

This is the 1<sup>st</sup> affidavit of Lorena Morales  
in this case and was made on June 2, 2025

District of British Columbia  
Division No. 03 – Vancouver  
Court File No.  
Estate No.  
Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA  
IN BANKRUPTCY AND INSOLVENCY**

**IN THE MATTER OF THE BANKRUPTCY OF  
SCREO I METROTOWN INC. and SCREO I METROTOWN L.P.**

**AFFIDAVIT**

I, LORENA MORALES, Legal Assistant, of 1201 – 1030 West Georgia Street, Vancouver, AFFIRM  
THAT:

1. I am a legal assistant with Gehlen Dabbs Cash LLP, lawyers for petitioner in the within proceedings and as such I have personal knowledge of the facts and matters deposed to in this affidavit, except where stated to be made on information and belief, in which case I verily believe those facts and matters to be true.
2. Attached as exhibit “A” to this affidavit is a copy of an Order Made After Application, entered on July 8, 2024, in court file no. S-244252 in the Vancouver Registry (the “Receivership Proceeding”).
3. Attached as exhibit “B” to this affidavit is a copy of an Order Made After Application, entered on November 7, 2024 in the Receivership Proceeding.
4. Attached as exhibit “C” to this affidavit is a copy of the First Report of Receiver, filed on October 30, 2024 in the Receivership Proceeding.
5. Attached as exhibit “D” to this affidavit is a copy of the Second Report of Receiver, filed on March 5, 2025 in the Receivership Proceeding.
6. Attached as exhibit “E” to this affidavit is a copy of the Notice of Application, filed on March 5, 2025 in the Receivership Proceeding.

7. Attached as exhibit "F" to this affidavit is a copy of an email from Jagjit Sall to Lee J. Marriner, dated May 30, 2025.

**AFFIRMED BEFORE ME** at Vancouver, )  
British Columbia on June 2, 2025. )



\_\_\_\_\_  
A commissioner for taking affidavits for British )  
Columbia )




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**LORENA MORALES**

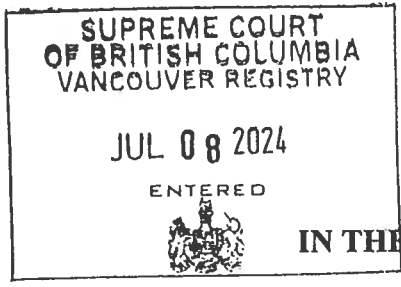
**LEE J. MARRINER**  
Barrister & Solicitor  
1201 - 1030 West Georgia Street  
Vancouver, BC, V6E 2Y3  
604.642.6422

This is Exhibit "A" referred to in the affidavit  
of LORENA MORALES

sworn before me at Vancouver, BC this  
2nd day of JUNE 2025

  
A Commissioner for taking Affidavits for  
British Columbia

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

BEFORE THE HONOURABLE	)	
	)	
JUSTICE BRONGERS	)	08/JULY/2024
	)	

ON THE APPLICATION of The United States Life Insurance Company In The City of New York and American Home Assurance Company (collectively, the "**Petitioners**") for an Order pursuant to Section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the "**BIA**") and Section 39 of the *Law and Equity Act*, R.S.B.C. 1996 c. 253, as amended (the "**LEA**") appointing Alvarez & Marsal Canada Inc. ("**A&M**") as Receiver and Manager (in such capacity, the "**Receiver**") without security, 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 (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**" and each a "**Debtor**"), 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 this day at Vancouver, British Columbia;

AND ON READING the Affidavit #1 of Jacob Baron sworn June 20, 2024, (the "**Baron Affidavit**") and the consent of A&M to act as the Receiver; AND ON HEARING Peter Reardon and Kayla Strong, Counsel for the Petitioners, Lance Williams, Counsel to the Debtors, and other counsel as listed on Schedule "A" hereto, and no one else appearing, although duly served.

THIS COURT ORDERS AND DECLARES that:

## APPOINTMENT

1. Pursuant to Section 243(1) of the BIA and Section 39 of the LEA, A&M is appointed Receiver, without security, of the Debtors' real property with the municipal addresses and legal description set out on Schedule "B" hereto (collectively, 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 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.

## RECEIVER'S POWERS

2. The Receiver is empowered and authorized, but not obligated, to act at once in respect of the Property and, without in any way limiting the generality of the foregoing, the Receiver is expressly empowered and authorized to do any of the following where the Receiver considers it necessary or desirable (provided that any disbursements made in connection therewith are made in accordance with the Receiver Term Sheet, as defined in the Baron Affidavit, unless otherwise ordered by the Court):
  - (a) to take possession of and exercise control over the Property and any and all receipts and disbursements arising out of or from the Property;
  - (b) to receive, preserve, protect and maintain control of the Property, or any part or parts thereof, including, but not limited to, changing locks and security codes, relocation of Property, engaging independent security personnel, taking physical inventories and placing or continuing insurance coverage;
  - (c) to manage, operate and carry on the business of either Debtor, including the powers to enter into any agreements, incur any obligations in the ordinary course of business, cease to carry on all or any part of the business, or cease to perform any contracts of such Debtor;
  - (d) to engage consultants, appraisers, agents, experts, auditors, accountants, managers, counsel and such other persons from time to time and on whatever basis, including on a temporary basis, to assist with the exercise of the Receiver's powers and duties, including, without limitation, those conferred by this Order;
  - (e) to purchase or lease such machinery, equipment, inventories, supplies, premises or other assets to continue the business of either Debtor or any part or parts thereof;
  - (f) to receive and collect all monies and accounts now owed or hereafter owing to the Debtors and to exercise all remedies of either Debtor in collecting these amounts, including, without limitation, enforcement of any security held by such Debtor;
  - (g) to settle, extend or compromise any indebtedness owing to either Debtor;

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- (h) to execute, assign, issue and endorse documents of whatever nature in respect of any of the Property, whether in the Receiver's name or in the name and on behalf of either Debtor, for any purpose pursuant to this Order;
- (i) to undertake environmental or workers' health and safety assessments of the Property and operations of either Debtor;
- (j) to initiate, manage and direct all legal proceedings now pending or hereafter pending (including appeals or applications for judicial review) in respect of either Debtor, the Property or the Receiver, including initiating, prosecuting, continuing, defending, settling or compromising the proceedings;
- (k) to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiating such terms and conditions of sale as the Receiver considers appropriate;
- (l) to sell, convey, transfer, lease or assign the Property or any part or parts thereof out of the ordinary course of business:
  - (i) without the approval of this Court in respect of a single transaction for consideration up to \$150,000, provided that the aggregate consideration for all such transactions does not exceed \$500,000; and
  - (ii) with the approval of this Court in respect of any transaction in which the individual or aggregate purchase price exceeds the limits set out in subparagraph (i) above,

and in each such case notice under Section 59(10) of the *Personal Property Security Act*, R.S.B.C. 1996, c. 359 shall not be required;
- (m) to apply for any vesting order or other orders necessary;
- (n) to convey the Property or any part or parts thereof to a purchaser or purchasers, free and clear of any liens or encumbrances;
- (o) to report to, meet with and discuss with such affected Persons (as defined below) as the Receiver considers appropriate on all matters relating to the Property and the receivership, and to share information, subject to confidentiality terms as the Receiver considers appropriate;
- (p) to instruct, communicate and otherwise consult with any brokers or sale advisors engaged by the Debtors prior to the date of this Order regarding the Property and any existing marketing or sale efforts related to the same (the "**Pre-Receiver'ship Sale Process**");
- (q) to consult with the Petitioners from time to time and to provide such information to the Petitioners as may be reasonably requested by the Petitioners;

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- (r) to register a copy of this Order and any other Orders in respect of the Property against title to any of the Property;
- (s) to apply for or continue any applications for any permits, licences, approvals, zoning changes, variances or permissions as may be required by any governmental authority and any renewals thereof for and on behalf of and, if considered necessary or appropriate by the Receiver, in the name of either Debtor;
- (t) to enter into agreements with any trustee in bankruptcy appointed in respect of either Debtor, including, without limitation, the ability to enter into occupation agreements for any property owned or leased by such Debtor;
- (u) to exercise any shareholder, partnership, joint venture or other rights which either Debtor may have; and
- (v) to take any steps reasonably incidental to the exercise of these powers or the performance of any statutory obligations,

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

#### **DUTY TO PROVIDE ACCESS AND CO-OPERATION TO THE RECEIVER**

3. Each of (i) the Debtors; (ii) all of each Debtors' current and former directors, officers, employees, agents, accountants, legal counsel and shareholders, and all other persons acting on its instructions or behalf; (iii) Slate Canadian Real Estate Opportunity Fund I L.P. and SCREO I Metrotown GP Inc.; and (iv) all other individuals, firms, corporations, governmental bodies or agencies, or other entities having notice of this Order (collectively, "**Persons**" and each a "**Person**") shall forthwith advise the Receiver of the existence of any Property in such Person's possession or control, shall grant immediate and continued access to the Property to the Receiver, including without limitation access to the Real Property, and shall deliver all Property (excluding Property subject to liens the validity of which is dependent on maintaining possession) to the Receiver upon the Receiver's request.
4. All Persons, other than governmental authorities, shall forthwith advise the Receiver of the existence of any books, documents, securities, contracts, orders, corporate and accounting records, and any other papers, records and information of any kind related to the business or affairs or the Pre-Receiver's Sale Process of the Debtors, and any computer programs, computer tapes, computer disks, or other data storage media containing any such information (collectively, the "**Records**") in that Person's possession or control. Upon request, governmental authorities shall advise the Receiver of the existence of any Records in that Person's possession or control.
5. Upon request, all Persons shall provide to the Receiver or permit the Receiver to make, retain and take away copies of the Records and grant to the Receiver unfettered access to and use of accounting, computer, software and physical facilities, provided however that

nothing in paragraphs 4, 5 or 6 of this Order shall require the delivery of Records, or the granting of access to Records, which may not be disclosed or provided to the Receiver due to solicitor client privilege or statutory provisions prohibiting such disclosure.

6. If any Records are stored or otherwise contained on a computer or other electronic system of information storage, whether by an independent service provider or otherwise, all Persons in possession or control of such Records shall forthwith give unfettered access to the Receiver for the purpose of allowing the Receiver to recover and fully copy all of the information contained therein whether by way of printing the information or making copies of computer disks or such other manner of retrieving and copying the information as the Receiver in its discretion deems expedient, and shall not alter, erase or destroy any Records without the prior written consent of the Receiver. Further, for the purposes of this paragraph, all Persons shall provide the Receiver with all such assistance in gaining immediate access to the information in the Records as the Receiver may require including, without limitation, providing the Receiver with instructions on the use of any computer or other system and providing the Receiver with any and all access codes, account names and account numbers that may be required to gain access to the information.

#### **NO PROCEEDINGS AGAINST THE RECEIVER**

7. No proceeding or enforcement process in any court or tribunal (each, a “**Proceeding**”), shall be commenced or continued against the Receiver except with the written consent of the Receiver or with leave of this Court.

#### **NO PROCEEDINGS AGAINST THE DEBTORS OR THE PROPERTY**

8. No Proceeding against or in respect of either Debtor or the Property shall be commenced or continued except with the written consent of the Receiver or with leave of this Court and any and all Proceedings currently under way against or in respect of either Debtor or the Property are stayed and suspended pending further Order of this Court; provided, however, that nothing in this Order shall prevent any Person from commencing a Proceeding regarding a claim that might otherwise become barred by statute or an existing agreement if such Proceeding is not commenced before the expiration of the stay provided by this paragraph and provided that no further step shall be taken in respect of the Proceeding except for service of the initiating documentation on the applicable Debtor and the Receiver.

#### **NO EXERCISE OF RIGHTS OR REMEDIES**

9. All rights and remedies (including, without limitation, set-off rights) against either Debtor, the Receiver, or affecting the Property, are stayed and suspended except with the written consent of the Receiver or leave of this Court, provided however that nothing in this Order shall (i) empower the Receiver or either Debtor to carry on any business which such Debtor is not lawfully entitled to carry on, (ii) affect the rights of any regulatory body as set forth in section 69.6(2) of the BIA, (iii) prevent the filing of any registration to preserve or perfect a security interest, or (iv) prevent the registration of a claim for lien. This stay and

suspension shall not apply in respect of any “eligible financial contract” as defined in the BIA.

### **NO INTERFERENCE WITH THE RECEIVER**

10. No Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, licence or permit in favour of or held by either Debtor, without written consent of the Receiver or leave of this Court. Nothing in this Order shall prohibit any party to an eligible financial contract from closing out and terminating such contract in accordance with its terms.

### **CONTINUATION OF SERVICES**

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

### **RECEIVER TO HOLD FUNDS**

12. All funds, monies, cheques, instruments, and other forms of payments received or collected by the Receiver from and after the making of this Order from any source whatsoever including, without limitation, the sale of all or any of the Property and the collection of any accounts receivable, in whole or in part, whether in existence on the date of this Order or hereafter coming into existence, shall be deposited into one or more new accounts to be opened by the Receiver (the “**Post-Receivership Accounts**”) and the monies standing to the credit of such Post-Receivership Accounts from time to time, net of any disbursements provided for herein, shall be held by the Receiver to be paid in accordance with the terms of this Order or any further order of this Court.

### **EMPLOYEES**

13. Subject to the employees’ right to terminate their employment, the employees of the Debtors (if any) shall remain the employees of each applicable Debtor until such time as the Receiver, on the applicable Debtor’s behalf, may terminate the employment of such employees. The Receiver shall not be liable for any employee-related liabilities of any Debtor, including any successor employer liabilities as referred to in Section 14.06(1.2) of the BIA, other than amounts the Receiver may specifically agree in writing to pay or in respect of obligations imposed specifically on receivers by applicable legislation, including sections 81.4(5) or 81.6(3) of the BIA or under the *Wage Earner Protection Program Act*,

S.C. 2005, c.47. The Receiver shall be liable for any employee-related liabilities, including wages, severance pay, termination pay, vacation pay, and pension or benefit amounts relating to any employees that the Receiver may hire in accordance with the terms and conditions of such employment by the Receiver.

## PERSONAL INFORMATION

14. Pursuant to Section 7(3)(c) of the *Personal Information Protection and Electronic Documents Act*, S.C. 2000, c. 5 or Section 18(1)(o) of the *Personal Information Protection Act*, S.B.C. 2003, c. 63, the Receiver may disclose personal information of identifiable individuals to prospective purchasers or bidders for the Property and to their advisors, but only to the extent desirable or required to negotiate and attempt to complete one or more sales of the Property (each, a “Sale”). Each prospective purchaser or bidder to whom such personal information is disclosed shall maintain and protect the privacy of such information and limit the use of such information to its evaluation of the Sale, and if it does not complete a Sale, shall return all such information to the Receiver, or in the alternative destroy all such information. The purchaser of any Property shall be entitled to continue to use the personal information provided to it, and related to the Property purchased, in a manner which is in all material respects identical to the prior use of such information by the applicable Debtor, and shall return all other personal information to the Receiver, or ensure that all other personal information is destroyed.

## LIMITATION ON ENVIRONMENTAL LIABILITIES

15. Nothing in this Order shall require the Receiver to occupy or to take control, care, charge, possession or management (separately and/or collectively, “Possession”) of any of the Property that might be environmentally contaminated, might be a pollutant or a contaminant, or might cause or contribute to a spill, discharge, release, or deposit of a substance contrary to any federal, provincial or other law relating to the protection, conservation, enhancement, remediation or rehabilitation of the environment or relating to the disposal of waste or other contamination (collectively “Environmental Legislation”), provided however that nothing herein shall exempt the Receiver from any duty to report or make disclosure imposed by applicable Environmental Legislation.
16. The Receiver shall not, as a result of this Order or anything done in pursuance of the Receiver’s duties and powers under this Order, be deemed to be in Possession of any of the Property within the meaning of any Environmental Legislation, unless the Receiver is actually in possession.
17. Notwithstanding anything in federal or provincial law, the Receiver is not personally liable in that position for any environmental condition that arises or environmental damage that occurred:
  - (a) before the Receiver’s appointment; or,
  - (b) after the Receiver’s appointment, unless it is established that the condition arose or the damage occurred as a result of the Receiver’s gross negligence or wilful misconduct.

18. Notwithstanding anything in federal or provincial law, but subject to paragraph 17 of this Order, where an order is made which has the effect of requiring the Receiver to remedy any environmental condition or environmental damage affecting the Property, if the Receiver complies with the BIA section 14.06(4), the Receiver is not personally liable for the failure to comply with the order and is not personally liable for any costs that are or would be incurred by any Person in carrying out the terms of the order.

#### **LIMITATION ON THE RECEIVER'S LIABILITY**

19. The Receiver shall incur no liability or obligation as a result of its appointment or the carrying out the provisions of this Order, save and except:
- (a) any gross negligence or wilful misconduct on its part; or
  - (b) amounts in respect of obligations imposed specifically on receivers by applicable legislation.

Nothing in this Order shall derogate from the protections afforded the Receiver by Section 14.06 of the BIA or by any other applicable legislation.

#### **RECEIVER'S ACCOUNTS**

20. The Receiver and its legal counsel, if any, are granted a charge (the "**Receiver's Charge**") on the Property as security for the payment of their fees and disbursements, in each case at their standard rates, in respect of these proceedings, whether incurred before or after the making of this Order. The Receiver's Charge shall form a first charge on the Property in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subject to Sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.
21. The Receiver and its legal counsel shall pass their accounts from time to time, and for this purpose the accounts of the Receiver and its legal counsel are referred to a judge of the Supreme Court of British Columbia and may be heard on a summary basis. If requested by the Court, the Receiver and its legal counsel shall separately account for their fees and disbursements as they relate to each Debtor.
22. Prior to the passing of its accounts, the Receiver shall be at liberty from time to time to apply reasonable amounts, out of the monies in its hands, against its fees and disbursements, including legal fees and disbursements, incurred at the standard rates and charges of the Receiver or its counsel, and such amounts shall constitute advances against its remuneration and disbursements when and as approved by this Court.

#### **FUNDING OF THE RECEIVERSHIP**

23. The Receiver is authorized and empowered to borrow from the Petitioners such monies from time to time as it may consider necessary or desirable, provided that the outstanding principal amount does not exceed \$750,000 (or such greater amount as this Court may by further Order authorize) at any time and pursuant to a Receiver Term Sheet to be entered

into by the Receiver and the Petitioners, for the purpose of funding the exercise of the powers and duties conferred upon the Receiver by this Order, including interim expenditures. The whole of the Property shall be and is charged by way of a fixed and specific charge (the “**Receiver’s Borrowings Charge**”) as security for the payment of the monies borrowed, together with interest and charges thereon, in priority to all security interests, trusts, liens, charges and encumbrances, statutory or otherwise, in favour of any Person, but subordinate in priority to the Receiver’s Charge and the charges as set out in Sections 14.06(7), 81.4(4), and 81.6(2) of the BIA.

24. Neither the Receiver’s Borrowings Charge nor any other security granted by the Receiver in connection with its borrowings under this Order shall be enforced without leave of this Court.
25. The Receiver is authorized to issue certificates substantially in the form annexed as Schedule “C” hereto (the “**Receiver’s Certificates**”) for any amount borrowed by it pursuant to this Order.
26. The monies from time to time borrowed by the Receiver pursuant to this Order or any further order of this Court and any and all Receiver’s Certificates evidencing the same or any part thereof shall rank on a *pari passu* basis, unless otherwise agreed to by the holders of any prior issued Receiver’s Certificates.

#### ALLOCATION

27. Any interested party may apply to this Court on notice to any other party likely to be affected for an order allocating the Receiver’s Charge and Receiver’s Borrowings Charge amongst the Property.

#### SERVICE AND NOTICE OF MATERIALS

28. The Receiver shall establish and maintain a website in respect of these proceedings at: [www.alvarezandmarsal.com/screometrotown](http://www.alvarezandmarsal.com/screometrotown) (the “**Website**”) and shall post there as soon as practicable:
  - (a) all materials prescribed by statute or regulation to be made publicly available, including pursuant to Rule 10-2 of the *Supreme Court Civil Rules*; and,
  - (b) all applications, reports, affidavits, orders and other materials filed in these proceedings by or on behalf of the Receiver, except such materials as are confidential and the subject of a sealing order or pending application for a sealing order.
29. Any Person who is served with a copy of this Order and that wishes to be served with any future application or other materials in these proceedings must provide to counsel for each of the Receiver and the Petitioners a demand for notice in the form attached as Schedule “D” (the “**Demand for Notice**”). The Receiver and the Petitioners need only provide further notice in respect of these proceedings to Persons that have delivered a properly completed Demand for Notice. The failure of any Person to provide a properly completed

Demand for Notice releases the Receiver and the Petitioners from any requirement to provide further notice in respect of these proceedings until such Person delivers a properly completed Demand for Notice.

30. The Receiver shall maintain a service list identifying all parties that have delivered a properly completed Demand for Notice (the “**Service List**”). The Receiver shall post and maintain an up-to-date form of the Service List on the Website.
31. Any interested party, including the Receiver, may serve any court materials in these proceedings by facsimile or by emailing a PDF or other electronic copy of such materials to the numbers or addresses, as applicable, set out on the Service List. Any interested party, including the Receiver, may serve any court materials in these proceedings by mail to any party on the Service List that has not provided a facsimile number or email address, and materials delivered by mail shall be deemed received five (5) days after mailing.
32. Notwithstanding paragraph 31 of this Order, service of the Notice of Application and any affidavits filed in support shall be made on the Federal and British Columbia Crowns in accordance with the *Crown Liability and Proceedings Act*, R.S.C. 1985, c.C-50 and its regulations for the Federal Crown and the *Crown Proceedings Act*, R.S.B.C. 1996 c.89 in respect of the British Columbia Crown.
33. The Receiver and its counsel are authorised to serve or distribute this Order, any other orders and any other materials as may be reasonably required in these proceedings, including any notices or other correspondence, by forwarding copies by facsimile or by email to the Debtors’ creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of any legal or juridical obligation and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*.

## GENERAL

34. Any interested party may apply to this Court to vary or amend this Order on not less than seven (7) clear business days’ notice to the Service List and to any other party who may be affected by the variation or amendment, or upon such other notice, if any, as this Court may order.
35. The Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder.
36. Nothing in this Order shall prevent the Receiver from acting as a trustee in bankruptcy of any of the Debtors.
37. This Court requests the aid, recognition and assistance of any court, tribunal, regulatory or administrative body having jurisdiction, 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 such courts, tribunals and regulatory and administrative bodies are respectfully requested to make such orders and to provide such assistance to the Receiver, as an officer of this Court, as may be

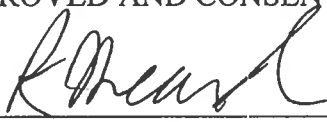
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necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

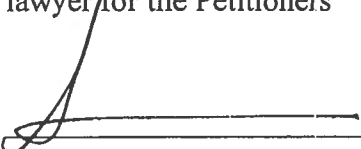
38. The Receiver is authorized and empowered to apply to any court, tribunal or regulatory or administrative body, wherever located, for recognition of this Order and for assistance in carrying out the terms of this Order and the Receiver is authorized and empowered to act as a representative in respect of the within proceedings for the purpose of having these proceedings recognized in a jurisdiction outside Canada.
39. The Petitioners shall have their costs of this application, up to and including entry and service of this Order, as provided for by the terms of the Petitioners' security or, if not so provided by the Petitioners' security, then on a substantial indemnity basis to be paid by the Receiver from the Debtors' estate with such priority and at such time as this Court may determine.

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

APPROVED AND CONSENTED TO BY:

  
 Signature of Peter J. Reardon  
 lawyer for the Petitioners

  
 Signature of John R. Sandrelli  
 lawyer for the Receiver

  
 Signature of ~~Lance Williams~~  
 lawyer for the Respondents

ASHLEY BOWRON

  
 BY THE COURT  
 ASHLEY BOWRON  
 DISTRICT REGISTRAR

CHECKED  


**SCHEDULE "A"**

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

**LIST OF COUNSEL**

<p><b>Counsel for The United States Life Insurance Company in the City of New York and American Home Assurance Company</b></p> <p><b>Nathanson, Schachter &amp; Thompson LLP</b> 750 – 900 Howe Street Vancouver, BC V6Z 2M4</p> <p>Peter J. Reardon / Kayla K. Strong Tel.: 778-328-8940 / 778-328-894 Email: <a href="mailto:preardon@nst.ca">preardon@nst.ca</a> / <a href="mailto:kstrong@nst.ca">kstrong@nst.ca</a></p>	<p><b>Counsel for SCREO I Metrotown Inc. and SCREO I Metrotown L.P.</b></p> <p><b>McCarthy Tétrault LLP</b> 2400 – 745 Thurlow Street Vancouver, BC V6E 0C5 <i>Ashley Bowron</i> <del>Lance Williams</del> Tel.: 604-643-7154 Email: <a href="mailto:lwilliams@mccarthy.ca">lwilliams@mccarthy.ca</a> <i>a bowron</i></p>
<p><del><b>Counsel for the Receiver, Alvarez &amp; Marsal Canada Inc.</b></del></p> <p><b>Dentons Canada LLP</b> 2000 - 250 Howe Street Vancouver, BC V6C 3R8</p> <p>John R. Sandrelli Tel.: 604-443-7132 Email: <a href="mailto:john.sandrelli@dentons.com">john.sandrelli@dentons.com</a></p>	

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## **SCHEDULE "B"**

### **"Real Property"**

**Municipal Address:** 4430 Kingsway Avenue, Burnaby, British Columbia

**Legal Description:** PID 031-357-881, Lot 1 District Lot 153 Group 1 New Westminster District  
Plan EPP107270.

**SCHEDULE "C"**  
**RECEIVER CERTIFICATE**

CERTIFICATE NO. \_\_\_\_\_

AMOUNT

\$ \_\_\_\_\_

1. THIS IS TO CERTIFY that Alvarez & Marsal Canada Inc. ("A&M"), the Receiver and Manager (the "**Receiver**") without security, of the real property with the municipal addresses and legal description set out on Schedule "B" of the Order (as defined below) (collectively, 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 (the "**Property**") of SCREO I Metrotown Inc. and SCREO I Metrotown L.P. (collectively, the "**Debtors**"), appointed by Order of the Supreme Court of British Columbia and/or the Supreme Court of British Columbia (In Bankruptcy and Insolvency) (the "**Court**") dated the \_\_\_\_\_ day of \_\_\_\_\_, [YEAR] (the "**Order**") made in SCBC Action No. \_\_\_\_\_ and/or SCBC Action No. \_\_\_\_\_/Estate No. \_\_\_\_\_ has received as such Receiver from the holder of this certificate (the "**Lender**") the principal sum of \$\_\_\_\_\_, being part of the total principal sum of \$\_\_\_\_\_ which the Receiver is authorized to borrow under and pursuant to the Order.
2. The principal sum evidenced by this certificate is payable on demand by the Lender with interest thereon calculated in accordance with the term sheet among the Receiver, The United States Life Insurance Company In The City Of New York, and American Home Assurance Company dated as of [DATE] (the "**Receiver Term Sheet**").
3. Such principal sum with interest thereon is, by the terms of the Order, together with the principal sums and interest thereon of all other certificates issued by the Receiver pursuant to the Order or to any further order of the Court, a charge upon the whole of the Property, in priority to the security interests of any other person, but subject to the priority of the charges set out in the Order and in the *Bankruptcy and Insolvency Act*, and the right of the Receiver to indemnify itself out of the Property in respect of its remuneration and expenses.
4. All sums payable in respect of principal and interest under this certificate are payable in accordance with the Receiver Term Sheet.
5. Until all liability in respect of this certificate has been terminated, no certificates creating charges ranking or purporting to rank in priority to this certificate shall be issued by the Receiver to any person other than the holder of this certificate without the prior written consent of the holder of this certificate.
6. The charge securing this certificate shall operate to permit the Receiver to deal with the Property as authorized by the Order and as authorized by any further or other order of the Court.

- 2 -

7. The Receiver does not undertake, and it is not under any personal or corporate liability, to pay any sum under this Certificate in respect of which it may issue certificates under the terms of the Order.

DATED the [REDACTED] day of [REDACTED], [YEAR].

Alvarez & Marsal Canada Inc., solely in its  
capacity as Receiver, and not in its personal or  
corporate capacity

Per:  
Name:  
Title:

- 3 -

**SCHEDULE "D"****Demand for Notice**

**TO:** **THE UNITED STATES LIFE INSURANCE COMPANY IN THE CITY OF NEW YORK, and AMERICAN HOME ASSURANCE COMPANY**  
 c/o Nathanson Schachter & Thompson LLP  
 Attention: Peter J. Reardon and Kayla K. Strong  
 Email: [preardon@nst.ca](mailto:preardon@nst.ca) / [kstrong@nst.ca](mailto:kstrong@nst.ca)

**AND TO:** Alvarez & Marsal Canada Inc.  
 Attention: Anthony Tillman / Pinky Law  
 Email: [atillman@alvarezandmarsal.com](mailto:atillman@alvarezandmarsal.com) / [pinky.law@alvarezandmarsal.com](mailto:pinky.law@alvarezandmarsal.com)

Copy to: Dentons Canada LLP  
 Attention: John R. Sandrelli  
 Email: [john.sandrelli@dentons.com](mailto:john.sandrelli@dentons.com)

**Re: In the matter of the Receivership of SCREO I METROTOWN INC., and SCREO I METROTOWN L.P.**

I hereby request that notice of all further proceedings in the above Receivership be sent to me in the following manner:

1. By email, at the following address (or addresses):

\_\_\_\_\_

OR

2. By facsimile, at the following facsimile number (or numbers):

\_\_\_\_\_

OR

3. By mail, at the following address:

\_\_\_\_\_

Name of Creditor: \_\_\_\_\_

Name of Counsel (if any): \_\_\_\_\_

Creditor's Contact Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Creditor's Contact Phone Number: \_\_\_\_\_

No. S-244252

Vancouver Registry

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**IN THE SUPREME COURT OF BRITISH COLUMBIA**

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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

---

**ORDER MADE AFTER APPLICATION**

---

**Peter J. Reardon / Kayla K. Strong**  
Nathanson, Schachter & Thompson LLP  
750 - 900 Howe Street  
Vancouver, BC V6Z 2M4  
Tel.: 604-662-8840  
Email: [preardon@nst.ca](mailto:preardon@nst.ca) / [kstrong@nst.ca](mailto:kstrong@nst.ca)

---

This is Exhibit "B" referred to in the affidavit  
of LORENA MORALES

sworn before me at Vancouver, BC this  
20 day of JUNE 2025

  
A Commissioner for taking Affidavits for  
British Columbia

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

BEFORE	)	THE HONOURABLE JUSTICE	)	
	)	<u>KAMSAH</u>	)	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

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

---

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

*Web (001)*


30-Oct-24

REGISTRY

This is Exhibit "C" referred to in the affidavit  
of LORENA MORALES  
sworn before me at Vancouver, BC this  
2nd day of JUNE 2025

No. S-244252

Vancouver Registry

  
A Commissioner for taking Affidavits for  
British Columbia

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**



ALVAREZ & MARSAL

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### Appendices

Appendix A – the CBRE Progress Report

Appendix B – the APA

## 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](http://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 I Metrotown Inc. and SCREO I Metrotown LP Interim Statement of Cash Receipts and Disbursements For the period July 8, 2024 to October 25, 2024 \$000's		
<b>Receipts</b>		
Receiver's borrowings	\$	400,000
Rent and other receipts		2,488
<b>Total receipts</b>		<b>402,488</b>
<b>Disbursements</b>		
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
<b>Total disbursements</b>		<b>234,727</b>
<b>Net cash flow (deficit)</b>	<b>\$</b>	<b>167,761</b>
<b>Cash position</b>		
Opening cash		-
Net cash flow (deficit)		167,761
<b>Closing cash</b>	<b>\$</b>	<b>167,761</b>

## 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:

<b>APA – Key Terms</b>	
<b>Purchaser</b>	City of Burnaby
<b>Purchaser’s Broker</b>	W.P.J. McCarthy and Company Ltd.
<b>Purchase Price</b>	\$65 million, exclusive of GST and transfer taxes where applicable
<b>Deposit</b>	\$3.25 million
<b>Purchaser’s Broker Fees</b>	\$650,000 plus GST
<b>Receiver’s Broker Fees</b>	\$422,500 plus GST
<b>Purchased Assets</b>	The Debtors’ right, title and interest in and to the Towers, and all personal property located at the Towers, but exclude all Excluded Assets.
<b>Excluded Assets</b>	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.
<b>Closing Date</b>	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.
<b>Outside Date</b>	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 30<sup>th</sup> 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**

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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

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### **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

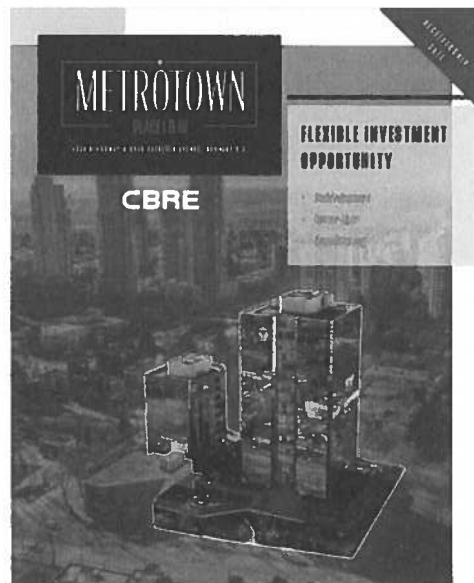
**CBRE**

## Marketing Materials Metrotown Place I & III

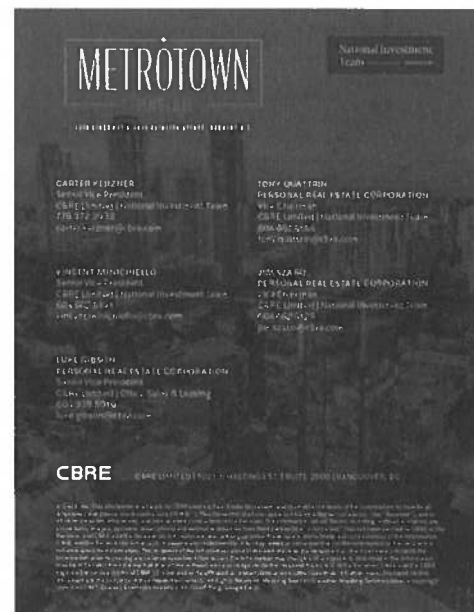


# Marketing Brochure

## Front Cover



## Back Cover



## Inside Pages



### EXECUTIVE SUMMARY

*(The limited schedule of Metrotown Place I & III is set forth in the first 100 pages of the Metrotown Place I & III Prospectus Supplement, which is available at [www.metrotownrealty.com](http://www.metrotownrealty.com).)*

Metrotown Place presents three distinct investment opportunities 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 and existing office tower and redeveloping the other.

First, Metrotown Place presents an excellent owner-occupy opportunity to acquire and occupy the existing office towers. The Property is comprised of two office towers offering a total of 750,000 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 15 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-added 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 15-ACRE DEVELOPMENT OPPORTUNITY**

- More than 15 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 modes, 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 40,000 trips per day).
- 20-minute drive, or 17-minute SkyTrain ride to Downtown Vancouver.

**EXCELLENT CORE LOCATION**

- Site sits in Metrotown in Burnaby, B.C., the geographic centre of Metro Vancouver.
- Located directly off Kingsway, Burnaby's primary vehicle thoroughfare and central commercial node.
- Easily accessible from downtown Vancouver, VVR, 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 Swangton Stadium.

### SITE SUMMARY

Site Address	4730 Kingsway & 8045 Hamilton Avenue, Burnaby, B.C.
PID	031-297-001
Site Size	67.378 SF (1.99 Acres)
Current Zoning	C1
OCP Designation	RM1S & C3
Frontage	235 feet along Kingsway 215 feet along Wilson Avenue 230 feet along 2nd Street
Improvements	Two vacant high-rise office towers
Net Rentable Area	250,000 SF
Bld Date	Contact agents for details

### CURRENT IMPROVEMENTS

METROTOWN PLACE I	
Storeys	10
Year Built	1984
NRA	184,220 SF
Average Floorplate	18,422 SF
Parking	375 Stalls

METROTOWN PLACE III	
Storeys	10
Year Built	1980
NRA	166,395 SF
Average Floorplate	16,639 SF
Parking	111 Stalls

**TRUSTED INVESTMENT OPPORTUNITY**

**EXCELLENT OFFICE SPACE FOR ALL USER TYPES**

**ON-TRANSIT IN THE HEART OF METROTOWN**

**IDEAL FOR RECREATION OF THE SITE**

**EASY-TO-ACCESS PARKING STALLS**

Metrotown Place I & III

2

Burnaby, B.C.

CBRE Limited

3

For Sale

Owner/User Opportunity

EXISTING PROPERTY OVERVIEW

- Metrotown Place I & III offers a combined total of 250,600 sq. ft. of office space spread over two towers, providing significant office scale in the heart of the Metrotown core.
- Delivered vacant, the Property provides an excellent opportunity for an office user requiring substantial scale to own and occupy the existing two office towers, creating a campus-style business environment.
- Offers approximately 235 feet of prominent frontage along Kingsway that allows for high-visibility signage opportunities along with ground floor retail space.
- Located steps to Patterson Station (5-minute walk) on the Expo Line Skytrain, along with its direct access to Kingsway, the Property is accessible from all areas of Metro Vancouver, providing convenient transit for employees.
- Further, Metropolis at Metrotown and The Crystal Mall are within walking distance, providing access to hundreds of retail and service amenities.

METROTOWN PLACE I

Located at 4330 Kingsway, Metrotown Place Tower I is a 19-storey office tower comprising approximately 194,220 sq. ft. of net rentable area, offering exceptional office scale in the commercial core of Metrotown. The building features generous floorplates of approximately 10,000 sq. ft., providing a range of flexible leasing and densifying options. The building includes a two-storey padman inclusive of retail on the ground floor, and amenity space on the second floor. Further, the building provides a generous parking ratio of 1.9 stalls per 1,000 sq. ft., for a total of 375 underground parking stalls in a shared parkade with Metrotown Place III. The main building entrance is located along Kingsway, and the parking is accessible via Kemp Street.

METROTOWN PLACE III

Located at 5945 Kathleen Avenue, Metrotown Place III is a 10-storey office tower comprising approximately 56,600 sq. ft. of net rentable area in the commercial core of Metrotown. The building features floorplates of approximately 6,500 sq. ft., along with a generous parking ratio of 2.0 stalls per 1,000 sq. ft., for a total of 111 underground parking stalls in a shared parkade with Metrotown Place I. The main building entrance is located along Kathleen Avenue, and the parking is accessible via Kathleen Street.

Metrotown Place I & III



METROTOWN PLACE I

Address	4330 Kingsway
Floors	19
Year Built	1984
Area	194,220 SF
Average Floorplate	10,222 SF
Parking	375 stalls (1.9 per 1,000 SF)
Elevators	4 (recently upgraded)

© DBE Limited

METROTOWN PLACE III

Address	5945 Kathleen Avenue
Floors	10
Year Built	1996
Area	56,600 SF
Average Floorplate	5,660 SF
Parking	111 stalls (2.0 per 1,000 SF)
Elevators	2

Ex. Data

Redevelopment Opportunity

SITE OVERVIEW

Metrotown Place provides the opportunity to develop a signature landmark, high-rise, mixed-use residential project in the heart of Metrotown's core. The Metrotown Place I & III site encompasses almost an entire city block in the heart of Burnaby. The Site is situated along Kingsway, one of Burnaby's most prominent arterial roads, and offers approximately 235 feet of prominent frontage. The Site is currently improved with two office towers, which will be delivered with vacant possession, providing ease and flexibility of redevelopment due to the lack of lease encumbrances.

Metrotown Place I & III are currently zoned as C.D. and have been designated as part of the high-density Metro Downtown neighbourhood by the recently approved Metrotown Downtown Plan. The Site has proposed zoning including RM5/C3, which allows for a total buildable density of 14.30x FSR.

