specified, all references to time expressed in this Agreement and in any document issued in connection with this Agreement mean local time in Vancouver, British Columbia, Canada, and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. on such Business Day. Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day on which the period ends.

ARTICLE 2 **PURCHASE AND SALE OF ASSETS**

2.1 The Purchased Assets

Upon and subject to the terms and conditions of this Agreement, the Receiver agrees to sell, and the Purchaser agrees to purchase, the Purchased Assets for the Purchase Price, subject only to the Permitted Encumbrances, and all other Encumbrances shall be discharged and released as required by the Approval and Vesting Order. This Agreement shall be completed on the Closing Date at the offices of the Receiver's Lawyers subject to the terms and conditions of this Agreement.

2.2 Acknowledgement of Purchaser as to Condition of the Purchased Assets

Notwithstanding the foregoing or anything else contained herein or elsewhere, the Purchaser acknowledges and agrees that:

- (a) the Purchased Assets are being sold and purchased and the Transaction is being effected on an "as-is, where-is" basis, without any representation, warranty or covenant by the Receiver, the Receiver's Broker, the Debtors, their respective agents,

representatives, contractors, consultants, or employees (collectively, the "**Sales Team**"), or any other Person, other than as expressly set out in this Agreement;

- (b) the Sales Team makes no representations or warranties, other than and only to the extent of the representations and warranties of the Receiver set out in ARTICLE 5, of any nature whatsoever with respect to any confidential information or documentation disclosed to the Purchaser, nor with respect to the Purchased Assets, including, without limitation, title thereto and/or the state of any Encumbrances or the Transaction, including, without limitation: (i) the structural integrity or any other aspect of the physical condition of any Building; (ii) the conformity of any Building to any plans or specifications (including, without limitation, any plans and specifications that may have been or which may be provided to the Purchaser); (iii) the conformity of the Real Property to past, current or future applicable zoning or building code requirements or other Applicable Laws; (iv) the existence of soil instability, past soil repairs, soil additions or conditions of soil fill or any other matter affecting the stability or integrity of the Real Property, or any Building situated on or as part of any Real Property; (v) the sufficiency of any drainage; (vi) whether the Real Property is located wholly or partially in a flood plain or a flood hazard boundary or similar area; (vii) the existence or non-existence of underground and/or above ground storage tanks; (viii) the availability of public utilities, access, parking and/or services for the Real Property; (ix) the fitness or suitability of the Real Property for occupancy or any intended use (including matters relating to health and safety) and the fitness and suitability for use of any of any other Purchased Assets; (x) the potential for further development of the Real Property; (xi) the existence of land use, zoning or building entitlements affecting the Real Property; (xii) the presence, release or use of any Hazardous Substance in, under, on or about the Real Property or any neighbouring lands; and (xiii) the conformity or compliance of the Purchased Assets to any municipal by-laws, including those relating to the preservation of heritage, cultural or historical property (collectively, the "**Property Conditions**");
- (c) as part of the Purchaser's agreement to purchase the Purchased Assets and to accept the Purchased Assets in the condition set out in this Section 2.2, and not as a limitation on such agreement, the Purchaser hereby unconditionally and irrevocably waives any and all actual or potential rights or Claims the Purchaser might have against the Sales Team pursuant to any warranty, express or implied, of any kind or type relating to the Purchased Assets or any other assets, the Property Conditions or any other aspect of the Transaction. Such waiver is absolute, unlimited and includes, without limitation, waiver of express warranties, implied warranties, any warranties at law and/or in equity, warranties of fitness for a particular use, warranties of merchantability, warranties of occupancy, strict liability and Claims of every kind and type, including, without limitation, Claims regarding defects, whether or not discoverable, product liability Claims or similar Claims, and to all other extent or later created or conceived of strict liability or strict liability type Claims and rights;
- (d) The Sales Team shall not be responsible or liable for any misrepresentation, lack of disclosure or incorrect or incomplete disclosure of any nature whatsoever or failure to investigate the Purchased Assets on the part of any broker or sales agent, or any other purported or acknowledged agent, representative, contractor, consultant, or employee of the Receiver, the Debtors, or any third party;

- (e) the Sales Team shall not be required to produce any abstract of title, deed or documents or copies thereof or any evidence as to title; and
- (f) the transfer of title to the Purchased Assets may be subject to certain work orders, municipal requirements, including building or zoning by-laws and regulations, easements for hydro, gas, and/or telephone affecting the Purchased Assets, and like services to the Real Property, and restrictions and covenants which run with the Real Property, including but not limited to the Permitted Encumbrances. Without limiting the foregoing, the Sales Team shall not be responsible for rectification of any matters disclosed by any Governmental Authority.

