

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

THE HONOURABLE

)

WEDNESDAY, THE 17<sup>TH</sup>

JUSTICE HAINEY

)

DAY OF JUNE, 2020

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF 957855 ALBERTA LTD.  
(FORMERLY NEWSWEST INC.) AND ROSEBUD CREEK  
FINANCIAL CORP. IN RESPECT OF METRO 360  
GENERAL PARTNERSHIP

Applicants

INITIAL ORDER

THIS APPLICATION, made by 957855 Alberta Ltd. (formerly NewsWest Inc.) ("Alberta HoldCo") and Rosebud Creek Financial Corp. ("Rosebud HoldCo" and, together with the Alberta HoldCo, the "Applicants"), being the partners of the Metro 360 General Partnership ("Metro 360"), pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA"), was heard this day via videoconference at Toronto, Ontario.

ON READING the affidavit of Daniel P. Shapiro sworn June 10, 2020, and the Exhibits thereto (the "Shapiro Affidavit"), and the second report of KSV Kofman Inc. ("KSV"), in its capacity as the proposal trustee of the Applicants in the Proposal Proceedings (as defined below) (in such capacity, the "Proposal Trustee") and in its capacity as the proposed monitor of the Applicants under the CCAA, dated June 10, 2020 (the "Second Report"), and on hearing the submissions of counsel for the Applicants and Metro 360, counsel for the Proposal Trustee and those other parties appearing, no one else appearing although duly served as appears from the

affidavit of service of Andrew Harmes sworn June 14, 2020, and on reading the consent of KSV to act as the monitor of the Applicants (in such capacity, the “**Monitor**”),

### **SERVICE**

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

### **CONTINUANCE UNDER THE CCAA**

2. **THIS COURT ORDERS AND DECLARES** that the Applicants are companies to which the CCAA applies. Although not an applicant, Metro 360 (together with the Applicants, the “**CCAA Entities**” and each a “**CCAA Entity**”) shall have the benefit of the same protections and authorizations provided to the Applicants by this Order.

3. **THIS COURT ORDERS AND DECLARES** that effective June 17, 2020, the Applicants’ proceedings bearing Court File No. 31-2636843 (the “**Proposal Proceedings**”) commenced under Part III of the *Bankruptcy and Insolvency Act*, R.S.C. 1985 c. B-3, as amended (the “**BIA**”) are hereby taken up and continued under the CCAA and that, as of such date, the provisions of Part III of the BIA shall have no further application to the CCAA Entities, save that any and all steps, agreements and procedures validly taken, done or entered into by the CCAA Entities during the Proposal Proceedings shall remain valid and binding, notwithstanding the commencement of the CCAA proceedings, including, without limitation, the sale of any assets, property or undertaking of any of the CCAA Entities that was approved by the Court or otherwise permitted in the Proposal Proceedings, including, but not limited to (a) the TNG Transaction (as defined in the Shapiro Affidavit) and (b) any transaction entered into pursuant to paragraph 14 of the Bankruptcy Procedure Order of Hainey J. dated April 7, 2020 issued in the Proposal Proceedings (the “**Procedure Order**”).

### **PLAN OF ARRANGEMENT**

4. **THIS COURT ORDERS** that the CCAA Entities shall have the authority to file and may, subject to further order of this Court, file with this Court a plan of compromise or arrangement (hereinafter referred to as the “**Plan**”).

## **POSSESSION OF PROPERTY AND OPERATIONS**

5. **THIS COURT ORDERS** that the CCAA Entities shall remain in possession and control of their current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situate including all proceeds thereof (the “**Property**”). Subject to further Order of this Court, the CCAA Entities shall continue to carry on business in a manner consistent with the preservation of their business (the “**Business**”) and Property. The CCAA Entities are authorized and empowered to continue to retain and employ the employees, consultants, agents, experts, accountants, counsel and such other persons (collectively “**Assistants**”) currently retained or employed by them, with liberty to retain such further Assistants as they deem reasonably necessary or desirable in the ordinary course of business or for the carrying out of the terms of this Order.

