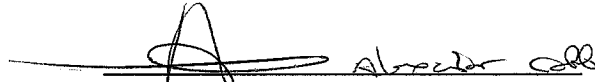


This is Exhibit "E" to the Affidavit of  
THOMAS C. STRIKE sworn before me  
this 7th day of January, 2010.

  
Commissioner for Taking Affidavits

**CANWEST LIMITED PARTNERSHIP  
CONSOLIDATED FINANCIAL STATEMENTS  
FOR THE YEARS ENDED  
AUGUST 31, 2009 AND 2008**

November 26, 2009

**Auditors' Report**

**To the Directors of Canwest Global Communications Corp.**

We have audited the accompanying consolidated balance sheets of **Canwest Limited Partnership** (the "Partnership") as at August 31, 2009 and 2008 and the related consolidated statements of earnings (loss), comprehensive income (loss), partners' deficiency and cash flows for each of the three years in the period ended August 31, 2009. These financial statements are the responsibility of the Partnership's management. Our responsibility is to express an opinion on these financial statements based on our audits.

We conducted our audits in accordance with Canadian generally accepted auditing standards and auditing standards generally accepted in the United States of America. Those standards require that we plan and perform an audit to obtain reasonable assurance whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of the Partnership as at August 31, 2009 and 2008 and the results of its operations and its cash flows for each of the three years in the period ended August 31, 2009 in accordance with Canadian generally accepted accounting principles.

*PricewaterhouseCoopers LLP*

**Chartered Accountants**  
Winnipeg, Canada



**Comments by Auditor on Canada-U.S. Reporting Difference**

In the United States, reporting standards for auditors require the addition of an explanatory paragraph (following the opinion paragraph) when the financial statements are affected by conditions and events that cast substantial doubt on the Partnership's ability to continue as a going concern, such as those described in Note 1 to the consolidated financial statements of the Partnership. Our report to the directors dated November 26, 2009 is expressed in accordance with Canadian reporting standards which do not permit a reference to such events and conditions in the auditors' report when these are adequately disclosed in the financial statements.

*Pricewaterhouse Coopers LLP*

**Chartered Accountants**  
Winnipeg, Canada

**CANWEST LIMITED PARTNERSHIP**  
**CONSOLIDATED STATEMENTS OF EARNINGS (LOSS)**  
(In thousands of Canadian dollars)

	<b>For the twelve months ended</b>		
	<b>August 31, 2009</b>	<b>August 31, 2008 (restated)</b>	<b>August 31, 2007 (restated)</b>
Revenue	1,021,384	1,203,052	1,186,363
Operating expenses (notes 3 and 18)	841,638	897,225	903,733
Restructuring expenses (note 17)	35,195	10,708	6,869
	<u>144,551</u>	<u>295,119</u>	<u>275,761</u>
Amortization of property and equipment (note 6)	39,885	46,647	47,495
Other amortization	191	194	188
Operating income	<u>104,475</u>	<u>248,278</u>	<u>228,078</u>
Interest expense, net (notes 10, 14 and 20)	(98,422)	(109,300)	(51,382)
Amortization of deferred financing costs (note 10)	-	-	(7,419)
Other income	2,925	2,925	3,050
Gain (loss) on disposal of property and equipment	1,890	(544)	340
Gain on disposal of joint venture (note 19)	-	-	1,318
Gain (loss) on disposal of interest rate swap (notes 10 and 20)	(180,202)	-	22,520
Ineffective portion of hedging derivative instrument (note 20)	(60,112)	-	-
Gain on sale of investment (note 7)	-	1,218	-
Foreign currency exchange gains (losses)	<u>154,571</u>	<u>477</u>	<u>(80)</u>
Earnings (loss) before income taxes	<u>(74,875)</u>	<u>143,054</u>	<u>196,425</u>
Recovery of current income taxes (note 11)	-	(516)	(342)
Provision for (recovery of) future income taxes (note 11)	<u>(8,893)</u>	<u>102</u>	<u>(4,134)</u>
<b>Net earnings (loss) for the period</b>	<u><u>(65,982)</u></u>	<u><u>143,468</u></u>	<u><u>200,901</u></u>

The notes constitute an integral part of the consolidated financial statements.

**CANWEST LIMITED PARTNERSHIP**  
**CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)**  
(In thousands of Canadian dollars)

	<b>For the twelve months ended</b>	
	<b>August 31, 2009</b>	<b>August 31, 2008 (restated)</b>
Net earnings (loss) for the period	(65,982)	143,468
Other comprehensive earnings (loss)		
Change in fair value of hedging derivative instruments designated as cash flow hedges (notes 13 and 20)	(14,640)	(28,350)
Reclassification of other comprehensive losses on hedging derivative instruments (note 20)	60,112	-
Other comprehensive earnings (loss) for the period	<u>45,472</u>	<u>(28,350)</u>
Comprehensive income (loss) for the period	<u>(20,510)</u>	<u>115,118</u>

The notes constitute an integral part of the consolidated financial statements.

**CANWEST LIMITED PARTNERSHIP**  
**CONSOLIDATED BALANCE SHEETS**  
(In thousands of Canadian dollars)

	<u>As at</u> <u>August 31, 2009</u>	<u>As at</u> <u>August 31, 2008</u> <u>(restated)</u>
<b>ASSETS</b>		
<b>Current Assets</b>		
Cash and cash equivalents	43,427	-
Restricted cash (note 5)	13,902	-
Accounts receivable	103,489	148,635
Amounts due from related companies (note 18)	2,266	7,026
Inventory	6,594	10,647
Income taxes recoverable (note 11)	-	569
Future income tax assets (note 11)	-	1,917
Prepaid expenses	12,991	11,410
	<u>182,669</u>	<u>180,204</u>
Property and equipment (note 6)	340,980	352,109
Other assets (note 8)	26,195	20,381
Goodwill	95,034	94,934
	<u>644,878</u>	<u>647,628</u>
<b>LIABILITIES</b>		
<b>Current Liabilities</b>		
Bank overdraft	-	2,303
Accounts payable and accrued liabilities	126,260	112,994
Amount due on swap settlement (notes 1 and 20)	68,874	-
Income taxes payable	12	-
Amounts due to related companies (note 18)	3,777	14,968
Deferred revenue	30,136	31,384
Current portion of hedging derivative instruments	-	12,206
Current portion of long term debt (note 10)	1,380,094	8,313
Current portion of obligations under capital leases (note 9)	3,138	3,093
	<u>1,612,291</u>	<u>185,261</u>
Long term debt (note 10)	-	1,323,632
Hedging derivative instruments	-	42,299
Obligations under capital leases (note 9)	3,696	6,834
Accrued pension, post-retirement and other liabilities (note 15)	75,318	59,707
Future income taxes (note 11)	27,478	38,288
	<u>1,718,783</u>	<u>1,656,021</u>
Going concern (note 1)		
Contingencies (note 23)		
<b>PARTNERS' DEFICIENCY</b>		
Partners' capital (note 16)	39,188	39,188
Contributed surplus (note 4)	55,000	55,000
Accumulated other comprehensive loss (note 13)	-	(45,472)
Deficit	(1,168,093)	(1,057,109)
Total deficit	<u>(1,168,093)</u>	<u>(1,102,581)</u>
	<u>(1,073,905)</u>	<u>(1,008,393)</u>
	<u>644,878</u>	<u>647,628</u>

The notes constitute an integral part of the consolidated financial statements.

**CANWEST LIMITED PARTNERSHIP**  
**CONSOLIDATED STATEMENTS OF PARTNERS' DEFICIENCY**  
(In thousands of Canadian dollars)

**For the twelve months ended August 31, 2009**

	<b>Partners' Capital</b>	<b>Contributed Surplus</b>	<b>Accumulated other comprehensive loss</b>	<b>Deficit</b>	<b>Total</b>
Balance as at September 1, 2008 (restated)	39,188	55,000	(45,472)	(1,057,109)	(1,008,393)
Net loss for the period	-	-	-	(65,982)	(65,982)
Other comprehensive income (note 13)	-	-	45,472	-	45,472
Distributions declared (note 16)	-	-	-	(45,002)	(45,002)
<b>Balance at August 31, 2009</b>	<b>39,188</b>	<b>55,000</b>	<b>-</b>	<b>(1,168,093)</b>	<b>(1,073,905)</b>

**For the twelve months ended August 31, 2008 (restated)**

	<b>Partners' Capital</b>	<b>Contributed Surplus</b>	<b>Accumulated other comprehensive loss</b>	<b>Deficit</b>	<b>Total</b>
Balance as at September 1, 2007	39,188	55,000	-	(1,034,528)	(940,340)
Adjustment to opening balance upon adoption of new financial instruments accounting standard (note 3)	-	-	(17,122)	248	(16,874)
Net earnings for the period	-	-	-	143,468	143,468
Purchase of related company (note 18)	-	-	-	(297)	(297)
Other comprehensive loss (note 13)	-	-	(28,350)	-	(28,350)
Distributions declared (note 16)	-	-	-	(166,000)	(166,000)
<b>Balance at August 31, 2008</b>	<b>39,188</b>	<b>55,000</b>	<b>(45,472)</b>	<b>(1,057,109)</b>	<b>(1,008,393)</b>

**For the twelve months ended August 31, 2007 (restated)**

	<b>Partners' Capital</b>	<b>Contributed Surplus</b>	<b>Deficit</b>	<b>Total</b>
Balance as at September 1, 2006	589,188	1,005	(951,272)	(361,079)
Redemption of Class A Partnership Units (notes 4 and 16)	(550,000)	55,000	(1,923)	(496,923)
Performance Unit Plan termination (note 12)	-	(3,130)	-	(3,130)
Performance Unit Plan (note 12)	-	2,125	(578)	1,547
Net earnings for the period	-	-	200,901	200,901
Distributions declared (note 16)	-	-	(281,656)	(281,656)
<b>Balance at August 31, 2007</b>	<b>39,188</b>	<b>55,000</b>	<b>(1,034,528)</b>	<b>(940,340)</b>

The notes constitute an integral part of the consolidated financial statements.



**CANWEST LIMITED PARTNERSHIP**  
**CONSOLIDATED STATEMENTS OF CASH FLOWS**  
(In thousands of Canadian dollars)

	For the twelve months ended		
	August 31, 2009	August 31, 2008 (restated)	August 31, 2007 (restated)
<b>CASH GENERATED (UTILIZED) BY:</b>			
<b>OPERATING ACTIVITIES</b>			
Net earnings (loss) for the period	(65,982)	143,468	200,901
Items not affecting cash			
Amortization	40,076	46,841	55,102
Future income taxes	(8,893)	102	(4,134)
Loss (gain) on disposal of property and equipment	(1,890)	544	(340)
Non-cash interest	5,026	3,008	-
Ineffective portion of hedging derivative instrument (note 20)	60,112	-	-
Gain on disposal of investment (note 7)	-	(1,218)	-
Gain on disposal of joint venture (note 19)	-	-	(1,318)
Loss (gain) on disposal of interest rate swap (notes 10 and 20)	180,202	-	(22,520)
Excess of pension and post retirement/employment expense over employer contributions	6,929	1,911	6,019
Unrealized gain on foreign exchange	(152,131)	-	-
Compensation expense (note 12)	-	-	(1,586)
	<u>63,449</u>	<u>194,656</u>	<u>232,124</u>
Changes in amounts due from related companies (note 18)	(6,431)	(755)	5,013
Changes in non-cash operating accounts (note 14)	46,273	(6,464)	21,251
Cash flows from operating activities	<u>103,291</u>	<u>187,437</u>	<u>258,388</u>
<b>INVESTING ACTIVITIES</b>			
Acquisitions (note 7)	(100)	(4,016)	-
Proceeds from sale of property and equipment	3,656	70	2,372
Proceeds from sale of investment (note 7)	-	2,213	-
Proceeds from disposal of joint venture (note 19)	-	-	1,200
Purchase of property and equipment	(30,522)	(36,154)	(18,764)
Cash flows from investing activities	<u>(26,966)</u>	<u>(37,887)</u>	<u>(15,192)</u>
<b>FINANCING ACTIVITIES</b>			
Proceeds from long term debt (note 10)	-	-	2,568,999
Repayment of long term debt (note 10)	(2,500)	(5,000)	(2,126,250)
Advances of revolving facilities (note 10)	20,000	11,000	85,000
Debt issuance costs (note 8)	-	-	(23,866)
Distributions paid	(45,002)	(166,000)	(304,548)
Redemption of Class A Limited Partnership Units (note 4)	-	-	(496,923)
Payments of capital leases	(3,093)	(2,535)	(3,639)
Settlement of swap liabilities (note 10)	-	-	22,520
Cash flows from financing activities	<u>(30,595)</u>	<u>(162,535)</u>	<u>(278,707)</u>
<b>Net change in cash</b>	45,730	(12,985)	(35,511)
<b>Cash (bank overdraft) - beginning of period</b>	(2,303)	10,682	46,193
<b>Cash (bank overdraft) - end of period</b>	<u>43,427</u>	<u>(2,303)</u>	<u>10,682</u>

The notes constitute an integral part of the consolidated financial statements.

**CANWEST LIMITED PARTNERSHIP**  
**NOTES TO THE CONSOLIDATED FINANCIAL STATEMENTS**  
**FOR THE YEARS ENDED**  
**AUGUST 31, 2009 AND 2008**

(In thousands of Canadian dollars, except as otherwise noted)

**1. GOING CONCERN**

These consolidated financial statements have been prepared on a going concern basis in accordance with Canadian generally accepted accounting principles ("GAAP") which assumes that Canwest Limited Partnership ("Canwest LP or "Limited Partnership") will continue in operation and be able to realize its assets and discharge its liabilities and commitments in the normal course of business for the foreseeable future. There is significant doubt about the appropriateness of the going concern assumption because of the defaults under certain debt agreements and the material uncertainty caused by the current market conditions including the Limited Partnership's declining advertising revenue and ability to realize cost reductions.

The Limited Partnership's operating results and cash flows for the twelve months ended August 31, 2009 reflect the effects of the deterioration in the economy and reduced advertising revenue in its operations. The outlook for the advertising market remains uncertain and the weakness in the advertising market is likely to continue until the economy improves. The significantly reduced advertising revenue has reduced cash flows from operations and has impacted the Limited Partnership's liquidity. As at August 31, 2009, current liabilities significantly exceed current assets. The Limited Partnership is in default under the terms of its senior secured credit facilities, its senior subordinated unsecured credit facility and its senior subordinated unsecured notes indenture because it failed to make payments of interest and principal on its senior secured credit facilities and its related hedging derivative instruments, it failed to make interest payments on its senior subordinated unsecured credit facility and its senior subordinated unsecured notes and it failed to satisfy the demand for immediate repayment of its obligations related to the hedging derivative instruments. As described in note 17, the Limited Partnership has developed restructuring plans to reduce costs and close or sell underperforming operations. Management is continuing to assess other strategies to improve operating results and cash flows, to adjust its capital structure and to reduce its debt obligations. While progress is being made in developing and implementing such strategies, there can be no assurance as to the outcome or success of these strategies. Further, the Limited Partnership's results for future periods are subject to numerous uncertainties.

The Limited Partnership was not in compliance with its financial covenants under its senior secured credit facilities as of May 31, 2009. From May 2009 to August 2009 the Limited Partnership did not make interest and principal payments on its senior secured credit facilities and the associated hedging derivative instruments or in respect of its senior subordinated unsecured credit facility or its senior subordinated unsecured notes. These payments were not made in order to preserve liquidity to fund operations while the Limited Partnership works to effect a recapitalization transaction. As a result of the payment default, the hedging derivative instrument counterparties terminated the hedging arrangements and demanded immediate payment of an aggregate of \$68.9 million. The Limited Partnership has not satisfied this demand and does not have adequate liquidity to satisfy this or any other such demand.

## 1. GOING CONCERN (continued)

Effective August 31, 2009, the Limited Partnership entered into a forbearance agreement with the Administrative Agent under its senior secured credit facilities under which the lenders agreed not to take any steps with respect to the defaults under the senior secured credit facility and to work with management of the Limited Partnership to develop and implement a consensual pre-packaged restructuring, recapitalization, or reorganization. In accordance with the terms of the forbearance agreement the lenders cancelled all undrawn amounts under the revolving credit facility. The Limited Partnership agreed to pay the interest owing and the continuing interest on its senior secured credit facilities and on amounts due in respect of the terminated hedging arrangements. On August 31, 2009, the Limited Partnership transferred \$13.9 million to a restricted bank account (note 5) which subsequent to year end was used to pay the interest owing. The forbearance agreement was originally in effect to October 31, 2009 and was extended to November 9, 2009. This agreement has expired, however, Canwest Limited Partnership and its lenders under the senior secured credit facilities continue discussions regarding the framework for a potential financial restructuring. These creditors could demand the immediate repayment of the amounts outstanding. As at August 31, 2009 the carrying value of the senior secured credit facility and the Swap liability was \$953.4 million. No such agreement has been entered into with Canwest Limited Partnership's lenders under its senior subordinated unsecured credit facility or its senior subordinated unsecured notes. These creditors could demand the immediate repayment of the amounts outstanding. As at August 31, 2009, the aggregate carrying value of amounts outstanding under the senior subordinated credit facility and the senior subordinated notes was \$513.0 million. Canwest Limited Partnership would not have adequate liquidity to satisfy a demand for repayment under the senior secured credit facilities, the senior subordinated credit facility or the senior subordinated notes indenture.

Canwest Global Communications Corp. (Canwest Global), (the parent company of Canwest Media Inc.), Canwest Media Inc. ("Canwest" or "CMI"), and certain subsidiaries which include *The National Post Company* (the "CMI entities") voluntarily applied for and successfully obtained an Order from the Ontario Superior Court of Justice under the Companies' Creditors Arrangement Act (CCAA) on October 6, 2009. The commencement of these proceedings was undertaken in furtherance of a proposed recapitalization transaction that is supported by holders of over 70% of the 8% senior subordinated unsecured notes issued by CMI (the "Recapitalization Transaction"). The CMI entities' operations will continue uninterrupted during the recapitalization process and obligations to employees and suppliers of goods and services provided after the filing date will continue to be met. Under the Order related party obligations that the CMI entities have to the Limited Partnership both prior and subsequent to the filing date will continue to be met. The CMI entities will also continue to provide services to the Limited Partnership as described in note 18. However, the outcome of the Canwest Global proceedings is not known and the impact on the future relationship with Canwest LP is uncertain.

The Limited Partnership's results for future periods are subject to numerous uncertainties. The possibility exists that unforeseen events, such as, higher interest rates, foreign currency changes, prolonged curtailment of advertising spending or other adverse business conditions or a combination of these or other factors may further affect future years' operating results and cash flows. These circumstances lend significant doubt as to the ability of the Partnership to meet its obligations as they come due.

There can be no assurance that the actions taken in the Limited Partnership's restructuring activities will result in improvements to the financial condition sufficient to allow the Limited Partnership to continue as a going concern. If the going concern basis is not appropriate, adjustments may be necessary to the carrying amounts and/or classification of the Limited Partnership's assets and liabilities. These adjustments may be material.

## 2. DESCRIPTION OF PARTNERSHIP

Canwest Limited Partnership was formed on September 7, 2005 under the laws of Ontario to acquire the newspaper, Digital Media and certain business services operations of Canwest Media Inc., excluding *The National Post Company* ("*National Post*") (note 24).

On October 13, 2005, Canwest LP acquired the businesses and substantially all of the assets and assumed substantially all of the operating liabilities related to the Publishing Group, which includes the following directly or indirectly wholly owned entities of Canwest: Canwest Publishing Inc. ("CPI"), Canwest Books Inc., certain assets and liabilities representing the operations of ReachCanada Contact Centre and certain assets and liabilities representing the operations of certain support and administration functions that were divisions of Canwest.

Newspaper operations include daily and non-daily newspapers, including electronic editions, news content productions and editorial operations as well as certain shared service operations. The Digital Media operations operate the *canada.com* web portal and provide subscription services relating to investing and financial news and other information.

## 3. SIGNIFICANT ACCOUNTING POLICIES

### Basis of Presentation

The consolidated financial statements are prepared in accordance with accounting principles generally accepted in Canada and reflect all adjustments which are, in the opinion of management, necessary for fair statement of the results of the periods presented. The preparation of financial statements in conformity with Canadian generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the balance sheet date and the reported amounts of revenues and expenses during the reporting period. Actual results could differ from those estimates.

The consolidated financial statements of Canwest LP include the accounts of the Limited Partnership, its subsidiaries Canwest Publishing Inc. and Canwest Books Inc., and the Limited Partnership's pro rata share, (33.33%), of the assets, liabilities and results of operations of a joint venture with Metro International S.A. and Torstar Corporation ("Metro") to May 31, 2007 when Metro was sold.

Canwest LP is unincorporated and its balance sheet does not include the assets, liabilities, revenue and expenses of its partners.

Canwest indirectly owns 100% of the Limited Partnership. Canwest LP's general partner is Canwest Media (Canada) Inc. ("Canwest Media GP"). The consolidated financial statements of Canwest LP do not reflect the value of Canwest LP's assets and liabilities recorded on Canwest's consolidated financial statements.

Current and future income taxes relate to the corporate subsidiaries of Canwest LP. Canwest LP, itself, is not subject to income or capital taxes, as the income, if any, is taxed in the hands of the individual partners.

### Cost Allocations

Canwest LP, Canwest, the Canadian Broadcasting Operations and the *National Post* have entered into various agreements governing the provisions of services and the amount to be charged for these services, as described in note 18.

### 3. SIGNIFICANT ACCOUNTING POLICIES (continued)

#### Investments

Investments are classified as available for sale and are recorded at cost as they do not have a quoted market price in an active market. A provision for loss in value of the investments is made when a decline in value is considered other than temporary.

#### Foreign currency translation

At the balance sheet date, monetary assets and liabilities denominated in foreign currencies are translated into Canadian dollars using the foreign currency exchange rate in effect at that date. Revenues and expense items are translated at the foreign currency exchange rate in effect when the transaction occurred. The resulting foreign currency exchange gains and losses are recognized in current year earnings.

#### Property and equipment

Property and equipment are recorded at cost. Amortization is provided over the assets' estimated useful lives on a straight-line basis at the following annual rates:

Buildings	2.5% - 3.33%
Machinery and equipment	4% - 33.33%
Leasehold improvements	5% - 20%

#### Impairment of long lived assets

Impairment of long lived assets is recognized when an event or change in circumstances causes the assets' carrying value to exceed the total undiscounted cash flows expected from its use and eventual disposition. An impairment loss is calculated by deducting the fair value of the asset from its carrying value. There are no impairment losses of long lived assets for the twelve months ended August 31, 2009, 2008 or 2007.

#### Goodwill

Goodwill represents the cost of acquired businesses in excess of the fair value of net identifiable assets acquired. Goodwill is tested for impairment annually or when indicated by events or changes in circumstances by comparing the fair value of a particular reporting unit to its carrying value. When the carrying value exceeds its fair value, the fair value of the reporting unit's goodwill is compared with its carrying value to measure any impairment loss. The goodwill in these consolidated financial statements relates solely to the newspaper segment.

#### Revenue recognition

Circulation revenue is recognized when newspapers are delivered. Subscription revenues for newspapers and the Limited Partnership's news, business research and corporate financial information services are recognized on a straight-line basis over the term of the subscriptions or contracts. Advertising revenue is recognized over the period in which the related advertising is displayed. Revenue for commercial printing is recognized when delivered.

### **3. SIGNIFICANT ACCOUNTING POLICIES (continued)**

Amounts received relating to services to be performed in future periods are recorded as deferred revenue on the balance sheets.

Amounts billed relating to cost recoveries for services provided to related parties are netted against the related expenses. Amounts billed to related parties for cross-promotional activities provided are recorded as revenue.

#### **Income taxes**

The income related to the activities of Canwest LP will be taxed directly in the hands of the partners. Accordingly, the consolidated financial statements do not include any income tax provision related to the income generated by Canwest LP. However, income taxes are provided for activities carried out in Canwest Publishing Inc., a wholly owned subsidiary of Canwest LP, and Canwest Books Inc., a wholly owned subsidiary of Canwest Publishing Inc.

The asset and liability method is used to account for future income taxes. Under this method, future income tax assets and liabilities are recognized for the estimated future tax consequences attributable to differences between the financial statement carrying amounts and the tax bases of assets and liabilities. Future income tax assets and liabilities are measured using substantively enacted tax rates in effect for the year in which those temporary differences are expected to be recovered or settled. The effect on future income tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the substantive enactment date. Future income tax assets are recognized to the extent that realization is considered more likely than not.

#### **Inventory**

Inventory, consisting of primarily printing materials, is valued at the lower of cost, using the first-in-first out cost formula, and net realizable value. Inventories are written down to net realizable value if the cost of the inventories is not fully recoverable. Reversals of previous write-downs to net realizable value are required when there is a subsequent increase in the value of inventories. The carrying value of inventories carried at cost at August 31, 2009 are \$6.6 million (August 31, 2008 - \$10.7 million). The inventories carried at net realizable value at August 31, 2009 are nil. (August 31, 2008 – nil)

During the twelve months ended August 31, 2009, the amount of inventories expensed was \$88.7 million (2008 – \$96.8 million, 2007 - \$112.3 million)

No inventories were written down to net realizable value during the twelve months ended August 31, 2009, 2008 or 2007.

#### **Pension plans and post-retirement/employment benefits**

The Limited Partnership maintains a number of defined benefit and defined contribution pension and post-retirement/employment benefit plans. For defined benefit plans, the cost of pension and other retirement benefits earned by employees is determined using the projected benefit method pro rated on service and management's estimate of expected plan investment performance, salary escalation, retirement ages of employees, expected health care costs, and other costs, as applicable. For the purpose of calculating the expected return on plan assets, those assets are valued at fair value.

### **3. SIGNIFICANT ACCOUNTING POLICIES (continued)**

Past service costs from plan amendments are amortized on a straight line basis over the average remaining service period of employees active at the date of the amendment. For each plan, the excess of the net actuarial gain or loss over 10% of the greater of the accrued benefit obligation and the fair value of plan assets at the beginning of the year is amortized over the average remaining service period of active employees. Transitional obligations are amortized on a straight line basis over the average remaining service life of the employees expected to receive benefits under the plans as of September 1, 2000. Gains or losses arising from the settlement of a pension plan are only recognized when responsibility for the pension obligation has been relieved. The average remaining service period of employees covered by the pension plans is 9 years (2008 – 11 years, 2007 – 11 years). For the post-retirement/employment defined benefit plans, the cost is expensed as benefits are earned by the employees. The average remaining service period of the employees covered by the post-retirement benefit plans is 12 years (2008 – 12 years, 2007 – 16 years). The average remaining service period of the employees covered by the post-employment benefit plans is 7 years (2008 – 7 years). For the defined contribution plans, the pension expense is the Limited Partnership's contribution to the plan.

#### **Cash and cash equivalents**

Cash equivalents are highly liquid investments with an original term to maturity of less than 90 days, are readily convertible to known amounts of cash and are subject to an insignificant risk of changes in value. Cash and cash equivalents are designated as held-for-trading as such interests are acquired or incurred principally for the purpose of selling or repurchasing in the near term and are accordingly carried at fair value. Changes in fair value are recorded in net earnings.

#### **Joint venture**

The Limited Partnership had a joint venture with Metro to publish English-language free daily newspapers in various Canadian cities. The Limited Partnership had a 33% interest in the joint venture's operating, financing, and investing activities.

On May 31, 2007, the Limited Partnership sold its investment in the joint venture.

Prior to May 31, 2007, the Limited Partnership accounted for its investment in the joint venture using the proportionate consolidation method.

#### **Performance unit plan ("PUP")**

On July 12, 2007, in connection with the privatization transaction referred to in note 4, the Performance Unit Plan ("PUP") was terminated whereby all of the Performance Units granted to PUP participants vested and each PUP participant received a cash payment as further described in note 12.

Prior to July 12, 2007, Canwest Media Income Fund ("the Fund") had established a PUP for the purpose of providing incentive compensation to officers and employees of, and providers of services to, the Fund and Canwest LP in the form of Performance Units. The PUP is further described in note 12.

Eligible participants received grants of Performance Units, which were to be settled by the issuance of Fund Units at the end of each three year term ("Performance Period"). The fair value of these Performance Units was debited to compensation expense and credited to contributed surplus over the vesting period on a straight-line basis. Additional Performance Units were granted based upon distributions paid by the Fund on Fund Units ("Distribution Equivalents"). These Distribution Equivalents were credited to each participant's account, on each Distribution Date, and were deemed to have the

### 3. SIGNIFICANT ACCOUNTING POLICIES (continued)

same vesting date as the Performance Units to which such Distribution Equivalents relate. These Distribution Equivalents were debited to retained earnings and credited to contributed surplus. The number of Performance Units was adjusted at the end of each Performance Period based on achievement of targeted unit holder returns over that three year period. It was anticipated that a new Performance Period with new Performance Units would start each year.

All such Fund Units were issued from treasury at no cost to PUP participants. When the Fund issued the units from treasury, the Limited Partnership issued an equivalent number of Class A Units to the Fund with a credit to Class A Partnership Units and a debit to contributed surplus. The total number of Fund Units issuable under the PUP could not exceed 3% of the number of Fund Units issued and outstanding. In addition, the number of Fund Units reserved for issuance pursuant to the Performance Units granted to "insiders" under the PUP together with any other unit compensation arrangement of the Fund or related Fund entities was not to exceed 10% of the issued and outstanding Fund Units.

#### **Stock option and Restricted Share Unit Plan**

In November 2007, the Board of Directors ("Board") of Canwest Global, the ultimate parent company of the Limited Partnership, approved a new Stock Option and Restricted Share Unit Plan (the "Plan") that will be settled through the issuance of shares of Canwest Global. The Plan provides for grants of stock options and restricted share units to employees of the Limited Partnership and its affiliates and the issuance of Subordinate Voting Shares and Non-Voting Shares (together being "Shares") of Canwest Global upon the exercise of options or vesting of restricted share units. The Board has the authority to determine the manner in which the options granted pursuant to the Plan shall vest and other vesting terms applicable to the grant of options. Options may vest over a period of time ("Regular Options") and/or may vest conditionally upon the attainment of specified market thresholds ("Market Threshold Options") as determined by the Board. The Limited Partnership accounts for this compensation expense based on charges from Canwest Global. In general, the options vest over four years and expire in seven years after the grant date.

#### **Financial Instruments**

All financial assets are classified as held-for-trading, held-to-maturity, loans and receivables or available-for-sale and all financial liabilities must be classified as held-for-trading or other financial liabilities. In addition, an entity has the option to designate certain financial assets or liabilities as held-for-trading or financial assets as available-for-sale on initial recognition or upon adoption of these standards, even if the financial instrument was not acquired or incurred for the purpose of selling or repurchasing it in the near term.

Financial assets classified as available-for-sale that do not have a quoted market price in an active market are measured at cost. If a financial asset is classified as available-for-sale, the cumulative unrealized gain or loss is recognized in Accumulated Other Comprehensive Loss ("AOCL") and is subsequently recognized in net earnings upon sale of the financial asset or upon an other-than-temporary impairment. The Limited Partnership designates financial assets as available-for-sale if it is not a loan and receivable or required to be designated as held-for-trading. The Limited Partnership assesses whether a financial asset is other-than-temporarily impaired by assessing whether there is a significant or prolonged decline in fair value and objective evidence of impairment exists such as financial difficulty, breach or default of contracts, probability of bankruptcy or other financial reorganization.

Gains and losses related to financial assets and financial liabilities classified as held-for-trading are recorded in earnings in the period in which they arise. The Limited Partnership designates financial



### 3. SIGNIFICANT ACCOUNTING POLICIES (continued)

asset and financial liabilities as held for trading if it is acquired or incurred principally for the purpose of selling or repurchasing in the near term.

All financial instruments are measured at fair value on initial recognition, except for certain related party transactions. After initial recognition, financial instruments are measured at their fair values, except for financial assets classified as held-to-maturity or, loans and receivables, and other financial liabilities, which are measured at amortized cost.

Amortized cost related to financial assets classified as held-to-maturity or loans and receivables and other financial liabilities is recorded in net earnings using the effective interest method. If a financial asset is classified as available-for-sale, the cumulative unrealized gain or loss is recognized in AOCL and is subsequently recognized in net earnings upon the sale of the financial asset or upon an other-than-temporary impairment.

The Limited Partnership's financial assets and financial liabilities are classified as follows:

- Cash and cash equivalents are classified as held-for-trading. Changes in fair value for the period are recorded in net earnings.
- Accounts and other receivables are considered loans and receivables and are initially recorded at fair value and subsequently measured at amortized cost. Amounts due to and from related parties are initially recorded at carrying amount or exchange amount, as appropriate, and are subsequently recorded at amortized cost. Interest income is recorded in net earnings, as applicable.
- Non-revolving credit facilities, bank overdraft, accounts payable and accrued liabilities and long term debt are considered other financial liabilities and are initially recorded at fair value and subsequently measured at amortized cost. Interest expense is recorded in net earnings, as applicable.