The provisions of this Section 2.2 shall not merge on, but shall survive, Closing.

ARTICLE 3

PURCHASE PRICE AND ADJUSTMENTS

3.1 Deposit and Payment of Purchase Price

The Purchaser shall pay the Purchase Price as follows:

- (a) \$3,250,000, by way of deposit (the "Deposit") to be paid by certified cheque, bank draft or wire transfer of immediately available funds to the Receiver's Lawyer in trust, within five (5) business days of execution of this Agreement by all parties; and
- (b) the balance of the Purchase Price, to be paid on Closing by certified cheque, bank draft or wire transfer of immediately available funds to or to the order of the Receiver.

3.2 Terms of Deposit

The Deposit shall be held in trust by the Receiver's Lawyers, in non-interest-bearing trust account. The Deposit shall be dealt with as follows:

- (a) on the Closing Date, the Deposit shall be credited on account of the Purchase Price;
- (b) if:
 - (i) the Purchaser fails to complete the purchase of the Purchased Assets in accordance with this Agreement after all Conditions Precedent have been satisfied or waived;
 - (ii) the Conditions Precedent are not satisfied or waived within the applicable time period as a result of the Purchaser's non-performance or non-compliance with this Agreement, contrary to Section 4.4; or
 - (iii) the Purchaser repudiates this Agreement,

then at the Receiver's option the Deposit together with accrued interest thereon shall be forfeited to the Receiver as liquidated damages, but without prejudice to any other rights or remedies of the Receiver whether at law or in equity;

- (c) if the Conditions Precedent are not satisfied or waived within the applicable time period, or if the Purchaser elects to terminate the Agreement in accordance with Section 8.2(b)(ii), the Deposit will be returned to the Purchaser forthwith without any deduction, as the sole remedy of the Purchaser against the Receiver; or
- (d) if the Purchaser is not in default of any of its obligations under this Agreement and the Receiver fails to complete the sale of the Purchased Assets in accordance with this Agreement after all Conditions Precedent have been satisfied or waived or if the Receiver repudiates this Agreement, then the Deposit together with accrued interest thereon shall be refunded to the Purchaser upon demand by the Purchaser, as the sole remedy of the Purchaser against the Receiver, but without prejudice to any other rights or remedies of the Purchaser against the Debtors whether at law or in equity.

3.3 Adjustments

- (a) All usual adjustments of taxes, rates, local improvement assessments and other charges and all other costs normally adjusted for on a sale of properly similar to the Real Property in British Columbia, both incoming and outgoing, will be made as of 12:00:00 a.m. on the Closing Date. There shall not be any further adjustments to the Purchase Price.
- (b) From and after the Closing Date, the Purchaser shall be responsible for all expenses, and shall be entitled to all revenue from the Purchased Assets. The Receiver and the Debtors shall be responsible for all expenses and entitled to all revenue from the Purchased Assets for that period ending as of 12:00:00 a.m. on the Closing Date.
- (c) The provisions of this Section 3.3 shall not merge on, but shall survive, Closing.

3.4 Taxes

- (a) The Purchaser represents and warrants to the Receiver that it is and will be, as of the Closing on the Closing Date, registered for the purposes of Part IX of the *Excise Tax Act* (Canada) (the "ETA") in accordance with the requirements of Subdivision D of Division V of the ETA and will assume responsibility to account for and report any goods and services tax and harmonized sales tax (collectively, the "GST") payable under the ETA in connection with the Transaction. The Purchase Price does not include GST and the Purchaser will pay any GST payable with respect to the acquisition of the Purchased Assets in accordance with the ETA. Subject to Section 3.4(b), on the Closing Date, the Purchaser will deliver to the Receiver a certificate (the "GST Certificate") of a senior officer of the Purchaser certifying, on behalf of the Purchaser and without personal liability (a) that the Purchaser is registered under Part IX of the ETA as of the Closing Date; (b) its registration number; and (c) that the Purchaser will account for, report and remit any GST payable in respect of the purchase of the Purchased Assets in accordance with the ETA. The Purchaser will indemnify and hold the Receiver and its directors, officers, employees, advisors and agents harmless from any liability under the ETA arising as a result of any breach of the ETA with respect to GST payable in respect of the Purchased Assets, this Section 3.4(a), the GST Certificate or any declaration made therein and such indemnity will survive Closing.

