

Estate / Court File No.: \_\_\_\_\_

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**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(IN BANKRUPTCY AND INSOLVENCY)  
COMMERCIAL LIST**

**IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A  
PROPOSAL OF 957855 ALBERTA LTD. (FORMERLY NEWSWEST  
INC.) AND ROSEBUD CREEK FINANCIAL CORP. IN RESPECT OF  
METRO 360 GENERAL PARTNERSHIP**

**MOTION RECORD  
Motion for Approval and Vesting Order & Bankruptcy Procedure Order  
(Returnable April 7, 2020)**

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(formerly NewsWest Inc.), Rosebud  
Creek Financial Corp., and Metro 360  
General Partnership.

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FINANCIAL CORP. IN RESPECT OF METRO 360  
GENERAL PARTNERSHIP**

**NOTICE OF MOTION**

(returnable April 7, 2020)

957855 Alberta Ltd. (formerly NewsWest Inc.) (“**Alberta HoldCo**”) and Rosebud Creek Financial Corp. (“**Rosebud HoldCo**” and, together with Alberta HoldCo, the “**Partners**”), as the partners of the Metro 360 General Partnership (the “**Partnership**” or “**Metro 360**”), will make a motion before Justice Hainey of the Ontario Superior Court of Justice (Commercial List) (the “**Court**”) on April 7, 2020, at 2 p.m. or as soon thereafter as the motion can be heard by videoconference call in light of the COVID-19 crisis.

**PROPOSED METHOD OF HEARING:** The motion is to be heard orally by videoconference or, alternatively, in writing.

**THE MOTION IS FOR:**

1. An Order, in substantially the form attached at Tab 3 of the Motion Record dated April 6, 2020 (the “**Motion Record**”), among other things:

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- (a) approving the Transaction (as defined in the Shapiro Affidavit) pursuant to the Asset Purchase Agreement dated as of April 3, 2020 (the “**Purchase Agreement**”) between Metro 360 and Great Pacific Enterprises Inc. dba TNG (“**TNG**” or the “**Purchaser**”);
  - (b) upon completion of the Transaction, vesting Metro 360’s right, title and interest in and to the Purchased Assets in TNG, free and clear of all interests, liens, charges and encumbrances; and
  - (c) ordering the sealing of the confidential supplement to the First Report (as defined below) containing an unredacted version of the Purchase Agreement.
2. An Order, in substantially the form attached at Tab 5 of the Motion Record, among other things:
- (a) approving the consolidation of the Partners’ *Bankruptcy and Insolvency Act*, R.S.C. 1985 c. B-3 (“**BIA**”) proposal proceedings (“**Proposal Proceedings**”) for administration purposes, including, without limitation, the preparation and filing of motions and reports to creditors, the Proposal Trustee, and this Court, as may be required by the BIA;
  - (b) approving an administration charge in the aggregate of \$300,000 on the current and future assets, undertakings and properties of Metro 360 and the Partners of every nature and kind whatsoever in favour of the Proposal Trustee, counsel to the Proposal Trustee and counsel to Metro 360 and the Partners to secured their fees

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and disbursements incurred with respect to and incidental to these proposal proceedings (the “**Administration Charge**”);

- (c) extending the stay of proceedings and other basic BIA protections resulting from the filing by the Partners’ respective notices of an intention to make a proposal to Metro 360;
- (d) and the time to file a proposal and the corresponding stay of proceeding (the “**Stay Period**”) until and including June 19, 2020;
- (e) authorizing Metro 360 and/or the Partners to complete the sale of redundant or non-material assets without Order of this Court for proceeds not exceeding \$200,000 in any one transaction or \$400,000 in the aggregate.

3. Such further and other relief as counsel may request and this Court may permit.

**THE GROUNDS FOR THE MOTION** are as follows:

Overview

4. Metro 360 is a Canadian multi-faceted marketer of information and entertainment products, including magazines, books, newspapers, audio and visual media, and consumer packaged goods.

5. On April 6, 2020, the Partners filed notices of an intention to make a proposal (each, an “**NOI**” and together, the “**NOIs**”) pursuant to section 50.4 of the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”). KSV Kofman Inc. is named as the proposal trustee under the NOIs (“**KSV**” or the “**Proposal Trustee**”).

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6. The Partners filed the NOIs in response to significant financial challenges which Metro 360 began to face many years ago but have accelerated in light of recent global developments, including the COVID-19 pandemic and, in particular, to implement a sale transaction in respect of Metro 360's magazine and book wholesale distribution business (the "**Literature Business**").

7. Book sales have declined generally and significantly during the pandemic, and magazine sales have been declining generally and have now experienced immediate and exponential sales declines. Metro 360's supply and distribution lines have been brought to a complete standstill.

8. These events have collectively and significantly exacerbated certain existing business and financial challenges related to the broader industry in which Metro 360 and the Literature Business operate, and caused a significant erosion of value to the Literature Business.

9. Metro 360 has undertaken efforts to address these unprecedented challenges, including investing significant capital into the business in the months leading up to the COVID-19 pandemic, however, the Literature Business has reached a critical point with the unexpected market shut-down leaving the business in significant arrears to its supplier base. The Partnership began exploring potential options for an expedited sale of the Literature Business.

#### The Transaction

10. The Partnership's sale efforts have culminated in a sale agreement that, subject to the approval of this Court and satisfaction of the other closing conditions, will see TNG acquire, among other things: (i) all customer and title records of Metro 360; (ii) any and all magazine racks at Metro 360 customer locations; and (iii) the goodwill of Metro 360 in respect of its Canadian customers (the "**Transaction**"). In addition to these assets, the Purchaser will make offers of employment to a significant number of Metro 360's employees and assume certain key



customer contracts, for the significant direct benefit of those employees and contract-counterparties of Metro 360.

11. The Transaction is an important step for the Partnership and its stakeholders in the circumstances. The Paperback and Periodical Distributors Act makes Canadian ownership a condition for the registration of any businesses engaged in the distribution of paperback and periodical publications, effectively limiting the market of prospective purchasers for the Literature Business to only TNG.

12. Despite the limited market, after extensive review, discussion and negotiation, the Partnership believes that the Transaction represents the best available transaction in the unique circumstances of this market and at this time in this market. The Transaction provides value for the Literature Business and will see the Literature Business continue on a going concern basis for the benefit of customers, suppliers and employees. The Partnership, with the assistance of its professional advisors and KSV, has determined that the sale of the Literature Business pursuant to the Transaction, in conjunction with the collection of accounts receivable and the return of unsold inventory at retail locations, combined with the continuation of the Partnership's other business operations, represents the best available alternative in the circumstances and will allow the Partnership to work towards presenting a restructuring plan to Metro 360's creditors at a later time that will maximize value and recoveries to them.

13. KSV, the Proposal Trustee is supportive of the proposed Transaction.

*Extension of the Stay of Proceedings and Related Relief to Metro 360*

14. The NOIs filed in connection with these proceedings are only in respect of the Partners. Metro 360 has not filed a notice of intention to make a proposal under the BIA as it is anticipated

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that these BIA proceedings may be converted to proceedings under the *Companies' Creditors Arrangement Act* (the "CCAA") due to the limited six month timeline contained in the BIA within which a proposal must be filed and presented to creditors.

15. The Partnership is requesting that protections provided under the BIA in favour of Alberta HoldCo and Rosebud HoldCo granted by the filing of the NOIs, including the stay of proceedings and the restriction on the ability of contract counterparties to terminate or amend pre-filing agreements due to insolvency, be extended for the benefit of Metro 360. It would be extremely detrimental to the Partners, the Partnership and its business operations and stakeholders, if a stay of proceedings is not extended to Metro 360. It would also be extremely detrimental if Metro 360's customers, suppliers or service providers ceased performing under existing agreements or tightened terms as a result of the NOIs and the commencement of these proceedings.

*Extension of the Stay Period*

16. The initial 30-day Stay Period granted upon the filing of the NOIs expires on May 6, 2020. Metro 360 and the Partners require time to complete the Transaction (if approved) and develop a restructuring plan that maximizes value for the benefit of creditors and other stakeholders. Accordingly, Metro 360 and the Partners request that the Stay Period be extended to June 19, 2020.

17. In support of this request, the Proposal Trustee has prepared a cash flow forecast which shows that Metro 360 is forecast to have sufficient liquidity operate throughout the proposed Stay Period.

18. The Proposal Trustee supports the extension of the Stay Period.

Disposal of Redundant or Non-Material Assets

19. Metro 360 is in the process of considering and pursuing a number of other potential transactions with respect to non-material assets and/or businesses not included within the scope of the Transaction (the “**Non-Material Residual Assets**”) in order to maximize value for the benefit of creditors.

20. Metro 360 is seeking authorization to continue exploring opportunities for the sale of its Non-Material Residual Assets and, with the prior approval of the Proposal Trustee, to enter into and complete any transaction for Non-Material Residual Assets for not exceeding \$200,000 in any one transaction or \$400,000 in the aggregate.

21. Metro 360 shall be required to seek Court approval for any transaction for proceeds in excess of the aforementioned thresholds.

General

22. The confidential supplement to the First Report, which includes an unredacted copy of the Purchase Agreement that Metro 360 believes should not be made publicly available.

23. Such other grounds as further set out in the affidavit of Daniel Shapiro sworn April 6, 2020 (the “**Shapiro Affidavit**”).

24. The provisions of the BIA, including sections 50.4, 62(1), 65.13, and 69, and this Court’s equitable jurisdiction thereunder.

25. Rules 1.04, 1.05, 2.03, 3.02, 16, 37, and 39 of the *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, as amended.

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26. Such further and other grounds as counsel may advise and this Court may permit.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of the motion:

27. The Shapiro Affidavit and the exhibits attached thereto;

28. The First Report of the Proposal Trustee (the “**First Report**”) to be filed in connection with this Motion; and

29. Such further and other materials as counsel may advise and this Court may permit.

April 6, 2020

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**SUPERIOR COURT OF JUSTICE  
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Proceeding commenced at Toronto

**NOTICE OF MOTION  
(returnable April 7, 2020)**

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FINANCIAL CORP. IN RESPECT OF METRO 360  
GENERAL PARTNERSHIP**

**AFFIDAVIT OF DANIEL P. SHAPIRO**  
**(sworn April 6, 2020)**

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 GENERAL PARTNERSHIP**

**AFFIDAVIT OF DANIEL P. SHAPIRO**  
**(sworn April 6, 2020)**

I, Daniel P. Shapiro, of the City of Toronto, in the Province of Ontario, **MAKE OATH  
 AND SAY:**

**I. INTRODUCTION**

1. I am the President of 957855 Alberta Ltd. (formerly NewsWest Inc.) (“**Alberta HoldCo**”) and the President of Rosebud Creek Financial Corp. (“**Rosebud HoldCo**” and together, with the Alberta HoldCo, the “**Partners**”). The Partners are holding companies which together hold 100% of the interests of Metro 360 General Partnership (“**Metro 360**” or the “**Partnership**”), a multi-faceted marketer of information and entertainment products, including magazines, books, newspapers, audio and visual media, and consumer packaged goods. Accordingly, I have personal knowledge of the matters to which I depose in this affidavit. Where I do not possess personal knowledge, I have stated the source of my information and, in all such

cases, believe it to be true. Neither the Partners nor the Partnership waive or intend to waive any applicable privilege by any statement herein.

2. Earlier today, on April 6, 2020, the Partners filed notices of an intention to make a proposal (each, an “**NOI**” and together, the “**NOIs**”) pursuant to section 50.4 of the *Bankruptcy and Insolvency Act* (Canada) (the “**BIA**”). KSV Kofman Inc. is named as the proposal trustee under the NOIs (“**KSV**” or the “**Proposal Trustee**”).

3. As further described below, the Partners filed the NOIs in response to significant financial challenges which Metro 360 began to face many years ago but have accelerated in light of recent global developments, including the COVID-19 pandemic and, in particular, to implement a sale transaction in respect of Metro 360’s magazine and book wholesale distribution business (the “**Literature Business**”). Book sales have declined generally and significantly during the pandemic; and magazine sales have been declining generally and have now experienced immediate and exponential sales declines as retailers have either been forced to temporarily close or in some cases have elected not to receive or display magazines. In addition, many of Metro 360’s store-level employees have elected not to work during the COVID-19 pandemic and, as a result, the magazine and book products are not being displayed at many of Metro 360’s larger retail accounts. Metro 360’s supply and distribution lines have been brought to a complete standstill, leading to most significant suppliers having already terminated key contracts with Metro 360 or simply refusing to ship new product.

4. These events have collectively and significantly exacerbated certain existing business and financial challenges related to the broader industry in which Metro 360 and the Literature Business operate, and caused a significant erosion of value to the Literature Business to the point

where this portion of Metro 360's business is days from being completely discontinued. It is critical that Metro 360 and the Partners take immediate action to preserve the value that remains in the Literature Business and protect hundreds of jobs through the closing of the proposed sale transaction discussed below.

5. While Metro 360 has undertaken efforts to address these unprecedented challenges, including investing significant capital into the business in the months leading up to the COVID-19 pandemic, the Literature Business has reached a critical point in these circumstances. The unexpected market shut-down has left the Literature Business in significant arrears to its supplier base, with approximately \$65 million in current liabilities owed to unsecured creditors. Needing an urgent solution to stabilize the Literature Business, the Partnership began exploring potential options for an expedited sale of the Literature Business.

6. Fortunately, these sale efforts have culminated in a sale agreement that, subject to the approval of this Court and satisfaction of the other closing conditions, will see Great Pacific Enterprises Inc. dba TNG ("**TNG**" or the "**Purchaser**") acquire, among other things: (i) all customer and title records of Metro 360; (ii) any and all magazine racks at Metro 360 customer locations; and (iii) the goodwill of Metro 360 in respect of its Canadian customers (the "**Transaction**"). In addition to these assets, the Purchaser will make offers of employment to almost 300 of Metro 360's employees and assume certain key customer contracts, for the significant direct benefit of those employees and contract-counterparties of Metro 360, all as more fully discussed below.

7. The Transaction is an important step for the Partnership and its stakeholders in the circumstances. As further discussed below, I understand that the Paperback and Periodical

Distributors Act (as defined and discussed below) makes Canadian ownership a condition for the registration of any businesses engaged in the distribution of paperback and periodical publications, effectively limiting the market of prospective purchasers for the Literature Business to only TNG, which is a Canadian operation. The only businesses in this industry in Canada are TNG and Metro 360. Based on such ownership restrictions and overall timing and market conditions, the Partnership and the Partners decided, in consultation with KSV, that an extensive sales process is not practical or appropriate in the circumstances, and elected to focus solely on approaching TNG to develop a potential sale transaction in respect of the Literature Business in real time.