An opportunity to build a signature mixed-use residential development in one of Metro Vancouver's most significant town centres



SITE SUMMARY

Address	4330 Kingsway & 5945 Kathleen Avenue, Burnaby, BC
PO	V3T 2B1
Site Size	97,778 SF (2.22 acres)
Zoning Designation	C.D. (Comprehensive Development)
Neighbourhood Community Plan	Metrotown - High Density Mixed-Use
Proposed Zoning Designation	RM5 & C3
Maximum Allowable Density	14.3x FSR

Metrotown Place I & III

New development on the Site would add much-needed market and rental housing to Metro Vancouver, supporting the region's immense population growth and increasing employee base.

The Site offers the opportunity to create a landmark mixed-use residential development at the gateway to the Metrotown core, providing a range of housing types while activating the street front with vibrant retail and commercial uses that blend seamlessly into the existing retail landscape.

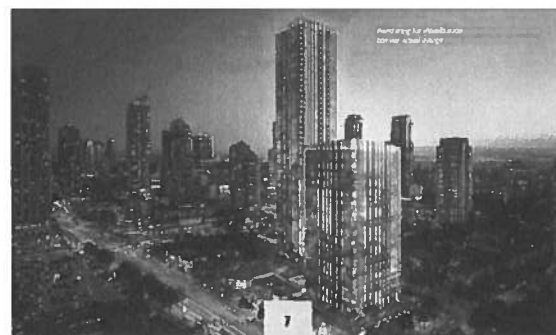
DEVELOPMENT POTENTIAL

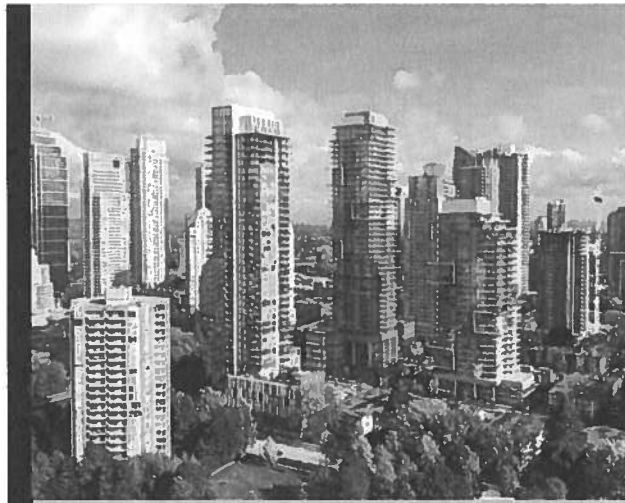
Based on the Subject Site's proposed zoning designation, the combination of RM5 and C3 can provide a total of 14.30x FSR in density. The total density can be divided into three major components:

- Market Strata Condo Residential (RM5a)
- Rental Residential (RM5r)
- Commercial & Market Rental (C3)

As such, the potential outtable density breakdown for the Site is outlined in the table below.

Density Component	Market Strata Condo (RM5a)	RM5r	C3
Base	2.20x FSR		
Base Bonus	9.10x FSR		
Supplementary (Base Bonus)	1.20x FSR		
Supplementary (Base Bonus)	1.20x FSR		
Total Market Strata Condo (RM5a)	13.50x FSR		
Density Offset	1.90x FSR		
Total Market Strata Condo	15.40x FSR		
Partial (RM5r)		1.00x FSR	
Market Rental (RM5r)		0.50x FSR	
Market Rental (RM5r)		0.50x FSR	
Total Market Rental		2.00x FSR	
Commercial (C3)			2.90x FSR
Market Rental (C3)			2.90x FSR
Commercial (C3)			1.00x FSR
Total Commercial (C3)			3.90x FSR
Total Density	15.40x FSR	2.00x FSR	3.90x FSR





## BURNABY 2050 LAND USE FRAMEWORK ENGAGEMENT PLAN

The City of Burnaby is currently working on an update to the existing OGR 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 citywide 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.

Metrotown Place I & III
Burnaby, B.C.

### 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.



CBRE Limited

Full Title

## 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, multi-family rental, office, and other commercial use.
- 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
Burnaby, B.C.

CBRE Limited
Full Title



# 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](mailto:sarah.alexander@burnaby.ca)  
[james.lota@burnaby.ca](mailto:james.lota@burnaby.ca)

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

Email: [tjeffries@farris.com](mailto: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](mailto:pinky.law@alvarezandmarsal.com)  
[atillman@alvarezandmarsal.com](mailto:atillman@alvarezandmarsal.com)

With a copy to:

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

Email: [jordan.schultz@dentons.com](mailto: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: \_\_\_\_\_

Title: \_\_\_\_\_

**KATHRYN MATTS**

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**

<b>Asset</b>	<b>Allocation of Purchase Price</b>
<b><u>Total:</u></b>	




This is Exhibit "D" referred to in the affidavit  
of LORENA MORALES  
sworn before me at Vancouver, BC this  
2nd day of JUNE 2025

73

No. S-244252

Vancouver Registry

  
A Commissioner for taking Affidavits for

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

**SECOND REPORT OF THE RECEIVER**

**ALVAREZ & MARSAL CANADA INC.**

**MARCH 5, 2025**



ALVAREZ & MARSAL

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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 On November 7, 2024, upon application by the Receiver, this Honourable Court granted an order (the “**Approval and Vesting Order**”), which, among other things:
- a) approved the sale of the Real Property to the City of Burnaby (the “**Transaction**”);
  - b) empowered and authorized the Receiver to assign the Debtors into bankruptcy;
  - c) authorized the Receiver or its legal counsel, Dentons Canada LLP (“**Dentons**”), to repay all indebtedness owing to the Petitioners from the proceeds of the Transaction;
  - d) authorized the Receiver or Dentons to pay the real estate broker’s commission upon the closing of the Transaction; and
  - e) approved the statement of receipts and disbursements and the activities of the Receiver as set out in the First Report of the Receiver dated October 30, 2024 (the “**First Report**”).
- 1.4 The Transaction closed on November 22, 2024 and the Receiver’s Certificate was filed with this Honourable Court on November 25, 2024. As a result of the Transaction, the Petitioners’ debt and the Receiver’s borrowings were repaid in full.

- 1.5 There is approximately \$11.4 million in proceeds from the sale of the Real Property (the “**Proceeds**”) left to be distributed to any creditors of the Debtors, subject to disbursements from the estate (including professional fees).
- 1.6 Concurrent with the filing of this Second Report of the Receiver (the “**Second Report**”), the Receiver filed an application with this Honourable Court seeking directions to adjudicate a secured claim asserted by Timbercreek Mortgage Servicing Inc. (“**Timbercreek**”).
- 1.7 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](http://www.alvarezandmarsal.com/screometrotown).

## **2.0 PURPOSE OF THE SECOND REPORT**

- 2.1 This is the second report of the Receiver (the “**Second Report**”) and has been prepared to provide this Honourable Court with information regarding the following:
  - a) the Receiver’s interim statement of receipts and disbursements for the period from October 26, 2024 to December 31, 2024;
  - b) the claim from Timbercreek; and
  - c) the Receiver’s request for directions.

## **3.0 RECEIVER’S INTERIM STATEMENT OF CASH RECEIPTS AND DISBURSEMENTS**

- 3.1 The Receiver’s interim statement of cash receipts and disbursements for the period July 8, 2024 to December 31, 2024 (the “**Reporting Period**”) is summarized in the table below:

**SCREO I Metrotown Inc. and SCREO I Metrotown LP**  
**Interim Statement of Cash Receipts and Disbursements**  
**For the period July 8, 2024 to December 31, 2024**  
**\$000's**

<b>Receipts</b>	
Receiver's borrowings	\$ 400,000
Sale of assets	11,370,391
Rent and other receipts	9,407
<b>Total receipts</b>	<b>11,779,798</b>
<b>Disbursements</b>	
General and administrative	193
Security	14,036
Repairs and maintenance	41,273
Utilities	42,032
Insurance	57,717
Property management	30,669
Receiver's fees and disbursements	125,089
Legal fees and disbursements	47,565
Professional fees	17,504
GST paid on disbursements	15,785
PST paid on disbursements	3,634
<b>Total disbursements</b>	<b>395,497</b>
<b>Net cash flow (deficit)</b>	<b>\$ 11,384,301</b>
<b>Cash position</b>	
Opening cash	-
Net cash flow (deficit)	11,384,301
<b>Closing cash</b>	<b>\$ 11,384,301</b>

**3.2 During the Reporting Period:**

- a) total receipts of approximately \$11,779,798 were primarily comprised of net proceeds from the Transaction, funds received from the Receiver's borrowings (repaid in full from gross proceeds from the Transaction), parking rent and interest income;
- b) total disbursements approximating \$395,497 consisted primarily of property management fees, utilities and security services to maintain the Towers, as well as the Receiver's fees 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.

**4.0 TIMBERCREEK CLAIM**

- 4.1 As noted in the First Report of the Receiver dated October 30, 2024, the Receiver is aware of a financing statement against the Debtors in favour of Computershare Trust Company of Canada, in its capacity as agent, nominee and bare trustee for Timbercreek.

- 4.2 Based on the information received from Timbercreek's counsel, the Receiver understands that the security registration is related to the following two loan agreements:
- a) loan agreement (the "**Gill Loan**") between Timbercreek (as lender) and SCREO I Gill Inc. ("**Gill**") as debtor, with maximum facility amount of \$30.2 million, to facilitate the acquisition of two towers (Joffre Place and Life Plaza) located in Calgary, AB; and
  - b) loan agreement (the "**SCREO 700 Loan**") between Timbercreek (as lender) SCREO I 700 2nd Inc. and 58508 Alberta Ltd. (collectively, "**SCREO 700**") as debtors, with the aggregate maximum facility amount of \$161.3 million, in relation to the equity take-out and repositioning of certain office towers (Stephen Avenue Place) located in Calgary, AB.
- 4.3 The Gill Loan is attached hereto as **Appendix "A"**.
- 4.4 The SCREO 700 Loan is attached hereto as **Appendix "B"**.
- 4.5 There were two separate extension agreements entered into on or about December 1, 2022 for each of the abovementioned loan agreements, the "**Gill Extension**" and the "**SCREO 700 Extension**".
- 4.6 The Gill Extension was conditional on, among other things, the "Indebted Parties" providing an assignment of proceeds from the Debtors with respect to the Real Property. Under that extension, Gill agreed to (among other things) make certain prepayments of its obligations, including up to \$2,000,000 from the net sale proceeds of the Real Property, subject to a maximum of \$6,500,000 in connection with the assignment of net sale proceeds for the Dixie Outlet Mall, a shopping mall located in Mississauga, ON.
- 4.7 The Gill Extension is attached hereto as **Appendix "C"**.
- 4.8 The SCREO 700 Extension was conditional on, among other things, the "Indebted Parties" providing an assignment of proceeds from the Debtors with respect to the Real Property, and an undertaking to provide a limited guarantee, mortgage and beneficial charge from the Debtors. Under that extension, the Debtors agreed to (among other things) make certain prepayments of its obligations, including up to \$15,000,000 from the net sale proceeds of the Real Property, subject to a maximum of \$30,000,000 in connection with the assignment of net sale proceeds for the Dixie Outlet Mall.
- 4.9 The SCREO 700 Extension is attached hereto as **Appendix "D"**.
- 4.10 The Debtors executed the following assignment of proceeds agreements (the "**Assignment Agreements**"), in relation to the aforementioned agreements with Timbercreek:

- a) Assignment of proceeds dated July 11, 2023, among the Debtors, as assignors, and Computershare Trust Company Of Canada as agent, nominee and bare trustee for and on behalf of Timbercreek, as assignee, pursuant to which the Debtors assigned the sales proceeds from the sale of the Real Property as security for the obligations of the Gill Indebted Parties pursuant to the Gill Loan and the Gill Extension (the “**Gill Assignment**”); and
- b) Assignment of proceeds dated July 11, 2023, among the Debtors, as assignors, and Computershare Trust Company Of Canada as agent, nominee and bare trustee for and on behalf of Timbercreek, as assignee, pursuant to which the Debtors assigned the sales proceeds from the sale of the Real Property as security for the obligations of the SCREO 700 Indebted Parties pursuant to the SCREO 700 Loan and the SCREO 700 Extension (the “**SCREO 700 Assignment**”).

4.11 Copies of the Assignment Agreements are attached hereto as **Appendix “E”**.

4.12 In light of the amount of the Proceeds, and pursuant to the foregoing assignments, Timbercreek has a claim of up to \$17,000,000, subject to the net proceeds (if any) realized from the sale of the Dixie Outlet Mall, and any other repayments made from and after December 1, 2022 (the “**Timbercreek Claim**”).

## **5.0 RECEIVER’S REQUEST FOR DIRECTIONS**

5.1 In light of the power granted to the Receiver under the Approval and Vesting Order, the Receiver has two options available to it to effect a distribution of the Proceeds:

- a) an order and direction from the Court that the Proceeds be distributed to Timbercreek, in accordance with the Assignments, up to the amount of the Timbercreek Claim; or
- b) exercise its power to assign the Debtors into bankruptcy and administer a claims process in accordance with the procedures and distribution regime prescribed by the *Bankruptcy and Insolvency Act*.

5.2 However, the Receiver believes there is a risk that proceeding with either approach would result in prejudice to remaining creditors. Specifically, if it distributes the Proceeds to Timbercreek, then there may be no funds left to form an estate of the Debtors in bankruptcy. However, if it assigns the Debtors into bankruptcy, it may prejudice Timbercreek’s interest, as they may not have a basis to participate in a distribution scheme in bankruptcy proceedings.

5.3 The Receiver acknowledges its duty to balance the interests of all creditors in these proceedings, and as such, is seeking directions from this Honourable Court with respect to how to proceed.

\*\*\*\*\*

All of which is respectfully submitted to this Honourable Court this 5<sup>th</sup> day of March, 2025.

**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 - Gill Loan Agreement**

## LOAN AGREEMENT

THIS LOAN AGREEMENT is made as of November 9, 2018

BETWEEN:

SCREO I GILL INC.  
as "Borrower"

-and-

SLATE CANADIAN REAL ESTATE OPPORTUNITY FUND I L.P.  
as "Guarantor"

-and-

TIMBERCREEK MORTGAGE SERVICING INC.  
as "Lender"

**WHEREAS** the Lender, at the request and on behalf of the Borrower, has arranged to provide loan facilities to assist the Borrower with the acquisition and re-positioning of real estate assets;

**NOW THEREFORE** the parties hereto agree as follows:

### Section 1 DEFINITIONS

#### 1.1 Definitions

In this Agreement, unless something in the subject matter or context is inconsistent therewith:

"Acquisition Facility" has the meaning given thereto in Section 2.1.

"Acquisition Facility Amount" means, the lesser of:

- (a) \$30,200,000.00; and,
- (b) 65% of the lesser of:
  - (i) The base acquisition cost of Joffre Place and Life Plaza, being the aggregate purchase price before customary closing adjustments; and
  - (ii) current "as is" appraised value of Joffre Place and Life Plaza as both may be determined by the Lender, acting reasonably.

"Adjusted Net Operating Income" means, with respect to the Secured Properties and for a given period, the sum of the following (without duplication), calculated on a pro forma basis to the satisfaction of the Lender, acting reasonably:

- (a) rents, expense recoveries, and other revenues received in the ordinary course from the leasing or operating of the Secured Properties based on an annualized

rent roll of tenants in place (for greater clarity, the in place rent roll of a particular month, annualized) and not in default, plus

- (b) rents, expenses recoveries, and all other revenues related to New Tenants, calculated as if the New Tenant is in place on the Lease Execution Date and paying starting base and estimated additional rent as of the Lease Execution Date, regardless of free rent periods (base or gross free rent) provided for in the lease, minus
- (c) all expenses paid or accrued related to the ownership, operation or maintenance of such Secured Properties, including but not limited to Taxes (other than Taxes comprised of income and corporation taxes), assessments and other similar charges, insurance, utilities, payroll costs, maintenance, repair and landscaping expenses and on site marketing expenses, but in any event excluding amortization and depreciation, and general and administrative expenses.

Notwithstanding the above definition, if a New Tenant has been granted an in-term free rent period longer than the Waived Free Rent Period, the incremental in-term free rent period (above the Waived Free Rent Period) will be added to that New Tenant's respective Lease Execution Date for the purposes of the calculation, at the Lender's discretion, acting reasonably

**"Advance"** means a borrowing by the Borrower from the Lender and any reference relating to the amount of Advances shall mean the sum of the principal amount of all outstanding Advances at a particular point in time.

**"Applicable Laws"** means, at any time, in respect of any Person, property, transaction, event or other matter, as applicable, all then current laws, rules, statutes, regulations, treaties, orders, judgments and decrees and all official directives, rules, guidelines, orders, policies, decisions and other requirements of any Governmental Authority, in each case to the extent having the force of law (collectively, the "Law") relating or applicable to such Person, property, transaction, event or other matters and shall also include any interpretation of the Law or any part of the Law by any Person having jurisdiction over it or charged with its administration or interpretation.

**"Appraisal"** shall mean a report prepared by an accredited Person acceptable to the Lender who has been selected to perform an appraisal, or to review existing appraisals prepared by other appraisers, of one or more of the Secured Properties.

**"Appraised Value"** means the appraised value of the relevant Secured Property as set forth in the most recent Appraisal received by the Lender in respect of such Secured Property.

**"Beneficial Owner"** means SCREO I GILL L.P.

**"Borrower"** means SCREO I GILL Inc.

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

**"Canadian Dollars"** means the lawful money of Canada.

**"Capital Expenditures"** means the costs incurred from time to time by the Borrower in connection with the repair or replacement of capital items, as identified in the Repositioning Costs budget provided by the Borrower and approved by the Lender, acting reasonably, and limited to the amount for each Secured Property as identified in the definition of "Repositioning Costs".

**"Change of Control"** means if the Borrower ceases to be controlled, directly or indirectly, by Slate Canadian Real Estate Opportunity Fund I or any other change of ownership, control, transfer or sale of either of the Secured Properties, or part thereof without the Lenders prior written consent, which consent shall not be unreasonably withheld.

**"Closing Date"** means November 13, 2018 or such other date as may be agreed to by the parties.

**"Control"** means the possession directly or indirectly of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise.

**"Custodian"** means Computershare Trust Company of Canada, as agent, bare trustee for and on behalf of the Lender.

**"Debt Capitalization Rate"** means, with respect to any period, the ratio of Adjusted Net Operating Income to the Advances outstanding at that time.

**"Default"** means an event or condition, the occurrence of which would, with the lapse of time or the giving of notice, or both, become an Event of Default.

**"Documents"** means this Agreement, the Security and all security documents and certificates and other documents delivered, or to be delivered to the Lender pursuant to or in connection with this Agreement.

**"Event of Default"** has the meaning set out in Section 10.1.

**"Facility"** means either the Acquisition Facility or the Repositioning Facility, and **"Facilities"** means both of such facilities.

**"Encumbrance"** means, in respect of any Person, any mortgage, debenture, pledge, hypothec, lien, charge, assignment by way of security, consignment, lease, hypothecation or security interest granted or permitted by such Person or arising by operation of law, in respect of such Person's property.

**"Environmental Laws"** means all Applicable Laws, by-laws, rules, regulations, orders, judgments, ordinances, protocols, codes, guidelines, policies, notices and directions, all to the extent the same are enforceable, relating in whole or in part to the protection of the environment and occupational health and safety matters, and includes, without limitation, those Environmental Laws relating to the storage, generation, use, handling, transportation, treatment, Release and disposal of Hazardous Substances.

**"Good Faith Deposit"** means the sum of \$100,000.00 referred to in Section 12.4.

**"Governmental Authority"** means any government, parliament, legislature, or any regulatory authority, agency, commission or board of any government, parliament or

legislature, or any political subdivision thereof, or any court or, without limitation, any other law, regulation or rule-making entity (including, without limitation, any central bank, fiscal or monetary authority or authority regulating banks), having jurisdiction in the relevant circumstances, or any person acting under the authority of any of the foregoing (including, without limitation, any arbitrator with the authority to bind the parties at law) or any other authority charged with the administration or enforcement of applicable laws.

**"Guarantor"** means Slate Canadian Real Estate Opportunity Fund I L.P.

**"Hazardous Substances"** means any substance that is discharged or released into the natural environment in contravention of applicable federal, provincial, or municipal laws that is likely to cause at some immediate or future time, material harm or degradation to the natural environment or injury, harm or material discomfort to any person and without restricting the generality of the foregoing, includes urea formaldehyde, asbestos, PCBs, radioactive materials, hazardous waste or dangerous goods that are regulated by applicable federal, provincial or municipal laws for the protection of the natural environment or human health.

**"Interest Adjustment Date"** means December 1, 2018.

**"Interest Payment Date"** means January 1, 2019 and the 1<sup>st</sup> day of each calendar, month thereafter except, where such date is not a Business Day, the Interest Payment Date shall be the next Business Day thereafter.

**"Interest Rate"** means the floating rate equal to the TD Prime Rate + 2.55% calculated and payable monthly for the first thirty-five (35) months of the Loan Term, subject to a floor rate equal to the TD Prime Rate at the time of the initial advance of the Loan + 2.55% increasing to the TD Prime Rate + 4.55% thereafter unless a renewal is granted pursuant to the terms and conditions of the Renewal Option.

**"Joffre Place"** means the 6 storey multi-tenant Class B office building erected in 1980 and renovated in 2015 comprising 107,252 square feet of net leasable area and as further described on Schedule "A".

**"GLA"** means gross leasable area.

**"Lease Execution Date"** means the date when the applicable lease document is executed.

**"Leases"** means (i) all present and future leases, agreements to lease, licenses or other agreements in respect of each and every present and future tenancy, right of use or occupation of or license granted by the Borrower in respect of all or any part of any Secured Property, as they may be extended or renewed or replaced; (ii) any agreement whether written or oral amending any of the foregoing; and (iii) any present and future guarantee of or indemnity with respect to a tenant's Lease obligations whether included in a Lease or contained in a separate instrument.

**"Lender"** means Timbercreek Mortgage Servicing Inc.

**"Life Plaza"** mean the 18 storey multi-tenant Class B office building erected in 1980 (and renovated in 1993) comprising 236,653 square feet of net leasable area and as further described in Schedule "A".

**"Loan"** means the total advances made under the Facilities.

**"Loan Fee"** means the sum of \$414,070.00, being 1% of the maximum amount of the Facilities and payable in accordance with section 2.7.

**"Material Adverse Change"** means the occurrence of a material adverse change in the position and condition, financial or otherwise, of any Obligor, the Secured Properties or an Obligor's title to one or more Secured Properties as determined by the Lender, acting reasonably, which would be reasonably expected to materially impair the ability of any Obligor to timely and fully perform its obligations under this Agreement or any other Document to which it is a party or would be reasonably expected to materially impair the ability of the Lender to enforce its rights and remedies under the Security.

**"Material Licenses"** means all licenses, permits or approvals issued by any Governmental Authority to any Obligor, and which are at any time on or after the date of this Agreement,

- (a) necessary or material to the business and operations of such Obligor or to the listing of its securities, the breach or default of which would result in a Material Adverse Change, or
- (b) designated by the Lender as a Material License, provided that the Lender has notified the Borrower of such designation.

**"Maturity Date"** means December 1, 2021.

**"New Tenants"** means any tenant for which a lease is executed but the tenant is not occupying and paying base and additional rent as of or after the Closing Date.

**"Obligors"** means the Borrower and the Guarantor.

**"Obligations"** means all present and future debts, liabilities and obligations of the Obligors to the Lender under this Agreement, the Security or any other Documents.

**"Permitted Encumbrances"** with respect to any Secured Property or asset means:

- (a) encumbrances for real property taxes (which term includes charges, rates and assessments) or charges for electricity, power, gas, water and other services and utilities in connection with a Secured Property that have accrued but are not yet due and owing or, if due and owing, are adjusted for on Closing;
- (b) subdivision agreements, site plan control agreements, development agreements, servicing agreements, utility agreements and other similar agreements with Governmental Authorities or public utilities that do not materially impair the current use, operation or marketability of a Secured Property;
- (c) restrictive covenants, private deed restrictions, and other similar land use control agreements that do not materially impair the current use, operation or marketability of a Secured Property;
- (d) minor encroachments by a Secured Property over neighboring lands and/or permitted under agreements with neighboring landowners and minor encroachments over a Secured Property by improvements of neighboring

landowners and/or permitted under agreements with neighboring landowners that, in either case, do not materially impair the current use, operation or marketability of a Secured Property;

- (e) any subsisting reservations, limitations, provisos, conditions or exceptions, including royalties, contained in the original grant of a Secured Property from the Crown;
- (f) all Leases, any caveats relating to the Leases, registrations and notices, with respect to the Leases, including any exclusivity provisions, restrictive covenants and other rights contained therein, and leasehold mortgages or security interests relating to any tenant secured by such tenant's interest in its Lease or leased premises;
- (g) the provisions of all applicable laws, including by-laws, regulations, ordinances and similar instruments relating to development and zoning that do not materially impair the current use, operation or marketability of a Secured Property;
- (h) any minor title defects, irregularities, easements, servitudes, encroachments, rights-of-way or other discrepancies in title or possession relating to a Secured Property as disclosed by the plan of survey, certificate of location or technical description;
- (i) the implied conditions and reservations contained in Sections 61(1) and 62 of the *Land Titles Act (Alberta)*, R.S.A. 2000, Chapter L.4, as amended;
- (j) any rights of expropriation, access or user or any other similar rights conferred or reserved by or in any statutes of Canada or the Province of Alberta;
- (k) any unregistered easements regarding the provisions of utilities to a Secured Property which do not materially impair the current use, operation or marketability of a Secured Property;
- (l) permits, licenses, agreements, easements, (including, without limitation, heritage easements and agreements relating thereto), restrictions, restrictive covenants, rights-of-way, public ways, rights in the nature of an easement and other similar rights in the land granted to or reserved by other persons (including, without in any way limiting the generality of the foregoing, permits, licenses, agreements, easements, rights-of-way, sidewalks, public ways, and rights in the nature of easements or servitudes for sewers, drains, steam, gas, and water mains or electric light and power or telephone and telegraph conduits, poles, wires and cables) which do not materially impair the current use, operation or marketability of a Secured Property;
- (m) security given to a public utility or any municipality or governmental or other public authority when required by the operations of a Secured Property in the ordinary course of business, including, without limitation, the right of the municipality to acquire portions of a Secured Property for road widening or interchange construction and the right of the municipality to complete

improvements, landscaping or remedy deficiencies in any pedestrian walkways or traffic control or monitoring to be provided to a Secured Property;

- (n) undetermined or inchoate liens incidental to construction, renovations or current operations, a claim for which shall not at the time have been registered against a Secured Property or of which notice in writing shall not at the time have been given to the vendor under the agreement of purchase and sale for the Secured Properties dated July 25, 2018 pursuant to the *Builders' Lien Act* (Alberta), and in respect of any of the foregoing cases, the vendor under the agreement of purchase and sale for the Secured Properties dated July 25, 2018 has, where applicable, complied with the holdback or other similar provisions or requirements of the relevant constructions contracts;
- (o) any and all statutory liens, charges, adverse claims, prior claims, security interests, deemed trusts or other encumbrances of any nature whatsoever which are not registered on the title to a Secured Property and of which the Borrower does not have notice, claimed or held by Her Majesty the Queen in Right of Canada, Her Majesty the Queen in Right of the Province of Alberta, or by any other governmental department, agency or authority under pursuant to any applicable legislation, statute or regulation;
- (p) any lien, together with any certificate of action registered in respect thereof, a claim for which, although registered or of which notice has been given, related solely to work done by or on behalf of a tenant, and all Encumbrances affecting the Tenant's interest in a Secured Property;
- (q) any reference plans or plans in respect of the Secured Properties so long as the plans are registered on title;
- (r) with respect to Joffre Place; the following specific registrations:
  - (i) 791 165 767 Caveat in favour of the City of Calgary;
  - (ii) 841 182 828 Caveat re: Lease in favour of Wawanesa Mutual Insurance Company;
  - (iii) 051 339 784 Caveat re: Development Agreement pursuant to Municipal Government Act in favour of the City of Calgary;
  - (iv) 081 379 480 Caveat re: Lease Interest in favour of Associated Geosciences Ltd.;
  - (v) 181 195 049 Caveat re: Lease in favour of Katz Group Real Estate Inc.;
- (s) with respect to Life Plaza the following specific registrations:
  - (i) 801 103 486 Caveat in favour of the City of Calgary;
  - (ii) 821 102 870 Caveat in favour of the Bank of Nova Scotia;

- (iii) 861 097 393 Caveat re: Assumption Agreement in favour of the City of Calgary;
- (iv) 881 110 373 Caveat re: See Caveat in favour of the City of Calgary;
- (v) 881 110 374 Caveat re: See Caveat in favour of the City of Calgary;
- (vi) 881 220 406 Caveat re: See Caveat in favour of the City of Calgary;
- (vii) 961 305 614 Caveat re: Assumption Agreement in favour of the City of Calgary;
- (viii) 061 057 657 Caveat re: Assumption Agreement in favour of the City of Calgary;
- (ix) 081 021 898 Caveat re: Assignment of Interest in favour of the City of Calgary;
- (x) 081 029 010 Caveat re: Development Agreement pursuant to Municipal Government Act in favour of the City of Calgary;
- (xi) 091 105 965 Caveat re: Development Agreement pursuant to Municipal Government Act in favour of the City of Calgary;
- (xii) 121 336 312 Caveat re: Lease Interest in favour of Hemisphere Capital Management Inc.; and
- (xiii) 181 205 347 Caveat in favour of the City of Calgary.

**"Person"** means an individual, corporation, partnership, trust, unincorporated association, Governmental Authority or any combination of the foregoing.

**"Property Management"** has the meaning given to it in section 8.

**"Property Management Agreement"** means the property management agreement dated November 14, 2018 between SCREO I GILL L.P. and Colliers Macaulay Nicolls Inc., as amended or supplemented from time to time.

**"Project Occupancy"** means, with respect to the Secured Properties, the cumulative GLA that is subject to a Lease as of a particular month, divided by the aggregate GLA of the Secured Properties. For greater clarity, this classification is to include GLA subject to Leases to New Tenants as of that New Tenant's respective Lease Execution Date.

**"Release"** means releasing, adding, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, migrating, dispersing, dispensing, disposing, depositing, spraying, inoculating, abandoning, throwing, placing, exhausting or dumping and **"Released"** has a comparable meaning.

**"Repositioning Costs" are:**

Capital Expenditures Joffre Place	\$1,845,000.00
Tenant Improvements & Leasing Commissions Joffre Place	\$2,658,000.00
Capital Expenditures Life Plaza	\$1,300,000.00
Tenant Improvements & Leasing Commissions Life Plaza	\$5,404,000.00
	<hr/>
	\$11,207,000

**"Repositioning Facility"** has the meaning given thereto in Section 2.4.

**"Repositioning Facility Amount"** means the lessor of:

- (a) the Repositioning Costs; and
- (b) 75% of "as if completed" appraised values of the Secured Properties (when combined with the advance under the Acquisition Facility).

**"Relevant Jurisdiction"** means, from time to time, with respect to a Person that is granting Security hereunder, any province or territory of Canada which such Person has its chief executive office or chief place of business or has Secured Property.

**"Renewal Option"** has the meaning given to it in section 3.4.

**"Secured Properties" or "Secured Property"** means the properties described in Schedule "A" and generally known as Joffre Place and Life Plaza.

**"Security"** means, collectively, mortgage, general security agreement, general assignment of rents and leases, guarantee, and other security documents executed and delivered to the Lender and/or the Custodian by an Obligor in connection with this Agreement.

**"Senior Officer"** means, for any Person, the authorized signing authority.

**"Significant Agreements"** means all material agreements and contracts now existing or from time to time entered into in the future or assigned to or obtained by the Borrower in respect of or relating to the Secured Properties including any manufacturer's or contractor's warranties and the Property Management Agreement, (but not including leases to the tenants of the Secured Properties); together with consents and acknowledgements as required.

**"Subsidiaries"** means, in relation to a Person, any Person that is directly or indirectly controlled by such first Person.

**"Taxes"** means all taxes of any kind or nature whatsoever, including income taxes, realty taxes, sales or value-added taxes, levies, stamp taxes, royalties, duties, and all fees, deductions, compulsory loans and withholdings imposed, levied, collected, withheld or assessed, as of the date hereof or at any time in the future, by any Governmental Authority having the power to tax, together with penalties, fines, additions to tax and interest thereon.

**"TD Bank Prime Rate"** means the annual interest rate that The Toronto Dominion Bank sets and adjusts at its discretion as a reference that the Bank will change for variable interest rate

Canadian Dollar loans made in Canada and designated as its "prime rate". The TD Bank prime rate can be found on the Toronto Dominion Bank website.

**"Term"** means the period of 36 months from and including the Interest Adjustment Date to and including the Maturity Date, but subject to any renewals or extensions hereof.

**"TI/LC Expenditures"** means all costs relating to tenant improvements and leasing commissions incurred from time to time by the Borrower in connection with leases to New Tenants at the Secured Properties approved by the Lender, acting reasonably, and limited to the amount for each Secured Property as identified in the definition of Repositioning Costs.

**"Waived Free Rent Period"** means in-term free rent for a period of twelve (12) months for a five (5) year lease term, twenty-four (24) months for a ten (10) year lease term or thirty-six (36) months for a fifteen (15) year lease term, with the applicable in-term free rent period to be adjusted on a pro rata basis for lease terms outside or between these explicitly defined lease terms.

## **1.2 Currency**

Except as otherwise specifically provided herein, all monetary amounts in this Agreement are stated in Canadian Dollars.

## **Section 2 FACILITY**

### **2.1 Acquisition Facility**

On and subject to the terms and conditions of this Agreement, the Lender hereby establishes in favour of the Borrower an Acquisition Facility of up to \$30,200,000.00.

### **2.2 Acquisition Facility to be Non-Revolving**

Any monies paid in reduction of the Acquisition Facility shall be a permanent reduction of the availability thereunder and may not thereafter be re-borrowed.

### **2.3 Use of Acquisition Facility**

The Acquisition Facility shall only be used to finance the acquisition of the Secured Properties.

### **2.4 Expiry of Acquisition Facility**

In the event the Acquisition Facility is not advanced by November 23, 2018, the Loan Agreement will be null and void and the Good Faith Deposit will be forfeited to the Lender only in the event that any of the circumstances described in section 12.4 occurs. For greater certainty if the Acquisition Facility is not advanced for any reason other than as described in section 12.4, the Good Faith Deposit shall be returned to the Borrower in full without deduction or set-off.

### **2.5 Repositioning Facility**

On and subject to the terms and conditions of this Agreement, the Lender hereby establishes in favour of the Borrower a Re-Positioning Facility of up to \$11,207,000.00.

## **2.6 Repositioning Facility to be Non-Revolving**

Any monies paid in reduction of the Repositioning Facility shall be a permanent reduction of the availability thereunder and may not thereafter be re-borrowed.

## **2.7 Loan Fee**

In consideration of the Lender establishing the Facilities, the Borrower shall pay to the Lender the Loan Fee to be deducted from the Initial Advance under the Acquisition Facility made hereunder.

## **2.8 Record of Indebtedness**

The indebtedness of the Borrower resulting from the Advances shall be evidenced by records maintained by the Lender. The Lender shall enter in the foregoing records details of all amounts from time to time owing, paid or repaid by the Borrower hereunder. The records maintained by the Lender shall constitute in the absence of manifest error, *prima facie* evidence of the indebtedness of the Borrower to the Lender. The failure of the Lender to correctly record any such amount or date shall not in any way affect the obligation of the Borrower to pay all amounts due to the Lender under this Agreement pursuant to, and in accordance with, this Agreement. After a request of the Borrower, the Lender will advise the Borrower of such entries made in the Lender's records.

# **Section 3 REPAYMENT**

## **3.1 Repayment on Maturity Date**

Unless the Advances outstanding under the Facilities are required to be paid at an earlier date pursuant to the terms hereof, both of the Facilities shall terminate on the Maturity Date, and on such date all Advances outstanding under the Facilities, together with all accrued and unpaid interest thereon and all other fees and charges payable in connection therewith, shall become immediately due and payable without the Lender having to make demand therefor.

## **3.2 Prepayment**

In respect of each Advance under the Acquisition Facility and the Repositioning Facility:

- (i) no voluntary prepayment thereof will be permitted during the first 6 months following the date such Advance is made; and
- (ii) following the expiry of each such 6 month period, the amount of such Advance may be fully or partially repaid without penalty subject to the Borrower providing the Lender with 60 days' prior written notice of such prepayment.

This prepayment right can only be exercised if the Loan is not in default.

## **3.3 Partial Discharges**

The Lender agrees that at any time, at the reasonable request of the Borrower, it will release one of the Secured Properties from the Security provided that:

- (a) the Loan is not then in default, subject to the cure provisions in the Security;

- (b) the minimum Debt Capitalization Rate for the remaining Secured Property based on its then advanced Loan Amount must be greater than 8% in which case a Partial Discharge shall be provided in exchange for prepayment of 110% of the Loan then advanced for the Secured Property to be discharged;
- (c) the Lender receives a discharge fee of \$2,000 for the Secured Property that is to be discharged, exclusive of any Lender's legal and registration costs;
- (d) a minimum of 60 days' written notice is provided; and
- (e) the Secured Property for which the release is being requested is being sold to an arm's length third party or is being refinanced.

### **3.4 Renewal Option**

The Borrower shall have two (2) twelve-month renewal options (the "Renewal Option" and / or the "Renewal Term"), provided that:

- (a) the Loan is not then and has not been in default more than twice since the Interest Adjustment Date, only one of which may be a default of a financial obligation under the Security. For greater certainty, the Borrower is not allowed more than one financial default under the Security to be eligible for each Renewal Term;
- (b) the weighted average committed occupancy of the Secured Property is not less than it was at the time of funding;
- (c) leasing update and evidence of positive leasing momentum/negotiations for the vacant space/tenant turnover/renewals satisfactory to the Lender acting reasonably;
- (d) the Lender receives written notice 30 days prior to the expiry of the Initial Term or the first Renewal Term;
- (e) the Lender receives a renewal fee equal to 0.50% for each of the Renewal Terms. The interest rate for each of the Renewal Terms will be floating at the TD Prime Rate + 2.55% calculated and payable monthly, subject to a floor rate equal to the TD Prime Rate at the time of the initial Advance of the Loan +2.55%, for the first eleven (11) months of the Renewal Term increasing thereafter to the TD Bank prime rate +4.55%. Interest on advanced funds will be calculated and payable monthly.

## **Section 4 INTEREST**

### **4.1 Interest**

The Borrower shall pay interest on Advances at a rate per annum equal to the Interest Rate applicable to such Advance. Interest on Advances shall be payable monthly in arrears on each Interest Payment Date. All interest shall accrue from day to day and shall be payable in arrears for the actual number of days elapsed from and including the date of Advance or the previous date on which interest was payable, as the case may be, to but excluding the date on which interest is payable, with interest on overdue interest at the same rate payable on demand monthly in arrears.

## Section 5 INDEMNIFICATION FOR TAXES

### 5.1 No Withholding for Taxes

Each payment under this Agreement, or any of the Security shall be made by the Borrower without set-off, compensation or counterclaim, free and clear of and without any deduction or withholding for or on account of any Taxes other than taxes on the income or capital of the Lender imposed by Canada or any jurisdiction competent to levy Taxes within Canada.

### 5.2 Indemnification

The Borrower shall fully indemnify the Lender from and against any Taxes (including interest and penalties), losses and expenses which the Borrower is required to withhold or fails to pay (other than taxes on the income or capital of the Lender imposed by Canada or any jurisdiction competent to levy Taxes within Canada) on an after-tax basis. The Borrower shall pay all Taxes (other than taxes on the income or capital of the Lender imposed by Canada or any jurisdiction competent to levy Taxes within Canada) with respect to the Advances or any amount otherwise payable under this Agreement or any of the Security including, without limitation any sales taxes or goods and services taxes.

### 5.3 Excluded Taxes

The Borrower shall not be required to make any payment to the Lender pursuant to Section 5.2 with respect to taxes on the income or capital of the Lender imposed by Canada or any jurisdiction competent to levy Taxes within Canada.