6. **THIS COURT ORDERS** that the CCAA Entities shall be entitled to continue to utilize their existing cash management system currently in place or replace it with another substantially similar cash management system (the “**Cash Management System**”) and that any present or future bank providing the Cash Management System shall not be under any obligation whatsoever to inquire into the propriety, validity or legality of any transfer, payment, collection or other action taken under the Cash Management System, or as to the use or application by the CCAA Entities of funds transferred, paid, collected or otherwise dealt with in the Cash Management System, shall be entitled to provide the Cash Management System without any liability in respect thereof to any Person (as hereinafter defined) other than the CCAA Entities, pursuant to the terms of the documentation applicable to the Cash Management System, and shall be, in its capacity as provider of the Cash Management System, an unaffected creditor under the Plan with regard to any claims or expenses it may suffer or incur in connection with the provision of the Cash Management System.

7. **THIS COURT ORDERS** that the CCAA Entities shall be entitled but not required to pay the following expenses and satisfy the following obligations, whether incurred prior to or after this Order:

- (a) all outstanding and future wages, salaries, commissions, compensation, employee benefits, pension contributions, vacation pay and expenses (including, without

limitation, payroll and benefits processing and servicing expenses) payable on or after the date of this Order, in each case incurred in the ordinary course of business and consistent with existing compensation policies and arrangements;

- (b) the fees and disbursements of any Assistants retained or employed by the CCAA Entities in respect of these proceedings, at their standard rates and charges;
- (c) any payment referred to in paragraphs 8(a) to 8(b) of this Order that: (i) was incurred during the Proposal Proceedings or that pertains to such period; or (ii) pertains to the period prior to the commencement of the Proposal Proceedings if, in the opinion of the CCAA Entities and with the consent of the Monitor, the supplier of the applicable good or service is critical to the Business and the ongoing operation of the CCAA Entities.

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

- (a) all expenses and capital expenditures reasonably necessary for the preservation of the Property or the Business including, without limitation, payments on account of insurance (including directors and officers insurance), maintenance and security services; and
- (b) payment for goods or services supplied or to be supplied to the CCAA Entities.

9. **THIS COURT ORDERS** that the CCAA Entities shall remit, in accordance with legal requirements, or pay:

- (a) any statutory deemed trust amounts in favour of the Crown in right of Canada or of any Province thereof or any other taxation authority which are required to be deducted from employees' wages, including, without limitation, amounts in respect of (i) employment insurance, (ii) Canada Pension Plan, (iii) Quebec Pension Plan, and (iv) income taxes;

- (b) all goods and services or other applicable sales taxes (collectively, “Sales Taxes”) required to be remitted by the CCAA Entities in connection with the sale of goods and services by the CCAA Entities, but only where such Sales Taxes are accrued or collected after the date of this Order, or where such Sales Taxes were accrued or collected prior to the date of this Order but not required to be remitted until on or after the date of this Order; and
- (c) any amount payable to the Crown in right of Canada or of any Province thereof or any political subdivision thereof or any other taxation authority in respect of municipal realty, municipal business or other taxes, assessments or levies of any nature or kind which are entitled at law to be paid in priority to claims of secured creditors and which are attributable to or in respect of the carrying on of the Business by the CCAA Entities.

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

### **RESTRUCTURING**

11. **THIS COURT ORDERS** that the CCAA Entities shall, subject to such requirements as are imposed by the CCAA, have the right to:

- (a) permanently or temporarily cease, downsize or shut down any of their Business or operations, and to dispose of redundant or non-material assets not exceeding \$200,000 in any one transaction or \$400,000 in the aggregate;
- (b) terminate the employment of such of their employees or temporarily lay off such of their employees as they deem appropriate; and

- (c) pursue all avenues of refinancing or restructuring of their Business or Property, in whole or part, subject to prior approval of this Court being obtained before any material refinancing,

all of the foregoing to permit the CCAA Entities to proceed with an orderly restructuring of the Business (the “**Restructuring**”).

12. **THIS COURT ORDERS** that until a real property lease is disclaimed in accordance with the CCAA, the CCAA Entities shall be entitled to pay, without duplication, all amounts constituting rent or payable as rent under real property leases (including, for greater certainty, common area maintenance charges, utilities and realty taxes and any other amounts payable to the landlord under the lease, but, for greater certainty, excluding accelerated rent or penalties, fees or other charges arising as a result of the insolvency of the CCAA Entities or the making of this Order) or as otherwise may be negotiated between the CCAA Entities and the landlord from time to time (“**Rent**”), for the period commencing from and including the date of this Order, in accordance with past practice pursuant to the terms of the lease. On the date of the first of such payments, any Rent relating to the period commencing from and including the date of this Order shall also be paid.