8. Despite the limited market, the Partnership believes that the Transaction represents the only available transaction in the unique circumstances of this market. The Transaction provides value for the Literature Business and will see the Literature Business continue on a going concern basis for the benefit of customers, suppliers, and close to 300 employees. The Partnership, with the assistance of its professional advisors and KSV, has determined that the sale of the Literature Business pursuant to the Transaction, in conjunction with the collection of accounts receivable and the return of unsold inventory at retail locations, combined with the continuation of the Partnership's other business operations, represents the best available alternative in the circumstances and will allow the Partnership to work towards presenting a restructuring plan to Metro 360's creditors at a later time that will maximize value and recoveries to them. As a result, the Partners are seeking approval to proceed with the Transaction at this time, with the full support of KSV, as the Proposal Trustee.

9. While the purchase price being paid for the limited set of assets being sold under the Transaction (which are, essentially, customer lists, certain equipment and goodwill) is not overly

significant in the larger context of Metro 360's liabilities, the Transaction presents a series of other valuable benefits beyond just the purchase price:

- (a) the Transaction does maximize value for the purchased assets, such as they are;
- (b) the Transaction offers employment to a significant number of employees;
- (c) the Transaction involves the assumption of certain key customer contracts by the Purchaser, which is the largest player in Canada in this market, for the direct benefit of those contract-counterparties;
- (d) the Transaction represents the only reasonable opportunity for Metro 360 to access unsold or dated products, which represent a significant amount of refundable inventory (in the approximate amount of \$37 million), as TNG has agreed under the Transaction to retrieve all unsold inventory from retail accounts serviced by Metro 360 and process such returns for Metro 360's account. If successful, the retrieval and return of Metro 360's unsold inventory through TNG will significantly reduce the amount of supplier claims that will exist against the Metro 360 estate as this product is returnable for full credit;
- (e) the Transaction will improve Metro 360's ability to collect a significant amount of receivables that are owed to it (in the approximate amount of \$13 million), as the continuation of product flow to Metro 360's historic customers from TNG and the retrieval by TNG of Metro 360's unsold inventory will help Metro 360 to settle its customer accounts and reduce the risk that customers will assert set-off claims resulting from a disruption in supply; and

- (f) with the benefit of time, the Transaction will give Metro 360 a continuing ability to raise and realize value for its creditors through the above activities, the continuation of Metro 360's other business interests and the disposition of other assets of Metro 360 at the appropriate time, all keeping in mind the timing considerations that may exist and are likely material in light of the COVID-19 pandemic and related market disruption.

10. All of these benefits taken together establish, in my view, that the Transaction maximizes value for the assets being sold, and realizes several other material benefits referenced above that will serve to continue employment, significantly reduce creditor claims against Metro 360, and maximize Metro 360's ability to realize effectively on refunds and collections. Taken together, these benefits are material and significant to Metro 360 and its creditors and enhance the long-term viability of Metro 360, which will also allow it to formulate a restructuring plan for the benefit of its creditors.

11. In addition to seeking approval of the Transaction, the Partners are also seeking an Order, among other things: (i) administratively consolidating the proceedings related to the Partners' NOIs since the filing of such NOIs relate to Metro 360 and its business operations; (ii) approving a first priority administration charge in the aggregate amount of \$300,000; (iii) extending the stay of proceedings and other basic BIA protections resulting from the NOIs to Metro 360; (iv) approving the granting of an extension of the time to file a proposal and the corresponding stay of proceedings; and (v) authorizing Metro 360 and/or the Partners to complete the sale of redundant or non-material assets without further order of this Court for proceeds not exceeding \$200,000 in any one transaction or \$400,000 in the aggregate, in each case with the prior

approval of the Proposal Trustee. This affidavit is sworn in support of the Partners' motion seeking the foregoing relief.

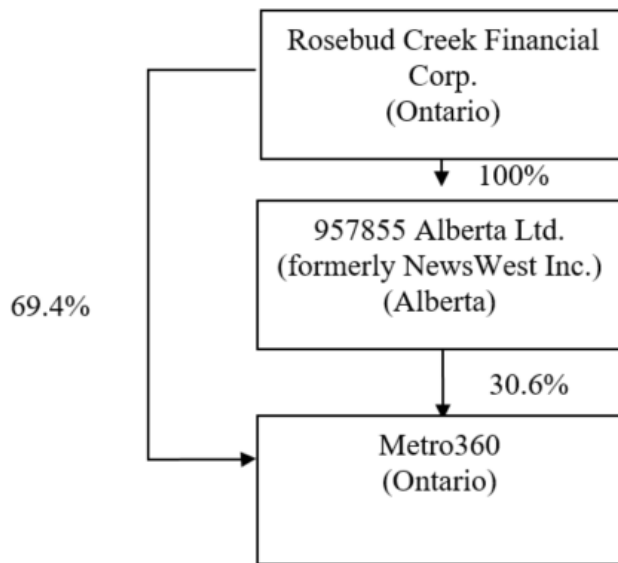
**II. METRO 360**

**A. Overview of Corporate Structure**

12. A corporate chart showing the organizational structure of the Partnership (and its other interests) is attached as Exhibit "A" to this affidavit.

*(i) Metro 360*

13. Metro 360 is a general partnership established under the laws of Ontario. As shown below, its partners are Alberta HoldCo and Rosebud HoldCo.



14. Metro 360 is the entity through which the Literature Business is operated, and including its predecessor entities, is approximately 100 years old. Metro 360 represents the consolidation of at least fourteen predecessor companies with roots in Alberta, Saskatchewan, Manitoba,

Ontario and Quebec. The consolidation of Metro 360 and its predecessor entities over the years was driven by significant contraction in the paperback and periodical print and distribution industry, largely due to the emergence of the internet and social media platforms. Density, sales volumes and cost reductions through consolidation were required for wholesalers and distributors to remain viable. Today, there are only two magazine and book wholesalers in Canada of any substance, being Metro 360 and the Purchaser.

15. As discussed further below, Metro 360 is also a wholesale distributor of various food brands, music (both compact discs and vinyl records), consumer electronic accessories and a line of “As Seen on TV” items, and provides various merchandising services to third parties. All of these other businesses of Metro 360 are in addition to the Literature Business. Further details concerning these other business operations of Metro 360 are provided below.

16. Metro 360’s principal liabilities consist of the trade liabilities related to the Literature Business and its other business operations. Metro 360 is also the borrower under a credit agreement dated as of October 17, 2012 between Metro 360, as borrower, and the Toronto Dominion Bank (“**TD**”), as lender (the “**Credit Agreement**”), pursuant to which TD has made available to Metro 360 a revolving credit facility in the aggregate amount of \$4 million. However, Metro 360 has not currently drawn any amounts under the Credit Agreement, and as such, it does not have any secured debt obligations outstanding. Notice of this motion was given to TD in any event.

(ii) *Alberta HoldCo*

17. Alberta HoldCo is a company incorporated under laws of Alberta. The registered office of Alberta HoldCo is in Calgary and its physical address is located in Scarborough, Ontario.



18. Alberta HoldCo is a holding company and owns a 30.6% interest in Metro 360.

19. Alberta HoldCo does not conduct any active business in the ordinary course other than acting as a partner of Metro 360, and, as a pure holding company with only an interest in Metro 360, does not have any cash, third-party creditors or other interests or investments.

*(iii) Rosebud HoldCo*

20. Rosebud HoldCo is a company amalgamated pursuant to the laws of Ontario. The registered office and physical address of Rosebud HoldCo are both located in Scarborough, Ontario.

21. Rosebud HoldCo is a holding company and owns a 69.4% interest in Metro 360, with the other 30.6% interest in Metro 360 being held by Alberta HoldCo. Rosebud HoldCo also holds a number of illiquid investments in other businesses.

22. Rosebud HoldCo does not conduct any active business in the ordinary course other than (i) acting as a partner of Metro 360, and (ii) holding illiquid investments and interests in various other operating entities. As a pure holding company, Rosebud HoldCo does not have any cash or third-party creditors.

**B. Metro 360's Business Operations**

23. Metro 360 operates a multi-faceted business employing a total of approximately 350 full and part-time employees which is focused primarily on the wholesale distribution of books, newspapers, audio and visual media, consumer electronic accessories and consumer packaged goods. Although a recent diversification effort has expanded Metro 360's business operations, its

core business is the Literature Business. A detailed corporate chart showing Metro 360's various business interests is attached as Exhibit "A" to this affidavit.

(i) *The Literature Business*

24. The Literature Business consists of the wholesale distribution of books, magazines and newspapers to various single-copy retail customers across Canada. Metro 360 receives product in bulk from its publishing partners, and through its logistics providers, delivers such product to more than 4,500 retailers from Alberta to the Quebec/New Brunswick border. Metro 360 has thousands of magazine and book titles available, covering a wide array of genres. The Literature Business is a legacy business of Metro 360, having been commenced by the Shapiro family in the early 1940s.

25. The Literature Business uses a relatively complex and proprietary software system to manage product allocations specific to each store size and the demographic profile of the shoppers in the area to optimize sales in every region of Canada. To my knowledge, the Purchaser is the only other entity operating in Canada with a system of this kind, which, as discussed further below, also makes the Purchaser the only logical and practical buyer for Metro 360's Literature Business.

26. This software system is also used to manage reverse logistics to account for the removed unsold product from retailers, as Metro 360, through a highly customized system, returns such unsold product to its publisher suppliers for full credit and simultaneously applies a credit to its retail customers. In connection with the Transaction, Metro 360 and the Purchaser will be able to work together to maximize Metro 360's ability to return inventory and thereby minimize, to the greatest extent possible, the amount of creditor claims that will exist against Metro 360.

(ii) *Customers*

27. The Literature Business services an expansive retail customer base of approximately 4,500 locations across Canada. Customers of the Literature Business mostly consist of independent retailers, regional grocery chains, convenience and drug retailers, and gas service stations. Generally speaking, customers in this space that are not serviced by Metro 360 in Canada, are serviced by the Purchaser.

(iii) *Suppliers*

28. As a wholesale distribution focused business, Metro 360 has many suppliers that are critical to its operations. With respect to the Literature Business, Metro 360 provides publishers with a route to market and sell their product, and accordingly, has maintained long-term relationships with a number of key publishers and literary suppliers.

29. As discussed further below, Metro 360 is currently in significant arrears with its supplier base and most key suppliers have already halted further supply. This discontinuance has had a significant and essentially terminal impact on Metro 360's ability to continue the Literature Business and it is only through the Transaction that Metro 360 will be able to re-establish a supply line to Metro 360's existing retail customer contracts .

(iv) *Employees*

30. Metro 360 currently employs approximately 350 employees, comprised of 70 salaried employees and approximately 300 hourly employees. Approximately 20 employees have been recently subject to a temporary layoff. None of Metro 360's employees are unionized.

31. Metro 360's employees are spread across the provinces of Alberta, Saskatchewan, Manitoba, Ontario and Quebec, with approximately 60 percent located in Ontario.

32. Metro 360's salaried employees are paid semi-monthly (24 pay periods per year), and its hourly employees are paid weekly. Prior to the COVID-19 pandemic, Metro 360's monthly payroll obligation was approximately \$370,000. This has recently been reduced as all management employees have accepted a 20% temporary salary reduction.

33. Metro 360's Ontario-based employees participate in a defined contribution pension plan administered through the Partners (originally established by Metro News East), pursuant to which employees are required to contribute a certain percentage of their earnings, with Metro 360 matching such contributions on a dollar-for-dollar basis (the "**Pension Plan**"). Benefits for employees under the Pension Plan used to be provided on a defined benefit basis but the defined benefit portion of the Pension Plan has been wound up.

34. Metro 360 contributed of approximately \$261,000 in 2019 to the Pension Plan. As at April 1, 2020, the Pension Plan is fully funded.

(v) *Other Business Operations of Metro 360*

35. As shown on the corporate chart attached as Exhibit "A" to this affidavit, Metro 360 also has a variety of other business operations and interests. Metro 360 has developed a presence in the consumer packaged goods space, both as a wholesale distributor for a variety of established consumer packaged goods brands, including food brands, music (both compact discs and vinyl records), consumer electronic accessories and a line of "As Seen on TV" items, and as an investor in three emerging consumer packaged goods businesses. Metro 360's consumer packaged goods investments include: (i) an approximately 14% interest in Well Ventures Corp., a cold pressed juice and kombucha company; (ii) a 50% interest in Handfuel Inc., which is a snack business that has retail listings at a number of nationally recognized grocers; (iii) a 45%

interest in All Day Nutritionals Canada Ltd. and a 27% interest in its parent, Swift Work Wellness, which is a U.S.-based producer of a liquid supplement designed for immunity support and marketed towards workplace break rooms; and (iv) certain direct and indirect interests in Spectral Agriventures Inc., which has developed a cost-efficient turnkey greenhouse model. These investments, among others, are advancing but require further runway for value to be realized.

36. Further, Metro 360 also leverages its expertise in the retail industry by offering merchandising services to third parties, which services include, among other things, maintaining retail display shelving and performing “mystery shopping” services to measure the quality of sales and service.

### **III. MATTERS LEADING UP TO THE NOI FILINGS**

#### **A. Business and Financial Challenges**

37. Although Metro 360 and its predecessor entities have been servicing the Canadian paperback and periodical distribution industry for approximately 100 years, the Partnership has been impacted over the last number of years by challenging market conditions and changing consumer trends which are moving away from print mediums and toward online and other digital platforms. The recent proliferation of smartphones and social sharing, in particular, has impacted consumer behaviour and led to declines in the single-copy newsstand industry that Metro 360 services. Illustrative of the challenges facing Metro 360 and the broader industry in which the Literature Business operates is the fact that there are currently only two magazine and book wholesalers in Canada of any substance: Metro 360 and the Purchaser (TNG). There were as

many as 33 industry participants prior to a prolonged and significant period of consolidation where scale was used to combat the disruption caused by the emergence of alternative platforms.

38. Metro 360 had been able to survive in this increasingly challenging market environment through its own acquisition and consolidation efforts, however, the Literature Business' sales have been declining at an average annual rate over the last decade of approximately 10 percent. Net sales for Metro 360 overall were approximately \$120 million in 2019 (approximately \$103 million of which was attributable to the Literature Business), down from approximately \$470 million at its peak 12 years ago. The significant decline in sales revenue has had a negative impact on the overall business of Metro 360 and, although it has no secured debt outstanding, the Partnership has made only marginal profits over the last number of years.

39. Over the last approximately six months, Rosebud HoldCo and Alberta HoldCo, as Metro 360's partners, along with myself personally and a third-party investor, have invested approximately \$6.7 million of capital into Metro 360 in an effort to improve its overall financial and liquidity position. In addition, Rosebud HoldCo recently sold its interest in a joint venture company for approximately \$1 million to one of Metro 360's service providers, which in turn agreed to satisfy the purchase price through a corresponding reduction in the payables owing to it from the Partnership. It was management's intent that the foregoing cash funding and accounts payable reduction would provide sufficient runway for Metro 360 to continue its diversification efforts and also potentially pursue and complete a sale process for the Literature Business in due course.

