

No. S-244252  
Vancouver Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

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

ORDER MADE AFTER APPLICATION

	)		)
	)	THE HONOURABLE JUSTICE	)
BEFORE	)	<b>RAMSAY</b>	)
	)		)
	)		)
	)		)

07/NOV/2024

ON THE APPLICATION of Alvarez & Marsal Canada Inc., in its capacity as court appointed receiver (the "Receiver") of the real property and all of the assets, undertakings and property, both real and personal, located at, relating to or used in connection with the real property of SCREO I Metrotown Inc. (the "Legal Owner"), and SCREO I Metrotown L.P. (the "Beneficial Owner" and together with the Legal Owner, the "Debtors"), including the beneficial ownership interest in and to such property, whether held directly or indirectly by the Beneficial Owner for itself or for others, coming on for hearing at Vancouver, British Columbia on this 7<sup>th</sup> day of November, 2024, and on hearing Jordan Schultz, counsel for the Receiver, and those parties listed on **Schedule "A"** hereto, and no one else appearing, although duly served;

AND UPON READING the material filed, including the First Report of the Receiver dated October 30, 2024 (the "Report");

THIS COURT ORDERS that:

**Approval of Purchase Agreement**

1. The sale transaction (the "**Transaction**") contemplated by the Asset Purchase Agreement dated October 22, 2024 (the "**Sale Agreement**") between the Receiver and the City of Burnaby (the "**Purchaser**"), a copy of which is attached as Appendix "B" to the Report is hereby approved, and the Sale Agreement is commercially reasonable. The execution of the Sale Agreement by the Receiver is hereby authorized and approved, and the Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance to the Purchaser of the assets described in the Sale Agreement (the "**Purchased Assets**"). (the "Lands") & .

2. Upon delivery by the Receiver to the Purchaser of a certificate substantially in the form attached as **Schedule "B"** hereto (the "**Receiver's Certificate**"), all of the Debtors' right, title and interest in and to the Purchased Assets described in the Sale Agreement and listed on **Schedule "C"** hereto shall vest absolutely in the Purchaser in fee simple, 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, the "**Claims**") including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by the Order of this Court dated July 8, 2024 (the "**Appointment Order**"); (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* of British Columbia or any other personal property registry system; and (iii) those Claims listed on **Schedule "D"** hereto (all of which are collectively referred to as the "**Encumbrances**", which term shall not include the permitted encumbrances, easements and restrictive covenants listed on **Schedule "E"** 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.

3. Upon presentation for registration in the Land Title Office for the Land Title District of New Westminster of a certified copy of this Order, together with a letter from solicitors for the Receiver, authorizing registration of this Order, the British Columbia Registrar of Land Titles is hereby directed to:

- (a) enter the Purchaser as the owner of the Lands, together with all buildings and other structures, facilities and improvements located thereon and fixtures, systems, interests, licenses, rights, covenants, restrictive

covenants, commons, ways, profits, privileges, rights, easements and appurtenances to the said hereditaments belonging, or with the same or any part thereof, held or enjoyed or appurtenant thereto, in fee simple in respect of the Lands, and this Court declares that it has been proved to the satisfaction of the Court on investigation that the title of the Purchaser in and to the Lands is a good, safe holding and marketable title and directs the BC Registrar to register indefeasible title in favour of the Purchaser as aforesaid; and

- (b) having considered the interest of third parties, to discharge, release, delete and expunge from title to the Lands all of the registered Encumbrances except for those listed in **Schedule "E"**.

4. For the purposes of determining the nature and priority of Claims, the net proceeds from the sale of the Purchased Assets (the "**Net Proceeds**") shall stand in the place and stead of the Purchased Assets, and from and after the delivery of the Receiver's Certificate all Claims shall attach to the Net Proceeds from the sale of the Purchased Assets 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 had possession or control immediately prior to the sale.

5. The Receiver is to file with the Court a copy of the Receiver's Certificate forthwith after delivery thereof.

6. Subject to the terms of the Sale Agreement, vacant possession of the Purchased Assets, including any real property, shall be delivered by the Receiver to the Purchaser at 12:00 noon on the Closing Date (as defined in the Sale Agreement), subject to the permitted encumbrances as set out in the Sale Agreement and listed on **Schedule "E"**.

7. The Receiver, with the consent of the Purchaser and on notice to the petitioners, being The United States Life Insurance Company In The City of New York and American Home Assurance Company (collectively, the "**Petitioners**" and each, a "**Petitioner**"), shall be at liberty to extend the Closing Date to such later date as the Receiver and the Purchaser may agree without the necessity of a further Order of this Court.

8. Notwithstanding:

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

- (c) any assignment in bankruptcy made by or in respect of the Debtors,

the vesting of the Purchased Assets in the Purchaser and distributions to the Petitioners pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors and shall not be void or voidable by creditors of the Debtors, nor shall they constitute or be deemed to be a transfer at undervalue, fraudulent preference, assignment, fraudulent conveyance or other reviewable transaction under the *Bankruptcy and Insolvency Act* or any other applicable federal or provincial legislation, nor shall they constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

9. THIS COURT HEREBY REQUESTS the aid and recognition of any court, tribunal, regulatory or administrative body, wherever located, 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.

10. The Receiver or any other party have liberty to apply for such further or other directions or relief as may be necessary or desirable to give effect to this Order.