These standards require all derivative financial instruments to be measured at fair value on the consolidated balance sheet, even when they are part of an effective hedging relationship. An embedded derivative is a component of a hybrid instrument that also includes a non-derivative host contract, with the effect that some of the cash flows of the combined instrument vary in a way similar to a stand-alone derivative. If certain conditions are met, an embedded derivative is bifurcated from the host contract and accounted for as a derivative in the consolidated balance sheet, and measured at fair value.

Collectibility of trade receivables is reviewed on an ongoing basis. An allowance account is used when there is objective evidence that it is impaired. The factors that are considered in determining if a trade receivable is impaired include whether a customer is in bankruptcy, under administration or if payments are in dispute. The offsetting expense is recognized in the net earnings within operating expenses. When a trade receivable for which an impairment allowance had been recognized becomes uncollectible in a subsequent period, it is written off against the allowance account. Subsequent recoveries of amounts previously written off are credited against operating expenses in net earnings.

The Limited Partnership applies trade date accounting for its purchases and sales of financial assets.

### 3. SIGNIFICANT ACCOUNTING POLICIES (continued)

#### Derivative Financial Instruments and Hedges

All derivative financial instruments including those that are part of an effective hedging relationship are measured at fair value on the consolidated balance sheet. An embedded derivative is a component of a hybrid instrument that also includes a non-derivative host contract, with the effect that some of the cash flows of the combined instrument vary in a way similar to a stand-alone derivative. If certain conditions are met, an embedded derivative is bifurcated from the host contract and accounted for as a derivative in the consolidated balance sheet, and measured at fair value.

Derivative financial instruments were used to reduce foreign currency and interest rate risk on the Limited Partnership's debt. The Limited Partnership does not enter into derivative financial instruments for trading and speculative purposes. The Limited Partnership's policy is to designate each derivative financial instrument as a cash flow or fair value hedge of a specifically identified debt instrument at the time the Limited Partnership enters into the derivative financial instrument. The Limited Partnership also formally assesses, both at the hedge's inception and on an ongoing basis, whether the derivatives that are used in hedging transaction are highly effective in offsetting changes in fair values or cash flow of hedged items.

As at August 31, 2009 the Limited Partnership had no derivative contracts outstanding (notes 10 and 20). As at August 31, 2008 the Limited Partnership had derivative contracts outstanding to manage interest rate and foreign currency risks where there was corresponding debt outstanding that qualified for hedge accounting under the provisions of Section 3865. The Limited Partnership designated its hedging relationships as cash flow hedges. The Limited Partnership used these derivatives to manage the interest rate and foreign exchange risks associated with the related debt instruments.

The fair value of cash flow hedges, in an effective designated relationship are recorded on the balance sheet as part of hedging derivative instruments. Cash flows related to the hedged item are classified in the same categories as the hedged item. In a cash flow hedge, the effective portion of the change in fair value of foreign currency and interest rate swaps is recognized in other comprehensive income ("OCI") and reclassified to net earnings (loss) during the period when the variability of the cash flows of the hedged items affects net earnings (loss). The ineffective portion is recognized in net earnings. When payments are made on the underlying instruments, the realized portions of the amounts previously recognized in AOCL are reclassified to interest expense and foreign exchange gains (losses), as appropriate. When the hedging item ceases as a result of maturity, termination or cancellation, then the amounts previously recognized in AOCL are reclassified to net earnings during the periods when the variability in the cash flows of the hedged item affects net earnings. When the hedged transaction is no longer expected to occur then gains and losses previously recognized in AOCL are recognized in net earnings (loss). Gains and losses on the foreign currency and interest rate swaps are reclassified immediately to net earnings when the hedged items are extinguished.

On adoption, as at September 1, 2007, hedging derivative instruments were increased by \$31.2 million, long term debt was decreased by \$14.1 million, and opening AOCL was increased by \$17.1 million, to measure the foreign currency and interest rate swaps at fair value on the consolidated balance sheet and the effective portion of the hedging relationship in AOCL.

### 3. SIGNIFICANT ACCOUNTING POLICIES (continued)

#### *Impact upon adoption of new accounting standards*

The following is a summary of the transition adjustments recorded in opening retained earnings, AOCL and the balance sheet related to the adoption of these new accounting standards as at September 1, 2007.

	<b>Increase/ (Decrease)</b>
<b>Deficit</b>	
Change in accounting policy for transaction costs	<u>(248)</u>
<b>Accumulated Other Comprehensive Loss</b>	
Effective portion of unrealized loss on foreign currency and interest rate swaps	<u>17,122</u>

#### **Transaction costs**

Transaction costs are expensed as incurred for financial instruments classified or designated as held for trading. For other financial instruments, with the exception of the revolving term loan, transaction costs are included with the related financial instrument on initial recognition and amortized using the effective interest method. In August 2009, transactions costs of \$2.0 million relating to the revolving term loan were written off as the Limited Partnership no longer has the ability to draw on the facility (notes 1 and 8). In 2008 transaction costs relating to the revolving term loan were recorded as other assets on initial recognition and amortized over the term of the facility.

#### **Accounting Changes**

##### **Credit Risk and the Fair Value of Financial Risks and Financial Liabilities**

On January 20, 2009, the Emerging Issues committee issued EIC 173, "Credit Risk and the Fair Value of Financial Risks and Financial Liabilities". The committee reached a consensus that a company's credit risk and the credit risk of its counterparties should be considered when determining the fair value of its financial assets and financial liabilities, including derivative instruments, for presentation and disclosure purposes. The accounting treatment for this Abstract should be applied retrospectively without restatement of prior periods to all financial assets and financial liabilities measured at fair value in interim and annual financial statements ending or after January 20, 2009. There was no impact to the Limited Partnership as at August 31, 2009.

##### **Change in measurement date for pension and post retirement/employment liabilities (notes 11 and 15)**

During the year ended August 31, 2009 the Limited Partnership changed the measurement date used to measure the accrued benefit obligation and the fair value of plan assets for accounting purposes to August 31. The Limited Partnership believes this provides reliable and more relevant information as to the plan assets and obligations at the balance sheet date. Previously the Limited Partnership used June 30 of each year. The impact of the change in measurement date was to decrease net income for the year ended August 31, 2008 by \$1.1 million (2007 - \$1.3 million) net of taxes of \$0.4 million (2007 - \$0.5 million) decrease other assets by \$2.3 million, increase other long term liabilities by \$0.7 million, decrease future income tax liabilities by \$0.8 and increase the deficit by \$2.3 million.

### 3. SIGNIFICANT ACCOUNTING POLICIES (continued)

This change allows for more current pension plan market values to be used in determining the net assets and liabilities of the pension plans at year end. This change in accounting policy has been applied retrospectively with Canwest LP decreasing the deficit as at September 1, 2006 by \$0.2 million and for other comparative amounts disclosed for each prior period presented.

#### Proposed Accounting Policies

##### Goodwill and Intangible assets

The AcSB issued CICA 3064, *"Goodwill and Intangible assets"*, which establishes standards for the recognition, measurement, presentation and disclosure of goodwill and intangible assets. CICA 3064 expands on the criteria for recognition of intangible assets. CICA 3064 applies to internally generated intangible assets such as research and development activities and rights under licensing agreements. The section also indicates that expenditures not meeting the recognition criteria of intangible assets are expensed as incurred. The Limited Partnership plans to, and must, apply this new standard effective September 1, 2009. The Limited Partnership does not expect the adoption of such standard to have a significant impact.

##### Business Combinations

The AcSB issued CICA Handbook Section 1582, *"Business Combinations"* and entities adopting CICA 1582 will also be required to adopt CICA Handbook Sections 1601, *"Consolidated Financial Statements"*, and 1602 *"Non-Controlling Interests"*. These sections replace the former CICA Handbook Sections 1581, *"Business Combinations"* and 1600, *"Consolidated Financial Statements"* and establish a new section for accounting for a non-controlling interest in a subsidiary. CICA 1582 will require additional use of fair value measurements, recognition of additional assets and liabilities and increased disclosure. CICA 1601 and 1602 will require a change in the measurement of non-controlling interest and will require the change to be presented as part of partner's equity. These standards will become effective for business combinations for which the acquisition date is on or after September 1, 2011. The Limited Partnership is currently considering the impacts of the adoption of such standards.

### 4. PRIVATIZATION

On May 5, 2007, the Fund, CWMW Trust ("the Trust"), Canwest, Canwest (Canada) Inc. and the Limited Partnership entered into the Privatization Agreement. The purpose of this agreement was to effect a going private transaction of the Fund. The unit holders voted on the privatization transaction at a special meeting held on July 4, 2007 and the transaction was approved with 99% approval.

On July 10, 2007, the Limited Partnership purchased and subsequently cancelled all 55.0 million issued and outstanding Class A Units held by the Trust for \$495.0 million and repaid its existing long term debt of \$825 million. The Limited Partnership paid transaction costs of \$2.2 million which resulted in a charge of \$1.9 million to the deficit, and an additional Corporate expense of \$0.3 million. The Limited Partnership obtained a short term credit facility for \$1.3 billion on July 10, 2007 and used \$495.0 million to purchase the Class A Units, which were subsequently cancelled, and \$805.0 million dollars to repay long term debt. The Limited Partnership used cash on hand to repay the remaining \$20.0 million of long term debt.

The interest paid on the short term facility while it was outstanding was \$0.7 million.

As a result of this transaction, the Fund no longer has any interest in the Limited Partnership.

#### 4. PRIVATIZATION (continued)

On July 13, 2007, the Limited Partnership drew \$1.4 billion on its new credit facilities and used the proceeds to repay the \$1.3 billion short term credit facility, and to pay distributions of \$105.0 million to Canwest.

#### 5. RESTRICTED CASH

Canwest LP entered into a forbearance agreement with its senior secured lenders (notes 1 and 10) on August 31, 2009. In accordance with this agreement, Canwest LP agreed to pay outstanding interest of \$13.9 million to its lenders under the senior secured credit facilities. On August 31, 2009 Canwest LP deposited cash of \$13.9 million to a restricted bank account. This cash was used to settle the accrued interest amounts outstanding to these lenders in September and October of 2009.

#### 6. PROPERTY AND EQUIPMENT

	As at August 31, 2009		
	Cost	Accumulated amortization	Net
Land	29,329	-	29,329
Buildings	196,646	83,225	113,421
Machinery and equipment	644,629	450,307	194,322
Leasehold improvements	12,877	8,969	3,908
	<u>883,481</u>	<u>542,501</u>	<u>340,980</u>

	As at August 31, 2008		
	Cost	Accumulated amortization	Net
Land	30,214	-	30,214
Buildings	196,243	78,191	118,052
Machinery and equipment	662,688	465,117	197,571
Leasehold improvements	12,960	6,688	6,272
	<u>902,105</u>	<u>549,996</u>	<u>352,109</u>

During 2009, the Limited Partnership had no additions related to assets under capital leases. The Limited Partnership has assets under capital leases with an original cost of \$15.4 million (2008 - \$18.4 million) and accumulated amortization of \$2.6 million (2008 - \$2.8 million).

As at August 31, 2009 the Limited Partnership had assets not yet in service of \$2.2 million (2008 - \$11.2 million).

During 2009, the Limited Partnership wrote off assets with an original cost of \$47.0 million (2008 - \$19.2 million) and accumulated amortization of \$46.7 million (2008 - \$18.6 million), resulting in a write off on property and equipment of \$0.3 million (2008 - \$0.6 million).

## 7. ACQUISITIONS AND DIVESTITURES

On November 17, 2007, Canwest LP acquired 100% of the shares of a group of community newspapers in Windsor, Ontario. The principal activity of these companies is to print and distribute weekly and monthly community based news. The Limited Partnership has recorded goodwill of \$2.0 million as a result of the acquisition.

In April 2008, Canwest LP acquired certain assets of a community newspaper in British Columbia.

In June 2008, Canwest LP divested of 100% of the common shares it held in Edmonton Investors Group Holdings Ltd. Canwest recorded a gain of \$1.2 million on the transaction.

## 8. OTHER ASSETS

	As at August 31, 2009	As at August 31, 2008 (restated)
Pension assets	25,301	16,579
Deferred financing costs (net of accumulated amortization of \$3.5 million (August 31, 2008 - \$0.8 million)	-	2,719
Advertising rights (net of accumulated amortization of \$1.2 million (August 31, 2008 - \$1.0 million)	273	417
Other	621	666
	<u>26,195</u>	<u>20,381</u>

In August 2009, deferred financing costs of \$2.0 million were written off as the Limited Partnership no longer has any availability to draw on the revolver (notes 1 and 10).

On July 10, 2007, net deferred financing costs of \$5.4 million were written off due to the privatization transaction described in note 4.

## 9. OBLIGATIONS UNDER CAPITAL LEASES

The Limited Partnership has capital leases with future minimum lease payments for the years ended August 31 as follows:

2010	3,654
2011	3,808
2012	-
2013	-
2014	-
Thereafter	<u>1,560</u>
Total minimum lease payments	9,022
Amount representing interest (at 8.5%)	<u>(2,188)</u>
Present value of minimum capital lease payments	6,834
Less current portion of obligations under capital leases	<u>(3,138)</u>
	<u>3,696</u>

Interest expense recorded on the obligations under capital leases for the year ended August 31, 2009 was \$0.6 million (2008 - \$0.9 million, 2007 - \$1.3 million)

## 10. LONG TERM DEBT

	<u>As at</u> <u>August 31, 2009</u>	<u>As at</u> <u>August 31, 2008</u>
Senior Secured Credit Facilities <sup>(1)</sup>	876,003	842,027
Senior Subordinated Unsecured notes <sup>(2)</sup>	429,856	415,766
Senior Subordinated Unsecured Credit Facility <sup>(3)</sup>	<u>74,235</u>	<u>74,152</u>
Long term debt	1,380,094	1,331,945
Less portion due within one year	<u>1,380,094</u>	<u>8,313</u>
Long term portion	<u><u>-</u></u>	<u><u>1,323,632</u></u>

- (1) On July 13, 2007 the Limited Partnership entered into senior secured credit facilities. The facilities include:
- a. A \$250 million revolving term loan. As at August 31, 2009, the Limited Partnership had drawn \$116.0 million on its revolver (August 31, 2008 - \$96 million) and had letters of credit of \$2.0 million outstanding (August 31, 2008 - \$1.6 million) and had no further availability on its revolver and is in default on the revolver (note 1). This facility matures in July 2012 and is subject to certain restrictions. This facility bears interest at prime plus a margin or banker's acceptance rates plus a margin, and had an interest rate of 3.75% at August 31, 2009 (2008 - 6.57%).
  - b. A \$265 million (August 31, 2008 - \$265 million) non-revolving term loan which is subject to minimum principal payment reductions of a minimum of 5% beginning in the fourth quarter of 2009 and 10% in each of years beginning in the fourth quarter 2010. The Limited Partnership did not make the principal payment due in the fourth quarter of 2009 and is in default on the loan (note 1). This facility matures in July 2012 is subject to certain restrictions and bears interest at banker's acceptance rates plus a margin. This facility had an interest rate of 3.75% at August 31, 2009 (2008 - 6.2%).
  - c. A \$502 million (US\$458 million) (August 31, 2008 - \$489 million (US\$460 million)) term loan which is subject to principal repayments of \$5 million (US\$4.8 million) per year. The Limited Partnership did not make the principal payments due on this loan in the third and fourth quarter of 2009 and is in default on the loan (note 1). This facility matures on July 13, 2014 and is subject to certain restrictions and bears interest at floating rates based on US Base rates plus a margin. This facility had an interest rate of 4.75% at August 31, 2009. In 2008 the Limited Partnership had a foreign currency and interest rate swap to fix the interest and principal payment on a notional amount of US\$466 million which reduced with principal payments on the debt at a fixed currency exchange of US\$1:\$1.0725 until July 2014, resulting in a swap adjusted effective interest rate of 7.5%. This swap was designated a cash flow hedge and its fair value of \$46 million (current portion of \$12 million) was recorded on the consolidated balance sheet in Hedging derivative instruments as at August 31, 2008. As at August 31, 2009, the Limited Partnership no longer has a foreign currency and interest rate swap on this debt (note 20).
- (2) The Limited Partnership has senior subordinated unsecured notes of \$438 million (US\$400 million) (August 31, 2008 - \$425 million (US\$400 million)) which are due in August 2015 and bear interest at 9.25%. These notes rank junior to the Limited Partnership's senior secured credit facility and are guaranteed by certain subsidiaries of the Limited Partnership. The Limited Partnership is in default on this debt (note 1). The senior subordinated unsecured notes have a variable prepayment option at a premium. The prepayment option represents an embedded derivative that is to be accounted for separately at fair value. As at August 31, 2009, the estimated fair value of the prepayment option was nil. In 2008 the Limited Partnership had a US\$400 million swap resulting in a fixed currency exchange rate of US\$1:\$1.0725 until July 2015 and a fixed interest rate of 9.1%. The swap adjusted effective interest rate was 9.1%. This swap was designated a cash flow hedge and its fair value of \$9 million (current portion - nil) was recorded on the consolidated balance sheet in Hedging derivative instruments. As at August 31, 2009, the Limited Partnership no longer has a foreign currency and interest rate swap on this debt (note 20).
- (3) The Limited Partnership has a \$75 million senior subordinated unsecured credit facility. This unsecured facility ranks junior to the Limited Partnership's senior credit facility and is guaranteed by certain subsidiaries of the Limited Partnership. The Limited Partnership is in default on this debt (note 1). This facility which matures in July 2015 is subject to certain restrictions and bears interest at prime plus a margin. This facility had an effective interest rate of 9.0% as at August 31, 2009 (2008 - 11.1%).

## 10. LONG TERM DEBT (continued)

On July 13, 2007 debt with a book value of \$825 million was retired using the proceeds of the new debt described above. Deferred financing costs of \$5.4 million relating to the debt were written off. The Limited Partnership also settled the associated interest rate swap contract for cash proceeds of \$22.5 million and recorded an interest rate swap gain of \$22.5 million.

The Limited Partnership was not in compliance with its financial covenants under its senior secured credit facilities as of August 31, 2009. From May 2009 to August 2009 the Limited Partnership did not make interest and principal payments on its senior secured credit facilities and the associated hedging derivative instruments or in respect of its senior subordinated unsecured credit facility or its senior subordinated unsecured notes. As a result of the payment default, the hedging derivative instrument counterparties terminated the hedging arrangements and demanded immediate payment of an aggregate of \$68.9 million. The Limited Partnership has not satisfied this demand and does not have adequate liquidity to satisfy this or any other such demand and has, accordingly, classified its debt as current. Effective August 31, 2009, the Limited Partnership entered into a forbearance agreement with the senior secured credit facility lenders. The terms of this agreement are disclosed in note 1.

The Limited Partnership and its subsidiaries are subject to covenants under certain credit facilities described above, including thresholds for leverage and interest coverage, and are also subject to distribution restrictions and other certain restrictions under negative covenants. As noted above, the Limited Partnership was not in compliance with its debt covenants as at August 31, 2009.

The senior secured credit facilities noted above are secured by substantially all of the Limited Partnership's directly held assets including the assets of Canwest LP, Canwest Media (Canada) Inc. and Canwest Publishing Inc.

Interest expense recorded on the long-term debt for the year ended August 31, 2009 was \$98.4 million (2008 - \$107.8 million; 2007 - \$51.3 million).



## 11. INCOME TAXES

The provision for income taxes reflects an effective income tax rate which differs from its combined Canadian federal and provincial statutory income tax rate as follows:

	For the twelve months ended		
	August 31, 2009	August 31, 2008 (restated)	August 31, 2007 (restated)
Income taxes at combined Canadian statutory income tax rate of 30.14% (August 31, 2008 - 31.59%, August 31, 2007 - 33.32%)	(22,567)	45,191	65,449
Valuation allowance	24,554	(455)	(968)
Effect of income tax rates differing from the combined Canadian statutory income tax rate	3,747	(497)	510
Effect of change in expected future income tax rates	349	(3,800)	(642)
Partnership net earnings allocated to Limited Partners, and therefore not subject to tax	(16,785)	(42,641)	(69,174)
Performance unit plan payments in excess of expense	-	-	(527)
Non-taxable portion of capital gains	(295)	(342)	(41)
Non-taxable portion of capital loss	2,909	-	614
Permanent swap deductible difference	(2,004)	-	-
Timing differences not previously recognized	-	299	-
Non-deductible expenses	1,338	1,096	854
Other	(139)	735	(551)
Recovery of income taxes	(8,893)	(414)	(4,476)

	As at August 31, 2009	As at August 31, 2008 (restated)
<b>Future tax assets</b>		
Non-capital loss carryforwards	31,254	1,011
Net-capital loss carryforwards	386	623
Accounts payable and other accruals	2,436	1,250
Pension and post-retirement benefits	19,138	16,084
Asset retirement liability	79	75
Less: Valuation allowance	(25,177)	(623)
Total future income tax assets	28,116	18,420
<b>Future tax liabilities</b>		
Capital cost allowances in excess of book amortization	39,338	40,386
Pension asset	6,353	4,916
Goodwill	9,895	9,476
Asset retirement asset	8	13
Total future income tax liabilities	55,594	54,791
Net future income tax liability	27,478	36,371
Current future income tax asset	-	1,917
Long term future income tax liability	27,478	38,288

## 11. INCOME TAXES (continued)

	For the twelve months ended		
	August 31, 2009	August 31, 2008 (restated)	August 31, 2007 (restated)
Current income taxes	-	(516)	(342)
Provision for (recovery of) future income taxes	(8,893)	102	(4,134)
Recovery of income taxes	(8,893)	(414)	(4,476)

As of August 31, 2009, subsidiaries of Canwest LP had non-capital loss carry-forwards for income tax purposes of \$122 million that expire as follows: 2010 - \$0.2 million, 2011 - nil, 2012 - nil, 2013 - nil, 2014 - \$0.3 million, thereafter \$121.5 million and net capital loss carry-forwards in the amount of \$1.5 million. The non-capital and net capital loss carry-forwards have been reflected in these financial statements.

Taxable income of the Limited Partnership is taxed in the hands of the unit holders. Therefore only temporary differences relating to corporate subsidiaries have been reflected in the statements. The Limited Partnership has net deductible temporary differences of \$96.4 million (2008 - \$61.5 million) which are only disclosed in the financial statements.

## 12. STOCK BASED COMPENSATION

### Performance Unit Plan ("PUP")

The PUP plan which came into effect on November 3, 2005 was terminated on July 12, 2007, resulting in the immediate vesting of all Performance Units (including Distribution Equivalents) held in each Participant's account. As a result, each PUP participant received a cash payment in an amount per Performance Unit equal to the Unit Redemption price of \$9.00 multiplied by the applicable Performance Modifier in respect of such Performance Unit. This resulted in an additional expense of \$6.6 million (note 17) and a total cash payout on July 12, 2007 of \$9.7 million.

On November 6, 2006, 533,344 Performance Units were issued to employees of Canwest LP. The fair value of the Fund Units and Performance Units was estimated to be \$7.01 at the time of issuance. The total compensation expense prior to the termination of the PUP plan was recognized over the three year vesting period on a straight line basis with a credit to contributed surplus. Projected forfeitures were revised quarterly.

## 12. STOCK BASED COMPENSATION (continued)

The Performance Units accounts are summarized as follows:

	<b>For the twelve months ended August 31, 2007</b>	
	<u>Units</u>	<u>Weighted Average Fair Value</u>
<b>Performance Units</b>		
Opening balance at the beginning of the period	414,492	\$ 7.01
Units granted in the period	533,344	7.01
Units forfeited in the period	(39,044)	7.01
Units vested and converted to cash in period	<u>(908,792)</u>	<u>9.00</u>
Total Performance Units	<u>-</u>	<u>\$ -</u>
Vested, end of period	-	
Weighted average remaining contractual life	-	

The total compensation, net of an estimation for forfeitures, for the twelve months ended August 31, 2007 was \$8.2 million.

	<b>For the twelve months ended August 31, 2007</b>	
	<u>Units</u>	<u>Weighted Average Fair Value</u>
<b>Distribution Equivalents</b>		
Opening balance at the beginning of the period	38,241	\$ 6.71
Distribution Equivalents granted in the period	85,936	7.01
Units forfeited in the period	(2,262)	6.62
Units vested and converted to cash in the period	<u>(121,915)</u>	<u>9.00</u>
Total Distribution Equivalents	<u>-</u>	<u>\$ -</u>
Weighted average remaining contractual life	-	

The total charge to deficit for Distribution Equivalents, net of an estimation for forfeitures, for the twelve months ended August 31, 2007 was \$0.6 million.

## 12. STOCK BASED COMPENSATION (continued)

Significant assumptions used in the calculation of the final payout of the Performance Units and Distribution Equivalents prior to the termination of the PUP plan were as follows:

- Forfeitures were estimated at a rate of 5%. This estimate was based on management's judgment and was reviewed quarterly based on actual forfeitures.
- The fair value of the Performance Units and Distribution Equivalents was adjusted to reflect the impact of a performance modifier and the award of units at the end of the Performance Period to reflect the Fund's actual performance over the same period. The Performance Modifier for the Units issued on November 3, 2005 was 75% and for the Units issued on November 6, 2006 was 125%.
- The fair value of the Performance Units was \$9.00 per unit on July 12, 2007.

### Stock option and Restricted Share Unit Plan

On November 6, 2007, the Board granted 339,100 Regular Options and 70,800 Market Threshold Options to employees of the Limited Partnership. All of these options vest over a four year period, expire on November 6, 2014 and were granted at an average exercise price of \$7.50 per option, the market trading value of the shares on that day. The fair value of the options granted was estimated using the binomial option pricing model with the assumptions of no dividend yield, an expected volatility of 28%, risk free interest rates of 4.2% and an expected life of 6 years. The total fair value of the Regular Options issued was \$0.9 million, an average of \$2.61 per option. The total fair value of the Market Threshold Options was \$0.2 million, an average of \$2.44 per option.

Eligible participants receive grants of Restricted Share Units ("RSU"), under the Plan, which are settled by the issuance of an equivalent number of Canwest Global Shares at the end of a three year term if the attainment of specified performance goals as determined by the Board have been met. Additional RSU's would be granted if Canwest Global declared dividends prior to the settlement date. On November 6, 2007, the Board granted 171,400 restricted share units to employees of the Limited Partnership. The fair value at the time of issuance was \$7.50 per RSU.

The Limited Partnership has recorded compensation expense relating to this plan of \$0.4 million with an offsetting credit to amounts due to related companies for the year ended August 31, 2009 (August 31, 2008 - \$0.5 million).

## 13. ACCUMULATED OTHER COMPREHENSIVE LOSS

	<u>Unrealized loss on cash flow hedges</u>	
	<u>For the twelve months ended</u>	
	<u>August 31,</u>	<u>August 31,</u>
	<u>2009</u>	<u>2008</u>
Balance, beginning of period	(45,472)	-
Cumulative impact on implementing new accounting standards (note 3)	-	(17,122)
Other comprehensive loss for the period	45,472	(28,350)
Balance, end of period	<u>-</u>	<u>(45,472)</u>

#### 14. STATEMENTS OF CASH FLOWS

The following amounts comprise the net change in non-cash operating accounts included in the consolidated statements of cash flows:

	<b>For the twelve months ended</b>		
	<b>August 31, 2009</b>	<b>August 31, 2008</b>	<b>August 31, 2007</b>
<b>CASH GENERATED (UTILIZED) BY:</b>			
Accounts receivable	45,146	(7,385)	1,449
Inventory	4,053	(1,905)	4,399
Prepaid expenses	(1,581)	1,444	5,333
Other assets	(42)	254	864
Restricted cash (note 5)	(13,902)	-	-
Accounts payable and accrued liabilities	13,266	1,426	8,079
Income taxes recoverable	581	19	329
Deferred revenue	(1,248)	(317)	798
	<u>46,273</u>	<u>(6,464)</u>	<u>21,251</u>

	<b>For the twelve months ended</b>		
	<b>August 31, 2009</b>	<b>August 31, 2008</b>	<b>August 31, 2007</b>
Interest paid	58,392	110,032	39,212
Income taxes paid (recovered)	518	(575)	(713)

## 15. RETIREMENT ASSETS AND OBLIGATIONS

The Limited Partnership has a number of funded and unfunded defined benefit plans, as well as defined contribution plans, that provide pension and post retirement and post employment benefits to its employees. The defined benefit pension plans are based upon years of service and final average salary.

Information on the Limited Partnership's pension and post-retirement and post-employment benefit plans follows:

	<b>Pension benefits <sup>(1)</sup></b>	
	<b>For the twelve months ended</b>	
	<b>August 31, 2009</b>	<b>August 31, 2008</b>
		(restated)
<b>Plan Assets</b>		
Fair value - beginning of period	253,521	249,223
Actual returns on plan assets	(9,413)	(3,116)
Employer contributions	21,621	19,983
Employee contributions	5,333	5,273
Transfer <sup>(4)</sup>	-	(7,301)
Benefits paid	<u>(14,441)</u>	<u>(10,541)</u>
Fair value - end of period	<u>256,621</u>	<u>253,521</u>
<b>Plan Obligations</b>		
Accrued benefit obligations - beginning of period	312,781	323,410
Accrued interest on benefits	19,299	18,130
Current service costs	15,407	15,660
Benefits paid	(15,174)	(10,541)
Transfer <sup>(4)</sup>	-	(7,301)
Actuarial gains	<u>(14,353)</u>	<u>(26,577)</u>
Accrued benefit obligations - end of period	<u>317,960</u>	<u>312,781</u>

The Limited Partnership's net accrued benefit assets are determined as follows:

Accrued benefit obligations	317,960	312,781
Fair value of plan assets	<u>256,621</u>	<u>253,521</u>
Plan deficits	(61,339)	(59,260)
Unamortized net actuarial losses	73,700	63,562
Unamortized past service costs	3,041	3,396
Accrued plan assets	<u>15,402</u>	<u>7,698</u>

## 15. RETIREMENT ASSETS AND OBLIGATIONS (continued)

The accrued pension benefit asset of \$25.3 million (2008 - \$16.6 million (restated)) is included in other assets, the accrued pension liability of \$9.9 million (2008 - \$8.9 million (restated)) and the accrued post-retirement/employment benefit liability is included in accrued pension, post-retirement and other liabilities in the consolidated balance sheets.

	<b>Post-retirement/employment benefits <sup>(2)</sup></b>	
	<b>For the twelve months ended</b>	
	<b>August 31, 2009</b>	<b>August 31, 2008 (restated)</b>
<b>Plan Assets</b>		
Fair value - beginning of period	-	-
Actual returns on plan assets	-	-
Employer contributions	2,944	1,489
Employee contributions	-	-
Benefits paid	<u>(2,944)</u>	<u>(1,489)</u>
Fair value - end of period	<u>-</u>	<u>-</u>
<b>Plan Obligations</b>		
Accrued benefit obligations - beginning of period	40,469	42,391
Accrued interest on benefits	3,080	2,588
Current service costs	4,405	2,021
Benefits paid	(2,944)	(1,489)
Actuarial losses (gains) <sup>(6)</sup>	<u>10,849</u>	<u>(5,042)</u>
Accrued benefit obligations - end of period	<u>55,859</u>	<u>40,469</u>
Accrued benefit obligation	55,859	40,469
Unamortized net actuarial gains	<u>8,953</u>	<u>9,821</u>
Accrued post-retirement benefit liability	<u>64,812</u>	<u>50,290</u>
	<b>Actual</b>	<b>Actual</b>
Pension plan assets consist of:		
Equity securities	63%	63%
Debt securities	35%	35%
Other	2%	2%
Total	<u>100%</u>	<u>100%</u>

## 15. RETIREMENT ASSETS AND OBLIGATIONS (continued)

The pension plans have no investment in securities of Canwest entities.

Effective August 31, 2009 Canwest LP changed the measurement date of its pension plans from June 30 to August 31 (note 3). As a result, Canwest LP has measured its accrued benefit obligations and the fair value of plan assets for accounting purposes as at August 31.

The most recent actuarial valuation for the most significant of the pension plans, which make up substantially all of the accrued benefits obligations, was as of December 31, 2008. The valuations indicated that the plans had deficiencies. As a result, the Limited Partnership is currently required to make special payments for the next twelve months of \$18.6 million. The next required valuation will be as at December 31, 2009 and must be complete by September 30, 2010. The investment strategy for pension plan assets is to utilize a balanced mix of equity and fixed income portfolios to earn a long term investment return that meets the pension plan obligations. Active management strategies and style diversification strategies are utilized in anticipation of realizing investment returns in excess of market indices.

Total cash payments for 2009, consisting of cash contributed by the Limited Partnership to its funded pension plans, cash payments to beneficiaries for its post-retirement/employment plans and cash contributed to its defined contribution plans, was \$26.7 million (2008 - \$23.5 million, 2007 - \$18.9 million).