40. However, the overall financial position of the Literature Business, while affected by difficult market conditions over the last number of years, has now been effectively brought to a

crippling halt by the COVID-19 pandemic. The outbreak has led to over 350 retail customers of the Literature Business temporarily closing, while many others are either not accepting deliveries or are removing their magazines due to the perception that magazines are touched by many people prior to their eventual sale, and to focus on other products deemed to be more essential in the circumstances. Supply channels have also been disrupted as delivery drivers at Metro 360's logistics provider have been unable to work, leaving new product stranded and Metro 360 unable to complete deliveries to its retail customers that remain open and receiving new product. Metro 360's merchandiser field force has also been impacted as many such employees have elected not to work in the field due to COVID-19 concerns and, as a result, Metro 360 has been forced to halt shipments to at least 14 of its best performing accounts.

41. With old product stranded at retailers, new product stranded with the logistics provider, magazine sales having nearly evaporated and book sales lagging, year over year sales in March 2020 for the Partnership were down by approximately 30 percent. It is also currently projected that April 2020 sales will be down approximately 50 to 60 percent as compared to April 2019. In these circumstances, Metro 360 fell into significant arrears to its supplier base and was unable to make certain supplier payments which became due and payable at the end of March 2020. This led to several key suppliers, which in the aggregate provide approximately 75 to 80 percent of Metro 360's product, halting further supply. This in turn means that, with no supply, Metro 360 will also very soon be in material breach of its retail customer agreements, at which time the value of its customer lists, which are included as a purchased asset to be sold to the Purchaser in the Transaction, will lose value, and its accounts receivable will be increasingly difficult to collect. Indeed, the purchase price under the Transaction reflects the stress on the business and will be reduced further or will evaporate if the Transaction is not completed as soon as

practically possible, as reflected in the closing conditions to the Transaction, which are summarized below.

**B. Strategic Alternative Efforts**

42. Despite the Partnership's efforts to date to manage the unprecedented economic circumstances and significant financial challenges facing Metro 360 and the Literature Business more particularly, it became apparent that an urgent solution was needed to manage supplier, customer and employee relationships and otherwise stabilize the Literature Business. In such circumstances, the Partnership began exploring potential options for an expedited sale of the Literature Business to a third-party purchaser that would be able to quickly take over and transition such business, most likely within an existing wholesale distribution network, so that the value of the Literature Business could be preserved. In this regard, KSV began working with Metro 360 approximately one month ago in order to consider restructuring alternatives and options available for Metro 360 and its stakeholders.

43. Complicating such sale efforts, however, is the fact that the market for potential purchasers of the Literature Business is restricted both by protectionist legislation and the results of consolidation. With respect to protectionist legislation, I am advised by Goodmans LLP ("**Goodmans**"), legal counsel to Metro 360 and the Partners, and understand that the *Paperback and Periodical Distributors Act, 1971* (the "**Paperback and Periodical Distributors Act**") requires that businesses engaged in the distribution of paperback and periodical publications in Ontario meet certain Canadian ownership requirements. As for consolidation, the widespread consolidation over the last 30 or so years has left very few remaining market participants that could be targeted as a potential strategic buyer. Outside of Metro 360, the only other significant



player in the Canadian paperback and periodical distribution business is the Purchaser, TNG. In fact, for this reason, Metro 360 has for some time had viewed TNG as the only real and viable potential transaction counterparty and therefore focused its sale efforts mainly on TNG, including since prior to the onset of the COVID-19 crisis.

44. Another further complicating factor to the potential sale of the Literature Business is the software system that is used to manage all product allocations and to manage reverse logistics. It is my view that a third-party purchaser (other than TNG) without experience with and access to such systems would face significant challenges in integrating the Literature Business and would likely not, as a result, offer the same value that TNG has offered.

45. In light of such circumstances, and based on overall timing and market conditions, the Partnership decided, in consultation with KSV, that an extensive sales process would not be a constructive use of time and resources, and elected instead to focus solely and squarely on approaching TNG to seek to negotiate a transaction on an expedited basis that could preserve the value of the Literature Business. These negotiations ultimately resulted in the Transaction.

### **C. Development of the Transaction**

46. Once it became apparent that a transaction – or more specifically, a transaction that could be completed on an expedited timeline – was necessary in the circumstances and that TNG was in fact likely the only prospective third-party purchaser that could execute such a transaction given the legislative restrictions and limited market, Metro 360, in consultation with its professional advisors and KSV, engaged with TNG to discuss a potential transaction whereby TNG would acquire the Literature Business. Following initial discussions, the parties developed a non-binding term sheet which set out the principal terms on which TNG would acquire certain

assets of the Literature Business, including the book and magazine customer list, goodwill, and such other assets as the parties may agree.

47. Following further review, discussion and negotiation, the Partnership, with the assistance of its professional advisors and in consultation with KSV, and in the exercise of its business judgement, determined that the Partnership should proceed with the Transaction as the best available option in the circumstances and Metro 360 and TNG proceeded to finalize and execute the Purchase Agreement (as defined below).

48. In the extraordinary circumstances facing Metro 360 and the Literature Business, the Partnership believes that the Transaction, in conjunction with the collection of accounts receivable and the return of unsold or dated inventory, which will be facilitated by the completion of the Transaction, combined with the continuation of the Partnership's other business operations, represents the best (and only) available alternative in the circumstances and will allow the Partnership at a later time to present a restructuring plan to Metro 360's creditors that will maximize value and support the Partnership's intention of repaying its creditors in full. Of note, the Transaction will see the going concern sale of the Literature Business, which otherwise would likely be required to cease operations and be liquidated, for cash value payable upon closing of the Transaction that will form the base of a creditor pool to be used to advance an eventual restructuring plan. Additional benefits of the proposed Transaction include:

- (a) TNG making offers of employment to 23 of Metro 360's 70 salaried employees and 268 of its approximately 300 hourly employees;<sup>1</sup>

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<sup>1</sup> Two of Metro 360's salaried employees will only be receiving a six month contract offer from TNG.

- (b) TNG assuming and agreeing to perform certain of Metro 360's retail customer contracts, thereby facilitating the continued distribution and delivery of literature product for the benefit of such customers;
- (c) although TNG is not assuming any of Metro 360's supplier agreements, TNG has existing relationships with the majority of Metro 360's suppliers and is therefore expected to come to arrangements with such suppliers for increased supply, as appropriate;
- (d) TNG is not acquiring any of Metro 360's accounts receivable, leaving Metro 360 to collect outstanding accounts receivable. The Partnership estimates that there is approximately \$13 million in outstanding accounts receivable to be collected. Completion of the Transaction is expected to help facilitate Metro 360's accounts receivable collections given that product will continue to flow to these customers from TNG as a result of the Transaction, and disruption in supply should be minimized or non-existent. Further, with TNG agreeing to retrieve and return all of Metro 360's unsold inventory, Metro 360 will be better able to settle its customer accounts as customers in this industry deduct returns from their payments;
- (e) TNG is not acquiring any of Metro 360's inventory. Metro 360 estimates that it has approximately \$22 million of inventory currently with retail customers and an additional \$15 million with its logistics provider, all of which is fully returnable for a corresponding dollar-for-dollar reduction in amounts owed to suppliers. TNG has agreed pursuant to the Transaction to facilitate the pickup and return of

Metro 360's unsold inventory for processing at its sole cost and expense, which will greatly assist the refund process and directly cause a reduction of claims that would and could otherwise be made against Metro 360's estate; and

- (f) TNG has agreed to enter into a services agreement with CMMI Canadian Mass Media Inc. ("CMMI"), a company related to Metro 360, pursuant to which TNG will provide certain services to CMMI that have historically been performed by Metro 360, including services relating to billing and collections, customer service and in-field merchandising.

49. In addition, the Transaction is principally focused on the Literature Business. As referenced above and discussed further below, Metro 360 has other business interests which can assist in generating revenues to facilitate debt repayment over time.

50. As discussed above, the Proposal Trustee has been involved and kept informed of key developments regarding the Transaction as negotiations have progressed. I understand that the Proposal Trustee supports and approves of the proposed Transaction and will be filing a report with the Court in respect of same.

51. I am also advised by Goodmans that, in accordance with the requirements of section 65.13(8) of the BIA related to the approval of sale transactions in BIA proceedings, Metro 360 can and will make payments (or satisfactory arrangements therefor), if any, that are required under sections 60(1.3)(a) and (1.5)(a) of the BIA. In particular, Metro 360 has paid and continues to pay all employee wages and compensation referred to in Section 60(1.3)(a) of the BIA.

#### IV. THE PROPOSED TRANSACTION AND THE PURCHASE AGREEMENT

52. The terms of the Transaction are set forth in the asset purchase agreement dated as of April 3, 2020 between Metro 360 (by Alberta HoldCo as a partner of Metro 360) and TNG (the “**Purchase Agreement**”), a partially redacted copy of which is attached as Exhibit “A” to this affidavit. An unredacted copy of the Purchase Agreement will be provided to the Court in a confidential supplement to the first report of the Proposal Trustee. The unredacted Purchase Agreement contains certain sensitive commercial information (including Metro 360’s customer list, the customer contracts that are being assumed by TNG and the specific components of the purchase price, as well as the names and salary information of transferred employees) that, if disclosed prior to closing of the Transaction, could adversely impact the interests of the Partnership and its stakeholders, and the go-forward interests of TNG, as Purchaser. Accordingly, the Partners are requesting that this Court order that the confidential supplement be sealed.

53. The material terms of the Transaction are summarized below:<sup>2</sup>

- (a) TNG will acquire the Assets in exchange for cash consideration of \$925,000, payable in five equal monthly installments with the first such payment occurring on the Closing Date and each subsequent payment being made monthly thereafter;
- (b) the Assets include:
  - (i) all customer and title records of Metro 360;

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<sup>2</sup> Capitalized terms used in this section that are not otherwise defined herein shall have the meaning given to such terms in the Purchase Agreement. The following constitutes a summary only; reference should be made to the Purchase Agreement for a complete understanding of its terms.

- (ii) any and all magazine racks located in customer locations; and
- (iii) the goodwill of Metro 360 for customers located in Canada that relates to the distribution and sale of books and magazines;
- (c) the Assets are being purchased on an “as is, where is” basis;
- (d) Excluded Assets under the Transaction include Metro 360’s accounts receivable and inventory;
- (e) TNG making offers of employment to 23 of Metro 360’s 70 salaried employees and 268 of its approximately 300 hourly employees;
- (f) TNG will assume certain specified contractual liabilities of Metro 360, consisting of certain retail customer contracts; and
- (g) the Transaction is subject to certain customary closing conditions, including (i) this Court issuing the Approval Order within three business days of the commencement of these BIA proceedings, and (ii) the closing of the Transaction occurring within two business days of the Approval Order being issued by the Court. The Purchase Agreement provides that these deadlines can be extended with the consent of the Purchaser, however given market conditions and timing as discussed above, Metro 360 has no assurance that any such deadlines would be extended by the Purchaser, or even if so, on what terms.

## **V. ADDITIONAL RELIEF BEING SOUGHT**

### **A. Extension of the Stay of Proceedings and Related Relief to Metro 360**

54. The NOIs filed in connection with these proceedings are only in respect of the Partners. Metro 360 has not filed a notice of intention to make a proposal under the BIA as it is anticipated that these BIA proceedings may be converted to proceedings under the *Companies' Creditors Arrangement Act* (the "CCAA") due to the limited six month timeline contained in the BIA within which a proposal must be filed and presented to creditors. Converting to a CCAA proceeding will afford Metro 360 additional time to realize value for its creditors, which may take more than six months. In addition, I am advised by Goodmans and understand that a partnership cannot apply for relief under the CCAA, and so filing that Partnership in a BIA proceeding could mean that the Partnership becomes stuck within the BIA if filed, and thereby limited to only the six month window. By not filing the Partnership in the BIA, I am advised by Goodmans that the Partnership will have greater flexibility to potentially access the greater than six month window available as part of a CCAA proceeding to realize value for its creditors, if needed.

55. In these circumstances, the Partnership is requesting that protections provided under the BIA in favour of Alberta HoldCo and Rosebud HoldCo granted by the filing of the NOIs, including the stay of proceedings and the restriction on the ability of contract counterparties to terminate or amend pre-filing agreements due to insolvency, be extended for the benefit of Metro 360. Metro 360 is the entity through which the Literature Business is operated and so it would be extremely detrimental to the Partners, the Partnership and its business operations and stakeholders, if a stay of proceedings is not extended to Metro 360. It would also be extremely detrimental if Metro 360's customers, suppliers or service providers ceased performing under

existing agreements or tightened terms as a result of the NOIs and the commencement of these proceedings. I am advised by Goodmans that the extension of these protections to the Partnership is consistent with the *Lehndorff* principles, as discussed by Goodmans in its factum filed in support of this motion.

**B. Disposal of Redundant or Non-Material Assets**

56. Metro 360 is in the process of considering and pursuing a number of other potential transactions with respect to non-material assets and/or businesses not included within the scope of the Transaction (the “**Non-Material Residual Assets**”) in order to maximize value for the benefit of its creditors.

57. Metro 360 is seeking authorization to continue exploring opportunities for the sale of its Non-Material Residual Assets and, with the prior approval of the Proposal Trustee, to enter into and complete any transaction for Non-Material Residual Assets for not exceeding \$200,000 in any one transaction or \$400,000 in the aggregate. Metro 360 will still be required to seek Court approval for any transaction for proceeds in excess of the aforementioned thresholds.

**VI. COMPETITION ACT MATTERS**

58. Based on advice from Goodmans, I understand that the requirement to provide notice to the Commissioner of Competition before the Transaction is completed, pursuant to Part IX of the *Competition Act* (Canada) (the “**Competition Act**”), does not apply to the Transaction as the Transaction does not meet the requirements of that Part of the Competition Act for review or notice thereunder (as neither the aggregate value of the assets being acquired, nor the gross revenues from sales in or from Canada generated from those assets, is expected to exceed \$96 million, which is the monetary threshold under the Competition Act).



## VII. CONCLUSION

59. Despite Metro 360's best efforts to manage the general decline in the print market and the unprecedented challenges arising as a result of the COVID-19 pandemic, its Literature Business is facing a significant and rapid erosion as both its supply and distribution networks have stalled, leaving Metro 360 product stranded and the Partnership in risk of breaching its customer arrangements and in significant payment arrears with its supplier base.

