

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

THE HONOURABLE MR.

JUSTICE HAINEY



FRIDAY, THE 29TH

DAY OF JANUARY, 2021

IN THE MATTER OF THE *COMPANIES' CREDITORS*
ARRANGEMENT ACT, R.S.C. 1985, c. C-36 AS AMENDED
AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF OLD CLHC COMPANY, OLD CBCLSC
COMPANY, OLD KCRFL HOLDINGS LIMITED, OLD 616CL
LIMITED, OLD CBHC COMPANY AND OLD CBSFC
COMPANY

Applicants

DISTRIBUTION, DISCHARGE AND TERMINATION ORDER

THIS MOTION made by Alvarez & Marsal Canada Inc. ("**A&M**") in its capacity as court-appointed monitor of the Applicants (in such capacity, the "**Monitor**") pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an order, among other things: (i) extending the Stay Period (as defined in paragraph 17 of the Second Amended and Restated Initial Order dated December 20, 2019 (the "**Second Amended and Restated Initial Order**")) until and including the earlier of the CCAA Termination Time (as hereinafter defined) and July 30, 2021; (ii) authorising and directing the Monitor, for and on behalf of the Applicants, to make certain distributions; (iii) terminating these CCAA proceedings (the "**CCAA Proceedings**") upon the service of the Monitor's Certificate on the Service List (each as hereinafter defined); (iv) discharging and releasing A&M as Monitor of the Applicants in the

CCAA Proceedings and granting certain related releases; (v) approving the Sixth Report (as hereinafter defined), and the activities of the Monitor referred to therein, and the fees and disbursements of the Monitor and its counsel that have been incurred since the fees and disbursements set out in the Fifth Report of the Monitor dated September 22, 2020, or will be incurred in the performance of the remaining duties of the Monitor; and (vi) granting related relief, was heard this day by judicial videoconference via Zoom in Toronto, Ontario.

ON READING the Notice of Motion and the Sixth Report of the Monitor dated January 22, 2021, including the appendices thereto (the “**Sixth Report**”), and on hearing the submissions of counsel for the Monitor, the Applicants and the Term Agent (as hereinafter defined), and such other counsel as were present, no one else appearing although duly served:

SERVICE AND DEFINITIONS

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and the Motion Record herein be and is hereby abridged and validated so that the Motion is properly returnable today and hereby dispenses with further service thereof.
2. **THIS COURT ORDERS** that any capitalized terms used and not defined herein shall have the meaning ascribed to them in the Sixth Report or in the Second Amended and Restated Initial Order, as applicable.

EXTENSION OF STAY PERIOD

3. **THIS COURT ORDERS** that the Stay Period is hereby extended from February 1, 2021 until and including the earlier of (a) the CCAA Termination Time; and (b) July 30, 2021.

DISTRIBUTIONS AND DIRECTIONS

4. **THIS COURT ORDERS** that the Monitor, for and on behalf of the Applicants, be and is hereby authorized and directed, without any personal or corporate liability whatsoever to any Person, and without further Order of the Court, to distribute:

- (a) following the date of this Order, the Term Agent Initial Distribution to the Term Agent, which amount shall be applied against the obligations owing by the Applicants under the Term Loan Agreement;
- (b) following the CCAA Termination Time, the Term Agent Final Distribution, if any, to the Term Agent, which amount shall be applied against the obligations owing by the Applicants under the Term Loan Agreement; and
- (c) following the CCAA Termination Time, the Bankruptcy Retainer to the proposed trustee in bankruptcy of the Applicants, which amount shall be held by such trustee in bankruptcy (i) in connection with and to satisfy its anticipated fees and disbursements and the anticipated fees and disbursements of its counsel relating to such bankruptcy proceedings, and (ii) free and clear of any and all secured claims against the Applicants, including any Court-ordered charges granted in the CCAA Proceedings (the “**CCAA Charges**”).

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

- (a) the pendency of these proceedings;
- (b) any application for a bankruptcy or receivership order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act* (Canada) (the “BIA”) or other applicable legislation in respect of any of the Applicants or their property and any bankruptcy or receivership order issued pursuant to any such application; and
- (c) any assignment in bankruptcy made in respect of any of the Applicants,

the distributions contemplated by paragraph 4 hereof shall be made free and clear of the CCAA Charges and all Encumbrances, shall be binding on any trustee in bankruptcy or receiver that may be appointed in respect of any of the Applicants or their property, and shall not be void or voidable nor deemed to be a preference, assignment, fraudulent conveyance, transfer at undervalue or other reviewable transaction under the CCAA, the BIA or any other applicable federal or provincial legislation, and shall not constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

6. **THIS COURT ORDERS** that the Monitor, for and on behalf of the Applicants, be and is hereby authorized and directed, without any personal or corporate liability whatsoever to any Person, and without further Order of the Court, to:

- (a) direct counsel to the Applicants to release any funds held in trust for and on behalf of the Applicants to the Monitor; and

- (b) send any direction to counsel for the Applicants required to terminate the Applicants' engagement with such counsel.