- (b) Notwithstanding the above, the Receiver will cooperate with the Purchaser to execute any election available under Applicable Law that may reduce or defer the amount or due date of any GST or other Tax payable by the Purchaser provided such election will not result in any increased cost or Tax liability for the Receiver. At the Closing, if available in respect of the Transaction, each of the Receiver and the Purchaser shall execute jointly an election under subsection 167(1) of Part IX of the ETA, in the prescribed form and within the prescribed time therefor, in respect of the sale and transfer of the Purchased Assets and the Purchaser shall file such election with the Canada Revenue Agency.
- (c) The Purchaser will be responsible for all property and other Taxes, transfer Taxes, fees and expenses in connection with the Transaction, including without limitation the registration of the Approval and Vesting Order or the transfer of the Purchased Assets, and the Purchaser shall indemnify and save harmless the Receiver from any and all loss, cost or damage suffered as a direct result of the failure to pay or remit such Taxes. The Receiver will be responsible for income Taxes or fees in respect of the disposition of the Purchased Assets.

3.5 Allocation of Purchase Price

The Purchase Price shall be allocated between the Purchased Assets in accordance with **SCHEDULE C**

ARTICLE 4 **CONDITIONS PRECEDENT**

4.1 Mutual Conditions

The obligation of each of the Parties to complete the Transaction is conditional upon the following conditions (the "**Mutual Conditions**") being satisfied by:

- (a) on or before the Closing Date, the Approval and Vesting Order shall have been granted by the Court and such Approval and Vesting Order shall not have been enjoined, restricted, stayed, reversed, and/or dismissed; and
- (b) as at the Closing Date, there will be no Applicable Law or order in effect that prohibits the consummation of the Transaction or the Closing.

4.2 Receiver's Conditions

The Receiver's obligation to complete the Transaction is conditional upon the following conditions (the "**Receiver's Conditions**") being satisfied by:

- (a) as at the Closing Date, each representation and warranty of the Purchaser contained in ARTICLE 6 will be true and correct: (i) as if restated on and as of the Closing Date; or (ii) as if made as of a date specified therein, as of such date;
- (b) on or before the Closing Date, the covenants, obligations, and agreements contained in this Agreement will have been complied with by the Purchaser and not have been breached in any material respect; and

- (c) as at the Closing Date, the Purchaser will have delivered to the Receiver all items it is required to deliver pursuant to Section 7.2.

4.3 Purchaser's Conditions

The Purchaser's obligation to complete the Transaction is conditional upon the following conditions (the "**Purchaser's Conditions**") being satisfied by:

- (a) as at the Closing Date, each representation and warranty of the Receiver contained in ARTICLE 5 will be true and correct: (i) as if restated on and as of the Closing Date; or (ii) as if made as of a date specified therein, as of such date;
- (b) on or before the Closing Date, the covenants, obligations, and agreements contained in this Agreement will have been complied with by the Receiver and not have been breached in any material respect; and
- (c) as at the Closing Date, the Receiver will have delivered to the Purchaser all items it is required to deliver pursuant to Section 7.1.

4.4 Satisfaction of Conditions

The Parties agree to proceed in good faith and to cooperate with each other, with promptness and reasonable diligence to attempt to satisfy the Conditions Precedent that are within their respective control, acting reasonably. Neither Party shall be entitled to rely on its own non-performance or non-compliance of any of the Conditions Precedent as a reason not to complete the Transaction.

4.5 Waiver of Conditions

- (a) The Mutual Conditions are for the mutual benefit of the Parties and may be waived only with the written agreement of both of the Parties. If any of the Mutual Conditions have not been complied with or waived in the manner described above on or before the Closing Date, either Party may terminate this Agreement by written notice to the other Party in accordance with Section 10.1.
- (b) The Receiver's Conditions are for the exclusive benefit of the Receiver and may be waived by the Receiver in its sole discretion, in whole or in part, at any time and from time to time without prejudice to any other rights which the Receiver may have. If any of the Receiver's Conditions have not been complied with or waived by the Receiver on or before the Closing Date, the Receiver may terminate this Agreement by written notice to the Purchaser in accordance with Section 10.1.
- (c) The Purchaser's Conditions are for the exclusive benefit of the Purchaser and may be waived by the Purchaser in its sole discretion, in whole or in part, at any time and from time to time without prejudice to any other rights which the Purchaser may have. If any of the Purchaser's Conditions have not been complied with or waived by the Purchaser on or before the Closing Date, the Purchaser may terminate this Agreement by written notice to the Receiver in accordance with Section 10.1.