The Limited Partnership's pension benefit expense is determined as follows:

	For the twelve months ended August 31, 2009			For the twelve months ended August 31, 2008 (restated)		
	Incurred in year	Matching adjustments <sup>(3)</sup>	Recognized in year	Incurred in year	Matching adjustments <sup>(3)</sup>	Recognized in year
Current service costs	15,407	-	15,407	15,660	-	15,660
Employee contributions	(5,333)	-	(5,333)	(5,273)	-	(5,273)
Accrued interest on benefits	19,299	-	19,299	18,130	-	18,130
Return on plan assets	9,413	(27,738)	(18,325)	3,116	(21,206)	(18,090)
Administrative expenses	-	40	40	-	-	-
Past service costs	-	355	355	-	440	440
Net actuarial losses	(14,353)	17,600	3,247	(26,577)	30,763	4,186
Benefit expense	24,433	(9,743)	14,690	5,056	9,997	15,053
Employer contribution to the defined contribution plan	2,050	-	2,050	2,048	-	2,048
Total pension benefit expense	26,483	(9,743)	16,740	7,104	9,997	17,101



## 15. RETIREMENT ASSETS AND OBLIGATIONS (continued)

	For the twelve months ended August 31, 2007 (restated)		
	Incurred in year	Matching adjustments <sup>(3)</sup>	Recognized in year
Current service costs	16,543	-	16,543
Employee contributions	(5,254)	-	(5,254)
Accrued interest on benefits	16,801	-	16,801
Return on plan assets	(26,124)	10,520	(15,604)
Plan amendment	3,859	(3,859)	-
Past service costs	-	11	11
Net actuarial losses	1,809	4,470	6,279
Benefit expense	7,634	11,142	18,776
Employer contribution to the defined contribution plan	2,030	-	2,030
Total pension benefit expense	9,664	11,142	20,806

The Limited Partnership's post-retirement/employment benefit expense is determined as follows:

	For the twelve months ended August 31, 2009			For the twelve months ended August 31, 2008 (restated)		
	Incurred in year	Matching adjustments <sup>(3)</sup>	Recognized in year	Incurred in year	Matching adjustments <sup>(3)</sup>	Recognized in year
Current service costs	4,405	-	4,405	2,021	-	2,021
Accrued interest on benefits	3,080	-	3,080	2,588	-	2,588
Net actuarial losses (gains) <sup>(6)</sup>	10,849	(868)	9,981	(5,042)	9,123	4,081
Total post-retirement benefit expense	18,334	(868)	17,466	(433)	9,123	8,690

	For the twelve months ended August 31, 2007 (restated)		
	Incurred in year	Matching adjustments <sup>(3)</sup>	Recognized in year
Current service costs	1,554	-	1,554
Accrued interest on benefits	2,230	-	2,230
Net actuarial losses (gains) <sup>(6)</sup>	1,017	(688)	329
Total post-retirement benefit expense	4,801	(688)	4,113

## 15. RETIREMENT ASSETS AND OBLIGATIONS (continued)

Significant actuarial assumptions in measuring the Limited Partnership's accrued benefit obligations as at August 31 are as follows:

	<u>Pension Benefits</u>		<u>Post-retirement/employment benefits</u>	
	2009	2008	2009	2008
Discount rate	6.33%	6.15%	6.40%	6.10%
Rate of compensation increase	3.10%	3.70%	3.10%	3.70%

Significant actuarial assumptions in measuring the Limited Partnership's benefit costs as at August 31 are as follows:

	<u>Pension Benefits</u>			<u>Post-retirement/employment benefits</u>		
	2009	2008	2007	2009	2008	2007
Discount rate	6.15%	5.60%	5.75%	6.10%	5.60%	5.75%
Expected long-term rate of return on pension plan asset	7.00%	7.15%	7.25%	-	-	-
Rate of compensation increase	3.70%	2.90%	3.70%	3.70%	3.70%	3.70%

The discount rate was estimated by applying Canadian corporate AA zero coupon bonds to the expected future benefit payments under the plans. For fiscal 2010, the expected long-term rate of return on plan assets is 7.0%, based on experience and discussions with plan managers. In 2010, the Partnership expects to contribute \$32.6 million (including special payments of \$18.6 million) to its defined benefit pension plans and \$1.1 million to its other post-retirement benefit plans.

Benefit payments, which reflect expected future service, are expected to be paid as follows for the years ending August 31:

2010	14,983
2011	16,667
2012	18,373
2013	20,077
2014	21,791
2015 - 2019	138,271

## 15. RETIREMENT ASSETS AND OBLIGATIONS (continued)

- (1) As at August 31, 2009, none of the Limited Partnership's defined benefit pension plans were fully funded.
- (2) Post-retirement plans are non-contributory and include health and life insurance benefits. The assumed health care cost trend rates for the next year used to measure the expected cost of benefits covered for the post retirement health and life plans were 7.6% for medical, to an ultimate rate of 4.6% over 10 years to 2019. A one percentage point increase in assumed health care cost trend rates would have increased the service and interest costs and obligation by \$0.4 million and \$4.4 million, respectively. A one percentage point decrease in assumed health care cost trends would have lowered the service and interest costs and the obligation by \$0.3 million and \$3.6 million respectively.
- (3) Accounting adjustments to allocate costs to different periods to reflect the long term nature of employee future benefits.
- (4) In 2008 \$7.3 million in pension assets related to operations which have been sold were transferred to the acquirer.
- (5) Canwest LP changed the measurement date of its pension plans from June 30, to August 31, of each year which will allow for the plans to reflect the market values as at August 31. The result of this measurement date change is detailed in note 3.
- (6) Actuarial losses of \$6.7 million were recorded in the current year as a result of a non-pension arrangement not previously recognized as a liability and expense in Canwest LP's financial statements (note 25).

## 16. PARTNERS' CAPITAL

Canwest Limited Partnership has 158,262,703 Limited Partnership units issued and outstanding to Canwest at August 31, 2009 and August 31, 2008.

Canwest (Canada) Inc., the general Partner of the Limited Partnership, holds an undivided interest of 0.001% in Canwest LP, as established by the Partnership Agreement.

Distributions are paid to Canwest based on the units outstanding, at the sole discretion of the General Partner, once the General Partner has received its pro rata share of the distribution (.001%). During the twelve months ended August 31, 2009, Canwest LP paid distributions of \$45.0 million to Canwest (2008 - \$166.0 million).

## 17. RESTRUCTURING

In 2008, the Limited Partnership initiated and completed certain changes in its work flow processes which resulted in the centralization of certain functions. The total cost associated with this initiative of \$10.7 million was accrued in 2008.

During the twelve months ended August 31, 2009, the Limited Partnership initiated certain initiatives in its Publishing segment, which are expected to result in a workforce reduction of 519 positions. These current initiatives are expected to be complete by May 31, 2010 with total costs estimated in the range of \$29 million to \$30 million. During the twelve months ended August 31, 2009, the Limited Partnership accrued costs of \$28.0 million related to these initiatives.

## 17. RESTRUCTURING (continued)

The Limited Partnership has recorded the restructuring amounts in accounts payable and accrued liabilities and has expensed the workflow reduction costs in restructuring expenses as follows:

	<u>For the twelve months ended</u>	
	<u>August 31,</u> <u>2009</u>	<u>August 31,</u> <u>2008</u>
Restructuring liability, beginning of period	2,376	-
Accrued during the period	27,959	10,708
	<u>30,335</u>	<u>10,708</u>
Payments during the period	(20,912)	(8,332)
Restructuring liability, end of period	<u>9,423</u>	<u>2,376</u>

During the twelve months ended August 31, 2009 the Limited Partnership incurred reorganization costs relating to future financing and capital requirements of \$7.2 million.

During the twelve months ended August 31, 2007 the Limited Partnership incurred expenses of \$6.9 million in conjunction with the privatization transaction as described in note 4. These expenses totaled \$6.9 million and consisted of transaction costs of \$0.3 million (note 4) and PUP termination costs of \$6.6 million (note 12).

## 18. RELATED PARTY BALANCES AND TRANSACTIONS

### (a) Amounts due to (from) related companies

Amounts due to (from) related companies are related to obligations incurred by Canwest LP on behalf of related companies and disbursements made on behalf of other Canwest companies outside Canwest LP and are accordingly classified as operating cash flows.

Total amounts due to (from) related companies are non-interest bearing and have fixed repayment terms.

### (b) Acquisition

In June, 2008, Canwest LP purchased 100% of the shares of WIC Television Production Sub Inc. from Canwest for cash of \$0.6 million. This transaction was recorded at the carrying amount, resulting in a charge to the Limited Partnership's deficit of \$0.3 million.

## 18. RELATED PARTY BALANCES AND TRANSACTIONS (continued)

### (c) Related party transactions

#### ***Cross-promotional activities***

Canwest LP and other Canwest entities are involved in cross-promotional activities whereby Canwest LP's entities provide advertising space in their newspaper and online media to other Canwest entities, and the Limited Partnership's entities are provided with advertising time or space by the Canadian Broadcasting Operations and the *National Post*.

Canwest Limited Partnership has entered into an agreement with the Canadian Broadcasting Operations and the *National Post*, whereby these activities will be charged to the various entities. For the twelve months ended August 31, 2009, Canwest Limited Partnership has recorded revenue of \$0.9 million related to these activities (2008 - \$1.2 million, 2007 - \$1.9 million).

#### ***Editorial content***

Canwest LP, the *National Post* and the Canadian Broadcasting Operations provide each other certain affiliation services related to editorial content. The *National Post* and the Canadian Broadcasting Operations contributed editorial content to the Limited Partnership's and online interactive services, and the *National Post* and Canadian Broadcasting Operations have access to the Limited Partnership's editorial content, information and editorial services. For editorial content activities, Canwest LP, the *National Post* and the Canadian Broadcasting Operations provide such services on a cost-recovery basis. Canwest LP has recorded a cost recovery of \$1.9 million for the twelve months ended August 31, 2009 (2008 - \$1.3 million, 2007 - \$1.4 million).

These cost recoveries have been included in operating expenses.

#### ***Advisory, business and administrative services***

Canwest LP provides a number of services to other Canwest entities as follows:

- (a) advisory services to the *National Post* regarding corporate development, capital expenditures and other operational matters;
- (b) business and administrative support services to the Canadian Broadcasting Operations, *National Post* and other Canwest entities including information technology, human resources services, accounting and corporate development support services;
- (c) customer support services to the Canadian Broadcasting Operations and the *National Post*; and
- (d) website support services and provision of online sales representation to the Canadian Broadcasting Operations and the *National Post*.

Canwest LP and Canwest have entered into various agreements that outline the amount of the charges or the basis on which the charges above are determined.

For the twelve months ended August 31, 2009, Canwest LP recorded a recovery of \$21.0 million related to services provided to the Canadian Broadcasting Operations, *National Post*, and other Canwest entities (2008 - \$20.0 million, 2007 - \$16.6 million).

## 18. RELATED PARTY BALANCES AND TRANSACTIONS (continued)

In addition, Canwest provides a number of services to Canwest LP as follows:

- (a) executive advisory services related to corporate development, strategic planning, capital allocation, financing, equity and debt holder relations, insurance and risk management, tax planning and certain operational matters; and
- (b) services related to legal, tax compliance, financial reporting, internal audit, investor and public relations, treasury, human resource management, sales representation and capital asset management.

Canwest LP and Canwest have entered into various agreements that outline the amount of the charges or the basis on which the charges above are determined.

For the twelve months ended August 31, 2009, Canwest Limited Partnership recorded expenses of \$6.4 million related to services received from Canwest (2008 - \$5.6 million, 2007 - \$5.8 million).

The above costs and recoveries have been included in operating expenses.

### ***Sales and marketing services***

In fiscal 2008 the sales and marketing division of Canwest provided Canwest LP with national advertising sales representation and charged a commission to Canwest LP for sales made on its behalf as well as an overhead charge. During the twelve months ended August 31, 2008 costs associated with the national advertising sales representation were recorded in the amount of \$5.7 million (2007 - \$13.6 million). There were no charges to Canwest LP in the current fiscal year.

These costs have been included in operating expenses.

### ***Printing and distribution services***

Canwest LP performs printing and distribution services for the *National Post*. The total recoveries for the twelve months ended August 31, 2009 were \$12.2 million (2008 - \$13.9 million, 2007 - \$14.6 million).

These cost recoveries have been included in operating expenses.

### ***Occupancy costs***

Canwest LP and the Publications Group recover occupancy costs based upon a proportionate allocation of actual costs based upon the square footage occupied by the *National Post* and certain Broadcast operations. The total recoveries for the twelve months ended August 31, 2009 were \$1.6 million (2008 - \$1.7 million, 2007 - \$1.7 million).

These cost recoveries have been included in operating expenses.

All the related party transactions have been recorded at the exchange amounts, which are the amounts agreed to by the related parties.

## 19. JOINTLY CONTROLLED ENTERPRISES

### Joint Venture

On May 31, 2007, the Limited Partnership disposed of its investment in the joint venture for cash proceeds of \$1.2 million and recorded a gain of \$1.3 million.

There are no amounts relating to this joint venture on the Limited Partnership's Balance sheet as at August 31, 2009 and August 31, 2008 or in the Limited Partnership's consolidated statement of earnings for the twelve months ended August 31, 2009 and 2008.

The following amounts included in the consolidated statements of earnings represent the Limited Partnership's and the Publications Group's proportionate interest in Metro:

	<b>For the twelve months ended August 31, 2007</b>
<b>Statement of earnings</b>	
Revenue	2,061
Operating expenses	3,293
Depreciation	<u>48</u>
Net loss	<u><u>(1,280)</u></u>
<b>Statement of cash flows</b>	
Cash generated (utilized) by:	
Operating activities	3,666
Investing activities	155
Financing activities	(4,040)

## 20. FINANCIAL INSTRUMENTS AND FINANCIAL RISK MANAGEMENT

### (a) Financial Instruments

	Carrying Amounts					August 31, 2008
	August 31, 2009					
	Financial instruments required to be classified as held for trading	Financial instruments classified as available for sale	Loans and receivables	Financial liabilities at amortized cost	Foreign currency interest rate swaps accounted for as hedges	
<b>Financial Assets</b>						
Cash and cash equivalents	43,427	-	-	-	-	-
Restricted cash	13,902	-	-	-	-	1,331,945
Accounts receivable	-	-	103,489	-	-	148,635
	57,329	-	103,489	-	-	1,480,580
<b>Financial Liabilities</b>						
Bank overdraft	-	-	-	-	-	2,303
Accounts payable and accrued liabilities	-	-	-	126,260	-	112,994
Swap liability	-	-	-	68,874	-	1,331,945
Long term debt	-	-	-	1,380,094	-	1,331,945
Hedging derivative instruments	-	-	-	-	-	54,505
	-	-	-	1,575,228	-	2,833,692

There have been no changes in classification of financial instruments during the current fiscal year.

Total interest expense for financial liabilities carried at amortized cost is \$95.8 million (2008 - \$107.8 million, 2007 - \$57.4 million).

The fair values as compared to carrying values of the financial instruments are as follows:

	2009		2008	
	Carrying Value	Fair Value	Carrying Value	Fair Value
<b>Financial Assets</b>				
Cash and cash equivalents	43,427	43,427	-	-
Restricted cash	13,902	13,902	-	-
Accounts receivable	103,489	103,489	148,635	148,635
	160,818	160,818	148,635	148,635
<b>Financial Liabilities</b>				
Bank overdraft	-	-	2,303	2,303
Accounts payable and accrued liabilities	126,260	126,260	112,994	112,994
Swap liability	68,874	68,874	-	-
Long term debt	1,380,094	577,947	1,331,945	1,254,667
Hedging derivative instruments	-	-	54,505	54,505
	1,575,228	773,081	1,501,747	1,424,469



## 20. FINANCIAL INSTRUMENTS AND FINANCIAL RISK MANAGEMENT (continued)

The estimated fair values of financial instruments as at August 31, 2009 and 2008 are based on relevant quoted market prices and information available at the time.

The fair value of the short term financial assets and liabilities, which include cash and cash equivalents, accounts receivable, bank overdraft, and accounts payable and accrued liabilities, approximates their carrying value due to the short term nature of these financial assets and liabilities.

The fair value of long term debt is estimated by using quoted market values for debt.

### (b) Financial Risk Management

The Limited Partnership's activities expose it to a variety of financial risks: market risk (including foreign currency risk, fair value interest rate risk and cash flow interest rate risk), credit risk and liquidity risk. The Limited Partnership has used derivative financial instruments to hedge foreign currency and interest rate risk exposures.

The Limited Partnership uses different methods to monitor the different types of risk to which it is exposed. These methods include monitoring fair value of derivative instruments, fair value of publicly traded debt, foreign exchange rates and interest rates with respect to interest rates and foreign exchange risk, aging analysis and credit reviews for credit risk and cash flow projections for liquidity risk.

Risk management is primarily the responsibility of the Limited Partnership's corporate finance functions. Significant risks are regularly monitored and actions are taken, when appropriate, according to the Limited Partnership's approved policies, established for that purpose. In addition, as required these risks are reviewed with senior management. As a result of Canwest LP's current financial condition it is no longer able to manage its foreign currency risk and interest rate risk using derivative financial instruments (note 1).

#### (i) Foreign Currency Risk

Fair value risk arises when recognized financial assets and liabilities are denominated in a currency that is not the entity's functional currency. The Limited Partnership is exposed to foreign currency risk arising from US dollar denominated debt. The Limited Partnership managed its exposure on its US dollar denominated debt and expected foreign currency exposures on US dollar denominated foreign currency with cash flows associated with interest settlements. The Limited Partnership's treasury risk management policy is to hedge, when possible, between 50% and 100% of its US dollar denominated debt instruments.

On May 29, 2009 as a result of the payment default on the amounts due under the senior secured credit facility, the hedging derivative instrument counter parties terminated the hedging arrangements previously in place and the Limited Partnership is currently reviewing its policies in relation to foreign currency risk.

As a result, as at August 31, 2009, the Limited Partnership has no interest rate and foreign currency swaps and is no longer in a position to manage foreign currency risk on US dollar dominated debt of US\$858 million. As at August 31, 2009, if the Canadian dollar had weakened or strengthened by 1% against the US dollar with all other variables held constant, after tax net earnings (loss) for the period would have decreased or increased respectively, by \$9.6 million.

## 20. FINANCIAL INSTRUMENTS AND FINANCIAL RISK MANAGEMENT (continued)

### (ii) Interest Rate Risk

The Limited Partnership has no significant interest-bearing assets. The Limited Partnership's interest rate risk arises from long term borrowings issued at variable rates which expose the Limited Partnership to cash flow interest rate risk. Borrowings issued at fixed rates expose the Limited Partnership to fair value interest rate risk.

The Limited Partnership has a practice of managing its cash flow interest rate risk by using interest rate and foreign currency swaps but does not have a formal interest rate risk policy. Such swaps have the economic effect of converting borrowings from US floating rates to Canadian fixed rates or from US fixed rates to Canadian fixed rates.

Under these swaps, the Limited Partnership agreed with other parties to exchange, at specified intervals, the difference between fixed contract rates and floating-rate interest amounts calculated by reference to the agreed notional amounts, as well as, amounts reflecting the amortization of the principal amount.

As a result of the changes in the Limited Partnership's financial position (note 1) it is no longer in a position to utilize foreign currency and interest rate swaps to manage interest rate risk.

As at August 31, 2009, including the impact of the swap liability, the Limited Partnership holds \$1,026.4 million of debt subject to cash flow interest rate risk and \$438.0 million of debt subject to fair value interest rate risk.

As at August 31, 2009, if interest rates on long term debt had been 10 basis points higher or lower with all other variables held constant, net earnings (loss) for the period would have been \$0.6 million higher or lower, respectively, for the year ended August 31, 2009.

### Hedging Derivative Instruments

As a result of the termination of the hedging derivative instruments in 2009, the Limited Partnership recorded an interest rate and foreign currency swap loss of \$180.2 million, reclassified \$60.1 million of accumulated other comprehensive losses to the income statement as a result of hedge ineffectiveness and recorded a foreign exchange gain on the related long term debt of \$152.1 million for the twelve months ended August 31, 2009.

The Limited Partnership has no hedging derivative instruments as at August 31, 2009. As at August 31, 2008 the notional amount and fair value of the fixed to floating interest rate and foreign currency swap was \$493.8 million and \$45.7 million respectively and the notional amount and fair value of the fixed to fixed interest rate and foreign currency swap was \$429.0 million and \$8.8 million respectively.

During the twelve months ended August 31, 2009, \$180.5 million of foreign exchange gains were reclassified to the income statement from AOCL, representing foreign exchange gains on the notional amounts of the cash flow hedging derivatives. These amounts were offset by foreign exchange losses recognized on the related USD denominated long term debt.

## 20. FINANCIAL INSTRUMENTS AND FINANCIAL RISK MANAGEMENT (continued)

During the year ended August 31, 2009, the Limited Partnership reclassified \$9.2 million from AOCL to net earnings upon payment of interest. This amount has been recorded as a charge to interest expense and represents the effect of the swaps on the Limited Partnership's interest expense.

The change in the fair value of the debt does not have an impact on net earnings (loss) and other comprehensive income (loss) as the debt is accounted for as other financial liabilities at amortized cost.

### (iii) Credit Risk

The objective of managing counter-party credit risk is to prevent losses on financial assets. Credit risk arises from cash and cash equivalents, derivative financial instruments, as well as credit exposures on related outstanding receivables. The Limited Partnership's maximum exposure to credit risk are the amounts currently recognized as financial assets. Cash and cash equivalents are held at large chartered Canadian banks and accordingly the credit risk is considered minimal as the banks are rated AA (low).

For exposures to accounts receivable from advertising agencies and other customers, the Limited Partnership assesses the credit quality of counterparties, taking into account their financial position, past experience and other factors in determining credit limits. Credit is extended to customers following a credit review that includes obtaining credit ratings from external sources. Credit limits are determined based on credit assessment criteria and credit quality. Outstanding receivables are monitored regularly and any credit concerns are brought to the attention of operational management. The Limited Partnership uses a variety of industry and other external sources to monitor its customers.

Management regularly monitors accounts receivable aging and customer credit limits as well as performs credit reviews and provides allowances for potentially uncollectible accounts receivable. The amounts disclosed in the consolidated balance sheet are net of allowances for doubtful accounts. The Limited Partnership establishes an allowance for doubtful accounts that represents its estimate of expected losses in respect of accounts receivable. The main components of this allowance are a specific loss component that relates to individually significant exposures and an overall loss component established based on historical trends. Accounts receivable are doubtful when there is evidence that collection is unlikely. The factors that are considered in determining if collection is unlikely include whether a customer is in bankruptcy, under administration or the payments are in dispute. At August 31, 2009, the Limited Partnership had accounts receivable of \$103.5 million (2008 - \$148.6 million) net of an allowance for doubtful accounts of \$5.4 million (2008 - \$5.3 million) which adequately reflects the Limited Partnership's credit risk. At August 31, 2009, \$46.7 million (2008 - \$57.2 million) of accounts receivable is considered past due and not yet impaired, which is defined as amounts outstanding beyond normal credit terms and conditions for respective customers.

The Limited Partnership believes that its allowance for doubtful accounts is sufficient to reflect the related credit risk. The activity of the allowance for doubtful accounts for the period is as follows:

	Year ended August 31, 2009	Year ended August 31, 2008	Year ended August 31, 2007
Allowance for doubtful accounts - beginning of year	5,282	6,156	5,353
Provision for doubtful accounts	2,937	2,077	2,751
Write-offs and recoveries	(2,774)	(2,951)	(1,948)
Allowance for doubtful accounts - end of year	5,445	5,282	6,156

## 20. FINANCIAL INSTRUMENTS AND FINANCIAL RISK MANAGEMENT (continued)

Sales in the publishing segment are widely distributed with 28% (2008 – 20%) of the \$103.5 million (2008 - \$148.6 million) in accounts receivable due from the largest ten accounts which are all advertising agencies. The largest amount due from a single agency is \$5.5 million (2008 - \$5.0 million) or 5% (2008 – 3%) of receivables at August 31, 2009.

### (iv) Liquidity Risk

Liquidity risk is the risk that the Limited Partnership will encounter difficulty in meeting obligations associated with its financial liabilities and contractual obligations. The Limited Partnership manages its liquidity risk using cash on hand and by preparing weekly rolling cash flow forecasts and by deferring or eliminating discretionary spending. The Limited Partnership did not make principal and interest payments due in May 2009 and subsequent months in order to preserve cash (notes 1 and 10).

Under the Limited Partnership's senior secured credit facilities and senior subordinated unsecured credit facilities and senior subordinated unsecured notes it is required to maintain to the leverage ratio of less than 5.75:1.0, a senior leverage ratio of less than 3.75:1.0, and an interest coverage ratio of not less than 1.75:1.0. As described in note 1, certain long term debt is in default which results in these debts being due on demand. If the long term debt is demanded, the Limited Partnership would not be able to satisfy these obligations. As a result, \$1.4 billion of long term debt is due in less than a year and the Limited Partnership has no further availability under its revolving facilities (notes 1 and 10). On August 31, 2009 the Limited Partnership entered into a forbearance agreement with its senior secured lenders. This is an agreement whereby its senior secured lenders have agreed to not take steps with respect to the specified loan defaults to proceed with the enforcement of the security held in support of the loans pursuant to the credit agreement, in order to afford the senior secured lenders and Canwest LP the opportunity to work together to develop a recapitalization strategy (note 1).

The table below summarizes the Limited Partnership's financial liabilities by maturity at the balance sheet date. The amounts disclosed in the table are the contractual cash flows.

	Less than 1 year	Thereafter	Total
Accounts payable, accrued liabilities and interest	126,260	-	126,260
Long term debt	1,380,094	-	1,380,094
Swap liability	68,874	-	68,874
	1,575,228	-	1,575,228

## 21. CAPITAL MANAGEMENT

The Limited Partnership's capital management objective is to maximize partner returns while ensuring the Limited Partnership is capitalized in a manner which appropriately supports its operations and provides the flexibility to take advantage of growth and development opportunities of the business. The Limited Partnership was not in compliance with its debt covenants as at August 31, 2009 and has entered into a forbearance agreement with its senior secured lenders (notes 1 and 10) for the purposes of developing a recapitalization strategy. As a result of this recapitalization strategy the Limited Partnership is currently developing capital management policies and reviewing the objectives stated above.

## 22. RECLASSIFICATION OF PRIOR PERIOD AMOUNTS

Certain prior period amounts have been reclassified to conform to the financial statement presentation adopted in the current year.

## 23. COMMITMENTS AND CONTINGENCIES

### COMMITMENTS

The Limited Partnership has entered into various operating leases for property, office equipment and vehicles. Aggregate future minimum lease payments under the terms of these leases are as follows:

2010	15,208
2011	12,537
2012	11,093
2013	10,685
2014	10,360
Thereafter	31,687

### CONTINGENCIES

- (a) Canwest had requested arbitration related to amounts owed by Hollinger International Inc., Hollinger Canadian Newspapers Limited Partnership and certain other Hollinger entities (collectively, "Hollinger International") related to unresolved matters from Canwest's November 2000 acquisition of newspaper assets from Hollinger International. Canwest LP had made \$6.4 million in payments on behalf of Hollinger since the acquisition and had recorded such amounts as accounts receivable. In addition, an obligation of \$2 million pertaining to post-employment plans of former Hollinger International employees had also been recorded during the current period. In March 2009, Canwest negotiated a settlement amount with Hollinger International. As a result of this settlement the Limited Partnership received a payment of \$3.5 million in March 2009 and recognized a charge of \$4.9 million to operating expenses for the twelve months ended August 31, 2009.
- (b) Canwest Publishing Inc. is one of several defendants to a claim by a proposed class of freelance writers instituted in July 2003 in respect of works that they provided to newspapers and other print publications in Canada. The total amount claimed (by all plaintiffs against all defendants) is \$500 million in compensatory damages and \$250 million in exemplary and punitive damages. While the final outcome of these proceedings cannot be predicted with certainty, any liability that may arise is not expected to have a material effect on the financial position or results of operations of the Canwest LP. Canwest has agreed to indemnify Canwest LP with respect to all of its potential liability in connection with this claim.
- (c) Canwest LP is involved in various legal matters arising in the ordinary course of business. The resolution of these matters is not expected to have a material adverse effect on the Limited Partnership's financial position, results of operations or cash flows.

## 24. SUBSEQUENT EVENTS

On October 30, 2009, substantially all the assets and liabilities of the *National Post* were transferred from Canwest to a new wholly owned subsidiary of Canwest Publishing Inc. for approximately \$2.5 million dollars.

On October 26, 2009 the Limited Partnership entered into a new agreement with Canwest in relation to related party transactions. This agreement is effective as of November 1, 2009 and will not have a material impact on the Limited Partnership's operating expenses.

## 25. SEGMENT INFORMATION

Canwest LP has two operating segments, both in Canada, being the Newspapers segment and the Digital Media segment. The Newspapers segment publishes daily and non-daily newspapers. Its revenues are primarily from advertising and circulation. The Digital Media segment operates the *canada.com* web portal and provides subscription services relating to investing and financial news and other information. Its revenues are primarily from subscriptions and advertising.

Each segment operates as a strategic business unit with separate management. Segment performance is measured primarily upon the basis of segment operating profit. Segmented information and a reconciliation from segment operating profit to earnings (loss) before income taxes are presented below. Canwest LP accounts for intersegment sales as if the sales were to third parties.

Operating expenses for the twelve months ended August 31, 2009 include a reduction of \$6.2 million for active employee health and insurance benefits and an increase of \$6.7 million for non-pension benefits related to prior years for the Publishing segment resulting in a net increase to operating expenses of \$0.5 million in the current fiscal year. The Limited Partnership has determined these adjustments are not material to the recorded results and accordingly the adjustments have been included in net earnings (loss).

	Revenue		
	For the twelve months ended		
	August 31, 2009	August 31, 2008	August 31, 2007
<b>Operating Segments</b>			
Newspapers	984,596	1,171,068	1,156,878
Digital Media	40,035	35,000	32,647
Inter-segment revenues	(3,247)	(3,016)	(3,162)
<b>Total operating segments</b>	<u>1,021,384</u>	<u>1,203,052</u>	<u>1,186,363</u>

## 25. SEGMENT INFORMATION (continued)

	Segment Operating Profit		
	For the twelve months ended		
	August 31, 2009	August 31, 2008 (restated)	August 31, 2007 (restated)
<b>Operating Segments</b>			
Newspapers	167,866	297,542	279,624
Digital Media	11,880	8,285	3,006
Total operating segments	<u>179,746</u>	<u>305,827</u>	<u>282,630</u>
<b>Reconciliation of segment operating profit to earnings (loss) before income taxes for the period</b>			
Total operating segments	179,746	305,827	282,630
Restructuring <sup>(1)</sup>	<u>(35,195)</u>	<u>(10,708)</u>	<u>(6,869)</u>
	144,551	295,119	275,761
Amortization of property and equipment	(39,885)	(46,647)	(47,495)
Other amortization	(191)	(194)	(188)
Ineffective portion of hedging derivative instrument	(60,112)	-	-
Interest expense, net	(98,422)	(109,300)	(51,382)
Amortization of deferred financing costs	-	-	(7,419)
Other income	2,925	2,925	3,050
Gain (loss) on disposal of property and equipment	1,890	(544)	340
Gain on disposal of joint venture	-	-	1,318
Gain (loss) on disposal of interest rate swaps	(180,202)	-	22,520
Gain on sale of investment	-	1,218	-
Foreign currency exchange gains (losses)	154,571	477	(80)
Earnings (loss) before income taxes	<u>(74,875)</u>	<u>143,054</u>	<u>196,425</u>

<sup>(1)</sup> Costs related to various restructuring initiatives, reorganization costs and costs related to the PUP payout and Privatization transaction as described in note 17.

## 25. SEGMENT INFORMATION (continued)

Operating Segments	Total Assets		Capital Expenditures	
	As at August 31, 2009	As at August 31, 2008 (restated)	As at August 31, 2009	As at August 31, 2008
Newspapers <sup>(2)</sup>	618,084	609,655	24,247	23,588
Digital Media	8,499	6,616	2,578	1,033
Unallocated <sup>(3)</sup>	18,295	31,357	3,697	11,533
	<u>644,878</u>	<u>647,628</u>	<u>30,522</u>	<u>36,154</u>

<sup>(2)</sup> Canwest Limited Partnership's goodwill of \$95.0 million relates to the newspaper segment.

<sup>(3)</sup> Unallocated amounts represent assets and capital expenditures for administration functions for which all of the operating expenses are allocated to the various entities to which services are provided.

## 26. UNITED STATES ACCOUNTING PRINCIPLES

These consolidated financial statements have been prepared in accordance with Canadian GAAP. In certain aspects GAAP as applied in the United States ("U.S.") differs from Canadian GAAP. The following information complies with the GAAP reconciliations requirements of the Securities Exchange Commission (SEC) as published in Item 17 of form 20-F, except that these consolidated financial statements do not include push down accounting in accordance with SEC regulations. Amounts are in thousands of Canadian dollars, unless otherwise noted.

### Principle differences affecting the Limited Partnership

#### a) Comprehensive Income

Comprehensive income, defined as all changes in equity other than those resulting from investments by owners and distributions to owners, must be reported under US GAAP. Similar requirements under Canadian GAAP were adopted by the Limited Partnership effective September 1, 2007 (note 3). Upon adoption of CICA 1530, *Comprehensive Income*, the Limited Partnership reported Other Comprehensive Income and Accumulated Other Comprehensive Loss in accordance with Canadian GAAP.

