

Court File No H137731

Vancouver Registry

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

**IN THE MATTER OF THE RECEIVERSHIP OF  
THE ASSETS, UNDERTAKINGS AND PROPERTIES OF  
104 INVESTMENTS LTD.**

**PURSUANT TO SECTION 243(1) OF THE  
*BANKRUPTCY AND INSOLVENCY ACT*, R.S.C. 1985, c. B-3, AS AMENDED  
AND  
SECTION 39 OF THE  
*LAW AND EQUITY ACT*, R.S.B.C. 1996 c. 253 AS AMENDED**

---

**RECEIVER'S THIRD REPORT TO COURT**

---

**MAY 7, 2024**

**IN THE MATTER OF THE RECEIVERSHIP OF  
104 INVESTMENTS LTD.**

**TABLE OF CONTENTS**

<b>I.</b>	<b>PURPOSE OF REPORT AND BACKGROUND</b> .....	<b>1</b>
<b>II.</b>	<b>RESULTS OF THE SISP</b> .....	<b>2</b>
<b>III.</b>	<b>ASSET PURCHASE AGREEMENT</b> .....	<b>4</b>
<b>IV.</b>	<b>URGENCY</b> .....	<b>5</b>
<b>V.</b>	<b>CONCLUSION AND RECOMMENDATIONS</b> .....	<b>5</b>

**APPENDICES**

<b>Appendix A</b>	COURT ORDER DATED JANUARY 9, 2024
<b>Appendix B</b>	AGREEMENT OF PURCHASE AND SALE DATED MAY 3, 2024
<b>Appendix C</b>	MARKETING REPORT BY COLLIERS DATED MAY 6, 2024

## I. PURPOSE OF REPORT AND BACKGROUND

1. MNP Ltd. was appointed the Receiver and Manager (the "Receiver") of the assets, undertaking and properties of 104 Investments Ltd. (the "Company") on October 3<sup>rd</sup>, 2023 pursuant to an Order granted by the Supreme Court of British Columbia.
2. On January 9, 2024 the Receiver obtained approval by an Order granted by the Supreme Court of British Columbia to perform a Sales and Investment Solicitation Process (the "SISP"). A copy of this Order is attached as **Appendix A**.
3. The First and Second Reports to Court prepared by the Receiver on November 22, 2023, and December 11, 2023, should be read in conjunction with this report.

### **Purpose of the Report**

4. The purpose of this report is to:
  - a. Provide this Honourable Court with the results of the SISP and the Receiver's recommendations.
  - b. To request this Honourable Court approve the Asset Purchase Agreement (the "APA") dated May 3, 2024. A copy of the APA is attached as **Appendix B**.

### **Background**

5. The Company assets consist of land and building (the "Property") located at 555 Adams Road, Kelowna, B.C.
6. The building is approximately 50 years old and is 91,000 sq ft. metal-clad warehouse situated on 7.14 acres.
7. The metal-clad warehouse is presently divided into seven distinct units of different sizes. There is ongoing work being done to stratify these units, aiming to enhance the buildings attractiveness to potential tenants and boost the lease space value.

8. Remaining work to complete the stratification is estimated at \$1 million. However, the Receiver determined that this work would not be beneficial to the value of the building.
9. Please see the Receiver's First Report to Court dated November 22, 2023, for a full analysis of whether to complete the \$1 million to stratify the building.
10. On January 9, 2024 the Receiver obtained approval from the Court to engage Colliers to perform a SISP.
11. The SISP was a 4-month process (January 15, 2024 to May 13, 2024) that had a bid deadline of April 11, 2024 and an estimated Court approval date in the week of May 13, 2024.
12. For the full details of the SISP, including the Colliers marketing plan and timeline, please see the Receiver's Second Report to Court dated December 11, 2023.

## II. RESULTS OF THE SISP

13. Colliers was engaged to perform a SISP to generate an offer to purchase the Property.
14. The sales and marketing efforts generated the following:
  - a. Over 55,000 Facebook and Instagram views.
  - b. 913 website views.
  - c. 45 confidentiality agreements signed.
  - d. 41 interested parties engaged in active discussions and viewings.

A summary of the marketing results is attached as **Appendix C**.

15. Only one interested party submitted an offer by the bid deadline of April 11, 2024 (the "SISP Offer").

16. The Receiver considered the SISP Offer to be under value as it was significantly less than the opinions of value received and detailed in the Receivers First Report to Court. The Receiver did not accept the SISP Offer.
17. In addition, the SISP Offer was not supported by Trez Capital, the first secured mortgagee, who is owed approximately \$20.4 million as of April 30, 2024 which indebtedness is secured by a mortgage and assignment of rents registered against the Property under registration numbers CA9148661 and CA9148662.
18. Subsequent to the bid deadline on May 3, 2024 an offer was received from 1479378 B.C. Ltd. ("147 Offer"), who the Receiver understands is the assignee of the second mortgage and assignment of rents registered on title to the Property. The security in favour of 1479378 B.C. Ltd ranks in priority after the security of Trez Capital.
19. The 147 Offer will result in a full payment of the amount owed to Trez Capital and any additional Priority Claims and Cure Costs, as defined in the APA, which are currently owed.
20. The Receiver is aware of Priority Claims, over and above the amount owed to Trez Capital under Mortgage CA9148661, totaling approximately \$290,000 resulting from professional fees and utility bills (\$14,000) incurred and estimated to complete the administration of the estate.
21. The Receiver is not aware of any Cure Costs owed.

### III. ASSET PURCHASE AGREEMENT

22. The 147 Offer was received on May 3, 2024 and is attached as **Appendix B**. The 147 Offer contemplates a cash payment and credit bid amount totaling approximately \$23.8 million broken down as follows:

- a. The Credit Bid Amount (\$3.1 million)
- b. The Closing Cash Payment (\$20.7 million - \$20.4 million owed under mortgage CA9148661 to Trez Capital as of April 30, 2021 plus per diem interest and \$290,000 in professional fees)

The exact amount of the Closing Cash Payment will depend upon the date the Transaction closes and the further accrued interest and professional fees owing as of that date. The above figures are present estimates for the purpose of illustration only.

23. The 147 Offer also has the following key comments including:

- a. Closing shall occur on a Business Day on a day agreed to by the Purchaser and Vendor that is within 5 Business Days after the Vesting Order has been granted, or on such other date as agreed to by the Purchaser and Vendor.
- b. The Purchaser shall deposit a non-refundable amount of \$20,000 to the Receiver's solicitor in trust, which shall be applied to the Closing Cash Payment upon closing of the transaction.
- c. The Receiver has entered a settlement with the real estate agent whereby a fee of \$50,000 will be paid in lieu of the real estate commission that is otherwise payable under the listing agreement, which fee will be added to the Receiver's Charge and form part of the Priority Claims and Closing Cash Payment. This is included in the amounts listed in paragraph 22(b) above.
- d. The Purchased Assets are purchased on an "as is, where is" basis.

24. The Receiver believes the Property has been properly marketed and exposed to the marketplace for sufficient time.

25. The Receiver believes this offer is the greatest recovery for the Property and recommends this Honourable Court approve the 147 Offer.
26. In addition, the first secured mortgagee, Trez Capital, supports this offer.

#### **IV. URGENCY**

27. Counsel for 1479378 B.C. Ltd. has advised that its client has sufficient funds to complete the transaction on or before the last date for redemption, which is May 16, 2024. Counsel has advised that while his client does have some money for contingency, the rate at which interest is accruing each day will quickly consume those funds. For this reason, the Receiver is applying on an urgent basis with a view to approving court approval and promptly closing the transaction thereafter.

#### **V. CONCLUSION AND RECOMMENDATIONS**

28. Colliers marketed the Property, located in Kelowna B.C., for approximately 4 months in accordance with the SISP Order.
29. There were over 40 interested parties, however, only 1 offer prior to the bid deadline of April 11, 2024 was received. Neither the Receiver nor Trez Capital supported this offer.
30. On May 3, 2024 1479378 B.C. Ltd, the second mortgagee, submitted an offer.
31. The 147 Offer has an estimated value of approximately \$23.8 million comprising of a cash payment of \$20.7 million and a Credit Bid Amount of \$3.1 million. This would result in the first secured mortgagee recovering their outstanding loans in full.
32. The Receiver believes this is the best offer that will be achieved and does not believe further marketing will generate a greater recovery.
33. The Receiver recommends that this Honourable Court approve the acceptance of this offer as detailed in the 147 Offer.

All of which is respectfully submitted to this Honourable Court this 7th day of May 2024.

**MNP Ltd.**

in its capacity as Receiver of 104 Investments Ltd.  
and not in its personal or corporate capacity.

Per:

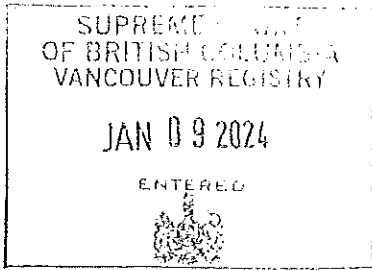
  
Doug Chivers, CA, CPA, CIRP, LIT

Senior Vice President



**Appendix A**

Court order dated January 9, 2024



NO. H-230801  
VANCOUVER REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

TCC MORTGAGE HOLDINGS INC. and TREZ CAPITAL  
LIMITED PARTNERSHIP

PETITIONERS

AND:

104 INVESTMENTS LTD.  
DENNIS ALLAN DRUMMOND  
DAVID WILLIAM BECKINGHAM  
CAPITAL PROPERTIES LTD.  
SUNBELT RENTALS OF CANADA INC.  
JOANNE SUSAN TAYLOR THOMAS  
POSNIKOFF MORTGAGE MANAGEMENT LTD.  
JOHN DOE  
ALL TENANTS AND OCCUPIERS OF THE SUBJECT LANDS  
AND PREMISES

RESPONDENTS

ORDER MADE AFTER APPLICATION

BEFORE *The Honorable  
Justice MacNaughton*

TUESDAY, THE 9<sup>th</sup> DAY  
OF JANUARY, 2024.

ON THE APPLICATION of MNP Ltd., the Receiver and Manager (the "Receiver") without security, of all of the assets, undertakings and property of 104 Investments Ltd., coming on for hearing at *800 Smith Street* Vancouver, B.C., on the 9<sup>th</sup> day of January, 2024, and on hearing *Joel Schachter* *Scott R. Andersen,* counsel for the Receiver, and those counsel listed on Schedule "A", and nobody else


*MacNaughton*


appearing although duly served; AND ON READING THE MATERIALS FILED;

THIS COURT ORDERS that:

1. The time for service of the Application and supporting materials giving rise to this Order be and is hereby abridged to the time actually given.
2. The Sale and Investment Solicitation Process attached hereto as Schedule "B" be and is hereby approved.
3. The Receiver be and is hereby authorized and empowered to implement the SISP and perform all steps and actions required of the Receiver pursuant to the SISP, including engaging the agent and listing the Property for sale as referenced in the Receiver's Second Report filed herein.
4. The Receiver may apply to this Honourable Court for further advice, direction and assistance as may be necessary to give effect to the terms of this Order.
5. This Order may be served by electronic mail, courier, or facsimile on the parties on the Service List maintained by the Receiver in the within proceedings.
6. Endorsement of this Order by counsel appearing on this application other than counsel for the Receiver be and 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:

  
\_\_\_\_\_  
Scott R. Andersen Joel Schachter  
COUNSEL FOR MNP LTD.