ARTICLE 5
REPRESENTATIONS AND WARRANTIES OF THE RECEIVER

The Receiver hereby represents and warrants to the Purchaser that it is not a non-resident of Canada under the *Income Tax Act (Canada)*. The Receiver make no representations or warranties of any kind whatsoever, expressed or implied, with respect to the Purchased Assets and/or the Debtors.

ARTICLE 6
REPRESENTATIONS AND WARRANTIES OF PURCHASER

The Purchaser hereby represents and warrants to the Receiver as follows:

- (a) the Purchaser is a municipality duly incorporated and validly existing under the laws of the Province of British Columbia;
- (b) the Purchaser has the power and authority to execute and deliver this Agreement and the other documents and instruments contemplated herein or therein to which it is or will be a party and to perform its obligations hereunder and thereunder. The execution, delivery and performance of this Agreement and the documents contemplated hereby and the consummation of the Transaction contemplated hereby and thereby have been duly authorized and approved by the Purchaser;
- (c) this Agreement, and if, as, and when executed, each of the other agreements, documents and instruments to be executed and delivered by the Purchaser on or before the Closing, have been or will upon such execution and delivery be duly executed and delivered by, and constitute the valid and binding obligations of the Purchaser, in accordance with their terms;
- (d) the execution and delivery by the Purchaser of this Agreement and the performance by the Purchaser of its obligations under this Agreement will not result in the breach or violation of any terms or conditions of: (i) the constating documents or by-laws of the Purchaser; or (ii) any applicable law, regulation or order; and
- (e) the Purchaser will be a registrant for purposes of Part IX of the *Excise Tax Act (Canada)* on the Closing Date and its registration number shall be provided as part of the Closing; or alternatively the Purchaser will remit to the Receiver all applicable GST.
- (f) the Purchaser is not a non-Canadian within the meaning of the *Investment Canada Act (Canada)* or the *Prohibition on the Purchase of Residential Property by Non-Canadians Act (Canada)* and the regulations made thereunder, and will not be as of the Closing Date.

ARTICLE 7
CLOSING MATTERS

7.1 Receiver's Closing Documents

On or before Closing, subject to the provisions of this Agreement, the Receiver will deliver or cause to be delivered to the Purchaser's Lawyer the following:

- (a) a certified copy of the Approval and Vesting Order;
- (b) a certificate of the Receiver confirming that: (i) the representations and warranties set out in ARTICLE 5 are true and accurate in all material respects; and (ii) the Receiver has complied with all the covenants, obligations, and agreements contained in this Agreement and has not breached the same in any material respect;
- (c) to the extent in the Receiver's possession, control or knowledge (as applicable), all keys and security cards relating to the Purchased Assets and all combinations to vaults and combination locks located at the Purchased Assets; and
- (d) such other documents as may be required by the Approval and Vesting Order, or reasonably required by the Purchaser to complete the Transaction, in accordance with the terms of this Agreement.

All documentation shall be in form and substance acceptable to the Parties and their respective solicitors each acting reasonably and in good faith, provided that none of such documents shall contain covenants, representations or warranties which are in addition to or more onerous upon either the Party than those expressly set forth in this Agreement or in the Approval and Vesting Order.

7.2 Purchaser's Closing Documents

On or before Closing, subject to the provisions of this Agreement, the Purchaser shall deliver or cause to be delivered to the Receiver's Lawyers, the following:

- (a) the balance of the Purchase Price, in accordance with Section 3.1(b);
- (b) a certificate of an officer of the Purchaser (in such capacity and without personal liability) confirming that: (i) the representations and warranties set out in ARTICLE 6 are true and accurate in all material respects; and (ii) the Purchaser has complied with all the covenants, obligations, and agreements contained in this Agreement and has not breached the same in any material respect;
- (c) the GST Certificate; and
- (d) such other documents as may be reasonably required by the Receiver to complete the Transaction in accordance with the terms of this Agreement.