#### b) Proportionate consolidation

Canadian GAAP requires the accounts of jointly controlled enterprises to be proportionately consolidated. Under US GAAP, investments in jointly controlled entities are accounted as equity investments. This accounting difference applied to the Limited Partnership's investment in Metro. The proportionate interest is disclosed in note 19. Accordingly, this difference for the twelve months ended August 31, 2007 has not been included in the following reconciliation under accommodations by the SEC. There are no differences for the year ended August 31, 2009 or August 31, 2008 as the Limited Partnership disposed of its investment in May 2007.



## 26. UNITED STATES ACCOUNTING PRINCIPLES (continued)

### c) Accounting for derivative instruments and hedging activities

The Limited Partnership entered into an interest rate swap on October 13, 2005 which was settled on July 10, 2007 and entered into two foreign currency interest rate swaps on July 13, 2007. Effective September 1, 2007, the Limited Partnership adopted the new Canadian GAAP accounting standards for financial instruments (note 3). As a result, under Canadian GAAP, the Limited Partnership now records the changes in fair value of cash flow hedging derivatives in other comprehensive income, to the extent effective, until the variability of cash flows relating to the hedged asset or liability is recognized in net earnings. Under US GAAP these instruments are not accounted for as hedges but instead changes in the fair value of the hedging derivative instruments are recognized in the statement of earnings immediately. As such, the U.S. GAAP reconciliation reflects the reclassification of gains on foreign currency and interest rate swaps of \$45,472 from other comprehensive income for the year ended August 31, 2009 (2008 – losses of \$28,350). For the year ended August 31, 2007 the US GAAP reconciliation reflects the recording of losses on foreign currency and interest rate swaps of \$23,781. No tax provision has been recorded as the interest rate swap is held by the Limited Partnership which is not subject to tax.

### d) Pension and post-retirement liabilities

As at August 31, 2007 the Limited Partnership adopted SFAS 158 Employers' Accounting for Defined Benefits Pension and Other Post-retirement Plans which requires employers to recognize in its balance sheet an asset for a plan's over funded status or a liability for a plan's under funded status, and recognize changes in the funded status of a defined benefit pension and post-retirement plans in the year in which the changes occur through comprehensive income and a separate component of shareholders' equity. Upon adoption, AOCL was increased by \$39,972 and other liabilities were increased by \$39,972. The effect on the US GAAP reconciliation for the year ended August 31, 2009 was to decrease comprehensive income by \$10,651 (2008 – increase of \$13,022) net of a future income tax recovery of nil (2008 – provision of \$4,576). In addition for the year ended August 31, 2009, the Limited Partnership recorded a future income tax provision of \$14,287 to reverse future tax assets previously recorded related to pension and other post-retirement plans. In addition for the year ended August 31, 2008, tax rate changes impacted future tax related to pension and post-retirement liabilities by a provision of \$3,336. The balance sheet effect at August 31, 2009 was to decrease other assets by \$25,301 (2008 - \$18,916), increase other accrued pension, post-retirement and other liabilities by \$42,487 (2008 - \$36,063), decrease future income tax liabilities by nil (2008- \$14,287) and increase partners' deficiency by \$67,788 (2008 - \$40,692). The pension and post-retirement liabilities for the year ended August 31, 2008 includes an accumulated comprehensive loss adjustment from the prior year of \$9,584, net of tax of \$3,366, related to the adoption of SFAS 158. The Limited Partnership has determined this adjustment is not material to the previously reported results.

For periods prior to August 31, 2007, SFAS 87, *Employers' Accounting for Pensions* recognized an additional minimum pension liability when the accumulated benefit obligation exceeded the fair value of plan assets to the extent that such excess was greater than accrued pension costs otherwise recorded. For the purposes of determining the additional minimum pension liability, the accumulated

## 26. UNITED STATES ACCOUNTING PRINCIPLES (continued)

benefit obligation did not incorporate projections of future compensation increases in the determination of the obligation. No such adjustment was required under Canadian GAAP. The effect on the US GAAP reconciliation for the year ended August 31, 2007 was to increase other comprehensive income by \$5,784, net of taxes of \$2,465. In addition, tax rate changes impacted future tax by a provision of \$195 for the year ended August 31, 2007.

### e) Enacted tax rates

Under SFAS109, *Accounting for Income Taxes*, future tax liabilities should be adjusted for the effect of change in tax laws or tax rates in the period in which the changes are enacted. Under Canadian GAAP, the change in tax laws or tax rates are reflected when the change is substantively enacted. For the years ended August 31, 2009, 2008 and 2007, there were no differences in the rates to be used under U.S. and Canadian GAAP.

### f) Consolidated Statement of Cash Flows

The Limited Partnership's consolidated statement of cash flows is prepared in accordance with Canadian GAAP, which is consistent with the principles for cash flow statements in International Accounting Standard No. 7, *Cash Flow Statements*. Consistent with the accommodation provided by the Securities and Exchange Commission for a GAAP reconciliation, the Limited Partnership has not provided a reconciliation of cash flows to US GAAP.

### h) Debt Issuance Costs

Upon the adoption of CICA 3855, *Financial Instruments – Recognition and Measurement*, on September 1, 2007, for Canadian GAAP (note 3), debt issuance costs recorded in the consolidated financial statements are included in long term debt and recognized in earnings using the effective interest method. Under US GAAP, debt issuance costs are classified as an asset. The effect on the US GAAP reconciliation as at August 31, 2009 would be an increase to other assets of \$15,462 (2008 - \$17,771) with an offsetting increase to the current portion of long-term debt.

## Changes in accounting policies

### The Fair Value Option for Financial Assets and Financial Liabilities including and amendment of FASB Statement No. 115 (“SFAS 159”)

FASB issued SFAS 159 which gives companies the option, with some exceptions, to record its financial instruments and certain other items at fair value. The fair value option can be applied on an instrument by instrument basis. This standard also expands the disclosures required for instruments where the fair value option has been applied. The standard is applicable for fiscal years beginning after November 15, 2007. The Limited Partnership did not elect to record financial assets or liabilities at fair value as at August 31, 2009.

## **26. UNITED STATES ACCOUNTING PRINCIPLES (continued)**

### **Fair Value Measurements (“SFAS 157”)**

FASB issued SFAS 157 which defines fair value, establishes a framework for measuring fair value in US GAAP and expands disclosures about fair values. This standard does not require any new fair value measurements. The standard is applicable for fiscal years beginning after November 15, 2007 and did not have an impact on the Limited Partnership.

### **Subsequent Events (“SFAS 165”)**

The FASB issued SFAS No. 165 “Subsequent Events” (SFAS 165). SFAS 165 establishes general standards of accounting and disclosure of events that occur after the balance sheet date, but before financial statements are issued or are available to be issued. The Limited Partnership adopted SFAS 165 for the year ended August 31, 2009 and its adoption did not result in any significant or material changes to our reporting of subsequent events. All subsequent events as at November 26, 2009 have been reported.

### **Change in Measurement date for Pension and Post Retirement/Employment Benefits**

During the year ended August 31, 2009 the Limited Partnership changed the measurement date used to measure the accrued benefit obligation and the fair value of plan assets for accounting purposes to August 31. Previously the Limited Partnership used June 30 of each year. For Canadian GAAP purposes, this change in accounting policy was applied retroactively as stated in note 3 however for US GAAP in accordance with FAS158 the Limited Partnership adopted the measurement date provisions by remeasuring the plan assets and accrued benefit obligation at August 31, 2008. The net periodic benefit cost from June 30, 2008 to August 31, 2008 of \$914 was recorded in opening deficit. Other changes in the fair value of plan assets and accrued benefit obligations resulting from the change in measurement date of \$2,158 were recorded in opening AOCL. The effect on September 1, 2008 was an increase in partner’s deficiency of \$2,272 net of tax of \$798. The effect on the US GAAP reconciliation for the year ended August 31, 2008 was to increase net earnings by \$1,118 (2007 - \$1,327) net of future income tax provision of \$403 (2007 - \$395). The balance sheet effect at August 31, 2009 was to increase other assets by nil (2008 - \$2,337), decrease other accrued pension, post-retirement and other liabilities by nil (2008 - \$733), increase future income tax liabilities by nil (2008- \$798) and decrease partners’ deficiency by nil (2008 - \$2,272).

### **Proposed accounting policies**

### **Disclosures about Derivative Instruments and Hedging Activities – an amendment to FASB Statement No. 133 (“SFAS 161”)**

FASB issued SFAS 161 that enhances the disclosures of derivative instruments and hedging activities by requiring disclosure of how and why a company uses derivative instruments, how derivative instruments and related hedged items are accounted for under FASB Statement No. 133 and how derivative instruments and related hedged items affect a company’s financial position, financial performance and cash flows. This standard is effective for fiscal years beginning after November 15, 2008. The Limited Partnership is currently considering the impact of this standard on its disclosures.

## **26. UNITED STATES ACCOUNTING PRINCIPLES (continued)**

### **Codification and Hierarchy of Generally Accepted Accounting Principles (“SFAS 168”)**

The FASB issued SFAS No. 168 “Codification and Hierarchy of Generally Accepted Accounting Principles” (SFAS 168). SFAS 168 identifies the sources of accounting principles and the framework for selecting the principles used in the preparation of financial statements of nongovernmental entities presented in conformity with US GAAP, replacing FAS 162, *The Hierarchy of Generally Accepted Accounting Principles*. The Limited Partnership plans to, and must apply FAS No. 168 subsequent to September 1, 2009. The adoption of such standard only impacts the Limited Partnership’s current disclosures.

### **Business Combinations (“FASB 141(R)”) and Noncontrolling Interest in Consolidated Financial Statements, an amendment of ARB No. 51 (“FASB 160”)**

The FASB issued FASB Statement No. 141 (revised 2007), “Business Combinations”, and FASB Statement No. 160, “Noncontrolling Interests in Consolidated Financial Statements, an amendment of ARB No. 51”. Under FASB Statement No. 141(R), the acquirer must recognize, with certain exceptions, 100% of the fair values of assets acquired, liabilities assumed, and noncontrolling interests in acquisitions of less than 100% controlling interest when the acquisition constitutes a change in control of the acquired entity. Additionally, when an acquirer obtains partial ownership in an acquiree, an acquirer recognizes and consolidates assets acquired, liabilities assumed and any noncontrolling interests at 100% of their fair values at that date regardless of the percentage ownership in the acquiree. As goodwill is calculated as a residual, all goodwill of the acquired business, not just the acquirer’s share, is recognized under this “full-goodwill” approach. Contingent consideration obligations that are elements of consideration transferred are recognized as of the acquisition date as part of the fair value transferred in exchange for the acquired business. Acquisition related costs incurred in connection with a business combination shall be expensed. FASB Statement No. 160 establishes new accounting and reporting standards for noncontrolling interests (formerly known as “minority interests”) in a subsidiary and for the deconsolidation of a subsidiary. The Limited Partnership plans to, and must, apply FAS No. 141(R) for all business combinations subsequent to September 1, 2009. The Limited Partnership plans to, and must, apply FAS No. 160 subsequent to September 1, 2009, with related presentation retroactively restated. The adoption of these policies will not have a material impact on the Limited Partnership.

### **Measuring Liabilities at Fair Value (“ASU 2009-05”)**

In August 2009, the FASB issued Accounting Standards Update No. 2009-05, “Measuring Liabilities at Fair Value (ASU-2009-05)”. This update provides amendments to ASC 820, “Fair Value Measurements and Disclosure”, for the fair value measurement of liabilities when a quoted price in an active market is not available. ASU 2009-05 is effective for reporting periods beginning after August 28, 2009. The Limited Partnership does not currently believe that this update will have a material impact on the results of operations or financial position.

### **Income Taxes (Topic 740) – Implementation Guidance on Accounting for Uncertainty in Income Taxes and Disclosure Amendments for Nonpublic Entities (“ASU 2009-06”)**

This update, issued in September 2009, provides implementation guidance on accounting for uncertainty in income taxes, as well as eliminates certain disclosure requirements for nonpublic entities. ASU 2009-06 is effective for interim and annual periods ending after September 15, 2009. The adoption of ASU 2009-06 is not expected to have a material impact on the Limited Partnership’s results of operations or financial position.

## 26. UNITED STATES ACCOUNTING PRINCIPLES (continued)

### Comparative Reconciliation of Net Earnings (Loss)

The following is a reconciliation of net earnings (loss) reflecting the differences between Canadian and US GAAP:

	For the twelve months ended		
	August 31, 2009	August 31, 2008	August 31, 2007
Net earnings (loss) in accordance with Canadian GAAP (2008 and 2007 restated) <sup>(1)</sup>	(65,982)	143,468	200,901
Reversal of Canadian GAAP change in measurement date	-	1,118	1,327
Net earnings (loss) as previously reported	(65,982)	144,586	202,228
Gains (losses) on foreign currency and interest rate swaps (c)	45,472	(28,350)	(23,781)
Tax effect of adjustments and tax rate changes (d)	(14,287)	(3,336)	(195)
Net earnings (loss) for the period in accordance with US GAAP	(34,797)	112,900	178,252

<sup>(1)</sup> restated for Canadian GAAP change in measurement date which was adopted retroactively with restatement

### Consolidated Statement of Comprehensive Income (Loss)

The following is a reconciliation of comprehensive income (loss) reflecting the differences between Canadian and US GAAP:

	For the twelve months ended	
	August 31, 2009	August 31, 2008
Comprehensive income (loss) in accordance with Canadian GAAP (2008 - restated) <sup>(1)</sup>	(20,510)	115,118
Reversal of Canadian GAAP change in measurement date	-	1,118
Comprehensive income (loss) in accordance with Canadian GAAP as previously reported	(20,510)	116,236
Impact of US GAAP differences on net income	31,185	(31,686)
	10,675	84,550
Accounting for derivative instruments and hedging activities (c)	(45,472)	28,350
Pension and post-retirement liabilities (d)	(10,651)	17,598
Tax effect on adjustments (d)	-	(4,576)
	(56,123)	41,372
	(45,448)	125,922

<sup>(1)</sup> restated for Canadian GAAP change in measurement date which was adopted retroactively with restatement

## 26. UNITED STATES ACCOUNTING PRINCIPLES (continued)

Under Canadian GAAP, the Limited Partnership was not required to present comprehensive income for the year ended August 31, 2007. Under US GAAP, comprehensive income for the year ended August 31, 2007 is as follows:

	<u>August 31,</u> <u>2007</u>
Net earnings in accordance with US GAAP	178,252
Pension and post-retirement liabilities (d)	<u>8,249</u>
Tax effect of adjustments (d)	<u>(2,465)</u>
	<u>5,784</u>
Comprehensive income	<u><u>184,036</u></u>

Accumulated other comprehensive loss:

	<u>Hedging</u> <u>Derivative</u> <u>Instruments</u>	<u>Pension and</u> <u>post-retirement</u> <u>liabilities</u>	<u>Total</u>
Accumulated other comprehensive loss - August 31, 2006	-	(24,016)	(24,016)
Change during the period	-	5,784	5,784
Adoption of SFAS 158 (d)	-	<u>(39,972)</u>	<u>(39,972)</u>
Accumulated other comprehensive loss - August 31, 2007	-	(58,204)	(58,204)
Adjustment to adoption of SFAS 158 (d)	-	9,584	9,584
Other comprehensive loss in accordance with Canadian GAAP	(28,350)	-	(28,350)
Change during the period	<u>28,350</u>	<u>13,022</u>	<u>41,372</u>
Accumulated other comprehensive loss - August 31, 2008	-	(35,598)	(35,598)
Other comprehensive loss in accordance with Canadian GAAP	45,472	-	45,472
Change in measurement date per SFAS 158 (d)	-	(2,158)	(2,158)
Change during the period	<u>(45,472)</u>	<u>(10,651)</u>	<u>(56,123)</u>
Accumulated other comprehensive loss - August 31, 2009	<u>-</u>	<u>(48,407)</u>	<u>(48,407)</u>

## 26. UNITED STATES ACCOUNTING PRINCIPLES (continued)

### Comparative Reconciliation of Partners' Deficiency

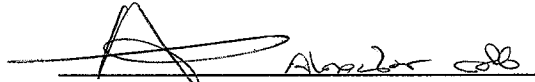
A reconciliation of partners' deficiency reflecting the differences between Canadian and US GAAP is set out below:

	<u>As at August 31, 2009</u>	<u>As at August 31, 2008 (restated)</u>	<u>As at August 31, 2007</u>
Partners' deficiency in accordance with Canadian GAAP (2008 and 2007 restated) <sup>(1)</sup>	(1,073,905)	(1,008,393)	(940,340)
Reversal of Canadian GAAP change in measurement date	-	2,272	1,154
Partners' deficiency as previously reported	<u>(1,073,905)</u>	<u>(1,006,121)</u>	<u>(939,186)</u>
Gains (losses) on foreign currency and interest rate swaps (c)	-	-	(17,122)
Pension and post-retirement liabilities (d)	(67,788)	(54,979)	(85,527)
Tax effect of adjustments and tax rate changes <sup>(2)</sup>	<u>-</u>	<u>14,287</u>	<u>25,565</u>
Partners' deficiency in accordance with US GAAP	<u><u>(1,141,693)</u></u>	<u><u>(1,046,813)</u></u>	<u><u>(1,016,270)</u></u>

<sup>(1)</sup> restated for Canadian GAAP change in measurement date which was adopted retroactively with restatement

<sup>(2)</sup> 2008 was restated to reflect a tax rate change of \$3,336 which was incorrectly adjusted to the tax balance which then resulted in a corresponding change to the partners' deficiency as at August 31, 2008.

This is Exhibit "F" to the Affidavit of  
THOMAS C. STRIKE sworn before me  
this 7th day of January, 2010.

  
\_\_\_\_\_  
Commissioner for Taking Affidavits



**CANWEST MEDIAWORKS LIMITED PARTNERSHIP**  
as Borrower

- and -

**THE GUARANTORS FROM TIME TO TIME**  
**PARTY TO THIS AGREEMENT**  
as Guarantors

- and -

**SCOTIA CAPITAL**  
as Sole Lead Arranger and Book Runner for Credits A, B and C

- and -

**SCOTIA CAPITAL and CITIGROUP GLOBAL MARKETS INC.**  
as Co-Lead Arrangers and Joint Book Runners for Credit D

- and -

**THE BANK OF NOVA SCOTIA**  
as Administrative Agent

**THE LENDERS FROM TIME TO TIME**  
**PARTY TO THIS AGREEMENT**

---

**CDN. \$1,300,000,000 CREDIT FACILITIES**  
**CREDIT AGREEMENT**  
**DATED AS OF THE 10th DAY OF JULY, 2007**

---

**RBC CAPITAL MARKETS**  
**TD SECURITIES**  
as Co-Syndication Agents

**CIBC WORLD MARKETS**  
**BMO NESBITT BURNS**  
as Co-Documentation Agents



**BORDEN**  
**LADNER**  
**GERVAIS**

**BORDEN LADNER GERVAIS LLP**

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confidential  
confidential

**THIS CREDIT AGREEMENT** is dated as of the 10th day of July, 2007

**BETWEEN:**

**CANWEST MEDIAWORKS LIMITED PARTNERSHIP**  
a limited partnership formed under the laws of Ontario  
as Borrower

- and -

**CANWEST MEDIAWORKS (CANADA) INC.**  
**CANWEST MEDIAWORKS PUBLICATIONS INC.**  
**CANWEST BOOKS INC.**  
as Guarantors

- and -

**THE LENDERS LISTED ON SCHEDULE E**  
**TO THIS AGREEMENT FROM TIME TO TIME**  
as Lenders

**THE BANK OF NOVA SCOTIA,**  
in its capacity as Administrative Agent

**RECITALS:**

- A. The Lenders have agreed to establish certain credit facilities in favour of the Borrower on the terms and conditions set out in this Agreement.
- B. The parties are entering into this Agreement to provide for the terms of such credit facilities.

**FOR VALUE RECEIVED**, and intending to be legally bound by this Agreement, the parties agree as follows:

**ARTICLE 1**  
**DEFINED TERMS**

**1.1 Defined Terms**

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

- 1.1.1 "Adjusted Consolidated Basis"** means, for any period, the results of operations of the Borrower and each Obligor for such period determined on a consolidated basis in

accordance with GAAP (but excluding the results of operations of any Person who is not an Obligor which would otherwise be included on such a consolidation), but:

- (a) excluding Debt, Interest Expense and the results of operations of any Person that is not an Obligor on the last day of such period, and which would otherwise be included in such consolidated results of operations of the Borrower;
- (b) in circumstances where an Obligor has been disposed of during such period (a "former Obligor") and the proceeds of disposition of such former Obligor (or its Property) have been used to permanently repay amounts owing under the Credits or other Permitted Pari Passu Debt during such period, the amounts so repaid shall be excluded from calculations of Total Debt and Interest Expense which would otherwise be included in such calculations for such period; and
- (c) including the results of operations for such period of each Person that during such period, became an Obligor and which is an Obligor on the last day of such period on a *pro forma* basis for such period (based on historical results of operations or reasonable projections satisfactory to the Agent) and, in circumstances where Debt was incurred or assumed in connection with the acquisition of such Obligor, *pro forma* Debt and Interest Expense relating thereto.

- 1.1.2 "Administrative Questionnaire" has the meaning defined in the Provisions.
- 1.1.3 "Advance" means an availing of a Credit by the Borrower by way of a Prime Rate Advance, BA Equivalent Loan, Base Rate Advance, LIBOR Advance, acceptance of a Banker's Acceptance or issuance by the Issuing Bank of an L/C, including overdrafts under the Swingline Availability and other deemed Advances and conversions, renewals and rollovers of existing Advances, and any reference relating to the amount of Advances shall mean the sum of all outstanding Prime Rate Advances, Base Rate Advances and LIBOR Advances, plus the face amount of all outstanding Banker's Acceptances, BA Equivalent Loans and L/Cs.
- 1.1.4 "Affiliate" has the meaning defined in the Provisions.
- 1.1.5 "Agent" or "Administrative Agent" means The Bank of Nova Scotia in its capacity as administrative agent for the Lenders, and any successor administrative agent appointed in accordance with this Agreement.
- 1.1.6 "Agreement", "hereof", "herein", "hereto", "hereunder" or similar expressions mean this Agreement, the Recitals hereto and any Schedules hereto, including the Provisions, as amended, supplemented, restated and replaced from time to time in accordance with the provisions hereof, and not any particular Article, Section or other portion hereof.
- 1.1.7 "Applicable Law" has the meaning defined in the Provisions.



1.1.8 "Applicable Percentage" has the meaning defined in the Provisions. The Applicable Percentage of each Lender as of the date of this Agreement is the percentage calculated based on the amounts set out in Schedule E to this Agreement, which shall be amended and distributed to all parties by the Administrative Agent from time to time as Applicable Percentages change in accordance with this Agreement.

1.1.9 "Approved Fund" has the meaning defined in the Provisions.

1.1.10 "Arm's Length" has the meaning given to that term for the purposes of the *Income Tax Act* (Canada).

1.1.11 "Article" means the designated article of this Agreement.

1.1.12 "Asper Group" means:

- (a) the late Israel Asper ("Asper");
- (b) his spouse;
- (c) any lineal descendant of Asper (treating for this purpose, for greater certainty, any legally adopted descendant as a lineal descendant);
- (d) the estate of any Person listed in clauses (a) to (c);
- (e) any trust primarily for one or more of the lineal descendants of Asper, spouses of such lineal descendants, Asper himself or any spouse or former spouse of Asper, provided that one or more of the Persons listed in clauses (a) to (c) retain dispositive control of such trust;
- (f) any and all Persons that are directly or indirectly controlled by any one or more of the foregoing; and
- (g) any charitable trust settled by any one or more of the Persons listed in clauses (a) to (c) over which any such Person retains or Persons retain, as the case may be, dispositive control;

provided that for the purposes of this definition, (i) "control" of a corporation means the ownership of, or control or direction over, voting interests with more than 50% of the total voting power entitled (without regard to the occurrence of any contingency) to vote in the election of the board of directors of such corporation and the votes attached to such voting interests are sufficient, if exercised, to elect a majority of the board of directors of such corporation, (ii) "spouse" includes a Person's widow or widower, and (iii) "dispositive control" of any trust means the control or direction over the payment or transfer of trust property to beneficiaries.

1.1.13 "Assignment and Assumption" has the meaning defined in the Provisions.

- 1.1.14 "BA Discount Proceeds" means, in respect of any Banker's Acceptance, an amount calculated on the applicable Drawdown Date which is (rounded to the nearest full cent, with one-half of one cent being rounded up) equal to the face amount of such Banker's Acceptance multiplied by the price, where the price is calculated by dividing one by the sum of one plus the product of (a) the BA Discount Rate applicable thereto expressed as a decimal fraction multiplied by (b) a fraction, the numerator of which is the term of such Banker's Acceptance and the denominator of which is 365, rounded to the nearest multiple of 0.001%.
- 1.1.15 "BA Discount Rate" means (a) with respect to any Banker's Acceptance accepted by a Lender named on Schedule I to the *Bank Act* (Canada), the rate determined by the Agent as being the arithmetic average (rounded upward to the nearest multiple of 0.01%) of the discount rates, calculated on the basis of a year of 365 days and determined in accordance with normal market practice at or about 10:00 a.m. (Toronto time) on the applicable Drawdown Date, for banker's acceptances of the Schedule I Reference Lenders having a comparable face amount and identical maturity date to the face amount and maturity date of such Banker's Acceptance, and (b) with respect to any Banker's Acceptance accepted by any other Lender, the lesser of (i) the rate determined in Section 1.1.15(a) plus 0.10% per annum, and (ii) the rate determined by the Agent as being the arithmetic average (rounded upward to the nearest multiple of 0.01%) of the discount rates, calculated on the basis of a year of 365 days and determined in accordance with normal market practice at or about 10:00 a.m. (Toronto time) on the applicable Drawdown Date, for banker's acceptances of the Other Reference Lenders having a comparable face amount and identical maturity date to the face amount and maturity date of such Banker's Acceptance.
- 1.1.16 "BA Equivalent Loan" has the meaning defined in Section 5.12(5).
- 1.1.17 "Banker's Acceptance" means a depository bill as defined in the *Depository Bills and Notes Act* (Canada) in Canadian Dollars that is in the form of an order signed by the Borrower and accepted by a Lender pursuant to this Agreement or, for Lenders not participating in clearing services contemplated in that Act, a draft or bill of exchange in Canadian Dollars that is drawn by the Borrower and accepted by a Lender pursuant to this Agreement. Orders or drafts that become depository bills, drafts and bills of exchange are sometimes collectively referred to in this Agreement as "orders". References in the Provisions to "bankers' acceptances" shall be interpreted as referring to Banker's Acceptances.
- 1.1.18 "Banker's Acceptance Fee" means, with respect to any Banker's Acceptance, the amount calculated by multiplying the face amount of the Banker's Acceptance by the applicable rate for the Banker's Acceptance Fee specified in Section 2.6, and then multiplying the result by a fraction, the numerator of which is the duration of its term on the basis of the applicable actual number of days to elapse from and including the date of acceptance of the Banker's Acceptance by the Lender up to but excluding the maturity date of the Banker's Acceptance and the denominator of which is the number of days in the calendar year in question.

- 1.1.19 **"Base Rate Advance" or "Base Rate Loan"** means an advance in US Dollars bearing interest based on the Base Rate (Canada) or the Base Rate (US), as applicable, and includes any deemed Base Rate Advance provided for in this Agreement.
- 1.1.20 **"Base Rate (Canada)"** means, on any day, the greater of:
- (a) the average of the annual rates of interest (expressed as a percentage per annum on the basis of a 360 day year) offered by the Agent on that day as its reference rate for commercial loans made by it in Canada in US Dollars; and
  - (b) the Federal Funds Effective Rate plus 0.75% per annum.
- 1.1.21 **"Base Rate (US)"** means, on any day, the greater of:
- (a) the average of the annual rates of interest (expressed as a percentage per annum on the basis of a 360 day year) offered by the Agent on that day as its reference rate for commercial loans made by it in the United States of America in US Dollars; and
  - (b) the Federal Funds Effective Rate plus 0.75% per annum.
- 1.1.22 **"Borrower"** means CanWest MediaWorks Limited Partnership, a limited partnership formed under the laws of Ontario.
- 1.1.23 **"Borrower Partnership Agreement"** means the limited partnership agreement made as of September 7, 2005 pursuant to which the Borrower was formed as amended and restated by the amended and restated limited partnership agreement made as of October 13, 2005 between CanWest MediaWorks Inc., CanWest GP and CWMW Trust and as further amended and restated by the second amended and restated limited partnership agreement made as of July 10, 2007 between CanWest MediaWorks Inc. and CanWest GP.
- 1.1.24 **"Branch of Account"** means (a) for the purpose of obtaining and repaying Advances under the Swingline Availability, the branch of the Agent located at Scotia Plaza Branch, Scotia Plaza, 40 King Street West, Toronto, Ontario, M5W 2X6, and (b) for the purposes of obtaining and repaying Advances under the Credits, GWS – Loan Administration & Agency Services of the Agent located at 720 King Street West, 4<sup>th</sup> Floor, Global Wholesale Services, Toronto, Ontario, M5V 2T3, or, in each case, such other branch as may be designated by the Agent from time to time.
- 1.1.25 **"Business Day"** means a day of the year, other than Saturday or Sunday, on which (a) in respect of notices, determinations, payments or Advances relating to LIBOR Advances, the Agent is open for normal banking business at its executive offices in Toronto, Ontario, its principal office in Calgary, Alberta, the Branch of Account and its principal offices in New York, New York and London, England, and (b) for all other purposes, the Agent is open for normal banking business at its executive offices in Toronto, Ontario, its principal office in Calgary, Alberta, the Branch of Account and its principal office in New York, New York.

- 1.1.26 **"Canadian Dollars", "Cdn. Dollars", "Cdn. \$" and "\$"** mean the lawful money of Canada.
- 1.1.27 **"CanWest GP"** means, CanWest MediaWorks (Canada) Inc., a corporation existing under the laws of Canada, the general partner of the Borrower.
- 1.1.28 **"CanWest Publications"** means CanWest MediaWorks Publications Inc., a corporation amalgamated under the laws of Canada.
- 1.1.29 **"CanWest Publications Debt"** means the debt owed by CanWest Publications to the Borrower in the aggregate principal amount, as at the Closing Date, of approximately Cdn. \$2,250,000,000, as such amount may increase or decrease from time to time, as evidenced by the CanWest Publications Notes.
- 1.1.30 **"CanWest Publications Notes"** means the promissory notes described in Schedule N.
- 1.1.31 **"Capital Expenditure"** means any expenditure for fixed or capital assets that would be classified as a capital expenditure in accordance with GAAP.
- 1.1.32 **"Capital Lease"** means any lease that is not an operating Lease.
- 1.1.33 **"Capital Lease Obligations"** means to any Person, an obligation of such Person to pay rent or other amounts under a lease of (or other agreement conveying the right to use) real property, personal property or both, which obligation is required to be classified and accounted for as a capital lease on a balance sheet of such Person for financial reporting purposes under GAAP (including Section 3065 of the Canadian Institute of Chartered Accountants Handbook) and the amount of such obligation shall be the capitalized amount thereof, determined in accordance with GAAP (including such Section 3065 of the Canadian Institute of Chartered Accountants Handbook).
- 1.1.34 **"Capital Stock"** means, with respect to any Person from time to time, any and all shares, units, trust units (or other beneficial interests in a trust), partnership, membership or other interests, participations or other equivalent rights in the Person's equity or capital from time to time, however designated and whether voting or non-voting.
- 1.1.35 **"Cash Equivalents"** means (a) bonds or other evidences of indebtedness, the principal and interest of which is payable or fully guaranteed by the government of Canada or any province or territory thereof, or the United States of America or any state thereof or the District of Columbia, or by any agency or instrumentality of any of the foregoing backed by the full faith and credit of Canada or any such province or territory or of the United States of America or any such state or the District of Columbia, payable in Canadian Dollars or United States Dollars and rated AAA or AA (or the then equivalent grade) and not rated a lower grade by Dominion Bond Rating Service, in the case of bonds or evidences of indebtedness of Canada or any province or territory thereof or agency or institution of Canada or any such province or territory, and Standard & Poor's Ratings Group, in the case of bonds or evidences of

indebtedness of the United States of America or any state thereof or any agency or instrumentality of the United States of America or any state thereof, (b) deposits or certificates of deposit issued or guaranteed by a bank, trust company or savings and loan association organized under the laws of Canada or any province or territory thereof and rated P-1 (or the then equivalent grade) or better by Moody's Investor Services, Inc. or issued or guaranteed by a bank or trust company organized under the laws of the United States of America or any state thereof or of the District of Columbia, having capital, surplus and undivided profits in excess of US \$500,000,000, (c) commercial paper rated A-1 (or the then equivalent grade) or better by Standard & Poor's Ratings Group, P-1 (or the then equivalent grade) or better by Moody's Investor Services, Inc. or rated R-1 high (or the then equivalent grade) or better by Dominion Bond Rating Service, and not rated a lower grade by any of such firms, and having a maturity not in excess of one year from the date of acquisition thereof, (d) repurchase obligations with a term of not more than seven days for underlying securities of the types described in clause (a) above entered into with any bank, trust company or savings and loan association meeting the qualifications specified in clause (b) above, and (e) investments in money market funds which invest substantially all their assets in securities of the types described in any of clauses (a) to (d) above, excluding any securities which a Canadian chartered bank is prohibited from holding as security under the *Bank Act* (Canada), in each case, so long as the same is maintained in accounts or in any other manner such that the Agent has a perfected security interest therein.