### 5.4 Lawful Interest Rate

Notwithstanding anything herein to the contrary, if at any time the Interest Rate applicable to any Advance together with all fees, charges and other amounts that are treated as interest on such Advance under Applicable Law (collectively the "charges"), shall exceed the maximum lawful rate (the "maximum rate") that may be contracted for, charged, taken, received or reserved by the Lender in accordance with Applicable Law, the rate of interest payable in respect of such advance hereunder, together with all of the charges payable in respect thereof, shall be limited to the maximum rate.

## Section 6 CONDITIONS

### 6.1 Advance under the Acquisition Facility

The making of the initial Advance under the Acquisition Facility is subject to and conditional upon the Lender receiving, reviewing and approving the following documents, which must be to the Lender's satisfaction acting reasonably:

- (a) Executed Purchase and Sale Agreement and all amendments thereto confirming an aggregate purchase price of \$46,500,000.00;
- (b) Receipt of the ownership structure of the Borrower and the Guarantor including shareholders, beneficial owners, and a corporate organizational chart which is to be signed and dated. The organization chart will include percentage share of ownership of LP/GP structure, as applicable, and said information shall be satisfactory and sufficient to comply with the Lender's anti-money laundering requirements;

The Borrower and the Guarantor will be required to produce identification and such other documentation as may be required acceptable to Lender and Lender's solicitor at the time the mortgage documentation is signed, and prior to any funds being advanced, for the purpose of compliance with the provisions of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada) and Regulations thereunder. Such identification shall include at least two documents, with at least one document including photo ID, together with a solicitor's confirmation that the identity of all persons signing as or on behalf of the Borrower and the Guarantor have been identified as the proper persons to sign. Lender to be provided with copies (front and back) of any identification documents together with a solicitor's certification that the copies are true copies of the original documents.

- (c) Most recent financial statements for the Borrower. If the Borrower is a newly incorporated entity, an opening balance sheet will be required;
- (d) Most recent financial statements for the Guarantor;
- (e) Satisfactory bank/credit reports for the Borrower and Beneficial Owners of the Secured Property;
- (f) Last three fiscal years' operating statements including year to date and 12 months trailing operating statements for the Secured Properties (confirming taxes, utilities, insurance, repairs/maintenance and any other operating expenses relating to the Property) and pro forma operating statements for 2018-2019;
- (g) A current monthly aged receivables/rental arrears report for the last twelve (12) months with respect to the Secured Properties;
- (h) A certified rent roll for the Secured Properties. The rent roll shall confirm "as is" rents as well as "to be achieved" rents on unit roll over;
- (i) Leases affecting the Secured Properties accompanied by estoppel certificates for tenants leasing not less than 75% of the rental area of each Secured Property and for tenants leasing more than 5000 square feet in a Security Property;
- (j) 2018 property tax bills for the Secured Properties;
- (k) Confirmation that as at the initial Advance of the Loan, as established by the Lender's review of operating statements, rent rolls, leases and estoppel certificates, the Secured Properties aggregate "as is" occupancy rate is not less than 54% and the Property's aggregate net operating income as of the date hereof, as calculated by the Lender, is not less than \$1,300,000.00;
- (l) Detailed pro forma income and expense statement, capital expenditures and tenant improvements allowance budget prepared by the Borrower and outlining the Borrower's repositioning program at the Secured Properties, including, but not limited to, timing or leasing, cash flow, market leasing assumptions;
- (m) Copies of all material contracts affecting the Secured Properties, including, but not limited to the Property Management Agreement;

- (n) Current AACI appraisal report for the Secured Properties supporting an aggregate as is value of no less than the purchase price and an "as if completed" value of not less a value resulting in a fully advanced loan to value ratio not exceeding 75% accompanied by a letter of transmittal addressed to the Lender and confirming that the report can be used for mortgage financing purposes;
- (o) Satisfactory Phase I (Phase II if applicable) environmental report accompanied by a letter of transmittal to the Lender, and confirming that the report can be used for mortgage financing purposes;
- (p) Building Condition Assessment (BCA) report for the Property accompanied by a letter of transmittal addressed to the Lender and confirming that the report can be used for the mortgage financing purposes;
- (q) Satisfactory site inspection by the Lender and a site inspection fee of \$2,000;
- (r) Confirmation that there are no liens or Encumbrances registered against the Secured Properties other than the Permitted Encumbrances;
- (s) The Loan shall be conditional of the approval of the Loan by the Lender's Investment Committee, such approval to be at its sole discretion; and
- (t) Evidence that the Secured Properties are classified or zoned for the present and contemplated future development. This condition may be satisfied by title insurance.

## **6.2 Conditions Precedent to Advances under the Repositioning Facility**

The making of any Advances under the Repositioning Facility are subject to and conditional upon the Lender securing, reviewing and approving the following documentation which must be to the Lender's satisfaction, acting reasonably:

- (a) Copy of all construction contracts;
- (b) Copy of all paid invoices;
- (c) Confirmation established by estoppel certificates or other document acceptable to the Lender acting reasonably, that tenant improvements have been paid to the tenants in accordance to their respective Leases;
- (d) Architect's certificate confirming that the renovations / capital expenditures have been completed in accordance to plans and specifications;
- (e) Certificate from the third party general contractor, trades and/or subtrades, as the case may be, confirming that they have been paid in full;
- (f) Advances under Capital Expenditures shall be consistent with the Repositioning Costs budget provided by the Borrower and verified by the Lender;
- (g) Advances relating to Repositioning Costs shall further be subject to the following:
  - The Borrower shall have the right to draw a maximum of \$3,145,000 at the equivalent amount of 100% of the Capital Expenditures budget, on a cost-to complete basis, prior to any leasing being completed;

- The Borrower shall have the right to draw 25% of the total TI/LC Expenditures budget, to a maximum of \$2,025,000, subject to confirmation of an aggregate Project occupancy rate of not less than 70%;
  - The Borrower shall have the right to draw an additional 25% of the total TI/LC Expenditures budget, to a maximum of \$2,025,000, and subject to a Debt Capitalization Rate of not less than 6%, as determined by the Lender, acting reasonably. For greater clarity, the Borrower shall have access to 50% of its total TI/LC Expenditures budget, up to a maximum aggregate amount of \$4,050,000, subject to a Debt Capitalization Rate of not less than 6%;
  - The Borrower shall have the right to draw an additional 25% of the total TI/LC Expenditures budget, to a maximum of \$2,025,000 and subject to a Debt Capitalization Rate of not less than 8%, as determined by the Lender, acting reasonably. For greater clarity, the Borrower shall have access to 75% of its total TI/LC Expenditures budget, up to a maximum aggregate amount of \$6,075,000 subject to a Debt Capitalization Rate of not less than 8%;
  - The balance of the TI/LC Expenditures budget shall be advanced subject to a Debt Capitalization Rate of not less than 9%, as determined by the Lender, and shall not exceed the cumulative of the lesser of 100% of the TI/LC Expenditures budgeted costs or \$8,062,000; and
  - TI/LC Expenditures and related landlord work shall be consistent with the Repositioning Costs budget provided by the Borrower.
- (h) It is the intention of the parties hereto that the Borrower draw the amount allocated to the Capital Expenditures first, but in the event that the Borrower draws amounts allocated to TI/LC Expenditures prior to fully drawing on the Repositioning Facility for Capital Expenditures, then the draw for TI/LC Expenditures shall be subject to the then-applicable Debt Capitalization Rate test as if the Repositioning Facility for Capital Expenditures has been fully Advanced.
- (i) A certificate from a Senior Officer of the Borrower (without personal liability) in the form attached as Schedule "D" confirming, *inter alia*, that all necessary holdbacks are being maintained.

### 6.3 Funding Conditions of Repositioning Facility

The following shall govern any Advances under the Repositioning Facility:

- (a) All Advances will be on a work in place/cost to complete basis;
- (b) Requests for Advances shall be for a minimum of \$250,000 and shall not be made more than once per month;
- (c) The Borrower shall provide the Lender with 10 days written notice for advance requests between \$500,000 and \$2,000,000, and 20 days written notice for advance requests in excess of \$2,000,000.

- (d) Receipt of a certificate of title for each Secured Party that is satisfactory to the Lender, acting reasonably, from the Lender's solicitor immediately prior to the calculation and processing of each Advance.
- (e) Any costs over and above the Repositioning Facility amount shall be deemed a cost overrun and the Borrower shall immediately inject additional equity from its own resources to recover such cost overrun prior to any Advances.
- (f) A certificate from a Senior Officer of the Borrower (without personal liability) in the form attached as Schedule "D" confirming, *inter alia*, that all necessary holdbacks are being maintained.
- (g) The Lender is entitled to an Advance fee of \$500 for each Advance which will be deducted from the gross Advance.
- (h) All Advances under the Repositioning Facility shall be funded on pro-rata cost in place/cost to complete basis.
- (i) At the Lender's option, acting reasonably, upon review of the Borrower's detailed budget and business plan, an independent project cost consultant may be appointed by the Lender at the cost of the Borrower, to review all final working drawings and specifications and any other relevant material related to the project including, but not limited to, a detailed budget and business plan.

## Section 7 COVENANTS

### 7.1 Covenants

The Borrower hereby covenants with the Lender that:

- (a) the Borrower shall pay duly and punctually all sums of money due by it under the terms of this Agreement and the Guarantor shall duly and punctually pay all sums of money due by it under the guarantee provided by it in favour of the Lender at the times and places and in the manner provided for herein;
- (b) each Obligor shall maintain its existence;
- (c) the Borrower shall diligently maintain, use and operate the Secured Properties and shall carry on and conduct its business in a proper and efficient manner so as to preserve and protect the Secured Properties;
- (d) the Borrower shall maintain, or cause to be maintained, in its name and in the name of the Lender as loss payee, with responsible and reputable insurers, insurance with respect to its properties, assets and business as provided for in Schedule "B";
- (e) each Obligor shall do, observe and perform all matters and things necessary or expedient to be done, observed or performed in accordance with the requirements of all applicable regulatory authorities for the purpose of
  - (i) carrying on and conducting its business, and
  - (ii) owning and possessing its properties and assets;
- (f) each Obligor shall promptly pay, or cause to be paid all Taxes, rates, government fees and duties levied, assessed or imposed upon it, its

properties and assets or any part thereof and upon its income and profits, as and when same shall become due and payable save when and so long as any such Taxes, rates, fees or duties are in good faith contested by it as may be affected thereby;

- (g) the Borrower shall provide the Lender with satisfactory evidence of payment of all real property taxes in respect of the Secured Properties on a semi-annual basis;
- (h) the Borrower shall give to the Lender prompt notice of any Default or Event of Default under this Agreement;
- (i) the Borrower shall repair or cause to be repaired and will keep or cause to be kept in good order and repair each of the Secured Properties from time to time to the standard as would be done by a prudent owner of similar property in the circumstances, and will at all reasonable times, subject to the provisions of any leases and the rights of the tenants pursuant thereto, allow the Lender or its duly authorized representatives access to the same in order to view the state and condition thereof;
- (j) the Borrower shall promptly provide written notice to the Lender of any default or notice of default served by or received by the Borrower in respect of any Permitted Encumbrance;
- (k) in respect of Leases, the Borrower shall:
  - (i) perform and observe all of the landlord's obligations under the Leases or imposed by law in all material respects; and,
  - (ii) not attempt to collect either the payment or the prepayment of rent for a period greater than six (6) months in any manner and at any time other than that stipulated in the Lease;
- (l) the Borrower shall not, without the Lender's prior written consent, not to be unreasonably withheld, incur, create, assume or permit to exist any Encumbrance (other than Permitted Encumbrances) on any of the Secured Properties provided however if such Encumbrance is a financial encumbrance the Mortgagee may withhold its approval in its sole discretion;
- (m) the Borrower shall not, without the Lender's prior written consent not to be unreasonably withheld, sell, convey, transfer, dispose of or enter into an agreement for sale or transfer of all or any part any of the Secured Properties, such consent shall not be unreasonably denied, delayed, withheld or conditioned, except such consent will be conditional on the Borrower's compliance with all other terms of this Loan Agreement, including the conditions set out in Section 3.3 hereof;
- (n) the Obligors shall use the Advances only for the purposes set forth in Section 2;
- (o) the Obligors shall observe and conform to all valid requirements of any Governmental Authority relative to any of the Secured Properties and all covenants, terms and conditions upon or under which the Secured Properties are held, including without limitation, all requirements with respect to health and safety and the environment;

- (p) each of the Obligors shall keep proper books of accounts in accordance with sound accounting practices;
- (q) the Borrower shall give written notice to the Lender of all material litigation before any court, administrative board, or other tribunal affecting any Obligor or its property;
- (r) the amounts owing to the Lender from time to time pursuant hereto shall be paid to the Lender without regard to any equities between any Obligor and the Lender or to any right of set-off or cross-claim;
- (s) the Borrower shall not change its name without providing the Lender at least 15 days' prior written notice;
- (t) the Borrower shall not continue into any other jurisdiction without providing the Lender at least 15 days' prior written notice; and
- (u) the Borrower shall not carry on any business other than:
  - (i) the business carried on by it on the date hereof, which for greater certainty, is the operation of the Secured Properties, or
  - (ii) any other business of which the Borrower is permitted to carry on in accordance with its organizational documents.
- (v) within 120 days from the end of the fiscal year of the Borrower, the Lender shall be provided with financial statements detailing a complete list of material assets and liabilities satisfactory to the Lender acting reasonably. The statements are to be management prepared and will include a balance sheet and a detailed statement of income and expenditures. The Lender shall also be provided with property level operating statements and rent rolls on a quarterly basis. Within 120 days from the end of the fiscal year of the Guarantor, the Lender shall be provided with annual audited statements from the Guarantor.

## Section 8 REPRESENTATIONS AND WARRANTIES

### 8.1 Representations and Warranties

The Borrower (on behalf of both itself and each other Obligor) represents and warrants as follows to the Lender and acknowledges and confirms that the Lender is relying upon such representations and warranties:

- (a) each Obligor is duly qualified to carry on business in all jurisdictions in which it carries on its business, unless the failure to so qualify would have no material adverse effect on such Obligor or any Secured Property, has all Material Licenses, and has not adopted nor designated any name (including any French name) other than the English form of such names as set out herein;
- (b) each Obligor has the power, authority and right to enter into and deliver, and to exercise its rights and perform its obligations under, the Security to which it is a party and all other instruments and agreements delivered by it pursuant to any of the Security;

- (c) the Borrower has the power, authority and right to own the Secured Properties and carry on its business as currently conducted, or as currently proposed to be conducted, by it;
- (d) each Obligor has taken all necessary action to authorize the creation, execution, delivery and performance of this Agreement and the Security to which it is a party and to observe and perform the provisions of each in accordance with its terms;
- (e) this Agreement constitutes and, when executed and delivered, each of the Security to which any Obligor is a party will constitute binding obligations of such Obligor, as the case may be, in accordance with their respective terms;
- (f) neither the execution and delivery of this Agreement nor any Document, nor compliance with the terms and conditions of any of them, (i) has resulted or will result in a violation of any Obligor's Organizational Documents or any resolutions passed by its or the such Obligor's board of trustees, board of directors, unit holders or shareholders, as applicable, (ii) has resulted or will result in a breach of, or constitute a default under, any loan agreement, indenture, trust deed or any other Significant Agreement, Permitted Encumbrance or instrument to which it is a party or by which any Obligor is bound, (iii) will result in the creation of, any Encumbrance, or any rights of others (other than as contemplated by the Documents) upon any property of any Obligor pursuant to any agreement, indenture or other Instrument to which such Obligor is a party, or by which such Obligor or its respective property may be bound or affected, or (iv) requires any approval, consent, authorizations, declarations, registrations, filings, notices and other actions whatsoever required in connection with the execution and delivery by it of each Document to which it is a party and the consummation of the transactions contemplated in the Documents except such as has already been obtained or filed;
- (g) no Default or Event of Default has occurred and is continuing;
- (h) the most recent financial statements of the Borrower and to the best of its knowledge the operating statements of the Secured Properties delivered to the Lender are accurate and complete in all material respects and fairly presents the Obligors' financial condition, as at the dates specified therein, all in accordance with generally accepted accounting principles consistently applied;
- (i) the ownership structure set out in Schedule "C" hereto is accurate as of the date hereof;
- (j) since the date of the Borrower's most recent annual financial statements provided to the Lender, there has been no Material Adverse Change;
- (k) except as disclosed in the environmental audits or other written materials delivered to the Lender, to the best of its knowledge:
  - (l) there are no existing, pending or threatened:
    - (A) claims, complaints, notices or requests of which it is aware (after due inquiry) with respect to any alleged violation of or alleged liability under any Environmental Laws relating to any Secured Property; or

- (B) governmental or court orders, including, without limitation, stop, clean up or preventive orders, directions or action request notices of which it is aware relating to environmental matters requiring any works, repairs, remediation, clean up, construction or capital expenditures with respect to any Secured Property which would be reasonably likely to constitute a Material Adverse Change;
- (ii) each of the Secured Properties and the use and operation thereof is in compliance in all material respects with all Environmental Law and laws relating to occupational health and safety;
- (iii) there are no underground storage tanks, active or abandoned, including petroleum storage tanks, on or under any Secured Property; and
- (iv) no condition (including the existence, storage or release of any Hazardous Substances) exists at, on or under any Secured Property which, with the passage of time, the giving of notice, the making of any determination, or any combination of the foregoing, has given rise to or could reasonably be expected to give rise to material liability under any Environmental Law;
- (l) the Borrower has or will have good and marketable title to the Secured Properties, free and clear of all Encumbrances except for Permitted Encumbrances, and no Person has any agreement, option or right to acquire the Borrower's interest in the Secured Properties;
- (m) each of the Obligors is solvent, able to pay its debts as they mature, has sufficient capital to carry on its business and has assets the fair market value of which exceeds its liabilities, and it will not be rendered insolvent, undercapitalized or unable to pay debts generally as they become due by the execution or performance of this Agreement or any other Document to which it is a party;
- (n) to the best of its knowledge all information provided or to be provided to the Lender in connection with the Facilities is true and correct in all material respects and all expressions of expectation, intention, belief and opinion contained therein were honestly made on reasonable grounds after due and careful inquiry by it;
- (o) to the best of its knowledge the Secured Properties and the operation and use thereof are in compliance, in all material respects, with all Applicable Laws;
- (p) there are no actions, suits or proceedings pending or, to the knowledge of the Borrower, after due inquiry, threatened against or affecting any Obligor or, to the knowledge of the Borrower, the Secured Properties or any of their undertakings and assets, at law, in equity or before any arbitrator or before or by any governmental department, body, commission, board, bureau, agency or instrumentality having jurisdiction in respect of which a determination adverse to any Obligor or the Secured Properties would be reasonably likely to affect materially and adversely the Security, the operations of businesses carried on at the Secured Properties or the ability of any Obligor to perform any of its Obligations under this Agreement, the Security or any Significant Agreements and to the best of its knowledge no Obligor is in default with respect to any law, regulation, order, writ, judgment, injunction or award of any competent government, commission, board, agency, court, arbitrator or instrumentality which is reasonably likely

to have such an effect and no Obligor has received a notice of expropriation relating to any of the Secured Properties;

- (q) the Borrower has paid all Taxes when the same were due and payable imposed upon it or any of the assets of the Borrower and the Borrower has filed or caused to be filed all federal, provincial and local tax returns which to its or their knowledge are required to be filed and have paid or caused to be paid all Taxes, as shown on such returns, or any assessment received by them plus all interest and penalties to the extent that such Taxes or assessments have become due, except such as may be diligently contested in good faith and by appropriate proceedings or as to which a bona fide dispute may exist and for which adequate reserves are being maintained, so long as the Security is not impaired or an event or circumstance occurs that results or could result in a Material Adverse Change;
- (r) to the best of its knowledge no Obligor is in violation of, or in default under, any agreement, mortgage, franchise, license, judgment, decree, order, statute, rule or regulation which is material to its or their interests in the Secured Properties which violation or default would result in a Material Adverse Change nor will execution, delivery and performance of this Agreement, the Documents to which they are a party or any of the agreements provided for or contemplated hereby result in any such violation;
- (s) to the best of its knowledge true copies of each of the Significant Agreements have been delivered to the Lender or the Lender's counsel;
- (t) to the best of its knowledge the Significant Agreements, Material Licenses and Permitted Encumbrances constitute the only agreements which are material to the ownership or operation of the Secured Properties, other than leases in the ordinary course of business;
- (u) no Obligor has received notice of any proposed rezoning of all or any part of the Secured Properties that is reasonably likely to have a Material Adverse Change on any of the Secured Properties;
- (v) there are no outstanding judgments, writs of execution, seizures, injunctions or directives against any Obligor nor, to the best of its knowledge, any work orders or directives or notices of deficiency capable of resulting in work orders or directives with respect to the Secured Properties that have a Material Adverse Change or that are reasonably likely to have a Material Adverse Change on the ability of such Obligor to perform its Obligations under this Agreement or any Security;
- (w) no Obligor has received actual notice of any claims for construction liens or legal hypothecs with respect to work or services performed or materials supplied in connection with any Secured Property;
- (x) to the best of its knowledge, all buildings and improvements comprising part of any of the Secured Properties are in good physical condition having regard to their use and age, and there are no material defects or extraordinary repairs required in connection therewith except as disclosed in writing to, and approved by, the Lender;
- (y) to the best of its knowledge, the real property reports, if any, delivered to the Lender accurately reflect the state of the relevant Secured Properties;
- (z) to the best of its knowledge, the location of any buildings on any Secured Property are within the boundary lines of such Secured Property (other than

encroachments that if required to be corrected would not result in a Material Adverse Change or with respect to which there is an encroachment agreement) and are in material compliance with all applicable setback requirements;

- (aa) to the best of its knowledge, the only property interests necessary for the operation of each Secured Property in the manner in which it is intended to be operated are the property interests comprising such Secured Property and all easements, licenses, servitude and other agreements necessary for the operation and maintenance of each Secured Property in the manner in which it is currently being operated have been obtained and, to the best of its knowledge, are in good standing;
- (bb) the insurance policies required pursuant to Schedule "B" are in place and maintained in respect of each Secured Property; and
- (cc) as of the date hereof, Colliers Macaulay Nicolls Inc. provides property management services in respect of each of the Secured Properties pursuant to the Property Management Agreement.

## **8.2 Nature of Representations and Warranties**

The representations and warranties set out in this Section 8 shall survive the execution and delivery of this Agreement and the Security and the making of each Advance and will be deemed to be repeated by the Borrower as of each Advance date, except to the extent that on or prior to such date (a) the Borrower has advised the Lender in writing of a variation in any such representation or warranty, and (b) the Lender has approved such variation, acting reasonably.

If at any time before the final Advance of funds the Lender determines that there is or has been any material discrepancy or inaccuracy in any written information, statements or representations at any time made or furnished to the Lender by the Borrower concerning the Secured Properties or any party's financial condition and responsibility, then the Lender shall be entitled forthwith to withdraw and cancel its obligations hereunder or decline to Advance further funds, as the case may be, and to declare any monies then advanced, with interest, to be forthwith due and payable.

## **Section 9 SECURITY**

### **9.1 Security Required**

The Borrower shall execute and deliver, or cause the execution and delivery of, to the Lender the following (in each case in a form satisfactory to the Lender and its solicitors):

- (a) a first mortgage charge in the amount of \$41,407,000.00 over all land and buildings of the Secured Property;
- (b) a beneficial owners agreement including a charge of the beneficial interest from the Beneficial Owner of the Secured Properties;
- (c) a first priority assignment of rents and leases;
- (d) a guarantee of the Guarantor whereby it guarantees all interest accruing to the Lender under the Facilities;

- (e) a property specific first general security agreement over all chattels and equipment of the Borrower located at the Secured Properties;
- (f) a first assignment of all Significant Agreements and Material Licenses, together with consents and acknowledgements as required;
- (g) an assignment and postponement of claim from the limited partners and/or the shareholders and beneficial owners of the Borrower;
- (h) an environmental indemnity from the Obligors in favour of the Lender;
- (i) an indemnity for misrepresentation and fraud from the Obligors in favour of the Lender;
- (j) title insurance in favour of the Lender from an insurer satisfactory to the Lender in a form reasonably satisfactory to the Lender;
- (k) a letter from the Guarantor's solicitors addressed to the Lender confirming that none of the limited partners of the Guarantor or any of its Subsidiaries owns or controls directly or indirectly 25% or more of the Guarantor or the Borrower as of the date of the initial Advance;
- (l) an opinion letter from an Alberta solicitor acting for the Borrower stating that all Security and this Agreement has been duly authorized, executed and delivered by the Borrower, and where applicable, the Guarantor; and
- (m) a law firm shall be appointed by the Lender and used to draft the security documentation and any other documents related to this transaction and to disburse advances, and all investigations and registrations shall be to the satisfaction of our solicitor prior to any advance. All legal costs of our solicitors related to this transaction shall be payable by the Borrower and may be deducted from the Loan proceeds and shall be paid by the Borrower directly to our solicitors in the event this transaction does not proceed to an initial funding under the mortgage.

The Lender will require that the Borrower use a firm of solicitors for independent legal advice such firm to be completely separate from that chosen by the Lender.

All security shall be on the Lender's standard form subject to such reasonable changes requested by the Borrower and agreed to by the Lender hereunder, acting reasonably;

## 9.2 Registration

The Lender may, at the expense of the Borrower, register or cause to be registered, filed or recorded the Security or site-specific financing statements or notices in respect thereof in all offices where such registration, filing or recording is, in the opinion of the Lender or its counsel, necessary or of advantage to the creation, perfection or preservation of the security interests, mortgages, charges, hypothecs and assignments arising pursuant thereto. The Lender may, at the Borrower's expense, renew such registrations, filings and recordings from time to time as and when required to keep them in full force and effect. The Borrower acknowledges that the forms of Security have been prepared based on the laws in effect at the date of execution thereof and that such laws may change, and that the laws of other jurisdictions may require the execution and delivery of different forms of security instruments in order to grant to the Lender the rights intended to be granted by the Security. The Borrower shall or shall cause each other Obligor to, on reasonable request from the Lender from time to time, execute and deliver to the Lender such additional

security instruments and related documents and amend or supplement the Security theretofore provided to the Lender to reflect any changes in such laws, whether arising as a result of statutory amendments, court decisions or otherwise.

## Section 10 DEFAULT

**10.1 "Events of Default"** means the occurrence of any one or more of the following events:

- (a) a default by any Obligor in the observance or performance of any of the terms or conditions of the Security or this Agreement for which they are responsible that has not been remedied within 30 days of receipt of written notice of default from the Lender with respect to any non-financial default (or, if the default cannot reasonably be remedied in 30 days, that the Obligor has not commenced remedying within such 30-day period and diligently continued to remedy such non-financial default) and within 5 business days written notice of any financial default;
- (b) either Obligor becoming insolvent or the filing or presenting of a petition in bankruptcy against either obligor;
- (c) the appointment, either privately or by a court, of a receiver or receiver-manager of either Obligor or any of its assets;
- (d) either Obligor making a proposal under the *Bankruptcy and Insolvency Act*, or any successor legislation, or seeking relief under the *Companies' Creditors Arrangement Act*, or other debtor relief legislation;
- (e) any execution, sequestration or other process of any court becoming enforceable against any Obligor, a distress or analogous process being levied upon the property of any Obligor or any part thereof, including but not limited to a builder's lien registered against the title to the Secured Property, which is not satisfied or discharged, or if any Obligor has not taken steps to remedy same, or is not continuing diligently toward such remedy, as the case may be, within 30 days from the date upon which any Obligor receives written notice of the same from the Lender;
- (f) a non-arm's length lease granted by the Borrower without the prior written approval of the Lender which approval will not be unreasonably withheld;
- (g) the Secured Property is charged or encumbered with any financial obligation other than the Security without the prior written approval of the Lender, which approval may be withheld in the Lender's sole discretion;
- (h) any other event which, pursuant to the terms of Security constitutes, or is deemed to constitute, an Event of Default;
- (i) there is a Material Adverse Change;
- (j) there is a Change of Control or the Lender consents to a Change of Control but the transferee or purchaser does not execute an assumption agreement in favour of the Lender satisfactory to the Lender acting reasonably; and
- (k) in the event of abandonment of either of the Secured Properties for a period in excess of fifteen (15) consecutive days, the Lender shall be entitled, after

giving the Borrower ten (10) days written notice of any abandonment and provided the Borrower fails to rectify same within the time allotted or within thirty (30) days after such notice has been given, to forthwith withdraw and cancel its obligations hereunder and/or decline to Advance further funds as the case may be and in addition to declare any funds Advanced to forthwith become due and payable, plus interest, all at the Lender's option.

#### **10.2 Acceleration**

If any Event of Default shall occur and be continuing beyond any applicable cure period, all of the Obligations shall, upon notice in writing from the Lender to the Borrower, become immediately due and payable with interest thereon, at the Interest Rate, to the date of actual payment thereof, all without notice (other than the notice just referred to), presentment, protest, demand, notice of dishonor or any other demand or notice whatsoever, all of which are hereby expressly waived by the Borrower. In such event the Lender may, in its discretion, exercise any right or recourse and/or proceed by any action, suit, remedy or proceeding against any Obligor authorized or permitted by law for the recovery of the Obligations and proceed to exercise any and all rights hereunder and no such remedy for the enforcement of the rights of the Lender shall be exclusive of or dependent on any other remedy but any one or more of such remedies may from time to time be exercised independently or in combination.

#### **10.3 Remedies Cumulative and Waivers**

For greater certainty, it is expressly understood and agreed that the rights and remedies of the Lender hereunder or under the Security are cumulative and are in addition to and not in substitution for any rights or remedies provided by law or by equity; and any single or partial exercise by the Lender in accordance with the provisions hereof of any right or remedy for a default or breach of any term, covenant, condition or agreement contained in this Agreement or other document or instrument executed pursuant to this Agreement shall not be deemed to be a waiver of or to alter, affect or prejudice any other right or remedy or other rights or remedies to which the Lender may be lawfully entitled for such default or breach. Any waiver by the Lender of the strict observance, performance or compliance with any term, covenant, condition or other matter contained herein and any indulgence granted, either expressly or by course of conduct, by the Lender shall be effective only in the specific instance and for the purpose for which it was given and shall be deemed not to be a waiver of any rights and remedies of the Lender under this Agreement or the Security as a result of a Default.

#### **10.4 Termination of Lender's Obligations**

The occurrence and continuance of a Default or an Event of Default beyond any applicable cure period shall immediately relieve the Lender of all obligations to provide any further Advances hereunder.

#### **10.5 Lender May Perform**

If any Obligor fails to perform any covenants on its part contained in this Agreement or any other Document, the Lender may, in its discretion but need not, perform any such covenant capable of being performed by the Lender and if the covenant requires the payment or expenditure of money, the Lender may make such payment or expenditure and all sums so expended shall be forthwith payable by the Borrower to the Lender and shall bear interest at the Interest Rate.

### **10.6 Set-Off or Compensation**

In addition to, and not in limitation of any rights now or hereafter granted under Applicable Law, if repayment is accelerated pursuant to Section 10.2, the Lender may at any time and from time to time without notice to the Borrower or any other person, any notice being expressly waived by the Borrower, set-off and, compensate, combine and apply any and all deposits, and any other indebtedness at any time owing by the Lender, to or for the credit of or the account of the Borrower against and on account of the Obligations owing under this Agreement notwithstanding that any of them are contingent or unmatured.

### **10.7 Other**

In the event of any Default, the Lender shall be entitled to a fee for each and every incident of Default on account of administration and costs incurred. Such fee will be: (a) \$250, in the event of late payment; (b) \$500, in the event of dishonored cheque or other payment; and (c) \$1,000 plus all legal fees disbursements and any other costs incurred in the event of any legal proceeding being instituted.

### **10.8 Custodian**

This Loan Agreement will be assigned by the Lender to the Custodian and all Security will be drafted in favor of the Custodian, as agent, nominee and bare trustee for and on behalf of the Lender.

## **Section 11 NOTICES**

### **11.1 Notices**

Any notice, demand or request to any party shall be in writing and shall be deemed to have been validly given only when it has been received at the address of such party shown in this Agreement or to such other address as such party shall have given written notice. The current addresses of the parties are:

the Lender:

Computershare Trust Company of Canada  
c/o Timbercreek Mortgage Servicing Inc.  
1000 Yonge Street, Suite 500  
Toronto, Ontario M4W 2K2

Attention: Mortgage Administration

Fax: (416) 848-9494

email: [piones@timbercreekfunds.com](mailto:piones@timbercreekfunds.com)

the Borrower:

121 King Street West, Suite 200  
Toronto, Ontario M5H 3T9

Attention: Ramsey Ali

Fax: 416-947-9366  
email: ramsey@slateam.com

## **Section 12 COSTS AND EXPENSES**

### **12.1 Costs and Expenses**

The Borrower shall promptly pay upon notice from the Lender all reasonable costs and expenses incurred by the Lender in connection with:

- (a) the preparation, execution and delivery of this Agreement, the Security and the other documents to be delivered hereunder including waivers, consents and amendments requested by the Borrower;
- (b) the conduct of due diligence by the Lender in relation hereto, whether or not any Advance has been made hereunder; and
- (c) the reasonable fees and out-of-pocket expenses of Lender's legal counsel on a full indemnity basis with respect to the enforcement of this Agreement and the Security and with respect to:
  - (i) advising the Lender as to its rights and responsibilities under this Agreement and the Security;
  - (ii) in connection with the preparation or review of waivers, consents and amendments requested by the Borrower; and
  - (iii) questions of interpretation of this Agreement and the Security in connection with the establishment of the validity and enforceability of this Agreement and the Security.

### **12.2 Further Costs and Expenses**

The Borrower shall promptly pay upon notice from the Lender all reasonable costs and expenses incurred by the Lender in connection with the preservation or enforcement of the rights of the Lender under this Agreement, the Security and the other Documents to be delivered hereunder, including without limitation, all costs and expenses sustained by the Lender as a result of any failure by any Obligor to perform or observe any of their Obligations under the Security.

### **12.3 Interest on Costs and Expenses**

The costs and expenses to be paid by the Lender pursuant to Sections 12.1 and 12.2 shall bear interest at the Interest Rate applicable to the Facilities following Lender's request for same if such payment is not made within 15 Business Days. Such costs, expenses and interest shall be payable whether or not the Closing Date occurs or an Advance is made under this Agreement.

### **12.4 Receipt of Good Faith Deposit**

The Lender acknowledges receipt of the Good Faith Deposit which is to be applied to the Loan Fee, net of expenses, in the event the Lender executes this Loan Agreement.

The Good Faith Deposit will be forfeited to the Lender as liquidated damages and not as penalty in each of the following circumstances:

- (i) if, because of the Borrower's failure or inability for any reason whatsoever to comply with any terms or conditions relating to initial Advance in this Agreement by November 23, 2018.
- or
- (ii) if, for any reason, the Borrower does not accept all or a portion of the proceeds of the Acquisition Facility when the Lender makes it available;
- or
- (iii) if the Borrower enters into a loan commitment with another Lender respecting the Secured Property prior to the initial Advance of the Acquisition Facility;
- or
- (iv) if the Borrower fails, refuses or is unable to comply with any of the terms and conditions as set forth in the Agreement, and/or in the Security.

For greater clarity, if none of the foregoing occur, the Good Faith Deposit will be returned to the Borrower in full, without deduction or set off, if the Lender does not advance the Acquisition Facility.

Notwithstanding the forfeiture of the Good Faith Deposit, the Obligors shall remain liable to reimburse the Lender for any reasonable due diligence costs and legal expenses, whether or not the Lender makes an advance of the Loan. The Lender's Agreement with respect to the Good Faith Deposit is enforceable by the Lender, independent of the existence of this Agreement.

## **Section 13 - GENERAL**

### **13.1 Further Assurances**

Each Obligor shall do, execute, acknowledge and deliver or cause to be done, executed, acknowledged or delivered all such other acts, agreements, instruments and assurances as the Lender or its counsel shall reasonably require for the better accomplishing and effectuating the provisions of this Agreement.

### **13.2 Time is of the Essence**

Time shall be of the essence of this Agreement and of each of the provisions hereof.

### **13.3 Amendments**

Neither this Agreement, nor any Document may not be amended or altered except by Instrument in writing signed by the Lender and the Borrower.

### **13.4 Severability**

If any covenant, obligation, term or condition of this Agreement or any of the Documents or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or such Document or the application of such covenant, obligation, agreement, term or condition to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and each covenant, obligation, agreement, term and condition of this Agreement or such Document shall be separately valid and enforceable to the fullest extent permitted by law.

### **13.5 Changes Required by Context**

This Agreement and each Document shall be read with all changes of gender and number required by the context. Any reference to the successors and assigns of a corporate entity includes the heirs, executors, administrators and assigns of a natural person.

### **13.6 Legislation**

Reference to any legislation means such legislation as amended and in effect at the relevant time.

### **13.7 Headings**

The article headings and section headings of this Agreement and in each Document have been inserted for convenience of reference only and do not form part of this Agreement or such Document. They shall not be referred to in the interpretation of this Agreement or such Document.

### **13.8 Whole Agreement**

This Agreement and the Documents contain the whole agreement between the parties with respect to the subject matter of this Agreement and the Documents. There is no promise, inducement, representation, warranty, collateral agreement or condition affecting this Agreement and the Documents other than as expressed in this Agreement and the Documents. The schedules and appendices to this Agreement form part of this Agreement.

### **13.9 Counterparts**

This Agreement has been executed in a number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement.

### **13.10 Meanings of Certain Terms**

Unless otherwise defined herein, each word and phrase with initial capitals used in this document shall have the meaning assigned to it in the *Personal Property Security Act*, (Alberta) if defined therein.

### **13.11 Applicable Law**

This Agreement shall be construed in accordance with the laws of the Province of Alberta and of Canada applicable therein, without regard to principles of conflict of laws. The Obligors attorn to the non-exclusive jurisdiction of the Province of Alberta.

### **13.12 Assigns**

The Lender shall at any time, with reasonable prior notice to the Borrower be entitled to assign all or part of its right, title and interest in this Agreement or either of the Facilities, including by way of participation, syndication or securitization and may disclose information regarding the Secured Properties, the Facilities, or the Obligors to the extent and in the manner that the Lender may deem appropriate in order to complete any such transaction. The Lender shall be responsible for any additional costs or expenses incurred by the Obligors that arise as a direct result of such assignment by the Lender. Notwithstanding the foregoing, the Lender shall not be entitled to assign all or part of its right, title and interest in this Agreement or either of the Facilities to a direct competitor of the Borrower or the Guarantor or to a private equity firm.

**13.13 No Assignment by Borrower**

The Borrower shall not assign, pledge, encumber or mortgage its rights hereunder.

**13.14 Enurement**

This document and all its provisions shall enure to the benefit of the Lender and its successors and assigns, and shall be binding upon the Borrower and its successors and assigns.

**13.15 Confidentiality**

The Borrower acknowledges and agrees that the terms and conditions recited herein are confidential between the Borrower and the Lender and its advisors and investors. The Borrower agrees not to disclose the information contained herein to a third party without the express written consent of the Lender. After the completion of the advance of the Loan, if a Loan is granted, the Borrower agrees that the Lender may publish details of this transaction, including in any press release, the Lender's marketing materials and in any online forum, without requiring any further consent from the Borrower.

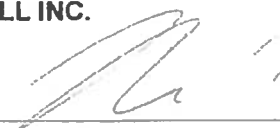
**13.16 Non-Merger**

The Borrower's Obligations as contained in this Loan Agreement (and to the extent that those Obligations are not repeated in the Security) shall survive the execution and registration of the Security and all Advances of funds, and the Borrower agrees that those obligations shall not be deemed to be merged in the execution and registration of the Security. In the event of an express conflict between this Agreement and the Security, then this Agreement shall prevail. There is no conflict if the terms of the Security expand or clarify the terms of this Agreement.

*[signature page follows]*

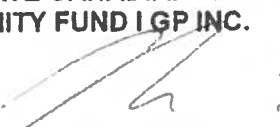
IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first written above.