BY THE COURT  
  
\_\_\_\_\_  
REGISTRAR



Schedule "A"

Schedule A – List of Appearing Parties

Counsel for the Receiver, MNP Ltd.	Scott R. Andersen Lawson Lundell LLP Suite 403, 460 Doyle Avenue Kelowna, BC V1Y 0C2 Email: scott.andersen@lawsonlundell.com
Counsel for the Petitioners	Scott Stephens

## SALE AND INVESTMENT SOLICITATION PROCESS

### Introduction

On October 3, 2023, the Supreme Court of British Columbia (the "Court") made an Order in Action No. H137731 (the "Receivership Order") appointing MNP Ltd. as receiver and manager (in such capacity, the "Receiver"), without security, of all the assets, undertakings and property of 104 Investments Ltd. (the "Debtor"), including all proceeds thereof (collectively, the "Property") 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. The BC Court action in which the Receivership Order was granted was subsequently transferred to the Vancouver Registry as Action No. H230801 (the "Receivership Proceeding").

Under the Receivership Order, the Receiver was authorized to market any or all of the Property, including advertising and soliciting offers in respect of the Property or any parts or parts thereof and negotiating such terms and conditions of sale as the Receiver considers appropriate (such process being the "Sale Process"). The Receivership Order, any other Orders granted by the Court in regard to the Sale Process and the procedures set forth herein shall exclusively govern the sale and investment solicitation process (the "SISP") for soliciting and selecting bids for the sale of all or substantially all of the Property of the Debtor.

The Receivership Order and this SISP shall exclusively govern the process for soliciting and selecting bids for the restructuring, recapitalization or refinancing of the Debtor or for the sale of all or any part of the Property.

All dollar amounts expressed herein, unless otherwise indicated, are in Canadian currency. Capitalized terms used but not otherwise defined herein have the meanings given to such terms in the Receivership Order.

### Sale Process

The Sale Process describes, among other things, the Property available for sale, the manner in which prospective bidders may gain access to or continue to have access to due diligence materials concerning the Property, the manner in which bidders and bids become Qualified Bidders and Qualified Bids, respectively, the receipt and negotiation of bids received, the ultimate selection of one or more Successful Bids, and the approval thereof by the Court. At any point in time, with reasonable notice, the Receiver retains the ability to vary or amend the Sale Process as it deems fit, including changing the timeline or terminating the SISP at any point of the Sale Process.

### Opportunity

The Sale Process is intended to solicit interest in, and opportunities for, a sale of all, or substantially all, of the Property, and in particular the land and building located at 555 Adams Road, Kelowna, B.C. (the "Adams Road Property") or, alternatively, an

investment in the Debtor. As discussed further below, a "Qualified Bid" under the SISF may be comprised either of an *en bloc* bid for all or substantially all of the Property.

An investment in the Debtor may include a restructuring, recapitalization, or other form of reorganization of the business and affairs of some or all of the Debtor. A sale of the Property may involve a sale of all, substantially all, or one or more of the assets comprising the Property, including to a newly formed acquisition entity.

**"As Is, Where Is"**

Any investment in the Debtor or sale of any of the Property will be on an "as is, where is" basis without surviving representations, warranties, covenants or indemnities of any kind, nature or description by the Receiver or any of its agents, estates, advisors, professionals or otherwise, except to the extent expressly set forth in the relevant investment or sale agreement as may be entered into by the Receiver.

**Free of Any and All Claims and Interests**

In the event of a sale, all of the rights, titles, and interests of the Debtor in and to all Property sold or transferred will, at the time of such sale or transfer, be sold or transferred free and clear of all pledges, liens, security interests, encumbrances, claims, charges, options and interests thereon and there against (collectively the "Claims and Interests") pursuant to one or more approval and vesting orders made by the Court. Contemporaneously with such approval and vesting orders being made, all such Claims and Interests shall attach to the net proceeds of the sale of such property (without prejudice to any claims or causes of action regarding the priority, validity or enforceability thereof), except to the extent otherwise set forth in the relevant sale agreement with a Successful Bidder. Alternatively, the Receiver will work with the purchaser to transfer the Debtor's rights, titles and interests in and to the Property to be sold or transferred pursuant to one or more reverse vesting orders made by the Court, in which case, the structure shall be determined by the Receiver in consultation with the purchaser and their respective counsel.

**Sale Process Timeline**

The Receiver currently anticipates that the Sale Process will commence or about January 15, 2024.

<b>Milestone</b>	<b>Time Period</b>	<b>Date</b>
Pre-Marketing Preparation	2 weeks	Ends January 29, 2024
Marketing Campaign	4-6 weeks	January 30, 2024 to March 11, 2024
Due Diligence Period	5 weeks	February 5 to March 11, 2024
Non-Binding Bid Deadline		March 18, 2024
Period of time to perform Bid Assessment, Communication to Qualified Bidders, and perform Final Due Diligence	21 calendar days after the Non-Binding Bid Deadline	March 18, 2024 to April 8, 2024
Binding Bid Deadline	3 calendar days after the Final Due Diligence Period ends	April 11, 2024
Period of time to perform Final Bid Assessment and notification of Selected Bidder(s), if any	1 week	April 12, 2024 to April 19, 2024
Court Approval of Successful Bid (if applicable)	Within 10 calendar days of the selection of a Successful Bid	

The dates set out in the SISF may be amended or extended by the Receiver, in its sole discretion, and may be subject to change by an order of the Court.

### Participation Requirements and Due Diligence

In order to participate in the Sale Process, an interested party (a "Potential Bidder") must deliver to the Receiver at the address specific herein (including by email), and prior to the distribution of any confidential information by the Receiver to such Potential Bidder (including access to the confidential virtual data room (the "VDR")):

1. an executed non-disclosure agreement in form and substance satisfactory to the Receiver (an "NDA"), which shall inure to the benefit of any Successful Bidder (as defined below) that closes a transaction contemplated by a Successful Bid (as defined below); and
2. a letter outlining the Potential Bidder's qualifications (a "Qualification Letter"), as set out in Schedule A.

A Potential Bidder that has executed an NDA, as described above, and who provides the Receiver with a Qualification Letter and who the Receiver, in its sole discretion, determines has a reasonable prospect of completing a Sale contemplated herein, will be deemed a "Qualified Bidder".

Each Qualified Bidder shall have access to the VDR and any such reasonably required due diligence materials and information relating to the Property as the Receiver deems appropriate. The Receiver makes no representation or warranty as to the information to be provided through the due diligence process or otherwise, regardless of whether such information is provided in written, oral or any other form, except to the extent otherwise contemplated under any definitive sale agreement with a Successful Bidder executed and delivered by the Receiver and approved by the Court.

Upon the reasonable request of a Qualified Bidder, on-site inspections of the Property may be arranged by the Receiver in its sole discretion.

Prior to the Non-Binding Bid Deadline, the Receiver may engage in discussions with any or all of the Qualified Bidders to determine and explore their level of interest and may request from any such Qualified Bidder such information as the Receiver may deem appropriate.

### Submission of Binding Offers

The Receiver shall provide Qualified Bidders, for all or part of the Property, or for an investment in the Debtor, with a draft purchase and sale agreement (a "Purchase Agreement") at such time as the Receiver may, in its discretion, deem appropriate. If the Qualified Bidder's proposal is in the form of an investment, the Receiver shall not provide a draft form of agreement.

A Qualified Bidder that desires to make a bid for some or all of the Property must deliver a non-binding bid to the Receiver so as to be received by no later than the Non-



**Binding Bid Deadline and a binding offer (the "Binding Bid") to the Receiver so as to be received by no later than the Binding Bid Deadline.**

A Binding Bid will only be considered a Qualified Bid if it is submitted by a Qualified Bidder and complies with the following conditions (each, a "Qualified Bid"):

- (a) it contains a binding offer to:
  - a. acquire all, or any part of the Property, pursuant to a vesting or a reverse vesting order; or
  - b. make an investment in the Debtor, including the aggregate amount of proposed equity and debt investment and details regarding the proposed equity and debt structure of the Debtor following completion of the proposed transaction.
- (b) it contains a duly authorized and executed Purchase Agreement or an agreement for investment in the Debtor, specifying the purchase price (the "Purchase Price") or investment terms, and providing for a closing of the purchase or investment transaction as soon as practicable after the Binding Bid Deadline, together with all exhibits and schedules thereto, and such ancillary agreements as may be required by the Qualified Bidder with all exhibits and schedules thereto (or term sheets that describe the material terms and provisions of such ancillary agreements), and, in the case of a bid for a purchase and sale transaction, copies of such materials marked to show the amendments and modifications to the Purchase Agreement provided by the Receiver;
- (c) it includes a letter stating that the Binding Bid is irrevocable until 8 days following the Binding Bid Deadline unless it is chosen as the successful bid, in which case it is irrevocable until closing of the transactions contemplated by the Binding Bid as soon as practicable following the Binding Bid Deadline;
- (d) it provides written evidence, satisfactory to the Receiver, of (i) a firm, irrevocable financial commitment for all required funding or financing or (ii) evidence of the Qualified Bidder's financial wherewithal to close the bid using unencumbered funds on hand;
- (e) it is not conditioned on (i) the outcome of unperformed due diligence by the Qualified Bidder; and/or (ii) obtaining any financing or financial capital and includes an acknowledgement and representation that the bidder has had an opportunity to conduct any and all required due diligence prior to making its Binding Bid;
- (f) it fully discloses the identity of each entity that is bidding or otherwise that will be sponsoring or participating in the sale or investment proposal, including

the identification of the bidder's direct and indirect owners and their principals, and the complete terms of any such participation;

- (g) it is accompanied by a refundable deposit in the form of a wire transfer (to a trust account specified by the Receiver) or such other form acceptable to the Receiver, payable to the order MNP Ltd., Receiver, in trust, in an amount equal to ten percent (10%) of the Purchase Price;
- (h) it contains any other information reasonably requested by the Receiver.

#### Assessment of Qualified Bids

Qualified Bids will be evaluated upon several factors, including, without limitation and to the degree determined to be applicable by the Receiver in each case:

- (a) Purchase Price;
- (b) Any non-cash consideration, such as liabilities to be assumed by the Qualified Bidder;
- (c) Structural complexity of the proposed transaction;
- (d) Nature and sufficiency of funding for the proposed transaction;
- (e) Probability of closing the proposed transaction and any relevant risks thereto, including nature of any remaining conditions and due diligence requirements;
- (f) Qualified Bidder's financial strength.

If the Receiver receives one or more Qualified Bids, the Receiver may select one or more of the Qualified Bids as the successful bid (the "Successful Bid", with such bidder being the "Successful Bidder"), or alternatively if no Successful Bidder is determined, terminate the SISP.