**1.1.36** "CDOR Rate" means, on any date, with respect to any Banker's Acceptance, the simple average of the rates shown on the display referred to as the "CDOR Page" (or any display substituted therefor) on Reuters Domestic Money Service (or any successor source from time to time) with respect to the banks and other financial institutions named in such display at or about 10:00 a.m. (Toronto time) on such date for banker's acceptances having an identical maturity date to the maturity date of such Banker's Acceptance, as determined by the Agent, or if such day is not a Business Day, then on the immediately preceding Business Day; provided, however, that if such rates are not available, then the CDOR Rate for any day shall be calculated as the average of the bid rates (rounded upwards to the nearest 1/16<sup>th</sup> of 1%) quoted by each of the Schedule I Reference Lenders for its own banker's acceptances for the applicable period as of 10:00 a.m. (Toronto time) on such day, as determined by the Agent, or if such day is not a Business Day, then on the immediately preceding Business Day.

**1.1.37** "Change in Law" has the meaning defined in the Provisions.

**1.1.38** "Change of Control" means:

- (a) the Asper Group ceases to beneficially own, directly or indirectly, at least 35% of the votes attached to the Capital Stock entitled to vote for the election of the board of directors of CanWest Global Communications Corp. and CanWest Global Communications Corp. ceases to beneficially own, directly or

indirectly, at least 35% of the votes attached to the Capital Stock entitled to vote for the election of the board of directors of CanWest GP;

- (b) any Person or related group of Persons for purposes of Section 13(d) of the *U.S. Securities Exchange Act of 1934* and the rules and regulations promulgated thereunder, other than CanWest Global Communications Corp. or the Asper Group or any member thereof, shall at any time be, directly or indirectly, the beneficial owner of a greater percentage of the votes attached to the Capital Stock entitled to vote for the election of the board of directors of CanWest Global Communications Corp. than the votes attached to the Capital Stock entitled to vote for the election of the board of directors of CanWest Global Communications Corp. beneficially owned, directly or indirectly, by CanWest Global Communications Corp. or the Asper Group (whichever owns the greater percentage);
- (c) any sale, lease, exchange or other transfer (in one transaction or a series of related transactions) of all or substantially all of the property and assets of the Borrower;
- (d) the partners of the Borrower approve any plan or proposal for the liquidation or dissolution of the Borrower; or
- (e) any Person shall cause, as a result of any proxy solicitation made otherwise than by or on behalf of management, Continuing Directors to cease to be a majority of the board of directors of CanWest GP (where "Continuing Directors" are (i) members of the original board of directors of CanWest GP, or (ii) members appointed or whose nomination is approved by a majority of the Continuing Directors of CanWest GP or nominated at a time that the Continuing Directors of CanWest GP form a majority of the board of directors).

**1.1.39** "Closing Date" means July 10, 2007 or such other day as may be agreed by the parties which is not later than July 18, 2007.

**1.1.40** "Collateral" means cash, a bank draft or a letter of credit issued by a Canadian chartered bank, all in a form satisfactory to the Agent, acting reasonably.

**1.1.41** "Collateral Agency Agreement" means the amended and restated intercreditor and collateral agency agreement made as of the 10th day of July, 2007 between the Borrower and the Persons who are, and from time to time become, parties thereto, as guarantors, the Collateral Agent, and the Persons who are, and from time to time become, parties thereto as Secured Creditors (as defined therein).

**1.1.42** "Collateral Agent" means CIBC Mellon Trust Company, a trust company to which the *Trust and Loan Companies Act* (Canada) applies, in its capacity as Collateral Agent or *fondé de pouvoir*, as the case may be, under the Collateral Agency Agreement, its successors and assigns.

- 1.1.43** "Commitment" means in respect of each Lender from time to time, the covenant to make Advances to the Borrower in the Lender's Applicable Percentage of the maximum amount of the Credits and, where the context requires, the maximum amount of Advances which the Lender has covenanted to make.
- 1.1.44** "Communications Business" means:
- (a) the media and communications businesses and activities related thereto including the television broadcasting and related businesses (such as the sale of television advertising and programming and the development, production and distribution of television and film programming), radio broadcasting and related businesses (such as sale of radio advertising and the production of radio programming) and specialty or pay television, cable television, electronic media, data, voice and video transmission, print media, advertising, billboards, tower transmission rental and sales and real property rental and sales (to the extent only that such real property rental and sales arise from lease or sale of properties used by the Borrower or any Obligor in connection with any of the foregoing media and communications businesses);
  - (b) the publications business (such as the publication of print and electronic newspapers and magazines); and
  - (c) the holding of ownership interests in Persons engaged in any of the foregoing.
- 1.1.45** "Compliance Certificate" means a certificate in the form of Schedule C, signed by a senior officer of the Borrower.
- 1.1.46** "Constating Documents" means, with respect to any Person, its articles or certificate of incorporation, amendment, amalgamation, continuance or association, memorandum of association, declaration of trust, trust indenture, partnership agreement, limited liability company agreement or other similar document, as applicable, and all unanimous shareholder agreements, other shareholder agreements, voting trust agreements and similar arrangements applicable to the Person's Capital Stock, and by-laws, all as amended, supplemented, restated or replaced from time to time.
- 1.1.47** "Contract" means any agreement, contract, indenture, Lease, deed of trust, licence, option, undertaking, promise or any other commitment or obligation, whether oral or written, express or implied, other than a Permit.
- 1.1.48** "Contributing Lender" shall have the meaning defined in Section 5.24.
- 1.1.49** "Control" has the meaning defined in the Provisions.
- 1.1.50** "Credit A" means the credit facility of up to the aggregate of Cdn. \$1,300,000,000 and the additional amounts set forth in Section 2.1(1)(a) established by Scotia Capital in favour of the Borrower pursuant to Article 2 of this Agreement.

- 1.1.51 **"Credit B"** means the credit facility of up to Cdn. \$250,000,000 or the Equivalent Amount in US Dollars established by the Lenders in favour of the Borrower pursuant to Article 2 of this Agreement.
- 1.1.52 **"Credit C"** means the credit facility of up to Cdn. \$265,000,000 or the Equivalent Amount in US Dollars established by the Lenders in favour of the Borrower pursuant to Article 2 of this Agreement.
- 1.1.53 **"Credit D"** means the credit facility of up to Equivalent Amount in US Dollars of Cdn. \$500,000,000 established by the Lenders in favour of the Borrower pursuant to Article 2 of this Agreement.
- 1.1.54 **"Credit D Ratings"** means the ratings issued by each of S&P and Moody's in respect of Credit D as at the Closing Date.
- 1.1.55 **"Credits"** means, collectively, Credit A, Credit B, Credit C and Credit D, and **"Credit"** means any one of them.
- 1.1.56 **"Currency Agreements"** means (a) any contract for the sale, purchase or exchange, whether for spot or for future delivery of foreign currency (whether or not the subject currency is to be delivered or exchanged) and whether or not subject to any ISDA Master Agreement, (b) any currency swap agreements, option contracts, futures contracts, options on futures contracts, spot or forward contracts or other agreements to purchase or sell currency or any other similar arrangements related to movements in the rates of exchange of currencies, or (c) other similar derivatives transactions or any other contract or arrangement having the same economic effect as the foregoing, whether at, above or below current market prices.
- 1.1.57 **"Debt"** means, with respect to a Person, without duplication and, except as provided in item (b) below, without regard to any uncapitalized interest component thereof (whether actual or imputed) that is not due and payable, the aggregate of the following amounts, each calculated in accordance with GAAP, unless the context otherwise requires:
- (a) all obligations (including, without limitation, by way of overdraft and drafts or orders accepted representing extensions of credit) that would be considered to be indebtedness for borrowed money, and all obligations (whether or not with respect to the borrowing of money) that are evidenced by bonds, debentures, notes or other similar instruments;
  - (b) the face amount of all banker's acceptances, if any, and similar instruments;
  - (c) all liabilities upon which interest charges are customarily paid by that Person;
  - (d) any Capital Stock of that Person (or of any Subsidiary of that Person) which Capital Stock, by its terms (or by the terms of any security into which it is convertible or for which it is exchangeable at the option of the holder), or upon the happening of any event, matures or is mandatorily redeemable, pursuant to



a sinking fund obligation or otherwise, or is redeemable at the option of the holder thereof, in whole or in part, prior to the Maturity Date, for cash or securities constituting Debt;

- (e) all Capital Lease Obligations, synthetic lease obligations, obligations under sale and leaseback transactions and indebtedness under arrangements relating to Purchase Money Encumbrances and other obligations in respect of the deferred purchase price of property and services;
- (f) the amount of the contingent liability under any guarantee (other than by endorsement of negotiable instruments for collection or deposit in the ordinary course of business) in any manner of any part or all of an obligation of another Person of the type included in items (a) through (e) above, including the amount of all contingent liabilities in respect of letters of credit and letters of guarantee and similar instruments; and
- (g) the amount of all contingent liabilities in respect of performance bonds and surety bonds, and any other guarantee or other contingent liability of any part or all of an obligation of a Person other than an Obligor, in each case only to the extent that the guarantee or other contingent liability is required by GAAP to be treated as a liability on the balance sheet of the guarantor or Person contingently liable;

provided that trade payables, accrued liabilities that are current liabilities incurred in the ordinary course of business do not constitute Debt; and provided further that in the case of foreign denominated Debt of a Person which is the subject of a Currency Agreement, such Person's Debt, at any time, shall (without duplication of any other adjustment to such Person's Debt) be the Debt at the hedged rate.

- 1.1.58 "Default" has the meaning defined in the Provisions and, without limiting the Provisions, Default includes an Event of Default and a Pending Event of Default.
- 1.1.59 "Defaulting Lender" has the meaning defined in Section 5.24.
- 1.1.60 "Demand" has the meaning defined in Section 5.21(3).
- 1.1.61 "Designated Account" means, in respect of any Advance, the account or accounts maintained by the Borrower at a branch of the Agent in Toronto, Ontario that the Borrower designates in its notice requesting an Advance.
- 1.1.62 "Disposition Prepayment Offer" has the meaning defined in Section 2.5(3).
- 1.1.63 "Distributable Cash" means, for any LTM Period the aggregate (without duplication) of:
  - (a) EBITDA for such LTM Period less the sum (without duplication) of:

- (i) scheduled payments of principal made by the Obligors during such LTM Period on account of Debt but excluding any scheduled payments of principal if and to the extent that such payments are funded by Permitted Pari Passu Debt or Permitted Subordinated Debt incurred during such LTM Period;
- (ii) prepayments, redemptions prior to maturity, defeasances, repurchases or other arrangements which are, in substance, a prepayment of principal on account of Permitted Pari Passu Debt made during such LTM Period;
- (iii) Capital Expenditures made during such LTM Period but excluding the amount of such Capital Expenditures which are financed from the proceeds arising during such LTM Period of (A) Advances under Credit B, (B) the issuance of Equity, (C) the incurrence of Permitted Pari Passu Debt or Permitted Subordinated Debt, or (D) the incurrence of Capital Lease Obligations;
- (iv) Investments made during such LTM Period (other than Investments in Cash Equivalents and Investments in another Obligor) if such Investments are not financed from the proceeds arising during such LTM Period of: (A) Advances under Credit B, (B) the issuance of Equity, (C) the incurrence of Permitted Pari Passu Debt or Permitted Subordinated Debt, or (D) the incurrence of Capital Lease Obligations;
- (v) Interest Expense for such LTM Period (which, for the purpose of this definition, shall not include any portion of any upfront fee paid under the Fee Letter which would otherwise be included in Interest Expense for such LTM Period); and
- (vi) consolidated current income or capital tax expense, paid or payable in respect of such LTM Period by the Obligors;

plus (without duplication) at the time of calculation:

- (b) funds available to be drawn under Credit B for Distribution;
- (c) the Net Cash Proceeds of the issuance of Equity which have not been used, or are not required to be used, to make a Permitted Investment, a Capital Expenditure, a Distribution or to make a mandatory or voluntary repayment of a Credit or Permitted Pari Passu Debt;
- (d) the aggregate of (i) Net Cash Proceeds of dispositions of Property, and (ii) Net Cash Proceeds of the incurrence of Permitted Pari Passu Debt or Permitted Subordinated Debt which, in each case, are not used, or required to be used, to make a Permitted Investment, a Capital Expenditure or to make a mandatory repayment of a Credit; and

- (e) Distributable Cash calculated for the immediately preceding LTM Period, to the extent such Distributable Cash has not been previously distributed;

provided however, that no financial results arising from or attributable to any period ending prior to the Closing Date shall be included in any calculation of Distributable Cash hereunder.

**1.1.64 "Distribution" means:**

- (a) the retirement, redemption, retraction, purchase, or other acquisition of any Equity or Related Party Debt of any Obligor;
- (b) the declaration or payment of any dividend, return of capital or other distribution (in cash, securities or other Property or otherwise) of, on or in respect of, any Equity of any Obligor;
- (c) any payment or repayment of or on account of Related Party Debt of any Obligor, including in respect of principal, interest, bonus, premium or otherwise;
- (d) any payment of management or similar fees (other than payments of management or similar fees which are deducted in the calculation of net income of the applicable Person in accordance with GAAP, including management fees payable under the Operating Agreements); and
- (e) any other payment or distribution (in cash, securities or other Property, or otherwise) of, on or in respect of any Equity of any Obligor or, to the extent not deducted in calculating EBITDA, Related Party Debt of any Obligor;

and the terms "Distribute" and "Distributed" shall have corresponding meanings.

**1.1.65 "Drawdown Date" means the date, which shall be a Business Day, of any Advance.**

**1.1.66 "EBITDA" means, for any period, the net income of the Borrower determined on an Adjusted Consolidated Basis in accordance with GAAP for such period:**

- (a) plus, to the extent deducted in calculating such net income, Interest Expense, expenses for income tax, expenses for depreciation and amortization;
- (b) plus, to the extent not included in such net income, Unrestricted Party Distributions;
- (c) plus/minus, any other non-cash items reducing/increasing such net income for such period (other than any non-cash items that represent accruals of, or reserves for, cash disbursements to be made in any future accounting period);

- (d) plus, all underwriting, agency, investment banking, legal and accounting fees incurred by the Borrower on a consolidated basis in connection with the Transaction;
- (e) plus/minus, to the extent deducted/included in calculating such net income (i) all extraordinary, non-recurring and unusual items, (ii) gains or losses on sales of assets, (iii) losses from write-downs, and (iv) any other non-cash items increasing such net income (other than any non-cash items that were accrued in the ordinary course of business);

provided that notwithstanding the foregoing, for the purpose of calculating the financial covenants (but not for the purpose of calculating Distributable Cash) (x) the aggregate of the Unrestricted Party Distributions received by the Borrower and the Obligors from all Unrestricted Parties which is included in EBITDA shall not exceed an amount that is equal to 20% of total EBITDA (calculated on the basis of net income adjusted by items (a), (c), (d) and (e) above only) for such period, and (y) the aggregate of Unrestricted Party Distributions received from any single Unrestricted Party which is included in EBITDA shall not exceed the applicable Obligors' share of EBITDA of such Unrestricted Party (calculated on the basis of net income adjusted by items (a), (c), (d) and (e) above only) for any relevant period based on the Obligors' proportionate economic interest in such Unrestricted Party.

1.1.67 "Eligible Assignee" has the meaning defined in the Provisions.

1.1.68 "Encumbrance" means:

- (a) with respect to any Property, any mortgage, deed of trust, lien, pledge, hypothec, hypothecation, encumbrance, charge, assignment, consignment, security interest, royalty interest, adverse claim or defect of title in, on or of the Property;
- (b) the interest of a vendor or lessor under any conditional sale agreement, Capital Lease or title retention agreement relating to an asset;
- (c) any purchase option, call or similar right of a third party in respect of any Property;
- (d) any netting arrangement or set-off arrangement (other than netting or set-off arising by operation of law in the ordinary course of business), defeasance arrangement or other similar arrangement; and
- (e) any other agreement, trust or arrangement having the effect of security for the payment or performance of any debt, liability or obligation,

and "Encumbrances", "Encumbrancer", "Encumber" and "Encumbered" shall have corresponding meanings.

- 1.1.69 "Environmental Laws" means all Applicable Laws or any parts thereof pertaining to the environment, Hazardous Material or health and safety.
- 1.1.70 "Equity" means, in respect of any Person, Capital Stock of such Person, warrants, options or other rights to acquire Capital Stock of the Person and securities convertible into or exchangeable for Capital Stock of such Person.
- 1.1.71 "Equivalent Amount" means, on any date, the equivalent amount in Canadian Dollars or US Dollars, as the case may be, after giving effect to a conversion of a specified amount of US Dollars to Canadian Dollars or Canadian Dollars to US Dollars, as the case may be, at the Exchange Rate.
- 1.1.72 "Event of Default" means any of the events or circumstances described in Section 8.1.
- 1.1.73 "Exchange Rate" means on any day, for the purpose of calculations under this Agreement, the amount of Canadian Dollars into which US Dollars may be converted, or vice versa, using the Bank of Canada noon spot rate for converting the one currency into the other on that day or if that day is not a Business Day, the preceding Business Day, or if such rate is not so published by the Bank of Canada for any such day, then at the mid rate (i.e. the average of the Agent's spot buying and selling rates) quoted by the Agent at the Branch of Account at approximately noon (Toronto time) on that day in accordance with its normal practice for the applicable currency conversion in the wholesale market, or if that day is not a Business Day, the preceding Business Day.
- 1.1.74 "Excluded Taxes" has the meaning defined in the Provisions.
- 1.1.75 "Federal Funds Effective Rate" means for any period, a fluctuating interest rate per annum equal, for each day during such period, to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System arranged by Federal Funds brokers as published for such day (or, if such day is not a Business Day, for the next preceding Business Day) by the Federal Reserve Bank of New York or, for any day on which that rate is not published for that day by the Federal Reserve Bank of New York, the average of the quotations for that day for such transactions received by the Agent from three Federal Funds brokers of recognized standing.
- 1.1.76 "Fee Letter" means the confidential fee letter agreement dated May 24, 2007 made by The Bank of Nova Scotia addressed to the Borrower providing for the payment of certain fees in relation to the Credits, accepted and agreed to by the Borrower of even date therewith.
- 1.1.77 "Final Redemption Date" means July 12, 2007 or such other date agreed to by the parties to the Privatization Agreement, in accordance with the Privatization Agreement.
- 1.1.78 "Foreign Lender" has the meaning defined in the Provisions.

- 1.1.79 **"Fronting Fee"** means the fee payable to the Issuing Bank upon the issuance or renewal of an L/C calculated in accordance with Section 2.6(4).
- 1.1.80 **"Fund"** has the meaning defined in the Provisions.
- 1.1.81 **"GAAP"** means generally accepted accounting principles which are in effect from time to time in Canada, as established by the Canadian Institute of Chartered Accountants or any successor institute, provided, however, that if there occurs after the date hereof any change in GAAP from that used in the preparation of the audited financial statements of the Borrower for its fiscal year ending August 31, 2006 or that affects in any respect the calculation of any covenant contained in Section 7.1, the Lenders and the Borrower shall negotiate in good faith amendments to the provisions of this Agreement that relate to the calculation of such covenants with the intent of having the respective positions of the Lenders and the Borrower after such change in GAAP conform as nearly as possible to their respective positions as of the date of this Agreement and, until any such amendments have been agreed upon, the covenants in Section 7.1 shall be calculated as if no such change in GAAP has occurred.
- 1.1.82 **"Governmental Authority"** has the meaning defined in the Provisions.
- 1.1.83 **"Guarantor Obligations"** means the obligations of the Guarantors under the Loan Documents.
- 1.1.84 **"Guarantors"** means CanWest GP, CanWest Publications and CanWest Books Inc. and each other Person which delivers a guarantee and/or security hereunder from time to time in accordance with Section 3.1(2).
- 1.1.85 **"Hazardous Materials"** means any substance, product, waste, residue, pollutant, material, chemical, contaminant, dangerous good, constituent or other material which is or becomes listed, regulated, defined or addressed under or subject to any Environmental Law or any applicable Permit issued under any Environmental Law, including asbestos, petroleum, tailings, mining residue and polychlorinated biphenyls.
- 1.1.86 **"Indemnified Taxes"** has the meaning defined in the Provisions.
- 1.1.87 **"Information Circular"** means the notice of the special meeting of the holders of trust units in the CanWest MediaWorks Income Fund, including any adjournment or postponement thereof, called and held to consider the Transaction and the accompanying management information circular sent to the holders of units in the CanWest MediaWorks Income Fund in connection with such meeting, as the same may be amended, supplemented or otherwise modified in accordance with the Privatization Agreement.
- 1.1.88 **"Intellectual Property"** means patents, trademarks, service marks, trade names, copyrights, trade secrets, industrial designs and other similar rights.
- 1.1.89 **"Interbank Reference Rate"** means, in respect of any currency, the interest rate expressed as a percentage per annum which is customarily used by the Agent when

calculating interest due by it or owing to it arising from correction of errors in transactions in that currency between it and other chartered banks.

**1.1.90** "Intercreditor Agreements" means any intercreditor, subordination or postponement agreement that may be entered into from time to time which provides for the terms of subordination, ranking or priority of any other Debt in relation to any of the Secured Obligations, including:

- (a) the subordination provisions contained in each of the CanWest Publications Notes together with all subordination or postponement provisions relating thereto contained in any Loan Document;
- (b) the subordination and postponement provisions of the Senior Subordinated Note Indentures;
- (c) the intercreditor agreement relating to the Term Loan C Facility (the "Term Loan C Intercreditor Agreement"); and
- (d) any agreements referenced in Section 1.1.136(d) and Section 1.1.137(e).

**1.1.91** "Interest Coverage Ratio" means, at any time, the ratio calculated by dividing (a) EBITDA for the four most recently completed fiscal quarters by (b) Interest Expense for such period.

**1.1.92** "Interest Expense" means for the Borrower for any period, the aggregate, without duplication, of all expenses incurred by the Borrower on an Adjusted Consolidated Basis for interest and equivalent costs of borrowing, including but not limited to:

- (a) banker's acceptance fees, if any;
- (b) discounts on banker's acceptances, if any;
- (c) the interest portion of any Capital Lease Obligation;
- (d) all fees and other compensation paid to any Person that has extended credit to an the Obligor; and
- (e) the aggregate of all purchase discounts relating to the sale of accounts receivable in connection with any asset securitization program,

all as determined for such period, in each case whether or not actually paid (unless paid by the issuance of securities constituting Debt).

**1.1.93** "Interest Payment Date" means the 21<sup>st</sup> day of each calendar month.

**1.1.94** "Interest Period" has the same meaning as LIBOR Period.

- 1.1.95 "Interest Rate Agreements"** means (a) any interest rate swap, option contract, futures contract, option on futures contract, cap, floor, collar, or any other similar arrangement relating to movements in interest rates or that is designed to protect against fluctuations in interest rates or to obtain the benefits of floating or fixed interest rates, or (b) any other similar derivatives transaction or any other contract or arrangement having the same economic effect, whether at, above or below current market prices.
- 1.1.96 "Investment"** means (a) any investment in or purchase of or other acquisition of any Equity of any Person, (b) any purchase or other acquisition of a business or undertaking or division of any Person, including Property comprising the business, undertaking or division, (c) any investment in or purchase of or other acquisition of any assets of any other Person, or (d) any loan or advance or guarantee or the provision of any other financial assistance of any kind to, or otherwise becoming liable for any debts, liabilities or obligations of, any Person.
- 1.1.97 "Issuing Bank"** has the meaning defined in the Provisions which, for the time being, is Scotia Capital and includes other Lenders designated by the Agent from time to time after consultation with the Borrower to be Issuing Banks.
- 1.1.98 "L/C" or "Letter of Credit"** means a standby letter of credit, letter of guarantee or commercial letter of credit denominated in Canadian Dollars or US Dollars in a form satisfactory to the Issuing Bank and issued by or continued by the Issuing Bank under Credit A or Credit B at the request of the Borrower.
- 1.1.99 "Lease"** includes any lease, sublease, offer to lease or sublease, occupancy or tenant agreement and lease or sublease amending agreement, and **"Leased"** shall have a corresponding meaning.
- 1.1.100 "Lenders"** means each of the Persons listed on Schedule E and other lenders that agree from time to time to become Lenders in accordance with the terms of this Agreement and includes, where the context requires, the Issuing Bank, and **"Lender"** means any one of the Lenders.
- 1.1.101 "Lending Office"** means, as to any Lender, the office or offices from which it makes Advances and receives payments pursuant to this Agreement from time to time.
- 1.1.102 "LIBO Rate"** means for any LIBOR Period and LIBOR Advance, a rate expressed as a percentage per annum on the basis of a 360 day year equal:
- (a) to the rate for deposits in US Dollars in the London interbank market for a period equal to the LIBOR Period and in an amount approximately equal to the amount of the LIBOR Advance, that appears on the Reuters Screen LIBOR01 Page (or any successor source from time to time) as of 11:00 a.m. London time two Business Days before the first day of the LIBOR Period; or
  - (b) if no such rate appears as contemplated in item (a) above, to the rate at which deposits in US Dollars are offered by the principal lending office of Scotia



Capital in London, England to leading banks in the London interbank market at 11:00 a.m. London time two Business Days before the first day of the LIBOR Period for a period equal to the LIBOR Period and in an amount approximately equal to the amount of the LIBOR Advance.

- 1.1.103 "LIBOR Advance" or "LIBO Rate Loan" means an advance in US Dollars bearing interest based on the LIBO Rate.
- 1.1.104 "LIBOR Period" means the period selected by the Borrower for a LIBOR Advance or the period applicable to the LIBOR Advance under the terms of this Agreement.
- 1.1.105 "Loan" has the meaning defined in the Provisions.
- 1.1.106 "Loan Documents" means this Agreement, the Collateral Agency Agreement, each Intercreditor Agreement, all Security, the Fee Letter and all other documents from time to time relating to the Credits or any of them.
- 1.1.107 "LTM Period" means, at any time, the last four consecutive fiscal quarters of the Borrower ending at, or immediately prior to, such time and for greater certainty, for any period ending prior to that day which is twelve months following the Closing Date, the LTM Period shall mean the period from the Closing Date to the day of calculation.
- 1.1.108 "Mark-to-Market Exposure" means the net amount of all amounts payable by or to any Obligor pursuant to Section 6.1(e) of the 1992 ISDA Master Agreement (Multicurrency – Cross Border) published by the International Swaps and Derivatives Association, Inc., calculated as regards to Swap Transactions that are terminated as if all Transactions had terminated using Early Termination with two Affected Parties on the date of determination in accordance with the Second Method and Early Quotation provided that, for purposes of this definition, such amount shall at all times be deemed to be at least \$1.00; for the purposes of this definition (a) capitalized terms not defined in this Agreement shall have the meaning given to those terms in the January 2003 ISDA Master Agreement (Multicurrency – Cross Border), and (b) any Lender or Affiliate of a Lender that is entering into Swap Transactions shall certify to the Agent and any Obligor on request from time to time by the Agent, the amount so calculated.
- 1.1.109 "Material Adverse Effect" means any change, effect, event, development, occurrence or state of facts: (a) that has, or would reasonably be expected to have, a material adverse effect on the business, operations, properties, assets, condition (financial or otherwise) or prospects of the Obligors as a whole, (b) that has, or would reasonably be expected to have, an adverse effect on the legality, validity or enforceability of any of the Loan Documents which could reasonably be considered to be material having regards to the Loan Documents considered as a whole, including the validity, enforceability, perfection or priority of any Encumbrance created or intended to be created under any of the Security which could reasonably be considered material having regard to the Security considered as a whole, (c) that has, or would reasonably be expected to have, an adverse effect on the right, entitlement or ability of the

Borrower or any other Obligor to pay or perform any of its Obligations under any of the Loan Documents which could reasonably be considered material having regards to the Obligors as a whole, or (d) that has, or would reasonably be expected to have, an adverse effect on the right, entitlement or ability of the Lenders to enforce the Obligations of any of the Obligors which could reasonably be considered material having regard to the Obligors as a whole or to exercise or enforce any of its rights, entitlements, benefits or remedies under any of the Loan Documents.

**1.1.110 "Material Contracts" means:**

- (a) the Senior Subordinated Note Indentures;
- (b) the Borrower Partnership Agreement;
- (c) the CanWest Publications Notes;
- (d) the Privatization Agreement;
- (e) to the extent not included in items (a) and (d) above, each of the contracts, agreements, documents and other instruments described in Schedule K; and
- (f) any other Contract (other than any Loan Document or Lease) to which an Obligor is or becomes a party at any time that, if terminated prior to the expiry of its term, has or could reasonably be expected to have a Material Adverse Effect.

**1.1.111 "Material Permit" means** (a) each Permit described in Schedule L, and (b) any other Permit issued at any time to an Obligor that, if terminated, has or could reasonably be expected to have a Material Adverse Effect.

**1.1.112 "Maturity Date" means,** in respect of Credit A, July 17, 2007, in respect of Credit B and Credit C, that day which is five years after the date of initial advance under, as applicable, Credit B or Credit C, and, in respect of Credit D, that day which is seven years after the date of initial advance under Credit D.

**1.1.113 "Minority Investment" means** an Investment in any Person that is not a wholly-owned Subsidiary of an Obligor.

**1.1.114 "Moody's" means** Moody's Investor Services, Inc. and its successors.

**1.1.115 "Net Cash Proceeds" means:**

- (a) in connection with any sale, transfer or other disposition of Property, the proceeds thereof in the form of cash and readily marketable cash equivalents of such sale, transfer or disposition net of (i) reasonable legal fees, accountant's fees and investment banking fees, (ii) amounts required to be applied to the repayment of Debt secured by a Permitted Encumbrance ranking in priority to the Security on the Property which is the subject of the sale, transfer or other

disposition, (iii) reasonable arms-length real estate agents' fees, brokers' fees, and similar fees and customary expenses actually incurred in connection with the sale, transfer or other disposition, (iv) the amount of any reasonable reserve required to be established in accordance with GAAP against any liabilities (other than Taxes deducted pursuant to clause (v) below) (x) associated with the Property which is the subject of the sale, transfer or other disposition, and (y) retained by the Borrower, provided that the amount of any subsequent reduction of such reserve (other than in connection with a payment in respect of any liability) shall be deemed to be Net Cash Proceeds of the sale, transfer or other disposition, received on the date of such reduction, and (v) Taxes paid or reasonably estimated to be payable as a result thereof or, in relation to partners of the Borrower to the extent applicable, Permitted Tax Distributions paid or reasonably estimated to be payable as a result thereof (for the avoidance of doubt, in the case of asset swaps with Arm's Length Persons, the Net Cash Proceeds shall include only the portion of proceeds received in the form of cash and readily marketable cash equivalents); and

- (b) in connection with any issuance of Debt, the cash proceeds received from such issuance, net of reasonable legal fees, investment banking fees, accountants' fees, underwriting discounts and commissions and other customary fees and expenses actually incurred in connection therewith.

**1.1.116** "Non-Material Subsidiary" means a Person that is wholly-owned by one or more Obligor and which, during the most recent fiscal year of the Borrower, has contributed not more than Cdn. \$2,500,000 to EBITDA.

**1.1.117** "Non BA Lender" has the meaning defined in Section 5.12(5).

**1.1.118** "Obligations" means all obligations of the Borrower to the Agent and Lenders under or in connection with this Agreement, including but not limited to all debts and liabilities, present or future, direct or indirect, absolute or contingent, matured or not, at any time owing by the Borrower to the Agent and Lenders in any currency or remaining unpaid by the Borrower to the Agent and Lenders in any currency under or in connection with this Agreement, whether arising from dealings between the Agent and Lenders and the Borrower or from any other dealings or proceedings by which the Agent and Lenders may be or become in any manner whatever creditors of the Borrower under or in connection with this Agreement, and wherever incurred, and whether incurred by the Borrower alone or with another or others and whether as principal or surety, and all interest, fees, legal and other costs, charges and expenses; provided, however, that "Obligations" shall not include "Other Secured Obligations". In this definition, "the Agent and Lenders" shall be interpreted as "the Agent and Lenders, or any of them".

**1.1.119** "Obligors" has the meaning defined in the Provisions and, without limiting the Provisions, "Obligors" includes the Borrower, each of the Guarantors and all persons wholly-owned by one or more Obligor, and "Obligor" means any of them.

**1.1.120 "Offering Memorandum"** means the final offering memorandum dated July 2, 2007 relating to the aggregate amount of US \$400,000,000 Senior Subordinated Notes.