**SCREO I GILL INC.**

By:   
Name: \_\_\_\_\_  
Title: **Ramsey Ali**  
**Authorized Signing Officer**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**SLATE CANADIAN REAL ESTATE  
OPPORTUNITY I FUND L.P. by its general  
partner SLATE CANADIAN REAL ESTATE  
OPPORTUNITY FUND I GP L.P. by its general  
partner SLATE CANADIAN REAL ESTATE  
OPPORTUNITY FUND I GP INC.**

By:   
Name: \_\_\_\_\_  
Title: **Ramsey Ali**  
**Authorized Signing Officer**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**TIMBERCREEK MORTGAGE SERVICING INC.**

By:   
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By:   
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Schedule A****Properties**

**Joffre Place - 708 -11th Avenue Southwest, Calgary, AB**

**PLAN A1  
BLOCK 67  
LOTS 21 TO 28 INCLUSIVE  
EXCEPTING FIRSTLY OUT OF LOT 28 THE WEST 0.12 METRES  
EXCEPTING SECONDLY AS TO SUFACE ONLY THAT PORTION FOR STREET  
WIDENING ON PLAN 8010836**

**Life Plaza - 734 - 7th Avenue Southwest, Calgary, AB**

**PLAN A1  
BLOCK 33  
THE WEST 4 INCHES OF LOT 33 AND ALL OF LOTS 34 TO 40 INCLUSIVE  
EXCEPTING THEREOUT A PORTION AS TO SURFACE ONLY FOR ROAD  
WIDENING ON PLAN 8311721**

### **SCHEDULE "B"**

All insurance policies must be forwarded to our insurance consultants, Proincon, 300-570 Portage Avenue, Winnipeg, MB R3C 0G4 Attn: Wayne Fast Phone (204) 953-6222 Fax (204) 953-6220 [wfast@proincon.ca](mailto:wfast@proincon.ca) for their review and comments upon the acceptance of this commitment. The Lender's insurance consultants will review the insurance policies; the cost of which shall be for the account of the Borrower and will, therefore, be deducted from the initial advance of the funds under this loan.

The Borrower shall place and keep in force throughout the Term of the Loan the following insurance coverage, in respect of the Property and all such Insurance coverage shall be placed and kept in force with a company or companies reasonably satisfactory to the Lender and the Lender shall receive certificates of insurance policies of insurance signed by the insurer or insurers which policies are to be in form and content reasonably satisfactory to the Lender. Where, under the insurance policies described below, loss is payable to the Lender, such insurance policies shall show the loss payable to the Lender as first mortgagee.

Evidence of insurance satisfactory to the Lender and/or its insurance consultant shall be provided prior to the advance of the loan.

#### **Permanent Coverage**

- i) Property insurance in an amount not less than one hundred per cent (100%) of the replacement cost and providing coverage by way of an "all risks" policy of insurance including earthquake and flood, together with a replacement cost endorsement with the "same site" provisions removed.
- ii) Fire and extended coverage and malicious damage, including leakage from fire protection equipment on a stated amount replacement cost basis with the "same site" provisions removed with first loss payable to the Lender by way of an approved mortgage clause. The policy must include a stated amount co-insurance clause. Permission should be granted for the Improvements to be completed and to be vacant or unoccupied for a period of at least thirty (30) days and shall provide for partial occupancy.
- iii) Comprehensive broad form boiler insurance including unfired pressure vessels insurance and air-conditioning equipment, if any, including repair and replacement and including Use and Occupancy coverage, for an amount satisfactory to the Lender with first loss payable to the Lender by way of a boiler and machinery insurance association mortgage clause.
- iv) Comprehensive general liability insurance for bodily injury and/or death and damage to property of others for a minimum amount of \$5,000,000 per occurrence, written on an inclusive basis with the Mortgagee shown as an additional insured.

- v) Rental insurance coverage sufficient to cover 100% of the gross annual rentals from the Property for a period of twelve (12) months, based on the greater of actual or projected rentals.

All cancellation and alteration clauses in the above-referenced policies, including those contained in the mortgage clause insurance endorsement, are to provide that the insurer will endeavor to provide at least thirty (30) days prior notice to the Lender of such cancellation or of any material alteration. The Lender shall be entitled to require coverage of such other risks and perils as the Lender may from time to time reasonably consider advisable or desirable and in respect of which insurance coverage may be available and which is obtained by reasonably prudent owners of properties that are similar to the Property in the City of Calgary.



## SCHEDULE "D"

## OFFICER'S CERTIFICATE RE: BUILDERS' LIEN ACT

TO: Computershare Trust Company of Canada, as agent, nominee and bare trustee for and on behalf of Timbercreek Mortgage Servicing Inc. (the "Lender")

RE: Loan Agreement dated November \_\_\_\_, 2018, between \_\_\_\_ (the "Borrower"), as borrower, Slate Canadian Real Estate Opportunity Fund I L.P., as guarantor, and the Lender, as lender, (the "Loan Agreement") secured by a first mortgage loan registered against the lands located in the City of Calgary which are legally described as:

PLAN A1

BLOCK 67

LOTS 21 TO 28 INCLUSIVE

EXCEPTING FIRSTLY OUT OF LOT 28 THE WEST 0.12 METRES

EXCEPTING SECONDLY AS TO SURFACE ONLY THAT PORTION FOR STREET

WIDENING ON PLAN 8010836

and

PLAN A1

BLOCK 33

THE WEST 4 INCHES OF LOT 33 AND ALL OF LOTS 34 TO 40 INCLUSIVE

EXCEPTING THEREOUT A PORTION AS TO SURFACE ONLY FOR ROAD

WIDENING ON PLAN 8311721

(collectively, the "Lands")

I, \_\_\_\_\_, of the City of \_\_\_\_\_, in the Province of \_\_\_\_\_, hereby certify in my capacity as an officer of the Borrower and without personal liability that, to the best of my knowledge:

1. as of the date of this certificate, I am an authorized signing authority of the Borrower, the registered owner of the Lands;
2. all accounts for labour, contracts, subcontracts, products, materials services, and construction machinery and equipment have been and will continue to be paid in full as required by the contracts, except for: (i) holdback monies which have been and will continue to be properly retained; (ii) payments deferred by agreement, which the Borrower has disclosed to the Lender; and (iii) amounts withheld by reason of legitimate dispute, which amounts and disputes have been disclosed to the Lender;
3. all holdbacks pursuant to the *Builders' Lien Act* (Alberta) required to be held by the Borrower have been and will continue to be maintained; and
4. this certificate is made for the purposes of inducing the Lender to advance funds to the Borrower pursuant to the terms of the Loan Agreement.

IN WITNESS WHEREOF the undersigned has duly executed this certificate this \_\_\_\_ day of \_\_\_\_\_, 2018.

**Appendix B - SCREO 700 Loan Agreement**

## LOAN AGREEMENT

**THIS LOAN AGREEMENT** is made as of November 27, 2018

### BETWEEN:

**SCREO I 700 2ND INC. and 58508 ALBERTA LTD.  
collectively as "Borrower"**

-and-

**SLATE CANADIAN REAL ESTATE OPPORTUNITY FUND I L.P.  
as "Guarantor"**

-and-

**TIMBERCREEK MORTGAGE SERVICING INC.  
as "Lender"**

**WHEREAS** the Lender, at the request and on behalf of the Borrower, has arranged to provide loan facilities to assist the Borrower with the financing and re-positioning of real estate assets;

**NOW THEREFORE** the parties hereto agree as follows:

### Section 1 DEFINITIONS

#### 1.1 Definitions

In this Agreement, unless something in the subject matter or context is inconsistent therewith:

**"Adjusted Net Operating Income"** means, with respect to the Secured Property and for a given period, the sum of the following (without duplication), calculated on a pro forma basis to the satisfaction of the Lender, acting reasonably:

- (a) rents, expense recoveries, and other revenues received in the ordinary course from the leasing or operating of the Secured Property based on an annualized rent roll of tenants in place (for greater clarity, the in place rent roll of a particular month, annualized) and not in default, plus
- (b) rents, expenses recoveries, and all other revenues related to New Tenants, calculated as if the New Tenant is in place on the Lease Execution Date and paying starting base and estimated additional rent as of the Lease Execution Date, regardless of free rent periods (base or gross free rent) provided for in the lease, minus
- (c) all expenses paid or accrued related to the ownership, operation or maintenance of the Secured Property, including but not limited to Taxes (other than Taxes comprised of income and corporation taxes), assessments and other similar charges, insurance, utilities, payroll costs, maintenance, repair and landscaping

expenses and on site marketing expenses, but in any event excluding amortization and depreciation, and general and administrative expenses.

Notwithstanding the above definition, if a New Tenant has been granted an in-term free rent period longer than the Waived Free Rent Period, the incremental in-term free rent period (above the Waived Free Rent Period) will be added to that New Tenant's respective Lease Execution Date for the purposes of the calculation, at the Lender's discretion, acting reasonably

**"Advance"** means a borrowing by the Borrower from the Lender and any reference relating to the amount of Advances shall mean the sum of the principal amount of all outstanding Advances at a particular point in time.

**"Applicable Laws"** means, at any time, in respect of any Person, property, transaction, event or other matter, as applicable, all then current laws, rules, statutes, regulations, treaties, orders, judgments and decrees and all official directives, rules, guidelines, orders, policies, decisions and other requirements of any Governmental Authority, in each case to the extent having the force of law (collectively, the **"Law"**) relating or applicable to such Person, property, transaction, event or other matters and shall also include any interpretation of the Law or any part of the Law by any Person having jurisdiction over it or charged with its administration or interpretation.

**"Appraisal"** shall mean a report prepared by an accredited Person acceptable to the Lender who has been selected to perform an appraisal, or to review existing appraisals prepared by other appraisers, of the Secured Property.

**"Appraised Value"** means the appraised value of the relevant Secured Property as set forth in the most recent Appraisal received by the Lender in respect of such Secured Property.

**"Beneficial Owner"** means SCREO I 700 2ND L.P.

**"Borrower"** means SCREO I 700 2ND INC. and 58508 ALBERTA LTD.

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

**"Canadian Dollars"** means the lawful money of Canada.

**"Capital Expenditures"** means the costs incurred from time to time by the Borrower in connection with the repair or replacement of capital items, as identified in the Repositioning Costs budget provided by the Borrower and approved by the Lender, acting reasonably, and limited to the amount for the Secured Property as identified in the definition of "Repositioning Costs".

**"Change of Control"** means if the Borrower ceases to be controlled, directly or indirectly, by Slate Canadian Real Estate Opportunity Fund I L.P. or any other change of ownership, control, transfer or sale of the Secured Property, or part thereof without the Lenders prior written consent, which consent shall not be unreasonably withheld.

**"Closing Date"** means the 27<sup>th</sup> day of November, 2018 or such other date as may be agreed to by the parties.

**"Control"** means the possession directly or indirectly of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise.

**"Cost Consultant"** has the meaning set out in Section 6.2(a).

**"Custodian"** means Computershare Trust Company of Canada, as agent, bare trustee for and on behalf of the Lender.

**"Debt Capitalization Rate"** means, with respect to any period, the ratio of Adjusted Net Operating Income to the Advances outstanding at that time.

**"Default"** means an event or condition, the occurrence of which would, with the lapse of time or the giving of notice, or both, become an Event of Default.

**"Documents"** means this Agreement, the Security and all security documents and certificates and other documents delivered, or to be delivered to the Lender pursuant to or in connection with this Agreement.

**"Event of Default"** has the meaning set out in Section 10.1.

**"Encumbrance"** means, in respect of any Person, any mortgage, debenture, pledge, hypothec, lien, charge, assignment by way of security, consignment, lease, hypothecation or security interest granted or permitted by such Person or arising by operation of law, in respect of such Person's property.

**"Environmental Laws"** means all Applicable Laws, by-laws, rules, regulations, orders, judgments, ordinances, protocols, codes, guidelines, policies, notices and directions, all to the extent the same are enforceable, relating in whole or in part to the protection of the environment and occupational health and safety matters, and includes, without limitation, those Environmental Laws relating to the storage, generation, use, handling, transportation, treatment, Release and disposal of Hazardous Substances.

**"Equity Take Out Facility"** has the meaning given thereto in Section 2.1.

**"Equity Take Out Facility Amount"** means, the lesser of:

- (a) \$93,400,000; and,
- (b) 65% of the current "as is" appraised value of the Scotia Building as may be determined by the Lender, acting reasonably.

**"Facility"** means either the Equity Take Out Facility or the Repositioning Facility, and **"Facilities"** means both of such facilities.

**"Good Faith Deposit"** means the sum of \$500,000.00 referred to in Section 12.4.

**"Governmental Authority"** means any government, parliament, legislature, or any regulatory authority, agency, commission or board of any government, parliament or legislature, or any political subdivision thereof, or any court or, without limitation, any other law, regulation or rule-making entity (including, without limitation, any central bank, fiscal or monetary authority or authority regulating banks), having jurisdiction in the relevant

circumstances, or any person acting under the authority of any of the foregoing (including, without limitation, any arbitrator with the authority to bind the parties at law) or any other authority charged with the administration or enforcement of applicable laws.

**"Guarantor"** means Slate Canadian Real Estate Opportunity Fund I L.P.

**"Hazardous Substances"** means any substance that is discharged or released into the natural environment in contravention of applicable federal, provincial, or municipal laws that is likely to cause at some immediate or future time, material harm or degradation to the natural environment or injury, harm or material discomfort to any person and without restricting the generality of the foregoing, includes urea formaldehyde, asbestos, PCBs, radioactive materials, hazardous waste or dangerous goods that are regulated by applicable federal, provincial or municipal laws for the protection of the natural environment or human health.

**"Interest Adjustment Date"** means December 1, 2018.

**"Interest Payment Date"** means January 1, 2019 and the 1<sup>st</sup> day of each calendar, month thereafter except, where such date is not a Business Day, the Interest Payment Date shall be the next Business Day thereafter.

**"Interest Rate"** means the floating rate equal to the TD Prime Rate + 2.80% calculated and payable monthly for the first thirty-five (35) months of the Loan Term, subject to a floor rate equal to the TD Prime Rate at the time of the initial advance of the Loan + 2.80% increasing to the TD Prime Rate + 4.80% thereafter unless a renewal is granted pursuant to the terms and conditions of the Renewal Option.

**"GLA"** means gross leasable area.

**"Lease Execution Date"** means the date when the applicable lease document is executed.

**"Leases"** means (i) all present and future leases, agreements to lease, licenses or other agreements in respect of each and every present and future tenancy, right of use or occupation of or license granted by the Borrower in respect of all or any part of any Secured Property, as they may be extended or renewed or replaced; (ii) any agreement whether written or oral amending any of the foregoing; and (iii) any present and future guarantee of or indemnity with respect to a tenant's Lease obligations whether included in a Lease or contained in a separate instrument.

**"Lender"** means Timbercreek Mortgage Servicing Inc.

**"Loan"** means the total advances made under the Facilities.

**"Loan Fee"** means the sum of \$1,613,000, being 1% of the maximum amount of the Facilities and payable in accordance with section 2.7.

**"Material Adverse Change"** means the occurrence of a material adverse change in the position and condition, financial or otherwise, of any Obligor, the Secured Property or an Obligor's title to the Secured Property as determined by the Lender, acting reasonably, which would be reasonably expected to materially impair the ability of any Obligor to timely and fully perform its obligations under this Agreement or any other Document to which it is a party or

would be reasonably expected to materially impair the ability of the Lender to enforce its rights and remedies under the Security.

**"Material Licenses"** means all licenses, permits or approvals issued by any Governmental Authority to any Obligor, and which are at any time on or after the date of this Agreement,

- (a) necessary or material to the business and operations of such Obligor or to the listing of its securities, the breach or default of which would result in a Material Adverse Change, or
- (b) designated by the Lender as a Material License, provided that the Lender has notified the Borrower of such designation.

**"Maturity Date"** means December 1, 2021.

**"New Tenants"** means any tenant for which a lease is executed but the tenant is not occupying and paying base and additional rent as of or after the Closing Date.

**"Obligors"** means the Borrower and the Guarantor.

**"Obligations"** means all present and future debts, liabilities and obligations of the Obligors to the Lender under this Agreement, the Security or any other Documents.

**"Permitted Encumbrances"** with respect to any Secured Property or asset means:

- (a) encumbrances for real property taxes (which term includes charges, rates and assessments) or charges for electricity, power, gas, water and other services and utilities in connection with a Secured Property that have accrued but are not yet due and owing or, if due and owing, are adjusted for on Closing;
- (b) subdivision agreements, site plan control agreements, development agreements, servicing agreements, utility agreements and other similar agreements with Governmental Authorities or public utilities that do not materially impair the current use, operation or marketability of a Secured Property;
- (c) restrictive covenants, private deed restrictions, and other similar land use control agreements that do not materially impair the current use, operation or marketability of a Secured Property;
- (d) minor encroachments by a Secured Property over neighboring lands and/or permitted under agreements with neighboring landowners and minor encroachments over a Secured Property by improvements of neighboring landowners and/or permitted under agreements with neighboring landowners that, in either case, do not materially impair the current use, operation or marketability of a Secured Property;
- (e) any subsisting reservations, limitations, provisos, conditions or exceptions, including royalties, contained in the original grant of a Secured Property from the Crown;
- (f) all Leases, any caveats relating to the Leases, registrations and notices, with respect to the Leases, including any exclusivity provisions, restrictive covenants

and other rights contained therein, and leasehold mortgages or security interests relating to any tenant secured by such tenant's interest in its Lease or leased premises;

- (g) the provisions of all applicable laws, including by-laws, regulations, ordinances and similar instruments relating to development and zoning that do not materially impair the current use, operation or marketability of a Secured Property;
- (h) any minor title defects, irregularities, easements, servitudes, encroachments, rights-of-way or other discrepancies in title or possession relating to a Secured Property as disclosed by the plan of survey, certificate of location or technical description;
- (i) the implied conditions and reservations contained in Sections 61(1) and 62 of the *Land Titles Act (Alberta)*, R.S.A. 2000, Chapter L.4, as amended;
- (j) any rights of expropriation, access or user or any other similar rights conferred or reserved by or in any statutes of Canada or the Province of Alberta;
- (k) any unregistered easements regarding the provisions of utilities to a Secured Property which do not materially impair the current use, operation or marketability of a Secured Property;
- (l) permits, licenses, agreements, easements, (including, without limitation, heritage easements and agreements relating thereto), restrictions, restrictive covenants, rights-of-way, public ways, rights in the nature of an easement and other similar rights in the land granted to or reserved by other persons (including, without in any way limiting the generality of the foregoing, permits, licenses, agreements, easements, rights-of-way, sidewalks, public ways, and rights in the nature of easements or servitudes for sewers, drains, steam, gas, and water mains or electric light and power or telephone and telegraph conduits, poles, wires and cables) which do not materially impair the current use, operation or marketability of a Secured Property;
- (m) security given to a public utility or any municipality or governmental or other public authority when required by the operations of a Secured Property in the ordinary course of business, including, without limitation, the right of the municipality to acquire portions of a Secured Property for road widening or interchange construction and the right of the municipality to complete improvements, landscaping or remedy deficiencies in any pedestrian walkways or traffic control or monitoring to be provided to a Secured Property;
- (n) undetermined or inchoate liens incidental to construction, renovations or current operations, a claim for which shall not at the time have been registered against a Secured Property pursuant to the *Builders' Lien Act (Alberta)*;
- (o) any and all statutory liens, charges, adverse claims, prior claims, security interests, deemed trusts or other encumbrances of any nature whatsoever which are not registered on the title to a Secured Property and of which the Borrower does not have notice, claimed or held by Her Majesty the Queen in

Right of Canada, Her Majesty the Queen in Right of the Province of Alberta, or by any other governmental department, agency or authority under pursuant to any applicable legislation, statute or regulation;

- (p) any lien, together with any certificate of action registered in respect thereof, a claim for which, although registered or of which notice has been given, related solely to work done by or on behalf of a tenant, and all Encumbrances affecting the Tenant's interest in a Secured Property;
- (q) any reference plans or plans in respect of the Secured Property so long as the plans are registered on title;
- (r) those specific registrations set out in Schedule "A".

**"Person"** means an individual, corporation, partnership, trust, unincorporated association, Governmental Authority or any combination of the foregoing.

**"Property Management"** has the meaning given to it in section 8.

**"Property Management Agreement"** means the property management agreement dated March 20, 2018 between SCREO I 700 2<sup>ND</sup> L.P. and Colliers Macaulay Nicolls Inc., as amended or supplemented from time to time.

**"Project Occupancy"** means, with respect to the Secured Property, the cumulative GLA that is subject to a Lease as of a particular month, divided by the aggregate GLA of the Secured Property. For greater clarity, this classification is to include GLA subject to Leases to New Tenants as of that New Tenant's respective Lease Execution Date.

**"Release"** means releasing, adding, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, migrating, dispersing, dispensing, disposing, depositing, spraying, inoculating, abandoning, throwing, placing, exhausting or dumping and "Released" has a comparable meaning.

**"Repositioning Costs"** are:

Capital Expenditures	\$31,100,000
Tenant Improvements & Leasing Commissions	\$36,800,000
	\$67,900,000

**"Repositioning Facility"** has the meaning given thereto in Section 2.4.

**"Repositioning Facility Amount"** means the lessor of:

- (a) the Repositioning Costs; and
- (b) 75% of "as if completed" appraised values of the Secured Property (when combined with the advance under the Equity Take Out Facility).

**"Relevant Jurisdiction"** means, from time to time, with respect to a Person that is granting Security hereunder, any province or territory of Canada which such Person has its chief executive office or chief place of business or has Secured Property.

**"Renewal Option"** has the meaning given to it in section 3.4.

**"Secured Property"** means the properties described in Schedule "A" and generally known as **"Stephen Avenue Place"**.

**"Security"** means, collectively, mortgage, general security agreement, general assignment of rents and leases, guarantee, and other security documents executed and delivered to the Lender and/or the Custodian by an Obligor in connection with this Agreement.

**"Senior Officer"** means, for any Person, the authorized signing authority.

**"Significant Agreements"** means all material agreements and contracts now existing or from time to time entered into in the future or assigned to or obtained by the Borrower in respect of or relating to the Secured Property including any manufacturer's or contractor's warranties and the Property Management Agreement, (but not including leases to the tenants of the Secured Property); together with consents and acknowledgements as required.

**"Subsidiaries"** means, in relation to a Person, any Person that is directly or indirectly controlled by such first Person.

**"Taxes"** means all taxes of any kind or nature whatsoever, including income taxes, realty taxes, sales or value-added taxes, levies, stamp taxes, royalties, duties, and all fees, deductions, compulsory loans and withholdings imposed, levied, collected, withheld or assessed, as of the date hereof or at any time in the future, by any Governmental Authority having the power to tax, together with penalties, fines, additions to tax and interest thereon.

**"TD Bank Prime Rate"** means the annual interest rate that The Toronto Dominion Bank sets and adjusts at its discretion as a reference that the Bank will change for variable interest rate Canadian Dollar loans made in Canada and designated as its "prime rate". The TD Bank prime rate can be found on the Toronto Dominion Bank website.

**"Term"** means the period of 36 months from and including the Interest Adjustment Date to and including the Maturity Date, but subject to any renewals or extensions hereof.

**"TI/LC Expenditures"** means all costs relating to tenant improvements and leasing commissions incurred from time to time by the Borrower in connection with leases to New Tenants at the Secured Property approved by the Lender, acting reasonably, and limited to the amount for each Secured Property as identified in the definition of Repositioning Costs.

**"Waived Free Rent Period"** means in-term free rent for a period of twelve (12) months for a five (5) year lease term, twenty-four (24) months for a ten (10) year lease term or thirty-six (36) months for a fifteen (15) year lease term, with the applicable in-term free rent period to be adjusted on a pro rata basis for lease terms outside or between these explicitly defined lease terms.

## 1.2 Currency

Except as otherwise specifically provided herein, all monetary amounts in this Agreement are stated in Canadian Dollars.

## **Section 2 FACILITY**

### **2.1 Equity Take Out Facility**

On and subject to the terms and conditions of this Agreement, the Lender hereby establishes in favour of the Borrower an Equity Take Out Facility of up to \$93,400,000.00.

### **2.2 Equity Take Out Facility to be Non-Revolver**

Any monies paid in reduction of the Equity Take Out Facility shall be a permanent reduction of the availability thereunder and may not thereafter be re-borrowed.

### **2.3 Use of Equity Take Out Facility**

The Equity Take Out Facility shall be used to take out the existing equity of the Secured Property.

### **2.4 Expiry of Equity Take Out Facility**

In the event the Equity Take Out Facility is not advanced by the \_\_\_ day of \_\_\_\_\_, 2018, the Loan Agreement will be null and void and the Good Faith Deposit will be forfeited to the Lender only in the event that any of the circumstances described in section 12.4 occurs. For greater certainty if the Equity Take Out Facility is not advanced for any reason other than as described in section 12.4, the Good Faith Deposit shall be returned to the Borrower in full without deduction or set-off.

### **2.5 Repositioning Facility**

On and subject to the terms and conditions of this Agreement, the Lender hereby establishes in favour of the Borrower a Re-Positioning Facility of up to \$67,900,000.00.

### **2.6 Repositioning Facility to be Non-Revolver**

Any monies paid in reduction of the Repositioning Facility shall be a permanent reduction of the availability thereunder and may not thereafter be re-borrowed.

### **2.7 Loan Fee**

In consideration of the Lender establishing the Facilities, the Borrower shall pay to the Lender the Loan Fee to be deducted from the initial Advance under the Equity Take Out Facility made hereunder.

### **2.8 Record of Indebtedness**

The indebtedness of the Borrower resulting from the Advances shall be evidenced by records maintained by the Lender. The Lender shall enter in the foregoing records details of all amounts from time to time owing, paid or repaid by the Borrower hereunder. The records maintained by the Lender shall constitute in the absence of manifest error, *prima facie* evidence of the indebtedness of the Borrower to the Lender. The failure of the Lender to correctly record any such amount or date shall not in any way affect the obligation of the Borrower to pay all amounts due to the Lender under this Agreement pursuant to, and in accordance with, this Agreement. After a request of the Borrower, the Lender will advise the Borrower of such entries made in the Lender's records.

### **Section 3 REPAYMENT**

#### **3.1 Repayment on Maturity Date**

Unless the Advances outstanding under the Facilities are required to be paid at an earlier date pursuant to the terms hereof, both of the Facilities shall terminate on the Maturity Date, and on such date all Advances outstanding under the Facilities, together with all accrued and unpaid interest thereon and all other fees and charges payable in connection therewith, shall become immediately due and payable without the Lender having to make demand therefor.

#### **3.2 Prepayment**

In respect of each Advance under the Equity Take Out Facility and the Repositioning Facility:

- (i) no voluntary prepayment thereof will be permitted during the first 6 months following the date such Advance is made; and
- (ii) following the expiry of each such 6 month period, the amount of such Advance may be fully or partially repaid without penalty subject to the Borrower providing the Lender with 60 days' prior written notice of such prepayment.

This prepayment right can only be exercised if the Loan is not in default.

#### **3.3 Partial Discharges**

Intentionally Deleted

#### **3.4 Renewal Option**

The Borrower shall have two (2) twelve-month renewal options (the "Renewal Option" and / or the "Renewal Term"), provided that:

- (a) the Loan is not then and has not been in default more than twice since the Interest Adjustment Date, only one of which may be a default of a financial obligation under the Security. For greater certainty, the Borrower is not allowed more than one financial default under the Security to be eligible for each Renewal Term;
- (b) the weighted average committed occupancy of the Secured Property is not less than it was at the time of funding;
- (c) leasing update and evidence of positive leasing momentum/negotiations for the vacant space/tenant turnover/renewals satisfactory to the Lender acting reasonably;
- (d) the Lender receives written notice 30 days prior to the expiry of the Initial Term or the first Renewal Term;
- (e) the Lender receives a renewal fee equal to 0.50% for each of the Renewal Terms. The interest rate for each of the Renewal Terms will be floating at the TD Prime Rate + 2.80% calculated and payable monthly, subject to a floor rate equal to the TD Prime Rate at the time of the initial Advance of the Loan +2.80%, for the first eleven (11) months of the Renewal Term increasing

thereafter to the TD Bank prime rate +4.80%. Interest on advanced funds will be calculated and payable monthly.

#### **Section 4 INTEREST**

##### **4.1 Interest**

The Borrower shall pay interest on Advances at a rate per annum equal to the Interest Rate applicable to such Advance. Interest on Advances shall be payable monthly in arrears on each Interest Payment Date. All interest shall accrue from day to day and shall be payable in arrears for the actual number of days elapsed from and including the date of Advance or the previous date on which interest was payable, as the case may be, to but excluding the date on which interest is payable, with interest on overdue interest at the same rate payable on demand monthly in arrears.

#### **Section 5 INDEMNIFICATION FOR TAXES**

##### **5.1 No Withholding for Taxes**

Each payment under this Agreement, or any of the Security shall be made by the Borrower without set-off, compensation or counterclaim, free and clear of and without any deduction or withholding for or on account of any Taxes other than taxes on the income or capital of the Lender imposed by Canada or any jurisdiction competent to levy Taxes within Canada.

##### **5.2 Indemnification**

The Borrower shall fully indemnify the Lender from and against any Taxes (including interest and penalties), losses and expenses which the Borrower is required to withhold or fails to pay (other than taxes on the income or capital of the Lender imposed by Canada or any jurisdiction competent to levy Taxes within Canada) on an after-tax basis. The Borrower shall pay all Taxes (other than taxes on the income or capital of the Lender imposed by Canada or any jurisdiction competent to levy Taxes within Canada) with respect to the Advances or any amount otherwise payable under this Agreement or any of the Security including, without limitation any sales taxes or goods and services taxes.

##### **5.3 Excluded Taxes**

The Borrower shall not be required to make any payment to the Lender pursuant to Section 5.2 with respect to taxes on the income or capital of the Lender imposed by Canada or any jurisdiction competent to levy Taxes within Canada.

##### **5.4 Lawful Interest Rate**

Notwithstanding anything herein to the contrary, if at any time the Interest Rate applicable to any Advance together with all fees, charges and other amounts that are treated as interest on such Advance under Applicable Law (collectively the "**charges**"), shall exceed the maximum lawful rate (the "**maximum rate**") that may be contracted for, charged, taken, received or reserved by the Lender in accordance with Applicable Law, the rate of

interest payable in respect of such advance hereunder, together with all of the charges payable in respect thereof, shall be limited to the maximum rate.

## Section 6 CONDITIONS

### 6.1 Advance under the Equity Take Out Facility

The making of the initial Advance under the Equity Take Out Facility is subject to and conditional upon the Lender receiving, reviewing and approving the following documents, which must be to the Lender's satisfaction acting reasonably:

- (a) Receipt of the ownership structure of the Borrower and the Guarantor including shareholders, beneficial owners, and a corporate organizational chart which is to be signed and dated. The organization chart will include percentage share of ownership of LP/GP structure, as applicable, and said information shall be satisfactory and sufficient to comply with the Lender's anti-money laundering requirements;

The Borrower and the Guarantor will be required to produce identification and such other documentation as may be required acceptable to Lender and Lender's solicitor at the time the mortgage documentation is signed, and prior to any funds being advanced, for the purpose of compliance with the provisions of the *Proceeds of Crime (Money Laundering) and Terrorist Financing Act* (Canada) and Regulations thereunder. Such identification shall include at least two documents, with at least one document including photo ID, together with a solicitor's confirmation that the identity of all persons signing as or on behalf of the Borrower and the Guarantor have been identified as the proper persons to sign. Lender to be provided with copies (front and back) of any identification documents together with a solicitor's certification that the copies are true copies of the original documents.

- (b) Most recent financial statements for the Borrower. If the Borrower is a newly incorporated entity, an opening balance sheet will be required;
- (c) Most recent financial statements for the Guarantor; [this condition is satisfied]
- (d) Satisfactory bank/credit reports for the Borrower and Beneficial Owners of the Secured Property;
- (e) Last three fiscal years' operating statements including year to date (from March 2018) and 12 months trailing operating statements for the Secured Property (confirming taxes, utilities, insurance, repairs/maintenance and any other operating expenses relating to the Property) and pro forma operating statements for 2018;
- (f) A current monthly aged receivables/rental arrears report from March 2018 with respect to the Secured Property;
- (g) A certified rent roll for the Secured Property. The rent roll shall confirm "as is" rents as well as "to be achieved" rents on unit roll over;

- (h) Leases affecting the Secured Property accompanied by estoppel certificates for all tenants in the Secured Property in the form attached hereto as Schedule "D".

In the event the Borrower has not obtained estoppel certificates from all the tenants on or before all other conditions in section 6.1 are satisfied, the Borrower shall provide an undertaking to use all commercially reasonable efforts to obtain such outstanding estoppels post-funding and a certificate of an officer of the Borrower to his or her knowledge in lieu of any non-obtained estoppel certificates attesting (in his or her capacity as an officer and not in a personal capacity) to the same matters contained in the non-obtained estoppel certificates. Where the Borrower's certificate is delivered in lieu of an executed estoppel certificate, the Borrower may, at any time after initial funding, deliver the executed estoppel certificate for such tenancies to the Lender, in which event the Borrower's certificate with respect to such tenant shall be of no further force and effect, to the extent such estoppel certificate does not evidence any issues.

- (i) 2018 property tax bills for the Secured Property;
- (j) Detailed pro forma income and expense statement, capital expenditures and tenant improvements allowance budget prepared by the Borrower and outlining the Borrower's repositioning program at the Secured Property, including, but not limited to, timing or leasing, cash flow, market leasing assumptions;
- (k) Copies of all material contracts affecting the Secured Property, including, but not limited to the Property Management Agreement;
- (l) Current AACI appraisal report for the Secured Property supporting an aggregate as is value of no less than the purchase price and an "as if completed" value of not less a value resulting in a fully advanced loan to value ratio not exceeding 75% accompanied by a letter of transmittal addressed to the Lender and confirming that the report can be used for mortgage financing purposes;
- (m) Satisfactory Phase I (Phase II if applicable) environmental report accompanied by a letter of transmittal to the Lender, and confirming that the report can be used for mortgage financing purposes;
- (n) Building Condition Assessment (BCA) report for the Property accompanied by a letter of transmittal addressed to the Lender and confirming that the report can be used for the mortgage financing purposes;
- (o) A copy of the ground lease and all amendments thereto;
- (p) Satisfactory site inspection by the Lender and a site inspection fee of \$2,000;
- (q) Confirmation that there are no liens or Encumbrances registered against the Secured Property other than the Permitted Encumbrances;
- (r) The Loan shall be conditional of the approval of the Loan by the Lender's Investment Committee, such approval to be at its sole discretion; and
- (s) Evidence that the Secured Property are classified or zoned for the present and contemplated future development. This condition may be satisfied by title insurance.

## 6.2 Conditions Precedent to Advances under the Repositioning Facility

The making of any Advances under the Repositioning Facility are subject to and conditional upon the Lender securing, reviewing and approving the following documentation which must be to the Lender's satisfaction, acting reasonably:

- (a) The written report of an independent project cost consultant appointed by the Lender (the "**Cost Consultant**"), at the cost of the Borrower, certifying the adequacy and approval of the following, acting reasonably:
  - (i) final plans and specifications, which comply with all provincial and municipal requirements, and that all construction work can be completed in accordance with approved plans and specifications. Any amendments to the final plans and specifications are subject to confirmation by the Cost Consultant and are to be approved by the Lender, acting reasonably;
  - (ii) compliance with building codes and zoning regulations, and provisions of all building and development permits, including excavation and building permits;
  - (iii) construction schedule submitted by the Borrower including a monthly construction draw schedule and cashflow projection forecasting the amount and time of draw;
  - (iv) project budget submitted by the Borrower, including a detailed breakdown of original estimate of costs, revised costs per change orders (if any), completed construction to date, costs to complete and construction lien holdbacks, and confirmation that the undisbursed portion of the Loan will cover remaining costs to complete the project;
  - (v) confirmation that contingency included in the budget is adequate/sufficient for the project; and
  - (vi) that all required construction advances are made on a work in place/cost to complete basis;
- (b) Copy of all construction contracts;
- (c) Copy of all paid invoices;
- (d) Evidence of payment of applicable taxes, including monthly GST/HST filings;
- (e) Executed leases for all other tenants occupying the Secured Property, accompanied by estoppel certificates in the form attached hereto as Schedule "D".

In the event the Borrower has not obtained estoppel certificates from all the tenants on or before all other conditions in section 6.2 are satisfied, the Borrower shall providing an undertaking to use all commercially reasonable efforts to obtain such outstanding estoppels post funding and a certificate of an officer of the Borrower to his or her knowledge in lieu of any non-obtained estoppel certificates attesting (in his or her capacity as an officer and not in a personal capacity) to the same matters contained in the non-obtained estoppel certificates. Where the Borrower's certificate is delivered in lieu of an executed estoppel certificate, the Borrower may, at any time after initial funding, deliver the executed estoppel certificates for such tenancy to the Lender, in which event the Borrower's certificate with respect to such tenant shall be of no

further force and effect, to the extent such estoppel certificate does not evidence any issues.

- (f) Confirmation established by estoppel certificates or other document acceptable to the Lender acting reasonably, that tenant improvements have been paid to the tenants in accordance to their respective Leases;
- (g) Advances under Capital Expenditures shall be consistent with the Repositioning Costs budget provided by the Borrower and verified by the Lender and the cost consultant;
- (h) Advances relating to Repositioning Costs shall further be subject to the following:
  - The Borrower shall have the right to draw a maximum of \$31,100,000 at the equivalent amount of 100% of the Capital Expenditures budget, on a cost-to complete basis, prior to any leasing being completed;
  - The Borrower shall have the right to draw 25% of the total TI/LC Expenditures budget, to a maximum of \$9,200,000, subject to confirmation of an aggregate Project occupancy rate of not less than 70%;
  - The Borrower shall have the right to draw an additional 50% of the total TI/LC Expenditures budget, to a maximum of \$18,400,000, and subject to a Debt Capitalization Rate of not less than 7.5%, as determined by the Lender, acting reasonably. For greater clarity, the Borrower shall have access to 75% of its total TI/LC Expenditures budget, up to a maximum aggregate amount of \$27,600,000, subject to a Debt Capitalization Rate of not less than 7.5%;
  - The Borrower shall have the right to draw the balance of the total TI/LC Expenditures budget, subject to a Debt Capitalization Rate of not less than 8.5%, as determined by the Lender, acting reasonably and shall not exceed the cumulative of the lesser of 100% of the TI/LC Expenditures budgeted costs or \$36,800,000; and
  - TI/LC Expenditures and related landlord work shall be consistent with the Repositioning Costs budget provided by the Borrower.
- (i) It is the intention of the parties hereto that the Borrower draw the amount allocated to the Capital Expenditures first, but in the event that the Borrower draws amounts allocated to TI/LC Expenditures prior to fully drawing on the Repositioning Facility for Capital Expenditures, then the draw for TI/LC Expenditures shall be subject to the then-applicable Debt Capitalization Rate test as if the Repositioning Facility for Capital Expenditures has been fully Advanced.
- (j) A certificate from a Senior Officer of the Borrower (without personal liability) in the form attached as Schedule "E" confirming, *inter alia*, that all necessary holdbacks are being maintained.

### 6.3 Funding Conditions of Repositioning Facility

The following shall govern any Advances under the Repositioning Facility:

- (a) All Advances will be on a work in place/cost to complete basis;

- (b) Requests for Advances shall be for a minimum of \$250,000 and shall not be made more than once per month;
- (c) The Borrower shall provide the Lender with 10 days written notice for advance requests between \$500,000 and \$2,000,000, and 20 days written notice for advance requests in excess of \$2,000,000.
- (d) Receipt of a certificate of title for the Secured Property that is satisfactory to the Lender, acting reasonably, from the Lender's solicitor immediately prior to the calculation and processing of each Advance.
- (e) Any costs over and above the Repositioning Facility amount shall be deemed a cost overrun and the Borrower shall immediately inject additional equity from its own resources to recover such cost overrun prior to any Advances.
- (f) The Lender reserves the right to deduct and withhold from any Advance additional amounts due to suppliers or contractors in order to comply with the relevant builders' lien statute and to protect the Lender's first priority interest in the Secured Property. Furthermore, the Lender shall have the right but not the obligation, and the Borrower hereby irrevocably authorizes and directs the Lender, to make or cause to be made advances and/or payments as the Lender deems necessary directly to suppliers or contractors, for the Borrower's account, and same shall be deemed advance directly to the Borrower.
- (g) A certificate from a Senior Officer of the Borrower (without personal liability) in the form attached as Schedule "E" confirming, *inter alia*, that all necessary holdbacks are being maintained.
- (h) The Lender is entitled to an Advance fee of \$500 for each Advance which will be deducted from the gross Advance.
- (i) All Advances under the Repositioning Facility shall be funded on pro-rata cost in place/cost to complete basis.