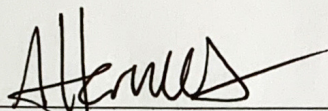
60. In such circumstances, Metro 360 began exploring potential sale options for the Literature Business and, with the assistance of its professional advisors, has determined that the Transaction is the best alternative in the circumstances. Metro 360 believes that completing the Transaction (which will realize value for the Literature Business, save the jobs of almost 80 percent of the Partnership's employees and will maintain supplier and customer relationships), in conjunction with the collection of accounts receivable and the return of inventory (which collectively are estimated to result in realizations of up to \$50 million), and the continuation of the Partnership's other business operations, represents the best available alternative in the circumstances. Metro 360 believes that this approach will maximize value for its creditors over time and assist the Partnership in its efforts to develop a restructuring plan that will result in full repayment to creditors.

61. Recent events have caused material reductions in the purchase price offered by TNG in the negotiations for the assets to be sold in the Transaction (which are mainly customer lists and associated goodwill) and it is critical that the Transaction be approved and implemented, with an Order from this Court to protect the Purchaser, in the immediate near-term to maintain the value offered by TNG in the executed Purchase Agreement. In my view, it is crystal clear that if TNG

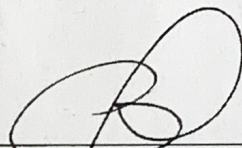
does not acquire these assets through the Transaction, there will be no other buyer for like value for these assets.

62. In the circumstances, I believe that the approval of the Transaction and the other relief requested on the within motion are in the best interests of the Partnership and its stakeholders.

SWORN BEFORE ME at the City of Toronto, in the Province of Ontario, on April 6, 2020

  
\_\_\_\_\_  
A Commissioner for taking affidavits  
Name:

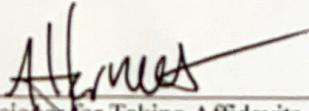
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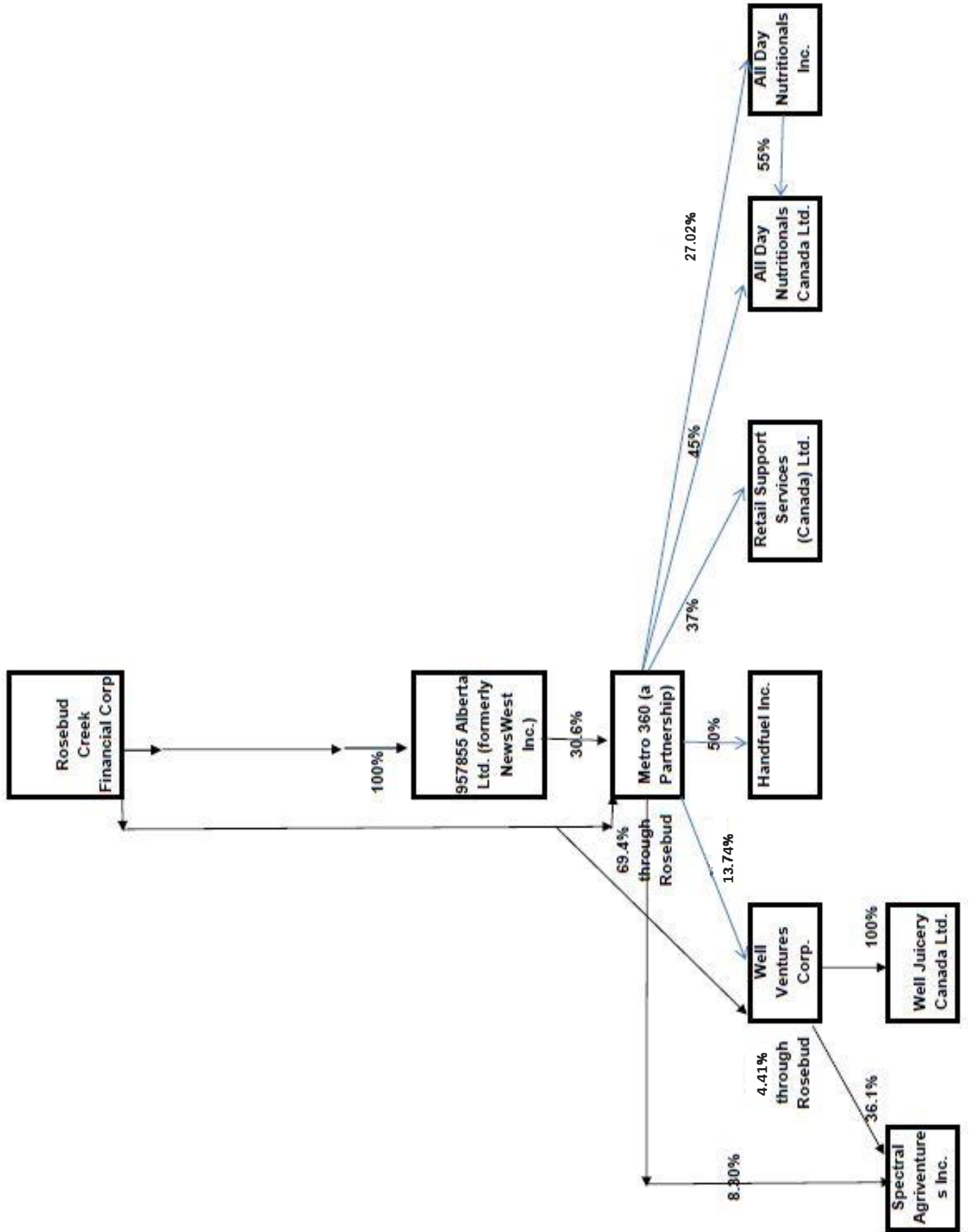


THIS IS EXHIBIT "A"  
TO THE AFFIDAVIT OF DANIEL S. SHAPIRO  
SWORN BEFORE ME THIS 6<sup>th</sup> DAY OF APRIL, 2020



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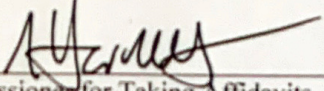
Commissioner for Taking Affidavits



**B**



**THIS IS EXHIBIT "B"**  
**TO THE AFFIDAVIT OF DANIEL S. SHAPIRO**  
**SWORN BEFORE ME THIS 6<sup>th</sup> DAY OF APRIL, 2020**

  
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Commissioner for Taking Affidavits

## ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (the "Agreement") is made and entered into as of April 3, 2020 by and between GREAT PACIFIC ENTERPRISES INC. dba TNG, a British Columbia Company or its assigns ("Purchaser"), and METRO 360 GENERAL PARTNERSHIP ("Vendor"), an Ontario partnership.

### RECITALS

#### WHEREAS:

Purchaser desires to purchase from Vendor and Vendor desires to sell to Purchaser certain assets of Vendor on the terms and conditions set forth herein;

**NOW, THEREFORE**, in consideration of the foregoing recitals and the mutual covenants hereinafter contained, the parties hereto agree as follows:

1. Sale and Transfer of Assets. On the terms and subject to the conditions hereinafter set forth, the Vendor agrees to sell, convey, assign, transfer and deliver to Purchaser on the Closing Date (as hereinafter defined), and Purchaser hereby agrees to purchase from the Vendor, all of Vendor's rights, title and interest in and to all assets of the Vendor as of the date hereof that are described in paragraphs (a), (b) and (c) below (hereinafter collectively referred to as the "Assets"). Purchaser shall acquire the Assets free and clear of all liens, claims, interests and encumbrances (collectively, "Liens"). Purchaser shall not acquire any assets of the Vendor not described or specifically listed herein. The Assets shall consist solely of the following:

(a) All customer and title records of the Vendor, including: (i) all O&R / distribution records; (ii) all customer name files; and (iii) all title files including publisher listings, in each case for those customers ("Customers") located where such Customers operate in Canada (the "Transferred Market Area") with such Customers listed in Schedule B attached hereto (collectively (i), (ii) and (iii), the "Customer and Title Records");

(b) Any and all magazine racks located in Customer locations; and

(c) The goodwill of the Vendor for the Customer locations and in the Transferred Market Area that relates to the distribution and sale of books and magazines (collectively, "Products").

Purchaser is not acquiring any accounts receivable of Vendor ("Accounts Receivables"); any inventory of Products of Vendor ("Inventory"), any trade names, trademarks or other intellectual property (other than any software or data included on or within or required to support the Customer and Title Records); any leasehold interest of Vendor in any real estate; or any other assets of Vendor other than as specifically provided herein (collectively, all of the foregoing assets described in this paragraph are referred to herein as the "Excluded Assets").



2. Assumed Liabilities/Excluded Liabilities. Purchaser agrees that from and after the Closing, Purchaser shall assume and perform those obligations under the Customer agreements listed in Schedule D (the "Assumed Liabilities"). Any and all obligations, claims, demands or any other liabilities of any kind whatsoever arising thereunder prior to the Closing, and any other liabilities of the Vendor or whatsoever, shall be the sole and exclusive responsibility of the Vendor. For greater certainty, except as specifically provided above in this Section 2, Purchaser shall assume no other or further liabilities, indebtedness, obligations, claims, litigation, demands or causes of action (collectively, the "Liabilities") of Vendor, of any kind whatsoever, including, but not limited to: Liabilities relating to the Vendor's current employees, if any, or any former employees; Liabilities relating to any current or former customers (except as specifically provided above in this Section 2), or relating to current or former suppliers or other creditors; Liabilities to hire any current or former employees of the Vendor (other than the employees set out in Schedule 11(e), to whom the Purchaser shall make offers of employment as provided in Section 11(e)); Liabilities related to the Vendor's Accounts Receivables, accounts payable (or any other indebtedness of Vendor or its affiliates; and Liabilities relating to any Excluded Asset (collectively, all of the foregoing Liabilities are referred to herein as the "Excluded Liabilities").

3. Purchase Price – Amount, Payment and Set-Off. The aggregate purchase price for the Assets shall be the reasonably equivalent value of the Assets, which the parties agree to be \$925,000, which shall be allocated as follows (as determined, the "Purchase Price"): [REDACTED]

[REDACTED] Purchaser shall pay the Purchase Price to Vendor in five equal monthly installments of \$185,000 (without interest), with each payment to be made by wire transfer of immediately available funds pursuant to the instructions of Vendor, which instructions shall be delivered to Purchaser at least two business days before the Closing. The initial payment shall be made on the Closing Date and each subsequent payment shall be made monthly thereafter (i.e., if the Closing Date is April 10, 2020, subsequent payments should be made on May 11, 2020, June 10, 2020, and so forth; provided, that if the scheduled monthly payment date is not a business day (i.e., a day on which banks in British Columbia are open), payment will be due on the first business day thereafter).

Notwithstanding anything to the contrary contained in this Agreement, Purchaser shall also be entitled to set off against such monthly installments any amounts owed to or claimed against Purchaser under this Agreement or any other agreement between the parties.

4. Inventory. Purchaser is not acquiring any of the Inventory of Vendor, whether located in Customer locations, the Vendor's depot(s) or elsewhere. Purchaser shall be responsible for acquiring Purchaser's own inventory from its suppliers for the Customers in the Transferred Market Area. Any sold or unsold Inventory, whether in 'traditional' or 'scan-based trading' ("SBT") accounts shall remain the property of Vendor and shall be treated for all purposes as Excluded Assets.

5. “As Is, Where Is”. The Purchaser acknowledges that the Vendor is selling the Assets on an “as is, where is” basis as they will exist on the Closing Date. The Purchaser further acknowledges that it has conducted such inspections of the condition of and title to the Assets as it deemed appropriate and has satisfied itself with regard to these matters. No representation, warranty or condition is expressed or can be implied as to title, encumbrances, description, fitness for purpose, merchantability, condition, quantity or quality or in respect of any other matter or thing whatsoever concerning the Assets or the right of the Vendor to sell or assign same, save and except as expressly represented or warranted herein.

6. Conditions Precedent to Purchaser’s Obligations. Purchaser’s obligation to consummate the transactions contemplated hereby is subject to satisfaction, or written waiver by Purchaser, of each of the following conditions:

(a) all of the representations and warranties of Vendor in this Agreement must have been accurate in all material respects as of the date hereof and must be accurate in all material respects as if made on the Closing Date;

(b) Vendor must have performed and complied in all material respects with all of its respective covenants and agreements in this Agreement that are to be performed by it prior to or at the Closing; and

(c) an order of the Superior Court of Ontario (Commercial List) to, among other things, approve the transactions contemplated by this Agreement and authorizing the entering into of this Agreement (the “Approval Order”) shall have been obtained.

7. Conditions Precedent to Vendor Obligations. The obligations of Vendor to perform the transactions contemplated hereby are subject to satisfaction of the following conditions:

(a) all of the representations and warranties of Purchaser in this Agreement must have been accurate in all material respects as of the date hereof and must be accurate in all material respects as if made on the Closing Date;

(b) the Approval Order shall have been obtained; and

(c) the Purchaser must have performed and complied with all of its covenants and agreements in this Agreement that are to be performed by Purchaser prior to or at the Closing.

8. Closing and Closing Deliveries.

(a) Closing; Time and Place. The closing of the purchase and sale provided for in this Agreement (the “Closing”) shall occur at such place as the parties may mutually agree on the date determined by the parties, which date shall be on a date mutually agreed to by the parties in writing (the “Closing Date”).

(b) Deliveries by Vendor. On the Closing Date and at the Closing, Vendor will place Purchaser in actual possession and operating control of the Assets and deliver the following items, duly executed by Vendor, as applicable, or otherwise satisfy the following conditions, all of which shall be in a form and substance reasonably acceptable to Purchaser and Purchaser's counsel:

(i) Bill of Sale. Bill of Sale covering all of the Assets, substantially in the form attached hereto as Schedule E;

(ii) Other Conveyance Instruments. Such other specific instruments of sale, transfer, conveyance and assignment as Purchaser may reasonably request; and

(iii) Approval Order. A copy of the Approval Order.

9. Deliveries by Purchaser. On the Closing Date and at the Closing, Purchaser shall pay to Vendor the first installment of the Purchase Price (\$185,000) in accordance with Section 3 hereof.

10. Purchaser's Representations and Warranties. Purchaser hereby represents and warrants to Vendor as follows:

(a) Organization, etc. Purchaser is (i) a company duly organized, validly existing and in good standing under the laws of the Province of British Columbia and (ii) has full power and authority to own and operate its present business and assets and the properties and business which it acquires pursuant to this Agreement.

(b) Corporate Authority, etc. Subject to having received the Approval Order, Purchaser has the power and authority to execute and perform this Agreement and all other agreements and documents provided for herein (collectively, the "Transaction Documents"), and to incur the obligations provided for herein, all of which have been duly authorized by all necessary organizational and equity holder actions. This Agreement and each and every agreement, document and instrument to be executed and delivered by Purchaser in connection herewith constitute or will constitute, when executed and delivered, the valid and legally binding obligations of Purchaser enforceable against Purchaser in accordance with their respective terms. There are no provisions of Purchaser's organizational documents which conflict with or in any way prevent the execution, delivery and carrying out of the terms of this agreement by Purchaser.