**1.1.121 "Operating Agreements"** means:

- (a) the CanWest services agreement dated as of October 13, 2005 between CanWest MediaWorks Inc. and the Borrower;
- (b) the insurance premium sharing agreement dated as of October 13, 2005 between CanWest MediaWorks Inc. and the Borrower;
- (c) the affiliation and support services agreement dated as of October 13, 2005 between the Borrower and The National Post Company;
- (d) the lease between CanWest Publications, as lessor, and CanWest MediaWorks Inc. and The National Post Company, as lessees, in relation to the premises occupied by The National Post Company at 1450 Don Mills Road, Don Mills, Ontario;
- (e) the National Post electronic distribution agreement dated October 13, 2005 between the Borrower and The National Post Company;
- (f) the executive advisory services agreement dated as of October 13, 2005 between the Borrower and CanWest MediaWorks Inc.;
- (g) the partnership services agreement dated as of October 13, 2005 between the Borrower and CanWest MediaWorks Inc.;
- (h) the sales representation and agency services agreement dated as of October 13, 2005 between the Borrower and CanWest MediaWorks Inc.;
- (i) the affiliation services agreement dated as of October 13, 2005 between CanWest MediaWorks Inc. and the Borrower;
- (j) the Trade-Marks License Agreement dated as of October 13, 2005 between CanWest Global Communications Corp., the Borrower, CanWest GP and the CanWest Fund; and
- (k) the cooperation and confidentiality agreement dated as of October 13, 2005 between CanWest Global Communications Corp., the Borrower and CanWest GP.

**1.1.122 "Operating Lease"** means any lease that would be considered to be an operating lease in accordance with GAAP.

**1.1.123 "Other Reference Lenders"** means two Lenders, one selected by the Agent and one selected by the Borrower, which are banks chartered under and referred to in either of Schedule II or Schedule III of the *Bank Act* (Canada).

- 1.1.124 **"Other Secured Agreements"** means all agreements or arrangements (including guarantees) entered into or made from time to time by any Obligor (unless otherwise specified) in connection with: (a) Swap Transactions between an Obligor and any Lender or Affiliate of a Lender, (b) cash consolidation, cash management and electronic funds transfer arrangements between an Obligor and the Agent or an Affiliate of the Agent, and (c) other transactions not made under this Agreement between an Obligor and the Agent, any Lender or Affiliate of the Agent or a Lender if it is agreed by the Borrower and the Agent acting on the instructions of all of the Lenders that such debts, liabilities and obligations shall be secured and a credit confirmation has been executed and delivered under the Collateral Agency Agreement in respect thereof; and, for greater certainty, all such agreements and arrangements entered into or made by any Obligor with or in favour of the Agent, a Lender or Affiliate of the Agent or a Lender, as the case may be, shall not cease to be an Other Secured Agreement if such Person ceases to be the Agent or a Lender or have an Affiliate which is the Agent or a Lender.
- 1.1.125 **"Other Secured Obligations"** means all obligations of the Obligors to the Other Secured Parties under or in connection with the Other Secured Agreements, including but not limited to all debts and liabilities, present or future, direct or indirect, absolute or contingent, matured or not, at any time owing by the Obligors to the Other Secured Parties in any currency or remaining unpaid by the Obligors to the Other Secured Parties in any currency under or in connection with the Other Secured Agreements, whether arising from dealings between the Other Secured Parties and the Obligors or from any other dealings or proceedings by which the Other Secured Parties may be or become in any manner whatever creditors of the Obligors under or in connection with the Other Secured Agreements, and wherever incurred, and whether incurred by an Obligor alone or with another or others and whether as principal or surety, and all interest, fees, legal and other costs, charges and expenses; provided, however, that "Other Secured Obligations" shall not include "Obligations". In this definition, "the Other Secured Parties" shall be interpreted as "the Other Secured Parties, or any of them," and "Obligors" shall be interpreted as "Obligors, and each of them".
- 1.1.126 **"Other Secured Party"** means, at any time (a) the Agent or a Lender or an Affiliate of the Agent or a Lender which at such time is a creditor under or in connection with an Other Secured Agreement, or (b) as contemplated by Section 3.2(3), a former Agent or Lender, an Affiliate of a former Agent or Lender or a former Affiliate of the Agent or a Lender or a former Agent or Lender, which at such time is a creditor under or in connection with an Other Secured Agreement.
- 1.1.127 **"Other Taxes"** has the meaning defined in the Provisions.
- 1.1.128 **"Participant"** has the meaning defined in the Provisions.
- 1.1.129 **"Pending Event of Default"** means an event which would constitute an Event of Default hereunder, except for satisfaction of any requirement for giving of notice, lapse of time, or both, or other condition subsequent.

**1.1.130 "Pension Plan"** means (a) a "pension plan" or "plan" which is a "registered pension plan" as defined in the *Income Tax Act* (Canada) or pension benefits standards legislation in any jurisdiction of Canada and is applicable to employees resident in Canada of any Obligor, and (b) any other defined benefit, supplemental pension benefit plan or similar arrangement applicable to any employee of any Obligor.

**1.1.131 "Permits"** means licences, certificates, authorizations, consents, registrations, exemptions, permits, attestations, approvals, characterization or restoration plans, depollution programmes and any other approvals required by or issued pursuant to any Applicable Law, in each case, against a Person or its Property which are made, issued or approved by a Governmental Authority.

**1.1.132 "Permitted Distribution"** means:

(a) all payments to be made by the Obligors required in connection with the Transaction, as detailed in the Privatization Agreement and described in the Information Circular including:

(i) the payment by the Borrower of its declared but unpaid distributions in respect of the month of June, 2007 to be made, ultimately, to the holders of the trust units of the CanWest MediaWorks Income Fund, in an aggregate amount not to exceed Cdn. \$16,500,000;

(ii) a single, one-time payment in the amount of Cdn. \$105,000,000 on account of return of capital made to CanWest MediaWorks Inc. within ten business days after the Closing Date so long as (i) no Default has occurred and is continuing or would result from such a payment, and (ii) the Total Leverage Ratio would not exceed 5.0 to 1.0 on a *pro forma* basis taking into account such payment;

(b) Permitted Tax Distributions;

(c) payments made to another Obligor; and

(d) so long as no Default has occurred and is continuing or would result from such a payment, other payments made by the Borrower which, in the aggregate, do not exceed the sum of:

(i) Cdn. \$75,000,000; and

(ii) the lesser of (A) Distributable Cash; and (B) EBITDA less 1.4 times Interest Expense for the applicable LTM Period.

**1.1.133 "Permitted Encumbrances" or "Permitted Liens"** means, with respect to any Person, the following:

(a) liens for taxes, assessments or governmental charges or levies which are not yet due, or for which instalments have been paid based on reasonable estimates

pending final assessments, or the validity of which is being contested in good faith by appropriate proceedings and for which the Person has recorded the liability in accordance with GAAP and which do not have, and will not reasonably be expected to have, a Material Adverse Effect;

- (b) inchoate or statutory liens of contractors, subcontractors, mechanics, workers, suppliers, material men, carriers and others in respect of construction, maintenance, repair or operation of assets of the Person, in respect of which adequate holdbacks are being maintained as required by Applicable Laws and (i) which have not at such time been filed or exercised and of which none of the Lenders have been given notice, or (ii) which relate to obligations not due or payable or if due, the validity of which is being contested in good faith by appropriate proceedings and for which such Person has recorded the liability in accordance with GAAP and which do not materially reduce the value of the affected asset or materially interfere with the use of such asset in the operation of the business of the Person and do not have, and will not reasonably be expected to have, a Material Adverse Effect;
- (c) easements, rights-of-way, licences, servitudes, restrictions, restrictive covenants, and similar rights in real property comprised in the assets of the Person or interests therein (including in respect of sewers, drains, gas and water mains or electric light and power or telephone and telegraph conduits, poles, wires and cables) which do not materially reduce the value of the affected asset or materially interfere with the use of such asset in the operation of the business of the Person and do not have, and will not reasonably be expected to have, a Material Adverse Effect;
- (d) title defects or irregularities which are of a minor nature and which do not materially reduce the value of the affected asset or materially interfere with the use of such asset in the operation of the business of the Person and do not have, and will not reasonably be expected to have, a Material Adverse Effect;
- (e) the Encumbrance resulting from the deposit of cash or securities in connection with contracts, tenders or expropriation proceedings, or to secure workers' compensation, employment insurance, surety or appeal bonds, costs of litigation when required by Applicable Laws and other similar obligations, in each case in the ordinary course of business;
- (f) the Encumbrance created by a judgment of a court of competent jurisdiction; provided, however, that the Encumbrance is in existence for less than 20 days after its creation or the execution or other enforcement of the Encumbrance is effectively stayed or the claims so secured are being actively contested in good faith and by proper legal proceedings and do not result in the occurrence of an Event of Default;
- (g) the reservations, limitations, provisos and conditions, if any, expressed in any original grant from the Crown of any real property or any interest therein

which do not materially reduce the value of the affected asset or materially interfere with the use of such asset in the operation of the business of the Person and do not have, and will not reasonably be expected to have, a Material Adverse Effect;

- (h) Encumbrances given to a public utility or any municipality or governmental or other public authority when required by such utility or other authority in connection with the operation of the business or the ownership of the assets of the Person which do not materially reduce the value of the affected asset or materially interfere with the use of such asset in the operation of the business of the Person and do not have, and will not reasonably be expected to have, a Material Adverse Effect;
- (i) servicing agreements, development agreements, site plan agreements, and other agreements with Governmental Authorities pertaining to the use or development of any of the assets of the Person, provided same are complied with and do not materially reduce the value of the affected asset or materially interfere with the use of such asset in the operation of the business of the Person and do not have, and will not reasonably be expected to have, a Material Adverse Effect;
- (j) the right reserved to or vested in any Governmental Authority by any statutory provision or by the terms of any lease, licence, franchise, grant or permit of the Person, to terminate any such lease, licence, franchise, grant or permit, or to require annual or other payments as a condition to the continuance thereof;
- (k) Encumbrances in favour of the Agent or the Collateral Agent created by the Security including Encumbrances over Collateral;
- (l) the Encumbrances disclosed in Schedule I but only to the extent such Encumbrances conform to their description in Schedule I, including any extension or renewal thereof, provided that the amount so secured does not exceed the original amount secured immediately prior to the extension, renewal or refinancing and the scope of security creating the Encumbrance is not extended;
- (m) Purchase Money Encumbrances, provided that the maximum aggregate principal amount (or fair market value of Property Encumbered if no principal amount is designated) of Purchase Money Encumbrances for all Obligors, together with all Permitted Obligations permitted under Section 1.1.135(p) does not exceed the amount referenced in Section 1.1.135(p) (or the equivalent thereof in other currencies) at any time; and
- (n) landlords' rights of distraint and similar rights of a landlord (including in Quebec a landlord's hypothec) on tangible personal or moveable Property of the Person located solely on the premises Leased by the landlord to the Person and securing only the obligations of the Person under the applicable Lease of



the premises, so long as the exercise of such rights do not result in the occurrence of an Event of Default.

**1.1.134 "Permitted Investment"** means an Investment by an Obligor in the Communications Business at a time when no Default has occurred and is continuing or would result from such Investment and:

- (a) the *pro forma* Total Leverage Ratio, Senior Leverage Ratio and Interest Coverage Ratio (based on reasonable projections satisfactory to the Agent), after giving effect to such Investment, are in compliance with the covenants set forth in Section 7.1 at the closing of such Investment and for the balance of the term of the Credits; and
- (b) the Investment is not a Hostile Investment; for the purposes of this clause (b), "Hostile Investment" means an Investment made by an Obligor or in which an Obligor is involved, in respect of which the board of directors (or persons performing similar functions) of the Person whose securities are subject to the Investment has recommended rejection of such Investment; and
- (c) there shall be a minimum of Cdn\$50,000,000 remaining undrawn under Credit B after giving *pro forma* effect to the Investment; and
- (d) the subject of the Investment is free of all Encumbrances other than Permitted Encumbrances; and
- (e) on the closing of the Investment, (i) if the Investment is in a Person which is or will be wholly-owned by an Obligor, the Person shall have provided the guarantees, Security and related documentation pursuant to Section 3.1, and (ii) if the Investment is in a Person which is not wholly-owned by an Obligor, the applicable Obligor, to the extent possible, shall have pledged all Debt and Equity of the Person owned by it in favour of the Collateral Agent, and provided all related documentation as required pursuant to Section 3.1; and
- (f) no Lender shall be restricted from financing, supporting or otherwise being involved in or associated with activities located in any jurisdiction relevant to the Investment;

all as confirmed in an officer's certificate delivered by the Borrower to the Agent prior to making the Investment.

**1.1.135 "Permitted Obligations"** means the following:

- (a) the Obligations and Guarantor Obligations including the obligations referred to in Section 3.2(1)(c);
- (b) the Other Secured Obligations;
- (c) the CanWest Publications Debt;

- (d) Debt incurred under, as applicable, the Senior Subordinated Notes or the Term Loan C Facility in an aggregate amount not exceeding US Dollar equivalent of Cdn. \$505,000,000;
- (e) Debt incurred by way of issuance of Senior Subordinated Notes to refinance the Term Loan C Facility;
- (f) debts, liabilities and obligations under Permitted Pari Passu Debt and Permitted Subordinated Debt;
- (g) obligations under Capital Lease Obligations to the extent such arrangements are otherwise permitted hereunder;
- (h) other debts, liabilities and obligations secured by Permitted Encumbrances, other than the Security;
- (i) current accounts payable, accrued expenses and other similar debts, liabilities and obligations incurred in the ordinary course of business which are not for borrowed money, including obligations under Operating Leases;
- (j) obligations under financing arrangements of premiums payable on policies of insurance obtained in the ordinary course of business if and to the extent that no Encumbrance is granted in respect of such obligations other than Encumbrances in premiums which, at any time, have been paid but are, at such time, unearned;
- (k) current taxes and obligations relating to taxes which have arisen but are not yet due and payable;
- (l) obligations and liabilities incurred in the ordinary course of business which do not constitute Debt;
- (m) obligations arising from guarantees made by an Obligor of debts, liabilities and obligations of the Borrower or of another Obligor which is a wholly-owned Subsidiary of the Borrower, that are themselves Permitted Obligations;
- (n) Debt of the Borrower to a wholly-owned Subsidiary of the Borrower that is an Obligor;
- (o) Debt of an Obligor which is a wholly-owned Subsidiary of the Borrower owed to the Borrower or another Obligor which is a wholly-owned Subsidiary of the Borrower;
- (p) other Debt not exceeding in the aggregate for all the Obligors Cdn. \$50,000,000 (or the equivalent thereof in other currencies); and
- (q) other debts, liabilities and obligations expressly permitted under this Agreement or expressly consented to by the Required Lenders in writing.

**1.1.136 "Permitted Pari Passu Debt"** means Debt of the Borrower owed to an Arm's Length Person (which, for greater certainty, may include a Lender not acting in its capacity as such), provided that:

- (a) the ranking of such Debt is not senior to any of the Obligations, Other Secured Obligations or Guarantor Obligations;
- (b) the incurrence of such Debt does not result in a Default;
- (c) such Debt is incurred on terms that are not more favourable to the lender thereof than the terms of the Credits unless:
  - (i) in the case of terms that are not inconsistent with the terms of any of the Loan Documents, the benefit of such terms are provided to the Agent and the other Secured Parties on a most favoured nations basis; and
  - (ii) in the case of terms that are inconsistent with any terms of the Loan Documents, such terms are satisfactory to the Required Lenders;
- (d) the scheduled repayment of any portion of the principal amount of such Debt (or as applicable, any mandatory redemption of any portion of such Debt) does not occur earlier than 30 months following the maturity of the Credits (existing at the time of incurrence of such Debt);
- (e) such Debt is the subject of agreements concerning its priority, enforcement and related matters as may be required by the Agent, acting reasonably, entered into prior to or concurrently with the creation of such Debt; and
- (f) the proceeds of such Debt are used to make a Permitted Investment or to refinance the Credits, Permitted Pari Passu Debt or Permitted Subordinated Debt.

**1.1.137 "Permitted Subordinated Debt"** means Debt of the Borrower to any Person (which for greater certainty, may include a Lender not acting in its capacity as such), provided that:

- (a) no Encumbrance has been granted by any Obligor to secure repayment of all or any portion of such Debt;
- (b) the incurrence of such Debt does not result in a Default;
- (c) such Debt is incurred on terms that are less favourable to the lender thereof than the terms of the Credits;
- (d) the scheduled repayment of any portion of the principal amount of such Debt (or as applicable, any mandatory redemption of any portion of such Debt) does

not occur earlier than six months following the maturity of the Credits (existing at the time of incurrence of such Debt);

- (e) such Debt is fully subordinated and postponed to the Obligations, the Other Secured Obligations and the Guarantor Obligations and is the subject of such agreements concerning its priority of repayment and related matters as may be required by the Agent, acting reasonably, entered into prior to or concurrently with the creation of such Debt; and
- (f) the Net Cash Proceeds of such Debt are used to make a Permitted Investment or to refinance the Credits, Permitted Pari Passu Debt or Permitted Subordinated Debt.

**1.1.138 "Permitted Tax Distributions"** means cash distributions by the Borrower to its partners from time to time in an amount approximately equal to the income tax liability of such partners resulting from the taxable income of the Borrower (after taking into account, to the extent they may reduce such liability, all of the prior tax losses of the Borrower to the extent such losses have not previously been deemed to reduce the taxable income of the Borrower and thereby reduce distributions for taxes in accordance therewith).

**1.1.139 "Person"** has the meaning defined in the Provisions and "person" has the same meaning.

**1.1.140 "Pledged Stock"** means the Capital Stock of any Obligor or any other Person that is pledged as part of the Security from time to time.

**1.1.141 "PPSA"** means the *Personal Property Security Act* (Ontario) and, to the extent relevant, the Personal Property Security Act of each other Canadian jurisdiction.

**1.1.142 "Predecessor Credit Agreement"** means the credit agreement dated as of October 13, 2005 between the Borrower, as borrower, the Obligors, as guarantors, the Lenders (as defined therein), and The Bank of Nova Scotia, as administrative agent, as amended to date.

**1.1.143 "Prime Rate"** means, on any day, the greater of:

- (a) the average of the annual rates of interest expressed as a percentage per annum on the basis of a 365 or 366 day year, as the case may be, announced by each Schedule I Reference Lender on that day as its reference rate for commercial loans made by it in Canada in Canadian Dollars; and
- (b) the CDOR Rate for one month Canadian Dollar banker's acceptances on that day plus 0.75% per annum.

**1.1.144 "Prime Rate Advance"** means an Advance in Canadian Dollars bearing interest based on the Prime Rate and includes any deemed Prime Rate Advance provided for in this Agreement.

- 1.1.145 "Privatization Agreement"** means the privatization agreement made as of May 25, 2007 between CanWest MediaWorks Inc., CWMW Trust, CanWest GP, the Borrower and CanWest MediaWorks Income Fund, as such agreement existed at the date thereof.
- 1.1.146 "Property"** means, with respect to any Person, any or all of its present and future undertaking, property and assets. For the avoidance of doubt, in relation to any Property which is Leased or co-owned or which is property of a partnership or joint venture, the Property of the Person means the interest of the Person in such Property.
- 1.1.147 "Provisions"** means the model credit agreement provisions attached as Schedule D.
- 1.1.148 "Purchase Money Encumbrance"** means any encumbrance, other than a Capital Lease, created, issued or granted by any Obligor to secure Debt incurred by that Obligor as part of, or issued or incurred to provide funds to pay, and not exceeding 100% of, the unpaid purchase price (including installation cost) of any property, if the encumbrance is limited to such property acquired and is created, issued or granted substantially concurrently with the acquisition of such property or in connection with the refinancing of an existing Purchase Money Encumbrance, if the principal amount secured thereby has not increased and the encumbrance continues to be limited to such property.
- 1.1.149 "Register"** has the meaning defined in Section 10(c) of the Provisions.
- 1.1.150 "Related Party"** means, in relation to any Person, a "related party" in respect of such Person within the meaning of Ontario Securities Commission Rule 61-501.
- 1.1.151 "Related Party Debt"** means Debt of an Obligor to an Affiliate (which is not an Obligor) or a Related Party (which is not an Obligor).
- 1.1.152 "Relevant Ratings"** means, collectively, the Credit D Ratings and the corporate/issuer ratings issued to the Borrower by each of S&P and Moody's.
- 1.1.153 "Required Lenders"** means (a) in reference to Credit A or the Lenders under Credit A, the Lenders under Credit A holding, in the aggregate, a minimum of 50.1% of the outstanding amount of the aggregate Commitments of all Lenders under Credit A (or the outstanding aggregate Advances under Credit A if the Commitments have terminated), and (b) in all other contexts, Lenders holding, in the aggregate, a minimum of 50.1% of the aggregate Commitments of all Lenders under all Credits (or the outstanding aggregate advances under all Credits if the Commitments have terminated), excluding in both cases Commitments or Advances held by any Obligor or any Affiliate of any Obligor.
- 1.1.154 "S&P"** means Standard & Poor's Ratings Group, a division of McGraw-Hill, Inc., or any of its successors.
- 1.1.155 "Schedule"** means the designated Schedule of this Agreement.

- 1.1.156 "Schedule I Reference Lenders" means, collectively, The Bank of Nova Scotia, Royal Bank of Canada and The Toronto-Dominion Bank and such other institutions as may be agreed upon by the Borrower and the Agent from time to time, and "Schedule I Reference Lender" means any one of them.
- 1.1.157 "Scotia Capital" means The Bank of Nova Scotia, a bank to which the *Bank Act* (Canada) applies.
- 1.1.158 "Section" means the designated section of this Agreement.
- 1.1.159 "Secured Obligations" means the Obligations, Guarantor Obligations and Other Secured Obligations.
- 1.1.160 "Secured Parties" means, at any time, the Lenders and the Agent in respect of the Obligations and Guarantor Obligations and the Other Secured Parties at such time in respect of the Other Secured Obligations.
- 1.1.161 "Security" means the Collateral Agency Agreement, and all guarantees and security held from time to time by or on behalf of the Secured Parties (including guarantees and security held by the Agent or the Collateral Agent), securing or intended to secure or support, *inter alia*, repayment of any of the Secured Obligations, all control agreements, including, without limitation, the security and guarantees described in Section 3.1 from time to time.
- 1.1.162 "Senior Debt" means the aggregate of (a) the Obligations under or in connection with the Credits, (b) Permitted *Par Passu* Debt, (c) Capital Lease Obligations of any Obligor, and (d) all other secured Debt of any Obligor (but only to the extent that the Debt is required by GAAP to be treated as a liability on a balance sheet for the Person who is liable).
- 1.1.163 "Senior Leverage Ratio" means, at any time, the ratio calculated by dividing (a) Senior Debt at such time by (b) EBITDA determined on an Adjusted Consolidated Basis for the four most recently completed fiscal quarters.
- 1.1.164 "Senior Subordinated Note Indentures" means:
- (a) the indenture to be entered into on or about the date of issuance of the Senior Subordinated Notes in the aggregate amount of US \$400,000,000 between the Borrower, as issuer, certain Obligors, as guarantors, and The Bank of New York and Bank of New York Trust Company of Canada, as trustees; and
  - (b) an indenture entered into on or about the date of issuance of the Senior Subordinated Notes in the aggregate amount of US Dollar equivalent of Cdn. \$75,000,000 between the Borrower, as issuer, certain Obligors, as guarantors, and an indenture trustee.

**1.1.165 "Senior Subordinated Notes" means:**

- (a) the US \$400,000,000 9.25% Senior Subordinated Notes due 2015 to be issued by the Borrower pursuant to the Senior Subordinated Note Indenture to be dated on or about July 13, 2007; and
- (b) the US Dollar equivalent of Cdn. \$75,000,000 Senior Subordinated Notes to be issued by the Borrower to refinance the Term Loan C Facility.

**1.1.166 "Standby Fee" has the meaning defined in Section 2.7.**

**1.1.167 "Subsidiary" means, with respect to a Person, a subsidiary of such Person as defined in the *Canada Business Corporations Act* as of the date of this Agreement (determined as if each such Person was a body corporate), and any other Person in which the Person or any Subsidiary of the Person has the right, directly or indirectly, through one or more intermediaries, to make or Control management decisions.**

**1.1.168 "Swap Transaction" means any interest rate swap, basis swap, forward rate transaction, currency hedging or swap transaction, cap transaction, floor transaction, collar transaction or other similar transaction, whether with respect to interest rates, currencies, commodities (including natural gas, electricity, diesel fuel, home heating fuel or distillates or any other petroleum based products), or any option with respect to such a transaction or combination of any such transactions, and includes Currency Agreements and Interest Rate Agreements.**

**1.1.169 "Swingline Availability" has the meaning defined in Section 2.1(3).**

**1.1.170 "Swingline Availability Excess" has the meaning defined in Section 2.1(3).**

**1.1.171 "Taxes" has the meaning defined in the Provisions.**

**1.1.172 "Term Loan C Facility" means the senior subordinated unsecured eight year term loan facility in the aggregate principal amount of the Cdn. \$75,000,000 or the equivalent thereof in US Dollars established by Citigroup Global Markets Inc. and Scotia Capital in favour of the Borrower pursuant to a credit agreement dated on or about the date of this Agreement between, among others, the Borrower, as borrower, and the Guarantors, as guarantors.**

**1.1.173 "Term Loan C Intercreditor Agreement" shall have the meaning defined in Section 1.1.90(c).**

**1.1.174 "Total Debt" means, at any time, the aggregate, without duplication, of all Debt of the Borrower on an Adjusted Consolidated Basis at that time less an amount in respect of the Obligors' cash on hand up to Cdn. \$25,000,000 which cash is (a) held in an account of an Obligor with the Agent, (b) is not encumbered by any encumbrance other than encumbrances created by the Security, if any, and (c) has not been designated or is not required for a future use.**

**1.1.175 "Total Leverage Ratio"** means, at any time, the ratio calculated by dividing (a) Total Debt at that time by (b) EBITDA for the Borrower's four most recently completed fiscal quarters.

**1.1.176 "Transaction"** means:

- (a) on the Closing Date:
  - (i) the purchase for cancellation by the Borrower of all of its issued and outstanding Class A LP Units held by CWMW Trust;
  - (ii) the purchase for cancellation by CanWest GP of all of its issued and outstanding Equity held by CanWest MediaWorks Income Fund;
  - (iii) the purchase for cancellation by CWMW Trust of all of the notes of CWMW Trust issued and outstanding under the note indenture made as of 13 October 2005 between CWMW Trust and Computershare Trust Company of Canada, as indenture trustee; and
  - (iv) the redemption and cancellation by CWMW Trust of all issued and outstanding trust units of CWMW Trust;
- (b) on the Final Redemption Date, the redemption and cancellation by the CanWest MediaWorks Income Fund of all of all issued and outstanding trust units of the Can West MediaWorks Income Fund; and
- (c) to the extent not fully described in items (a) and (b) above, the other steps contemplated by in the definition of "Transaction" contained in the Privatization Agreement.

**1.1.177 "Transitional L/Cs"** means the letters of credit described in Schedule O.

**1.1.178 "Unrestricted Parties"** means each Affiliate or Subsidiary of an Obligor that is not wholly-owned by such Obligor, together with each affiliate or subsidiary of an Obligor which is wholly-owned by one or more Obligors which has been designated as an "Unrestricted Party" by the Borrower for the purposes of this Agreement.

**1.1.179 "Unrestricted Party Distributions"** means for any period, all amounts of cash (net of withholding taxes paid or payable) that are received by an Obligor from any Unrestricted Party during such period.

**1.1.180 "US Dollars" and "US \$"** means lawful monies of the United States of America.

**1.1.181 "Welfare Plan"** means any life, medical, health, dental, hospitalization, disability, travel, accident, accidental health and dismemberment insurance or other employee benefit or welfare plan, agreement or arrangement, other than a Pension Plan, applicable to any employee of any Obligor, whether or not insured and whether or not subject to any Applicable Laws, but excludes any statutory plans with which any



Obligor is required to comply, including the Canada Pension Plan or plans administered pursuant to applicable provincial health, workers' compensation and employment insurance legislation.

## 1.2 Construction

This Agreement has been negotiated by each party with the benefit of legal representation and any rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not apply to the construction or interpretation of this Agreement.

## 1.3 Certain Rules of Interpretation

In this Agreement:

- (a) the division into sections and other subdivisions thereof and the insertion of headings are for convenience of reference only and shall not affect the construction or interpretation of this Agreement;
- (b) unless specified otherwise or the context otherwise requires:
  - (i) references to any Section or Schedule are references to the Section of, or Schedule to, this Agreement;
  - (ii) "including" or "includes" means "including (or includes) but not limited to" and shall not be construed to limit any general statement preceding it to the specific or similar items or matters immediately following it;
  - (iii) references to contracts, agreements or instruments, unless otherwise specified, are deemed to include all present and future amendments, supplements, restatements or replacements to or of such contracts, agreements or instruments, provided that such amendments, supplements, restatements or replacements to or of such contracts, agreements or instruments have been, if applicable, approved or consented to and otherwise made in accordance with the provisions of this Agreement and the Collateral Agency Agreement;
  - (iv) references to any legislation, statutory instrument or regulation or a section or other provision thereof, unless otherwise specified, is a reference to the legislation, statutory instrument, regulation, section or other provision as amended, restated or re-enacted from time to time;
  - (v) references to any thing includes the whole or any part of that thing and a reference to a group of things or Persons includes each thing or Person in that group;
  - (vi) references to a Person includes that Person's successors and assigns;
  - (vii) all references to specific times are references to Toronto time; and

- (viii) words in the singular include the plural and *vice versa* and words in one gender include all genders.

## ARTICLE 2 THE CREDITS

### 2.1 Amount and Availment Options

- (1) Upon and subject to the terms and conditions of this Agreement, the Lenders severally agree to provide to the Borrower (provided that each Lender's obligation hereunder shall be limited to its respective Applicable Percentage of the applicable Credit):
- (a) a seven day non-revolving term credit facility ("Credit A") for the use of the Borrower in the amounts of up to Cdn. \$1,300,000,000 and up to Cdn. \$618,096 in relation to the Transitional L/Cs;
  - (b) a five year revolving term credit facility ("Credit B") for the use of the Borrower in the amount of up to Cdn. \$250,000,000 or the Equivalent Amount in US Dollars;
  - (c) a five year non-revolving term credit facility ("Credit C") for the use of the Borrower in the amount of up to Cdn. \$65,000,000 or the Equivalent Amount in US Dollars; and
  - (d) a seven year non-revolving term credit facility ("Credit D") for the use of the Borrower in the amount of up to Cdn. \$500,000,000 or the Equivalent Amount in US Dollars.
- (2) At the option of the Borrower:
- (a) Credit A may be utilized by the Borrower by requesting that Prime Rate Advances or Base Rate Advances be made by the Lenders or by requesting that L/Cs in Canadian Dollars be issued by the Issuing Bank;
  - (b) Credit B may be utilized by the Borrower by requesting that Prime Rate Advances, Base Rate Advances or LIBOR Advances be made by the Lenders, by presenting orders to a Lender for acceptance as Banker's Acceptances or by requesting that L/Cs in Canadian Dollars or in US Dollars be issued by the Issuing Bank, provided however, that the aggregate face amount of L/Cs outstanding under Credit B at any time shall not exceed Cdn. \$100,000,000 or the Equivalent Amount in US Dollars;
  - (c) Credit C may be utilized by the Borrower by requesting that Prime Rate Advances, Base Rate Advances or LIBOR Advances be made by the Lenders or by presenting orders to a Lender for acceptance as Banker's Acceptances; and

- (d) Credit D may be utilized by the Borrower by requesting that the Advances thereunder bear interest based on the Base Rate (US) or the LIBO Rate.
- (3) At the option of the Borrower, up to Cdn. \$15,000,000 or the Equivalent Amount in US Dollars of the undrawn available portion of Credit B may be utilized (the "Swingline Availability") by the Borrower by incurring overdrafts in its Canadian Dollar and US Dollar accounts with Scotia Capital, which shall be deemed to be, as applicable, Prime Rate Advances or Base Rate Advances. Advances under the Swingline Availability may temporarily exceed the maximum amount of the Swingline Availability by an amount not in excess of Cdn. \$15,000,000 or the Equivalent Amount in US Dollars (the "Swingline Availability Excess") provided that (a) the Borrower is otherwise entitled to an Advance under this Agreement (other than minimum notice and minimum Advance amount requirements), and (b) the Borrower repays Scotia Capital within one Business Day all Advances under the Swingline Availability Excess. Subject to Section 5.28, Advances under the Swingline Availability will be made solely by Scotia Capital and the Swingline Availability may be availed by the Borrower only through Scotia Capital. Advances under the Swingline Availability and the Swingline Availability Excess will reduce, to the extent of the Advances thereunder, the amounts available to be drawn under Credit B.