All documentation shall be in form and substance acceptable to the Parties and their respective solicitors each acting reasonably and in good faith, provided that none of such documents shall contain covenants, representations or warranties which are in addition to or more onerous upon either Party than those expressly set forth in this Agreement or in the Approval and Vesting Order.

7.3 Registration

On the Closing Date, after receipt by the Purchaser's Lawyers of the Closing Documents set out in Section 7.2 and the funds as set out in Section 7.6, and after receipt by the Receiver's Lawyers of the Closing Documents set out in Section 7.2, if required, the Purchaser will cause the Purchaser's Lawyers to file the Approval and Vesting Order in the Land Title Office and any security documents applicable to any mortgage financing arranged by the Purchaser, as further described in Section 7.5.

7.4 Concurrent Requirements.

It is a condition of the Closing that all matters of payment, execution and delivery of documents by each party to the other and the filing of documents in the Land Title Office as set out in Section 7.3, all pursuant to the terms of this Agreement, will be deemed to be concurrent requirements and it is specifically agreed that nothing will be complete at the Closing until everything required as a condition precedent at the Closing has been paid, executed and delivered and all filings set out in Section 7.3 have been completed.

7.5 Purchaser's Financing

If the Purchaser is relying upon a new mortgage to finance the purchase of the Purchased Assets, the Purchaser, while still required to pay the Purchase Price on the Closing Date, may wait to pay the Purchase Price until after the Approval and Vesting Order (if required) and new mortgage documents have been filed in the Land Title Office and after receipt of the proceeds of such mortgage financing, but only if, before such filing, the Purchaser has:

- (a) made available for tender to the Receiver that portion of the Purchase Price not secured by the new mortgage;
- (b) fulfilled all the new mortgagee's conditions for funding except filing the mortgage for registration; and
- (c) made available to the Receiver, a lawyer's undertaking from the Purchaser's Lawyers to pay the Purchase Price upon the filing of the Approval and Vesting Order (if required) and new mortgage documents and the advance by the mortgagee of the mortgage proceeds.

For greater certainty, the Purchaser's obligation to pay the Purchase Price on the Closing Date and complete the Transaction is not conditional on any such financing completing.

7.6 Payment by Wire Transfer

Notwithstanding anything else contained herein, provided the Purchaser's Lawyers have initiated the wire transfer for the balance of the Purchase Price, as adjusted, to the Receiver's Lawyers on the Closing Date, and provided the Receiver's Lawyers with written confirmation thereof, the Purchaser will be deemed to have paid the balance of the Purchase Price, as adjusted, due to the Receiver if such amount is credited to the Receiver's Lawyers account by 11 a.m. (Vancouver time) on the first Business Day following the Closing Date without interest or penalty. If such amount is not received by 11 a.m. (Vancouver time) on the first Business Day following the Closing Date, the Purchaser will pay to the Receiver interest at the rate of the prime rate of interest designated from time to time by Royal Bank of Canada plus 3% per annum on such amount until such time as it is received by the Receiver.

ARTICLE 8 **OPERATION OF THE PROPERTY**

8.1 Operation Before Closing

During the period between the date hereof and Closing (the "Interim Period"), subject to the Receivership Order and any other order made by the Court in the receivership proceedings, the Receiver shall:

- (a) throughout the Interim Period, upkeep and maintain the Real Property in its present condition, reasonable wear and tear excepted, and manage the Real Property in a professional and diligent manner and as a careful and prudent owner would do in accordance with current practices in the receivership proceedings and in compliance with all applicable laws, regulations and orders;
- (b) throughout the Interim Period, maintain in full force and effect insurance coverage for fire, earthquake and all risks in respect of the Real Property as well as commercial liability coverage until Closing on the Closing Date, in such amounts and on such terms as would a prudent owner;
- (c) promptly notify the Purchaser if the Receiver becomes aware that, after the date of this Agreement, any of its representations or warranties in this Agreement become untrue or incorrect or if any covenants, terms or conditions in this Agreement are breached or cannot be performed; and
- (d) grant to the Purchaser and its authorized representatives the right to enter upon the Purchased Assets during business hours upon reasonable notice for the purposes of carrying out such inspections, examinations, tests and surveys, including soil tests, as the Purchaser may deem necessary; provided that the Purchaser shall indemnify and save harmless the Receiver from any and all loss, cost or damage suffered as a direct result of the Purchaser exercising its rights pursuant to this clause.