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

14. **THIS COURT ORDERS** that if a notice of disclaimer or resiliation is delivered pursuant to Section 32 of the CCAA, then (a) during the notice period prior to the effective time of the disclaimer or resiliation, the landlord may show the affected leased premises to prospective tenants during normal business hours, on giving the CCAA Entities and the Monitor 24 hours' prior written notice, and (b) at the effective time of the disclaimer or resiliation, the relevant landlord shall be entitled to take possession of any such leased premises without waiver of or prejudice to any claims or rights such landlord may have against the CCAA Entities in respect of such lease or leased premises, provided that nothing herein shall relieve such landlord of its obligation to mitigate any damages claimed in connection therewith.

#### **NO PROCEEDINGS AGAINST THE CCAA ENTITIES OR THE PROPERTY**

15. **THIS COURT ORDERS** that until and including June 26, 2020, or such later date as this Court may order (the "**Stay Period**"), no proceeding or enforcement process in any court or tribunal (each, a "**Proceeding**") shall be commenced or continued against or in respect of any of the CCAA Entities or the Monitor, or affecting the Business or the Property, except with the written consent of the applicable CCAA Entity and the Monitor, or with leave of this Court, and any and all Proceedings currently under way against or in respect of any of the CCAA Entities or affecting the Business or the Property are hereby stayed and suspended pending further Order of this Court.

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

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

### **NO INTERFERENCE WITH RIGHTS**

17. **THIS COURT ORDERS** that during the Stay Period, no Person shall discontinue, fail to honour, alter, interfere with, repudiate, terminate or cease to perform any right, renewal right, contract, agreement, lease, sublease, licence or permit in favour of or held by any CCAA Entity (in each case whether written or oral), except with the written consent of the applicable CCAA Entity and the Monitor, or leave of this Court.

18. **THIS COURT ORDERS** that, until further Order of this Court, the Applicants shall not be deemed to have made an assignment based on their failure to file a proposal with the official receiver notwithstanding s. 50.4(8) of the BIA.

### **CONTINUATION OF SERVICES**

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

### **NON-DEROGATION OF RIGHTS**

20. **THIS COURT ORDERS** that, notwithstanding anything else in this Order, no Person shall be prohibited from requiring immediate payment for goods, services, use of leased or licensed property or other valuable consideration provided on or after the date of this Order, nor shall any Person be under any obligation on or after the date of this Order to advance or re-



advance any monies or otherwise extend any credit to the CCAA Entities. Nothing in this Order shall derogate from the rights conferred and obligations imposed by the CCAA.

### **PROCEEDINGS AGAINST DIRECTORS AND OFFICERS**

21. **THIS COURT ORDERS** that during the Stay Period, and except as permitted by subsection 11.03(2) of the CCAA, no Proceeding may be commenced or continued against any of the former, current or future directors or officers of the Applicants with respect to any claim against the directors or officers that arose before or arises after the date hereof and that relates to any obligation of any Applicant whereby the directors or officers are alleged under any law to be liable in their capacity as directors or officers for the payment or performance of such obligations.

### **KEY EMPLOYEE RETENTION PROGRAM**

22. **THIS COURT ORDERS** that the key employee retention program (the “KERP”) described in the Shapiro Affidavit and in the Second Report is hereby authorized and approved, the CCAA Entities (or any other person that may be appointed on behalf of the CCAA Entities, and including, without limitation, any trustee, liquidator, receiver, interim receiver, receiver and manager or other person acting on behalf of any such person) is hereby authorized to perform the obligations under the KERP, including making all payments to the beneficiaries of the KERP (the “KERP Participants”) of amounts due and owing under the KERP in accordance with the terms and conditions of the KERP.

23. **THIS COURT ORDERS** that the CCAA Entities are hereby authorized to execute and deliver such additional documents as may be necessary to give effect to the KERP, subject to prior approval of such documents by the Monitor or as may be ordered by this Court.

24. **THIS COURT ORDERS** that the KERP Participants shall be entitled to the benefit of and are hereby granted a charge (the “KERP Charge”) on the Property, which charge shall not exceed the aggregate amount of \$180,000, as security for the obligations of the CCAA Entities to the KERP Participants under the KERP. The KERP Charge shall have the priority set out in paragraphs 37 and 39 herein.

## **DIRECTORS' AND OFFICERS' INDEMNIFICATION AND CHARGE**

25. **THIS COURT ORDERS** that the Applicants shall indemnify their current and future directors and officers (the "D&Os") against obligations and liabilities that they may incur as directors or officers of the Applicants after the commencement of the within proceedings, including, without limitation, in respect of any failure to pay wages and source deductions, vacation pay, or other payments of the nature referred to in subparagraphs 7(a), 9(a), 9(b) or 9(c) of this Order except to the extent that, with respect to any director or officer, the obligation or liability was incurred as a result of such director's or officer's gross negligence or wilful misconduct.