## 2.2 Revolving/Non-Revolving Credits

- (1) Credit A is a seven day non-revolving credit. The principal amount of any Advance under Credit A that is repaid may not be reborrowed. Credit A shall be available in a single Advance on the Closing Date (or such later date as is agreed by the applicable Lenders in their sole discretion). Any unused portion of Credit A (other than in relation to the Transitional L/Cs) will be immediately cancelled following such single initial Advance. If no Advance has been made under Credit A on the Closing Date (or such later date as is agreed by the applicable Lenders in their sole discretion), the remaining available portion of Credit A shall be cancelled.
- (2) Credit B has a term of five years, such term commencing on the day of the initial Advance thereunder. Credit B is a revolving Credit and the principal amount of any Advance under Credit B which is repaid from time to time may, subject to the terms of this Agreement, be reborrowed.
- (3) Credit C has a term of five years, such term commencing on the day of the Advance thereunder. Credit C is non-revolving credit and the principal amount of any Advance under Credit C that is repaid may not be reborrowed. Credit C shall be available in a single Advance for seven days after the Closing Date. Any portion of Credit C which remains undrawn after such single Advance shall be automatically cancelled. If no Advance has been made under Credit C within seven days after the Closing Date, Credit C shall be automatically cancelled.
- (4) Credit D has a term of seven years, such term commencing on the day of the Advance thereunder. Credit D is non-revolving credit and the principal amount of any Advance

under Credit D that is repaid may not be reborrowed. Credit D shall be available in a single Advance for seven days after the Closing Date. Any portion of Credit D which remains undrawn after such single Advance shall be automatically cancelled. If no Advance has been made under Credit D within seven days after the Closing Date, Credit D shall be automatically cancelled.

### 2.3 Use of the Credits

- (1) Credit A is available as a short-term credit facility to indirectly finance the redemption of the units of CanWest MediaWorks Income Fund, as contemplated by the Transaction, for the repayment of certain outstanding debt and to provide for the Transitional L/Cs.
- (2) Credit B shall be used for general corporate purposes of the Borrower including:
  - (a) partial repayment of Credit A;
  - (b) for the purpose of funding Distributions to holders of partnership units of the Borrower made in accordance with the terms of this Agreement to a maximum amount of \$75,000,000 over the term of the Credit B; and
  - (c) funding Permitted Investments of the Borrower;

provided however, that Credit B may not be used to repay or refinance any Permitted Pari Passu Debt, Permitted Subordinated Debt or Senior Subordinated Notes.

Notwithstanding Section 2.3(2)(b), Advances under Credit B to fund payment of distributions to holders of partnership units of the Borrower will be permitted only if at the time of any such payment (a) the Senior Leverage Ratio does not exceed 3.5 to 1.0 on a *pro forma* basis taking into account the payment, (b) not less than Cdn. \$50,000,000 of Credit B remains undrawn on a *pro forma* basis taking into account the payment, and (c) no Default has occurred and is continuing or would result from such payment on a *pro forma* basis for the next following 18 months.

- (3) Credit C and Credit D shall be used to repay Credit A and to pay costs associated with this Agreement and the Transaction.

### 2.4 Term and Repayment

- (1) Credit A and all obligations relating thereto shall be repaid in full and cancelled no later than that day which is seven days after the Closing Date.
- (2) Credit B and all obligations relating thereto shall be repaid in full and cancelled on that day which is five years after the date of the initial Advance thereunder. No interim amortization is required in relation to Credit B.
- (3) Credit C and all obligations relating thereto shall be repaid in full and cancelled on that day which is five years after the date of the Advance thereunder. The amount of

Credit C shall be permanently reduced on the last day of each fiscal quarter of the Borrower (each, a "Mandatory Reduction Date") by amounts to be negotiated which shall in no event be less than the applicable amounts specified below:

Mandatory Reduction Dates Occurring During:	Amount of Repayment
Years 1 and 2	Nil
Year 3	5%
Year 4	10%
Year 5	10%

- (4) Credit D and all obligations relating thereto shall be repaid in full and cancelled on that day which is seven years after the date of the Advance thereunder. The amount of Credit D shall be permanently reduced on the last day of each fiscal quarter of the Borrower by an amount equal to 0.25% of the original principal amount of Credit D.

**2.5 Mandatory and Voluntary Prepayments: Deposit Prepayment Offer**

- (1) The first Cdn. \$335,000,000 (or the equivalent Amount in US Dollars) of Net Cash Proceeds arising from, as applicable, the issuance of the Senior Subordinated Notes or the incurrence of Debt under the Term Loan C Facility shall be applied, first, to permanently repay amounts owing under Credit A until Credit A is fully repaid. Thereafter, subject to Section 2.5(4), the amounts outstanding under Credit C and Credit D shall be permanently repaid, *pro rata*, by 100% of the amount of all Net Cash Proceeds of any issuance of Permitted Pari Passu Debt and Permitted Subordinated Debt (which, for avoidance of doubt and except as aforesaid, do not include the proceeds of the Senior Subordinated Notes) to the extent that any such Net Cash Proceeds have not been used to make a Permitted Investment (which, for these purposes, shall not include any guarantee or other financial assistance or Investments in Cash Equivalents) within 18 months after receipt of such proceeds. For avoidance of doubt, the Borrower shall be permitted to issue Senior Subordinated Notes in an aggregate amount not to exceed the US Dollar equivalent of Cdn. \$75,000,000 to refinance the Term Loan C Facility.
- (2) 100% of all Net Cash Proceeds of all equity issuances shall be applied, first, to permanently repay amounts owing under Credit A until Credit A is fully repaid and thereafter, subject to Section 2.5(4), 75% of Net Cash Proceeds of all equity issuances, to the extent that any such Net Cash Proceeds have not been used to make a Permitted Investment (which, for these purposes, shall not include any guarantee or other financial assistance or Investments in Cash Equivalents) within 18 months after receipt of such proceeds, shall be applied to permanently repay amounts outstanding under Credit C and Credit D on a *pro rata* basis.
- (3) If (i) an Obligor sells, transfers or otherwise disposes of any part of its Property (including Capital Stock of other Persons) having a value for all Obligors in excess of

an aggregate of Cdn. \$20,000,000 in any fiscal year of the Borrower (but excluding sales, transfers and other dispositions to another Obligor and sales of inventory in the ordinary course of business), or (ii) any Property of a Restricted Party is expropriated, condemned, destroyed, damaged or otherwise lost, the Borrower shall:

- (a) in the case of a sale, transfer or other disposition described in Section 2.5(3)(i), to the extent that any Net Cash Proceeds arising therefrom have not been used to make a Permitted Investment (which, for these purposes, shall not include any guarantee or other financial assistance or Investments in Cash Equivalents) within 18 months after receipt of the Net Cash Proceeds, offer to repay Advances under Credit C and Credit D equal to 100% of such remaining the Net Cash Proceeds on a *pro rata* basis; or
- (b) in the case of the circumstances described in Section 2.5(3)(ii), offer to repay Advances under Credit C and Credit D on a *pro rata* basis equal to 100% of the proceeds of all property insurance and other compensation for the expropriation, condemnation, destruction, damage or other loss of any Property of an Obligor except to the extent such proceeds are paid on account of the obligations secured by a Permitted Encumbrance having priority over the Security, are used to repair or replace the Property expropriated, condemned, destroyed, damaged or otherwise lost within 12 months after the receipt thereof or required to be otherwise applied under the Collateral Agency Agreement.

Each offer provided for in Section 2.5(3)(a) and Section 2.5(3)(b) (a "**Disposition Prepayment Offer**") shall be made on the next Business Day following, in the case of an offer pursuant to Section 2.5(3)(a) the expiry of the 18-month period described in Section 2.5(3)(a), and in the case of an offer pursuant to Section 2.5(3)(b), the expiry of the 12-month period described in Section 2.5(3)(b) by notice in writing to the Agent which notice shall state the aggregate amount of such Disposition Prepayment Offer and contain particulars as to the amount of proceeds received by the applicable Obligor, the amount used to make a Permitted Investment or to repair or replace property and such other information as may be relevant in the circumstances. Upon receipt by the Agent of a Disposition Prepayment Offer, the Agent shall promptly notify each Lender under Credit C and Credit D of such offer. Such Lenders will have five Business Days from the making of any such Disposition Prepayment Offer to accept it, and any Disposition Prepayment Offer not accepted within such time period shall be deemed rejected. The Agent shall notify the Borrower no later than ten Business Days following receipt of the Disposition Prepayment Offer as to the amount of prepayment that the Lenders have accepted. To the extent a Disposition Prepayment Offer is accepted by the Lenders, such prepayment shall be made on a date no later 15 Business Days after the date of such Disposition Prepayment Offer. If the amount offered by the Borrower to prepay Advances exceeds the accepted amount of the Disposition Prepayment Offer, so long as no Default has occurred and is continuing, the Borrower may keep the balance and may use same subject to the provisions of this Agreement. Notwithstanding the foregoing, the Required Lenders may require that the Net Cash Proceeds referred to in Section 2.5(3)(a) or Section 2.5(3)(b) be immediately used to repay Credit C and Credit D if a Default has

occurred and is continuing. Upon receipt by the Borrower of any Net Cash Proceeds referred to in Section 2.5(3)(a) or Section 2.5(3)(b), the Borrower shall give the Agent written notice of such receipt and of the relevant Obligor's intention to apply such monies as permitted by Section 2.5(3)(a) or Section 2.5(3)(b), as applicable, which monies shall be held in a cash collateral account restricted in use to such application in which the Agent has a preferred first priority security interest.

- (4) Notwithstanding the principal payments contemplated in Sections 2.4(4), 2.5(1) and 2.5(2), the aggregate amount of all mandatory principal payments under Credit D within the first five years following the date of the initial Advance of Credit D (being July 13, 2012) shall not exceed 25% of the original principal amount of Credit D (being US \$116,550,116.55), except for payments required as a result of a Default or the acceptance of an offer made pursuant to Section 2.5(3). If the preceding sentence would prevent a mandatory payment in respect of Credit D, the principal payment that would have been paid in respect of Credit D shall instead be paid in respect of Credit C as long as it remains outstanding and thereafter shall be applied to repay and permanently reduce Credit B.
- (5) Voluntary prepayments of Credit C or Credit D shall be applied to Credit C and Credit D on a *pro rata* basis, based on the outstanding principal amount at the time of payment, and shall be applied to reduce the scheduled instalments of Credit C and Credit D, including the payment due on maturity, on a *pro rata* basis, except that voluntary prepayments may first be applied on a *pro rata* basis against the next quarterly instalment of each of Credit C or Credit D. Mandatory prepayments and payments made on the acceptance of an offer made pursuant to Section 2.5(3) shall be applied to reduce the scheduled instalments of Credit C and Credit D, including the payment due on maturity, on a *pro rata* basis. If any scheduled instalment of Credit D is prevented by reason of Section 2.5(4), the reduction that would otherwise have been made to that instalment shall instead be made *pro rata* to the corresponding scheduled instalments of Credit C.
- (6) In the event that Credit C and Credit D have been fully repaid, Net Cash Proceeds which would otherwise have been applied under Section 2.5(2) or Section 2.5(3) shall be applied in repayment and permanent reduction of Credit B.
- (7) The Borrower may prepay Prime Rate Advances and Base Rate Advances under the Credits upon prior written notice given in accordance with Section 5.4 and, subject to Section 5.5, may prepay LIBOR Advances under the Credits upon three Business Days prior written notice, without premium or penalty in minimum amounts of Cdn. \$5,000,000 and integral multiples of Cdn. \$1,000,000, in the case of Prime Rate Advances and in minimum amounts of US \$5,000,000 and integral multiples of US \$1,000,000, in the case of Base Rate Advances or LIBOR Advances, and except that no Banker's Acceptance or BA Equivalent Loan may be paid prior to its maturity date and any prepayments of Advances shall include payment of all breakage costs. The Borrower may cash collateralize outstanding Banker's Acceptances and BA Equivalent Loans.

**2.6 Interest Rates, Fees and L/C Commissions - Credits A, B and C**

- (1) Interest rates, Banker's Acceptance Fees, L/C commissions and standby fees for Credit A, Credit B and Credit C will vary and be calculated based on the Total Leverage Ratio as follows:

<b>Total Leverage Ratio</b>	<b>Applicable Margin for Prime Rate Advances and Base Rate Advances (% per annum)</b>	<b>BA Fees, L/C Commissions and Applicable Margin for LIBOR Advances (% per annum)</b>	<b>Standby Fees (% per annum)</b>
Greater than 5.50 to 1	1.50%	2.50%	0.600%
Less than or equal to 5.50 to 1 but greater than 5.00 to 1	1.00%	2.00%	0.525%
Less than or equal to 5.00 to 1 but greater than 4.50 to 1	0.75%	1.75%	0.450%
Less than or equal to 4.50 to 1	0.50%	1.50%	0.400%

- (2) Any increase or decrease in interest rates, Banker's Acceptance Fees, L/C commissions and Standby Fees for Advances under Credit A, Credit B or Credit C resulting from a change in the Total Leverage Ratio shall be effective as of the earlier of the date on which the Borrower delivers a Compliance Certificate and the date on which a Compliance Certificate concerning the calculation of the Total Leverage Ratio was due, except that if a Compliance Certificate is late, any resulting decrease shall be effective only as of the date that a Compliance Certificate fully completed and in satisfactory form is actually received by the Agent. Banker's Acceptance Fees accepted or commissions related to L/Cs issued, in either case, before the effective date of an increase or decrease under this Section 2.6(2), will not be adjusted.
- (3) All interest rates, Banker's Acceptance Fees, L/C commissions and Standby Fees set forth in Section 2.6(1) are rates per annum. Interest on Prime Rate Advances and Base Rate Advances under Credit A, Credit B and Credit C shall, as applicable, be the Prime Rate or Base Rate (Canada) plus the relevant rate shown in the column of the table in Section 2.6(1) headed "Applicable Margin for Prime Rate Advances and Base Rate Advances". The rate for Banker's Acceptance Fees for Advance by way of Banker's Acceptance under Credit A, Credit B and Credit C shall be the relevant rate shown in the column of the table in Section 2.6(1) headed "BA Fees, L/C



Commissions and Applicable Margin for LIBOR Advances". The commission for L/Cs issued under Credit A or Credit B shall be the relevant rate shown in the column of the table in Section 2.6(1) headed "BA Fees, L/C Commissions and Applicable Margin for LIBOR Advances". Interest on LIBOR Advances made under Credit B or Credit C shall be the LIBO Rate for the applicable LIBOR Period plus the relevant rate shown in the column of the table in Section 2.6(1) headed "BA Fees, L/C Commissions and Applicable Margin for LIBOR Advances". Interest on Prime Rate Advances, Base Rate Advances and LIBOR Advances and Banker's Acceptances Fees, L/C commissions and Standby Fees received by the Agent shall be promptly distributed by the Agent to the Lenders in accordance with their respective Applicable Percentages.

- (4) In addition to the L/C commission referred to in this Section 2.6, the Borrower shall pay a fronting fee to the Issuing Bank for its own account as issuer of L/Cs, in an amount equal to 0.10% per annum on the face amount of each L/C, payable on issuance. As well, customary administrative, issuance, amendment, payment and negotiation fees shall be payable to the Issuing Bank for its account as issuer of each L/C.
- (5) Interest rates, Banker's Acceptance Fees, L/C commissions and Standby Fees for the period beginning on the Closing Date and ending on the date on which the quarterly Compliance Certificate of the Borrower for its first full fiscal quarter completed following the Closing Date is due shall be calculated on the basis that the Total Leverage Ratio is less than or equal to 5.0 to 1.0 but greater than 4.5 to 1.

## 2.7 Standby Fee

Commencing on that day which is the earlier of (1) seven days after the Closing Date, and (2) the date of the first Advance under Credit B, Credit C or Credit D (the "start date"), the Borrower shall pay a standby fee ("Standby Fee") on the daily unadvanced portion of Credit B at a rate per annum which shall vary and be calculated based on the Total Leverage Ratio as set out in the column of the table in Section 2.6(1) headed "Standby Fee". The Standby Fee shall be calculated daily beginning on the start date and shall be payable monthly in arrears on each Interest Payment Date. Upon final payment of the Obligations relating to Credit B, the Borrower shall also pay any accrued but unpaid Standby Fees on Credit B.

## 2.8 Interest Rates – Credit D

- (1) The interest rate applicable to Advances under Credit D shall be equal to, as applicable, the LIBO Rate plus 2.00% per annum or the Base Rate (US) plus 1.00% per annum payable in the case of LIBOR Advances, on the last day of the applicable LIBOR Period or at the end of the third month if the applicable LIBOR Period is six months and, in the case of Base Rate Advances, on the 21st day of each calendar month.

- (2) Interest on Advances under Credit D received by the Agent shall be promptly distributed by the Agent to the Lenders under Credit D in accordance with their respective Applicable Percentages.

## 2.9 Annual Agency Fees

The Borrower shall pay to the Agent, *inter alia*, the annual agency fee provided in the Fee Letter. The processing and recordation fee payable to the Agent by a Lender as contemplated in Section 10(b)(vi) of the Provisions is Cdn. \$3,500.

## 2.10 Exchange Rate Fluctuations

If at any time fluctuations in rates of exchange in effect between US Dollars and Cdn. Dollars cause the aggregate amount of Advances (expressed in Cdn. Dollars using the Exchange Rate) outstanding under any of Credit A, Credit B or Credit C to exceed the maximum amount of such Credit permitted herein, the Borrower shall pay to the Lenders within one Business Day after demand given to it by the Agent such amount as is necessary to repay the excess. If the Borrower is unable to immediately pay that amount because LIBOR Periods have not ended or Banker's Acceptances have not matured, the Borrower shall, within one Business Day following demand, cause to be deposited with the Agent Collateral in the amount of the excess, which shall be held by the Agent until the amount of the excess is paid in full. The Borrower shall be entitled to receive interest on cash held by the Agent as Collateral in accordance with Section 10.10. If, on the date of any Advance under a Credit other than Credit D (whether by rollover, conversion or otherwise), the aggregate amount of Advances (expressed in Cdn. Dollars using the Exchange Rate) under such Credit exceeds the maximum amount of such Credit permitted herein because of fluctuations in rates of exchange, the Borrower shall immediately pay the Lenders the excess and shall not be entitled to any Advance that would result in the amount of such Credit being exceeded.

## 2.11 Uncommitted Expansion Amount

- (1) The Borrower may request that any of Credit B, Credit C or Credit D be increased for specified uses by an aggregate amount not to exceed Cdn. \$260,000,000, which amount shall automatically increase to Cdn. \$335,000,000 when the obligations under the Term Loan C Facility have been fully repaid and the commitments thereunder have been terminated (the "**Uncommitted Expansion Facility**"). The Uncommitted Expansion Facility is an uncommitted credit facility and no Lender has any obligation to the Borrower to provide any Advance thereunder except as set forth in this Section 2.11. The Borrower agrees that it shall deliver a request to the Agent under Section 2.11(3) prior to agreeing to obtain additional financing from any other bank or commercial lender in the case of Credit B or Credit C.
- (2) At any time prior to the maturity date of Credit B, Credit C or Credit D, as applicable, and provided that there exists no Default which is continuing, the Borrower may provide to the Agent a request (a "**Commitment Request**") for the Lenders to commit to provide an amount under the Uncommitted Expansion Facility, which amount shall

not be less than Cdn. \$50,000,000, in the case of Credit A or Credit B, or US \$50,000,000, in the case of Credit D.

- (3) Any such increase requested will be subject to obtaining commitments from new or existing Lenders on terms, in the case of Credit B or Credit C, other than upfront fees, identical to those in this Agreement for, as applicable, Credit B and Credit C. The terms of any additional tranche of Credit D will be identical to those in this Agreement for Credit D other than (a) the maturity date of any additional tranche to Credit D shall be no earlier than the maturity date of Credit D originally established by this Agreement, (b) the weighted average life to maturity of any such additional tranche of Credit D shall be no shorter than the weighted average life to maturity of Credit D originally established by this Agreement, and (c) the interest rates and amortization schedule applicable to any such additional tranche to Credit D (subject to item (b) of this Section 2.11(3)) shall be determined by the Borrower and the Lenders (including any new lenders) thereunder.
- (4) Each Commitment Request shall be given not more than 35 Business Days, nor less than 30 Business Days, prior to the date of effectiveness of the proposed Commitment Increase.
- (5) Each such Commitment Request shall include (a) the aggregate amount of the commitment being requested (the "Requested Amount"), and (b) the upfront fee the Borrower is prepared to pay in relation to the Requested Amount, (c) the date of the proposed first Advance under the Commitment Request.
- (6) The Agent shall forward to each Lender, promptly after receipt thereof, a copy of each Commitment Request together with a request that each Lender respond to the Agent in relation thereto. Each Lender shall determine, in its sole and unfettered discretion, whether it wishes to commit its *pro rata* share of the Requested Amount and provide the Agent its response in that regard not later than ten Business Days following the day upon which the Lender provided notice of the Commitment Request to the Agent, with any failure by a Lender to so respond being deemed to be a refusal to provide its *pro rata* share of the Requested Amount.
- (7) The Agent shall promptly after such tenth Business Day provide a notice to the Borrower and each Lender which specifies (a) the identity of the Lenders that have agreed to provide a commitment under the Commitment Request (the "Committing Lenders"), (b) the aggregate amount committed to by the Committing Lenders, (c) in the event that the aggregate amount committed to by the Committing Lenders is less than the Requested Amount (such shortfall being the "Commitment Deficit"), an invitation to each Committing Lender to commit, in its sole and unfettered discretion, to increase its commitment by its *pro rata* share of the Commitment Deficit, and (d) and the date upon which each Committing Lender is required to provide to the Agent its response in that regard, which, in any event, shall not be later than five Business Days following day upon which the Lender provided notice of the opportunity to participate in the Commitment Deficit, with any failure by a

Committing Lender to so respond being deemed to be a refusal to provide its *pro rata* share of the Commitment Deficit.

- (8) The Agent shall promptly after such fifth Business Day provide a notice (the "**Existing Lender Notice**") to the Borrower and each Lender which specifies (a) the aggregate amount committed to by the Committing Lenders, (b) the allocation of the such aggregate amount committed to among the Committing Lenders, (c) the date such new commitment is to become effective, (d) the difference, if any between the Requested Amount and the aggregate amount committed to by the Committing Lenders (the "**Remaining Deficit**"), and (e) such other matters as the Agent may, in its discretion, include.
- (9) Following receipt by the Borrower of the Existing Lender Notice, the Borrower may invite one or more banks or other commercial lenders (who are not then Lenders), to provide all or a portion of the Remaining Deficit. The aggregate amount committed to by the Committing Lenders together with any commitment in relation to the Remaining Deficit as contemplated in this subsection, is referred to herein as a "**New Commitment**".
- (10) The transactions arising from the Commitment Request shall be completed within 20 days after the Agent delivers the Existing Lender Notice. In connection therewith, and prior to the initial Advance under the New Commitment, the Borrower and each other Obligor shall enter into an amendment to this Agreement, to the extent necessary and provide such other material, parallel in scope to the documentation described in Sections 4.1(6) and 4.1(7) and pay any related fees in relation to the New Commitment, as the Agent may reasonably request.
- (11) The Borrower may not make more than five Commitment Requests during the term of this Agreement.
- (12) For greater certainty, no approval of any Commitment Request shall be required from any Lender which is not a Committing Lender.

### **ARTICLE 3 SECURITY**

#### **3.1 Security**

- (1) The Security shall include the following, all in form and substance satisfactory to the Lenders and subject only to Permitted Encumbrances:
  - (a) the unconditional and unlimited guarantees of the Obligations and the Other Secured Obligations by each of the Guarantors in favour of the Agent;
  - (b) first-ranking security over all present and future Property of each Obligor in the form of a general security agreement made by each Obligor in favour of the Agent;

- (c) first ranking security over all present and future movable and immovable Property of each Obligor which has Property located inside the Province of Quebec in the form of a deed of hypothec to secure the payment of debentures or bonds in favour of the Collateral Agent as fondé de pouvoir, creating a hypothec over all movable and immovable Property in the Province of Quebec, together with a debenture or bond issued thereunder in favour of the Collateral Agent in the face principal amount of Cdn. \$3,000,000,000 and a pledge agreement relating thereto;
- (d) first ranking security over the real Property of the Obligors listed in Schedule J, in the form of a fixed and floating charge debenture in the principal amount of Cdn. \$3,000,000,000;
- (e) a first-ranking securities pledge agreement made by each Obligor in favour of the Collateral Agent of all Equity Interests in and Debt of any other Obligor owned by it including, without limitation:
  - (i) a pledge by the Borrower (and/or other applicable Obligor) of all of the issued and outstanding Equity of CanWest Publications;
  - (ii) a pledge by CanWest Publications of all of the issued and outstanding Equity of CanWest Books Inc. and
  - (iii) a pledge by CanWest OP of all of the issued and outstanding Equity of the Borrower held by it;
- (f) to the extent possible under any applicable agreements relating thereto, a first ranking securities pledge agreement in favour of the Collateral Agent of all Equity and Debt of Persons other than an Obligor that is owned by any Obligor from time to time;
- (g) first-ranking specific assignment in favour of the Collateral Agent of Material Contracts specified by the Agent, if any;
- (h) first ranking specific assignments of all intercorporate indebtedness, together with all security, guarantees and other documentation delivered under or in connection therewith, to which any Obligor is party as a creditor, together with all acknowledgments, consents and other documents necessary to give effect to such assignments, in favour of the Collateral Agent by each Obligor that is a party thereto, including the CanWest Publications Notes;
- (i) a first-ranking assignment by each Obligor in favour of the Collateral Agent of all policies of insurance of each Obligor and all proceeds thereunder with respect to all Property that is subject to the Security (excluding, for greater certainty, directors and officers liability, and public liability policies and proceeds thereof payable to third parties), with the Collateral Agent named as an additional insured under public liability policies and first loss payee under

all such insurance policies (excluding, for greater certainty, directors and officers liability and public liability policies), together with acknowledgments by the insurer under each such policy and certificates of all such insurance showing the Collateral Agent as an additional insured and first loss payee as required;

- (j) a first ranking security interest by each Obligor which owns material Intellectual Property in favour of the Collateral Agent of all material Intellectual Property owned by the Obligor; and
  - (k) such other security documents granting Encumbrances on the Property of the Obligor as the Agent may reasonably request, and all such other agreements, documents and instruments required by the Agent to provide the Secured Parties with continuing collateral security for the performance of the Secured Obligations.
- (2) The net income of any Person shall only be included in EBITDA if such Person is, or shall have become, a party to this Agreement by delivery of an agreement in the form of Schedule B and has delivered a guarantee and the Security contemplated hereby and become a party to the Collateral Agency Agreement, as guarantor. The Borrower shall give prompt written notice to the Agent of, and the Obligors shall cause each Person that becomes a wholly-owned Subsidiary of the Obligors (or any of them), as soon as practicable following the date on which such Person became a wholly-owned Subsidiary of one or more of the Obligors (but in any event not later than 90 days thereafter), to adopt this Agreement by delivery of an agreement in the form of Schedule B so as to be bound by all of the terms applicable to Guarantors as if it had executed this Agreement as a Guarantor on the date of this Agreement, and deliver a guarantee and the Security contemplated hereby and become a party to the Collateral Agency Agreement, as guarantor. The applicable Obligors shall also deliver or cause the delivery of a pledge of all of the Equity and Debt of each new Guarantor owned by such Obligor in favour of the Collateral Agent as part of the Security and cause the delivery of such legal opinions and other supporting documents as the Agent may reasonably require.
- (3) If at any time any Obligor owns or obtains any Equity or Debt of a Person that is not a wholly-owned Subsidiary of the Borrower, such Obligor shall, to the extent possible, cause such Equity or Debt to immediately be pledged in favour of the Collateral Agent as part of the Security and cause the delivery of such legal opinions and other supporting documents as the Agent may reasonably require it being understood and agreed that each Obligor will use commercially reasonable good faith efforts to permit such pledges on commercially reasonable terms in the course of negotiation of such an Investment.
- (4) The Borrower shall take such steps as may be required by the Agent to enable the Agent to obtain and maintain Control (as defined in the PPSA) of any Investment Property (as defined in the PPSA) included in the Property subject to any of the Security including arranging for any issuer of Uncertificated Securities (as defined in

the PPSA) or any Securities Intermediary (as defined in the PPSA) to enter into an agreement satisfactory to the Agent to enable the Agent to obtain and maintain Control (as so defined).

- (5) The Borrower, in consultation with the Agent, and as directed by the Agent in any case of uncertainty, shall cause, at its expense, all Security to be registered, filed or recorded (prior to or substantially concurrent with the execution of the Security) in all offices in all jurisdictions where such registration, filing or recording is necessary or desirable for the creation, enforceability, perfection, priority or preservation of the Security or as the Agent or Collateral Agent may from time to time reasonably require.
- (6) Each Obligor acknowledges that, without limiting the obligations of the Obligors in Section 3.1(4), the registration of, and documentation in respect of, the Security has been based upon Applicable Laws in effect at the date hereof in the relevant jurisdictions and that such Applicable Laws may change or the Agent may, acting reasonably, elect to register some or all of the Security in other jurisdictions. Each Obligor agrees that the Agent shall have the right to require that such documentation and/or registrations be amended or supplemented from time to time to reflect any changes in such Applicable Laws (if, in the opinion of the Agent, any such action is necessary or desirable for the enforceability, perfection, priority or preservation of any Security) whether arising as a result of statutory amendments, court decisions or otherwise, or registration requirements of other jurisdictions, in order to grant to the Collateral Agent on behalf of the Secured Parties the Encumbrances intended to be created and perfected thereby. In addition, each Obligor shall, from time to time, upon request of the Agent, execute and deliver all such further instruments of hypothecation, assignment, transfer, mortgage, pledge or charge as the Agent may reasonably request to grant to the Agent on behalf of the Secured Parties valid Encumbrances intended to be created and perfected by the Security.
- (7) Each Obligor shall, immediately upon the acquisition of any material freehold or leasehold real or immovable property (as determined by the Agent), grant to the Collateral Agent a fixed charge over that freehold or leasehold real or immovable property, and cause the delivery of such legal opinions and supporting documents as the Agent may reasonably require.
- (8) The Borrower shall promptly notify the Agent and the Collateral Agent (a) if the location of its head office (and chief executive office, if different) or the location of its Property changes from that set out in Schedule F, and provide the Collateral Agent with such further security and other documents (including legal opinions) as the Agent may reasonably request for the purpose of ensuring continued effectiveness of all Security; and (b) if it or any other Obligor acquires or owns Property having a value in excess of Cdn. \$5,000,000 in any jurisdiction other than the jurisdictions in which it is designated as owning Property in Schedule F, and provide the Collateral Agent with such security and other documents (including legal opinions) as the Agent may reasonably request for the purpose of ensuring continued effectiveness of all Security.

### 3.2 Obligations Secured by the Security

- (1) The documents constituting the Security shall secure the following obligations which, unless otherwise provided in the Collateral Agency Agreement or agreed by the Lenders among themselves, shall rank *pari passu* with each other:
  - (a) the Obligations and Guarantor Obligations;
  - (b) the Other Secured Obligations;
  - (c) all other indebtedness, liabilities and obligations of the Obligor under the Loan Documents; and
  - (d) the other indebtedness, liabilities and obligations of the Obligor secured under or pursuant to the Collateral Agency Agreement.
  
- (2) As of the date of this Agreement, the Other Secured Obligations are those listed in Schedule G. The Agent from time to time shall prepare and provide the Lenders and the Borrower with a revision of Schedule G to reflect changes in the Other Secured Obligations to the extent notified in writing by the Borrower to the Agent, but any failure to do so shall not affect the security for any Other Secured Obligations in favour of any Other Secured Parties. Other Secured Obligations in favour of the Other Secured Parties listed on Schedule G from time to time shall be conclusively deemed to be secured by the Security (in the absence of manifest error) and shall not cease to be secured without the prior written consent of the respective Secured Parties to whom the Other Secured Obligations are owed. If the Obligations have been indefeasibly paid and performed in full in cash and the Commitments have been terminated, the Secured Parties (in their respective capacities as Secured Parties and without prejudice to the retention of any interest in the Security in their capacities, if any, as Persons to whom are owed other obligations secured under or pursuant to the Security (other than Other Secured Obligations)) will release their interest in the Security upon receiving Collateral to secure the Other Secured Obligations, in an amount satisfactory to the Secured Parties to whom Other Secured Obligations are owed, acting reasonably. Each Other Secured Party, by its acceptance of the benefit of any Security, shall be deemed to have accepted and be bound by the provisions of this Agreement applicable to Other Secured Parties and regarding the terms upon which the Other Secured Obligations are secured by the Security, and authorizes and directs the Agent to act accordingly.
  
- (3) Notwithstanding the rights of Other Secured Parties to benefit from the Security in respect of the Other Secured Obligations, all decisions concerning the Security and the enforcement thereof shall be made by the Lenders or the Required Lenders in accordance with this Agreement and the Collateral Agency Agreement. No Other Secured Party holding Other Secured Obligations from time to time shall have any additional right to influence the Security or the enforcement thereof as a result of holding Other Secured Obligations as long as this Agreement remains in force. No such Other Secured Party shall be able to enforce or realize on the Security unless the



Lenders pursuant to the terms of the Collateral Agency Agreement are at the same time enforcing or realizing on the Security for the Obligations and Guarantor Obligations. However, the Other Secured Obligations shall continue to be secured by the Security notwithstanding the termination of this Agreement by reason of payment of the Credits, or for any other reason and all Other Secured Obligations owed to any Other Secured Party shall continue to be secured by the Security after such Other Secured Party ceases to be the Agent or a Lender or have an Affiliate which is the Agent or a Lender. After the termination of this Agreement, decisions concerning the Security shall be made by the holders of Other Secured Obligations as they may determine among themselves or, if applicable, in accordance with the Collateral Agency Agreement.