#### **Assignment of Debtors into Bankruptcy**

11. The Receiver is hereby empowered and authorized, but not obligated, to file an assignment in bankruptcy on behalf of the Debtors, or to consent to the making of a bankruptcy order against the Debtors.

12. The Receiver shall be permitted to transfer to any bankruptcy trustee of the Debtors, funding for costs associated with the bankruptcy of the Debtors.

#### **Distribution of Proceeds**

13. Notwithstanding paragraph 4 hereof, the Receiver or its legal counsel, Dentons Canada LLP, are hereby authorized to:

- (a) repay all indebtedness owing to the Petitioners under the Receiver's Certificates (as defined in the Appointment Order) from the Net Proceeds; and
- (b) distribute to the Petitioners from the Net Proceeds, the amount required to fully satisfy all amounts owing to them which are secured by their mortgage No. CA7388731 and assignment of rents CA7388732,

in each case, to such account or accounts that may be directed by the Petitioners.

### Payment of Broker Commissions

14. Notwithstanding paragraph 4 hereof, the Receiver or its legal counsel, Dentons Canada LLP, are hereby authorized to pay the Commissions (as defined in the Report) as and when the Transaction closes from the proceeds thereof.

### Approval of Activities

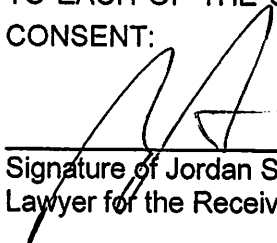
15. The activities of the Receiver, as set out in the First Report, are hereby approved.

16. The Receiver's statement of receipts and disbursements ~~up to \$637,215.00~~<sup>SL</sup> a copy of which is provided in section 5.0 of the First Report, is hereby approved.

### General

17. Endorsement of this Order, other than by counsel for the Receiver, is hereby dispensed with.

THE FOLLOWING PARTIES APPROVE THE FORM OF THIS ORDER AND CONSENT TO EACH OF THE ORDERS, IF ANY, THAT ARE INDICATED ABOVE AS BEING BY CONSENT:

  
\_\_\_\_\_  
Signature of Jordan Schultz  
Lawyer for the Receiver

By the Court 

\_\_\_\_\_  
Registrar



**SCHEDULE "A"**

Counsel Appearing

Counsel	Party Represented
P. Reardon	Petitioner
T. Jeffries	City of Burnaby
J. Pepper	Timbercreek Mortgage servicing Inc.
J. Schultz + C. Federico	Alvarez + Marcal Canada Inc.

## **SCHEDULE "B"**

### **Receiver's Certificate**

#### **RECEIVER'S CERTIFICATE**

Reference is made to the Asset Purchase Agreement dated October 22, 2024 (the **"APA"**) among Alvarez & Marsal Canada Inc., in its capacity as receiver of SCREO I Metrotown Inc. and SCREO I Metrotown L.P., and not in its personal capacity (the **"Receiver"**), as vendor, and the City of Burnaby (the **"Purchaser"**), as purchaser, a copy of which is attached as Appendix \_\_\_\_ to the First Report of the Receiver dated "\_\_\_\_", and as approved by Order Made After Application made November 7, 2024 (the **"Vesting Order"**) and filed herein.

PURSUANT TO PARAGRAPHS 2 AND 4 OF THE VESTING ORDER the Receiver hereby certifies that all conditions of the APA have been satisfied or waived and upon filing this Certificate the sale transaction contemplated by the APA will have completed.

DATED at the City of Vancouver, in the Province of British Columbia, this \_\_\_\_ day of September, 2024.

**ALVAREZ & MARSAL CANADA  
INC., in its capacity as court  
appointed receiver of SCREO I  
METROTOWN INC. AND SCREO I  
METROTOWN L.P., and not in its  
personal capacity**

By: \_\_\_\_\_

## **SCHEDULE "C"**

### **Purchased Assets**

The real property municipally described as 4330 Kingsway Avenue and 5945 Kathleen Avenue, Burnaby, BC, and legally described as:

PID Number: 031-357-881

LOT 1, DISTRICT LOT 153, GROUP 1, NEW WESTMINSTER LAND DISTRICT,  
PLAN EPP107270,

including all Buildings (as defined in the Sale Agreement) and improvements located thereon, and the benefit of all easements, permits and other appurtenances thereto; and all personal property located thereon, but excluding all Excluded Assets (as defined in the Sale Agreement).



## **SCHEDULE "D"**

### **Encumbrances to be Discharged**

1. Mortgage CA7388731, in favour of The United States Life Insurance Company In The City of New York, as to an undivided 423/1000 interest, and American Home Assurance Company as to an undivided 577/1000 interest;
2. Assignment of Rents CA7388732, in favour of The United States Life Insurance Company In The City of New York, as to an undivided 423/1000 interest, and American Home Assurance Company as to an undivided 577/1000 interest;

## **SCHEDULE "E"**

### **Permitted Encumbrances**

1. Easement X68811
2. Easement Y111605
3. Easement Y175966
4. Easement Y176437
5. Easement Y176438

NO. S244252  
VANCOUVER REGISTRY

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PETITIONERS

- AND -

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

RESPONDENTS

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ORDER MADE AFTER APPLICATION

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DENTONS CANADA LLP  
250 Howe Street, 20<sup>th</sup> Floor  
Vancouver, BC V6C 3R8  
Phone No.: (604) 687-4460  
Attention: Jordan Schultz

*West Coast*