(c) No Conflicting Agreements, etc. There are no provisions of any existing mortgage, indenture, loan agreement, contract or other agreement binding on Purchaser which conflict with or in any way prevent the execution, delivery and carrying out of the terms of the Transaction Documents by it. The execution and delivery by Purchaser of the Transaction Documents and the performance by it of its obligations thereunder do not require the consent, approval or action of, or any filing with, or notice to, any public authority or other party.

11. Vendor Representations. Vendor hereby represents and warrants to Purchaser as follows:

(a) Organization, etc. Vendor (i) is a general partnership and each of its general partners hereunder are duly organized, validly existing and in good standing under the laws of the Province of Ontario and (ii) has full power and authority to own and operate its present business and assets and the properties and business which it acquires pursuant to this Agreement.

(b) Authority, etc. Vendor has the power and authority to execute and deliver the Transaction Documents, to perform hereunder, and to consummate the transactions contemplated hereby. The execution, delivery and performance by Vendor of the Transaction Documents have been duly authorized and approved by all necessary action on behalf of Vendor. To the extent Vendor or will be parties thereto, this Agreement and each and every agreement, document and instrument to be executed and delivered by Vendor in connection herewith constitute or will constitute, when executed and delivered, the valid and legally binding obligations of Vendor, as applicable, enforceable against each in accordance with their respective terms. There are no provisions of the organizational documents of Vendor which conflict with or in any way prevent the execution, delivery and carrying out of the terms of any of the Transaction Documents by Vendor.

(c) No Conflicting Agreements, etc. There are no provisions of any statute, law, rule, or regulation, or any order, writ, injunction, or decree of any court or governmental authority, or any existing mortgage, indenture, loan agreement, contract or other agreement binding on Vendor, or materially affecting any of the Assets, which conflict with or in any way prevent the execution, delivery and carrying out of the terms of the Transaction Documents by Vendor or will result in the creation of a lien, charge or encumbrance upon any of the Assets (other than any provisions of, and any liens and restrictions provided for under, financing incurred by Vendor in the ordinary course of business, and all such provisions, liens and restrictions will be fully released upon the consummation of the sale of the Assets).

(d) Taxes, etc. Vendor has paid in full all sales, use, property, unemployment taxes, employee income tax withholding and other taxes (including all penalties and interest) due and owing with respect to the Assets and the business of Vendor (if any).

(e) Employees. Set forth on Schedule 11(e) is a list of only those employees of Vendor who are directly involved in the business of servicing Customers in the Customer locations and to whom the Purchaser has agreed to offer employment, together with each employee's current position (including the territory serviced by such employee, where applicable), rate of compensation and rate type (hourly or salary). No other employees of the Vendor shall be offered employment by the Purchaser and any and all severance and other obligations to such non-hired employees (to the extent terminated by the Vendor) (the "Terminated Employees") shall be for the sole account of the Vendor.

(f) No Prior Sale. Since January 1, 2020, Vendor has not sold, transferred or otherwise disposed of any asset that would constitute an Asset if owned on the date hereof, and has not, other than to Purchaser, granted a right of first refusal with respect to any Asset.

(g) Reasonably Equivalent Value. The Purchase Price is reasonably equivalent to the value of the Assets.

(h) Survival and Remedy for Breach and Non-Compliance. The representations and warranties of the Vendor contained in Section 11 shall merge on and not survive the Closing Date. Absent fraud or intentional misrepresentation by the Vendor, in the event of any breach of any representation or warranty of the Vendor contained in Section 11, the only remedy available to the Purchaser is expressly limited to the Purchaser's right to terminate this agreement pursuant to Section 13(b) and the Purchaser shall not have any right to bring a claim for damages or any other legal or equitable remedy against the Vendor.

## 12. Covenants

(a) Data Privacy and Protection. Purchaser will respect all applicable data privacy and protection laws in handling and storing customer data received hereunder, pursuant to its internal data privacy and protection policy.

(b) Agreed Approach re Inventory Returns from Customers. Exhibit B attached hereto sets forth the agreed procedures for Inventory returns from Customers, whether they are scan-based trading (SBT) or 'traditional' Customers, or not. All actions to be taken by Purchaser, as described in Exhibit B, will be at Purchaser's sole cost and expense, and Purchaser will deliver all required reports and payments to Vendor on a weekly basis.

(c) Sole Entitlement to be Paid for Purchaser-Supplied Products. Purchaser shall be solely entitled to any payments to be made by Customers for Products sold to such Customers by Purchaser (and any accounts receivable in connection therewith). To the extent that Purchaser receives payment from any Customer in respect of any Inventory sold to such Customer(s) by Vendor, Purchaser shall remit such amount to Vendor. If Vendor receives payment from any Customer in respect of any Product(s) sold to such Customer by Purchaser, Vendor shall remit such amount to Purchaser. In either case, the amount(s) to be remitted shall be sent weekly, with an appropriate accounting by each party to the other. Purchaser and Vendor shall direct such Customers to make all payments that relate to invoices for services rendered following the Closing Date to the Purchaser, and the Purchaser shall continue to account for and handle in accordance with past practice the portion (if any) of any collections from Customers that are attributable to deliveries of Vendor-supplied Products. Similarly, Purchaser shall be entitled to all credits issued by the publishers, national distributors or other vendors with respect to Products sold to Customers by Purchaser, and similarly Vendor shall be entitled to all credits for Products sold to Customers by Vendor.

(d) Employee Matters. Vendor has notified Purchaser that Vendor intends to terminate, as of closing, the employment of the Terminated Employees. Vendor shall comply with any applicable laws in so doing, and shall hold Purchaser harmless from any claim, exposure or order that may be made to secure compensation for termination of employment for any Terminated Employee to whom Purchaser does not make an offer of employment, or who refuses an offer of employment made by Purchaser. Purchaser shall have no obligation to, but may (at Purchaser's sole and unfettered election), hire any such Terminated Employees on terms and conditions of employment that are equivalent to the terms and conditions of employment that Purchaser offers to its own employees. Vendor shall retain, pay and discharge all obligations to all of such Employees for any amounts owing to such Employees as at the Closing Date, including any accrued vacation, severance and other paid time off. As set forth in Section 2 of this Agreement, Purchaser is not assuming and shall not assume any Liabilities to any of the Terminated Employees in respect of the period up to and including the Closing Date regardless of whether such Employee is hired by Purchaser.

(e) Accounts Receivable. Purchaser will offer reasonable assistance to Vendor in the collection of accounts receivable and the sell-through of inventory on customer shelves, including leaving Vendor's SBT merchandise and sold merchandise on customer shelves through the normal expiration of a product's life cycle so that premature returns are minimized to the extent reasonably practicable and picking up SBT merchandise returns from customers at no cost to Vendor. Purchaser shall pick up in accordance with industry practice all SBT merchandise of Vendor that remains in the field 60 days after Closing and return it for proper credit from publishers, national distributors or other vendors. Purchaser and Vendor will share equally all costs of any programming needed to separate returns. Purchaser will deliver all required reports and payments to Vendor on a weekly basis.

(f) Consents and Approvals.

(i) Vendor shall use reasonable commercial efforts to obtain the waiver, consent or approval of all persons whose waiver, consent or approval is required in order to consummate the transactions contemplated by this agreement, including the assignment and assumption of the Customer agreements or other agreements listed in Schedule D.

(ii) To the extent that the assignment of any of the Customer agreements or other agreements listed in Schedule D requires the consent of a third party, this Agreement shall not constitute an agreement to assign the same if an attempted assignment thereof, without the consent of the third party thereto, would constitute a breach thereof. If any such consent is not obtained or is obtainable only upon payment by Purchaser or Vendor of amounts not otherwise required to be paid under the terms of the applicable contract, Vendor will cooperate with Purchaser in any reasonable arrangement which does not impose any additional expense or liability on Vendor or Purchaser and which is designed to provide for Purchaser the benefits under any such contract, including enforcement for the benefit of Purchaser of any and all rights of Vendor against

any third party thereto arising out of the failure or refusal of such third party to consent to such assignment. In no event shall Vendor be liable to Purchaser for damages by reason of inability to obtain any such consent.

(iii) Notwithstanding any other term of this Agreement, Vendor and Purchaser may use reasonable commercial efforts to compel the assignment of any of the Customer agreements or other agreements listed in Schedule D (or any other agreement that the parties may agree to add to Schedule D for purposes of this Section 12(f)(iii)) to the Purchaser in accordance with the terms and conditions of the *Bankruptcy and Insolvency Act* (Canada); provided that no such action shall require the payment of any amounts by either Vendor or Purchaser in connection with any such assignment.

(g) Pro-rations. All ad valorem taxes and other customarily pro-ratable items relating to the Assets payable subsequent to the Closing Date and relating to a period of time both prior to and subsequent to the Closing Date, shall be prorated as of the Closing Date between Purchaser and Vendor, and Purchaser assume liability for payment thereof, as the case may be. If the actual amount of any such item is not known at the closing date, the same shall be estimated from the previous year's assessment of such item. Any difference between the estimated amounts and the actual amounts will be reconciled within ten days after the actual amount becomes known.

(h) Further Assurances. Each party agrees (i) to furnish upon request to the other party such further information, (ii) to execute and deliver to the other party such other documents, and (iii) to do such other acts and things, all as the other party may reasonably request for the purpose of carrying out the intent of this Agreement and the transactions contemplated hereby. In addition, at any time and from time to time after the Closing Date, Vendor shall, at the request and expense of Purchaser, take any and all commercially reasonable actions necessary to fulfill its obligations hereunder to put Purchaser in actual possession and control of the Assets, execute and deliver such further instruments of conveyance, sale, transfer and assignment, and take such other actions necessary or desirable to effectuate, record or perfect the transfer of the Assets to Purchaser free and clear of all Liens, confirm the title of the Assets to Purchaser, assist Purchaser in exercising rights relating thereto, and otherwise effectuate or consummate all of the transactions contemplated by this Agreement.

(i) Reasonable Efforts. Each party agrees to use reasonable commercial efforts to consummate the transactions contemplated by this Agreement.

13. Termination. This Agreement may be terminated at any time prior to the Closing:

- (a) By the mutual written consent of Purchaser and Vendor;
- (b) By Purchaser in the event of any breach in any material respect by Vendor of any of its representations, warranties, covenants or agreements contained herein;

(c) By Vendor in the event of any breach in any material respect by Purchaser of any of Purchaser's representations, warranties, covenants or agreements contained herein;

(d) By Purchaser if the Approval Order has not been obtained within three (3) Business Days of the Vendor having commenced proceedings pursuant to the *Bankruptcy and Insolvency Act* (Canada) (or such other date as the Purchaser in its sole discretion may agree);

(e) By Purchaser in the event that the Closing has not occurred within the two (2)-Business Day period following the Approval Order having been obtained (or such other date as the Purchaser in its sole discretion may agree); or

(f) By either Purchaser or Vendor in the event the Closing has not occurred by April 15, 2020.

Any party desiring to terminate this Agreement pursuant to this Section 13 will give written notice of such termination to the other parties to this Agreement. Upon termination of this Agreement under this Section 13, this Agreement shall become void and neither party shall have any liability hereunder.

#### 14. Miscellaneous.

(a) Expenses. Each party shall pay its own costs and expenses in connection with this Agreement and the transaction contemplated hereby (including the fees and expenses of its advisers, accountants and legal counsel); provided, however, Purchaser shall pay any sales tax or transfer fees due with respect to the transactions contemplated hereby.

(b) Notices. Any notice pursuant to this Agreement must be in writing and will be deemed given to the other party on the earliest of the date (a) three (3) business days after such notice is sent by registered Canadian mail, return receipt requested, (b) one (1) business day after receipt of confirmation if such notice is sent by facsimile, (c) one (1) business day after delivery of such notice into the custody and control of an overnight courier service for next day delivery, (d) one (1) business day after delivery of such notice in person and (e) such notice is received by that party; in each case to the appropriate address below (or to such other address as a party may designate by notice to the other party):

If to Purchaser:

Great Pacific Enterprises Inc. dbna TNG  
 1800 – 1067 West Cordova Street  
 Vancouver, BC V6C 1C7  
 Attention: Nick Desmarais  
 Fax: 604-608-9601  
 Email: [desmarais@jp-group.com](mailto:desmarais@jp-group.com)



If to Vendor:

Metro360 General Partnership

120 Sinnott Road, 2<sup>nd</sup> floor  
Toronto, ON M1L 4N1  
Attn: Daniel P. Shapiro  
Fax: 416 285-2056  
Email: danny@metro360.ca

with a copy to:

Goodmans LLP  
Bay-Adelaide Centre  
333 Bay Street, Suite 3400  
Toronto, ON M5H 2S7

Attn: John Connon  
Fax: 416 979-1234  
Email: jconnon@goodmans.ca

(c) Counterparts. This Agreement may be executed in one or more counterparts, all of which shall be considered one and the same agreement and shall become effective when one or more counterparts have been signed by each of the parties and delivered to the other party, it being understood that the parties need not sign the same counterpart. This Agreement and the documents executed in connection with this Agreement, and any amendments hereto or thereto, to the extent signed and delivered by means of a facsimile machine or e-mail of a PDF file containing a copy of an executed agreement, shall be treated in all manner and respects and for all purposes as an original agreement or instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person.

(d) Entire Agreement. This Agreement, including all exhibits, schedules and attachments hereto, as well as all the documents and instruments and other agreements specifically referred to herein or delivered pursuant hereto (including the Bailment Agreement), constitute the entire agreement between the parties with respect to the transactions contemplated hereunder and supersede all prior agreements and understandings, both written and oral, between the parties with respect thereto including any and all letters of intent and/or term sheets executed by the parties.

(e) No Third-Party Beneficiaries. This Agreement shall inure solely to the benefit of the parties hereto and their respective successors and permitted assigns and no right, remedy or benefit is conferred upon any entity or person (including any current or former creditor, customer or employee of the Vendor or the Company) other than the parties hereto, and their respective successors and permitted assigns.

(f) Severability. In the event that any provision of this Agreement, or the application thereof, becomes or is declared by a court of competent jurisdiction to be illegal, void or unenforceable, the remainder of this Agreement will continue in full force and effect and the application of such provision to other persons or circumstances will be interpreted so as reasonably to effect the intent of the parties hereto. The parties further agree to replace such void or unenforceable provision of this Agreement with a valid and enforceable provision that will achieve, to the extent possible, the economic, business and other purposes of such void or unenforceable provision. The word “including” and words of similar import when used in this Agreement shall mean “including, without limitation”, unless otherwise specified.