#### Approval of Successful Bid

The Receiver shall apply to the Court (the "Approval Application") for an order approving the Successful Bid and vesting title to any purchased Property in the name of the Successful Bidder, or in the case of an investment, approving the investment structure and any ancillary relief required by the Successful Bidder (the "Approval Order"). The Approval Application will be held on a date to be scheduled by the Receiver and confirmed by the Court. The Receiver shall use best efforts to schedule the Approval Application as soon as practical and subject to Court availability. The Approval Application may be adjourned or rescheduled by the Receiver on notice to the Service List prior to the Approval Application. The Receiver shall consult with the Successful Bidder regarding the application material to be filed by the Receiver for the

Approval Application, which material shall be acceptable to the Successful Bidder, acting reasonably.

All Qualified Bids (other than the Successful Bid) shall be deemed rejected on and as of the date of the closing of the Successful Bid.

### Deposits

All deposits shall be retained by the Receiver in a bank account specified by the Receiver. If there is a Successful Bid, the Deposit paid by the Successful Bidder whose bid is approved at the Approval Application shall be applied to the purchase price to be paid by the Successful Bidder upon closing of the approved transaction and will be non-refundable.

All Deposits of all Qualified Bidders not selected as the Successful Bidder shall be returned to such bidders within five (5) business days of the date upon which the Successful Bid is approved by the Court. If the SISP is terminated in accordance with the provisions hereof, all Deposits shall be returned to the Qualified Bidders within five (5) business days of the date the SISP is terminated, as applicable.

If an entity selected as the Successful Bidder breaches its obligations to close the applicable transaction, it shall forfeit its Deposit to the Receiver; provided however that the forfeit of such Deposit shall be in addition to, and not in lieu of, any other rights in law or equity that the Receiver has against such breaching entity.

### Approvals

For greater certainty, the approvals required pursuant to the terms hereof are in addition to, and not in substitution for, any other approvals required by any other statute or are otherwise required at law in order to implement a Successful Bid, as the case may be.

### Notice to the Receiver

The addresses to be used for delivering documents to the Receiver:

**The Receiver:**  
MNP Ltd.  
Suite 1630  
609 Granville Street  
Vancouver, BC V7Y 1G5  
Attention: Doug Chivers - [doug.chivers@mnp.ca](mailto:doug.chivers@mnp.ca)

with a copy to counsel for the Receiver:

Lawson Lundell LLP  
Suite 1600 Cathedral Place  
925 West Georgia Street  
Vancouver, BC V6C 3L2  
Attention: Scott R. Andersen – [scott.andersen@lawsonlundell.com](mailto:scott.andersen@lawsonlundell.com)

A bid must be delivered to the Receiver by electronic mail, personal delivery or courier. Interested bidders requesting information about the qualification process, including the form of Purchase Agreement, and information in connection with their due diligence should contact the Receiver.

### Reservation of Rights

Notwithstanding any other term of this SISP, the Receiver:

- (a) may reject, at any time any bid that is (i) inadequate or insufficient; (ii) not in conformity with the requirements of this SISP or any orders of the Court applicable to the Debtor or the Receiver; or (iii) contrary to the interests of Debtor's estate and stakeholders, as determined by the Receiver;
- (b) in accordance with the terms hereof, may impose additional terms and conditions and otherwise seek to modify this SISP at any time in order to maximize the results obtained;
- (c) in accordance with the terms hereof, may accept bids in conformity with this SISP to the extent that the Receiver determines, in its reasonable business judgment, that doing so will benefit the Debtor's estate and stakeholders; and,
- (d) may shorten or extend the deadlines contained in this SISP or to impose such other terms and conditions as the Receiver determines to be in the best interest of the Debtor's stakeholders, provided that such terms and conditions are not inconsistent with this SISP.

This SISP does not, and shall not be interpreted to create any contractual or other legal relationship between the Receiver and any other party, other than as specifically set forth in definitive agreements that may be executed by the Receiver.

### No Amendment

Except as provided for herein, there shall be no amendments to the SISP without the prior written consent of the Receiver, or further order of the Court obtained on reasonable notice to the Receiver.

**Further Orders**

At any time during the Sale Process, the Receiver may apply to the Court for advice and directions with respect to the discharge of its powers and duties hereunder.

## SCHEDULE "A" QUALIFICATION LETTER OUTLINE

### Qualification Letter Outline

The qualification letter (the "Qualification Letter") should be sent via email, along with an executed copy of the confidentiality agreement in the form provided by the Receiver, to [doug.chivers@mnp.ca](mailto:doug.chivers@mnp.ca)

The Qualification Letter should include the following information:

- 1) The identity and contact information of the prospective purchaser(s) or investor(s), and full disclosure of all direct and indirect principals;
- 2) Any information that you believe would be relevant to explaining the strategic rationale for your participation in the Sale Process;
- 3) A confirmation that a definitive proposal, if submitted, would not be conditioned on obtaining any financing capital. If the prospective purchaser(s) or investor(s) is currently engaged in obtaining funding that would allow for a possible transaction, information regarding the expected sources of funds, the status of any discussions with such sources, and information regarding the further steps necessary to obtain a firm funding commitments, should also be provided;
- 4) The identity of your legal and financial advisors (if any); and
- 5) Any other information that you believe would be important to Receiver in determining your ability to successfully complete the proposed transaction as soon as practicable.

Access to the VDR will not be provided until the above-referenced information is received.

All communications or enquires related to the Qualification Letter should be directed to the Receiver at [doug.chivers@mnp.ca](mailto:doug.chivers@mnp.ca).

## **Appendix B**

Asset purchase agreement dated May 3, 2024

**MNP LTD. solely in its capacity as the court-appointed receiver of the assets, property and undertaking of 104 INVESTMENTS LTD., and not in its personal capacity and without personal or corporate liability (the “Vendor” or the “Receiver”)**

- and -

**1479378 B.C. LTD. (the “Purchaser”)**

**AGREEMENT OF PURCHASE AND SALE**

**May 3, 2024**



# TABLE OF CONTENTS

ARTICLE 1 DEFINITIONS AND PRINCIPLES OF INTERPRETATION .....	1
1.1    Definitions.....	1
1.2    Certain Rules of Interpretation.....	5
1.3    Entire Agreement .....	6
1.4    Schedules .....	6
ARTICLE 2 PURCHASE AND SALE.....	6
2.1    Purchase and Sale of Purchased Assets.....	6
2.2    Excluded Assets .....	6
2.3    Assumed Liabilities.....	7
2.4    Assignment and Assumption of Contracts .....	7
2.5    Purchase Price.....	7
2.6    Closing Cash Payment .....	8
2.7    Payment of Priority Claims and Cure Costs.....	8
2.8    Satisfaction of Purchase Price.....	8
2.9    Purchase Price Allocation .....	8
ARTICLE 3 REPRESENTATIONS AND WARRANTIES OF THE PARTIES .....	8
3.1    Representations and Warranties of the Receiver.....	8
3.2    Representations and Warranties of the Purchaser .....	9
ARTICLE 4 PROCEDURES .....	9
4.1    Vesting Order.....	9
4.2    Pre-Closing Cooperation.....	10
4.3    Acquisition of Assets on “As Is, Where Is” Basis .....	10
ARTICLE 5 CONDITIONS .....	11
5.1    Conditions of the Purchaser .....	11
5.2    Conditions of the Receiver.....	12
ARTICLE 6 CLOSING AND DELIVERIES.....	12
6.1    Closing .....	12
6.2    Receiver’s Deliveries .....	13
6.3    Purchaser’s Deliveries.....	13
6.4    Concurrent Deliveries .....	14
6.5    Subsequent Deliveries.....	14
ARTICLE 7 TERMINATION.....	14
7.1    Termination.....	14
ARTICLE 8 OTHER COVENANTS OF THE PARTIES; GENERAL .....	14
8.1    Access of the Receiver to Books and Records .....	14

8.2	Tax Matters .....	15
8.3	Receiver's Capacity .....	15
8.4	Receiver Disclosures .....	16
8.5	Closing Certificates .....	16
8.6	Notices .....	16
8.7	Intentionally deleted.....	17
8.8	Intentionally deleted.....	17
8.9	Time of the Essence .....	17
8.10	Enurement .....	17
8.11	Amendment.....	17
8.12	Further Assurances.....	17
8.13	Execution and Delivery.....	17
8.14	Survival.....	17

THIS AGREEMENT OF PURCHASE AND SALE is made May 2, 2024

BETWEEN:

MNP LTD. solely in its capacity as the court-appointed receiver of the assets, property and undertaking of 104 INVESTMENTS LTD., and not in its personal capacity and without personal or corporate liability (the "Vendor" or the "Receiver")

-and-

1479378 B.C. LTD. (the "Purchaser")

WHEREAS:

- A. Pursuant to the appointment of the Receiver by the British Columbia Supreme Court (the "Court") of all of the assets, undertakings and properties (collectively, the "Property") of 104 Investments Ltd. (the "Debtor") by Order dated October 3, 2023 (the "Appointment Order") pursuant to section 243(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended, and section 39 of the *Law and Equity Act*, R.S.B.C. 1996 c. 253, as amended, (the "Receivership Proceeding"), and subject to (i) the granting of an approval and Vesting Order; and (ii) other conditions set forth in this Agreement, the Receiver has agreed to sell, convey, transfer and deliver to the Purchaser, and the Purchaser has agreed to purchase, acquire, assume and accept from the Receiver the Purchased Assets (as these terms are defined hereinafter), on the terms and subject to the conditions set out in this Agreement.
- B. Under the Appointment Order, the Receiver is empowered and authorized to sell the Purchased Assets.
- C. Subject to the approval of the Court, the Receiver wishes to sell and the Purchaser wishes to purchase on an "as is, where is" basis, all of the right, title and interest of the Receiver or the Debtor in the Purchased Assets pursuant to the terms and conditions of this Agreement.

NOW THEREFORE WITNESS THAT in consideration of the sum of \$1.00 now paid by the Purchaser to the Receiver, the mutual covenants and agreements set forth in this Agreement and for other good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged), the Parties covenant and agree as follows:

## **ARTICLE 1**

### **DEFINITIONS AND PRINCIPLES OF INTERPRETATION**

#### **1.1 Definitions**

Whenever used in this Agreement, including the schedules to this Agreement, the following words and terms shall have the meanings set out below:

"**Acceptance Date**" means the date this Agreement is executed and delivered by both the Vendor and the Purchaser.