TERMINATION OF THE CCAA PROCEEDINGS

7. **THIS COURT ORDERS** that, upon service by the Monitor of an executed certificate substantially in the form attached hereto as Schedule "A" (the "**Monitor's Certificate**") on the service list in the CCAA Proceedings (the "**Service List**") certifying that, to the knowledge of the Monitor, all matters to be attended to in connection with the CCAA Proceedings have been completed, the CCAA Proceedings shall be terminated without any other act or formality (the "**CCAA Termination Time**"), save and except as provided for in this Order, and provided that nothing herein impacts the validity of any Orders made in the CCAA Proceedings or any actions or steps taken by any Person.

8. **THIS COURT ORDERS** that the Monitor is hereby directed to file a copy of the Monitor's Certificate with the Court as soon as is practicable following service thereof on the Service List.

9. **THIS COURT ORDERS** that the CCAA Charges shall be terminated, released and discharged at the CCAA Termination Time without any other act or formality.

DISCHARGE OF THE MONITOR

10. **THIS COURT ORDERS** that effective at the CCAA Termination Time, A&M shall be and is hereby discharged from its duties as Monitor and shall have no further duties, obligations or responsibilities as Monitor from and after the CCAA Termination Time; provided however,

notwithstanding the discharge of A&M as Monitor, the Monitor shall remain Monitor and have the authority to carry out, complete or address any matters in its role as Monitor that are ancillary or incidental to the CCAA Proceedings following the CCAA Termination Time, as may be required, including but not limited to: (a) making the distributions set forth in paragraphs 4(b) and 4(c) hereof; (b) executing and filing any assignment in bankruptcy and related documents for and on behalf of the Applicants; and (c) executing any documents or taking any actions for and on behalf of the Applicants as reasonably requested by the Canadian Buyer in connection with the Transaction within the twelve (12) month period following the CCAA Termination Time (collectively, the “**Monitor Incidental Matters**”); provided that, the reasonable fees and expenses of the Monitor incurred in connection with carrying out, completing or addressing the Monitor Incidental Power set forth in paragraph 10(c) hereof shall be borne and paid by the Canadian Buyer.

11. **THIS COURT ORDERS** that, notwithstanding its discharge and the termination of the CCAA Proceedings, nothing herein shall affect, vary, derogate from, limit or amend, and A&M and its counsel shall continue to have the benefit of, any of the rights, approvals, releases, and protections in favour of the Monitor at law or pursuant to the CCAA, the Second Amended and Restated Initial Order, and all other Orders made in the CCAA Proceedings, including in connection with any Monitor Incidental Matters and other actions taken by the Monitor pursuant to this Order following the CCAA Termination Time.

12. **THIS COURT ORDERS** that no action or other proceeding shall be commenced against the Monitor in any way arising from or related to its capacity or conduct as Monitor, except with prior leave of this Court and on prior written notice to the Monitor.

13. **THIS COURT ORDERS** that effective as of the CCAA Termination Time, A&M, counsel to A&M and counsel to the Applicants, and each of their respective affiliates, and each of their respective current and former officers, directors, partners, employees and agents, as applicable (collectively, the “**Released Parties**”), shall be and hereby are forever released and discharged from any and all claims that any Person may have or be entitled to assert against the Released Parties, including any tax claims, whether known or unknown, matured or unmatured, foreseen or unforeseen, existing or hereafter arising, based in whole or in part on any act or omission, transaction, dealing or other occurrence in any way relating to, arising out of or in respect of the CCAA Proceedings or with respect to their respective conduct in connection therewith, including in carrying out the terms of this Order or any Monitor Incidental Matters (collectively, the “**Released Claims**”), and any such Released Claims are hereby irrevocably and permanently released, stayed, extinguished and forever barred and the Released Parties shall have no liability in respect thereof, save and except for any gross negligence or willful misconduct on the part of the Released Parties.