8.2 Damage Before Closing

- (a) The Purchased Assets shall be at the risk of the Debtors until Closing.
- (b) If any loss, damage or expropriation occurs before Closing to any part of the Purchased Assets in respect of which the cost of repair is more than 10% of the Purchase Price, or if such repair will take more than 6 months, all as determined by an arm's length, independent architect, engineer or other qualified expert engaged by the Receiver, within 15 Business Days after disclosure to the Purchaser by the Receiver of the loss or damage and the extent thereof, the Purchaser, at its option, shall by notice in writing to the Receiver (the "**Election Notice**") elect either:
 - (i) to complete the purchase of such Purchased Asset(s), in which event the insurance proceeds payable in respect of such damaged Purchased Asset(s) shall be assigned or paid to the Purchaser and the Purchase Price shall be reduced by an amount equal to any deficiency in insurance proceeds arising from any co-insurance relating to such insurance policy or for any other reason; or
 - (ii) not to complete the purchase of such Purchased Asset(s), in which case this Agreement will terminate with immediate effect and the Deposit and all interest accrued thereon will be returned to the Purchaser.
- (c) If the Purchaser fails to deliver the Election Notice, it will be deemed to elect to complete the purchase of the Purchased Assets in accordance with Section 8.2(b)(i).
- (d) If loss or damage to any Buildings that does not trigger the rights set out in Section 8.2(b) occurs, the Purchaser shall have no right to terminate this Agreement, but shall be

entitled to all proceeds of insurance in respect of such loss or damage and the Purchase Price shall be reduced by the value of any deductibles in respect of such loss or damage and an amount equal to any deficiency in insurance proceeds arising from any co-insurance relating to such insurance policy or for any other reason, and the Parties shall complete the Transaction.

ARTICLE 9 **TERMINATION**

9.1 Termination

This Agreement may be terminated at any time prior to the Closing Date, as the case may be:

- (a) by mutual written consent of the Purchaser and the Receiver;
- (b) subject to Section 4.4, in accordance with Section 4.5; or
- (c) in accordance with Section 8.2(b)(ii).

In any case, Section 3.2 shall govern with respect to the Deposit.

ARTICLE 10 **MISCELLANEOUS**

10.1 Notices

Any demand, notice or other communication to be made or given hereunder shall be in writing and may be made or given by personal delivery, sent by courier, or transmitted by electronic mail, as follows:

- (a) to the Purchaser:
City of Burnaby
Suite 205 - 4946 Canada Way
Burnaby, BC V5G 4H7
Attention: Sarah Alexander and James Lota

Emails: sarah.alexander@burnaby.ca
james.lota@burnaby.ca

with a copy to:
Farris LLP
700 West Georgia St, 25th Floor
Vancouver BC V7Y 1B3
Attention: Tevia Jeffries

Email: tjeffries@farris.com

- (b) to the Receiver:
Alvarez & Marsal Canada Inc.
925 W Georgia St Suite 902,
Vancouver, BC V6C 3L2

Attention: Pinky Law & Anthony Tillman

Emails: pinky.law@alvarezandmarsal.com
atillman@alvarezandmarsal.com

With a copy to:

Dentons Canada LLP
 20th Floor, 250 Howe Street
 Vancouver, British Columbia V6C 3R8
 Attention: Jordan Schultz

Email: jordan.schultz@dentons.com

or to such other address or facsimile number as any party may from time to time notify to the other party in accordance with this Section 10.1. Any demand, notice or communication made or given by personal delivery shall be conclusively deemed to have been made or given on the day of actual delivery thereof and if made or given by facsimile copy or other means of electronic transmission, shall be conclusively deemed to have been given on the day of transmittal.

10.2 Bidding Procedures

The Purchaser acknowledges and agrees that, notwithstanding acceptance of this offer by the Receiver, other prospective purchasers may attend in Court in person or by agent at the hearing of the motion to approve this Agreement and such prospective purchasers may make competing offers which may be approved by the Court. The Purchaser acknowledges and agrees that, to protect its interest in purchasing the Purchased Assets, it should attend at the Court hearing in person or by agent and be prepared to amend or increase its offer to purchase the Purchased Assets as the Court may permit or direct. The Purchaser acknowledges that if the Court vacates, sets aside or varies the Approval and Vesting Order for any reason whatsoever, the Receiver will not be liable to the Purchaser or any other Person in any way whatsoever.