"**Agreement**" means this agreement of purchase and sale executed by the Purchaser and accepted by the Vendor, including all schedules, and all amendments or restatements, and references to "**Article**", "**Section**" or "**Schedule**" mean the specified Article or Section of, or Schedule to, this Agreement;

"**Ancillary Agreements**" means, collectively, any assignment and assumption agreements, and such other agreements, documents, assignments, or instruments of transfer and conveyance reasonably satisfactory in form and substance to the Purchaser and the Receiver, none of which shall contain any representations or warranties of the Receiver except for those provided herein;

**“Appointment Order”** has the meaning given in the Recitals;

**“Assigned Contracts”** means those Contracts, which are not Excluded Contracts, for which no consent to assignment is required or where consent to assignment is required, such consent has been obtained;

**“Assumed Liabilities”** has the meaning given in Section 2.3;

**“Bill of Sale”** means one or more bills of sale duly executed by the Receiver in respect of the personal property forming part of the Purchased Assets; none of which shall contain any representations or warranties of the Receiver except for those provided herein;

**“Books and Records”** means, collectively, the books and records of the Debtor relating to the Purchased Assets, including financial, corporate, operations and sales books, records, books of account, sales and purchase records, lists of suppliers and customers, business reports, plans and projections and all other documents, surveys, plans, files, records, assessments, correspondence and other data and information, financial or otherwise, including all data, information and databases stored on computer-related or other electronic media;

**“Buildings”** means all building(s) and improvements located on the Lands.;

**“Business”** means land holding company;

**“Business Day”** means any day other than a Saturday, Sunday or statutory holiday in the Province of British Columbia;

**“Claims”** includes claims, demands, complaints, grievances, actions, applications, suits, causes of action, Orders, charges, indictments, prosecutions or other similar processes;

**“Closing”** means the completion of the Transaction;

**“Closing Cash Payment”** means an amount sufficient to pay (i) any outstanding Priority Claims, and (ii) any Cure Costs;

**“Closing Certificate”** has the meaning given in Section 8.5;

**“Closing Date”** means the date on which the Closing occurs as set forth in Section 6.1(a);

**“Closing Time”** has the meaning given in Section 6.1(b);

**“Consent”** means any approval, authorization, consent, Order, licence, permission, permit (including any environmental permit), qualification, exemption or waiver by any Governmental Authority or other Person;

**“Contract Notice Date”** has the meaning given in Section 2.4(a);

**“Contracts”** means the contracts, licences, leases, agreements, arrangements, documents, commitments, entitlements or engagements to which the Debtor is a party or by which the Debtor is bound, or by which the Receiver is a party or by which the Receiver is bound;

**“Court”** has the meaning given in the Recitals;

**“Credit Bid Amount”** means the total of \$3,068,002.00, which is the partial amount owing by the Debtor to the Purchaser pursuant to various credit documents, including but not limited to Mortgage CA9153214;

**“Cure Costs”** means the amount, if any, that is required to cure any monetary defaults of the Debtor under any Assigned Contract;

**“Debtor”** has the meaning given in the Recitals;

**“Deposit”** has the meaning given to it in Section 2.10;

**“Encumbrance”** means any mortgage, charge, the Receiver’s Borrowings Charge, the Receiver’s Charge, construction or builder’s lien, assignment by way of security, pledge, hypothec, security interest, lien (statutory or otherwise), conditional sales contract or other title retention agreement, trust, deemed or statutory trust, judgment, execution, writ, debenture, levy, financial or monetary claim, encumbrance, adverse claim or interest, exception, reservation, easement, right of way, encroachment, servitude, restrictions on use, any right of occupancy, any right or claim of specific performance, any matter capable of registration against title, option, right of first refusal or similar right, right of pre-emption or privilege or any contract creating any of the foregoing, and any other encumbrance, interest or instrument charging, or creating a security interest in, the Purchased Assets or any part thereof or interest therein including, but shall not include the Permitted Encumbrances

**“Environmental Law”** means any and all applicable international, federal, provincial, state, municipal or local laws, by-laws, statutes, regulations, treaties, orders, judgments, decrees, ordinances, official directives and all authorizations relating to the environmental occupational health and safety, health protection or Hazardous Materials;

**“Excluded Assets”** means the assets listed in Schedule B hereto;

**“Excluded Contract”** means any contracts, licences, leases, agreements, arrangements, documents, commitments, entitlements or engagements to which the Debtor is a party or by which the Debtor is bound that is not a Contract;

**“Fixtures and Chattels”** means the right, title and interest of the Debtor to all fixtures, chattels, and other items but excluding the Excluded Assets;

**“Final Order”** means, in respect of any Order, such Order after (i) the expiry of applicable appeal periods; or (ii) in the event of an appeal or application for leave to appeal or to stay, vary, supersede, set aside or vacate such Order, final determination of such appeal or application by the applicable court or appellate tribunal;

**“Governmental Authorities”** means governments, regulatory authorities, governmental departments, agencies, commissions, bureaus, officials, ministers, crown corporations, courts, bodies, boards, tribunals or dispute settlement panels or other law or regulation-making organizations or entities: (a) having or purporting to have jurisdiction on behalf of any nation, province, territory, state or other geographic or political subdivision thereof, over part or all of the Purchased Assets, the transaction contemplated in this Agreement and/or one or both of the parties hereto and shall include a board or association of insurance underwriters; or (b) exercising, or entitled or purporting to exercise any administrative, executive, judicial, legislative, policy, regulatory or taxing authority or power over part or all of the Purchased Assets, the transaction contemplated in this Agreement and/or one or both of the parties hereto and shall include a board or association of insurance underwriters. Without limitation, Governmental Authorities shall include the Mineral Titles Branch (British Columbia), the Chief Gold Commissioner (British Columbia) and the Deputy Chief Gold Commissioner (British Columbia);

**“Hazardous Materials”** means any contaminants, pollutants, substances or materials that, when released to the natural environment, could cause, at some immediate or future time, harm or degradation, to the natural environment or risk to human health, whether or not such contaminants, pollutants, substances or materials are or shall become prohibited, controlled or regulated by any Governmental Authorities, and any “contaminants”, “dangerous substances”, “hazardous materials”, “hazardous substances”, “hazardous wastes”, “industrial wastes”, “liquid wastes”, “pollutants” and “toxic substances”, all as defined in, referred to or contemplated in federal, provincial and/or municipal legislation, regulations, orders and/or ordinances relating to environmental health and/or safety matters and, not to limit the generality of the foregoing, includes asbestos, urea formaldehyde foam insulation and mono- or polychlorinated biphenyl wastes;

**“Lands”** means the lands and premises used by the Vendor in the Business and which are located at the civic addresses set out in, and are legally described in, Part 1 of Schedule A;

**“Laws”** means currently existing applicable statutes, by-laws, rules, regulations, Orders, ordinances or judgments, in each case of any Governmental Authority having the force of law;

“**Order**” means any order, directive, judgment, decree, injunction, decision, ruling, award or writ of any Governmental Authority;

“**Outside Date**” means May 17, 2024, or such later date as agreed to by the Parties;

“**Parties**” means the Receiver and the Purchaser, collectively, and “**Party**” means any one of them;

“**Permitted Encumbrances**” means those Encumbrances which are identified in **Schedule C** hereto;

“**Person**” means any individual, sole proprietorship, partnership, firm, entity, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate, Governmental Authority, and where the context requires any of the foregoing when they are acting as trustee, executor, administrator or other legal representative;

“**Priority Claims**” means the amount owing that is secured by (a) Mortgage CA9148661, (b) any valid statutory claims or portion thereof that are determined to rank in priority to the secured debt, including without limitation, (c) any source deduction claim in favour of any Governmental Authority, including the Canada Revenue Agency arising from the failure to deduct, withhold or remit any Taxes, (d) any claim in favour of an employee pursuant to section 81.4 of the *Bankruptcy and Insolvency Act* (Canada), (e) any claim for amounts owing the *Excise Tax Act* (Canada) (for greater certainty, solely to the extent any such claim is determined to rank in priority to the aforesaid secured debt), (f) any claims for realty taxes, and (g) the Receiver’s Charge and Receiver’s Borrowings Charge;

“**Property**” means the Vendor’s freehold or leasehold interest in the Lands and the Buildings;

“**Purchase Price**” has the meaning given in Section 2.5;

“**Purchased Assets**” means all of the right, title and interest of the Debtor, in and to the tangible and intangible properties, assets, interests, rights and claims related to the Property and/or the Business, wherever located including British Columbia, as of the Closing Date including without limitation the following assets, if any:

- (a) all inventory;
- (b) all chattels, fixtures and equipment;
- (c) all intellectual property;
- (d) all rights under non-disclosure or confidentiality, non-compete or non-solicitation agreements with employees and agents or with third parties;
- (e) the Assigned Contracts, if any, and the Permitted Encumbrances; and
- (f) all other personal property not contemplated by the foregoing, but excluding the Excluded Assets;

“**Purchaser**” means 1479378 B.C. LTD.;

“**Receiver**” means MNP LTD., in its capacity as the court-appointed receiver of the Property and not in its personal or corporate capacity;

“**Receiver’s Charge**” means the Receiver’s Charge as defined in the Appointment Order and to be used or applied therein upon the appointment of the Receiver;

“**Receiver’s Borrowings Charge**” has the meaning given in the Appointment Order and to be used or applied therein upon the appointment of the Receiver;

“**Receiver’s Certificates**” has the meaning given in the Appointment Order and to be used or applied therein upon the appointment of the Receiver;

“**Receiver’s Website**” means <https://mnpdebt.ca/en/corporate/corporate-engagements/104-investments-Ltd.>;

“**Receivership Proceeding**” has the meaning given in the Recitals;

“**Sale Application**” means an application by the Receiver seeking, inter alia, the Vesting Order;

“**Tax**” and “**Taxes**” includes any taxes, duties, fees, premiums, assessments, imposts, levies and other charges of any kind whatsoever imposed by any Governmental Authority, including all interest, penalties, fines, additions to tax or other additional amounts imposed by any Governmental Authority in respect thereof, and including those levied on, or measured by, income, gross receipts, profits, capital, transfer, land transfer, sales, goods and services, harmonized sales, use, excise, withholding, business, franchising, property, development, occupancy, payroll, health, social services, education and social security taxes, all surtaxes, all customs duties and import and export taxes, countervail and anti-dumping, all licence, franchise and registration fees and all employment insurance, health insurance and Canada, and other government pension plan premiums or contributions;

“**Transaction**” means the purchase and sale of all of the Purchased Assets;

“**Transfer Direction**” means a written direction from the Purchaser calling for and directing that the Purchased Assets be transferred to the Purchaser or one or more designees;

“**Transfer Taxes**” has the meaning given in Section 8.2(c);

“**Vesting Order**” means the Order of the Court approving the sale by the Receiver to the Purchaser of the Purchased Assets, and vesting all right, title and interest of the Receiver and the Debtor, free and clear of all Encumbrances (other than Permitted Encumbrances), and a discharge of the Receiver in a form satisfactory to the Receiver and Purchaser acting reasonably.

## **1.2 Certain Rules of Interpretation**

In this Agreement:

- (a) **Currency** — All references to money amounts are to lawful currency of Canada;
- (b) **Governing Law** — This Agreement is a contract made under and shall be governed by and construed in accordance with the Laws of the Province of British Columbia and the federal Laws of Canada applicable in the Province of British Columbia;
- (c) **Headings** — Headings of Articles and Sections are inserted for convenience of reference only and shall not affect the construction or interpretation of this Agreement;
- (d) **Including** — Where the word “including” or “includes” is used in this Agreement, it means “including (or includes) without limitation”;
- (e) **No Strict Construction** — The language used in this Agreement is the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party;
- (f) **Number and Gender** — Unless the context otherwise requires, words importing the singular include the plural and vice versa and words importing gender include all genders;
- (g) **Severability** — If, in any jurisdiction, any provision of this Agreement or its application to any Party or circumstance is restricted, prohibited or unenforceable, such provision shall, as to such

jurisdiction, be ineffective only to the extent of such restriction, prohibition or unenforceability without invalidating the remaining provisions of this Agreement and without affecting the validity or enforceability of such provision in any other jurisdiction or without affecting its application to other Parties or circumstances; and

- (h) **Time Periods** — 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 and by extending the period to the next Business Day following if the last day of the period is not a Business Day.