APPROVAL OF THE MONITOR’S REPORT, ACTIVITIES AND FEES

14. **THIS COURT ORDERS** that the Sixth Report and the activities of the Monitor referred to therein be and are hereby approved; provided, however, that only the Monitor, in its personal capacity and only with respect to its own personal liability, shall be entitled to rely upon or utilize in any way such approval.

15. **THIS COURT ORDERS** that the fees and disbursements of the Monitor and its counsel, as set out in the Sixth Report, be and are hereby approved.

16. **THIS COURT ORDERS AND DECLARES** that the fees and disbursements of the Monitor and its counsel, respectively, that are incurred beyond the dates set out are not set out in the Sixth Report, but that have been or are anticipated to be incurred in the performance of the duties of the Monitor are hereby authorized and approved up to a maximum of \$100,000 in the aggregate (plus applicable taxes), and in that regard, only the actual fees and expenses so incurred by the Monitor and its counsel shall be paid to the Monitor and its counsel, respectively.

GENERAL

17. **THIS COURT ORDERS** that that this Order shall have full force and effect in all provinces and territories in Canada.

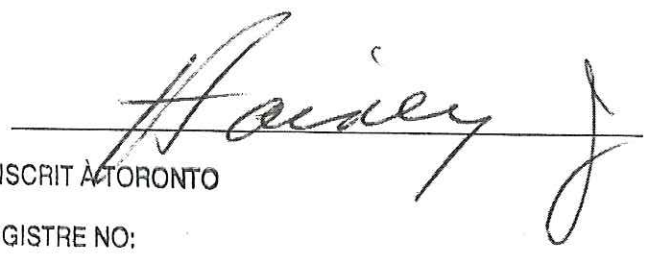
18. **THIS COURT HEREBY REQUESTS** that the aid and recognition of any court or administrative body in any province of Canada, the Federal Court of Canada, any administrative tribunal or other court constituted pursuant to the Parliament of Canada or any of its provinces or territories and any federal or state court or administrative body in the United States of America or any other foreign courts to act in aid of and to be complimentary to this Court in carrying out the terms of this Order.

19. **THIS COURT ORDERS** that this Order and all of its provisions shall be effective as of 12:01 a.m. Prevailing Eastern Time on the date hereof.

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

JAN 29 2021

PER / PAR:



SCHEDULE "A"
FORM OF MONITOR'S CERTIFICATE

Court File No. CV-19-631523-00CL

ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR
ARRANGEMENT OF OLD CLHC COMPANY, OLD CBCLSC
COMPANY, OLD KCRFL HOLDINGS LIMITED, OLD 616CL
LIMITED, OLD CBHC COMPANY AND OLD CBSFC
COMPANY

Applicants

MONITOR'S CERTIFICATE

RECITALS

- A. The Applicants obtained protection from their creditors under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA") pursuant to the Initial Order (as amended and restated, the "**Initial Order**") of the Ontario Superior Court of Justice (Commercial List) (the "**Court**") dated November 22, 2019. The Initial Order appointed Alvarez & Marsal Canada Inc. ("**A&M**") as monitor (the "**Monitor**") of the Applicants in the CCAA proceedings (Court File No. CV-19-631523-00CL) (the "**CCAA Proceedings**").
- B. Pursuant to an Order of the Court dated January 29, 2021 (the "**CCAA Termination Order**"), among other things, A&M shall be discharged as Monitor and the CCAA Proceedings shall be terminated upon the service of this Monitor's Certificate on the

service list in the CCAA Proceedings, all in accordance with the terms of the CCAA Termination Order.

THE MONITOR CERTIFIES that, to the knowledge of the Monitor, all matters to be attended to in connection with the CCAA Proceedings, other than certain ancillary matters as specifically set out in the CCAA Termination Order, have been completed.

ACCORDINGLY, the CCAA Termination Time (as defined in the CCAA Termination Order) has occurred.

DATED at Toronto, Ontario this _____ day of _____, 2021.

ALVAREZ & MARSAL CANADA INC., in its capacity as Court-appointed Monitor of the Applicants and not in its personal or corporate capacity

By: _____
Name: _____
Title: _____

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF OLD CLHC
COMPANY, OLD CBCLSC COMPANY, OLD KCRFL HOLDINGS LIMITED, OLD 616CL
LIMITED, OLD CBHC COMPANY AND OLD CBSFC COMPANY

Applicants

**ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)**

Proceeding commenced at Toronto

**DISTRIBUTION, DISCHARGE AND TERMINATION
ORDER**

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