## Section 7 COVENANTS

### 7.1 Covenants

The Borrower hereby covenants with the Lender that:

- (a) the Borrower shall pay duly and punctually all sums of money due by it under the terms of this Agreement and the Guarantor shall duly and punctually pay all sums of money due by it under the guarantee provided by it in favour of the Lender at the times and places and in the manner provided for herein;
- (b) each Obligor shall maintain its existence;
- (c) the Borrower shall diligently maintain, use and operate the Secured Property and shall carry on and conduct its business in a proper and efficient manner so as to preserve and protect the Secured Property;
- (d) the Borrower shall maintain, or cause to be maintained, in its name and in the name of the Lender as loss payee, with responsible and reputable insurers, insurance with respect to its properties, assets and business as provided for in Schedule "B";

- (e) each Obligor shall do, observe and perform all matters and things necessary or expedient to be done, observed or performed in accordance with the requirements of all applicable regulatory authorities for the purpose of
  - (i) carrying on and conducting its business, and
  - (ii) owning and possessing its properties and assets;
- (f) each Obligor shall promptly pay, or cause to be paid all Taxes, rates, government fees and duties levied, assessed or imposed upon it, its properties and assets or any part thereof and upon its income and profits, as and when same shall become due and payable save when and so long as any such Taxes, rates, fees or duties are in good faith contested by it as may be affected thereby;
- (g) the Borrower shall provide the Lender with satisfactory evidence of payment of all real property taxes in respect of the Secured Property on a semi-annual basis;
- (h) the Borrower shall give to the Lender prompt notice of any Default or Event of Default under this Agreement;
- (i) the Borrower shall repair or cause to be repaired and will keep or cause to be kept in good order and repair the Secured Property from time to time to the standard as would be done by a prudent owner of similar property in the circumstances, and will at all reasonable times, subject to the provisions of any leases and the rights of the tenants pursuant thereto, allow the Lender or its duly authorized representatives access to the same in order to view the state and condition thereof;
- (j) the Borrower shall promptly provide written notice to the Lender of any default or notice of default served by or received by the Borrower in respect of any Permitted Encumbrance;
- (k) in respect of Leases, the Borrower shall:
  - (i) perform and observe all of the landlord's obligations under the Leases or imposed by law in all material respects; and,
  - (ii) not attempt to collect either the payment or the prepayment of rent for a period greater than six (6) months in any manner and at any time other than that stipulated in the Lease;
- (l) the Borrower shall not, without the Lender's prior written consent, not to be unreasonably withheld, incur, create, assume or permit to exist any Encumbrance (other than Permitted Encumbrances) on the Secured Property;
- (m) the Borrower shall not, without the Lender's prior written consent not to be unreasonably withheld, sell, convey, transfer, dispose of or enter into an agreement for sale or transfer of all or any part of the Secured Property, such consent shall not be unreasonably denied, delayed, withheld or conditioned, except such consent will be conditional on the Borrower's compliance with all other terms of this Loan Agreement, including the conditions set out in Section 3.3 hereof;

- (n) the Obligors shall use the Advances only for the purposes set forth in Section 2;
- (o) the Obligors shall observe and conform to all valid requirements of any Governmental Authority relative to the Secured Property and all covenants, terms and conditions upon or under which the Secured Property is held, including without limitation, all requirements with respect to health and safety and the environment;
- (p) each of the Obligors shall keep proper books of accounts in accordance with sound accounting practices;
- (q) the Borrower shall give written notice to the Lender of all material litigation before any court, administrative board, or other tribunal affecting any Obligor or its property;
- (r) the amounts owing to the Lender from time to time pursuant hereto shall be paid to the Lender without regard to any equities between any Obligor and the Lender or to any right of set-off or cross-claim;
- (s) the Borrower shall not change its name without providing the Lender at least 15 days' prior written notice;
- (t) the Borrower shall not continue into any other jurisdiction without providing the Lender at least 15 days' prior written notice; and
- (u) the Borrower shall not carry on any business other than:
  - (i) the business carried on by it on the date hereof, which for greater certainty, is the operation of the Secured Property, or
  - (ii) any other business of which the Borrower is permitted to carry on in accordance with its organizational documents.
- (v) within 120 days from the end of the fiscal year of the Borrower, the Lender shall be provided with financial statements detailing a complete list of material assets and liabilities satisfactory to the Lender acting reasonably. The statements are to be management prepared and will include a balance sheet and a detailed statement of income and expenditures. The Lender shall also be provided with property level operating statements and rent rolls on a quarterly basis. Within 120 days from the end of the fiscal year of the Guarantor, the Lender shall be provided with annual audited statements from the Guarantor.

## Section 8 REPRESENTATIONS AND WARRANTIES

### 8.1 Representations and Warranties

The Borrower (on behalf of both itself and each other Obligor) represents and warrants as follows to the Lender and acknowledges and confirms that the Lender is relying upon such representations and warranties:

- (a) each Obligor is duly qualified to carry on business in all jurisdictions in which it carries on its business, unless the failure to so qualify would have no material adverse effect on such Obligor or any Secured Property, has all Material

Licenses, and has not adopted nor designated any name (including any French name) other than the English form of such names as set out herein;

- (b) each Obligor has the power, authority and right to enter into and deliver, and to exercise its rights and perform its obligations under, the Security to which it is a party and all other instruments and agreements delivered by it pursuant to any of the Security;
- (c) the Borrower has the power, authority and right to own the Secured Property and carry on its business as currently conducted, or as currently proposed to be conducted, by it;
- (d) each Obligor has taken all necessary action to authorize the creation, execution, delivery and performance of this Agreement and the Security to which it is a party and to observe and perform the provisions of each in accordance with its terms;
- (e) this Agreement constitutes and, when executed and delivered, each of the Security to which any Obligor is a party will constitute binding obligations of such Obligor, as the case may be, in accordance with their respective terms;
- (f) neither the execution and delivery of this Agreement nor any Document, nor compliance with the terms and conditions of any of them, (i) has resulted or will result in a violation of any Obligor's Organizational Documents or any resolutions passed by its or the such Obligor's board of trustees, board of directors, unit holders or shareholders, as applicable, (ii) has resulted or will result in a breach of, or constitute a default under, any loan agreement, indenture, trust deed or any other Significant Agreement, Permitted Encumbrance or instrument to which it is a party or by which any Obligor is bound, (iii) will result in the creation of, any Encumbrance, or any rights of others (other than as contemplated by the Documents) upon any property of any Obligor pursuant to any agreement, indenture or other instrument to which such Obligor is a party, or by which such Obligor or its respective property may be bound or affected, or (iv) requires any approval, consent, authorizations, declarations, registrations, filings, notices and other actions whatsoever required in connection with the execution and delivery by it of each Document to which it is a party and the consummation of the transactions contemplated in the Documents except such as has already been obtained or filed;
- (g) no Default or Event of Default has occurred and is continuing;
- (h) the most recent financial statements of the Borrower and to the best of its knowledge the operating statements of the Secured Property delivered to the Lender are accurate and complete in all material respects and fairly presents the Obligors' financial condition, as at the dates specified therein, all in accordance with generally accepted accounting principles consistently applied;
- (i) the ownership structure set out in Schedule "C" hereto is accurate as of the date hereof;
- (j) since the date of the Borrower's most recent annual financial statements provided to the Lender, there has been no Material Adverse Change;

- (k) except as disclosed in the environmental audits or other written materials delivered to the Lender, to the best of its knowledge:
  - (i) there are no existing, pending or threatened:
    - (A) claims, complaints, notices or requests of which it is aware (after due inquiry) with respect to any alleged violation of or alleged liability under any Environmental Laws relating to any Secured Property; or
    - (B) governmental or court orders, including, without limitation, stop, clean up or preventive orders, directions or action request notices of which it is aware relating to environmental matters requiring any works, repairs, remediation, clean up, construction or capital expenditures with respect to any Secured Property which would be reasonably likely to constitute a Material Adverse Change;
  - (ii) the Secured Property and the use and operation thereof is in compliance in all material respects with all Environmental Law and laws relating to occupational health and safety;
  - (iii) there are no underground storage tanks, active or abandoned, including petroleum storage tanks, on or under any Secured Property; and
  - (iv) no condition (including the existence, storage or release of any Hazardous Substances) exists at, on or under any Secured Property which, with the passage of time, the giving of notice, the making of any determination, or any combination of the foregoing, has given rise to or could reasonably be expected to give rise to material liability under any Environmental Law;
- (l) the Borrower has or will have good and marketable title to the Secured Property, free and clear of all Encumbrances except for Permitted Encumbrances, and no Person has any agreement, option or right to acquire the Borrower's interest in the Secured Property;
- (m) each of the Obligors is solvent, able to pay its debts as they mature, has sufficient capital to carry on its business and has assets the fair market value of which exceeds its liabilities, and it will not be rendered insolvent, undercapitalized or unable to pay debts generally as they become due by the execution or performance of this Agreement or any other Document to which it is a party;
- (n) to the best of its knowledge all information provided or to be provided to the Lender in connection with the Facilities is true and correct in all material respects and all expressions of expectation, intention, belief and opinion contained therein were honestly made on reasonable grounds after due and careful inquiry by it;
- (o) to the best of its knowledge the Secured Property and the operation and use thereof are in compliance, in all material respects, with all Applicable Laws;
- (p) there are no actions, suits or proceedings pending or, to the knowledge of the Borrower, after due inquiry, threatened against or affecting any Obligor or, to the knowledge of the Borrower, the Secured Property or any of their undertakings and assets, at law, in equity or before any arbitrator or before or by any governmental department, body, commission, board, bureau,

agency or instrumentality having jurisdiction in respect of which a determination adverse to any Obligor or the Secured Property would be reasonably likely to affect materially and adversely the Security, the operations of businesses carried on at the Secured Property or the ability of any Obligor to perform any of its Obligations under this Agreement, the Security or any Significant Agreements and to the best of its knowledge no Obligor is in default with respect to any law, regulation, order, writ, judgment, injunction or award of any competent government, commission, board, agency, court, arbitrator or instrumentality which is reasonably likely to have such an effect and no Obligor has received a notice of expropriation relating to the Secured Property;

- (q) the Borrower has paid all Taxes when the same were due and payable imposed upon it or any of the assets of the Borrower and the Borrower has filed or caused to be filed all federal, provincial and local tax returns which to its or their knowledge are required to be filed and have paid or caused to be paid all Taxes, as shown on such returns, or any assessment received by them plus all interest and penalties to the extent that such Taxes or assessments have become due, except such as may be diligently contested in good faith and by appropriate proceedings or as to which a bona fide dispute may exist and for which adequate reserves are being maintained, so long as the Security is not impaired or an event or circumstance occurs that results or could result in a Material Adverse Change;
- (r) to the best of its knowledge, and except as disclosed to the Lender, no Obligor is in violation of, or in default under, any agreement, mortgage, franchise, license, judgment, decree, order, statute, rule or regulation which is material to its or their interests in the Secured Property which violation or default would result in a Material Adverse Change nor will execution, delivery and performance of this Agreement, the Documents to which they are a party or any of the agreements provided for or contemplated hereby result in any such violation;
- (s) to the best of its knowledge true copies of each of the Significant Agreements have been delivered to the Lender or the Lender's counsel;
- (t) to the best of its knowledge the Significant Agreements, Material Licenses and Permitted Encumbrances constitute the only agreements which are material to the ownership or operation of the Secured Property, other than leases in the ordinary course of business;
- (u) no Obligor has received notice of any proposed rezoning of all or any part of the Secured Property that is reasonably likely to have a Material Adverse Change on the Secured Property;
- (v) there are no outstanding judgments, writs of execution, seizures, injunctions or directives against any Obligor nor, to the best of its knowledge, any work orders or directives or notices of deficiency capable of resulting in work orders or directives with respect to the Secured Property that have a Material Adverse Change or that are reasonably likely to have a Material Adverse Change on the ability of such Obligor to perform its Obligations under this Agreement or any Security;
- (w) no Obligor has received actual notice of any claims for construction liens or legal hypothecs with respect to work or services performed or materials supplied in connection with any Secured Property;

- (x) to the best of its knowledge, all buildings and improvements comprising part of the Secured Property are in good physical condition having regard to their use and age, and there are no material defects or extraordinary repairs required in connection therewith except as disclosed in writing to, and approved by, the Lender;
- (y) to the best of its knowledge, the real property reports, if any, delivered to the Lender accurately reflect the state of the Secured Property;
- (z) to the best of its knowledge, the location of any buildings on any Secured Property are within the boundary lines of such Secured Property (other than encroachments that if required to be corrected would not result in a Material Adverse Change or with respect to which there is an encroachment agreement) and are in material compliance with all applicable setback requirements;
- (aa) to the best of its knowledge, the only property interests necessary for the operation of each Secured Property in the manner in which it is intended to be operated are the property interests comprising such Secured Property and all easements, licenses, servitude and other agreements necessary for the operation and maintenance of each Secured Property in the manner in which it is currently being operated have been obtained and, to the best of its knowledge, are in good standing;
- (bb) the insurance policies required pursuant to Schedule "B" are in place and maintained in respect of each Secured Property; and
- (cc) as of the date hereof, Colliers Macaulay Nicolls Inc. provides property management services in respect of the Secured Property pursuant to the Property Management Agreement.

## **8.2 Nature of Representations and Warranties**

The representations and warranties set out in this Section 8 shall survive the execution and delivery of this Agreement and the Security and the making of each Advance and will be deemed to be repeated by the Borrower as of each Advance date, except to the extent that on or prior to such date (a) the Borrower has advised the Lender in writing of a variation in any such representation or warranty, and (b) the Lender has approved such variation, acting reasonably.

If at any time before the final Advance of funds the Lender determines that there is or has been any material discrepancy or inaccuracy in any written information, statements or representations at any time made or furnished to the Lender by the Borrower concerning the Secured Property or any party's financial condition and responsibility, then the Lender shall be entitled forthwith to withdraw and cancel its obligations hereunder or decline to Advance further funds, as the case may be, and to declare any monies then advanced, with interest, to be forthwith due and payable.

## **Section 9 SECURITY**

### **9.1 Security Required**

The Borrower shall execute and deliver, or cause the execution and delivery of, to the Lender the following (in each case in a form satisfactory to the Lender and its solicitors):

- (a) a first mortgage charge in the amount of \$161,300,000.00 over all land and buildings of the Secured Property;
- (b) a first mortgage of lease charge in the amount of \$161,300,000.00 with respect to the leasehold interest pursuant to the April 4, 1984 head lease;
- (c) a beneficial owners agreement including a charge of the beneficial interest from the Beneficial Owner of the Secured Property;
- (d) a first priority assignment of rents and leases with respect to the Secured Property;
- (e) a first priority assignment of rents and leases with respect to the leasehold interest pursuant to the April 4, 1984 head lease;
- (f) a guarantee of the Guarantor whereby it guarantees all interest accruing to the Lender under the Facilities;
- (g) a property specific first general security agreement over all chattels and equipment of the Borrower located at the Secured Property;
- (h) a first assignment of all Significant Agreements and Material Licenses, together with consents and acknowledgements as required;
- (i) an assignment and postponement of claim from the limited partners and/or the shareholders and beneficial owners of the Borrower;
- (j) an environmental indemnity from the Obligors in favour of the Lender;
- (k) an indemnity for misrepresentation and fraud from the Obligors in favour of the Lender;
- (l) a completion guarantee from the Obligors in favour of the Lender;
- (m) title insurance in favour of the Lender from an insurer satisfactory to the Lender in a form reasonably satisfactory to the Lender;
- (n) a letter from the Guarantor's solicitors addressed to the Lender confirming that none of the limited partners of the Guarantor or any of its Subsidiaries owns or controls directly or indirectly 25% or more of the Guarantor or the Borrower as of the date of the initial Advance;
- (o) an opinion letter from an Alberta solicitor acting for the Borrower stating that all Security and this Agreement has been duly authorized, executed and delivered by the Borrower, and where applicable, the Guarantor; and
- (p) a law firm shall be appointed by the Lender and used to draft the security documentation and any other documents related to this transaction and to disburse advances, and all investigations and registrations shall be to the satisfaction of our solicitor prior to any advance. All legal costs of our solicitors related to this transaction shall be payable by the Borrower and may be deducted from the Loan proceeds and shall be paid by the Borrower directly to our solicitors in the event this transaction does not proceed to an initial funding under the mortgage.

The Lender will require that the Borrower use a firm of solicitors for independent legal advice such firm to be completely separate from that chosen by the Lender.

All security shall be on the Lender's standard form subject to such reasonable changes requested by the Borrower and agreed to by the Lender hereunder, acting reasonably;

## 9.2 Registration

The Lender may, at the expense of the Borrower, register or cause to be registered, filed or recorded the Security or site-specific financing statements or notices in respect thereof in all offices where such registration, filing or recording is, in the opinion of the Lender or its counsel, necessary or of advantage to the creation, perfection or preservation of the security interests, mortgages, charges, hypothecs and assignments arising pursuant thereto. The Lender may, at the Borrower's expense, renew such registrations, filings and recordings from time to time as and when required to keep them in full force and effect. The Borrower acknowledges that the forms of Security have been prepared based on the laws in effect at the date of execution thereof and that such laws may change, and that the laws of other jurisdictions may require the execution and delivery of different forms of security instruments in order to grant to the Lender the rights intended to be granted by the Security. The Borrower shall or shall cause each other Obligor to, on reasonable request from the Lender from time to time, execute and deliver to the Lender such additional security instruments and related documents and amend or supplement the Security theretofore provided to the Lender to reflect any changes in such laws, whether arising as a result of statutory amendments, court decisions or otherwise.

## Section 10 DEFAULT

**10.1 “Events of Default”** means the occurrence of any one or more of the following events:

- (a) a default by any Obligor in the observance or performance of any of the terms or conditions of the Security or this Agreement for which they are responsible that has not been remedied within 30 days of receipt of written notice of default from the Lender with respect to any non-financial default (or, if the default cannot reasonably be remedied in 30 days, that the Obligor has not commenced remedying within such 30-day period and diligently continued to remedy such non-financial default) and within 5 business days written notice of any financial default;
- (b) either Obligor becoming insolvent or the filing or presenting of a petition in bankruptcy against either obligor;
- (c) the appointment, either privately or by a court, of a receiver or receiver-manager of either Obligor or any of its assets;
- (d) either Obligor making a proposal under the *Bankruptcy and Insolvency Act*, or any successor legislation, or seeking relief under the *Companies' Creditors Arrangement Act*, or other debtor relief legislation;
- (e) any execution, sequestration or other process of any court becoming enforceable against any Obligor, a distress or analogous process being levied upon the property of any Obligor or any part thereof, including but not limited to a builder's lien registered against the title to the Secured Property, which is not satisfied or discharged, or if any Obligor has not taken steps to remedy same, or is not continuing diligently toward such remedy, as the case may be, within 30 days from the date upon which any Obligor receives written notice of the same from the Lender;

- (f) a non-arm's length lease granted by the Borrower without the prior written approval of the Lender which approval will not be unreasonably withheld;
- (g) the Secured Property is charged or encumbered with any financial obligation other than the Security without the prior written approval of the Lender, which approval may be withheld in the Lender's sole discretion;
- (h) any other event which, pursuant to the terms of Security constitutes, or is deemed to constitute, an Event of Default;
- (i) there is a Material Adverse Change;
- (j) there is a Change of Control or the Lender consents to a Change of Control but the transferee or purchaser does not execute an assumption agreement in favour of the Lender satisfactory to the Lender acting reasonably; and
- (k) in the event of abandonment of the Secured Property for a period in excess of fifteen (15) consecutive days, the Lender shall be entitled, after giving the Borrower ten (10) days written notice of any abandonment and provided the Borrower fails to rectify same within the time allotted or within thirty (30) days after such notice has been given, to forthwith withdraw and cancel its obligations hereunder and/or decline to Advance further funds as the case may be and in addition to declare any funds Advanced to forthwith become due and payable, plus interest, all at the Lender's option.

## **10.2 Acceleration**

If any Event of Default shall occur and be continuing beyond any applicable cure period, all of the Obligations shall, upon notice in writing from the Lender to the Borrower, become immediately due and payable with interest thereon, at the Interest Rate, to the date of actual payment thereof, all without notice (other than the notice just referred to), presentment, protest, demand, notice of dishonor or any other demand or notice whatsoever, all of which are hereby expressly waived by the Borrower. In such event the Lender may, in its discretion, exercise any right or recourse and/or proceed by any action, suit, remedy or proceeding against any Obligor authorized or permitted by law for the recovery of the Obligations and proceed to exercise any and all rights hereunder and no such remedy for the enforcement of the rights of the Lender shall be exclusive of or dependent on any other remedy but any one or more of such remedies may from time to time be exercised independently or in combination.

## **10.3 Remedies Cumulative and Waivers**

For greater certainty, it is expressly understood and agreed that the rights and remedies of the Lender hereunder or under the Security are cumulative and are in addition to and not in substitution for any rights or remedies provided by law or by equity; and any single or partial exercise by the Lender in accordance with the provisions hereof of any right or remedy for a default or breach of any term, covenant, condition or agreement contained in this Agreement or other document or instrument executed pursuant to this Agreement shall not be deemed to be a waiver of or to alter, affect or prejudice any other right or remedy or other rights or remedies to which the Lender may be lawfully entitled for such default or breach. Any waiver by the Lender of the strict observance, performance or compliance with any term, covenant, condition or other matter contained herein and any indulgence granted, either expressly or by course of conduct, by the Lender shall be effective only in the specific instance and for the

purpose for which it was given and shall be deemed not to be a waiver of any rights and remedies of the Lender under this Agreement or the Security as a result of a Default.

#### **10.4 Termination of Lender's Obligations**

The occurrence and continuance of a Default or an Event of Default beyond any applicable cure period shall immediately relieve the Lender of all obligations to provide any further Advances hereunder.

#### **10.5 Lender May Perform**

If any Obligor fails to perform any covenants on its part contained in this Agreement or any other Document, the Lender may, in its discretion but need not, perform any such covenant capable of being performed by the Lender and if the covenant requires the payment or expenditure of money, the Lender may make such payment or expenditure and all sums so expended shall be forthwith payable by the Borrower to the Lender and shall bear interest at the Interest Rate.

#### **10.6 Set-Off or Compensation**

In addition to, and not in limitation of any rights now or hereafter granted under Applicable Law, if repayment is accelerated pursuant to Section 10.2, the Lender may at any time and from time to time without notice to the Borrower or any other person, any notice being expressly waived by the Borrower, set-off and, compensate, combine and apply any and all deposits, and any other indebtedness at any time owing by the Lender, to or for the credit of or the account of the Borrower against and on account of the Obligations owing under this Agreement notwithstanding that any of them are contingent or unmatured.

#### **10.7 Other**

In the event of any Default, the Lender shall be entitled to a fee for each and every incident of Default on account of administration and costs incurred. Such fee will be: (a) \$250, in the event of late payment; (b) \$500, in the event of dishonored cheque or other payment; and (c) \$1,000 plus all legal fees disbursements and any other costs incurred in the event of any legal proceeding being instituted.

#### **10.8 Custodian**

This Loan Agreement will be assigned by the Lender to the Custodian and all Security will be drafted in favor of the Custodian, as agent, nominee and bare trustee for and on behalf of the Lender.

### **Section 11 NOTICES**

#### **11.1 Notices**

Any notice, demand or request to any party shall be in writing and shall be deemed to have been validly given only when it has been received at the address of such party shown in this Agreement or to such other address as such party shall have given written notice. The current addresses of the parties are:

the Lender:

Computershare Trust Company of Canada  
c/o Timbercreek Mortgage Servicing Inc.  
1000 Yonge Street, Suite 500  
Toronto, Ontario M4W 2K2

Attention: Mortgage Administration

Fax: (416) 848-9494  
email: [pjones@timbercreekfunds.com](mailto:pjones@timbercreekfunds.com)

the Borrower:

121 King Street West, Suite 200  
Toronto, Ontario M5H 3T9

Attention: Ramsey Ali

Fax: 416-947-9366  
email: [ramsey@slateam.com](mailto:ramsey@slateam.com)

## **Section 12 COSTS AND EXPENSES**

### **12.1 Costs and Expenses**

The Borrower shall promptly pay upon notice from the Lender all reasonable costs and expenses incurred by the Lender in connection with:

- (a) the preparation, execution and delivery of this Agreement, the Security and the other documents to be delivered hereunder including waivers, consents and amendments requested by the Borrower;
- (b) the conduct of due diligence by the Lender in relation hereto, whether or not any Advance has been made hereunder; and
- (c) the reasonable fees and out-of-pocket expenses of Lender's legal counsel on a full indemnity basis with respect to the enforcement of this Agreement and the Security and with respect to:
  - (i) advising the Lender as to its rights and responsibilities under this Agreement and the Security;
  - (ii) in connection with the preparation or review of waivers, consents and amendments requested by the Borrower; and
  - (iii) questions of interpretation of this Agreement and the Security in connection with the establishment of the validity and enforceability of this Agreement and the Security.

### **12.2 Further Costs and Expenses**

The Borrower shall promptly pay upon notice from the Lender all reasonable costs and expenses incurred by the Lender in connection with the preservation or enforcement of the

rights of the Lender under this Agreement, the Security and the other Documents to be delivered hereunder, including without limitation, all costs and expenses sustained by the Lender as a result of any failure by any Obligor to perform or observe any of their Obligations under the Security.

### **12.3 Interest on Costs and Expenses**

The costs and expenses to be paid by the Lender pursuant to Sections 12.1 and 12.2 shall bear interest at the Interest Rate applicable to the Facilities following Lender's request for same if such payment is not made within 15 Business Days. Such costs, expenses and interest shall be payable whether or not the Closing Date occurs or an Advance is made under this Agreement.

### **12.4 Receipt of Good Faith Deposit**

The Lender acknowledges receipt of the Good Faith Deposit which is to be applied to the Loan Fee, net of expenses, in the event the Lender executes this Loan Agreement.

The Good Faith Deposit will be forfeited to the Lender as liquidated damages and not as penalty in each of the following circumstances:

- (i) if, because of the Borrower's failure or inability for any reason whatsoever to comply with any terms or conditions relating to initial Advance in this Agreement by the 30<sup>th</sup> day of November, 2018.
- or
- (ii) if, for any reason, the Borrower does not accept all or a portion of the proceeds of the Equity Take Out Facility when the Lender makes it available;
- or
- (iii) if the Borrower enters into a loan commitment with another Lender respecting the Secured Property prior to the initial Advance of the Equity Take Out Facility;
- or
- (iv) if the Borrower fails, refuses or is unable to comply with any of the terms and conditions as set forth in the Agreement, and/or in the Security.

For greater clarity, if none of the foregoing occur, the Good Faith Deposit will be returned to the Borrower in full, without deduction or set off, if the Lender does not advance the Equity Take Out Facility.

Notwithstanding the forfeiture of the Good Faith Deposit, the Obligors shall remain liable to reimburse the Lender for any reasonable due diligence costs and legal expenses, whether or not the Lender makes an advance of the Loan. The Lender's Agreement with respect to the Good Faith Deposit is enforceable by the Lender, independent of the existence of this Agreement.

## **Section 13 - GENERAL**

### **13.1 Further Assurances**

Each Obligor shall do, execute, acknowledge and deliver or cause to be done, executed, acknowledged or delivered all such other acts, agreements, instruments and assurances as the Lender or its counsel shall reasonably require for the better accomplishing and effectuating the provisions of this Agreement.

### **13.2 Time is of the Essence**

Time shall be of the essence of this Agreement and of each of the provisions hereof.

### **13.3 Amendments**

Neither this Agreement, nor any Document may not be amended or altered except by instrument in writing signed by the Lender and the Borrower.

### **13.4 Severability**

If any covenant, obligation, term or condition of this Agreement or any of the Documents or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, the remainder of this Agreement or such Document or the application of such covenant, obligation, agreement, term or condition to persons or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby and each covenant, obligation, agreement, term and condition of this Agreement or such Document shall be separately valid and enforceable to the fullest extent permitted by law.

### **13.5 Changes Required by Context**

This Agreement and each Document shall be read with all changes of gender and number required by the context. Any reference to the successors and assigns of a corporate entity includes the heirs, executors, administrators and assigns of a natural person.

### **13.6 Legislation**

Reference to any legislation means such legislation as amended and in effect at the relevant time.

### **13.7 Headings**

The article headings and section headings of this Agreement and in each Document have been inserted for convenience of reference only and do not form part of this Agreement or such Document. They shall not be referred to in the interpretation of this Agreement or such Document.

### **13.8 Whole Agreement**

This Agreement and the Documents contain the whole agreement between the parties with respect to the subject matter of this Agreement and the Documents. There is no promise, inducement, representation, warranty, collateral agreement or condition affecting this Agreement and the Documents other than as expressed in this Agreement and the Documents. The schedules and appendices to this Agreement form part of this Agreement.

### **13.9 Counterparts**

This Agreement has been executed in a number of counterparts, each of which shall be deemed an original and all of which shall constitute one and the same agreement.

### **13.10 Meanings of Certain Terms**

Unless otherwise defined herein, each word and phrase with initial capitals used in this document shall have the meaning assigned to it in the *Personal Property Security Act*, (Alberta) if defined therein.

### **13.11 Applicable Law**

This Agreement shall be construed in accordance with the laws of the Province of Alberta and of Canada applicable therein, without regard to principles of conflict of laws. The Obligors attorn to the non-exclusive jurisdiction of the Province of Alberta.

### **13.12 Assigns**

The Lender shall at any time, with reasonable prior notice to the Borrower be entitled to assign all or part of its right, title and interest in this Agreement or either of the Facilities, including by way of participation, syndication or securitization and may disclose information regarding the Secured Property, the Facilities, or the Obligors to the extent and in the manner that the Lender may deem appropriate in order to complete any such transaction. The Lender shall be responsible for any additional costs or expenses incurred by the Obligors that arise as a direct result of such assignment by the Lender. Notwithstanding the foregoing, the Lender shall not be entitled to assign all or part of its right, title and interest in this Agreement or either of the Facilities to a direct competitor of the Borrower or the Guarantor or to a private equity firm.

### **13.13 No Assignment by Borrower**

The Borrower shall not assign, pledge, encumber or mortgage its rights hereunder.

### **13.14 Enurement**

This document and all its provisions shall enure to the benefit of the Lender and its successors and assigns, and shall be binding upon the Borrower and its successors and assigns.

### **13.15 Confidentiality**

The Borrower acknowledges and agrees that the terms and conditions recited herein are confidential between the Borrower and the Lender and its advisors and investors. The Borrower agrees not to disclose the information contained herein to a third party without the express written consent of the Lender. After the completion of the advance of the Loan, if a Loan is granted, the Borrower agrees that the Lender may publish details of this transaction, including in any press release, the Lender's marketing materials and in any online forum, without requiring any further consent from the Borrower. Notwithstanding the foregoing, press releases will be subject to Lender and Borrower mutually agreeing on timing and content, acting reasonably.

**13.16 Non-Merger**

The Borrower's Obligations as contained in this Loan Agreement (and to the extent that those Obligations are not repeated in the Security) shall survive the execution and registration of the Security and all Advances of funds, and the Borrower agrees that those obligations shall not be deemed to be merged in the execution and registration of the Security. In the event of an express conflict between this Agreement and the Security, then this Agreement shall prevail. There is no conflict if the terms of the Security expand or clarify the terms of this Agreement.

*[signature page follows]*

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first written above.

**SCREO I 700 2ND INC.**

By: 

Name:

**Ramsey Ali**

Title:

**Authorized Signing Officer**

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

Name:

Title:

**58508 ALBERTA LTD.**

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

Name:

Title:

By: 

Name:

**Ramsey Ali**

Title:

**Authorized Signing Officer**

**SLATE CANADIAN REAL ESTATE  
OPPORTUNITY I FUND L.P. by its general  
partner SLATE CANADIAN REAL ESTATE  
OPPORTUNITY FUND I GP L.P. by its general  
partner SLATE CANADIAN REAL ESTATE  
OPPORTUNITY FUND I GP INC.**

By: 

Name:

**Ramsey Ali**

Title:

**Authorized Signing Officer**


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

Name:


Title:

**TIMBERCREEK MORTGAGE SERVICING INC.**

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

  
Name: Ugo Bizzoni  
Title: Vice President

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

  
Name: Julie Neault  
Title: Vice President

## Schedule A

### Properties and Permitted Encumbrances

**Stephen Avenue Place – 700 2<sup>nd</sup> Street SW, Calgary, AB**

#### Freehold Lands

1. **PLAN 7410276  
BLOCK 49  
LOT 41  
EXCEPTING THEREOUT ALL MINES AND MINERALS  
AREA: 0.458 HECTARES (1.13 ACRES) MORE OR LESS**

#### Permitted Encumbrances:

- 741 059 949 CAVEAT IN FAVOUR OF THE CITY OF CALGARY.
- 761 129 113 EASEMENT IN FAVOUR OF LOTS 32, 33 & 34 BLOCK 49 PLAN A.
- 771 033 032 EASEMENT
- 781 210 515 EASEMENT AS TO PORTION OR PLAN:7810132 IN FAVOUR OF LOTS 31 BLOCK 49 PLAN A.
- 841 044 941 EASEMENT AS TO PORTION OR PLAN:7810132 SUBJECT TO AN EASEMENT IN FAVOUR OF PLAN A BLOCK 49, LOTS 9, 10 & 11, PORTION
- 841 112 907 CAVEAT RE : LEASE IN FAVOUR OF 58508 ALBERTA LTD.
- 841 112 909 CAVEAT RE : LEASE , ETC. IN FAVOUR OF SCREO I 700 2ND INC.
- 851 174 676 CAVEAT RE : SEE CAVEAT IN FAVOUR OF E B J INVESTMENTS LTD.
- 851 174 677 CAVEAT RE : SEE CAVEAT IN FAVOUR OF E B J INVESTMENTS LTD.
- 851 181 463 CAVEAT RE : ASSUMPTION AGREEMENT IN FAVOUR OF 1260642 ALBERTA LTD.
- 851 187 705 CAVEAT RE : ASSUMPTION AGREEMENT IN FAVOUR OF AIMCO RE GP CORP.
- 861 192 611 CAVEAT RE : AMENDING AGREEMENT IN FAVOUR OF THE CITY OF CALGARY.
- 871 139 021 CAVEAT RE : DEVELOPMENT AGREEMENT PURSUANT TO PLANNING ACT IN FAVOUR OF THE CITY OF CALGARY.
- 921 141 853 CAVEAT RE : SEE CAVEAT IN FAVOUR OF THE CITY OF CALGARY.
- 931 050 751 CAVEAT RE : AMENDING AGREEMENT IN FAVOUR OF THE CITY OF CALGARY.
- 931 050 752 CAVEAT RE : AMENDING AGREEMENT IN FAVOUR OF THE CITY OF CALGARY.
- 951 100 950 CAVEAT RE : SEE CAVEAT IN FAVOUR OF THE CITY OF CALGARY.
- 011 052 865 CAVEAT RE : AMENDING AGREEMENT IN FAVOUR OF GROSVENOR CANADA LIMITED.
- 011 116 581 CAVEAT RE : LEASE IN FAVOUR OF THE BANK OF NOVA SCOTIA. (to be discharged)
- 011 116 582 CAVEAT RE : LEASE IN FAVOUR OF THE BANK OF NOVA SCOTIA. (to be discharged)
- 011 379 218 CAVEAT RE : AMENDING AGREEMENT IN FAVOUR OF THE CITY OF CALGARY.
- 021 027 766 CAVEAT RE : SEE CAVEAT IN FAVOUR OF THE CITY OF CALGARY.
- 021 027 767 CAVEAT RE : SEE CAVEAT IN FAVOUR OF THE CITY OF CALGARY.
- 021 299 579 CAVEAT RE : LEASE IN FAVOUR OF TAQA NORTH LTD.
- 061 144 317 CAVEAT RE : LEASE IN FAVOUR OF HUDSON'S BAY COMPANY.

- 071 213 666 CAVEAT RE : LEASE INTEREST IN FAVOUR OF THE TDL GROUP CORP./GROUPE TDL
- 081 385 373 CAVEAT RE : AMENDING AGREEMENT IN FAVOUR OF THE CITY OF CALGARY.
- 081 414 482 CAVEAT RE : AMENDING AGREEMENT IN FAVOUR OF THE CITY OF CALGARY.
- 091 056 273 CAVEAT RE : DEVELOPMENT AGREEMENT PURSUANT TO MUNICIPAL GOVERNMENT ACT , ETC. IN FAVOUR OF THE CITY OF CALGARY.
- 091 233 621 CAVEAT RE : DEVELOPMENT AGREEMENT PURSUANT TO MUNICIPAL GOVERNMENT ACT IN FAVOUR OF THE CITY OF CALGARY.
- 091 298 964 CAVEAT RE : AMENDING AGREEMENT IN FAVOUR OF THE CITY OF CALGARY.
- 091 361 048 CAVEAT RE : DEVELOPMENT AGREEMENT PURSUANT TO MUNICIPAL GOVERNMENT ACT IN FAVOUR OF THE CITY OF CALGARY.
- 111 096 814 CAVEAT RE : LEASE INTEREST IN FAVOUR OF THE BANK OF NOVA SCOTIA. (to be discharged)
- 111 274 556 CAVEAT RE : LEASE INTEREST IN FAVOUR OF 1364316 ALBERTA INC.
- 121 025 386 CAVEAT RE : AMENDING AGREEMENT IN FAVOUR OF THE BANK OF NOVA SCOTIA. (to be discharged)
- 121 025 387 CAVEAT RE : RIGHT OF FIRST REFUSAL IN FAVOUR OF THE BANK OF NOVA SCOTIA. (to be discharged)
- 121 025 388 CAVEAT RE : RIGHT OF FIRST REFUSAL IN FAVOUR OF THE BANK OF NOVA SCOTIA. (to be discharged)
- 121 025 389 CAVEAT RE : PURCHASERS INTEREST IN FAVOUR OF THE BANK OF NOVA SCOTIA. (to be discharged)
- 121 074 040 CAVEAT RE : LEASE INTEREST IN FAVOUR OF THE ASSOCIATION OF PROFESSIONAL ENGINEERS, GEOLOGISTS and GEOPHYSICISTS OF ALBERTA
- 121 100 387 CAVEAT RE : LEASE INTEREST , ETC. IN FAVOUR OF THE ASSOCIATION OF PROFESSIONAL ENGINEERS, GEOLOGISTS and GEOPHYSICISTS OF ALBERTA

**2. PLAN "A" CALGARY  
BLOCK FORTY NINE (49)  
LOT THIRTY (30)  
EXCEPTING THE EASTERLY EIGHT AND ONE HALF (8 1/2) INCHES  
THROUGHOUT OF SAID LOT**

**Permitted Encumbrances:**

- 2467P. PARTY WALL AGREEMENT
- 3480FB. CAVEAT IN FAVOUR OF HUDSON'S BAY COMPANY.
- 841 112 907 CAVEAT RE : LEASE IN FAVOUR OF 58508 ALBERTA LTD.
- 841 112 909 CAVEAT RE : LEASE , ETC. IN FAVOUR OF SCREO I 700 2ND INC.
- 011 116 581 CAVEAT RE : LEASE IN FAVOUR OF THE BANK OF NOVA SCOTIA. (to be discharged)
- 011 116 582 CAVEAT RE : LEASE IN FAVOUR OF THE BANK OF NOVA SCOTIA. (to be discharged)
- 021 027 766 CAVEAT RE : SEE CAVEAT IN FAVOUR OF THE CITY OF CALGARY
- 021 027 767 CAVEAT RE : SEE CAVEAT IN FAVOUR OF THE CITY OF CALGARY
- 021 299 579 CAVEAT RE : LEASE IN FAVOUR OF TAQA NORTH LTD.