### **1.3 Entire Agreement**

This Agreement and the agreements and other documents required to be delivered pursuant to this Agreement, constitute the entire agreement between the Parties and set out all the covenants, promises, warranties, representations, conditions, understandings and agreements between the Parties relating to the subject matter of this Agreement and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written. There are no covenants, promises, warranties, representations, conditions, understandings or other agreements, oral or written, express, implied or collateral between the Parties in connection with the subject matter of this Agreement except as specifically set forth in this Agreement and the Purchaser shall acquire all right, title and interest of the Receiver, if any, and of the Debtor. Any cost estimates, projections or other predictions contained or referred to in any other material that has been provided to the Purchaser or any of its affiliates, subsidiaries, agents or representatives are not and shall not be deemed to be representations or warranties of the Receiver or any of its affiliates, subsidiaries, agents, employees or representatives.

### **1.4 Schedules**

The schedules to this Agreement, listed below, are an integral part of this Agreement:

SCHEDULE A – LEGAL DESCRIPTION

SCHEDULE B - EXCLUDED ASSETS

SCHEDULE C - PERMITTED ENCUMBRANCES

SCHEDULE D – FORM OF VESTING ORDER

SCHEDULE E – ASSUMED LIABILITIES

## **ARTICLE 2 PURCHASE AND SALE**

### **2.1 Purchase and Sale of Purchased Assets**

On the Closing Date, subject to the terms and conditions of this Agreement, the Receiver shall transfer, sell, convey, and assign unto the Purchaser or its designee(s), all right, title and interest of the Receiver, if any, and of the Debtor, in and to the Purchased Assets and the Purchaser or its designee(s) shall acquire and accept the Purchased Assets pursuant to the Vesting Order, free and clear of all Encumbrances other than the Permitted Encumbrances.

### **2.2 Excluded Assets**

Notwithstanding any provision of this Agreement to the contrary, the Purchased Assets shall not include any of the Excluded Assets and nothing herein shall be deemed to sell, transfer, assign or convey the Excluded Assets.



### 2.3 Assumed Liabilities

The Purchaser shall assume as of 12:01 a.m. (Vancouver time) on the Closing Date, and shall pay, discharge and perform, as the case may be, the liabilities and obligations listed on Schedule E (collectively, the "Assumed Liabilities").

Other than the Assumed Liabilities and the Permitted Encumbrances, the Purchaser shall not assume and shall not be liable for any liabilities or obligations of the Debtor of any nature whatsoever, whether present or future, known or unknown, absolute or contingent, and whether or not relating to the Business or the Property, including without limitation, any Encumbrances.

### 2.4 Assignment and Assumption of Contracts

- (a) All Contracts shall be Excluded Contracts except for any contracts, permits, plans or other agreements relating to the subdivision and/or stratification of the Property or any other Contract that the Purchaser advises the Receiver in writing that they wish to have included in the Purchased Assets no later than 2 Business Days prior to the return date of the Sale Application (the "Contract Notice Date"). At any time on or prior to the Contract Notice Date, the Purchaser may elect to include any Contracts in the Purchased Assets, and remove such Contracts to the Excluded Contracts list by giving written notice to the Receiver of its intention to do so. For greater certainty any exclusion or inclusion of Contracts pursuant to this Section 2.4 shall not affect the Purchase Price.
- (b) The Assigned Contracts shall form part of the Purchased Assets assigned and transferred to the Purchaser or its designee(s) at or after Closing, the consideration for which is included in the Purchase Price. The Purchaser shall assume and agree to perform and discharge the Assumed Liabilities under the Assigned Contracts pursuant to this Agreement and the applicable Ancillary Agreements.
- (c) Intentionally deleted.
- (d) Notwithstanding anything in this Agreement to the contrary, this Agreement shall not constitute an agreement to assign any Contract, to the extent such Contract is not assignable under applicable Laws without the consent of any other Person party thereto where the Consent of such Person has not been given or received.
- (e) For greater certainty, if any necessary Consent is required to assign a Contract but not obtained, neither the Receiver nor the Purchaser shall be in breach of this Agreement nor shall the Purchase Price be adjusted or the Closing delayed.

### 2.5 Purchase Price

The purchase price for the Purchased Assets, exclusive of all applicable Transfer Taxes, shall be the aggregate of the following (the "Purchase Price"):

- (a) the Credit Bid Amount;
- (b) the Assumed Liabilities, if any; and
- (c) the Closing Cash Payment, if any.

to be satisfied in the manner set forth in Section 2.6. All applicable Transfer Taxes shall be paid by the Purchaser, on the Closing subject to the terms hereof and the availability of any exemptions, deferrals or elections under any applicable legislation for such applicable Transfer Taxes.

## **2.6 Closing Cash Payment**

On or before the Closing Date, the Receiver or the Receiver's solicitor shall have confirmed, in accordance with Section 5.2(f), that the solicitor for the Purchaser holds funds equal to the Closing Cash Payment in trust. In accordance with Section 6.4, the Purchaser's solicitor shall release the Closing Cash Payment to the Receiver's solicitor in trust concurrently with the release of the Vesting Order or authorization to use the entered Vesting Order. Once the Vesting Order is successfully lodged for registration at the Kamloops Land Title Office and the Purchaser's solicitors have completed a satisfactory post-index search, the Transaction shall be deemed to be completed and the Receiver's solicitor shall release the Closing Cash Payment to the Receiver.

## **2.7 Payment of Priority Claims and Cure Costs**

Promptly upon Closing, the Receiver shall apply the Closing Cash Payment, if any, to pay the Priority Claims, if any, and the Cure Costs, if any.

## **2.8 Satisfaction of Purchase Price**

The Purchase Price shall be satisfied on Closing by applying a credit to the Purchaser for the following:

- (a) the Closing Cash Payment, if applicable;
- (b) the Credit Bid Amount; and
- (c) the assumption by the Purchaser of the Assumed Liabilities, if applicable.

## **2.9 Purchase Price Allocation**

Within 2 Business Days prior to the Closing, the Purchaser shall prepare a written initial allocation of the amounts of the credits in Section 2.6 above and the Assumed Liabilities, if any, comprising the Purchase Price in respect of each of the Purchased Assets. The Parties, acting reasonably, shall agree, prior to the Closing, on such allocation.

## **2.10 Deposit**

On the next Business Day after the acceptance of this Agreement, the Purchaser shall deposit an amount of \$20,000.00 (the "Deposit") to the Receiver's solicitor in trust. The Deposit is non-refundable and will be applied as follows:

- (a) upon Closing, the Deposit shall be applied towards the Closing Cash Payment; and
- (b) should Closing fail to occur due to a default of the Purchaser, the Receiver's solicitor is authorized to release the Deposit to the Receiver.

## **ARTICLE 3 REPRESENTATIONS AND WARRANTIES OF THE PARTIES**

### **3.1 Representations and Warranties of the Receiver**

The Receiver hereby represents and warrants to the Purchaser, as of the date hereof and as of Closing Date, the matters set out below.

- (a) The Receiver has been appointed by the Court as receiver of the Property pursuant to the Appointment Order, a copy of which is available on the Receiver's Website.
- (b) Subject to the issuance of the Vesting Order, this Agreement constitutes a valid and binding obligation of the Receiver enforceable against it in accordance with its terms subject to any

limitations imposed by Law, and the Receiver has the necessary power and authority to carry out its obligations hereunder.

- (c) The Receiver has entered into a settlement with the real estate agent whereby a fee of \$50,000 will be paid in lieu of the real-estate commission that is otherwise payable under the listing agreement, which fee will added to the Receiver's Charge and form part of the Priority Claims and Closing Cash Payment.
- (d) The Receiver has not authorized any Encumbrance affecting any of the Purchased Assets (other than any Permitted Encumbrances, any charge created by the Appointment Order, or arising by operation of Laws in the normal course of the Business).

### **3.2 Representations and Warranties of the Purchaser**

The Purchaser hereby represents and warrants to the Receiver, as of the date hereof and as of the Closing Date, the matters set out below:

- (a) The Purchaser has been duly incorporated and is validly subsisting under the Laws of the jurisdiction of its incorporation, and has all requisite corporate capacity, power and authority to carry on its business as now conducted by it and is qualified to carry on business under the Laws of the jurisdictions where it carries on a material portion of its business.
- (b) The execution, delivery and performance of this Agreement by the Purchaser does not result in the violation of any of the provisions of its constating documents or by-laws.
- (c) This Agreement has been duly executed and delivered by the Purchaser and constitutes legal, valid and binding obligations of the Purchaser, enforceable against it in accordance with its terms subject only to any limitation under applicable Laws relating to: (i) bankruptcy, winding-up, insolvency, arrangement and other similar Laws of general application affecting the enforcement of creditors' rights; and (ii) the discretion that a court may exercise in the granting of equitable remedies such as specific performance and injunction.
- (d) Except for the Vesting Order, no Consent and no declaration to or filing or registration with any Governmental Authority is required in connection with the execution and delivery by the Purchaser of this Agreement or the performance by the Purchaser of its obligations hereunder.
- (e) The Purchaser or its designee shall be a registrant for the purposes of the tax imposed under Part IX of the *Excise Tax Act* (Canada) on Closing.

The Purchaser shall not be a non-resident of Canada for purposes of the *Income Tax Act* (Canada) on or prior to Closing.

## **ARTICLE 4** **PROCEDURES**

### **4.1 Vesting Order**

- (a) The Receiver and the Purchaser acknowledge that the Closing of the Transaction is subject to the issuance of the Vesting Order.
- (b) The Receiver shall use its commercially reasonable efforts to promptly thereafter file and serve the documents in relation to the Sale Application, on notice to the parties as required by the Rules of the Supreme Court of British Columbia.

- (c) The Purchaser shall provide all information, if any, and take such actions as may be reasonably requested by the Receiver to assist the Receiver in obtaining the Vesting Order, and any other order of the Court reasonably necessary to consummate the Transaction.
- (d) Once the form of the Vesting Order is approved by the Receiver and Purchaser, acting reasonably, it shall be attached as Schedule D.

#### 4.2 Pre-Closing Cooperation

- (a) Prior to the completion of the Transaction, upon the terms, and subject to the conditions of this Agreement, each of the Parties shall use its commercially reasonable efforts to take, or cause to be taken, all actions and to do, or cause to be done, and cooperate with each other in order to do, all things necessary, proper or advisable under applicable Laws to consummate the Transaction, including the preparation and filing of all forms, registrations and notices required to be filed to consummate the Closing, and the taking of such actions as are necessary to obtain any requisite Consent, provided that the Receiver shall not be obligated to make any payment or deliver anything of value to any Person (other than filing with and payment of any application fees to Governmental Authorities, all of which shall be paid, funded or reimbursed by the Purchaser) in order to obtain any Consent.
- (b) Each of the Receiver and the Purchaser shall promptly notify the other of the occurrence, to such Party's knowledge, of any event or condition, or the existence, to such Party's knowledge, of any fact, that would reasonably be expected to result in any of the conditions set forth in Section 5.1 or Section 5.2 not being satisfied.
- (c) The Parties shall use commercially reasonable efforts to set the Closing Date and complete the Transaction as soon as reasonably possible.