10.3 Further Assurances

At any time and from time to time after the date hereof each of the parties hereto, at the reasonable request and expense of the other party hereto, will execute and deliver such other instruments of sale, transfer, conveyance, assignment, confirmation and other instruments as may be reasonably requested in order to more effectively transfer, convey and assign to the Purchaser and to confirm the Purchaser's title to the Purchased Assets and to effectuate the Transaction contemplated herein.

10.4 Legal Fees and Broker's Fees

Each Party shall be responsible for and bear all of its own legal costs and expenses.

The Vendor acknowledges and agrees to be responsible for any and all real estate brokerage commissions payable to the Receiver's Broker with respect to this transaction.

The Vendor acknowledges and agrees to be responsible for any and all real estate brokerage commissions payable to the Purchaser's Broker with respect to this transaction and acknowledges and agrees that the fee payable to the Purchaser's Broker shall be 1% of the Purchase Price plus GST. This commission will be payable to the Purchaser's Broker on the Closing Date.

10.5 Entire Agreement

This Agreement together with the Schedules hereto and the other documents executed in connection herewith or referred to herein (together, the "**Documents**") embodies the entire agreement and understanding between the parties hereto with respect to the subject matter hereof and supersedes all prior oral or written agreements and understandings relating to the subject matter hereof. No statement, representation, warranty, covenant or agreement of any kind not expressly set forth in the Documents shall affect, or be used to interpret, change or restrict, the express terms and provisions of the Documents.

10.6 Time of the Essence

Time shall be of the essence of this Agreement.

10.7 Modifications and Amendments

The terms and provisions of this Agreement may be modified or amended only by written agreement executed by all parties hereto and, where same may be required, by order of the Court.

10.8 Assignment

No party to this Agreement may assign any of its rights or obligations under this Agreement without the prior written consent of the other Party.

10.9 Parties in Interest

This Agreement shall be binding upon and inure solely to the benefit of each party hereto and their permitted assigns, and nothing in this Agreement, express or implied, is intended to confer upon any other person any rights or remedies of any nature whatsoever under or by reason of this Agreement. Nothing in this Agreement shall be construed to create any rights or obligations except among the parties hereto, and no person or entity shall be regarded as a third-party beneficiary of this Agreement.

10.10 Governing Law

This Agreement and the rights and obligations of the parties hereunder shall be construed in accordance with and governed by the laws of British Columbia and the federal laws of Canada applicable therein.

10.11 Headings and Captions

The headings and captions of the various subdivisions of this Agreement are for convenience of reference only and shall in no way modify, or affect, or be considered in construing or interpreting the meaning or construction of any of the terms or provisions hereof.

10.12 Counterparts

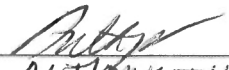
This Agreement may be executed in counterparts, and by different parties hereto on separate counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Execution and delivery of this Agreement may be made and evidenced by facsimile or other electronic means of transmission.

IN WITNESS WHEREOF, the Purchaser and the Receiver have executed this Agreement as of the day and year first written above.

ALVAREZ & MARSAL CANADA INC.

in its capacity as Court Appointed Receiver for
SCREO I METROTOWN INC. and **SCREO I
METROTOWN L.P.** and not in its personal
capacity

Per:


Name: ANTHONY TILLMAN
Title: SENIOR VICE PRESIDENT

CITY OF BURNABY

Per:


Name: KATHRYN MATTS
Title: Administrative Officer 2

SCHEDULE A
REAL PROPERTY

Metrotown Place 1 & 3, municipally described as 4330 Kingsway & 5945 Kathleen Avenue, Burnaby

Parcel Identification Number: 031-357-881;

Legal Description: LOT 1, DISTRICT LOT 153, GROUP 1, NEW WESTMINSTER LAND DISTRICT,
PLAN EPP107270.

SCHEDULE B
PERMITTED ENCUMBRANCES

As to PID: 031-357-881:

- Easement X68811
- Easement Y111605
- Easement Y175966
- Easement Y176437
- Easement Y176438

SCHEDULE C**ALLOCATION OF THE PURCHASE PRICE**

| Asset | Allocation of Purchase Price |
|----------------------|-------------------------------------|
| | |
| | |
| | |
| <u>Total:</u> | |