- 031 003 599 CAVEAT RE : LEASE IN FAVOUR OF THE ASSOCIATION OF PROFESSIONAL ENGINEERS, GEOLOGISTS and GEOPHYSICISTS OF ALBERTA
- 111 096 814 CAVEAT RE: LEASE INTEREST IN FAVOUR OF THE BANK OF NOVA SCOTIA. (to be discharged)
- 121 025 386 CAVEAT RE : AMENDING AGREEMENT IN FAVOUR OF THE BANK OF NOVA SCOTIA. (to be discharged)
- 121 025 387 CAVEAT RE: RIGHT OF FIRST REFUSAL IN FAVOUR OF THE BANK OF NOVA SCOTIA. (to be discharged)
- 121 025 388 CAVEAT RE: RIGHT OF FIRST REFUSAL IN FAVOUR OF THE BANK OF NOVA SCOTIA. (to be discharged)
- 121 025 389 CAVEAT RE: PURCHASERS INTEREST IN FAVOUR OF THE BANK OF NOVA SCOTIA. (to be discharged)

**3. PLAN "A" CALGARY  
BLOCK FORTY NINE (49)  
LOT TWENTY NINE (29) AND THE MOST EASTERLY EIGHT AND ONE  
HALF (8 1/2) INCHES OF LOT THIRTY (30)**

**Permitted Encumbrances:**

- 5048FO. CAVEAT IN FAVOUR OF FRANK GERSTEIN
- 841 112 907 CAVEAT RE : LEASE IN FAVOUR OF 58508 ALBERTA LTD.
- 841 112 909 CAVEAT RE : LEASE , ETC. IN FAVOUR OF SCREO I 700 2ND INC.
- 011 116 581 CAVEAT RE : LEASE IN FAVOUR OF THE BANK OF NOVA SCOTIA. (to be discharged)
- 011 116 582 CAVEAT RE : LEASE IN FAVOUR OF THE BANK OF NOVA SCOTIA. (to be discharged)
- 021 027 766 CAVEAT RE : SEE CAVEAT IN FAVOUR OF THE CITY OF CALGARY.
- 021 027 767 CAVEAT RE : SEE CAVEAT IN FAVOUR OF THE CITY OF CALGARY.
- 021 299 579 CAVEAT RE : LEASE IN FAVOUR OF TAQA NORTH LTD.
- 031 003 599 CAVEAT RE : LEASE IN FAVOUR OF THE ASSOCIATION OF PROFESSIONAL ENGINEERS, GEOLOGISTS and GEOPHYSICISTS OF ALBERTA
- 111 096 814 CAVEAT RE : LEASE INTEREST IN FAVOUR OF THE BANK OF NOVA SCOTIA. (to be discharged)
- 121 025 386 CAVEAT RE : AMENDING AGREEMENT IN FAVOUR OF THE BANK OF NOVA SCOTIA. (to be discharged)
- 121 025 387 CAVEAT RE : RIGHT OF FIRST REFUSAL IN FAVOUR OF THE BANK OF NOVA SCOTIA. (to be discharged)
- 121 025 388 CAVEAT RE : RIGHT OF FIRST REFUSAL IN FAVOUR OF THE BANK OF NOVA SCOTIA. (to be discharged)
- 121 025 389 CAVEAT RE : PURCHASERS INTEREST IN FAVOUR OF THE BANK OF NOVA SCOTIA. (to be discharged)

**Leasehold Lands**

**4. PLAN "A" CALGARY  
BLOCK FORTY NINE (49)  
THOSE PORTIONS OF LOTS NINE (9), TEN (10) AND ELEVEN (11)  
WHICH LIE ABOVE A HORIZONTAL PLANE HAVING AN ELEVATION  
OF THREE THOUSAND FOUR HUNDRED AND FORTY ONE AND FIVE  
TENTHS (3441.5) FEET ABOVE MEAN SEA LEVEL AND DETERMINED**

BY REFERENCE TO ALBERTA SURVEY CONTROL MONUMENT NO. 655-4.181 HAVING AN ELEVATION OF THREE THOUSAND FOUR HUNDRED AND THIRTY SEVEN AND FIFTY SEVEN HUNDREDTHS (3437.57) FEET CONFIRMED ON THE 15 DAY OF OCTOBER 1970 BY THE DIRECTOR OF SURVEYS OF THE PROVINCE OF ALBERTA BOUNDED AS FOLLOWS: COMMENCING AT A POINT IN THE NORTH BOUNDARY OF LOT NINE (9) DISTANT FIFTEEN (15) FEET EASTERLY FROM THE NORTH WEST CORNER OF THE SAID LOT NINE (9) THENCE SOUTHERLY PARALLEL WITH THE WEST BOUNDARY OF THE SAID LOT NINE (9) ON AN ASSUMED BEARING OF SOUTH TWO (2) DEGREES THIRTY SEVEN (37) MINUTES THIRTY (30) SECONDS WEST A DISTANCE OF ONE HUNDRED THIRTY AND SIX HUNDREDTHS (130.06) FEET MORE OR LESS TO THE SOUTH BOUNDARY OF SAID LOT NINE (9) THENCE EASTERLY ALONG THE SOUTH BOUNDARY OF LOTS NINE (9) TEN (10) AND ELEVEN (11) ON A BEARING OF SOUTH EIGHTY SEVEN (87) DEGREES TWENTY ONE (21) MINUTES FIVE (5) SECONDS EAST A DISTANCE OF FORTY AND FOURTEEN HUNDREDTHS (40.14) FEET THENCE ON A BEARING OF NORTH TWO (2) DEGREES THIRTY NINE (39) MINUTES THIRTY FIVE (35) SECONDS EAST A DISTANCE OF THIRTY SEVEN AND FIFTY THREE HUNDREDTHS (37.53) FEET THENCE ON A BEARING OF NORTH EIGHTY SEVEN (87) DEGREES TWENTY (20) MINUTES TWENTY FIVE (25) SECONDS WEST, A DISTANCE OF FOURTEEN AND FORTY SIX HUNDREDTHS (14.46) FEET, THENCE ON A BEARING OF NORTH TWO (2) DEGREES THIRTY NINE (39) MINUTES THIRTY FIVE (35) SECONDS EAST A DISTANCE OF EIGHTEEN AND TWENTY SEVEN HUNDREDTHS (18.27) FEET THENCE ON A BEARING OF SOUTH EIGHTY SEVEN (87) DEGREES TWENTY (20) MINUTES TWENTY FIVE SECONDS EAST A DISTANCE OF FOURTEEN AND FORTY SIX HUNDREDTHS (14.46) FEET, THENCE ON A BEARING OF NORTH TWO (2) DEGREES THIRTY NINE (39) MINUTES THIRTY FIVE (35) SECONDS EAST A DISTANCE OF THIRTY FIVE AND FORTY TWO HUNDREDTHS (35.42) FEET, THENCE ON A BEARING OF NORTH EIGHTY SEVEN (87) DEGREES TWENTY (20) MINUTES TWENTY FIVE (25) SECONDS WEST A DISTANCE OF NINE AND NINETY ONE ONE HUNDREDTHS (9.91) FEET, THENCE ON A BEARING OF NORTH TWO (2) DEGREES THIRTY NINE (39) MINUTES THIRTY FIVE (35) SECONDS EAST A DISTANCE OF NINETEEN AND SIXTY SEVEN HUNDREDTHS (19.67) FEET, THENCE ON A BEARING OF SOUTH EIGHTY SEVEN (87) DEGREES TWENTY (20) MINUTES TWENTY FIVE (25) SECONDS EAST A DISTANCE OF NINE AND NINETY ONE ONE HUNDREDTHS (9.91) FEET, THENCE ON A BEARING OF NORTH TWO (2) DEGREES THIRTY NINE (39) MINUTES THIRTY FIVE (35) SECONDS EAST A DISTANCE OF NINETEEN AND SEVENTEEN HUNDREDTHS (19.17) FEET MORE OR LESS TO THE NORTH BOUNDARY OF LOT ELEVEN (11) THENCE WESTERLY ALONG THE NORTH BOUNDARY OF LOTS NINE (9), TEN (10) AND ELEVEN (11) ON A BEARING OF NORTH EIGHTY SEVEN (87) DEGREES TWENTY ONE (21) MINUTES TWENTY (20) SECONDS WEST A DISTANCE OF FORTY AND TWENTY TWO HUNDREDTHS (40.22) FEET MORE OR LESS TO THE POINT OF COMMENCEMENT CONTAINING FOUR

**THOUSAND SEVEN HUNDRED AND SIXTY SEVEN AND TWO ONE  
HUNDREDTHS (4767.2) SQUARE FEET MORE OR LESS  
EXCEPTING THEREOUT ALL MINES AND MINERALS**

**ESTATE: LEASEHOLD  
COMMENCING ON THE 14 DAY OF JANUARY, 1975  
TERMINATING ON THE 30 DAY OF APRIL, 2042  
771087159**

**Permitted Encumbrances:**

- 841 112 907 CAVEAT RE : LEASE IN FAVOUR OF 58508 ALBERTA LTD.
- 841 112 909 CAVEAT RE : LEASE , ETC. IN FAVOUR OF SCREO I 700 2ND INC.
- 841 136 707 CAVEAT RE : EASEMENT IN FAVOUR OF 58508 ALBERTA LTD.
- 921 141 853 CAVEAT RE : SEE CAVEAT IN FAVOUR OF THE CITY OF CALGARY.
- 931 050 751 CAVEAT RE : AMENDING AGREEMENT IN FAVOUR OF THE CITY OF CALGARY.
- 931 050 752 CAVEAT RE : AMENDING AGREEMENT IN FAVOUR OF THE CITY OF CALGARY.
- 951 100 950 CAVEAT RE : SEE CAVEAT IN FAVOUR OF THE CITY OF CALGARY.
- 011 116 581 CAVEAT RE : LEASE IN FAVOUR OF THE BANK OF NOVA SCOTIA. (to be discharged)
- 011 116 582 CAVEAT RE : LEASE IN FAVOUR OF THE BANK OF NOVA SCOTIA. (to be discharged)
- 011 379 218 CAVEAT RE : AMENDING AGREEMENT IN FAVOUR OF THE CITY OF CALGARY.
- 021 027 766 CAVEAT RE : SEE CAVEAT IN FAVOUR OF THE CITY OF CALGARY.
- 021 027 767 CAVEAT RE : SEE CAVEAT IN FAVOUR OF THE CITY OF CALGARY.
- 071 213 666 CAVEAT RE : LEASE INTEREST IN FAVOUR OF THE TDL GROUP CORP./GROUPE TDL
- 111 096 814 CAVEAT RE : LEASE INTEREST IN FAVOUR OF THE BANK OF NOVA SCOTIA. (to be discharged)
- 111 274 556 CAVEAT RE : LEASE INTEREST IN FAVOUR OF 1364316 ALBERTA INC.
- 121 025 386 CAVEAT RE : AMENDING AGREEMENT IN FAVOUR OF THE BANK OF NOVA SCOTIA. (to be discharged)
- 121 025 387 CAVEAT RE : RIGHT OF FIRST REFUSAL IN FAVOUR OF THE BANK OF NOVA SCOTIA. (to be discharged)
- 121 025 388 CAVEAT RE : RIGHT OF FIRST REFUSAL IN FAVOUR OF THE BANK OF NOVA SCOTIA. (to be discharged)
- 121 025 389 CAVEAT RE : PURCHASERS INTEREST IN FAVOUR OF THE BANK OF NOVA SCOTIA. (to be discharged)
- 121 074 040 CAVEAT RE : LEASE INTEREST IN FAVOUR OF THE ASSOCIATION OF PROFESSIONAL ENGINEERS, GEOLOGISTS and GEOPHYSICISTS OF ALBERTA
- 121 100 387 CAVEAT RE : LEASE INTEREST , ETC. IN FAVOUR OF THE ASSOCIATION OF PROFESSIONAL ENGINEERS, GEOLOGISTS and GEOPHYSICISTS OF ALBERTA

### **SCHEDULE "B"**

All insurance policies must be forwarded to our insurance consultants, Proincon, 300-570 Portage Avenue, Winnipeg, MB R3C 0G4 Attn: Wayne Fast Phone (204) 953-6222 Fax (204) 953-6220 wfast@proincon.ca for their review and comments upon the acceptance of this commitment. The Lender's insurance consultants will review the insurance policies; the cost of which shall be for the account of the Borrower and will, therefore, be deducted from the initial advance of the funds under this loan.

The Borrower shall place and keep in force throughout the Term of the Loan the following insurance coverage, in respect of the Property and all such insurance coverage shall be placed and kept in force with a company or companies reasonably satisfactory to the Lender and the Lender shall receive certificates of insurance policies of insurance signed by the insurer or insurers which policies are to be in form and content reasonably satisfactory to the Lender. Where, under the insurance policies described below, loss is payable to the Lender, such insurance policies shall show the loss payable to the Lender as first mortgagee.

Evidence of insurance satisfactory to the Lender and/or its insurance consultant shall be provided prior to the advance of the loan.

#### **Permanent Coverage**

- i) Property insurance in an amount not less than one hundred per cent (100%) of the replacement cost and providing coverage by way of an "all risks" policy of insurance including earthquake and flood, together with a replacement cost endorsement with the "same site" provisions removed.
- ii) Fire and extended coverage and malicious damage, including leakage from fire protection equipment on a stated amount replacement cost basis with the "same site" provisions removed with first loss payable to the Lender by way of an approved mortgage clause. The policy must include a stated amount coinsurance clause. Permission should be granted for the Improvements to be completed and to be vacant or unoccupied for a period of at least thirty (30) days and shall provide for partial occupancy.
- iii) Comprehensive broad form boiler insurance including unfired pressure vessels insurance and air-conditioning equipment, if any, including repair and replacement and including Use and Occupancy coverage, for an amount satisfactory to the Lender with first loss payable to the Lender by way of a boiler and machinery insurance association mortgage clause.
- iv) Comprehensive general liability insurance for bodily injury and/or death and damage to property of others for a minimum amount of \$5,000,000 per occurrence, written on an inclusive basis with the Mortgagee shown as an additional insured.
- v) Rental insurance coverage sufficient to cover 100% of the gross annual rentals from the Property for a period of twelve (12) months, based on the greater of actual or projected rentals.

All cancellation and alteration clauses in the above-referenced policies, including those contained in the mortgage clause insurance endorsement, are to provide that the insurer will endeavor to provide at least thirty (30) days prior notice to the Lender of such cancellation or of any material alteration. The Lender shall be entitled to require coverage of such other risks and perils as the Lender may from time to time reasonably consider advisable or desirable and in respect of which insurance coverage may be available and which is obtained by reasonably prudent owners of properties that are similar to the Property in the City of Calgary.

**SCHEDULE "C"**  
**ORGANIZATIONAL CHART**

**General Partner**  
• 100% owned and  
controlled by Slate  
Asset Management LP

Slate Canadian Real  
Estate Opportunity  
Fund 1 GP Inc



## Schedule "D"

## ESTOPPEL CERTIFICATE

TO: COMPUTERSHARE TRUST COMPANY OF CANADA as agent, nominee and bare trustee for and on behalf of TIMBERCREEK MORTGAGE SERVICING INC. (THE "MORTGAGEE")

THE UNDERSIGNED, being a tenant (the "Tenant") pertaining to a Lease of a portion of the Leased Premises located at \_\_\_\_\_ hereby certifies that:

1. The lease to the Tenant dated \_\_\_\_\_, as amended by \_\_\_\_\_ (collectively the "Lease") has been validly executed and delivered by the Tenant as tenant.
2. The Lease constitutes the entire agreement between the Tenant and \_\_\_\_\_ (the "Landlord") and has not been modified, supplemented or amended and is in good standing and in full force and effect in accordance with its original terms.
3. The Tenant has not assigned the Lease or any part thereof nor has any part of the Leased Premises been sublet, except as follows:
4. The term of the Lease began on \_\_\_\_\_ and will end on \_\_\_\_\_, subject to any option to renew disclosed in paragraph 8 hereof.
5. The area being occupied by the Tenant under the Lease is \_\_\_\_\_ square feet and is designated as Unit / Suite No. \_\_\_\_\_.
6. The minimum rent payable under the Lease as of the date of this Certification is \$\_\_\_\_\_ per annum, \$\_\_\_\_\_ per sq.ft. and is payable in accordance with the terms of the Lease. The minimum rent payable under the Lease is absolutely net and carefree to the Landlord except for the Landlord's obligations with respect to structural repairs as set out in the Lease (if any).
7. The amount of prepaid rent or security deposit held by the Landlord under the Lease is \$\_\_\_\_\_ to be applied to \_\_\_\_\_ and there are no other prepayments of rent by the Tenant pursuant to the terms of the lease.
8. The Lease does not contain an option to renew; or the Lease contains an option to renew. Number of options: \_\_\_\_\_ for a period for \_\_\_\_\_ each at a rental rate of \$\_\_\_\_\_ per sq. ft. and/or an amount to be determined in accordance with the provisions of the Lease.
9. The Tenant occupies \_\_\_\_\_ parking stalls and pays \$\_\_\_\_\_ (plus applicable GST) per stall, per month.
10. The Tenant is not claiming any deductions, abatement or set-off of any rent due and payable under the Lease nor any counterclaim or defense against the enforcement of its obligations to be performed by it under the Lease.
11. There is no existing default under the Lease on the part of either the Landlord or the Tenant and the Lease is presently in good standing.
12. The Tenant has not received any previous notice that the Landlord has assigned the Lease or the rent payable thereunder.
13. There is no agreement between the Tenant and the Landlord other than that contained in the Lease pertaining to the obligations of the Landlord and the rights of the Tenant relating to the use and occupation by the Tenant of the demised premises set out in the Lease.

14. The Tenant is not entitled to any concession, rebate, allowance or rent free period from the date hereof, except as follows:
15. All improvements have been performed by the Landlord under the Lease (or under any antecedent agreement relating thereto) have been completed to the satisfaction of the Tenant and all allowances on account of such Tenant's improvements have been paid by the Landlord. The Leased Premises are entirely satisfactory and suitable for the use thereof as contemplated by the Tenant, except as follows:
16. This Certificate shall enure to the benefit of the Lender and be binding upon the heirs, executors, administrators, successors and assigns of the Tenant.

The Tenant confirms that based upon the information which it has, it has no reason to believe that the above information is not true and correct. The Tenant acknowledges that the Mortgagee will be relying upon this information with reference to a mortgage to be placed upon title to the lands therein described in favour of the Mortgagee.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

NAME OF TENANT: \_\_\_\_\_

OR IF CORP:

■

Per: \_\_\_\_\_  
c/s

## SCHEDULE "E"

## OFFICER'S CERTIFICATE RE: BUILDERS' LIEN ACT

**TO:** Computershare Trust Company of Canada, as agent, nominee and bare trustee for and on behalf of Timbercreek Mortgage Servicing Inc. (the "**Lender**")

**RE:** Loan Agreement dated November \_\_\_\_, 2018, between SCREO I 700 2<sup>nd</sup> Inc. and 58508 Alberta Ltd. (collectively, the "**Borrower**"), as borrower, Slate Canadian Real Estate Opportunity Fund I L.P., as guarantor, and the Lender, as lender, (the "**Loan Agreement**") secured by a first mortgage loan registered against the lands located in the City of Calgary which are legally described in Exhibit 1 attached hereto (collectively, the "**Lands**").

---

I, \_\_\_\_\_, of the City of \_\_\_\_\_, in the Province of \_\_\_\_\_, hereby certify in my capacity as an officer of \_\_\_\_\_ and without personal liability that, to the best of my knowledge:

1. as of the date of this certificate, I am an authorized signing authority of the Borrower, the registered owner of the Lands;
2. all accounts for labour, contracts, subcontracts, products, materials services, and construction machinery and equipment have been and will continue to be paid in full as required by the contracts, except for: (i) holdback monies which have been and will continue to be properly retained; (ii) payments deferred by agreement, which the Borrower has disclosed to the Lender; and (iii) amounts withheld by reason of legitimate dispute, which amounts and disputes have been disclosed to the Lender;
3. all holdbacks pursuant to the *Builders' Lien Act* (Alberta) required to be held by the Borrower have been and will continue to be maintained; and
4. this certificate is made for the purposes of inducing the Lender to advance funds to the Borrower pursuant to the terms of the Loan Agreement.

IN WITNESS WHEREOF the undersigned has duly executed this certificate this \_\_\_\_ day of \_\_\_\_\_, 201\_\_.

**Appendix C - Gill Extension**

Made as of the 1<sup>st</sup> day of December, 2022.

BETWEEN:

**SCREO I GILL INC.**  
(the “**Borrower**”)

-and-

**SLATE CANADIAN REAL ESTATE OPPORTUNITY FUND I L.P. and SCREO I 700 2ND INC.**  
(collectively the “**Guarantor**” and collectively with the Borrower the “**Indebted Parties**”)

- and -

**TIMBERCREEK MORTGAGE SERVICING INC.**  
(the “**Lender**”)

### **LOAN AMENDING AGREEMENT**

- A. **WHEREAS** the Lender has arranged to provide loan facilities to the Borrower (the “**Loan**”) pursuant to a Loan Agreement dated November 9, 2018, as amended by agreement dated March 31, 2022 (collectively the “**Loan Agreement**”);
- B. **AND WHEREAS** as security for the Loan and the Loan Agreement the Borrower granted, or caused to be granted, onto the Lender, amongst other things, the following security (hereinafter collectively referred to with the Loan Agreement as the “**Original Security**”).
- a. A Mortgage from SCREO I Gill Inc. registered at the Land Titles Office for the Alberta Land Registration District on November 22, 2018 as Instrument Number 181 252 369 against the lands legally described as in Schedule A attached hereto (the “**Lands**”), as amended by Mortgage Amending Agreement registered as Instrument 221 166 929;
  - b. A General Assignment of Rents from SCREO I Gill Inc. registered by way of Caveat at the Land Titles Office for the Alberta Land Registration District on November 22, 2018 as Instrument Number 181 252 370 against the Lands;
  - c. A Site Specific Security Agreement registered at the Personal Property Registry Office from the Borrower;
  - d. A Limited Liability Guarantee from Slate Canadian Real Estate Opportunity Fund I L.P.;
  - e. A Limited Liability Guarantee from SCREO I 700 2<sup>nd</sup> Inc.;
  - f. A Mortgage from SCREO I 700 2<sup>nd</sup> Inc. registered at the Land Titles Office for the Alberta Land Registration District on August 11, 2022 as Instrument Number 221 166 914 against the lands legally described as in Schedule B attached hereto (the “**Collateral Lands**”);

- g. A General Assignment of Rents from SCREO I 700 2<sup>nd</sup> Inc. registered by way of Caveat at the Land Titles Office for the Alberta Land Registration District on August 11, 2022 as Instrument Number 221 166 915 against the Lands;

C. **AND WHEREAS** the Loan is scheduled to matured on December 1, 2022 and the Borrower has requested the Lender provide an extension of time to repay the Loan;

D. **AND WHEREAS** the Lender has agreed, subject to the terms of this Agreement.

NOW THEREFORE, in consideration of the provisions, covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the parties hereto, the parties hereto covenant and agree as follows:

#### **ARTICLE 1. INTERPRETATION**

- 1.1 The recitals are incorporated into and form a part hereof.
- 1.2 Except as otherwise defined herein, any capitalized terms shall have the meaning ascribed thereto in the Loan Agreement.

#### **ARTICLE 2. ACKNOWLEDGMENTS**

- 2.1 The Indebted Parties hereby acknowledge, consent, covenant and agree to the following:
- (a) the Loan is due and owing to the Lender and the Indebted Parties are jointly and severally liable to the Lender for the payment of the Indebtedness together with interest, fees, and costs in accordance with the Security and this Agreement;
  - (b) the Indebted Parties hereby acknowledge and agree that the Loan as at the 1 day of December, 2022 is set out in Schedule "C", plus fees, costs and interest which continue to accrue in accordance with the terms of the Loan Agreement and Security;
  - (c) the Indebted Parties represent to the Lender that none of them have any defences, set-offs, or counterclaims which would entitle them to dispute the Loan as being fully due and payable and the Security being fully enforceable;
  - (d) that no consents, waivers, or releases have been given by the Lender in connection with the Security or the Loan;
  - (e) the Indebted Parties represent and warrant to the Lender that all of the warranties and representations in the Security are true and correct as of the date hereof.

#### **ARTICLE 3. EXTENSION AND AMENDMENT**

- 3.1 From and after the Effective Date the Loan Agreement is amended from and after the date hereof as follows:
- (a) The definition of "Interest Rate" is hereby deleted in its entirety and replaced with the following:

**“Interest Rate”** means the floating rate equal to the TD Prime Rate + 2.55% until August 1, 2024 increasing to the TD Prime Rate + 4.55% thereafter, subject to a floor rate equal to the 6.50%.”

- (b) The definition of “Maturity Date” is hereby deleted in its entirety and replaced with the following:

**“Maturity Date”** means September 1, 2024.”

- (c) The definition of “Term” is hereby deleted in its entirety and replaced with the following:

**“Term”** means the period of 69 months from and including the Interest Adjustment Date to and including the Maturity Date.”

- (d) The definition “Renewal Option” and Section 3.4 are hereby deleted in its entirety.

- (e) By adding a new Section 7.2 as follows:

“7.2 The Obligors, jointly and severally, covenant with the Lender that:

“a” The Obligors will provide quarterly reporting on leasing updates on the Secured Property, including but not limited to updated rent roll, leasing pipeline, lease negotiations, tenant turnover / renewals, etc.

“b” Effective May 1, 2023, Slate Canadian Real Estate Opportunity Fund I L.P. shall not make any distributions until the Borrower has made a partial principal repayment(s) of the Loan, after May 1, 2023, totalling at least \$6,500,000.

- 3.2 The Indebted Parties covenant and agree to pay to the Lender an extension fee (the “**Extension Fee**”), which sum shall not be credited as a partial repayment of the Loan, as follows:

- (a) \$108,500.00 on or prior to May 5, 2023 (the “**Initial Extension Fee**”) (the Lender acknowledges receipt of the foregoing);
- (b) If the Borrower has made a partial principal repayment of the Loan of at least \$6,500,000.00 pursuant to Article 5, no further extension fee shall be payable to the Lender;
- (c) If the Borrower has not made a partial principal repayment of the Loan of at least \$6,500,000.00 pursuant to Article 5, then \$142,600.00 shall be payable as an exit fee on the Maturity Date.

- 3.3 Notwithstanding anything in the Loan Agreement, the Borrower acknowledges and agrees that:

- (a) the Lender will advance to the Borrowers an additional \$2,500,000.00 (“**New Advance**”), on the terms and conditions of this Agreement; and
- (b) no further portion of the Re-Positioning Facility shall be advanced and that the Borrower does not have any option to renew or extend the Term and Maturity Date.

#### **ARTICLE 4. ADDITIONAL ADVANCE**

- 4.1 Subject to the terms and conditions contained in this Amendment, the Lender hereby advances and the Borrower hereby acknowledges receipt of the New Advance, effective as of the date hereof, on the following terms:
- (a) The entire New Advance will be used to partially pay down the principal amount owing pursuant to the loan made by the Lender to SCREO I 700 2<sup>nd</sup> Inc. secured by a first charge against the Collateral Lands;
  - (b) The New Advance shall form part of the Loan and be secured by the Security.

#### **ARTICLE 5. REQUIRED REPAYMENT**

- 5.1 The Borrower shall be required to make partial principal repayments of the Loan by a collective total of and up to a maximum of \$6,500,000.00 (inclusive of all repayments of the Loan since the date of this Loan extension pursuant to this Section 5.1) as follows:

- (a) Capital Point – Tower 3: Subject to Section 5.1(b)(ii) below, the Borrower shall make, on the closing date, a partial principal repayment of the Loan equal to the greater of \$1,000,000.00 or 10% of the net sales proceeds of Capital Point – Tower 3 (subject to a maximum of \$6,500,000 inclusive of all repayments of the Loan since the date of this Loan extension pursuant to this Article 5).
- (b) Capital Point – Tower 1:
  - (i) In the event that Capital Point – Tower 1 is sold together with or after the sale of Capital Point – Tower 3, then the Borrower shall make, on the closing date, a partial principal repayment of the Loan equal to the greater of \$2,000,000.00 (inclusive of any partial repayments made pursuant to Section 5.1(a)) or 10% of the net sales proceeds of the sale of Capital Point – Tower 1 (subject to a maximum of \$6,500,000 inclusive of all repayments of the Loan since the date of this Loan extension pursuant to this Article 5);
  - (ii) In the event that Capital Point – Tower 1 is sold prior to the sale of Capital Point – Tower 3, then the Borrower shall make, on the closing date, a partial principal repayment of the Loan in an amount equal to 10% of any net sale proceeds of Capital Point – Tower 1 (subject to a maximum of \$6,500,000 inclusive of all repayments of the Loan since the date of this Loan extension pursuant to this Article 5).
- (c) Dixie Outlet Mall: The Borrower shall make, on the closing date, a partial principal repayment of the Loan equal to the greater of \$6,500,000 or 10% of the net sales proceeds of Dixie Outlet Mall (subject to a maximum of \$6,500,000 inclusive of all repayments of the Loan since the date of this Loan extension pursuant to this Article 5).

In the event the Dixie Outlet Mall is sold in phases the Borrower shall make, on each closing date, a partial principal repayment of the Loan equal to 10% of the net sales proceeds from each individual or partial sale of a phase of Dixie Outlet Mall, subject to a maximum of \$6,500,000.00 inclusive of all repayments made in connection with the sale of a phase of

Dixie Outlet Mall (subject to a maximum of \$6,500,000 inclusive of all repayments of the Loan since the date of this Loan extension pursuant to this Article 5).

For greater clarity:

- (A) **“net sale proceeds”** shall mean the aggregate gross proceeds received from the sale, net of any repayments of financing relating to such property, and net of reasonable legal fees, real estate commissions and normal closing costs;
- (B) **“Capital Point – Tower 3”, “Capital Point – Tower 1”, and “Dixie Outlet Mall”** mean those properties municipally and legally described on Schedule “C” and the **“Pledged Assets”** shall mean the Capital Point – Tower 3, Capital Point – Tower 3, and Dixie Outlet Mall collectively;
- (C) in the event a partial ownership in Capital Point – Tower 1, Capital Point – Tower 3, or Dixie Outlet Mall is sold then the Borrower shall make a pro rata partial repayment pursuant to Section 5.1(a), 5.1(b) or 5.1(c), as applicable;
- (D) the Borrower is required to make the partial principal repayments up to a maximum of \$6,500,000.00 in connection with the sale of the Pledged Assets on an aggregate basis. Upon principal repayments of \$6,500,000.00 having been made pursuant to Section 5.1(a), 5.1(b), 5.1(c) and/or 5.2, the Borrower shall have no further obligation to make partial principal repayments pursuant to this Article 5;
- (E) the Extension Fee shall not be deemed to be a repayment; and
- (F) the partial principal repayments herein shall not be applied to the interest payable by Borrower, which shall continue to remain payable along with the balance of the principal amount of the Loan in accordance with the Loan Agreement.

- 5.2 The repayment obligations of Sections 5.1 shall also apply in the event of the refinancing of Capital Point – Tower 3, Capital Point – Tower 1, and/or Dixie Outlet Mall which results in any equity pull from the properties. In such case, “net sale proceeds” shall be deemed to mean the aggregate gross proceeds received from the refinancing, net of any repayments of existing financing relating to such property, and net of reasonable legal fees, broker commissions and normal closing costs, and in all other cases the provisions of Sections 5.1 shall apply, *mutatis mutandis*, including but not limited to the maximum partial principal repayment obligation of \$6,500,000, inclusive of all repayments of the Loan since the date of this Loan extension, pursuant to this Article 5.

## ARTICLE 6. CONDITIONS

- 6.1 This amendment shall be conditioned upon (the **“Conditions”**):
- (a) Payment of the Initial Extension Fee by May 5, 2023;
  - (b) The approval of the extension by the Lender's Investment Committee, such approval to be at its sole discretion; (the Lender confirms that this Condition has been satisfied)
  - (c) Confirmation that there are no liens or Encumbrances registered against the Secured Property other than the Permitted Encumbrances;
  - (d) Review and approval by the Lender, in its sole discretion, of any claims, litigation, damages, fire code violations or destruction of the Secured Property;

- (e) The Indebted Parties executing and delivering, or causing the execution and delivery (by no later than March 31, 2022) of, such legal opinions, corporate certificates and authorizing resolutions as required by the Lender and the Lender's solicitor (in each case in a form satisfactory to the Lender and its solicitors), including but not limited to:
  - (i) A mortgage amending agreement;
  - (ii) An assignment of proceeds from SCREO I Dixie Outlet Mall Inc. and SCREO I Dixie Outlet Mall L.P. with respect to Dixie Outlet Mall;
  - (iii) An assignment of proceeds from SCREO I Metrotown Inc. and SCREO I Metrotown L.P. with respect to Capital Point – Tower 3 and Capital Point – Tower 1;
  - (iv) A mortgage amending agreement with respect to the 2<sup>nd</sup> mortgage on the Collateral Lands increasing the principal amount to \$28,700,000.00,
  - (v) An additional limited guarantee from the Guarantor with to Article 4 and the foregoing assignment of proceeds;
 (collectively with the Original Security the “Security”)
- (f) The Lender, in its sole and exclusive discretion, determines that the Indebted Parties, or any of them, have failed to provide full co-operation and assistance;
- (g) The Lender, in its sole discretion, determines that the Indebted Parties have failed to duly perform or observe any term, covenant, or obligation contained in the Security or this Agreement;
- (h) The Lender, in its sole discretion, is of the opinion that a representation, warranty, statement, declaration, or report made or rendered by any one or more of the Indebted Parties was false, misleading, or contained a material omission;
- (i) The Lender, in its sole discretion, determines that there has been a Material Adverse Change in the affairs of any of the Indebted Parties, or in its security position;

6.2 The Indebted Parties acknowledge and agree that in the event the Conditions are not satisfied by the time required therefor as set out herein, the whole of the Loan then remaining unpaid, including interest thereon and all legal costs on a solicitor client full indemnity basis, shall become immediately due and payable to the Lender, and the Lender shall be at liberty to immediately take any and all legal proceedings to recover any and all amounts then owing to the Lender by the Indebted Parties, and the Lender may immediately enforce the Security, and may rely on and use the acknowledgments, representations, covenants and all other scheduled documents provided by the Indebted Parties in this Agreement.

6.3 The Indebted Parties covenant and agree to pay to the Lender upon demand any and all costs and expenses incurred by the Lender in connection with the preparation, review, settlement, negotiation, due diligence, third party reports, finalization and completion of any and all matters described in this Agreement including, without limiting the generality of the foregoing, all fees and expenses paid to its agent(s) and all legal fees and expenses on a solicitor and his own client full indemnity basis.

## **ARTICLE 7. EXISTING SECURITY**

- 7.1 The Security and all covenants, provisos, powers, matters and things contained therein shall continue in full force and effect except as altered by this Agreement and that the Security shall be read and construed as though the above provisions had been inserted therein, mutatis mutandis.
- 7.2 This Agreement shall not be or constitute an accord and satisfaction between the Borrower and the Lender with respect to the Loan and the Security shall in no way be discharged, released or prejudiced by this Agreement and shall in no way be affected by this Agreement, save to the extent that the payment or other terms are herein expressly modified.
- 7.3 The amendments herein provided for shall not create or operate as a merger of or alter or prejudice the rights of the Lender in respect of the Security, except as expressly set out herein.
- 7.4 This Agreement is intended to be and shall operate as and constitute an amending agreement and not a novation of the Security. Without limiting the generality of the preceding, nothing in this Agreement shall be or constitute or operate as a release or waiver of any personal covenants contained in the Security, or a release or discharge of any other surety of or for the Loan.
- 7.5 The Original Guarantor, by their signatures below, hereby acknowledge and reaffirm all of their obligations and undertakings under the Guaranty and all other security granted in support of the Loan Agreement and acknowledge and agree that subsequent to, and after taking account of the provisions of this Agreement, the documents are and shall remain in full force and effect in accordance with the terms thereof.

## **ARTICLE 8. MISCELLANEOUS PROVISIONS**

- 8.1 This Agreement shall be construed and enforced in accordance with the laws of the Province of Alberta.
- 8.2 Time shall be of the essence in respect of all matters provided for in this Agreement.
- 8.3 The Indebted Parties covenant and agree from time to time, at the request of the Lender or the Lender's solicitors, to make, do, execute and deliver or cause to be made, done, executed and delivered all such further and other lawful acts, deeds, things, documents and assurances of whatsoever nature and kind either before or after the completion of the transactions contemplated herein for the better performance of the terms and conditions of this Agreement.
- 8.4 This Agreement may not be altered or amended in any fashion, without such alterations or changes being reduced in writing and signed by all of the parties hereto.
- 8.5 Any condonation, excusing, overlooking or waiver by the Lender of any default, breach or non-observance of any of the terms as set forth herein, or in respect of any of the Existing Security, shall not constitute a waiver by the Lender of its rights under this Agreement or the Existing Security in respect of any continuing or subsequent default, breach or non-performance (as the case may be), so as to defeat in any way the rights of the Lender pursuant to this Agreement or the Existing Security.
- 8.6 The rights conferred upon the Lender under this Agreement are intended to be exclusive of any other rights available to the Lender, and any such rights shall be cumulative and shall be in addition to

every other right either given hereunder, or available to the Lender either pursuant to the Security, or now or hereafter existing by law or in equity or otherwise.

- 8.7 It is understood and agreed that the provisions hereof shall not merge upon the execution, registration or enforcement of this Agreement or any one or more of the Security, including the entry of any judgment or order in favour of the Lender.
- 8.8 Any provision hereof which is prohibited or unenforceable in any jurisdiction shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof.
- 8.9 This Agreement shall be binding upon and enure to the benefit of the undersigned and their respective successors and assigns.
- 8.10 This Agreement may be executed and delivered in counterpart and delivered by facsimile or PDF electronic transmission, each of which will be deemed to be an original and such counterparts together will be deemed to constitute one and the same instrument. Any of the documents to be delivered and tendered pursuant to this Agreement (save and except to the extent that original signed documents are required for registration purposes) may be executed in counterpart and delivered and accepted by facsimile or PDF electronic transmission.

*Remainder of Page Intentionally Left Blank*

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first written above.

**SCREO 1 700 2ND INC.**

By: 

Name: Ramsey Ali

Title: Authorized Signing Officer

By: 

Name: Lisa Rowe


Title: Authorized Signing Officer

**SLATE CANADIAN REAL ESTATE  
OPPORTUNITY FUND I L.P. by its general partner  
SLATE CANADIAN OPPORTUNITY FUND GP  
INC.**

By: 

Name: Ramsey Ali

Title: Authorized Signing Officer

By: 

Name: Lisa Rowe

Title: Authorized Signing officer

SCREO I GILL INC.