#### 4.3 Acquisition of Assets on "As Is, Where Is" Basis

The Purchaser hereby acknowledges and agrees as follows:

- (a) the Purchased Assets are being purchased on an "as is, where is" basis as at the Closing,
- (b) it has conducted or shall conduct its own searches and investigations relating to the Purchased Assets;
- (c) it has conducted such inspections of the Purchased Assets as it deemed appropriate, satisfied itself with respect to the Purchased Assets and all matters connected with or related to the Purchased Assets, and has relied entirely upon its own investigations and inspections in entering into this Agreement to acquire the Purchased Assets without regard to any information made available or provided by the Receiver or its officers, directors, employees or agents;
- (d) it shall accept the Purchased Assets in their state, condition and location as at the Closing Time and except as expressly set forth in this Agreement. The Receiver makes no representations, warranties, statements or promises on its own behalf or on behalf of the Debtor in favour of the Purchaser concerning the Purchased Assets, or the Receiver's or the Debtor's right, title or interest in or to the Purchased Assets, which the Purchaser acknowledges are being acquired on an as-is where-is basis, or the uses or applications of the Purchased Assets, whether express or implied, statutory or collateral, arising by operation of Law or otherwise, including express or implied warranties of merchantability, fitness for a particular purpose, the existence or non-existence of Hazardous Materials, compliance with any or all Environmental laws, title, description, quantity, condition or quality, and that any and all conditions and warranties expressed or implied by the *Sale of Goods Act* (British Columbia) do not apply to the sale of the Purchased Assets and are hereby waived by the Purchaser; and,

- (e) without limiting the generality of the foregoing, it acknowledges and accepts that the description of the Purchased Assets and any portion thereof contained in the Schedules hereto or otherwise provided by the Receiver is for the purpose of identification only; and that no representation, warranty or condition has or shall be given by the Receiver or any other party concerning completeness or the accuracy of such descriptions or with respect to any data room set up by the Receiver.

From the Acceptance Date through the earlier of the termination of this Agreement or the Closing, as applicable, the Purchaser shall be entitled to access the Purchased Assets for purposes of inspection of the same upon reasonable prior written notice to the Receiver. In connection with any such inspection(s), the Purchaser shall ensure no damage is caused to the Purchased Assets and shall be responsible for and shall indemnify the Vendor for all damages, costs, expenses and other adverse consequences of the Purchaser's actions, or the actions of any of the Purchaser's employees, contractors or consultants.

## **ARTICLE 5** **CONDITIONS**

### **5.1 Conditions of the Purchaser**

The obligations of the Purchaser to complete the purchase of the Purchased Assets under this Agreement shall be subject to the satisfaction of or compliance with, at or before the Closing Time, each of the following conditions (each of which is acknowledged to be inserted for the exclusive benefit of the Purchaser and may be waived by it in whole or in part):

- (a) all of the representations and warranties of the Receiver made in or pursuant to this Agreement shall be true and correct at the Closing Time and with the same effect as if made at and as of the Closing Time (except as such representations and warranties may be affected by the occurrence of events or transactions expressly contemplated and permitted by this Agreement) and the Purchaser shall have received a certificate from a senior officer of the Receiver confirming to the knowledge of such senior officer, without personal liability, the truth and correctness of such representations and warranties;
- (b) the Receiver shall have performed or complied with, in all material respects, all its obligations, covenants and agreements under this Agreement;
- (c) the Receiver shall have executed and delivered, or caused to be executed and delivered, to the Purchaser on or prior to the Closing Date the documents required to complete the Transaction as may reasonably be required by the Purchaser or its solicitors;
- (d) there shall be no Order issued by any Governmental Authority delaying, restricting or preventing, and no pending Claim or judicial or administrative proceeding, or investigation against any Party by any Person, for the purpose of enjoining, delaying, restricting or preventing, the consummation of the Transaction or otherwise claiming that this Agreement or the consummation of such transactions is improper or would give rise to proceedings under any Laws; and
- (e) the Vesting Order shall be a Final Order and no order shall have been issued which restrains or prohibits the completion of the Transaction;

The Purchaser may waive compliance with any condition in whole or in part if it sees fit to do so, without prejudice to its rights of termination in the event of non-fulfilment of any other condition, in whole or in part, or to its rights to recover damages, if any, for the breach of any representation, warranty, covenant or condition contained in this Agreement.

The conditions set out in Section 5.1 are conditions to completion of the Transaction but are not conditions to the enforceability of this Agreement.

## 5.2 Conditions of the Receiver

The obligations of the Receiver to complete the purchase of the Purchased Assets under this Agreement shall be subject to the satisfaction of or compliance with, at or before the Closing Time, each of the following conditions (each of which is acknowledged to be inserted for the exclusive benefit of the Receiver and may be waived by it in whole or in part):

- (a) all of the representations and warranties of the Purchaser made in or pursuant to this Agreement shall be true and correct as at the Closing Time and with the same effect as if made at and as at the Closing Time (except as such representations and warranties may be affected by the occurrence of events or transactions expressly contemplated and permitted by this Agreement) and the Receiver shall have received a certificate from a senior officer of the Purchaser confirming to his knowledge, without personal liability, the truth and correctness of such representations and warranties;
- (b) the Purchaser shall have performed or complied with, in all material respects, all its obligations, covenants and agreements under this Agreement;
- (c) the Purchaser shall have executed and delivered or caused to be executed and delivered to the Receiver on or prior to the Closing Date the documents required to complete the Transaction as may reasonably be required by the Receiver or its solicitors;
- (d) there shall be no Order issued by any Governmental Authority delaying, restricting or preventing, and no pending Claim or judicial or administrative proceeding, or investigation against any Party by any Person, for the purpose of enjoining, delaying, restricting or preventing, the consummation of the Transaction or otherwise claiming that this Agreement or the consummation of such Transaction is improper or would give rise to proceedings under any Laws;
- (e) the Appointment Order and the Vesting Order shall be a Final Order and no Order shall have been issued which restrains or prohibits the completion of the Transaction; and
- (f) the Receiver shall have received confirmation that the solicitor for the Purchaser holds funds equal to the Closing Cash Payment.

The Receiver may waive compliance with any condition in whole or in part if it sees fit to do so, without prejudice to its rights of termination in the event of non-fulfilment of any other condition, in whole or in part, or to its rights to recover damages, if any, for the breach of any representation, warranty, covenant or condition contained in this Agreement.

The conditions set out in Section 5.2 are conditions to completion of the Transaction but are not conditions to the enforceability of this Agreement.

## **ARTICLE 6** **CLOSING AND DELIVERIES**

### 6.1 Closing

- (a) Closing shall occur on a Business Day (the "Closing Date") on a day agreed to by the Parties that is within 5 Business Days after the Vesting Order has been granted, or on such other date as agreed to by the Parties.

- (b) Closing shall take place at 11:30 a.m. PDT (the “Closing Time”) on the Closing Date at the offices of the Receiver’s solicitors, or such other time and location as the Parties may agree upon in writing. Any tender of documents hereunder may be made upon the Receiver or the Purchaser or upon the solicitors acting for the Party on whom tender is desired. Any tender of money hereunder shall be made to the Receiver’s solicitor. All proceedings to be taken and all documents to be executed and delivered by all parties at the Closing shall be deemed to have been taken and executed simultaneously and no proceedings shall be deemed to have been taken nor documents executed or delivered until all have been taken, executed and delivered.

**6.2 Receiver’s Deliveries**

At the Closing,

- (a) the sale, transfer, assignment, and conveyance by the Receiver of the Purchased Assets to the Purchaser, free and clear of all Encumbrances other than Permitted Encumbrances, shall be effected by the issued and entered Vesting Order and by execution and delivery by the Receiver of the Bill(s) of Sale and Ancillary Agreements (completed in accordance with the Transfer Direction);
- (b) the Purchaser shall receive delivery, pursuant to the Vesting Order, of free and clear title and possession of the Purchased Assets on an “as is, where is” basis in accordance with Section 4.3 subject to the Permitted Encumbrances, provided that delivery shall occur in situ or in the original place wherever such Purchased Assets are located on the Closing Date;
- (c) the Receiver shall deliver a true and complete copy of the Vesting Order and the Closing Certificate; and
- (d) the Receiver shall deliver a bring-down certificate executed by the Receiver, in a form satisfactory to the Purchaser, acting reasonably, certifying that all of the representations and warranties of the Receiver hereunder remain true and correct in all material respects as of the Closing.

**6.3 Purchaser’s Deliveries**

At the Closing,

- (a) the Purchaser shall advance funds equal to the Closing Cash Payment, if any, to the Receiver’s solicitor;
- (b) the Purchaser shall pay the applicable Transfer Taxes to the Receiver on the Purchased Assets being acquired on Closing other than PST and GST which shall be self-assessed and Property Transfer Tax to be paid by the Purchaser;
- (c) the Purchaser shall deliver the Ancillary Agreements to which it is party, executed by the Purchaser, in a form satisfactory to the Receiver, acting reasonably;
- (d) the Purchaser shall deliver a bring-down certificate executed by the Purchaser, in a form satisfactory to the Receiver, acting reasonably, certifying that all of the representations and warranties of the Purchaser hereunder remain true and correct in all material respects as of the Closing;
- (e) the Purchaser shall deliver a document setting out the allocation of the Purchase Price, in form and substance satisfactory to the Receiver, acting reasonably; and
- (f) the Purchaser shall deliver the Transfer Direction, in form and substance satisfactory to the Receiver, acting reasonably.

#### **6.4 Concurrent Deliveries**

Notwithstanding the foregoing, concurrently with payment of the Closing Cash Payment to the Receiver's solicitor the Receiver or the Receiver's solicitor shall concurrent release or authorize use of the entered Vesting Order by the Purchaser or the Purchaser's solicitor.

#### **6.5 Subsequent Deliveries**

The Purchaser may from time to time at or after the Closing require that the Receiver execute and deliver to the Purchaser or as it may direct such further Ancillary Documents and Bill(s) of Sale as may be reasonably required to allow the transfer of all or any part of the Purchased Assets not previously effectively transferred. The Receiver shall execute and deliver such additional documentation as soon as reasonably possible after request therefor.

### **ARTICLE 7 TERMINATION**

#### **7.1 Termination**

This Agreement may be terminated at any time prior to Closing as follows:

- (a) subject to any approvals required from the Court, if any, by mutual written consent of the Receiver and the Purchaser;
- (b) by notice from the Receiver to the Purchaser or from the Purchaser to the Receiver, following the issuance of an Order or any other action by a Governmental Authority to restrain, enjoin or otherwise prohibit the transfer of the Purchased Assets as contemplated hereby;
- (c) automatically and without any action by either the Receiver or the Purchaser if Closing has not occurred on or before the Outside Date, unless the Receiver and Purchaser mutually agree to extend the Outside Date;
- (d) by the Receiver, if there has been a material violation or breach by the Purchaser of any agreement, covenant, representation or warranty which would prevent the satisfaction of any condition set forth in Section 5.2 and such violation or breach has not been waived by the Receiver or cured, unless the Receiver is in material breach of its obligations under this Agreement; and
- (e) by the Purchaser, if there has been a material violation or breach by the Receiver of any agreement, covenant, representation or warranty which would prevent the satisfaction of any condition set forth in Section 5.1 and such violation or breach has not been waived by the Purchaser or cured, unless the Purchaser is in material breach of its obligations under this Agreement.