(g) Governing Law; Jurisdiction and Venue; Waiver of Jury Trial. This Agreement shall be governed by and construed in accordance with the laws of Ontario without reference to such province’s principles of conflicts of law. Each of the parties hereto irrevocably consents to the jurisdiction of any provincial court located within the Province of Ontario in connection with any matter based upon or arising out of this Agreement or the matters contemplated herein (or, if such province courts lack jurisdiction, in the provincial courts of the Province of Ontario), agrees that process may be served upon them in any manner authorized by the laws of the Province of Ontario for such persons and waives and covenants not to assert or plead any objection which they might otherwise have to such jurisdiction and such process. THE PARTIES HERETO IRREVOCABLY WAIVE THE RIGHT TO A JURY TRIAL IN CONNECTION WITH ANY ACTIONS, SUITS OR PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.

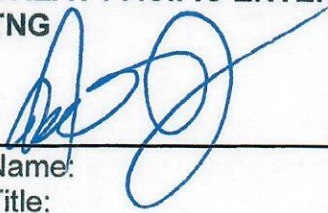
(h) Assignment. Neither this Agreement nor any of the rights, interests or obligations hereunder shall be assigned by any of the parties hereto, in whole or in part (whether by operation of law or otherwise), without the prior written consent of the other party, and any attempt to make any such assignment without such consent shall be null and void; provided, that Purchaser shall be free to assign this Agreement and/or any of the rights of Purchaser under this Agreement, it being understood that any such assignment will not relieve Purchaser of any obligation hereunder. Subject to the preceding sentence, this Agreement will be binding upon, inure to the benefit of and be enforceable by the parties and their respective successors and assigns.

(i) Attorneys’ Fees. In any action at law or suit in equity to enforce this Agreement or the rights of any of the parties hereunder, the prevailing party in such action or suit shall be entitled to receive a sum for its attorneys’ fees and all other costs and expenses incurred in such action or suit including any appeals therefrom.

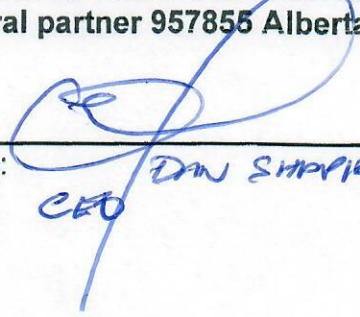
**[Signatures on following page]**

**IN WITNESS WHEREOF**, each of the parties has caused this Agreement to be duly executed as of the date first written above.

**GREAT PACIFIC ENTERPRISES INC. DBA  
TNG**

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

**METRO360 GENERAL PARTNERSHIP by its  
general partner 957855 Alberta Ltd.**

  
\_\_\_\_\_  
Name: DAN SHAPIRO  
Title: CEO

**Exhibits**

Exhibit B                    Inventory Returns and Accounts Receivable

**Schedules**

Schedule B                Customers  
Schedule D                Assumed Liabilities  
Schedule E                Bill of Sale  
Schedule 11(e)            Employees

**EXHIBIT B**

	<b>Magazines</b>	<b>Books</b>
<b>SBT</b>	<p>TNG needs to ensure that as at the date of close, all customers have set up TNG as the vendor of record to which all future payments will be sent for Products distributed by TNG post-closing.</p> <p><b>Returns:</b></p> <p>1.1 Vendor-delivered product returned to TNG will be identified based on on-sale date and/or issue code. TNG will accumulate all Vendor-delivered returns in a file that will not be included on the TNG affidavit. TNG will send the file to Vendor. The file will contain detailed transactions which will include the following fields: account number, date, bipad, issue and quantity returned. Purchaser shall assume responsibility for returning in accordance with customary industry practice (upon delivery of the next issue of each title) all returnable SBT merchandise delivered by the Vendor to dealers prior to the closing date in the normal course of business and returned by such dealers after the closing date. Purchaser shall direct the credits issued by the publishers, national distributors and other vendors with respect to the Vendor's SBT merchandise to the Vendor's account with such publishers, national distributors or other vendors. For SBT dealers on PROS, the returns will not be scanned since Metro will claim the return using draw and POS. Notwithstanding anything in the foregoing to the contrary, the preceding shall not apply to Purchaser and the applicable SBT merchandise in the following two circumstances:</p> <p style="padding-left: 40px;">(a) (i) The applicable customer chooses not to do business with Purchaser, after Purchaser has made a reasonable good faith</p>	<p>TNG will pay to Metro all sale proceeds received from Walmart for sales of Metro inventory in its stores. In addition, any returns processed by TNG of Metro inventory returned from the Walmart store locations will be posted to Metro's account and TNG shall provide the return data to Metro in the normal course which that Metro can properly post such returns to its publisher accounts.</p>

	Magazines	Books
	<p>effort to do business with such customer on terms similar to those under which Vendor did business with such customer; or</p> <p>(ii) Purchaser does not engage in business with the publisher, national distributor, or other vendor that is responsible for applying the credit upon the return of the merchandise, after Purchaser has made a reasonable good faith effort to do business with such publisher, national distributor, or other vendor on terms similar to those under which Vendor did business with such publisher, national distributor, or other vendor.</p> <p><b>Payment:</b> POS data (852 files) and payments from customers will be received by TNG, and both will be split based on on-sale date and issue and provided to Vendor as appropriate. File will contain detailed transactions which will include the following fields: store number, date sold, UPC, bipad, issue and quantity paid.</p>	
<b>Non-SBT</b>	<p><b>Returns:</b> Vendor-delivered product returned to TNG will be identified based on on-sale date and/or issue code. TNG will accumulate all Vendor-delivered returns in a file that will not be included on the TNG affidavit. TNG will send the file to Vendor. The file will contain detailed transactions which will include the following fields: account number, date, bipad, issue and quantity returned. The returns for Vendor delivered product will post to the Vendor's</p>	<p>All book product located in non-SBT dealers will be returned and scanned to the Metro account which will reduce A/R and A/P for Metro. The customer will claim credit from Metro. TNG will invoice new book product only after the existing product has been returned.</p>

<b>Magazines</b>	<b>Books</b>
	A/R and the customer will claim credit from the Vendor.

**SCHEDULE B**

**CUSTOMER LIST**

**REDACTED**



**SCHEDULE D**

**ASSUMED LIABILITIES**

	[REDACTED]
	[REDACTED]
	[REDACTED]
	[REDACTED]
	[REDACTED]
	[REDACTED]
	[REDACTED]
	[REDACTED]
	[REDACTED]
	[REDACTED]
	[REDACTED]
	[REDACTED]
	[REDACTED]
	[REDACTED]
	[REDACTED]

## **SCHEDULE E**

### **BILL OF SALE**

**THIS BILL OF SALE** (this "**Bill of Sale**") is made and delivered this \_\_\_ day of \_\_\_\_\_, 2020, by Metro360 General Partnership ("**Vendor**"), an Ontario partnership, pursuant to that Asset Purchase Agreement dated as of \_\_\_\_\_, 2020 (the "**Agreement**") with Great Pacific Enterprises Inc. dba TNG Canada ("**Purchaser**"). Capitalized terms used but not defined herein shall have the meanings ascribed to such terms in the Agreement.

**NOW, THEREFORE**, in consideration of the mutual promises contained in the Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and subject to the terms and conditions of the Agreement:

1. Vendor does hereby sell, grant, assign, transfer, convey and deliver unto Purchaser, and its successors and assigns, forever, all of Vendor's right, title and interest in and to the Assets, **TO HAVE AND TO HOLD** such Assets with all appurtenances thereto, unto Purchaser, and its successors and assigns, free and clear of all Liens for its use and benefit forever.

2. This Bill of Sale and the covenants, agreements and undertakings contained herein shall inure to the benefit of Purchaser, its successors and assigns, and shall bind the Vendor and their successors and representative parties thereto and their respective successors and assigns.

3. Vendor acknowledges and agrees that the representations, warranties, covenants, agreements and indemnities contained in the Agreement shall not be superseded hereby but shall remain in full force and effect to the full extent provided therein. Nothing in this Bill of Sale, express or implied, is intended to or shall be construed to modify, expand or limit in any way the terms of the Agreement. To the extent that any provision of this Bill of Sale conflicts or is inconsistent with the terms of the Agreement, the Agreement shall govern.

4. At any time and from time to time after the Closing Date, Vendor shall, at the request of Purchaser, take any and all commercially reasonable actions necessary to fulfill its obligations hereunder to put Purchaser in actual possession and control of the Assets, execute and deliver such further instruments of conveyance, sale, transfer and assignment, and take such other actions necessary or desirable to effectuate, record or perfect the transfer of the Assets to Purchaser free and clear of all Liens, confirm the title of the Assets to Purchaser, assist Purchaser in exercising rights relating thereto, and otherwise effectuate or consummate all of the transactions contemplated by the Agreement.

5. This Bill of Sale is executed and delivered pursuant to the Agreement.

6. This Bill of Sale shall be governed by, and construed in accordance with, the laws of the Province of Ontario, as applied to contracts made and performed entirely in such province.

**IN WITNESS WHEREOF**, and intending to be legally bound hereby, Vendor has caused this Bill of Sale to be executed, notarized and delivered as of the day and year first above written.

[signature]



















**IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL OF  
957855 ALBERTA LTD. (FORMERLY NEWSWEST INC.) AND ROSEBUD CREEK  
FINANCIAL CORP. IN RESPECT OF METRO 360 GENERAL PARTNERSHIP**

Estate / Court File No.:

Estate / Court File No.:

**ONTARIO**

**SUPERIOR COURT OF JUSTICE  
(IN BANKRUPTCY AND INSOLVENCY)  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**AFFIDAVIT OF DANIEL P. SHAPIRO  
(Sworn April 6, 2020)**

**GOODMANS LLP**

Barristers & Solicitors  
333 Bay Street, Suite 3400  
Toronto, Canada M5H 2S7

**Brendan O'Neill** LSO#: 43331J  
boneill@goodmans.ca

**Andrew Harmes** LSO#: 73221A  
aharmes@goodmans.ca

Tel: (416) 979-2211  
Fax: (416) 979-1234

Lawyers for 957855 Alberta Ltd. (formerly  
NewsWest Inc.), Rosebud Creek Financial Corp., and  
Metro 360 General Partnership

3

Estate / Court File No.: \_\_\_\_\_  
 Estate / Court File No.: \_\_\_\_\_

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(IN BANKRUPTCY AND INSOLVENCY)**  
**COMMERCIAL LIST**

THE HONOURABLE MR.	)	TUESDAY, THE 7 <sup>TH</sup>
	)	
JUSTICE HAINEY	)	DAY OF APRIL, 2020

**IN THE MATTER OF THE NOTICES OF INTENTION TO  
 MAKE A PROPOSAL OF 957855 ALBERTA LTD.  
 (FORMERLY NEWSWEST INC.) AND ROSEBUD CREEK  
 FINANCIAL CORP. IN RESPECT OF METRO 360  
 GENERAL PARTNERSHIP**

**APPROVAL AND VESTING ORDER**

**THIS MOTION**, made by 957855 Alberta Ltd. (formerly NewsWest Inc.) (“**Alberta HoldCo**”) and Rosebud Creek Financial Corp. (“**Rosebud HoldCo**” and, together with Alberta HoldCo, the “**Partners**”), as the partners of the Metro 360 General Partnership (“**Metro 360**”), pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended (the “**BIA**”) for an order (i) approving the sale transaction (the “**Transaction**”) contemplated by an asset purchase agreement (the “**Purchase Agreement**”) between Metro 360, by Alberta HoldCo as one of Metro 360’s partners, and Great Pacific Enterprises Inc. dba TNG (the “**Purchaser**”) dated as of April 3, 2020, and (ii) vesting in the Purchaser all of Metro 360’s right, title and interest in and to the Assets, was heard this day by videoconference call in light of the COVID-19 crisis.

**ON READING** the affidavit of Daniel P. Shapiro sworn April 6, 2020 (the “**Shapiro Affidavit**”), the first report (the “**First Report**”) of KSV Kofman Inc. in its capacity as the proposal trustee (the “**Proposal Trustee**”), and on hearing the submissions of counsel for the Proposal Trustee, counsel for Metro 360 and the Partners, and those other parties present as

indicated on the counsel sheet, and on reading the affidavit of service of Andrew Harmes sworn April 6, 2020:

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

2. **THIS COURT ORDERS** that unless otherwise indicated or defined herein, capitalized terms used in this Order shall have the meaning given to them in the Purchase Agreement or the Shapiro Affidavit, as applicable.

3. **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved, and the execution of the Purchase Agreement by Alberta HoldCo on behalf of Metro 360 is hereby authorized and approved, with such minor amendments to the Purchase Agreement as Metro 360 and the Purchaser may agree to with the consent of the Proposal Trustee. Metro 360 and the Partners are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the Assets to the Purchaser.

4. **THIS COURT ORDERS AND DECLARES** that upon the delivery of a Proposal Trustee's certificate to Metro 360 and the Purchaser substantially in the form attached as Schedule A hereto (the "**Proposal Trustee's Certificate**"), all of Metro 360's right, title and interest in and to the Assets shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, the

“**Claims**”) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by any other Order of this Court in these proceedings; (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system (all of which are collectively referred to as the “**Encumbrances**” and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the Assets are hereby expunged and discharged as against the Assets.

5. **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims and Encumbrances, from and after delivery of the Proposal Trustee’s Certificate, the net proceeds from the sale of the Assets (the “**Net Proceeds**”) shall stand in the place and stead of the Assets and all Claims and Encumbrances shall attach to the Net Proceeds with the same priority as they had with respect to the Assets immediately prior to the sale, as if the Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

6. **THIS COURT ORDERS AND DIRECTS** the Proposal Trustee to file with the Court a copy of the Proposal Trustee’s Certificate, forthwith after delivery thereof to Metro 360 and the Purchaser.

7. **THIS COURT ORDERS** that the Proposal Trustee may rely on written notice from Metro 360 and the Purchaser or their respective counsel regarding the satisfaction of the Purchase Price and the fulfillment or waiver of conditions to closing under the Purchase Agreement and shall incur no liability with respect to the delivery of the Proposal Trustee’s Certificate.



8. **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the Canada *Personal Information Protection and Electronic Documents Act*, Metro 360 is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in Metro 360's records pertaining to the past and current employees of Metro 360. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by Metro 360.

9. **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy or receivership order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) or other applicable legislation in respect of Metro 360 or the Partners and any bankruptcy or receivership order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of Metro 360 or the Partners;

the entering into of the Purchase Agreement and the vesting of the Assets in the Purchaser pursuant to this Order, shall be binding on any trustee in bankruptcy that may be appointed in respect of Metro 360 or the Partners and shall not be void or voidable by creditors of Metro 360 or the Partners, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

10. **THIS COURT ORDERS** that the confidential supplement to the First Report be sealed, kept confidential and not form part of the public record, unless otherwise ordered by further Order of this Court.

11. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist Metro 360, the Partners, the Proposal Trustee 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 Proposal Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist Metro 360, the Partners, the Proposal Trustee and their respective agents in carrying out the terms of this Order.

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**SCHEDULE A  
FORM OF PROPOSAL TRUSTEE'S CERTIFICATE**

Estate / Court File No.: \_\_\_\_\_

Estate / Court File No.: \_\_\_\_\_

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(IN BANKRUPTCY & INSOLVENCY)  
COMMERCIAL LIST**

**IN THE MATTER OF THE NOTICES OF INTENTION TO  
MAKE A PROPOSAL OF 957855 ALBERTA LTD.  
(FORMERLY NEWSWEST INC.) AND ROSEBUD CREEK  
FINANCIAL CORP. IN RESPECT OF METRO 360  
GENERAL PARTNERSHIP**

**PROPOSAL TRUSTEE'S CERTIFICATE**

**RECITALS**

- A. On April 6, 2020, 957855 Alberta Ltd. (formerly NewsWest Inc.) (“**Alberta HoldCo**”) and Rosebud Creek Financial Corp. (“**Rosebud HoldCo**” and, together with Alberta HoldCo, the “**Partners**”), as the partners of the Metro 360 General Partnership (“**Metro 360**”), filed notices of intention to make a proposal under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 and KSV Kofman Inc. was appointed as proposal trustee (the “**Proposal Trustee**”).
- B. Pursuant to an Order of the Court dated April 7, 2020 (the “**Approval and Vesting Order**”), the Court approved the asset purchase agreement dated April 3, 2020 (the “**Purchase Agreement**”) between Metro 360 General Partnership, by Alberta HoldCo as one of Metro 360’s partners, and Great Pacific Enterprises Inc. dba TNG (the “**Purchaser**”) and provided for the vesting in the Purchaser of all of Metro 360’s right, title and interest in and to the Assets, which vesting is to be effective with respect to the Assets upon the delivery by the Proposal Trustee to Metro 360 and the Purchaser of a certificate confirming: (i) the payment by the Purchaser of the Purchase Price for the Assets; (ii) that the conditions to Closing as set out in the Purchase Agreement have been

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satisfied or waived by Metro 360 and the Purchaser, as applicable; and (iii) the Transaction has been completed to the satisfaction of Metro 360 and the Purchaser.

- C. Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the Purchase Agreement.

**THE PROPOSAL TRUSTEE CERTIFIES the following:**

1. The Purchaser has paid and Metro 360 has received the Purchase Price for the Assets pursuant to the Purchase Agreement.
2. The conditions to Closing as set out in the Purchase Agreement have been satisfied or waived by Metro 360 and the Purchaser, as applicable.
3. The Transaction has been completed to the satisfaction of Metro 360 and the Purchaser.
4. This Certificate was delivered by the Proposal Trustee at \_\_\_\_\_ [a.m/p.m.] on \_\_\_\_\_, 2020.

**KSV KOFMAN INC.**, in its capacity as Proposal Trustee of 957855 Alberta Ltd. (formerly NewsWest Inc.) and Rosebud Creek Financial Corp., as the partners of the Metro 360 General Partnership, and not in its personal or corporate capacity

Per: \_\_\_\_\_  
 Name:  
 Title:

**IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL OF  
957855 ALBERTA LTD. (FORMERLY NEWSWEST INC.) AND ROSEBUD CREEK  
FINANCIAL CORP. IN RESPECT OF METRO 360 GENERAL PARTNERSHIP**

Estate / Court File No.:

Estate / Court File No.:

**ONTARIO**

**SUPERIOR COURT OF JUSTICE  
(IN BANKRUPTCY AND INSOLVENCY)  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**APPROVAL AND VESTING ORDER**

**GOODMANS LLP**

Barristers & Solicitors  
333 Bay Street, Suite 3400  
Toronto, Canada M5H 2S7

**Brendan O’Neill** LSO#: 43331J  
boneill@goodmans.ca

**Andrew Harmes** LSO#: 73221A  
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Tel: (416) 979-2211

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Lawyers for 957855 Alberta Ltd. (formerly  
NewsWest Inc.), Rosebud Creek Financial Corp., and  
Metro 360 General Partnership

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~~sale (the "Sale "Purchase Agreement"~~) ~~between the Receiver and [NAME OF PURCHASER] (the """)~~ between Metro 360, by Alberta HoldCo as one of Metro 360's partners, and Great Pacific Enterprises Inc. dba TNG (the "Purchaser") ~~dated [DATE] and appended to the Report of the Receiver dated [DATE] (the "Report"), and") dated as of April 3, 2020, and (ii) vesting in the Purchaser ~~the Debtor~~all of Metro 360's right, title and interest in and to the ~~assets described in the Sale Agreement (the "Purchased-Assets"),~~ was heard this day ~~at 330 University Avenue, Toronto, Ontario~~by videoconference call in light of the COVID-19 crisis.~~

ON READING the ~~Report~~affidavit of Daniel P. Shapiro sworn April 6, 2020 (the "Shapiro Affidavit"), the first report (the "First Report") of KSV Kofman Inc. in its capacity as the proposal trustee (the "Proposal Trustee"), and on hearing the submissions of counsel for the Receiver, ~~[NAMES OF OTHER PARTIES APPEARING], no one appearing for any other person on the service list, although properly served as appears from the affidavit of [NAME]~~Proposal Trustee, counsel for Metro 360 and the Partners, and those other parties present as indicated on the counsel sheet, and on reading the affidavit of service of Andrew Harnes sworn ~~[DATE]~~ filed<sup>1</sup> April 6, 2020:

1. **THIS COURT ORDERS** that the time for the service of the Notice of Motion, the First Report, and the Motion Record is hereby abridged so that this Motion is properly returnable today and hereby dispenses with further service thereof.
  
2. **THIS COURT ORDERS** that unless otherwise indicated or defined herein, capitalized terms used in this Order shall have the meaning given to them in the Purchase Agreement or the Shapiro Affidavit, as applicable.

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<sup>1</sup> ~~This model order assumes that the time for service does not need to be abridged. The motion seeking a vesting order should be served on all persons having an economic interest in the Purchased Assets, unless circumstances warrant a different approach. Counsel should consider attaching the affidavit of service to this Order.~~



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3. ~~1.~~ **THIS COURT ORDERS AND DECLARES** that the Transaction is hereby approved,<sup>2</sup> and the execution of the ~~Sale~~Purchase Agreement by ~~the Receiver~~<sup>3</sup> Alberta HoldCo on behalf of Metro 360 is hereby authorized and approved, with such minor amendments ~~as the Receiver may deem necessary. The Receiver is~~ to the Purchase Agreement as Metro 360 and the Purchaser may agree to with the consent of the Proposal Trustee. Metro 360 and the Partners are hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for the completion of the Transaction and for the conveyance of the ~~Purchased~~ Assets to the Purchaser.

4. ~~2.~~ **THIS COURT ORDERS AND DECLARES** that upon the delivery of a ~~Receiver~~Proposal Trustee's certificate to Metro 360 and the Purchaser substantially in the form attached as Schedule A hereto (the ~~"Receiver"~~"Proposal Trustee's Certificate"), all of ~~the Debtor~~Metro 360's right, title and interest in and to the ~~Purchased Assets described in the Sale Agreement [and listed on Schedule B hereto]~~<sup>4</sup> Assets shall vest absolutely in the Purchaser, free and clear of and from any and all security interests (whether contractual, statutory, or otherwise), hypothecs, mortgages, trusts or deemed trusts (whether contractual, statutory, or otherwise), liens, executions, levies, charges, or other financial or monetary claims, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise

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<sup>2</sup> ~~In some cases, notably where this Order may be relied upon for proceedings in the United States, a finding that the Transaction is commercially reasonable and in the best interests of the Debtor and its stakeholders may be necessary. Evidence should be filed to support such a finding, which finding may then be included in the Court's endorsement.~~

<sup>3</sup> ~~In some cases, the Debtor will be the vendor under the Sale Agreement, or otherwise actively involved in the Transaction. In those cases, care should be taken to ensure that this Order authorizes either or both of the Debtor and the Receiver to execute and deliver documents, and take other steps.~~

<sup>4</sup> ~~To allow this Order to be free standing (and not require reference to the Court record and/or the Sale Agreement), it may be preferable that the Purchased Assets be specifically described in a Schedule.~~

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(collectively, the "Claims"<sup>5</sup>) including, without limiting the generality of the foregoing: (i) any encumbrances or charges created by ~~the~~any other Order of ~~the Honourable Justice [NAME]~~ dated ~~[DATE]~~; ~~(ii) this Court in these proceedings;~~ (ii) all charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Ontario) or any other personal property registry system; ~~and (iii) those Claims listed on Schedule C hereto~~ (all of which are collectively referred to as the "~~Encumbrances~~", ~~which term shall not include the permitted encumbrances, easements and restrictive covenants listed on Schedule D~~) "Encumbrances" and, for greater certainty, this Court orders that all of the Encumbrances affecting or relating to the ~~Purchased~~ Assets are hereby expunged and discharged as against the ~~Purchased~~ Assets.

~~3. THIS COURT ORDERS that upon the registration in the Land Registry Office for the [Registry Division of {LOCATION}] of a Transfer/Deed of Land in the form prescribed by the Land Registration Reform Act duly executed by the Receiver][Land Titles Division of {LOCATION}] of an Application for Vesting Order in the form prescribed by the Land Titles Act and/or the Land Registration Reform Act~~<sup>6</sup>, the Land Registrar is hereby directed to enter the Purchaser as the owner of the subject real property identified in Schedule B hereto (the "Real Property") in fee simple, and is hereby directed to delete and expunge from title to the Real Property all of the Claims listed in Schedule C hereto.

5. ~~4.~~ **THIS COURT ORDERS** that for the purposes of determining the nature and priority of Claims and Encumbrances, from and after delivery of the Proposal Trustee's Certificate, the net proceeds<sup>7</sup> from the sale of the ~~Purchased~~ Assets (the "Net Proceeds") shall stand in the place and

<sup>5</sup> The "Claims" being vested out may, in some cases, include ownership claims, where ownership is disputed and the dispute is brought to the attention of the Court. Such ownership claims would, in that case, still continue as against the net proceeds from the sale of the claimed asset. Similarly, other rights, titles or interests could also be vested out, if the Court is advised what rights are being affected, and the appropriate persons are served. It is the Subcommittee's view that a non-specific vesting out of "rights, titles and interests" is vague and therefore undesirable.

<sup>6</sup> Elect the language appropriate to the land registry system (Registry vs. Land Titles).

<sup>7</sup> The Report should identify the disposition costs and any other costs which should be paid from the gross sale proceeds, to arrive at "net proceeds".

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stead of the ~~Purchased Assets, and that from and after the delivery of the Receiver's Certificate~~Assets and all Claims and Encumbrances shall attach to the ~~net proceeds from the sale of the Purchased Assets~~Net Proceeds with the same priority as they had with respect to the ~~Purchased~~ Assets immediately prior to the sale<sup>8</sup>, as if the ~~Purchased~~ Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale.

6. ~~5.~~ **THIS COURT ORDERS AND DIRECTS** the ~~Receiver~~Proposal Trustee to file with the Court a copy of the ~~Receiver~~Proposal Trustee's Certificate, forthwith after delivery thereof to Metro 360 and the Purchaser.

7. **THIS COURT ORDERS** that the Proposal Trustee may rely on written notice from Metro 360 and the Purchaser or their respective counsel regarding the satisfaction of the Purchase Price and the fulfillment or waiver of conditions to closing under the Purchase Agreement and shall incur no liability with respect to the delivery of the Proposal Trustee's Certificate.

8. ~~6.~~ **THIS COURT ORDERS** that, pursuant to clause 7(3)(c) of the *Canada Personal Information Protection and Electronic Documents Act*, ~~the Receiver~~Metro 360 is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in ~~the Company'~~Metro 360's records pertaining to the ~~Debtor's~~ past and current employees, ~~including personal information of those employees listed on Schedule "A" to the Sale Agreement.~~ of Metro 360. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use of such information by ~~the Debtor.~~Metro 360.

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<sup>8</sup> ~~This provision crystallizes the date as of which the Claims will be determined. If a sale occurs early in the insolvency~~

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9. ~~7.~~ **THIS COURT ORDERS** that, notwithstanding:

- (a) the pendency of these proceedings;
- (b) any applications for a bankruptcy or receivership order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) or other applicable legislation in respect of Metro 360 or the ~~Debtor~~Partners and any bankruptcy or receivership order issued pursuant to any such applications; and
- (c) any assignment in bankruptcy made in respect of Metro 360 or the ~~Debtor~~Partners;

the entering into of the Purchase Agreement and the vesting of the ~~Purchased~~-Assets in the Purchaser pursuant to this Order, shall be binding on any trustee in bankruptcy that may be appointed in respect of Metro 360 or the ~~Debtor~~Partners and shall not be void or voidable by creditors of Metro 360 or the ~~Debtor~~Partners, nor shall it constitute nor be deemed to be a fraudulent preference, assignment, fraudulent conveyance, transfer at undervalue, or other reviewable transaction under the *Bankruptcy and Insolvency Act* (Canada) or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

10. ~~8.~~ **THIS COURT ORDERS AND DECLARES** ~~that the Transaction is exempt from the application of the *Bulk Sales Act* (Ontario)~~that the confidential supplement to the First Report be sealed, kept confidential and not form part of the public record, unless otherwise ordered by further Order of this Court.

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~~process, or potentially secured claimants may not have had the time or the ability to register or perfect proper claims prior to the sale, this provision may not be appropriate, and should be amended to remove this crystallization concept.~~

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11. ~~9.~~ **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist ~~the Receiver and its~~ Metro 360, the Partners, the Proposal Trustee 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 ~~Receiver~~ Proposal Trustee, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist ~~the Receiver and its~~ Metro 360, the Partners, the Proposal Trustee and their respective agents in carrying out the terms of this Order.

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Schedule ~~A—Form of Receiver’s Certificate~~  
FORM OF PROPOSAL TRUSTEE’S CERTIFICATE

Estate / Court File No.: \_\_\_\_\_  
 Estate / Court File No.: \_\_\_\_\_

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(IN BANKRUPTCY & INSOLVENCY)**  
**COMMERCIAL LIST**

~~BETWEEN:~~

**PLAINTIFF**

Plaintiff

~~—and—~~

**DEFENDANT**

Defendant

IN THE MATTER OF THE NOTICES OF INTENTION TO  
 MAKE A PROPOSAL OF 957855 ALBERTA LTD.  
 (FORMERLY NEWSWEST INC.) AND ROSEBUD CREEK  
 FINANCIAL CORP. IN RESPECT OF METRO 360  
 GENERAL PARTNERSHIP

~~RECEIVER~~PROPOSAL TRUSTEE’S CERTIFICATE

**RECITALS**

~~A. Pursuant to an Order of the Honourable [NAME OF JUDGE] of the Ontario Superior Court of Justice (the "Court") dated [DATE OF ORDER], [NAME OF RECEIVER] was appointed as the receiver (the "Receiver") of the undertaking, property and assets of [DEBTOR] (the "Debtor").~~

A. On April 6, 2020, 957855 Alberta Ltd. (formerly NewsWest Inc.) (“Alberta HoldCo”) and Rosebud Creek Financial Corp. (“Rosebud HoldCo” and, together with Alberta

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HoldCo, the “Partners”), as the partners of the Metro 360 General Partnership (“Metro 360”), filed notices of intention to make a proposal under the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 and KSV Kofman Inc. was appointed as proposal trustee (the “Proposal Trustee”).