By: 

Name: Ramsey Ali

Title: Authorized Signing officer

By: 

Name: Lisa Rowe

Title: Authorized Signing officer

**TIMBERCREEK MORTGAGE SERVICING INC.**

By: Patrick Smith

Name: Patrick Smith

Title: Managing Director, Credit

By: Scott Rowland

Name: Scott Rowland

Title: Vice-President

**Schedule A**

**Properties**

1. Joffre Place – 708 11th Avenue Southwest, Calgary, AB

**PLAN A1**

**BLOCK 67**

**LOTS 21 TO 28 INCLUSIVE**

**EXCEPTING FIRSTLY OUT OF LOT 28 THE WEST 0.12 METRES**

**EXCEPTING SECONDLY AS TO SURFACE ONLY THAT PORTION FOR STREET  
WIDENING ON PLAN 8010836**

2. Life Plaza - 734 - 7th Avenue Southwest, Calgary, AB

**PLAN A1**

**BLOCK 33**

**THE WEST 4 INCHES OF LOT 33 AND ALL OF LOTS 34 TO 40 INCLUSIVE**

**EXCEPTING THEREOUT A PORTION AS TO SURFACE ONLY FOR ROAD  
WIDENING**

**ON PLAN 8311721**

**Schedule B**

**Collateral Lands**

1. **222 8<sup>th</sup> Avenue SW, Calgary, AB**

**PLAN "A" CALGARY  
BLOCK FORTY NINE (49)  
LOT THIRTY ONE (31)  
EXCEPTING THEREOUT  
AS TO SURFACE ONLY, PORTION FOR STREET WIDENING AS SHOWN ON PLAN  
7611318**

2. **226 8<sup>TH</sup> AVENUE SW, CALGARY, AB**

**PLAN A CALGARY  
BLOCK FORTY NINE (49)  
LOT THIRTY TWO (32)**

3. **228 8<sup>TH</sup> AVENUE SW, CALGARY, AB**

**PLAN A CALGARY  
BLOCK FORTY NINE (49)  
LOTS THIRTY THREE (33) AND THIRTY FOUR (34)**

**Schedule C**

**Statement of Debt**

BORROWER STATEMENT OF ACCOUNT

BORROWER
Slate SCREO I Gill Inc. Suite 200, 121 King Street West Toronto, ON CA

Property (Primary)
Joffre Place - 708 11th Ave SW Calgary, AB CA

LOAN NO.	18-46
STATEMENT DATE	August 23, 2023

STATEMENT SUMMARY	
Statement Period	2022-11-01 to 2022-12-01
Principal Balance	\$26,200,000.00
Term	12
Interest Rate	9.75000%
Maturity Date	December 1, 2022

Please advise us immediately of any discrepancies in the transactions or investment activity on your statement of account or if you contemplate changing your address. When making inquiries by telephone or in writing please give your account number. We urge you to keep this statement with your investment records.

PRINCIPAL ACTIVITY			
Transaction Date	Transaction Type	Principal Amount	Principal Balance
2022-12-01			\$ 26,200,000.00

INTEREST ACTIVITY			
Transaction Date	Transaction Type	Interest Paid	
2022-11-01	COLLECTION	\$ 176,122.22	
2022-12-01	COLLECTION	\$ 185,583.33	
			\$ 361,705.55

RESERVE BALANCES	
	Balance

E. & O.E

**Schedule “D”**

**Municipal Address**

**Capital Point – Tower 3:** 5945 Kathleen Avenue, Burnaby, BC V5H 4L5

**Capital Point – Tower 1:** 4300-4330 Kingsway, Burnaby BC V5H 4G7

**Dixie Outlet Mall:** 1250 South Service Road, Mississauga, Ontario L5E 1V2

**Legal Descriptions**

**Capital Point – Tower 3 and Capital Point – Tower 1:**

PID 031-357-881, being Lot 1 District Lot 153 Group 1 New Westminster District Plan EPP107270

**Dixie Outlet Mall:**

PIN 13480-0546 (LT): PART LOT 6 CONCESSION 2 SOUTH DUNDAS ST (TOWNSHIP OF TORONTO) & PART BLOCKS A & B PLAN 305 AS IN RO854869 EXCEPT PARTS 1 & 2 PLAN 43R20591, PARTS 1, 2 & 3 EXPROPRIATION PLAN PR3431305 AND PARTS 1 TO 9 EXPROPRIATION PLAN PR3431900; T/W TT133286; S/T RO789903, RO799179, RO969553, RO969556, TT109061, TT150694; CITY OF MISSISSAUGA

**Appendix D – SCREO 700 Extension**

Made as of the 1<sup>st</sup> day of December, 2022 (the “Effective Date”).

BETWEEN:

SCREO I 700 2ND INC. and 58508 ALBERTA LTD.  
(collectively as “Borrower”)

-and-

SLATE CANADIAN REAL ESTATE OPPORTUNITY FUND I L.P.  
(the “Guarantor” and collectively with the Borrower the “Indebted Parties”)

- and -

TIMBERCREEK MORTGAGE SERVICING INC.  
(the “Lender”)

### LOAN AMENDING AGREEMENT

- A. WHEREAS the Lender has arranged to provide loan facilities to the Borrower (the “Loan”) pursuant to a Loan Agreement dated November 27, 2018, as amended by agreements dated February 19, 2019 and March 31, 2022 (collectively the “Loan Agreement”);
- B. AND WHEREAS as security for the Loan and the Loan Agreement the Borrower granted, or caused to be granted, onto the Lender, amongst other things, the following security (hereinafter collectively referred to with the Loan Agreement as the “Original Security”):
  - a. A Mortgage from SCREO I 700 2<sup>nd</sup> Inc. registered at the Land Titles Office for the Alberta Land Registration District on December 3, 2018 as Instrument Number 181 260 437 against the lands legally described as in Schedule A attached hereto (the “Lands”), as amended by Mortgage Amending Agreement registered as Instrument 221 166 649;
  - b. A General Assignment of Rents from SCREO I 700 2<sup>nd</sup> Inc. registered by way of Caveat at the Land Titles Office for the Alberta Land Registration District on December 3, 2018 as Instrument Number 181 260 439 against the Lands;
  - c. A Mortgage of Lease from 58508 Alberta Ltd. registered at the Land Titles Office for the Alberta Land Registration District on December 3, 2018 as Instrument Number 181 260 438 against the Lands, as amended by Caveat re Mortgage Amending Agreement registered as Instrument 231 066 015;
  - d. A General Assignment of Rents from 58508 Alberta Ltd. registered by way of Caveat in the Land Titles Office for the Alberta Land Registration District on December 3, 2018 as Instrument Number 181 260 440 against the Lands;

- e. A Site Specific Security Agreement registered at the Personal Property Registry Office from the Borrower;
- f. A Limited Liability Guarantee (the "Guaranty") from the Guarantor;
- C. AND WHEREAS the Loan matured on December 1, 2022 and the Borrower has requested the Lender provide an extension of time to repay the Loan;
- D. AND WHEREAS the Lender has agreed, subject to the terms of this Agreement.

NOW THEREFORE, in consideration of the provisions, covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by each of the parties hereto, the parties hereto covenant and agree as follows:

#### ARTICLE 1. INTERPRETATION

- 1.1 The recitals are incorporated into and form a part hereof.
- 1.2 Except as otherwise defined herein, any capitalized terms shall have the meaning ascribed thereto in the Loan Agreement.

#### ARTICLE 2. ACKNOWLEDGMENTS

- 2.1 The Indebted Parties hereby acknowledge, consent, covenant and agree to the following:
  - (a) the Loan is due and owing to the Lender and the Indebted Parties are jointly and severally liable to the Lender for the payment of the Indebtedness together with interest, fees, and costs in accordance with the Security and this Agreement;
  - (b) the Indebted Parties hereby acknowledge and agree that the Loan as at the 1 day of December, 2022 is set out in Schedule "B", plus fees, costs and interest which continue to accrue in accordance with the terms of the Loan Agreement and Security;
  - (c) the Indebted Parties represent to the Lender that none of them have any defences, set-offs, or counterclaims which would entitle them to dispute the Loan as being fully due and payable and the Security being fully enforceable;
  - (d) that no consents, waivers, or releases have been given by the Lender in connection with the Security or the Loan;
  - (e) the Indebted Parties represent and warrant to the Lender that all of the warranties and representations in the Security are true and correct as of the date hereof.

#### ARTICLE 3. EXTENSION AND AMENDMENT

- 3.1 From and after the Effective Date the Loan Agreement is amended from and after the date hereof as follows:
  - (a) The definition of "Interest Rate" is hereby deleted in its entirety and replaced with the following:

“Interest Rate” means the floating rate equal to the TD Prime Rate + 2.80% until August 1, 2024 increasing to the TD Prime Rate + 4.80% thereafter, subject to a floor rate equal to the 6.75%.”

- (b) The definition of “Maturity Date” is hereby deleted in its entirety and replaced with the following:

“Maturity Date” means September 1, 2024.”

- (c) The definition of “Term” is hereby deleted in its entirety and replaced with the following:

“Term” means the period of 69 months from and including the Interest Adjustment Date to and including the Maturity Date.”

- (d) The definition of “Renewal Option” and Section 3.4 are hereby deleted in its entirety.

- (e) By adding a new Section 7.2 as follows:

“7.2 The Obligors, jointly and severally, covenant with the Lender that:

“a” The Obligors will provide quarterly reporting on leasing updates on the Secured Property, including but not limited to updated rent roll, leasing pipeline, lease negotiations, tenant turnover / renewals, etc.

“b” Effective May 1, 2023, the Guarantor shall not make any distributions until the Borrower has made a partial principal repayment(s) of the Loan, after May 1, 2023, totalling at least \$30,000,000.

- 3.2 The Indebted Parties covenant and agree to pay to the Lender an extension fee (the “Extension Fee”), which sum shall not be credited as a partial repayment of the Loan, as follows:

- (a) \$500,000.00 on or prior to April 7, 2023 (the “Initial Extension Fee”) (the Lender acknowledges receipt of the foregoing);
- (b) If the Borrower has made a partial principal repayment of the Loan of at least \$30,000,000.00 pursuant to Article 4, no further extension fee shall be payable to the Lender;
- (c) If the Borrower has not made a partial principal repayment of the Loan of at least \$30,000,000.00 pursuant to Article 4, then \$660,500.00 shall be payable as an exit fee on the Maturity Date.

- 3.3 Notwithstanding anything in the Loan Agreement, the Borrower acknowledges and agrees that no further portion of the Re-Positioning Facility shall be advanced and that the Borrower does not have any option to renew or extend the Term and Maturity Date.

#### ARTICLE 4. REQUIRED REPAYMENT

4.1 The Borrower shall be required to make partial principal repayments of the Loan by a collective total of and up to a maximum of \$30,000,000.00 (inclusive of all repayments of the Loan since the date of this Loan extension pursuant to this Section 4.1) as follows:

- (a) Capital Point – Tower 3: Subject to Section 4.1(b)(ii) below, the Borrower shall make, on the closing date, a partial principal repayment of the Loan equal to the greater of \$5,000,000.00 or 50% of the net sales proceeds of Capital Point – Tower 3 (subject to a maximum of \$30,000,000 inclusive of all repayments of the Loan since the date of this Loan extension pursuant to this Article 4).
- (b) Capital Point – Tower 1:
  - (i) In the event that Capital Point – Tower 1 is sold together with or after the sale of Capital Point – Tower 3, then the Borrower shall make, on the closing date, a partial principal repayment of the Loan equal to the greater of \$15,000,000.00 (inclusive of any partial repayments made pursuant to Section 4.1(a)) or 25% of the net sales proceeds of the sale of Capital Point – Tower 1 (subject to a maximum of \$30,000,000 inclusive of all repayments of the Loan since the date of this Loan extension pursuant to this Article 4);
  - (ii) In the event that Capital Point – Tower 1 is sold prior to the sale of Capital Point – Tower 3, then the Borrower shall make, on the closing date, a partial principal repayment of the Loan in an amount equal to 25% of any net sale proceeds of Capital Point – Tower 1, and, pending the sale of Capital Point – Tower 3, shall cause the Lender to be granted a collateral mortgage on Capital Point – Tower 3 on the following terms:
    - (1) in a principal amount equal to the difference between (i) \$15,000,000.00 and (ii) the amount received by the Lender in connection with the sale of Capital Point – Tower 1;
    - (2) which mortgage shall be deemed to have been paid upon the earlier of (i) the payment of the principal amount thereof in connection with a sale of Capital Point – Tower 3, or (ii) the date when the Borrower has made partial principal repayments of \$30,000,000.00 on the Loan pursuant to this Section 4.1 (subject to a maximum of \$30,000,000 inclusive of all repayments of the Loan since the date of this Loan extension pursuant to this Article 4).
- (c) Dixie Outlet Mall: The Borrower shall make, on the closing date of the sale of Dixie Outlet Mall, a partial principal repayment of the Loan equal to the greater of \$20,000,000.00 or 50% of the net sales proceeds of Dixie Outlet Mall (subject to a maximum of \$30,000,000 inclusive of all repayments of the Loan since the date of this Loan extension pursuant to this Article 4).

In the event the Dixie Outlet Mall is sold in phases the Borrower shall make, on each closing date, a partial principal repayment of the Loan equal to 50% of the net sales proceeds from each individual or partial sale of a phase of Dixie Outlet Mall, subject to a maximum of \$20,000,000.00 inclusive of all repayments made in connection with the sale of a phase of

Dixie Outlet Mall (subject to a maximum of \$30,000,000 inclusive of all repayments of the Loan since the date of this Loan extension pursuant to this Article 4).

For greater clarity:

- (A) “net sale proceeds” shall mean the aggregate gross proceeds received from the sale, net of any repayments of financing relating to such property, and net of reasonable legal fees, real estate commissions and normal closing costs;
- (B) “Capital Point – Tower 3”, “Capital Point – Tower 1”, and “Dixie Outlet Mall” mean those properties municipally and legally described on Schedule “C” and the “Pledged Assets” shall mean the Capital Point – Tower 3, Capital Point – Tower 3, and Dixie Outlet Mall collectively;
- (C) in the event a partial ownership in Capital Point – Tower 1, Capital Point – Tower 3, or Dixie Outlet Mall is sold then the Borrower shall make a pro rata partial repayment pursuant to Section 4.1(a), 4.1(b) or 4.1(c), as applicable;
- (D) the Borrower is required to make the partial principal repayments up to a maximum of \$30,000,000 in connection with the sale of the Pledged Assets on an aggregate basis. Upon principal repayments of \$30,000,000.00 having been made pursuant to Section 4.1(a), 4.1(b), 4.1(c) and/or 4.2, the Borrower shall have no further obligation to make partial principal repayments pursuant to this Article 4;
- (E) the Extension Fee shall not be deemed to be a repayment; and
- (F) the partial principal repayments herein shall not be applied to the interest payable by Borrower, which shall continue to remain payable along with the balance of the principal amount of the Loan in accordance with the Loan Agreement.

- 4.2 The repayment obligations of Sections 4.1 shall also apply in the event of the refinancing of Capital Point – Tower 3, Capital Point – Tower 1, and/or Dixie Outlet Mall which results in any equity pull from the properties. In such case, “net sale proceeds” shall be deemed to mean the aggregate gross proceeds received from the refinancing, net of any repayments of existing financing relating to such property, and net of reasonable legal fees, broker commissions and normal closing costs, and in all other cases the provisions of Sections 4.1 shall apply, mutatis mutandis, including but not limited to the maximum partial principal repayment obligation of \$30,000,000, inclusive of all repayments of the Loan since the date of this Loan extension, pursuant to this Article 4.

## ARTICLE 5. CONDITIONS

- 5.1 This amendment shall be conditioned upon (the “Conditions”):
- (a) Payment of the Initial Extension Fee by April 7, 2023;
  - (b) The approval of the extension by the Lender's Investment Committee, such approval to be at its sole discretion; (the Lender confirms that this Condition has been satisfied)
  - (c) Confirmation that there are no liens or Encumbrances registered against the Secured Property other than the Permitted Encumbrances;
  - (d) Confirmation that all property taxes with respect to the Secured Property have been paid;

- (e) Review and approval by the Lender, in its sole discretion, of any claims, litigation, damages, fire code violations or destruction of the Secured Property;
- (f) The Indebted Parties executing and delivering, or causing the execution and delivery (by no later than May 31, 2023) of, such legal opinions, corporate certificates and authorizing resolutions as required by the Lender and the Lender's solicitor (in each case in a form satisfactory to the Lender and its solicitors) including but not limited to:
  - (i) A mortgage amending agreement;
  - (ii) An assignment of proceeds from SCREO I Dixie Outlet Mall Inc. and SCREO I Dixie Outlet Mall L.P. with respect to Dixie Outlet Mall;
  - (iii) An assignment of proceeds from SCREO I Metrotown Inc. and SCREO I Metrotown L.P. with respect to Capital Point – Tower 3 and Capital Point – Tower 1;
  - (iv) An additional limited guarantee from the Guarantor with to Article 4 and the foregoing assignment of proceeds;
  - (v) An undertaking to provide, pursuant to Section 4.1(b), a limited guarantee, mortgage and beneficial charge from SCREO I Metrotown Inc. and SCREO I Metrotown L.P. with respect to Capital Point – Tower 3;
  - (vi) An undertaking to provide, on a commercially reasonable efforts basis, a limited guarantee, second mortgage and beneficial charge from SCREO I Dixie Outlet Mall Inc. and SCREO I Dixie Outlet Mall L.P. in the amount of \$20,000,000 on Dixie Outlet Mall after finalizing a loan extension with the first lender thereof, National Bank. If such second mortgage charge is secured, it will be fully extinguished upon the \$30,000,000 partial principal repayment of the Loan pursuant to Article 4.

(collectively with the Original Security the "Security")

- (g) The Lender, in its sole and exclusive discretion, determines that the Indebted Parties, or any of them, have failed to provide full co-operation and assistance;
- (h) The Lender, in its sole discretion, determines that the Indebted Parties have failed to duly perform or observe any term, covenant, or obligation contained in the Security or this Agreement;
- (i) The Lender, in its sole discretion, is of the opinion that a representation, warranty, statement, declaration, or report made or rendered by any one or more of the Indebted Parties was false, misleading, or contained a material omission;
- (j) The Lender, in its sole discretion, determines that there has been a Material Adverse Change in the affairs of any of the Indebted Parties, or in its security position;

5.2 The Indebted Parties acknowledge and agree that in the event the Conditions are not satisfied by the time required therefor as set out herein, the whole of the Loan then remaining unpaid, including interest thereon and all legal costs on a solicitor client full indemnity basis, shall become immediately

due and payable to the Lender, and the Lender shall be at liberty to immediately take any and all legal proceedings to recover any and all amounts then owing to the Lender by the Indebted Parties, and the Lender may immediately enforce the Security, and may rely on and use the acknowledgments, representations, covenants and all other scheduled documents provided by the Indebted Parties in this Agreement.

- 5.3 The Indebted Parties covenant and agree to pay to the Lender upon demand any and all costs and expenses incurred by the Lender in connection with the preparation, review, settlement, negotiation, due diligence, third party reports, finalization and completion of any and all matters described in this Agreement including, without limiting the generality of the foregoing, all fees and expenses paid to its agent(s) and all legal fees and expenses on a solicitor and his own client full indemnity basis.

#### ARTICLE 6. EXISTING SECURITY

- 6.1 The Security and all covenants, provisos, powers, matters and things contained therein shall continue in full force and effect except as altered by this Agreement and that the Security shall be read and construed as though the above provisions had been inserted therein, mutatis mutandis.
- 6.2 This Agreement shall not be or constitute an accord and satisfaction between the Borrower and the Lender with respect to the Loan and the Security shall in no way be discharged, released or prejudiced by this Agreement and shall in no way be affected by this Agreement, save to the extent that the payment or other terms are herein expressly modified.
- 6.3 The amendments herein provided for shall not create or operate as a merger of or alter or prejudice the rights of the Lender in respect of the Security, except as expressly set out herein.
- 6.4 This Agreement is intended to be and shall operate as and constitute an amending agreement and not a novation of the Security. Without limiting the generality of the preceding, nothing in this Agreement shall be or constitute or operate as a release or waiver of any personal covenants contained in the Security, or a release or discharge of any other surety of or for the Loan.
- 6.5 The Guarantors, by their signatures below, hereby acknowledge and reaffirm all of their obligations and undertakings under the Guaranty and all other security granted in support of the Loan Agreement and acknowledge and agree that subsequent to, and after taking account of the provisions of this Agreement, the documents are and shall remain in full force and effect in accordance with the terms thereof.

#### ARTICLE 7. MISCELLANEOUS PROVISIONS

- 7.1 This Agreement shall be construed and enforced in accordance with the laws of the Province of Alberta.
- 7.2 Time shall be of the essence in respect of all matters provided for in this Agreement.
- 7.3 The Indebted Parties covenant and agree from time to time, at the request of the Lender or the Lender's solicitors, to make, do, execute and deliver or cause to be made, done, executed and delivered all such further and other lawful acts, deeds, things, documents and assurances of whatsoever nature and kind either before or after the completion of the transactions contemplated herein for the better performance of the terms and conditions of this Agreement.

- 7.4 This Agreement may not be altered or amended in any fashion, without such alterations or changes being reduced in writing and signed by all of the parties hereto.
- 7.5 Any condonation, excusing, overlooking or waiver by the Lender of any default, breach or non-observance of any of the terms as set forth herein, or in respect of any of the Existing Security, shall not constitute a waiver by the Lender of its rights under this Agreement or the Existing Security in respect of any continuing or subsequent default, breach or non-performance (as the case may be), so as to defeat in any way the rights of the Lender pursuant to this Agreement or the Existing Security.
- 7.6 The rights conferred upon the Lender under this Agreement are intended to be exclusive of any other rights available to the Lender, and any such rights shall be cumulative and shall be in addition to every other right either given hereunder, or available to the Lender either pursuant to the Security, or now or hereafter existing by law or in equity or otherwise.
- 7.7 It is understood and agreed that the provisions hereof shall not merge upon the execution, registration or enforcement of this Agreement or any one or more of the Security, including the entry of any judgment or order in favour of the Lender.
- 7.8 Any provision hereof which is prohibited or unenforceable in any jurisdiction shall be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof.
- 7.9 This Agreement shall be binding upon and enure to the benefit of the undersigned and their respective successors and assigns.
- 7.10 This Agreement may be executed and delivered in counterpart and delivered by facsimile or PDF electronic transmission, each of which will be deemed to be an original and such counterparts together will be deemed to constitute one and the same instrument. Any of the documents to be delivered and tendered pursuant to this Agreement (save and except to the extent that original signed documents are required for registration purposes) may be executed in counterpart and delivered and accepted by facsimile or PDF electronic transmission.

Remainder of Page Intentionally Left Blank

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first written above.

SCREO I 700 2ND INC.

By: 

Name: Ramsey Ali

Title: Authorized Signing officer

By: 

Name: Lisa Rowe

Title: Authorized Signing officer

58508 ALBERTA LTD.

By: 

Name: Ramsey Ali

Title: Authorized Signing officer

By: 

Name: Lisa Rowe

Title: Authorized Signing officer

SLATE CANADIAN REAL ESTATE  
OPPORTUNITY FUND I L.P. by its general partner  
SLATE CANADIAN OPPORTUNITY FUND GP  
INC.



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

Name: Ramsey Ali

Title: Authorized Signing Officer



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

Name: Lisa Rowe

Title: Authorized Signing Officer

**TIMBERCREEK MORTGAGE SERVICING INC.**

By: Patrick Smith

Name: Patrick Smith

Title: Managing Director, Credit

By: Scott Rowland

Name: Scott Rowland

Title: Vice-President

Schedule A

Properties

Stephen Avenue Place – 700 2<sup>nd</sup> Street SW, Calgary, AB

1. PLAN 7410276  
BLOCK 49  
LOT 41  
EXCEPTING THEREOUT ALL MINES AND MINERALS  
AREA: 0.458 HECTARES (1.13 ACRES) MORE OR LESS
  
2. PLAN "A" CALGARY  
BLOCK FORTY NINE (49)  
LOT THIRTY (30)  
EXCEPTING THE EASTERLY EIGHT AND ONE HALF (8 1/2) INCHES  
THROUGHOUT OF SAID LOT
  
3. PLAN "A" CALGARY  
BLOCK FORTY NINE (49)  
LOT TWENTY NINE (29) AND THE MOST EASTERLY EIGHT AND ONE  
HALF (8 1/2) INCHES OF LOT THIRTY (30)
  
4. PLAN "A" CALGARY  
BLOCK FORTY NINE (49)  
THOSE PORTIONS OF LOTS NINE (9), TEN (10) AND ELEVEN (11) WHICH  
LIE ABOVE A HORIZONTAL PLANE HAVING AN ELEVATION OF THREE  
THOUSAND FOUR HUNDRED AND FORTY ONE AND FIVE TENTHS  
(3441.5) FEET ABOVE MEAN SEA LEVEL AND DETERMINED BY  
REFERENCE TO ALBERTA SURVEY CONTROL MONUMENT NO. 655-  
4.181 HAVING AN ELEVATION OF THREE THOUSAND FOUR HUNDRED  
AND THIRTY SEVEN AND FIFTY SEVEN HUNDREDTHS (3437.57) FEET  
CONFIRMED ON THE 15 DAY OF OCTOBER 1970 BY THE DIRECTOR OF  
SURVEYS OF THE PROVINCE OF ALBERTA BOUNDED AS FOLLOWS:  
COMMENCING AT A POINT IN THE NORTH BOUNDARY OF LOT NINE (9)  
DISTANT FIFTEEN (15) FEET EASTERLY FROM THE NORTH WEST  
CORNER OF THE SAID LOT NINE (9) THENCE SOUTHERLY PARALLEL  
WITH THE WEST BOUNDARY OF THE SAID LOT NINE (9) ON AN  
ASSUMED BEARING OF SOUTH TWO (2) DEGREES THIRTY SEVEN (37)  
MINUTES THIRTY (30) SECONDS WEST A DISTANCE OF ONE HUNDRED  
THIRTY AND SIX HUNDREDTHS (130.06) FEET MORE OR LESS TO THE  
SOUTH BOUNDARY OF SAID LOT NINE (9) THENCE EASTERLY ALONG  
THE SOUTH BOUNDARY OF LOTS NINE (9) TEN (10) AND ELEVEN (11)

ON A BEARING OF SOUTH EIGHTY SEVEN (87) DEGREES TWENTY ONE (21) MINUTES FIVE (5) SECONDS EAST A DISTANCE OF FORTY AND FOURTEEN HUNDREDTHS (40.14) FEET THENCE ON A BEARING OF NORTH TWO (2) DEGREES THIRTY NINE (39) MINUTES THIRTY FIVE (35) SECONDS EAST A DISTANCE OF THIRTY SEVEN AND FIFTY THREE HUNDREDTHS (37.53) FEET THENCE ON A BEARING OF NORTH EIGHTY SEVEN (87) DEGREES TWENTY (20) MINUTES TWENTY FIVE (25) SECONDS WEST, A DISTANCE OF FOURTEEN AND FORTY SIX HUNDREDTHS (14.46) FEET, THENCE ON A BEARING OF NORTH TWO (2) DEGREES THIRTY NINE (39) MINUTES THIRTY FIVE (35) SECONDS EAST A DISTANCE OF EIGHTEEN AND TWENTY SEVEN HUNDREDTHS (18.27) FEET THENCE ON A BEARING OF SOUTH EIGHTY SEVEN (87) DEGREES TWENTY (20) MINUTES TWENTY FIVE SECONDS EAST A DISTANCE OF FOURTEEN AND FORTY SIX HUNDREDTHS (14.46) FEET, THENCE ON A BEARING OF NORTH TWO (2) DEGREES THIRTY NINE (39) MINUTES THIRTY FIVE (35) SECONDS EAST A DISTANCE OF THIRTY FIVE AND FORTY TWO HUNDREDTHS (35.42) FEET, THENCE ON A BEARING OF NORTH EIGHTY SEVEN (87) DEGREES TWENTY (20) MINUTES TWENTY FIVE (25) SECONDS WEST A DISTANCE OF NINE AND NINETY ONE ONE HUNDREDTHS (9.91) FEET, THENCE ON A BEARING OF NORTH TWO (2) DEGREES THIRTY NINE (39) MINUTES THIRTY FIVE (35) SECONDS EAST A DISTANCE OF NINETEEN AND SIXTY SEVEN HUNDREDTHS (19.67) FEET, THENCE ON A BEARING OF SOUTH EIGHTY SEVEN (87) DEGREES TWENTY (20) MINUTES TWENTY FIVE (25) SECONDS EAST A DISTANCE OF NINE AND NINETY ONE ONE HUNDREDTHS (9.91) FEET, THENCE ON A BEARING OF NORTH TWO (2) DEGREES THIRTY NINE (39) MINUTES THIRTY FIVE (35) SECONDS EAST A DISTANCE OF NINETEEN AND SEVENTEEN HUNDREDTHS (19.17) FEET MORE OR LESS TO THE NORTH BOUNDARY OF LOT ELEVEN (11) THENCE WESTERLY ALONG THE NORTH BOUNDARY OF LOTS NINE (9), TEN (10) AND ELEVEN (11) ON A BEARING OF NORTH EIGHTY SEVEN (87) DEGREES TWENTY ONE (21) MINUTES TWENTY (20) SECONDS WEST A DISTANCE OF FORTY AND TWENTY TWO HUNDREDTHS (40.22) FEET MORE OR LESS TO THE POINT OF COMMENCEMENT CONTAINING FOUR THOUSAND SEVEN HUNDRED AND SIXTY SEVEN AND TWO ONE HUNDREDTHS (4767.2) SQUARE FEET MORE OR LESS  
EXCEPTING THEREOUT ALL MINES AND MINERALS

ESTATE: LEASEHOLD

COMMENCING ON THE 14 DAY OF JANUARY, 1975

TERMINATING ON THE 30 DAY OF APRIL, 2042

771087159

Schedule B

Statement of Debt

# BORROWER STATEMENT OF ACCOUNT

LOAN NO.	18-67
STATEMENT DATE	August 23, 2023

<b>BORROWER</b>
SCREO 1 700 2nd Inc. & 58508 Alberta Ltd.
Suite 200, 121 King Street West
Toronto, ON
CA

STATEMENT SUMMARY	
Statement Period	2022-11-01 to 2022-12-01
Principal Balance	\$132,631,090.00
Term	12
Interest Rate	10.00000%
Maturity Date	December 1, 2022

<b>Property (Primary)</b>
700 - 2nd Street Southwest
Calgary, AB
CA

Please advise us immediately of any discrepancies in the transactions or investment activity on your statement of account or if you contemplate changing your address. When making inquiries by telephone or in writing please give your account number. We urge you to keep this statement with your investment records.

<b>RESERVE BALANCES</b>
Balance

INTEREST ACTIVITY			
Transaction		Transaction	Interest Paid
Date	Type		
2022-11-01	COLLECTION	\$	919,207.13
2022-12-01	COLLECTION	\$	967,101.70
		\$	1,886,308.83

PRINCIPAL ACTIVITY			
Transaction Date	Transaction Type	Principal Amount	Principal Balance
2022-12-01			\$ 132,631,090.00

E. & O.E

### Schedule "C"

#### Municipal Address

Capital Point – Tower 3: 5945 Kathleen Avenue, Burnaby, BC V5H 4L5  
Capital Point – Tower 1: 4300-4330 Kingsway, Burnaby BC V5H 4G7  
Dixie Outlet Mall: 1250 South Service Road, Mississauga, Ontario L5E 1V2

#### Legal Descriptions

Capital Point – Tower 3 and Capital Point – Tower 1:

PID 031-357-881, being Lot 1 District Lot 153 Group 1 New Westminster District Plan EPP107270

Dixie Outlet Mall:

PIN 13480-0546 (LT): PART LOT 6 CONCESSION 2 SOUTH DUNDAS ST (TOWNSHIP OF TORONTO) & PART BLOCKS A & B PLAN 305 AS IN RO854869 EXCEPT PARTS 1 & 2 PLAN 43R20591, PARTS 1, 2 & 3 EXPROPRIATION PLAN PR3431305 AND PARTS 1 TO 9 EXPROPRIATION PLAN PR3431900; T/W TT133286; S/T RO789903, RO799179, RO969553, RO969556, TT109061, TT150694; CITY OF MISSISSAUGA

**Appendix E – Assignment Agreements**

## ASSIGNMENT OF PROCEEDS

Assignor: SCREO I Metrotown Inc. (the "**Registered Owner**") and SCREO I Metrotown GP INC., in its personal capacity and in its capacity as general partner of SCREO I Metrotown L.P. (the "**Beneficial Owner**")

Assignee: Computershare Trust Company Of Canada as agent, nominee and bare trustee for and on behalf of Timbercreek Mortgage Servicing Inc. (the "**Assignee**")

Property: Capital Point – Tower 3: 5945 Kathleen Avenue, Burnaby, BC V5H 4L5  
Capital Point – Tower 1: 4300-4330 Kingsway, Burnaby BC V5H 4G7  
Legal Description: PID 031-357-881, being Lot 1 District Lot 153 Group 1  
New Westminster District Plan EPP107270

RE: Assignment of Proceeds of Sale

Dated: the 11 day of July, 2023

**WHEREAS** SCREO I Gill Inc., as borrower, and Slate Canadian Real Estate Opportunity Fund I L.P. and SCREO I 700 2<sup>nd</sup> Inc., as guarantors, (collectively the "**Debtors**") and the Assignee are parties to a commitment letter dated November 9, 2018, as amended by agreements dated March 31, 2022 and December 1, 2022 (the "**December Renewal**"), and as further amended from time to time (collectively the "**Credit Agreement**");

**AND WHEREAS** as security for the Credit Agreement, the Debtors, amongst other things, mortgaged the Borrowers' interest in the lands more particularly described in Schedule "A" (the "**Mortgage**");

**AND WHEREAS** as collateral security for the repayment by the Borrowers of the loan and for the performance of the covenants of the Debtors contained in the Credit Agreement, the Mortgage and any other security instruments granted by the Debtors to the Assignee, and as a condition of the December Renewal, the Assignor has agreed to enter into this Assignment;

**NOW THEREFORE** in consideration of the covenants and agreements contained herein, the receipt and sufficiency of which is hereby acknowledged, and other good and valuable consideration, the Assignor covenants, warrants and agrees with the Assignee as follows:

1. The preamble and any schedules attached hereto are incorporated into and form a part of this Assignment.
2. Unless otherwise noted in this Assignment, all capitalized words and terms shall have the meaning given to them in the Credit Agreement.

3. As security for Loan, the Assignor does hereby absolutely pledges, mortgages, charges, assigns, transfers and sets over unto the Assignee all right, title and interest it has or may hereafter have in net sale proceeds (as defined in the December Renewal) from the sale of the Property (the "**Distributions**") as partial principal repayment of the Loan, to the extent noted within Article 5 of the December Renewal. For greater certainty, the foregoing pledges, mortgages, assignments, and transfers shall automatically terminate upon the full \$6,500,000.00 repayment described in Article 5 of the December Renewal having been made to the Lender.
4. The Assignor covenants, represents and warrants as follows:
  - a. to notify the Assignee upon any agreement for the sale of the Property being entered into and becoming unconditional, including providing a copy thereof;
  - b. the Registered Owner is the sole registered owner on title and holds the Property as bare nominee and trustee for the Beneficial Owner pursuant to the nominee agreement, a copy of which is attached hereto as Schedule "B", which is in full force and effect and remains unamended as of the date hereof. The undersigned will not amend or permit the amendment of the nominee agreement without first obtaining the written approval of the Assignee;
  - c. the Beneficial Owner is the sole beneficial owner of the Property;
  - d. it now has good right, full power and absolute authority to assign its interest in the Distributions in the manner aforesaid according to the true intent and meaning of this Assignment;
  - e. the Partnership agreements is in good standing;
  - f. it has not done nor permitted any acts to encumber the Distributions;
  - g. not to further transfer, assign, pledge or encumber the Distribution so long as this Assignment remains in force without the prior written consent of the Assignee; and
  - h. to notify the Assignee of any potential sell, transfer, mortgage, charge or other disposition or encumbrance of its legal or beneficial interest in the Property
5. The Beneficial Owner hereby irrevocably directs and authorizes the Registered Owner to execute and deliver to the Lender this Assignment and such other indemnities, certificates, acknowledgements, agreements and documents as may be required, and to otherwise perform all actions required by the Registered Owner to carry out this Assignment. The Registered Owner hereby acknowledges receipt of the foregoing direction and agrees with the Assignee to be bound by such direction.


6. This Assignment shall be continuing security to the Assignee for repayment of the facilities under the Credit Agreement and this Assignment shall not in any way suspend or affect the rights and remedies of the Assignee arising at law or in equity, nor shall it affect the rights and remedies of the Assignee, arising under any other agreement which the Assignee now has or hereafter may hold in relation to the Credit Agreement.
7. The security herein granted and herein created shall not be affected by, or affect any other security taken for the indebtedness hereby secured, or any part thereof, and any extensions that may be made to the indebtedness of the Debtors to the Assignee shall not affect the priority of this security or the validity hereof.
8. Nothing herein contained shall be deemed to have the effect of making the Assignee responsible for the collection of any Distributions. It is specifically agreed that the failure or refusal of the Assignee to make or enforce the collection of any Distributions shall not in any way prejudice the right of the Assignee to thereafter make or enforce collection thereof or in any way affect the indebtedness of the Debtors to the Assignee. The Assignee shall be liable to account only for such monies as are actually received by it by virtue of these presents, less all proper costs of collection, including legal charges.
9. The Assignor hereby covenants to do, perform, execute and deliver all acts, deeds and documents and any security as the Assignee may from time to time require to give full force and effect to the intent of this Assignment.
10. If any provision of this Assignment is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability attaches only to such portion of such provision and everything else in this Assignment continues in full force and effect.
11. The Assignor shall reimburse the Assignee on demand for all costs and expenses (including all legal fees on a solicitor and his own client full indemnity basis and expenses) incurred by the Lender or any receiver in connection with the enforcement of this Assignment.
12. This Assignment shall enure to the benefit of the Assignee, its successors and assigns and shall be binding upon the Assignor and its successors and assigns.
13. This Assignment shall be governed by, and construed and interpreted in accordance with, the laws of the Province of Alberta and the laws of Canada applicable therein and the Assignor hereby irrevocably attorns to the non-exclusive jurisdiction of the courts of the Province of Alberta in respect of all matters pertaining to this Assignment and Direction.
14. In the event of any discrepancy or conflict between this Assignment and the December Renewal, the terms of the December Renewal shall apply and take precedence.
15. This Assignment and Direction may be executed in several counterparts, and may be delivered by facsimile or by electronic mail in Portable Document Format (PDF), each of which, when so executed, shall be deemed to be an original, and such counterparts

together shall constitute one and same instrument and, notwithstanding the date of execution, shall be deemed to bear date as of the date written in the beginning of this Assignment and Direction.


**[signature page follows]**

**IN WITNESS WHEREOF** this Assignment has been executed as of the date first written above.


**SCREO I METROTOWN INC.**

Per:   
Name: Ramsey Ali  
Title: Authorized Signing Officer

**SCREO I METROTOWN GP INC.**

Per:   
Name: Ramsey Ali  
Title: Authorized Signing Officer

**SCREO I METROTOWN L.P. BY ITS  
GENERAL PARTNER, SCREO I  
METROTOWN GP INC.**

Per:   
Name: Ramsey Ali  
Title: Authorized Signing Officer

**Schedule "A"**  
**Lands**

1. offre Place – 708 11th Avenue Southwest, Calgary, AB

PLAN A1  
BLOCK 67  
LOTS 21 TO 28 INCLUSIVE  
EXCEPTING FIRSTLY OUT OF LOT 28 THE WEST 0.12 METRES  
EXCEPTING SECONDLY AS TO SUFACE ONLY THAT PORTION FOR STREET  
WIDENING ON PLAN 8010836

2. Life Plaza - 734 - 7th Avenue Southwest, Calgary, AB

PLAN A1  
BLOCK 33  
THE WEST 4 INCHES OF LOT 33 AND ALL OF LOTS 34 TO 40 INCLUSIVE  
EXCEPTING THEREOUT A PORTION AS TO SURFACE ONLY FOR ROAD  
WIDENING  
ON PLAN 8311721

**Schedule "B"**

## ASSIGNMENT OF PROCEEDS

Assignor: SCREO I Metrotown Inc. (the "**Registered Owner**") and SCREO I Metrotown GP INC., in its personal capacity and in its capacity as general partner of SCREO I Metrotown L.P. (the "**Beneficial Owner**")

Assignee: Computershare Trust Company Of Canada as agent, nominee and bare trustee for and on behalf of Timbercreek Mortgage Servicing Inc. (the "**Assignee**")

Property: Capital Point – Tower 3: 5945 Kathleen Avenue, Burnaby, BC V5H 4L5  
Capital Point – Tower 1: 4300-4330 Kingsway, Burnaby BC V5H 4G7  
Legal Description: PID 031-357-881, being Lot 1 District Lot 153 Group 1  
New Westminster District Plan EPP107270

RE: Assignment of Proceeds of Sale

Dated: the 11th day of July, 2023

**WHEREAS** SCREO I 700 2nd Inc. and 58508 Alberta Ltd., as borrowers, and Slate Canadian Real Estate Opportunity Fund I L.P., as guarantor, (collectively the "**Debtors**") and the Assignee are parties to a commitment letter dated November 27, 2018, as amended by agreements dated February 19, 2019, March 31, 2022 and December 1, 2022 (the "**December Renewal**"), and as further amended from time to time (collectively the "**Credit Agreement**");

**AND WHEREAS** as security for the Credit Agreement, the Debtors, amongst other things, mortgaged the Borrowers' interest in the lands more particularly described in Schedule "A" (the "**Mortgage**");

**AND WHEREAS** as collateral security for the repayment by the Borrowers of the loan and for the performance of the covenants of the Debtors contained in the Credit Agreement, the Mortgage and any other security instruments granted by the Debtors to the Assignee, and as a condition of the December Renewal, the Assignor has agreed to enter into this Assignment;

**NOW THEREFORE** in consideration of the covenants and agreements contained herein, the receipt and sufficiency of which is hereby acknowledged, and other good and valuable consideration, the Assignor covenants, warrants and agrees with the Assignee as follows:

1. The preamble and any schedules attached hereto are incorporated into and form a part of this Assignment.
2. Unless otherwise noted in this Assignment, all capitalized words and terms shall have the meaning given to them in the Credit Agreement.