### **ARTICLE 8 OTHER COVENANTS OF THE PARTIES; GENERAL**

#### **8.1 Access of the Receiver to Books and Records**

The Receiver shall, for a period of 6 years from the completion of the Transaction, have access to the Books and Records relating to the Business, the Purchased Assets and the Assumed Liabilities which are transferred and conveyed to the Purchaser pursuant to this Agreement, and the right to copy such material at its own cost, to the extent necessary or useful in connection with the completion of the administration of the Receivership Proceeding.



## 8.2 Tax Matters

- (a) The Purchaser and the Receiver agree to furnish or cause to be furnished to each other, as promptly as practicable, such information and assistance relating to the Purchased Assets and the Assumed Liabilities as is reasonably necessary for the preparation and filing of any Tax return, claim for refund or other required or optional filings relating to Tax matters, for the preparation for and proof of facts during any Tax audit, for the preparation for any Tax protest, for the prosecution of any suit or other proceedings relating to Tax matters and for the answer to any governmental or regulatory inquiry relating to Tax matters.
- (b) The Purchaser and the Receiver shall each be responsible for the preparation of their own statements, if any, required to be filed under the *Income Tax Act* (Canada) and other similar focus in accordance with applicable Tax Laws.
- (c) All amounts payable by the Purchaser to the Receiver pursuant to this Agreement are exclusive of any, sale, goods and services, harmonized sales, value added, use, consumption, personal property, customs, excise, transfer or similar Taxes, duties, or charges, or any recording or filing fees or similar charges otherwise exigible in respect of the acquisition of the Purchased Assets by the Purchaser (collectively, "Transfer Taxes") and all such Transfer Taxes are the responsibility of and for the account of the Purchaser. The Purchaser and the Receiver agree to cooperate to determine the amount of Transfer Taxes payable in connection with the Transaction. If the Receiver is required by applicable Law or by administration thereof to collect any applicable Transfer Taxes from the Purchaser, the Purchaser shall pay such Transfer Taxes to the Receiver on Closing, against a statement from the Receiver separately indicating the amount of Transfer Tax payable, unless the Purchaser qualifies for an exemption from any such applicable Transfer Taxes, in which case the Receiver shall not collect any such applicable Transfer Taxes from the Purchaser provided the Purchaser, in lieu of payment of such applicable Transfer Taxes to the Receiver, delivers to the Receiver such certificates, elections or other documentation required by applicable Law or the administration thereof to substantiate and affect the exemption claimed by the Purchaser. The GST/PST registration number of the Debtor is to be confirmed at a later date before the Closing Date.
- (d) The Purchaser shall indemnify and save the Receiver harmless from and against all claims and demands for payment of the Transfer Taxes referenced in this Section 8.2, including penalties and interest thereon and any liability or costs incurred as a result of any failure to pay such Taxes when due.
- (e) The Purchaser and the Receiver shall also execute and deliver such other Tax elections and forms as they may mutually agree upon, including without limitation joint elections pursuant to section 167(1) of Part IX of the *Excise Tax Act* (Canada) and any equivalent or corresponding provision under any applicable provincial or territorial legislation imposing a similar Tax, that no such Tax be payable with respect to the purchase and sale of the Purchased Assets under this Agreement. The Receiver and the Purchaser shall make such election(s) in prescribed form, to be prepared by the Purchaser and approved by the Vendor (such approval not to be unreasonably withheld) promptly following the Closing.

## 8.3 Receiver's Capacity

The Purchaser acknowledges and agrees that in all matters pertaining to this Agreement, including in its execution, MNP Ltd. has acted and is acting solely in its capacity as the receiver of the Property pursuant to the Appointment Order and not in its personal, corporate, or any other capacity and the Receiver and its agents, officers, directors and employees shall have no personal or corporate liability under or as a result of this Agreement, or otherwise in connection herewith.

#### 8.4 Receiver Disclosures

The Receiver shall be entitled to disclose this Agreement and all information provided by the Purchaser in connection herewith to the Court, to the parties in interest to the Receivership Proceedings, and to any parties entitled to access in accordance with the Sales Process and to publish this Agreement on the Receiver's Website. The Parties shall consult with and be cooperative with each other in respect of any press release or public statement or public communication with respect to this Agreement or Transaction.

#### 8.5 Closing Certificates

The Parties hereby acknowledge and agree that the Receiver shall be entitled to file with the Court a certificate, substantially in the form attached to the Vesting Order (the "Closing Certificate") upon receiving written confirmation from the Purchaser that all conditions to Closing have been satisfied or waived. The Receiver shall have no liability to the Purchaser or any other person as a result of filing the Closing Certificate. The receiver shall promptly file a certificate or other document necessary to effect the discharge the receiver contemplated by the Vesting Order promptly after receiving written notice from the Receiver's solicitor that the transaction has completed.

#### 8.6 Notices

Any notice, consent or approval required or permitted to be given in connection with this Agreement shall be in writing and shall be sufficiently given if delivered (whether in person, by courier service or other personal method of delivery), or if transmitted by e-mail:

in the case of a notice to the Purchaser at:

1479378 B.C. LTD.

1555- 1500 West Georgia Street  
Vancouver, BC V6G 2Z6  
Attention: David Beckingham  
Email: [beckingham@dlc.ca](mailto:beckingham@dlc.ca)

Solicitor (but not considered to be service)

Ledding & Company LLP  
415 - 1788 West 5<sup>th</sup> Avenue  
Vancouver, BC V6J 1P2  
Attention: Richad Ledding or Evan Drygas  
Email: [rledding@leddinglaw.com](mailto:rledding@leddinglaw.com) or [edrygas@leddinglaw.com](mailto:edrygas@leddinglaw.com)

in the case of a notice to the Receiver at:

MNP Ltd.  
1630 - 609 Granville Street  
Vancouver, BC V7Y 1G5  
Attention: Douglas Chivers  
Email: [Doug.Chivers@mnp.ca](mailto:Doug.Chivers@mnp.ca)

Solicitor (but not considered to be service)

Lawson Lundell LLP  
403 - 460 Doyle Avenue

Kelowna, British Columbia V1Y 0C2  
Attention: Scott Andersen  
Email: [scott.andersen@lawsonlundell.com](mailto:scott.andersen@lawsonlundell.com)

Any notice delivered or transmitted to a Party as provided above shall be deemed to have been given and received on the day it is delivered or transmitted, provided that it is delivered or transmitted on a Business Day prior to 5:00 p.m. local time in the place of delivery or receipt. However, if the notice is delivered or transmitted after 5:00 p.m. local time or if such day is not a Business Day then the notice shall be deemed to have been given and received on the next Business Day.

Any Party may, from time to time, change its address by giving notice to the other Party in accordance with the provisions of this Section 8.6.

**8.7 Intentionally deleted.**

**8.8 Intentionally deleted.**

**8.9 Time of the Essence**

Time shall be of the essence in respect of the obligations of the Parties under this Agreement.

**8.10 Enurement**

This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors (including any successor by reason of amalgamation of any Party) and permitted assigns.

**8.11 Amendment**

No amendment, supplement, modification or waiver of this Agreement and, unless otherwise specified, no consent or approval by any Party, shall be binding unless executed in writing by the Party to be bound thereby.

**8.12 Further Assurances**

The Parties shall, with reasonable diligence, do all such things and provide all such reasonable assurances as may be required to consummate the Transaction, and each Party shall provide such further documents or instruments required by any other Party as may be reasonably necessary to effect the purpose of this Agreement and carry out its provisions, whether before or after the Closing provided that the reasonable costs and expenses of any actions taken after Closing at the request of a Party shall be the responsibility of the requesting Party.

**8.13 Execution and Delivery**

This Contract may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which taken together shall be deemed to constitute one and the same instrument. It shall not be necessary in making proof of this Contract to produce or account for more than one such counterpart. This Contract may be executed and delivered by electronic or facsimile transmission and each of the parties hereto may rely on such electronic or facsimile signature as though such electronic or facsimile signature were an original signature.

**8.14 Survival**

No covenants, representations or warranties of any Party contained in this Agreement or any document delivered pursuant hereto shall survive the completion of the sale and purchase and assumption of the Purchased Assets and the Assumed Liabilities hereunder, except for the covenants that by their terms are to be satisfied after the completion of the Transaction, which covenants shall continue in full force and effect in accordance with their terms.

*Remainder of page intentionally left blank – signature page follows*

IN WITNESS WHEREOF the Parties have executed this Agreement as of the date first written above.

MNP Ltd., solely in its capacity as court-appointed receiver of the assets, property and undertaking of and not in its personal capacity and without personal or corporate liability.

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

Name:

Title:

*I have authority to bind the Corporation*

**1479378 B.C. LTD.**

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

Name: David Beckingham

Title: Director

*I have authority to bind the Corporation*

**Schedule A  
LEGAL DESCRIPTION**

**Legal Description of Lands**

PID: 004-063-031

LOT 20 SECTION 2 TOWNSHIP 23 OSOYOOS DIVISION YALE DISTRICT PLAN 30107

**Schedule B  
EXCLUDED ASSETS**

Not applicable.

**Schedule C**  
**PERMITTED ENCUMBRANCES**

1.     UNDERSURFACE RIGHTS, 57903E
2.     UNDERSURFACE RIGHTS, 96751E
3.     STATUTORY RIGHT OF WAY , KF34094
4.     STATUTORY RIGHT OF WAY , LB518652
5.     STATUTORY RIGHT OF WAY , LB518779
6.     STATUTORY RIGHT OF WAY , LB518780
7.     MORTGAGE CA9153214 and ASSIGNMENT OF RENTS CA9153215



**Schedule D**  
**FORM OF VESTING ORDER**

To be attached.

**Schedule E  
ASSUMED LIABILITIES**

Not applicable.

## **Appendix C**

Marketing report by Colliers dated May 6, 2024



May 6, 2024

# Marketing Report

555 Adams Road | Kelowna, BC

Prepared for: MNP Ltd.

**Stephen Webber**

Associate Vice President  
+1 604 970 9134  
stephen.webber@colliers.com

**Eric Weber PREC**

Vice President  
+1 250 212 8550  
eric.weber@colliers.com

**Bill Randall PREC**

Executive Vice President  
+1 604 671 3077  
bill.randall@colliers.com

Accelerating success.