26. **THIS COURT ORDERS** that the D&Os of the Applicants shall be entitled to the benefit of and are hereby granted a charge (the "Directors' Charge") on the Property, which charge shall not exceed an aggregate amount of \$300,000 as security for the indemnity provided in paragraph 24 of this Order. The Directors' Charge shall have the priority set out in paragraphs 37 and 39 herein.

## **APPOINTMENT OF MONITOR**

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

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

- (a) monitor the CCAA Entities' receipts and disbursements;

- (b) report to this Court at such times and intervals as the Monitor may deem appropriate with respect to matters relating to the Property, the Business, and such other matters as may be relevant to the proceedings herein;
- (c) advise the CCAA Entities in their preparation of their cash flow statements;
- (d) advise the CCAA Entities in their development of the Plan and any amendments to the Plan;
- (e) assist the CCAA Entities, to the extent required by the CCAA Entities, with the holding and administering of creditors' or shareholders' meetings for voting on the Plan;
- (f) have full and complete access to the Property, including the premises, books, records, data, including data in electronic form, and other financial documents of the CCAA Entities to the extent that is necessary to adequately assess the CCAA Entities' business and financial affairs or to perform its duties arising under this Order;
- (g) assist the CCAA Entities with respect to the consideration, development and implementation of any Restructuring initiatives;
- (h) be at liberty to engage independent legal counsel or such other persons as the Monitor deems necessary or advisable, including the services or employees of its affiliates, respecting the exercise of its powers and performance of its obligations under this Order; and
- (i) perform such other duties as are required by this Order or by this Court from time to time.

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

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

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

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

33. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and counsel to the CCAA Entities shall be paid their reasonable fees and disbursements, in each case at their

standard rates and charges and whether incurred prior to, on or after the date hereof, by the CCAA Entities as part of the costs of these proceedings. The CCAA Entities are hereby authorized and directed to pay the accounts of the Monitor, counsel for the Monitor and counsel for CCAA Entities in accordance with the payment terms agreed to with such professionals.

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

35. **THIS COURT ORDERS** that the Proposal Trustee and counsel to the Proposal Trustee shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by the CCAA Entities as part of the costs of these proceedings. The CCAA Entities are hereby authorized and directed to pay any outstanding accounts of the Proposal Trustee and counsel to the Proposal Trustee.

#### **VALIDITY AND PRIORITY OF THE PROPOSAL ADMINISTRATION CHARGE**

36. **THIS COURT ORDERS** that the Administration Charge as defined in and created by the Procedure Order (the "**Proposal Administration Charge**"), shall continue to be in force and effect in these CCAA proceedings, as may be amended by this Order, and the Proposal Administration Charge shall have the priority set out in paragraphs 37 and 39 hereof.

37. **THIS COURT ORDERS** that the Monitor, counsel to the Monitor and, for greater certainty, counsel to the CCAA Entities, shall be entitled to the benefit of the Proposal Administration Charge as security for their professional fees and disbursements incurred both before and after the granting of this Order at the standard rates and charges of the Monitor and such counsel.

#### **VALIDITY AND PRIORITY OF CHARGES CREATED BY THIS ORDER**

38. **THIS COURT ORDERS** that the priorities of the Proposal Administration Charge, the Directors' Charge and the KERP Charge (collectively, the "**Charges**"), as among them, shall be as follows:

First – Proposal Administration Charge (to the maximum amount of

- \$300,000);
- Second – Directors' Charge (to the maximum amount of \$300,000); and
- Third – KERP Charge (to the maximum amount of \$180,000).

39. **THIS COURT ORDERS** that the filing, registration or perfection of the Charges shall not be required, and that the Charges shall be valid and enforceable for all purposes, including as against any right, title or interest filed, registered, recorded or perfected subsequent to the Charges coming into existence, notwithstanding any such failure to file, register, record or perfect.

40. **THIS COURT ORDERS** that each of the Charges shall constitute a charge on the Property and such Charges shall rank in priority to all other security interests, trusts, liens, charges and encumbrances, claims of secured creditors, statutory or otherwise (collectively, "**Encumbrances**") in favour of any Person, except for any secured creditor of the CCAA Entities who did not receive notice of the motion seeking this Order which was filed in the Proposal Proceedings.