- B. ~~B.~~—Pursuant to an Order of the Court dated ~~[DATE]~~April 7, 2020 (the “Approval and Vesting Order”), the Court approved the ~~agreement of purchase and sale made as of [DATE OF AGREEMENT] (the “Sale Agreement”) between the Receiver [Debtor] and [NAME OF PURCHASER] (the “Purchaser”)~~asset purchase agreement dated April 3, 2020 (the “Purchase Agreement”) between Metro 360 General Partnership, by Alberta HoldCo as one of Metro 360’s partners, and Great Pacific Enterprises Inc. dba TNG (the “Purchaser”) and provided for the vesting in the Purchaser of ~~the Debtor~~all of Metro 360’s right, title and interest in and to the ~~Purchased~~-Assets, which vesting is to be effective with respect to the ~~Purchased~~-Assets upon the delivery by the ~~Receiver to~~Proposal Trustee to Metro 360 and the Purchaser of a certificate confirming: (i) the payment by the Purchaser of the Purchase Price for the ~~Purchased~~-Assets; (ii) that the conditions to Closing as set out in ~~section ● of the Sale~~Purchase Agreement have been satisfied or waived by ~~the Receiver~~Metro 360 and the Purchaser, as applicable; and (iii) the Transaction has been completed to the satisfaction of Metro 360 and the ~~Receiver~~Purchaser.
- C. ~~C.~~—Unless otherwise indicated herein, terms with initial capitals have the meanings set out in the ~~Sale~~Purchase Agreement.

**THE ~~RECEIVER~~PROPOSAL TRUSTEE CERTIFIES the following:**

1. ~~1.~~—The Purchaser has paid and ~~the Receiver~~Metro 360 has received the Purchase Price for the ~~Purchased~~-Assets ~~payable on the Closing Date~~ pursuant to the ~~Sale~~Purchase Agreement;
2. ~~2.~~—The conditions to Closing as set out in ~~section ● of the Sale~~Purchase Agreement have been satisfied or waived by ~~the Receiver~~Metro 360 and the Purchaser; ~~and, as applicable.~~
3. ~~3.~~—The Transaction has been completed to the satisfaction of Metro 360 and the ~~Receiver~~Purchaser.

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4. ~~4.~~ This Certificate was delivered by the ~~Receiver~~ Proposal Trustee at \_\_\_\_\_ ~~[TIME a.m/p.m.]~~ on \_\_\_\_\_ ~~[DATE]~~ \_\_\_\_\_, 2020.

~~[NAME OF RECEIVER], in its capacity as Receiver of the undertaking, property and assets of [DEBTOR]~~ KSV KOEMAN INC., in its capacity as Proposal Trustee of 957855 Alberta Ltd. (formerly NewsWest Inc.) and Rosebud Creek Financial Corp., as the partners of the Metro 360 General Partnership, and not in its personal or corporate capacity

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

Name: \_\_\_\_\_

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



IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL OF  
57855 ALBERTA LTD. (FORMERLY NEWSWEST INC.) AND ROSEBUD CREEK  
FINANCIAL CORP. IN RESPECT OF METRO 360 GENERAL PARTNERSHIP

Estate / Court File No.:

Estate / Court File No.:

**ONTARIO**

**SUPERIOR COURT OF JUSTICE  
(IN BANKRUPTCY AND INSOLVENCY)  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**APPROVAL AND VESTING ORDER**

**GOODMANS LLP**

Barristers & Solicitors

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Lawyers for 957855 Alberta Ltd. (formerly NewsWest  
Inc.), Rosebud Creek Financial Corp., and Metro 360  
General Partnership

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Estate / Court File No.: \_\_\_\_\_

Estate / Court File No.: \_\_\_\_\_

**ONTARIO**  
**SUPERIOR COURT OF JUSTICE**  
**(IN BANKRUPTCY AND INSOLVENCY)**  
**COMMERCIAL LIST**

THE HONOURABLE MR.	)	TUESDAY, THE 7 <sup>TH</sup>
	)	
JUSTICE HAINEY	)	DAY OF APRIL, 2020

**IN THE MATTER OF THE NOTICES OF INTENTION TO  
MAKE A PROPOSAL OF 957855 ALBERTA LTD.  
(FORMERLY NEWSWEST INC.) AND ROSEBUD CREEK  
FINANCIAL CORP. IN RESPECT OF METRO 360  
GENERAL PARTNERSHIP**

**BANKRUPTCY PROCEDURE ORDER**

**THIS MOTION**, made by 957855 Alberta Ltd. (formerly NewsWest Inc.) (“**Alberta HoldCo**”) and Rosebud Creek Financial Corp. (“**Rosebud HoldCo**” and, together with Alberta HoldCo, the “**Partners**”), as the partners of the Metro 360 General Partnership (“**Metro 360**”), for an order: (i) if necessary, abridging the time for service and filing of the Notice of Motion and the Motion Record and dispensing with further service thereof; (ii) permitting the consolidation of the Partners’ *Bankruptcy and Insolvency Act*, R.S.C. 1985 c. B-3 (“**BIA**”) proposal proceedings (“**Proposal Proceedings**”) for administration purposes, including, without limitation, the preparation and filing of motions and reports to creditors, the Proposal Trustee, and this Court, as may be required by the BIA; (iii) approving a first priority administration charge in the aggregate of \$300,000; (iv) extending the stay of proceedings resulting from the filing by the Partners’ respective notices of an intention to make a proposal pursuant to section 50.4(1) of the BIA to

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Metro 360; (v) approving the granting of an extension of the time to file a proposal and the corresponding stay of proceedings to and including June 19, 2020; and (vi) authorizing Metro 360 and/or the Partners to complete the sale of redundant or non-material residual assets without Order of this Court for proceeds not exceeding \$200,000 in any one transaction or \$400,000 in the aggregate, was heard this day by videoconference call in light of the COVID-19 crisis.

**ON READING** the affidavit of Daniel P. Shapiro sworn April 6, 2020 (the “**Shapiro Affidavit**”), the first report (the “**First Report**”) of KSV Kofman Inc. in its capacity as the proposal trustee (the “**Proposal Trustee**”), and on hearing the submissions of counsel for the Proposal Trustee, counsel for Metro 360 and the Partners, and those other parties present as indicated on the counsel sheet, and on reading the affidavit of service of Andrew Harmes sworn April 6, 2020:

#### **SERVICE**

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

#### **ADMINISTRATIVE CONSOLIDATION**

2. **THIS COURT ORDERS** that the Proposal Proceedings are hereby administratively consolidated (but not substantively consolidated) and are hereby authorized and directed to continue under the following joint title of proceedings:

3. Estate / Court File No.: 31-TMPa86369

4. Estate / Court File No.: 31-TMPa86368

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Estate / Court File No.: \_\_\_\_\_  
 Estate / Court File No.: \_\_\_\_\_

**IN THE MATTER OF THE PROPOSAL OF METRO 360 GENERAL  
 PARTNERSHIP AND THE PARTNERS THEREOF**

5. **THIS COURT ORDERS** that, with respect to materials required to be filed with this Court, all further materials in the Proposal Proceedings shall be filed with the Commercial List Office only in Alberta HoldCo's estate, bearing Estate / Court File No.: \_\_\_\_\_.

**ADMINISTRATION CHARGE**

6. **THIS COURT ORDERS** that the Proposal Trustee, Bennett Jones LLP ("**Bennett Jones**"), as counsel to the Proposal Trustee, and Goodmans LLP ("**Goodmans**"), as counsel to Metro 360 and the Partners, shall be paid their reasonable fees and disbursements, in each case at their standard rates and charges, by Metro 360 and/or the Partners, as the case may be, as part of the costs of these proceedings, both before and after the making of this Order in respect of these proceedings and related matters. Metro 360 and the Partners are hereby authorized to pay the accounts of the Proposal Trustee, Bennett Jones and Goodmans on a monthly basis, provided that the accounts as paid are passed from time to time, and for this purpose the accounts are hereby referred to a judge of the Ontario Superior Court of Justice (Commercial List) at Toronto, Ontario.

7. **THIS COURT ORDERS** that the Proposal Trustee, Bennett Jones and Goodmans shall be entitled to the benefit of and are hereby granted a charge (the "**Administration Charge**") on the current and future assets, undertakings and properties of Metro 360 and the Partners, of every nature and kind whatsoever (including all real and personal property), and wherever situate including all proceeds thereof (collectively, the "**Property**"), which charge shall not exceed an aggregate amount of \$300,000, as security for their professional fees and disbursements incurred

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at their standard rates and charges, both before and after the making of this Order with respect to and incidental to the Proposal Proceedings, including the reasonable fees and disbursements of the Proposal Trustee, Bennett Jones, and Goodmans incurred in preparation of the filing of the Partners' respective notices of intention to make a proposal pursuant to section 50.4(1) of the BIA. The Administration Charge shall have the priority set out in paragraph 7 herein.

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

9. **THIS COURT ORDERS** that the Administration Charge shall constitute a charge on the Property 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 individual, firm, corporation, governmental body or agency, or any other entities (all of the foregoing, collectively being "**Persons**" and each being a "**Person**").

10. **THIS COURT ORDERS** that the beneficiaries of the Administration Charge may set down a date on notice to all parties to vary the terms of this Order and to seek additional relief as appropriate from the Court with respect to the Administration Charge.

11. **THIS COURT ORDERS** that except by further order of the Court, Metro 360 and the Partners shall not grant any Encumbrances over any Property that ranks in priority to, or *pari*

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*passu*, with the Administration Charge unless Metro 360 or the Partners, as the case may be, obtains the prior written consent of each of the beneficiaries of the Administration Charge.

12. **THIS COURT ORDERS** that the Administration Charge shall not be rendered invalid or unenforceable and the rights and remedies of the beneficiaries thereto 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 the 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 Metro 360 or the Partners, and notwithstanding any provision to the contrary in any Agreement:

- a. the creation of the Administration Charge shall not create or be deemed to constitute a breach by Metro 360 or the Partners of any Agreement to which they are a party;
- b. none of the Proposal Trustee, Bennett Jones or Goodmans 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 Administration Charge; and
- c. the payments made by Metro 360 and/or the Partners, as the case may be, pursuant to this Order and the granting of the Administration Charge do not and will not

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constitute preferences, fraudulent conveyances, transfers at undervalue, oppressive conduct, or other challengeable or voidable transactions under any applicable law.

#### **EXTENSION OF THE STAY OF PROCEEDINGS TO METRO 360**

13. **THIS COURT ORDERS** that the stay of proceedings applicable to the Partners pursuant to section 69 of the BIA is hereby extended to apply, *mutatis mutandis*, to Metro 360 and all of its current and future assets, businesses, undertakings and properties of every nature and kind whatsoever, and wherever situate, including all proceeds thereof.

#### **EXTENSION OF PROTECTIONS TO METRO 360**

14. **THIS COURT ORDERS** that the protections provided to the Partners pursuant to section 65.1 of the BIA are hereby extended to apply, *mutatis mutandis*, to Metro 360.

#### **EXTENSION OF TIME TO MAKE A PROPOSAL**

15. **THIS COURT ORDERS** that the time within which to make a proposal pursuant to section 62(1) of the BIA and the corresponding stay of proceedings provided for in section 69 of the BIA, be and are hereby extended in accordance with section 50.4(9) of the BIA to and including June 19, 2020.

#### **DISPOSAL OF NON-MATERIAL RESIDUAL ASSETS**

16. **THIS COURT ORDERS** that Metro 360 and/or the Partners, as applicable, may explore opportunities for the sale of redundant or non-material residual assets that are not subject to the Transaction (as defined in the Shapiro Affidavit) (the “**Non-Material Residual Assets**”) and, with the prior approval of the Proposal Trustee, to enter into and complete any transaction for the Non-Material Residual Assets for proceeds not exceeding \$200,000 in any one transaction or



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\$400,000 in the aggregate, provided that Metro 360 and/or the Partners, as applicable, shall seek this Court's approval for any transaction in respect of Non-Material Residual Assets in excess of such amount.

#### **AID AND ASSISTANCE OF OTHER COURTS**

17. **THIS COURT REQUESTS** the aid and recognition of any court or any judicial, regulatory, or administrative body in any province or territory of Canada and the Federal Court of Canada and any judicial, regulatory, or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature of any province and any court or any judicial, regulatory or administrative body of the United States and the states of other subdivisions of the United States and of any other nation or state to act in aid of and to be complementary to this Court in carrying out the terms of this Order.

#### **GENERAL**

18. **THIS COURT ORDERS** that any interested party may apply to this Court to vary or amend this Order on not less than seven days' notice to Metro 360, the Partners, the Proposal Trustee, and any other party or parties likely to be affected by the Order sought or upon such other notice as this Court may order.

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**IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL OF 957855 ALBERTA LTD.  
(FORMERLY NEWSWEST INC.) AND ROSEBUD CREEK FINANCIAL CORP. IN RESPECT OF METRO  
360 GENERAL PARTNERSHIP**

Estate / Court File No.: \_\_\_\_\_  
Estate / Court File No.: \_\_\_\_\_

**ONTARIO**

**SUPERIOR COURT OF JUSTICE  
(IN BANKRUPTCY AND INSOLVENCY)  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**BANKRUPTCY PROCEDURE ORDER**

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**IN THE MATTER OF THE NOTICES OF INTENTION TO MAKE A PROPOSAL  
OF 957855 ALBERTA LTD. (FORMERLY NEWSWEST INC.) AND ROSEBUD  
CREEK FINANCIAL CORP. IN RESPECT OF METRO 360 GENERAL  
PARTNERSHIP**

Estate / Court File No.: \_\_\_\_\_

Estate / Court File No.: \_\_\_\_\_

***ONTARIO***  
**SUPERIOR COURT OF JUSTICE**  
**(IN BANKRUPTCY AND INSOLVENCY)**  
**COMMERCIAL LIST**

Proceeding commenced at Toronto

**MOTION RECORD**  
**(Returnable April 7, 2020)**

**GOODMANS LLP**

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