# Overview of Marketing Process

Colliers Canada Web Listing Views

913

Total Unique Website Interactions

1285

CA's Signed for Access to Data Room

75

Active Interest & Discussions

71

We have additionally engaged in the following marketing activities:

- Listed on MLS since the listing commenced
- Multiple emails to our investor and industrial owner-user data base, over 2,500 recipients
- Advertised monthly in the Western Investor
- Prominent signage
- Continually listed on Colliers and Bill Randall's websites
- Brochure created ( )
- Distribution to all Colliers offices in Canada
- Distribution to all industrial/commercial brokers in Vancouver and Kelowna
- Over 150 packages sent out
- Over 200 personal phone calls made
- Over 100 phone calls received
- Sent out three times to Commercial Broadcast, to over 400 realtors in B.C.
- 23 Tours

## Expressions of Interest

Company	Individuals	Company	Individuals
Nicola Wealth Real Estate	Mark Hannah	Bentall Green Oak	Tony Astles
PC Urban	Steve Forest / Antony Solentic	Cedar Coast	Aaron Fedora
Beedie	Todd Yuen	HB Holdings	David Broesky
Callahan Properties	Buce Callahan / Bob Callahan	BUK Investments	Stephen Jung
Chip Development	Bartek Farafoszyn	JSK Capital	Jamil Kara
Conwest	Bruce Marinelli	Welbec Properties	Sanjeev Kandola / George Wen
Astria Properties	David Basche	TradeSpace	Jordan Tetreau
Mission Group	Chris Rundle / Scott Stevens	RDM Enterprises	Ron Madsen
Hungerford Properties	Michael Hungerford / Andrew Hungerford	Pineridge Ventures	Chris Langhaug
Dayu Group of Companies	Jonathan Barnett	Seadiff	Jeany Lee
Deniti	Carry Fawley / Volodya Gusak	Space Centre Storage	Mitch Martyna / Cam Martyna
Argus Properties	Dallas Grey / Mark Marshall / Guy Stewart	Brandt Developments	Steve Oke
Saba	Sarb Hayer	Innocept Developments	Paul Pasutto
Fraserview Cedar	Gary Gill	Cedar Craft	Glen Dobl
Ministry of Transportation	Sarah Davy	Tolko	Brian Baarda
Austeville Properties	Andrew Abromowich	Coal Harbour Real Estate	Marty Dolan
Freeport Industries	Todd Venier	A.B. Wall Properties	
CBRE (Auto group)	Carter Kerzner (	Orchard Park Properties	
Applewood Auto Group	Vic Wert		

**Colliers**

Accelerating success.

**Stephen Webber**

Associate Vice President  
+1 604 970 9134  
stephen.webber@colliers.com

**Eric Weber PREC**

Vice President  
+1 250 212 8550  
eric.weber@colliers.com

**Bill Randall PREC**

Executive Vice President  
+1 604 671 3077  
bill.randall@colliers.com

Colliers  
1067 West Cordova St., Suite 1100  
Vancouver, BC V6C 1C7 | Canada

This document has been prepared by Colliers for information and general reference only. Colliers makes no guarantee, representation or warranty of any kind, expressed or implied, regarding the information contained herein and based on the accuracy, reliability and validity. Any interested party should undertake their own independent due diligence of the information. Colliers accepts no responsibility for any and all consequences arising from the use of this document and disclaims all liability for loss and damages arising therefrom. This publication is the copyrighted property of Colliers and the Company. Copyright © 2022. All rights reserved. This information is not intended to create a contract or any other legal relationship.



Colliers

# Digital Ads Campaign Metrics

555 Adams Road Kelowna | OPP#10302585

Post Campaign Report  
by Digital Marketing Team

**Aldo Stephanus**  
Director, Digital Marketing | Canada  
+1 604 661 0899  
Aldo.Stephanus@colliers.com

**Molly Gove**  
Digital Marketing Specialist | Canada  
+1 604 694 7230  
Molly.Gove@colliers.com

Accelerating success.



# Lead Gen Campaign Carousel Ad Variant

March 6 – March 20, 2024

**55,442**

Impressions

*Number of times the ad was viewed*

**18,105**

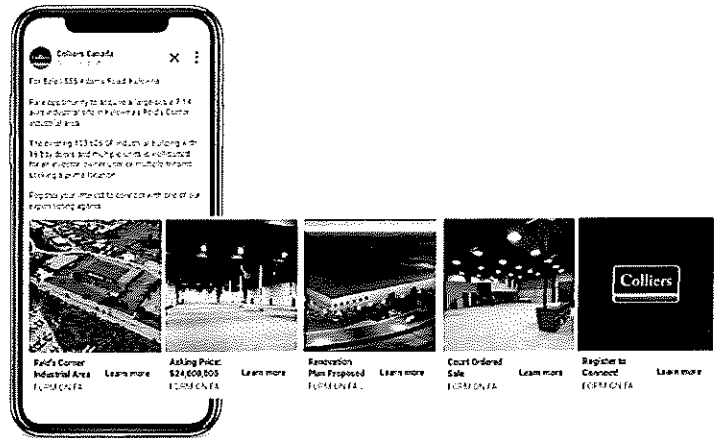
Reach

*Number of people who saw the ad at least once*

**85**

Leads

*Number of people who register interest in ad*



# Leads Summary

Expand client relationships

85

Leads generated

98%

Are marketing  
qualified leads  
(MQLs)



*To view the total list of MQL leads generated  
by this campaign visit the link below.*

[Learn more](#)

[Introduction](#)

[Social Media Advertising](#)

[Leads Summary](#)

[Web Listing Report](#)

[Digital Inquiry](#)

[Contact Us](#)

3

# Web Listing Report

**This Month** | **This Year** | **Custom** | **All**  
 Select Date Range: 3/6/2024 - 3/20/2024

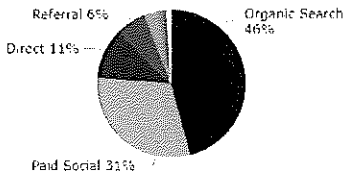
Listings with Views: **1**

Visitors: **187**

Page Views: **236**

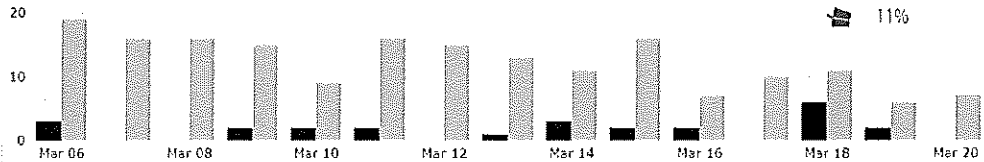
Engagements: **25**

### Traffic Sources



### Engagements and Visitors by Date

● Engagements @ Visitors



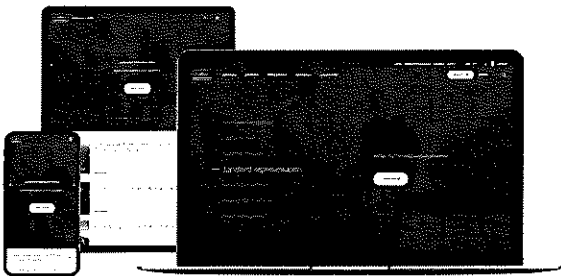
### Engagements per Views

11%

Listing ID	Listing Name	Address	Property Type	Lease	Sale	Expiry Date	Visitors	Page Views	Engage. per Views	Clicks to Call	Clicks View Docs	Contact Forms	Clicks Sec Docs
CAN2014439	103,626 SF Industrial Building on 7.14 Acres   Cour...	555 Adams Road, Kelo...	Industrial	Lease		06/30/24	187	236	11%	0	25	0	0
<b>Total</b>							<b>187</b>	<b>236</b>	<b>11%</b>	<b>0</b>	<b>25</b>	<b>0</b>	<b>0</b>



# Digital Project Inquiry



Questions about this report or upcoming digital projects?

Contact Us

Submit digital campaign request. [Here](#)

Full-Service Coverage

**#1 Website**  
In commercial real estate

**Winner**  
Of 4 International Property Awards

**4 million +**  
Website visitors in 2023

**1 million +**  
Listing page views in 2023

**85,000+**  
Qualified leads generated in 2023

**8 million +**  
Impressions for property marketing in 2023

Introduction

Social Media Advertising

Leads Summary

Web Listing Report

Digital Inquiry

Contact Us

5

# Reach out to get started.



**Bill Randall**  
Associate Vice President  
Personal Real Estate Corporation  
+1 604 692 1097  
bill.randall@colliers.com

**Aldo Stephanus**  
Director, Digital Marketing | Canada  
+1 604 661 0899  
aldo.stephanus@colliers.com

**Molly Gove**  
Digital Marketing Specialist | Canada  
1 604 694 7230  
molly.gove@colliers.com

This document has been prepared by Colliers for informational and general illustrative purposes only. Colliers makes no assurance or representation as to the accuracy, reliability, or completeness of the information contained herein. Colliers is not responsible for any errors or omissions in this document. Colliers is not responsible for any loss of revenue, profit, or other financial damage resulting from the use of this document. This document is the property of Colliers and is provided for informational purposes only. Colliers is not responsible for any reproduction or distribution of this document without its prior written consent.

collierscanada.com



Introduction

Social Media Advertising

Leads Summary

Web Listing Report

Digital Inquiry

Contact Us

This is the 2<sup>nd</sup> Affidavit of Doug Chivers  
in this case and was made on May 7, 2024

NO. H-230801  
VANCOUVER REGISTRY

**IN THE SUPREME COURT OF BRITISH COLUMBIA**

BETWEEN:

TCC MORTGAGE HOLDINGS INC. and TREZ CAPITAL  
LIMITED PARTNERSHIP

PETITIONERS

AND:

104 INVESTMENTS LTD.  
DENNIS ALLAN DRUMMOND  
DAVID WILLIAM BECKINGHAM  
CAPITAL PROPERTIES LTD.  
SUNBELT RENTALS OF CANADA INC.  
JOANNE SUSAN TAYLOR THOMAS  
POSNIKOFF MORTGAGE MANAGEMENT LTD.  
JOHN DOE  
ALL TENANTS AND OCCUPIERS OF THE SUBJECT  
LANDS AND PREMISES

RESPONDENTS

**AFFIDAVIT**

I, Doug Chivers, of 430-505 Burrard Street, Vancouver, B.C., in the City of Vancouver, in the Province of British Columbia, MAKE OATH AND SAY AS FOLLOWS:

1. I am a Senior Vice President of MNP Ltd., the Receiver and Manager, (the “**Receiver**”) without security, of all of the assets, undertakings and property of 104 Investments Ltd. (the “**Debtor**”), and as such have personal knowledge of the facts and matters hereinafter deposed to, save and except where the same are stated to be made upon information and belief, and, as to such facts, I verily believe the same to be true.

2. Attached and marked as **Exhibit "A"** is the Receiver's Third Report to this Honourable Court (the "**Third Report**"). I am the primary author of the Third Report and confirm that the facts set out therein are both true and accurate.

SWORN BEFORE ME at the City of Vancouver, )  
in the Province of British Columbia, this 7<sup>th</sup> day )  
of May, 2024 )



\_\_\_\_\_  
A Commissioner for taking Affidavits within  
British Columbia )



\_\_\_\_\_  
DOUG CHIVERS )

**SOFICA PARKER**  
*A Commissioner for Taking Affidavits  
Within the Province of British Columbia*  
Suite 430 - 505 Burrard Street  
Vancouver, B.C. V7X 1M3  
**Appointment Expires: May 31, 2024**

This is **Exhibit "A"** referred to in the Affidavit  
of Doug Chivers made before me on  
May 7, 2024



---

A Commissioner for taking Affidavits for  
British Columbia

**SOFICA PARKER**  
*A Commissioner for Taking Affidavits  
Within the Province of British Columbia*  
**Suite 430 - 505 Burrard Street  
Vancouver, B.C. V7X 1M3**  
**Appointment Expires: May 31, 2024**