41. **THIS COURT ORDERS** that the CCAA Entities shall be entitled on any subsequent motion on notice to those Persons likely to be affected thereby, to seek priority of the Charges ahead of any Encumbrance over which the Charges may have not obtained priority.

42. **THIS COURT ORDERS** that, except as otherwise expressly provided for herein, or as may be approved by this Court, the CCAA Entities shall not grant any Encumbrances over any Property that rank in priority to, or *pari passu* with, any of the Charges, unless the CCAA Entities also obtains the prior written consent of the Monitor and the beneficiaries of the applicable Charges (collectively, the "**Chargees**"), or further Order of this Court.

43. **THIS COURT ORDERS** that the Charges shall not be rendered invalid or unenforceable and the rights and remedies of the Chargees shall not otherwise be limited or impaired in any way by (a) the pendency of these proceedings and the declarations of insolvency made herein; (b) any application(s) for bankruptcy order(s) issued pursuant to BIA, or any bankruptcy order made pursuant to such applications; (c) the filing of any assignments for the general benefit of creditors made pursuant to the BIA; (d) the provisions of any federal or provincial statutes; or (e) any negative covenants, prohibitions or other similar provisions with

respect to borrowings, incurring debt or the creation of Encumbrances, contained in any existing loan documents, lease, sublease, offer to lease or other agreement (collectively, an “**Agreement**”) which binds any of the CCAA Entities, and notwithstanding any provision to the contrary in any Agreement:

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

44. **THIS COURT ORDERS** that any Charge created by this Order over leases of real property in Canada shall only be a Charge in the CCAA Entities’ interest in such real property leases.

#### **SEALING**

45. **THIS COURT ORDERS** that the confidential appendix to the Second Report be sealed in its entirety, kept confidential and not form part of the public record, unless otherwise ordered by this Court.

#### **SERVICE AND NOTICE**

46. **THIS COURT ORDERS** that the Monitor shall (i) without delay, publish in *The Globe and Mail* (National Edition) a notice containing the information prescribed under the CCAA, (ii) within five days after the date of this Order, (A) make this Order publicly available in the manner prescribed under the CCAA, (B) send, in the prescribed manner, a notice to every known creditor who has a claim against the CCAA Entities of more than \$1,000, and (C) prepare a list showing the names and addresses of those creditors and the estimated amounts of those claims, and make

it publicly available in the prescribed manner, all in accordance with Section 23(1)(a) of the CCAA and the regulations made thereunder.

47. **THIS COURT ORDERS** that the E-Service Protocol of the Commercial List (the “**Protocol**”) is approved and adopted by reference herein and, in this proceeding, the service of documents made in accordance with the Protocol (which can be found on the Commercial List website at <http://www.ontariocourts.ca/scj/practice/practice-directions/Toronto/e-service-protocol/>) shall be valid and effective service. Subject to Rule 17.05 this Order shall constitute an order for substituted service pursuant to Rule 16.04 of the Rules of Civil Procedure. Subject to Rule 3.01(d) of the Rules of Civil Procedure and paragraph 21 of the Protocol, service of documents in accordance with the Protocol will be effective on transmission. This Court further orders that the Case Website established in connection with the Proposal Proceedings and referenced at the URL which follows shall constitute the Case Website for these CCAA proceedings in accordance with the Protocol: <https://www.ksvadvisory.com/insolvency-cases/case/metro360> (the “**Website**”).

48. **THIS COURT ORDERS** that the Monitor shall create, maintain and update as necessary a list of all Persons appearing in person or by counsel in these CCAA proceedings (the “**Service List**”). The Monitor shall post the Service List, as may be updated from time to time, on the Website, provided that the Monitor shall have no liability in respect of the accuracy of, or the timeliness or making any changes to, the Service List.

49. **THIS COURT ORDERS** that if the service or distribution of documents in accordance with the Protocol is not practicable, the CCAA Entities and the Monitor are at liberty to serve or distribute this Order, any other materials and orders in these proceedings, any notices or other correspondence, by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery or facsimile or other electronic transmission to the CCAA Entities’ creditors or other interested parties at their respective addresses as last shown on the records of the CCAA Entities and that any such service or distribution shall be deemed to be received; (a) if sent by courier, on the next business day following the date of forwarding thereof, (b) if delivered by personal delivery or facsimile or other electronic transmission, on the day so delivered, and (c) if sent by ordinary mail, on the third business day after mailing.