3. As security for Loan, the Assignor does hereby absolutely pledges, mortgages, charges, assigns, transfers and sets over unto the Assignee all right, title and interest it has or may hereafter have in net sale proceeds (as defined in the December Renewal) from the sale of the Property (the "**Distributions**") as partial principal repayment of the Loan, to the extent noted within Article 4 of the December Renewal. For greater certainty, the foregoing pledges, mortgages, assignments, and transfers shall automatically terminate upon the full \$30,000,000.00 repayment described in Article 4 of the December Renewal having been made to the Lender.
4. The Assignor covenants, represents and warrants as follows:
  - a. to notify the Assignee upon any agreement for the sale of the Property being entered into and becoming unconditional, including providing a copy thereof;
  - b. the Registered Owner is the sole registered owner on title and holds the Property as bare nominee and trustee for the Beneficial Owner pursuant to the nominee agreement, a copy of which is attached hereto as Schedule "B", which is in full force and effect and remains unamended as of the date hereof. The undersigned will not amend or permit the amendment of the nominee agreement without first obtaining the written approval of the Assignee;
  - c. the Beneficial Owner is the sole beneficial owner of the Property;
  - d. it now has good right, full power and absolute authority to assign its interest in the Distributions in the manner aforesaid according to the true intent and meaning of this Assignment;
  - e. the Partnership agreements is in good standing;
  - f. it has not done nor permitted any acts to encumber the Distributions;
  - g. not to further transfer, assign, pledge or encumber the Distribution so long as this Assignment remains in force without the prior written consent of the Assignee; and
  - h. to notify the Assignee of any potential sell, transfer, mortgage, charge or other disposition or encumbrance of its legal or beneficial interest in the Property.
5. The Beneficial Owner hereby irrevocably directs and authorizes the Registered Owner to execute and deliver to the Lender this Assignment and such other indemnities, certificates, acknowledgements, agreements and documents as may be required, and to otherwise perform all actions required by the Registered Owner to carry out this Assignment. The Registered Owner hereby acknowledges receipt of the foregoing direction and agrees with the Assignee to be bound by such direction.

6. This Assignment shall be continuing security to the Assignee for repayment of the facilities under the Credit Agreement and this Assignment shall not in any way suspend or affect the rights and remedies of the Assignee arising at law or in equity, nor shall it affect the rights and remedies of the Assignee, arising under any other agreement which the Assignee now has or hereafter may hold in relation to the Credit Agreement.
7. The security herein granted and herein created shall not be affected by, or affect any other security taken for the indebtedness hereby secured, or any part thereof, and any extensions that may be made to the indebtedness of the Debtors to the Assignee shall not affect the priority of this security or the validity hereof.
8. Nothing herein contained shall be deemed to have the effect of making the Assignee responsible for the collection of any Distributions. It is specifically agreed that the failure or refusal of the Assignee to make or enforce the collection of any Distributions shall not in any way prejudice the right of the Assignee to thereafter make or enforce collection thereof or in any way affect the indebtedness of the Debtors to the Assignee. The Assignee shall be liable to account only for such monies as are actually received by it by virtue of these presents, less all proper costs of collection, including legal charges.
9. The Assignor hereby covenants to do, perform, execute and deliver all acts, deeds and documents and any security as the Assignee may from time to time require to give full force and effect to the intent of this Assignment.
10. If any provision of this Assignment is determined to be invalid or unenforceable in whole or in part, such invalidity or unenforceability attaches only to such portion of such provision and everything else in this Assignment continues in full force and effect.
11. The Assignor shall reimburse the Assignee on demand for all costs and expenses (including all legal fees on a solicitor and his own client full indemnity basis and expenses) incurred by the Lender or any receiver in connection with the enforcement of this Assignment.
12. This Assignment shall enure to the benefit of the Assignee, its successors and assigns and shall be binding upon the Assignor and its successors and assigns.
13. This Assignment shall be governed by, and construed and interpreted in accordance with, the laws of the Province of Alberta and the laws of Canada applicable therein and the Assignor hereby irrevocably attorns to the non-exclusive jurisdiction of the courts of the Province of Alberta in respect of all matters pertaining to this Assignment and Direction.
14. In the event of any discrepancy or conflict between this Assignment and the December Renewal, the terms of the December Renewal shall apply and take precedence.
15. This Assignment and Direction may be executed in several counterparts, and may be delivered by facsimile or by electronic mail in Portable Document Format (PDF), each of which, when so executed, shall be deemed to be an original, and such counterparts

together shall constitute one and same instrument and, notwithstanding the date of execution, shall be deemed to bear date as of the date written in the beginning of this Assignment and Direction.

**[signature page follows]**

IN WITNESS WHEREOF this Assignment has been executed as of the date first written above.

**SCREO I METROTOWN INC.**

Per: \_\_\_\_\_

**SCREO I METROTOWN GP INC.**

Per: \_\_\_\_\_

**SCREO I METROTOWN L.P. BY ITS GENERAL PARTNER,  
SCREO I METROTOWN GP INC.**

Per: \_\_\_\_\_

**Schedule "A"**  
**Lands**

Firstly

PLAN 'A' CALGARY

BLOCK FORTY NINE (49)

THOSE PORTIONS OF LOTS NINE (9), TEN (10) AND ELEVEN (11) WHICH LIE ABOVE A HORIZONTAL PLANE HAVING AN ELEVATION OF THREE THOUSAND FOUR HUNDRED AND FORTY ONE AND FIVE TENTHS (3441.5) FEET ABOVE MEAN SEA LEVEL AND DETERMINED BY REFERENCE TO ALBERTA SURVEY CONTROL MONUMENT NO. 655-4.181 HAVING AN ELEVATION OF THREE THOUSAND FOUR HUNDRED AND THIRTY SEVEN AND FIFTY SEVEN HUNDREDTHS (3437.57) FEET CONFIRMED ON THE 15 DAY OF OCTOBER 1970 BY THE DIRECTOR OF SURVEYS OF THE PROVINCE OF ALBERTA BOUNDED AS FOLLOWS: COMMENCING AT A POINT IN THE NORTH BOUNDARY OF LOT NINE (9) DISTANT FIFTEEN (15) FEET EASTERLY FROM THE NORTH WEST CORNER OF THE SAID LOT NINE (9) THENCE SOUTHERLY PARALLEL WITH THE WEST BOUNDARY OF THE SAID LOT NINE (9) ON AN ASSUMED BEARING OF SOUTH TWO (2) DEGREES THIRTY SEVEN (37) MINUTES THIRTY (30) SECONDS WEST A DISTANCE OF ONE HUNDRED THIRTY AND SIX HUNDREDTHS (130.06) FEET MORE OR LESS TO THE SOUTH BOUNDARY OF SAID LOT NINE (9) THENCE EASTERLY ALONG THE SOUTH BOUNDARY OF LOTS NINE (9) TEN (10) AND ELEVEN (11) ON A BEARING OF SOUTH EIGHTY SEVEN (87) DEGREES TWENTY ONE (21) MINUTES FIVE (5) SECONDS EAST A DISTANCE OF FORTY AND FOURTEEN HUNDREDTHS (40.14) FEET THENCE ON A BEARING OF NORTH TWO (2) DEGREES THIRTY NINE (39) MINUTES THIRTY FIVE (35) SECONDS EAST A DISTANCE OF THIRTY SEVEN AND FIFTY THREE HUNDREDTHS (37.53) FEET THENCE ON A BEARING OF NORTH EIGHTY SEVEN (87) DEGREES TWENTY (20) MINUTES TWENTY FIVE (25) SECONDS WEST, A DISTANCE OF FOURTEEN AND FORTY SIX HUNDREDTHS (14.46) FEET, THENCE ON A BEARING OF NORTH TWO (2) DEGREES THIRTY NINE (39) MINUTES THIRTY FIVE (35) SECONDS EAST A DISTANCE OF EIGHTEEN AND TWENTY SEVEN HUNDREDTHS (18.27) FEET THENCE ON A BEARING OF SOUTH EIGHTY SEVEN (87) DEGREES TWENTY (20) MINUTES TWENTY FIVE (25) SECONDS EAST A DISTANCE OF FOURTEEN AND FORTY SIX HUNDREDTHS (14.46) FEET, THENCE ON A BEARING OF NORTH TWO (2) DEGREES THIRTY NINE (39) MINUTES THIRTY FIVE (35) SECONDS EAST A DISTANCE OF THIRTY FIVE AND FORTY TWO HUNDREDTHS (35.42) FEET, THENCE ON A BEARING OF NORTH EIGHTY SEVEN (87) DEGREES TWENTY (20) MINUTES TWENTY FIVE (25) SECONDS WEST A DISTANCE OF NINE AND NINETY ONE ONE HUNDREDTHS (9.91) FEET, THENCE ON A BEARING OF NORTH TWO (2) DEGREES THIRTY NINE (39) MINUTES THIRTY FIVE (35) SECONDS EAST A DISTANCE OF NINETEEN AND SIXTY SEVEN HUNDREDTHS (19.67) FEET, THENCE ON A BEARING OF SOUTH EIGHTY SEVEN (87) DEGREES TWENTY (20) MINUTES TWENTY FIVE (25) SECONDS EAST A DISTANCE OF NINE AND NINETY ONE ONE HUNDREDTHS (9.91) FEET, THENCE ON A BEARING OF NORTH TWO (2) DEGREES THIRTY NINE (39) MINUTES THIRTY FIVE (35) SECONDS EAST A DISTANCE OF NINETEEN AND SEVENTEEN HUNDREDTHS (19.17) FEET MORE OR LESS TO THE NORTH BOUNDARY OF LOT ELEVEN (11) THENCE WESTERLY ALONG THE NORTH BOUNDARY OF LOTS NINE (9), TEN (10) AND ELEVEN (11) ON A BEARING OF NORTH EIGHTY SEVEN (87) DEGREES TWENTY ONE (21) MINUTES TWENTY (20) SECONDS WEST A DISTANCE OF FORTY AND TWENTY TWO HUNDREDTHS (40.22) FEET MORE OR LESS TO THE POINT OF COMMENCEMENT CONTAINING FOUR THOUSAND SEVEN HUNDRED AND SIXTY SEVEN AND TWO ONE HUNDREDTHS (4767.2) SQUARE FEET MORE OR LESS

EXCEPTING THEREOUT ALL MINES AND MINERALS

ESTATE: LEASEHOLD

COMMENCING ON THE 14 DAY OF JANUARY, 1975

TERMINATING ON THE 30 DAY OF APRIL , 2042

771087159

Secondly

PLAN "A" CALGARY  
BLOCK FORTY NINE (49)  
LOT TWENTY NINE (29) AND THE MOST EASTERLY EIGHT AND ONE HALF (8 1/2)  
INCHES OF LOT THIRTY (30)

Thirdly

PLAN "A" CALGARY  
BLOCK FORTY NINE (49)  
LOT THIRTY (30)  
EXCEPTING THE EASTERLY EIGHT AND ONE HALF (8 1/2) INCHES THROUGHOUT OF SAID LOT

Fourthly

PLAN 7410276  
BLOCK 49  
LOT 41  
EXCEPTING THEREOUT ALL MINES AND MINERALS  
AREA: 0.458 HECTARES (1.13 ACRES) MORE OR LESS



This is Exhibit "E" referred to in the affidavit  
of LORENA NORAIAS  
sworn before me at Vancouver, BC this  
2nd day of JUNE 2025

214

  
A Commissioner for taking Affidavits for  
British Columbia

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**

**NOTICE OF APPLICATION**

**Name of applicant:** Alvarez & Marsal Canada Inc., in its capacity as court appointed 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. and SCREO I Metrotown L.P. (in that capacity, the "Receiver" or the "Applicant")

**To:** THE SERVICE LIST

TAKE NOTICE that an application will be made by the Applicant to the Honourable Justice Stephens at the courthouse at 800 Smithe Street, Vancouver, British Columbia on March 12, 2025, at 10:00 a.m. for the orders set out in Part 1 below.

The Applicant estimates that the application will take one day.

- ☐ This matter is within the jurisdiction of an associate judge.  
☒ This matter is not within the jurisdiction of an associate judge.

**PART 1 ORDERS SOUGHT**

1. Directions in the form of a determination of some or all of the following issues, to allow the Receiver to proceed with distribution of the Proceeds from the sale of the Real Property (as defined below):

- (a) Does Timbercreek have a valid, enforceable and perfected security interest in the Proceeds, pursuant to the provisions of the PPSA?
  - (b) Would Timbercreek be a "secured creditor" within the meaning of the BIA, such that its claim is entitled to priority pursuant to section 136(1) of the BIA?
  - (c) Which regime should govern distribution of the Sale Proceeds in this case: the provincial regime prescribed by the PPSA, or the federal regime prescribed by the BIA?
2. A charge on the assets of the Debtors to secure the Trustee's fees and disbursements (including fees and disbursements of counsel) in connection with its administration of a bankruptcy, if (and only if) the Court directs the Receiver to assign the Debtors into bankruptcy; and
  3. Such further orders as counsel for the Applicant may advise and this Court may deem appropriate in the circumstances.

## PART 2 FACTUAL BASIS

### Background

4. These proceedings (the "**Receivership Proceedings**") commenced on July 8, 2024 when this Court granted an order (the "**Receiver Order**") pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, C. B-3, as amended, ("**BIA**") and the Law and Equity Act, R.S.C. 1996, C. 253, appointing the Receiver over 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. ("**SCREO Metrotown**") and SCREO I Metrotown L.P. ("**SCREO Metrotown LP**" and together with SCREO Metrotown, the **Debtors**"), including the real property with the following municipal address and legal description:
  - (a) Municipal address: 4330 Kingsway Avenue and 5945 Kathleen Avenue, Burnaby, British Columbia; and
  - (b) Legal Description: PID 031-357-881, Lot 1 District Lot 153 Group 1 New Westminster District Plan EPP107270

(the "**Real Property**").
5. The Debtors are special purpose vehicles affiliated with Slate Canadian Real Estate Opportunity Fund I L.P. ("**Slate CREO Fund**"). The Debtors were formed to acquire and develop the Real Property, which consists of two vacant office towers. The Debtors have no other business activity apart from their ownership and development of the Real Property.

6. The Petitioners are the primary secured creditors of the Debtors, and held a first-ranking security interest in the personal property of the Debtors and a mortgage over the Real Property when the Receivership Proceedings commenced.

#### **Sale of Property**

7. On November 7, 2024, this Court granted an order (the "**Approval and Vesting Order**") which, among other things:
  - (a) approved the sale of the Real Property to the City of Burnaby (the "**Transaction**");
  - (b) empowered and authorized the Receiver to assign the Debtors into bankruptcy;
  - (c) authorized the Receiver or its legal counsel, Dentons Canada LLP ("**Dentons**"), to repay all indebtedness owing to the Petitioners from the proceeds of the Transaction;
  - (d) authorized the Receiver or Dentons to pay the real estate broker's commission upon the closing of the Transaction; and
  - (e) approved the statement of receipts and disbursements and the activities of the Receiver as set out in the First Report of the Receiver dated October 30, 2024 (the "**First Report**").
8. The Transaction closed on November 22, 2024, and the Receiver's Certificate was filed with this Court on November 25, 2024.
9. The proceeds from the Transaction (the "**Proceeds**") were sufficient to repay the Debtors' outstanding indebtedness owing to the Petitioners and the Receiver's borrowings in full.
10. After repaying the Petitioners using the Proceeds, there is approximately \$11,400,000.00 in Proceeds remaining that are being held in trust by the Receiver.
11. Although the Receiver was empowered and authorized to assign the Debtors into bankruptcy, for the reasons set out below, it has not yet taken that step.

#### **Timbercreek Claim**

12. As is noted in the First Report, prior to closing the Transaction, the Receiver was aware of a financing statement registered against the Debtors filed in favour of Computershare Trust Company of Canada, in its capacity as agent, nominee and bare trustee for Timbercreek. Such registration is registered in the British Columbia Personal Property Registry ("**BC PPR**") as of September 1, 2023 under base registration no. 765423P (the "**Timbercreek Registration**").

13. To the best of the Receiver's knowledge, the Timbercreek Registration relates to the following two loan agreements:
  - (a) A loan agreement (the "**Gill Loan**") between Timbercreek (as lender) and SCREO I Gill Inc. ("**Gill**") as debtor, with maximum facility amount of \$30.2 million, to facilitate the acquisition of two towers (Joffre Place and Life Plaza) located in Calgary, Alberta; and
  - (b) A loan agreement (the "**SCREO 700 Loan**") between Timbercreek (as lender) SCREO I 700 2nd Inc. ("**SCREO 700**") and 58508 Alberta Ltd. ("**585**"), as debtors, with the aggregate maximum facility amount of \$161.3 million, in relation to the equity take-out and repositioning of certain office towers (Stephen Avenue Place) located in Calgary, Alberta.
14. There were two separate extension agreements entered into on or about December 1, 2022 for each of the Gill Loan and the SCREO 700 Loan, respectively, (the "**Gill Extension**" and the "**SCREO 700 Extension**").
15. Pursuant to the Gill Extension, Slate CREO Fund, Gill, and SCREO 700 (the "**Gill Indebted Parties**") agreed to, among other things, make certain payments of its obligations under the Gill Loan including up to the greater of i.) \$2,000,000 from the net sale proceeds of the Real Property or ii.) 10% of the net sales proceeds of the Real Property, up to a maximum of \$6,500,000 (in aggregate when combined with the assignment of net sale proceeds of the Dixie Outlet Mall, a shopping mall located in Mississauga, ON (the "**Dixie Mall**") and other repayments made from and after December 1, 2022).
16. Pursuant to the SCREO 700 Extension, Slate CREO Fund, SCREO 700, and 585 (the "**SCREO 700 Indebted Parties**") agreed to, among other things, make certain payments of its obligations, including up to the greater of i.) \$15,000,000 from the net sale proceeds of the Real Property or; ii.) 25% of the net sale proceeds of the sale of the Real Property, subject to a maximum of \$30,000,000 (in aggregate when combined with the assignment of net sale proceeds of the Dixie Mall and other repayments made from and after December 1, 2022).
17. The Debtors are not parties to any of the Gill Loan, SCREO 700 Loan, the Gill Extension, or the SCREO 700 Extension (collectively, the "**Timbercreek Agreements**"), but the Receiver also understands that the parties to the Timbercreek Agreements are affiliated with the Debtors, by virtue of the Debtors' affiliation with Slate CREO Fund.
18. The Debtors also did not grant any guarantees in favour of Timbercreek pursuant to the Timbercreek Agreements or any related agreement.

19. The Debtors only executed the following assignment of proceeds agreements (the “**Assignment Agreements**”), in relation to the Timbercreek Agreements:
- (a) Assignment of proceeds dated July 11, 2023, among the Debtors, as assignors, and Computershare Trust Company Of Canada as agent, nominee and bare trustee for and on behalf of Timbercreek, as assignee, pursuant to which the Debtors assigned the sales proceeds from the sale of the Real Property as security for the obligations of the Gill Indebted Parties pursuant to the Gill Loan and the Gill Extension (the “**Gill Assignment**”); and
  - (b) Assignment of proceeds dated July 11, 2023, among the Debtors, as assignors, and Computershare Trust Company Of Canada as agent, nominee and bare trustee for and on behalf of Timbercreek, as assignee, pursuant to which the Debtors assigned the sales proceeds from the sale of the Real Property as security for the obligations of the SCREO 700 Indebted Parties pursuant to the SCREO 700 Loan and the SCREO 700 Extension (the “**SCREO 700 Assignment**”, and together with the Gill Assignment, the “**Assignments**”).
20. In light of the amount of the Proceeds, and pursuant to the foregoing assignments, Timbercreek has a claim of up to \$17,000,000, subject to the net proceeds (if any) realized from the sale of the Dixie Mall, and any other repayments made from and after December 1, 2022 (the “**Timbercreek Claim**”).

#### **Other Claims against the Debtors**

21. In addition to the Timbercreek Claim, outlined above, and based on the Receiver's review of the Debtor's books and records, the Receiver believes that the Debtors have unsecured creditors in the amount of approximately \$9,300,000.00.
22. The largest of these claims is by the Greater Vancouver Water District (the “**GVWD**”), who has a claim in the amount of \$9,000,000 based on a Seismic Upgrade Variance Guarantee entered into as of March 12, 2019, among *inter alios*, the Debtors and GVWD.
23. However, the Receiver has not run a claims process for unsecured creditors as of yet, so the full scope of claims is currently unknown, and no claim has been adjudicated as of yet. The Receiver anticipates that process would happen in the context of a bankruptcy, if and when one is filed.

#### **Request for Directions from the Court**

24. While Timbercreek has asserted to the Receiver that the Timbercreek Claim is a secured claim in the Proceeds from the sale of the Real Property, there is some uncertainty as to the nature of the

Timbercreek Claim in the context of a bankruptcy. As such, the Receiver is seeking directions from this Honourable Court as to how to proceed with this matter.

### **PART 3 LEGAL BASIS**

25. The Receiver relies on:

- (a) Supreme Court Civil Rules, B.C. Reg. 168/2009 (the "**Rules**"), in particular Rules 8–1 and 13–1;
- (b) BIA;
- (c) The *Personal Property Security Act*, RSBC 1996 CH. 359, as amended ("**PPSA**");
- (d) the inherent and equitable jurisdiction of this Court; and
- (e) such further and other legal bases and authorities as counsel may advise and this Court may permit.

#### **The Receivership Order**

26. Pursuant to Paragraph 35 of the Receivership Order, "the Receiver may from time to time apply to this Court for advice and directions in the discharge of its powers and duties hereunder".

27. Further, pursuant to Section 243(1)(c) of the BIA, the Court has broad discretion to appoint a receiver to take any action it deems advisable in the circumstances.

**BIA, Section 243(1)(c).**

28. In addition, Section 249 of the BIA states:

A receiver may apply to the court for directions in relation to any provision of this Part, and the court shall give, in writing, such directions, if any, as it considers proper in the circumstances

**BIA, Section 249.**

29. The Receiver exercises its powers in these respects pursuant to the Receiver Order and the BIA in order to seek this Court's directions on how to address the Timbercreek Claim in the context of the Receivership Proceedings and a potential bankruptcy of the Debtors.

30. For reasons set out below, it appears Timbercreek has a valid, enforceable and perfected security interest in the Proceeds. Pursuant to the PPSA, Timbercreek's claim in the Proceeds would have priority over the claims of unsecured creditors.

31. In light of this, it is also apparent that the Debtors' are insolvent, and the Receiver has been authorized to assign the Debtors' into bankruptcy so the distribution regime prescribed by the BIA may be followed. However, because Timbercreek is not a "creditor" of the Debtors, Timbercreek is not a "secured creditor" and is therefore excluded from distribution under that regime. The result would be a distribution to the Debtors' unsecured creditors.
32. As a result, the Receiver seeks a determination on the foregoing issues, and directions on which distribution regime ought to be implemented in this case.

**Does Timbercreek have a Security Interest in the Proceeds under the PPSA?**

33. The PPSA defines a "security interest" as follows:

(a) an interest in goods, chattel paper, investment property, a document of title, an instrument, money or an intangible **that secures payment or performance of an obligation**, but does not include the interest of a seller who has shipped goods to a buyer under a negotiable bill of lading or its equivalent to the order of the seller or to the order of an agent of the seller, unless the parties have otherwise evidenced an intention to create or provide for a security interest in the goods, and; ....

**PPSA Section 1(1). (emphasis added).**

34. This definition suggests there only needs to be an obligation owing in relation to a secured claim, but does not specify the debtor from whom that obligation needs to be owing. Thus, the fact that the Debtors do not have a debt obligation owing directly to Timbercreek does not necessarily prevent Timbercreek from having a valid security interest in the Debtors' property under the PPSA.
35. A security interest is enforceable if, *inter alia*, the debtor has signed a security agreement that contains a description of the collateral by item or kind. The executed Assignments appear to satisfy this requirement.

**PPSA Section 10**

36. A security interest attaches when, *inter alia*, value is given, the debtor has rights in the collateral, and the security interest becomes enforceable in accordance with section 10 of the PPSA.

**PPSA Section 12**

37. Although the Debtors were not party to the loan extension agreements, it has been held (in the context of a guarantee) that consideration for a promise can consist of a benefit conferred on a third party. It is "sufficient if [consideration] passes from a creditor to principal debtor, and may

consist wholly of a benefit or advantage conferred by the creditor on the principal debtor as a result of the guarantor's involvement". As a result, the loan extensions appear to satisfy the requirement that "value be given" in connection with the Assignments.

***Equitable Trust v. Rose Corporation*, 2011 ONSC 4239 at Para. 58. Aff'd 2012 ONCA 44.  
*Reimer v The South Asian Post Media Inc.*, 2018 BCSC 2205, at Para 54.**

38. Notwithstanding section 4 of the Approval and Vesting Order (which deems the Proceeds to stand in place of the Purchased Assets), courts have found a security interest in proceeds will still attach upon the completion of a transaction under a vesting order. As a result, upon completion of the transaction, it appears the Debtors had "rights in the collateral" for the purposes of establishing attachment.

***Business Development Bank of Canada v.  
170 Willowdale Investments Corp.*, 2024  
ONSC 4600, para 47-49**

39. As a result, it appears Timbercreek's security interest in the proceeds "attached" upon completion of the transaction.
40. Lastly, a security interest is perfected when it has attached, and all steps for perfection under the PPSA have been completed. The Timbercreek Registration is registered in the BC PPR against the Debtors, and satisfies the requirement that "all steps for perfection" have been completed.

**PPSA Sections 19, 25**

41. As a result of the foregoing, the Receiver is of the view that Timbercreek has a valid, enforceable and perfected security interest in the Proceeds, at present or in the context of the PPSA.

**Is Timbercreek a "Secured Creditor" as defined by the BIA**

42. Notwithstanding the foregoing, Timbercreek may not qualify as a "secured creditor" pursuant to the BIA.
43. The definition of the "secured creditor" under the BIA is as follows:

secured creditor means a person holding a mortgage, hypothec, pledge, charge or lien on or against the property of the debtor or any part of that property **as security for a debt due or accruing due to the person from the debtor**, or a person whose claim is based on, or secured by, a negotiable instrument held as collateral security and on which the debtor is only indirectly or secondarily liable ...

**BIA, Section 2. (emphasis added)**

44. Under the definition of "secured creditor" in the BIA, a creditor must have a security interest in the property of the debtor for a debt due or accruing to the creditor from that debtor. In the case of the Timbercreek Claim, the debt obligation owing to Timbercreek is not owed by the Debtors, who formerly owned the Real Property. Rather, the relevant debt obligations are owed by the Gill Indebted Parties and the SCREO 700 Indebted Parties, respectively, to Timbercreek. As such, on its face, Timbercreek is not a "secured creditor" of the Debtors under the BIA.
45. The distribution scheme prescribed by the BIA is, generally speaking, as follows:
- (a) claims of secured creditors;
  - (b) claims of preferred creditors (as identified in paragraph 136(1) of the BIA); and
  - (c) claims of all other unsecured creditors (as prescribed by section 141 of the BIA).

**BIA, Sections 136(1) and 141**

46. As a result, despite potentially having a valid security interest under the PPSA, Timbercreek may not be entitled to participate in a distribution in a bankruptcy.
47. The Supreme Court of Canada holds in *Husky Oil Operations Ltd. v. Canada (Minister of National Revenue - M.N.R.)*, [1995] 3 S.C.R. 453 (*Huskey*) that while provincial legislation may affect priorities in a non-bankruptcy situation, once bankruptcy has occurred, the BIA determines the status and priority of claims.

***Huskey*, at Para 32 .**

48. The Receiver is not aware of any case law specifically interpreting a claim similar to the Timbercreek Claim in the context of a receivership or other proceeding under the BIA.
49. However, courts have interpreted the definition of "secured creditor" under the BIA in a narrow sense to disallow claims in the context of BIA proceedings.
50. For example, in *Landlord Enterprises Ltd. (Trustee of) v. Bank of Montreal*, [1984] M.J. No. 35 (*Landlord Enterprises*), the Court interprets the Section 2 definition of "Secured Creditor" under the BIA in the context of a claim which is summarized as follows:

Mr. Guay was corporate triplets. He was Landlord Enterprises Ltd. - now the bankrupt - which dealt in real property; he was also Dianer Holdings Ltd.; and through Dianer he was also one-third - two shares - of Mississauga Investments Ltd., which owned a number of properties. When the Bank of Montreal would lend no more money to Landlord against debenture security alone, Mr. Guay caused his other company, Dianer, to hypothecate to the bank its two shares of Mississauga "in consideration of advances

presently made and/or which may at any time hereafter be made to Landlord Enterprises Ltd. . .by the Bank of Montreal". These two Mississauga shares are the subject of this dispute between the trustee in Landlord's bankruptcy and the bank.

***Landlord Enterprises, at Para 1.***

51. Commenting on the application of the Section 2 definition of "secured creditor", the Court notes that "[u]nder the definition, the only security contemplated by the statute is that which is on or against the property of the debtor".

***Landlord Enterprises, at Para 4.***

52. Applying this to the claim at issue in *Landlord Enterprises*, the Court states the following:

The facts here do not fit this definition. The security was not on or against the property of the debtor. The asset pledged belonged to Mr. Guay's second company, Dianer, and consisted of shares in the third company, Mississauga. By this means the bank secured itself without becoming thereby a secured creditor within the Bankruptcy Act. The assurance which the creditor got did not expose to liability any asset of the bankrupt and can excess on realization by the creditor would accrue not to the debtor or the other creditors but to the assesor (who, in turn, might himself be entitled to join the ranks of the creditors.)

***Landlord Enterprises, at Para 5.***

53. While the claim at issue in *Landlord Enterprises* is not the same as the Timbercreek Claim, the Court dismisses the claim on the basis of it failing to satisfy a component of the definition of "secured creditor" under the BIA.
54. The Court in *New Brunswick v. Peat Marwick Thorne Inc.* 1995 CarswellNB 114 (***Peat Marwick***) also interprets the definition of "secured creditor" in the BIA for the purpose of assessing a claim made by the Province of New Brunswick in that case, and notes the following:

It is our opinion that s. 86 of the *Bankruptcy and Insolvency Act* defeats the Province's claim that the taxes imposed by s. 5(2) of the *Real Property Tax Act* are secured. We return to the definition of secured creditor contained in s. 2 of the *Bankruptcy and Insolvency Act* , which requires the person holding the lien to be the creditor of the bankrupt. Even if we characterized the tax imposed by s. 5(2) of the *Real Property Tax Act* as a municipal tax to perhaps avoid the consequences of s. 86 of the Bankruptcy and Insolvency Act , it is not the municipality, in this case the City of Fredericton, that holds a lien against the real property of Hanwell as security for a debt of Hanwell due to the City. The lien constituted by s. 11 of the *Real Property Tax Act* is in favour of the Province. In addition, the debt of Hanwell is owed to the Province and not to the City. Thus, the City

does not fall within the definition of secured creditor that is contained in s. 2 of the Bankruptcy and Insolvency Act.

***Peat Marwick, at Para 7 (emphasis added)***

### **Request for Directions**

55. The Receiver has a duty at common law to act with a view to facilitating the best preservation and realization of the Debtors' assets from the benefits of *all* creditors.

***Peace River Hydro Partners v Petrowest Corp, 2022 SCC 41, at Paras 56-58.***

56. In light of that duty, if the foregoing analysis is correct, it leaves the Receiver with an impossible decision:

- (a) distribute funds to Timbercreek now, based on its valid security interest, to the prejudice of unsecured creditors who would receive a significant distribution in a bankruptcy; or
- (b) assign the debtors into bankruptcy now, based on the authority granted to the Receiver pursuant to the Receivership Order, to the prejudice of Timbercreek who may not be entitled to participate in a distribution under the scheme prescribed by the BIA.

57. In the Receiver's view, this application is best resolved by answering the following questions:

- (a) First, does Timbercreek have a valid and enforceable security interest in the Proceeds, pursuant to the provisions of the PPSA? If not, the question of whether or not to assign the Debtors into bankruptcy becomes academic, and the Trustee should proceed with the assignment.
- (b) Second, if yes, is Timbercreek a "secured creditor" within the meaning of the BIA, such that its claim is entitled to priority pursuant to section 136(1) of the BIA? If so, the question of whether or not to assign the Debtors into bankruptcy again becomes academic, and the Trustee should instead simply proceed with distribution to Timbercreek.
- (c) Lastly, if the answer to the first two questions is "yes", which distribution regime should govern in these circumstances: the provincial regime prescribed by the PPSA (i.e. distribution to Timbercreek) or the federal regime prescribed by the BIA (i.e. assignment into bankruptcy and distribution to unsecured creditors).

**Priority Over Trustee's Fees in Bankruptcy Proceedings**

58. To the extent the Receiver is directed to assign the Debtors into bankruptcy, it seeks a charge to secure its fees and disbursements (as trustee in bankruptcy) in priority to any secured claims.
59. The Receiver submits that this Court has inherent jurisdiction to make such an order.

***Golfside Ventures Ltd (Re)*, 2023 ABKB 86 (*Golfside*) at Para 46.**

60. In *Golfside*, the Court finds that "the BIA does not exhaustively deal with the matter of priorities between secured creditors and trustees", noting the following:

We know this because other cases, for example, *Residential Warranty*, have found exceptions to the usual rule. Further, while it is true that generally trustees receive appointments and accrue fees and expenses at their peril, the BIA does not address the type of situation that arose here, namely a trustee who made inquiries about the state of the bankrupt's finances before their appointment and then, after appointment, was alerted to an additional secured claim. This is a gap in the legislation; in other words, the BIA has not exhaustively dealt with the matter of priorities between secured creditors and trustees. The interaction between the BIA and the *Builders' Lien Act* creates a silent security interest – a lien – which may unfairly disadvantage the most prudent trustee, as this case demonstrates. This situation was not foreseen by the BIA, and thus, it is appropriate for this Court to exercise its inherent jurisdiction.

***Golfside* at Para 47.**

61. As such, the Court may grant the priority charge requested by the Receiver, should it be directed to exercise its jurisdiction to assign the Debtors into bankruptcy.

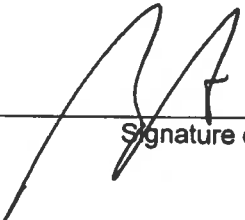
**PART 4 MATERIAL TO BE RELIED ON**

- (a) Receivership Order, entered July 8, 2024;
- (b) Approval and Vesting Order, entered November 7, 2024;
- (c) First Report of the Receiver, filed October 30, 2024;
- (d) Second Report of the Receiver, to be filed;
- (e) Affidavit #2 of Chelsea Denton, to be filed; and
- (f) Such further and other material as counsel for the Applicants may advise.

**TO THE PERSONS RECEIVING THIS NOTICE OF APPLICATION:** If you wish to respond to this Notice of Application, you must, within 5 business days after service of this Notice of Application or, if this application is brought under Rule 9-7, within 8 business days of service of this Notice of Application,

- (a) file an Application Response in Form 33,
- (b) file the original of every affidavit, and of every other document, that
  - (i) you intend to refer to at the hearing of this application, and
  - (ii) has not already been filed in the proceeding, and
- (c) serve on the applicant 2 copies of the following, and on every other party of record one copy of the following:
  - (i) a copy of the filed Application Response;
  - (ii) a copy of each of the filed affidavits and other documents that you intend to refer to at the hearing of this application and that has not already been served on that person;
  - (iii) if this application is brought under Rule 9-7, any notice that you are required to give under Rule 9-7(9).

Date: 03/March/2025

  
 \_\_\_\_\_  
 Signature of lawyer for Applicant  
 Jordan Schultz

*To be completed by the court only:*

Order made

- ☐ in the terms requested in paragraphs \_\_\_\_\_ of Part 1 of this Notice of Application
- ☐ with the following variations and additional terms:

\_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Date:

Signature of ☐ Judge ☐ Associate Judge

## APPENDIX

**THIS APPLICATION INVOLVES THE FOLLOWING:**

- ☐ discovery: comply with demand for documents
- ☐ discovery: production of additional documents
- ☐ other matters concerning document discovery
- ☐ extend oral discovery
- ☐ other matter concerning oral discovery
- ☐ amend pleadings
- ☐ add/change parties
- ☐ summary judgment
- ☐ summary trial
- ☐ service
- ☐ mediation
- ☐ adjournments
- ☐ proceedings at trial
- ☐ case plan orders: amend
- ☐ case plan orders: other
- ☐ experts
- ☒ none of the above

Lee J. Marriner

This is Exhibit "F" referred to in the affidavit  
of LORENA MORALES

**From:** SALL, JAGJIT <JAGJIT.SALL@tkelevator.com>  
**Sent:** May 30, 2025 4:04 PM  
**To:** Lee J. Marriner  
**Subject:** RE: SCREO I Metrotown Inc. and SCREO I Metrotown L.P.

sworn before me at Vancouver, BC this  
2nd day of JUNE, 2025

  
 A Commissioner for taking Affidavits for  
 British Columbia

Lee,

Yes we are still owed monies the amount is \$27,898. Due since approximately March 2024.

Jag Sall  
 District Manager, Burnaby BC

M: +1 604-369-7692 [jagjit.sall@tkelevator.com](mailto:jagjit.sall@tkelevator.com)

TK Elevator (Canada) Limited | 3657 Wayburne Dr | Burnaby, BC V5G 3L1 | Canada | [www.tkelevator.com/ca](http://www.tkelevator.com/ca)



**From:** Lee J. Marriner <lm@gdlaw.ca>  
**Sent:** May 28, 2025 4:11 PM  
**To:** SALL, JAGJIT <jagjit.sall@tkelevator.com>  
**Subject:** SCREO I Metrotown Inc. and SCREO I Metrotown L.P.

You don't often get email from [lm@gdlaw.ca](mailto:lm@gdlaw.ca). [Learn why this is important](#)

This message was sent from outside the company. Please do not click links or open attachments unless you recognize the source of this email and know the content is safe.

Mr. Sall,

We are counsel for the Greater Vancouver Water District, a creditor of SCREO I Metrotown Inc. and SCREO I Metrotown L.P., which as you may know, are in receivership (a copy of the court order can be found here: <https://www.alvarezandmarsal.com/sites/default/files/canada/2024%2007%2008%20Order%20Made%20After%20App%20lication%20%28receivership%29%28entered%29%20%2800805334xCF4F9%29.PDF>).

Our client is preparing to bring an application to bankrupt the SCREO entities. We understand from the Receiver that TK Elevator (Canada) Limited may also be a creditor. Could you let me know whether TK Elevator (Canada) Limited is still owed by the SCREO entities, and if so, how much it is owed and when that amount became due?

I can discuss any of this with you if you would prefer – my direct line is 604.633.5534.

Thank you.

Lee J. Marriner

Direct: 604.633.5534 | Email: [lm@gdlaw.ca](mailto:lm@gdlaw.ca)

Gehlen Dabbs Cash LLP  
 1201-1030 W Georgia Street  
 Vancouver, BC V6E 2Y3  
 T: 604.642.6422 | F: 604.642.6433  
 Web: [www.gdlaw.ca](http://www.gdlaw.ca)

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