50. **THIS COURT ORDERS** that the CCAA Entities and the Monitor and their counsel are at liberty to serve or distribute this Order, any other materials and orders as may be reasonably required in these proceedings, including any notices, or other correspondence, by forwarding true copies thereof by electronic message to the CCAA Entities' creditors or other interested parties and their advisors. For greater certainty, any such distribution or service shall be deemed to be in satisfaction of a legal or judicial obligation, and notice requirements within the meaning of clause 3(c) of the *Electronic Commerce Protection Regulations*, Reg. 81000-2-175 (SOR/DORS).

51. **THIS COURT ORDERS** that, subject to further Order of this Court in respect of urgent motions, any interested party wishing to object to the relief sought in a motion brought by the CCAA Entities or Monitor in these CCAA proceedings shall, subject to further Order of this Court, provide the Service List with responding motion materials or a written notice (including by e-mail) stating its objection to the motion and the grounds for such objection by no later than 5:00 p.m. (Toronto time) on the date that is four (4) days prior to the date such motion is returnable (the "**Objection Deadline**"). The Monitor shall have the ability to extend the Objection Deadline after consulting with the CCAA Entities.

52. **THIS COURT ORDERS** that following the expiry of the Objection Deadline, counsel to the Monitor or counsel to the CCAA Entities shall inform the Court of the absence or the status of any objections to the motion and the judge having carriage of the motion (the "**Presiding Judge**") may determine:

- (a) whether a hearing is necessary;
- (b) whether such hearing will be in person, by telephone, by videoconference or by written submissions only; and/or
- (c) the parties from whom submissions are required,

(collectively, the "**Hearing Details**"), and any such determination by the Presiding Judge shall be communicated thereafter to the Service List. In the absence any determination by the Presiding Judge regarding the Hearing Details, a hearing will be held in the ordinary course on the date and manner specified in the notice of motion.

**GENERAL**

53. **THIS COURT ORDERS** that the CCAA Entities or the Monitor may from time to time apply to this Court to amend, vary or supplement this Order, or for advice and directions concerning the discharge of their respective powers and duties under this Order or the interpretation or application of this Order.

54. **THIS COURT ORDERS** that nothing in this Order shall prevent the Monitor from acting as an interim receiver, a receiver, a receiver and manager, or a trustee in bankruptcy of any CCAA Entity, the Business or the Property.

55. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada, the United States or any other foreign jurisdiction, to give effect to this Order and to assist the CCAA Entities, the Monitor and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the CCAA Entities and to the Monitor, as an officer of this Court, as may be necessary or desirable to give effect to this Order, to grant representative status to the Monitor in any foreign proceeding, or to assist the CCAA Entities and the Monitor and their respective agents in carrying out the terms of this Order.

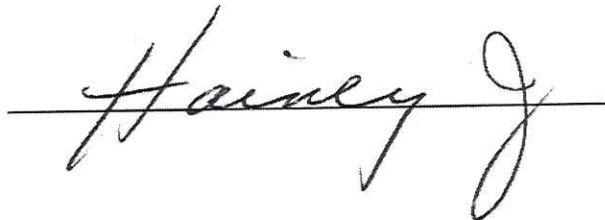
56. **THIS COURT ORDERS** that each of the CCAA Entities and the Monitor be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order,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

57. **THIS COURT ORDERS** that any interested party (including the CCAA Entities and the Monitor) may apply to this Court to vary or amend this Order on not less than seven (7) days' notice to any other Person(s) likely to be affected by the order sought or upon such other notice, if any, as this Court may order; provided, however, that the Chargees shall be entitled to rely on this Order as issued and entered and on the Charges with respect to any fees and disbursements incurred until the date this Order may be amended, varied or stayed.

58. **THIS COURT ORDERS** that this Order and all of its provisions are effective as of 12:01 a.m. (Toronto time) on the date of this Order.

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

JUN 19 2020

A handwritten signature in black ink, appearing to read "Hainey J.", is written over a horizontal line.

PER / PAR:

A handwritten signature in blue ink, consisting of a stylized, cursive mark.

Court File No.: CV-20-00642783-00CL

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF 957855  
ALBERTA LTD. (FORMERLY NEWSWEST INC.) AND ROSEBUD CREEK FINANCIAL  
CORP. IN RESPECT OF METRO 360 GENERAL PARTNERSHIP**

Applicants

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)  
Proceeding commenced at Toronto**

**INITIAL ORDER**

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