#### ARTICLE 4 DISBURSEMENT CONDITIONS

##### 4.1 Conditions Precedent to Credit A

The following conditions precedent must be satisfied at or before the time of the initial Advance under Credit A, unless waived by the Lenders. Where delivery of documents is referred to, the documents shall be delivered to the Agent or and on behalf of the Lenders, and, if applicable, to the Collateral Agent, and shall be in full force and effect and in form and substance satisfactory to the Lenders.

- (1) **Other Debt and Encumbrances** – The Lenders shall:
- (a) be satisfied that all Debt of each of the Obligors not forming part of Permitted Obligations has been or will be paid and performed in full and cancelled concurrently with the initial Advance (including Debt outstanding under the Predecessor Credit Agreement) such that the only Debt of the Obligors that is outstanding forms part of the Permitted Obligations;
  - (b) have received releases and discharges (in registrable form where appropriate) covering all Encumbrances affecting the Property of the Obligors which are not Permitted Encumbrances in all applicable jurisdictions, and all statements and acknowledgments that are reasonably required in respect of other security interests affecting the Property of any Obligor to confirm that they are Permitted Encumbrances; and
  - (c) be satisfied that no Permitted Obligation ranks senior to, as applicable, the Obligations, the Guarantor Obligations and Other Secured Obligations.
- (2) **Going-Private Transaction** – The Lenders shall be satisfied that:
- (a) the steps of the Transaction described in Section 1.1.176(a) will be or have been fully completed on or prior to the Closing Date;
  - (b) all required court, governmental and regulatory consents and approvals and all other third party consents and approvals, necessary or advisable in relation to

the Transaction and the Loan Documents have been obtained (and the Agent shall have received certified copies of all such consents and approvals);

- (c) each of the conditions to the Transaction set forth in Sections 5.1(a) and (b) of the Privatization Agreement shall have been satisfied;
- (d) each of the other conditions to the Transaction set forth in Article 5 of the Privatization Agreement shall have been satisfied or waived; and
- (e) other than the making of the initial Advance under Credit A, all disbursement conditions relating to the advance under the Term Loan C Facility shall have been satisfied.

(3) **Material Contracts and Operating Agreements – The Lenders:**

- (a) shall be satisfied with the terms and conditions acting reasonably of all Material Contracts and Operating Agreements including being satisfied with:
  - (i) all fee arrangements between the Obligors and between any Obligor and any Affiliates or associates of any Obligor;
  - (ii) the structure and obligations of the Borrower including the Debt and Equity issued by each and the subordination of such Debt and, to the extent applicable, Equity to the Obligations; and
  - (iii) the structure of all intercorporate Debt of each Obligor and all documentation relating thereto; and
- (b) or the Agent, shall have received certified copies of all of the Material Contracts and true copies of all Operating Agreements.

(4) **Financial Information – The Agent shall:**

- (a) have received audited financial statements for the Borrower as at the end of its most-recently completed fiscal year, financial statement as at the most-recently completed fiscal quarter of the Borrower to the extent publicly available and a *pro forma* officer's certificate as at the Closing Date demonstrating compliance with financial covenants of the Borrower in Section 7.1; and
- (b) be satisfied that, as of the Closing Date, that the *pro forma* Total Leverage Ratio does not exceed 5.0 to 1.0 and that the *pro forma* Senior Leverage Ratio does not exceed 3.2 to 1.0.

(5) **Security and Other Documents – The Lenders:**

- (a) shall be satisfied with the collateral agency arrangements effected by the Collateral Agency Agreement;

- (b) or the Collateral Agent, shall have received duly executed copies of this Agreement, the Security and the other Loan Documents, accompanied by all consents, acknowledgments, certificates evidencing Capital Stock and ancillary documentation, including solvency certificates from an officer of the Borrower, as may be reasonably required by the Agent, all in form and substance satisfactory to the Agent and the Lenders;
  - (c) shall be satisfied that each of the Obligors has in place adequate insurance coverage against all relevant risks and shall have received copies of all such policies and certificates of insurance or other evidence showing that the covenants and conditions of the Loan Documents concerning insurance coverage are being complied with; and
  - (d) shall be satisfied that the Security has been registered, filed or recorded in all offices in such jurisdictions as has been required by the Agent for the creation, perfection or preservation of the Security and, to the extent relevant, has received executed control agreements necessary to perfect any Security.
- (6) **Corporate and Other Information – The Agent**
- (a) or the Collateral Agent shall have received a certificate from each of the Obligors with copies of its Constituting Documents, a list of its officers, directors and/or partners as the case may be, who are executing Loan Documents on its behalf with specimens of the signatures of those who are executing Loan Documents on its behalf, and copies of the corporate proceedings taken to authorize it to execute, deliver and perform its obligations under the Loan Documents and the Lenders shall be satisfied that all internal approvals and authorizations of each of the Obligors to permit each to enter into and to perform its obligations in relation thereto have been obtained;
  - (b) shall have received evidence that the delivery of the Loan Documents will not contravene Applicable Laws governing financial assistance or other similar Applicable Laws which affect the Loan Documents; and
  - (c) or the Collateral Agent shall have received copies of all consents that are required from the directors, shareholders, trustees or partners, as the case may be, of each Obligor, either in connection with the pledges of Pledged Stock or in connection with any disposition of the Pledged Stock pursuant to the Security.
- (7) **Opinions – The Agent shall have received the following favourable legal opinions, each in form and substance satisfactory to it:**
- (a) the opinions of Osler, Hoskin & Harcourt LLP satisfactory to the Agent in all relevant jurisdictions, as counsel to the Obligors, addressed to the Agent, the Lenders, the Collateral Agent, the secured creditors under the Collateral Agency Agreement and Borden Ladner Gervais LLP in relation to, among

other things, the Obligors, the Loan Documents, registrations of Security, Encumbrances, confirmation that Credit D complies with the "5/25" exemption under Section 212(1)(b)(vii) of the *Income Tax Act* (Canada) and such other matters as the Agent may reasonably require;

- (b) the opinions of local counsel satisfactory to the Agent in all relevant jurisdictions, as counsel to the Obligors, addressed to the Agent, the Lenders, the Collateral Agent, the secured creditors under the Collateral Agency Agreement and Borden Ladner Gervais LLP in relation to, among other things, CanWest Publications and CanWest Books Inc., the Loan Documents, registrations of Security, Encumbrances and such other matters as the Agent may reasonably require; and
  - (c) the opinion of Cleary Gottlieb Steen & Hamilton LLP, counsel to the Obligors, addressed to the Agent and the Lenders, confirming that the Obligations under this Agreement are, or will be, incurred in compliance with the Senior Subordinated Note Indentures.
- (8) **Other Matters** – The following conditions must also be satisfied:
- (a) the Lenders shall be satisfied that the Borrower has made commercially reasonable efforts to obtain the Relevant Ratings from each of S&P and Moody's;
  - (b) the Lenders shall be satisfied that Credit A will be repaid and cancelled not later than concurrently with the initial Advances under Credit B, Credit C and Credit D, as applicable, and the initial advance under the Term Loan C Facility and/or the issuance of the Senior Subordinated Notes;
  - (c) the Agent having received all documentation and other information required by bank regulatory authorities under applicable "know your customer" and anti-money laundering rules and regulations, including without limitation the USA PATRIOT Act, Title III of Pub. L. 107-56 (signed into law October 26, 2001), if requested by a Lender;
  - (d) all fees and expenses payable under the Loan Documents and the Fee Letter (including upfront fees, agency fees, and reasonable legal fees and expenses of the Lenders' Canadian and US legal counsel invoiced prior to the Closing Date) shall have been paid;
  - (e) the first Advance under the Credits shall have occurred no later than July 18, 2007; and
  - (f) the Agent shall have received such other documents as the Lenders may reasonably require.

If requested, the Borrower will provide a certificate confirming the status of the matters set forth in this Section 4.1 as at the date of the initial Advance under Credit B and

Credit C, as applicable, it being understood and agreed that any change in the status of any such matter will not affect the obligation of any Lender to fund under Credit B or Credit C so long as the conditions precedent under Section 4.2 are satisfied with respect to either such Advance.

#### **4.2 Conditions Precedent to all Advances**

The obligation of the Lenders to make any Advance (including the initial Advance) is subject to the conditions precedent that:

- (a) no Default has occurred and is continuing on the Drawdown Date, or would result from making the Advance;
- (b) the Agent has received timely notice as required under Section 5.4;
- (c) the representations and warranties set out in Section 6.1, other than those expressly stated to be made as of a specific date or otherwise expressly modified in accordance with Section 6.2, are true and correct in all material respects on the date of the Advance as if made on and as of the date of the Advance; and
- (d) all other terms and conditions of the Agreement upon which an Advance may be obtained are fulfilled.

**ARTICLE 5  
ADVANCES**

#### **5.1 Participation of Lenders in Different Credits**

- (1) Credit A is provided solely by Scotia Capital at its own credit risk. Each of Credit B, Credit C and Credit D is provided at the risk of all Lenders from time to time in accordance with their respective Proportionate Shares of such Credits from time to time. The terms "Lender" and "Agent" shall be interpreted accordingly in respect of Advances, notices and payments, but otherwise shall refer to each Lender and the Agent as a whole.
- (2) The provisions of this Agreement that contemplate the participation in Advances and payments under Credit A by any Lender other than Scotia Capital do not apply to Credit A. All Advances under Credit A shall be made solely by Scotia Capital and records concerning Advances under Credit A shall be maintained solely by Scotia Capital. All payments of principal, interest, fees and other amounts relating to Credit A shall be made solely to Scotia Capital in Toronto or at such other place as Scotia Capital may designate from time to time. Any notices by the Borrower in connection with Credit A shall be made to Scotia Capital.

#### **5.2 Evidence of Indebtedness**

The Obligations resulting from Prime Rate Advances, Base Rate Advances and LIBOR Advances made by the Lenders shall be evidenced by records maintained by the Agent,

and by each Lender concerning those Advances it has made. The Agent shall also maintain records of the Obligations resulting from Advances by way of Banker's Acceptances, BA Equivalent Loans and L/Cs, and each Lender shall also maintain records relating to Banker's Acceptances that it has accepted and BA Equivalent Loans it has made and the Issuing Bank shall maintain records relating to L/Cs it has issued. The records maintained by the Agent shall constitute, in the absence of manifest error, prima facie evidence of the Obligations and all details relating thereto. After a request by the Borrower, the Agent or the Lender to whom the request is made will promptly advise the Borrower of the entries in such records. The failure of the Agent or any Lender to correctly record any such amount or date shall not, however, adversely affect the obligation of the Borrower to pay the Obligations in accordance with this Agreement. The Agent shall, upon the reasonable request of a Lender or the Borrower, provide any information contained in its records of Advances to such Lender or the Borrower and the Agent, each Lender and the Borrower shall cooperate in providing all information reasonably required to keep all accounts accurate and up-to-date.

### 5.3 Conversions

Subject to the other terms of this Agreement, the Borrower may from time to time convert all or any part of the outstanding amount of any Advance into another form of Advance.

### 5.4 Notice of Advances and Payments

- (1) The Borrower shall give the Agent irrevocable written notice, in the form of Schedule A, of any request for any Advance to it under the Credits (other than for any Advance under the Swingline Availability). The Borrower shall also give the Agent irrevocable written notice in the same form of any payment by it (whether resulting from a repayment, prepayment, rollover or conversion, but not if resulting from repayment of an Advance on a scheduled repayment date that is not to be subject to a rollover or conversion) of any Advance under a Credit and each such payment shall be for an amount no less than, as applicable, Cdn. \$5,000,000 or US \$5,000,000 or the aggregate amount of the Advances outstanding, whichever is less. References in this Agreement to rollovers, extensions or conversions of Advances under Credit D are intended by the parties to provide a mechanism for calculating interest on the Obligations owing under Credit D and do not, and shall not be construed to, require or refer to any payment of Advances under Credit D.
- (2) Notice in respect of a LIBOR Advance or payment thereof shall be given on the third Business Day prior to the date of any LIBOR Advance or payment, notice shall be given in respect of an Advance by way of L/C at such time prior to the date of any Advance by way of L/C as the Issuing Bank may reasonably require (but not less than three Business Days) so that it has sufficient time to review the proposed form of L/C and notice in respect of a Prime Rate Advance, Base Rate Advance or Advance by way of Banker's Acceptance or payment thereof may be given on the Business Day before any such Advance or payment. Any permanent reduction of a Credit shall only be effective on three Business Days notice as required by Section 5.5.

- (3) Notices shall be given not later than 11:00 a.m. (Toronto time) on the date for notice. Payments (other than those being made solely from the proceeds of rollovers and conversions) must be made prior to 11:00 a.m. (Toronto time) on the date for payment. If a notice or payment is not given or made by those times, it shall be deemed to have been given or made on the next Business Day, unless all Lenders affected by the late notice or payment agree, in their sole discretion, to accept a notice or payment at a later time as being effective on the date it is given or made.

#### **5.5 Prepayments and Reductions**

- (1) Subject to giving notice required by Section 5.4, the Borrower may from time to time repay Advances outstanding under a Credit without premium or penalty, except that (a) Banker's Acceptances and BA Equivalent Loans may not be paid prior to their respective maturity dates, and (b) LIBOR Advances may not be paid prior to the end of the applicable LIBOR Period unless the Borrower indemnifies the Lenders for any loss or expense that the Lenders incur as a result, including any breakage costs.
- (2) The Borrower may from time to time, by giving not less than three Business Days express written notice to the Agent, irrevocably notify the Agent of the cancellation of Credit A or of the permanent reduction of the committed amount of Credit A by an amount which shall be a minimum of, as applicable, Cdn. \$5,000,000 or US \$5,000,000 and a whole multiple of, as applicable, Cdn. \$1,000,000 or US \$1,000,000. The Borrower shall have no right to any increase in the committed amount of Credit A thereafter.

#### **5.6 Prime Rate, Base Rate and LIBOR Advances**

- (1) Upon timely fulfilment of all applicable conditions as set forth in this Agreement, the Agent, in accordance with the procedures set forth in Section 5.7, will make the requested amount of a Prime Rate Advance, Base Rate Advance or LIBOR Advance available to the Borrower on the Drawdown Date requested by the Borrower by crediting the Designated Account with such amount. Each Prime Rate Advance, Base Rate Advance or LIBOR Advance (other than an Advance under the Swingline Availability) shall be in an aggregate minimum amount of, as applicable, Cdn. \$ 5,000,000 or US \$5,000,000 and in a whole multiple of Cdn. \$1,000,000 or US \$1,000,000. Notwithstanding the foregoing, if the aggregate minimum amount of any such Advance would cause the Borrower to exceed the maximum amount of Credit A, Credit B or Credit C, the Borrower shall be permitted to request an aggregate amount for such an Advance that is equal to the difference or the Equivalent Amount in US Dollars of the difference between the maximum amount of such Credit and the aggregate amount of all Advances outstanding under such Credit at the time of such request. The Borrower shall pay interest to the Agent for the account of the Lenders at the Branch of Account on any such Advances outstanding from time to time hereunder at the applicable rate of interest specified in Section 2.6.
- (2) Interest on Prime Rate Advances and Base Rate Advances shall be calculated and payable monthly on each Interest Payment Date. Interest on LIBOR Advances shall

be payable on the last day of the applicable LIBOR Period and, if the LIBOR Period is longer than 3 months, every 3 months after the date of the relevant LIBOR Advance. All interest shall accrue from day to day and shall be payable in arrears for the actual number of days elapsed from and including the date of Advance or the previous date on which interest was payable, as the case may be, to but excluding the date on which interest is payable, both before and after maturity, default and judgment, with interest on overdue interest at the same rate payable on demand. Overdue interest with respect to a LIBOR Advance shall, upon the expiry of the LIBOR Period applicable to such LIBOR Advance, bear interest, payable on demand calculated at the rates applicable to Base Rate Advances.

- (3) Interest calculated with reference to the Prime Rate shall be calculated on the basis of a calendar year. Interest calculated with reference to the Base Rate (Canada), the Base Rate (US) or the LIBO Rate shall be calculated on the basis of a year of 360 days. Each rate of interest which is calculated with reference to a period (the "deemed interest period") that is less than the actual number of days in the calendar year of calculation is, for the purposes of the *Interest Act* (Canada), equivalent to a rate based on a calendar year calculated by multiplying such rate of interest by the actual number of days in the calendar year of calculation and dividing by the number of days in the deemed interest period. Interest shall be calculated using the nominal rate of calculation, and will not be calculated using the effective rate method of calculation or any other basis that gives effect to the principle of deemed reinvestment of interest.

#### 5.7 LIBOR Periods

The Borrower may select, by irrevocable notice to the Agent, LIBOR Periods of 1, 2, 3 or 6 months to apply to any particular LIBOR Advance. LIBOR Periods of other lengths shall also be available at the discretion of the Lenders from time to time, but there shall not at any time be LIBOR Advances outstanding with more than 6 different maturity dates. No LIBOR Period may end on a date which is not a Business Day or after the Maturity Date. The Borrower shall from time to time select and give notice to the Agent of the LIBOR Period for a LIBOR Advance which shall commence upon the making of the LIBOR Advance or on the date of the expiry of any outstanding LIBOR Period applicable to a LIBOR Advance that is being rolled over. If the Borrower fails to select and give the Agent notice of a LIBOR Period for a LIBOR Advance in accordance with Section 5.4, the Lenders shall be deemed to have made a Base Rate Advance to the Borrower to replace the maturing LIBOR Advance, unless such LIBOR Advance is repaid by the Borrower at the end of the applicable LIBOR Period.

#### 5.8 Co-ordination of Prime Rate Advances, Base Rate Advances and LIBOR Advances

Each Lender shall advance its Applicable Percentage of each Prime Rate Advance, Base Rate Advance and LIBOR Advance in accordance with the following provisions:

- (a) the Agent shall advise each Lender of its receipt of a notice from the Borrower pursuant to Section 5.4 on the day such notice is received and shall, as soon as



possible, advise each Lender of such Lender's Applicable Percentage of any Advance requested by the notice;

- (b) each Lender shall deliver its Applicable Percentage of the Advance to the Agent not later than 11:00 a.m. (Toronto time) on the Drawdown Date; and
- (c) unless a Lender notifies the Agent that a condition precedent to an Advance specified in this Agreement has not been met, the Agent shall advance to the Borrower the amount delivered by each Lender by crediting the Designated Account prior to 2:00 p.m. (Toronto time) on the Drawdown Date, but if the conditions precedent to the Advance are not met by 2:00 p.m. (Toronto time) on the Drawdown Date, the Agent shall return the funds to the Lenders or invest them in an overnight investment as orally instructed by each Lender until such time as the Advance is made.

#### **5.9 Execution of Banker's Acceptances**

- (1) To facilitate the acceptance of Banker's Acceptances hereunder, the Borrower hereby appoints each Lender as its attorney to sign and endorse on its behalf, as and when considered necessary by the Lender, an appropriate number of orders in the form prescribed by that Lender.
- (2) Each Lender may, at its option, execute any order in handwriting or by the facsimile or mechanical signature of any of its authorized officers, and the Lenders are hereby authorized to accept or pay, as the case may be, any order of the Borrower which purports to bear such a signature notwithstanding that any such individual has ceased to be an authorized officer of the Lender. Any such order or Banker's Acceptance shall be as valid as if he or she were an authorized officer at the date of issue of the order or Banker's Acceptance.
- (3) Any order or Banker's Acceptance signed by a Lender as attorney for the Borrower, whether signed in handwriting or by the facsimile or mechanical signature of an authorized officer of a Lender, may be dealt with by the Agent or any Lender to all intents and purposes and shall bind the Borrower as if duly signed and issued by the Borrower.
- (4) The receipt by the Agent of a request for an Advance by way of Banker's Acceptances shall be each Lender's sufficient authority to execute, and each Lender shall, subject to the terms and conditions of this Agreement, execute orders in accordance with such request and the advice of the Agent given pursuant to Section 5.12, and the orders so executed shall thereupon be deemed to have been presented for acceptance.

#### **5.10 Sale of Banker's Acceptances**

- (1) It shall be the responsibility of each Lender to arrange, in accordance with normal market practice, for the sale on each Drawdown Date of the Banker's Acceptances to

be accepted by that Lender, failing which the Lender shall purchase its Banker's Acceptances.

- (2) In accordance with the procedures set forth in Section 5.12, the Agent will make the net proceeds of the requested Advance by way of Banker's Acceptances received by it from the Lenders available to the Borrower on the Drawdown Date by crediting the Designated Account with such amount.
- (3) Notwithstanding the foregoing, if in the determination of the Required Lenders, acting reasonably, a market for Banker's Acceptances does not exist at any time, or the Lenders cannot for other reasons, after reasonable efforts, readily sell Banker's Acceptances or perform their other obligations under this Agreement with respect to Banker's Acceptances, then upon at least one Business Day's written notice by the Agent to the Borrower, the Borrower's right to request Advances by way of Banker's Acceptances shall be and remain suspended until the Agent notifies the Borrower that any condition causing such determination no longer exists (and the Agent shall be obligated to so notify the Borrower promptly following such occurrence).

#### **5.11 Size and Maturity of Banker's Acceptances Rollovers**

Each Advance of Banker's Acceptances shall be in a minimum amount of Cdn. \$5,000,000 and integral multiples of Cdn. \$500,000 and the maximum number of maturities of Banker's Acceptances outstanding at any time shall not exceed fifteen. Each Banker's Acceptance shall have a term of 1, 2, 3 or 6 months after the date of acceptance of the order by a Lender, but no Banker's Acceptance may mature on a date which is not a Business Day or after the Maturity Date. Subject to the terms and conditions of this Agreement, the face amount at maturity of a Banker's Acceptance may be renewed as a Banker's Acceptance (by repayment and reissue) or converted (by repayment) into another form of Advance. If, before the due date for delivery of a Compliance Certificate, the Borrower has knowledge that the fees payable by the Borrower in connection with an Advance by way of Banker's Acceptance will increase after the delivery of such Compliance Certificate, then the Borrower shall not request or renew an Advance by way of Banker's Acceptance for a term that exceeds 1 month. After such Compliance Certificate has been delivered and the fees payable by the Borrower in connection with an Advance by way of Banker's Acceptance have increased as set forth herein, the Borrower may then request or renew Advances by way of Banker's Acceptance for terms otherwise permitted by this Section.

#### **5.12 Co-ordination of BA Advances**

Each Lender shall advance its Applicable Percentage of each Advance by way of Banker's Acceptances in accordance with the provisions set forth below.

- (1) The Agent, promptly following receipt of a notice from the Borrower pursuant to Section 5.4 requesting an Advance by way of Banker's Acceptances, shall advise each Lender of the aggregate face amount and term(s) of the Banker's Acceptances to be accepted by it, which term(s) shall be identical for all Lenders. The aggregate face amount of Banker's Acceptances to be accepted by a Lender shall be determined by

the Agent by reference to the respective Commitments of the Lenders, except that, if the face amount of a Banker's Acceptance would not be Cdn. \$1,000 or a whole multiple thereof, the face amount shall be increased or reduced by the Agent in its sole discretion to the nearest whole multiple of Cdn. \$1,000.

- (2) Each Lender shall transfer to the Agent at the Branch of Account for value not later than 11:00 a.m. (Toronto time) on each Drawdown Date immediately available Cdn. Dollars in an aggregate amount equal to the BA Discount Proceeds of all Banker's Acceptances accepted and sold or purchased by the Lender on such Drawdown Date net of the applicable Banker's Acceptance Fee and net of the amount required to pay any of its previously accepted Banker's Acceptances that are maturing on the Drawdown Date or any of its other Advances that are being converted to Banker's Acceptances on the Drawdown Date.
- (3) Unless a Lender notifies the Agent that a condition precedent to an Advance specified in this Agreement has not been met, the Agent shall advance to the Borrower the amount delivered by each Lender by crediting the Designated Account prior to 2:00 p.m. (Toronto time) on the Drawdown Date, but if the conditions precedent to the Advance are not met by 2:00 p.m. (Toronto time) on the Drawdown Date, the Agent shall return the funds to the Lenders or invest them in an overnight investment as orally instructed by each Lender until such time as the Advance is made.
- (4) Notwithstanding any other provision hereof, for the purpose of determining the amount to be transferred by a Lender to the Agent for the account of the Borrower in respect of the sale of any Banker's Acceptance accepted by such Lender and sold or purchased by it, the proceeds of sale thereof shall be deemed to be an amount equal to the BA Discount Proceeds calculated with respect thereto. Accordingly, in respect of any particular Banker's Acceptance accepted by it, a Lender in addition to its entitlement to retain the applicable Banker's Acceptance Fee for its own account (a) shall be entitled to retain for its own account the amount, if any, by which the actual proceeds of sale thereof exceed the BA Discount Proceeds calculated with respect thereto, and (b) shall be required to pay out of its own funds the amount, if any, by which the actual proceeds of sale thereof are less than the BA Discount Proceeds calculated with respect thereto.
- (5) Whenever the Borrower requests an Advance that includes Banker's Acceptances, each Lender that is not permitted by Applicable Law or by customary market practice to accept a Banker's Acceptance (a "Non BA Lender") shall, in lieu of accepting its *pro rata* amount of such Banker's Acceptances, make available to the Borrower on the Drawdown Date a non-interest bearing loan (a "BA Equivalent Loan") in Canadian Dollars and in an amount equal to the BA Discount Proceeds of its *pro rata* amount of the Banker's Acceptances that the Non BA Lender would have been required to accept on the Drawdown Date if it were able to accept Banker's Acceptances. The BA Discount Proceeds shall be calculated based on the BA Discount Rate provided by the Other Reference Lenders. Each Non BA Lender shall also be entitled to deduct from the BA Equivalent Loan an amount equal to the Banker's Acceptance Fee that would have been applicable had it been able to accept Banker's Acceptances. The

BA Equivalent Loan shall have a term equal to the term of the Banker's Acceptances that the Non BA Lender would otherwise have accepted and the Borrower shall, at the end of that term, be obligated to pay the Non BA Lender an amount equal to the aggregate face amount of the Banker's Acceptances that it would otherwise have accepted. All provisions of this Agreement applicable to Banker's Acceptances and Lenders that accept Banker's Acceptances shall apply *mutatis mutandis* to BA Equivalent Loans and Non BA Lenders and, without limiting the foregoing, Advances shall include BA Equivalent Loans.

### **5.13 Payment of Banker's Acceptances**

- (1) The Borrower shall provide for the payment to the Agent at the Branch of Account for the account of the applicable Lenders of the full face amount of each Banker's Acceptance accepted for its account on the earlier of (a) the date of maturity of a Banker's Acceptance, and (b) the date on which any Obligations become due and payable pursuant to Section 8.2. The Lenders shall be entitled to recover interest from the Borrower at a rate of interest per annum equal to the rate applicable to Prime Rate Advances under a Credit under which the Banker's Acceptance was issued, compounded monthly, upon any amount payable of which has not been provided for by the Borrower in accordance with this Section. Interest shall be calculated from and including the date of maturity of each such Banker's Acceptance up to but excluding the date such payment, and all interest thereon, is provided for by the Borrower, both before and after demand, default and judgment.
- (2) If the Borrower provides cash in response to any Obligations becoming due and payable under Section 8.2, it shall be entitled to receive interest on the cash provided in accordance with Section 10.10 as long as the cash is held as Collateral.

### **5.14 Deemed Advance – Banker's Acceptances**

Except for amounts which are paid from the proceeds of a rollover of a Banker's Acceptance or for which payment has otherwise been funded by the Borrower, any amount which a Lender pays to any third party on or after the date of maturity of a Banker's Acceptance in satisfaction thereof or which is owing to the Lender in respect of such a Banker's Acceptance on or after the date of maturity of such a Banker's Acceptance, shall be deemed to be a Prime Rate Advance to the Borrower under this Agreement. Each Lender shall forthwith give notice of the making of such a Prime Rate Advance to the Borrower and the Agent (which shall promptly give similar notice to the other Lenders). Interest shall be payable on such Prime Rate Advances in accordance with the terms applicable to Prime Rate Advances.

### **5.15 Waiver**

The Borrower shall not claim from a Lender any days of grace for the payment at maturity of any Banker's Acceptances presented and accepted by the Lender pursuant to this Agreement. The Borrower waives any defence to payment which might otherwise exist if for any reason a Banker's Acceptance shall be held by a Lender in its own right at the maturity

thereof, and the doctrine of merger shall not apply to any Banker's Acceptance that is at any time held by a Lender in its own right.

**5.16 Degree of Care**

Any executed orders to be used as Banker's Acceptances shall be held in safekeeping with the same degree of care as if they were the Lender's own property, and shall be kept at the place at which such orders are ordinarily held by such Lender.

**5.17 Obligations Absolute**

The obligations of the Borrower with respect to Banker's Acceptances under this Agreement shall be unconditional and irrevocable, and shall be paid strictly in accordance with the terms of this Agreement under all circumstances, including the following circumstances:

- (a) any lack of validity or enforceability of any order accepted by a Lender as a Banker's Acceptance; or
- (b) the existence of any claim, set-off, defence or other right which the Borrower may have at any time against the holder of a Banker's Acceptance, a Lender or any other Person, whether in connection with this Agreement or otherwise.

**5.18 Shortfall on Drawdowns, Rollovers and Conversions**

The Borrower agrees that:

- (a) the difference between the amount of an Advance requested by the Borrower by way of Banker's Acceptances and the actual proceeds of the Banker's Acceptances;
- (b) the difference between the actual proceeds of a Banker's Acceptance and the amount required to pay a maturing Banker's Acceptance, if a Banker's Acceptance is being rolled over; and
- (c) the difference between the actual proceeds of a Banker's Acceptance and the amount required to repay any Advance which is being converted to a Banker's Acceptance;

shall be funded and paid by the Borrower from its own resources, by 11:00 a.m. on the day of the Advance or may be advanced as a Prime Rate Advance under a Credit if the Borrower is otherwise entitled to an Advance under such Credit.

**5.19 Issuance and Maturity of L/Cs**

- (1) All L/Cs shall be issued by the Issuing Bank in accordance with its customary practice including standard cancellation terms and, if requested by the Borrower, an evergreen renewal feature, in form and substance satisfactory to the Issuing Bank, and the Borrower shall execute all such indemnity and/or reimbursement agreements in

connection therewith as the Issuing Bank customarily requires, in form and substance satisfactory to the Issuing Bank.

- (2) A request for an Advance by way of L/C shall be made by the Borrower in accordance with Section 5.4. A request shall include the details of the L/C to be issued. The Issuing Bank shall promptly notify the Borrower of any comment concerning the form of the L/C requested by the Borrower and shall, if the Borrower is otherwise entitled to an Advance, issue the L/C to the Borrower on the Drawdown Date or as soon thereafter as the Issuing Bank is satisfied with the form of L/C to be issued.
- (3) Each L/C issued under this Agreement shall have a term which is not more than, as applicable, 365 or 366 days after its issuance date or renewal date (provided that any such L/C may provide an automatic renewal thereof for any stated period or periods of up to one year in duration in the absence of timely notice of termination by the issuer of such L/C), except that the maturity date of an L/C may not exceed the Maturity Date unless the Borrower shall have posted Collateral with the Issuing Bank in connection therewith. An L/C may be renewed by the Borrower subject to complying with the terms of this Agreement applicable to an Advance by way of L/C.

#### **5.20 Payment of L/C Commissions and Fronting Fees**

- (1) Payment of L/C commissions shall be made to Issuing Bank at the branch where the L/C is issued. L/C commissions shall be calculated at the rate specified in Section 2.6 on the face amount of each L/C for the duration of its term on the basis of the actual number of days to elapse from and including the date of issuance or renewal by the Issuing Bank to but not including the expiry date of the L/C. L/C commissions shall be calculated on the basis of a 365 or 366 day year, as the case may be. L/C commissions shall be payable in full on the date of issuance of each L/C.
- (2) Payment of Fronting Fees shall be made to the Issuing Bank at the branch where an applicable L/C is issued. The Fronting Fee in relation to any L/C shall be calculated on the basis of the actual number of days to elapse from and including the date of issuance or renewal, as applicable, of the L/C to but excluding its expiry date calculated on the basis of a year of 365 or 366 days, as applicable, and shall be paid to the Issuing Bank on the date of issuance or renewal of such L/C and shall be non-refundable in whole or in part.

#### **5.21 Payment of L/Cs and Participation by Lenders in L/Cs**

- (1) Each Lender shall be deemed to have purchased, without recourse, a participation from the Issuing Bank in each L/C issued by the Issuing Bank, in each case in an amount equal to such Lender's Applicable Percentage of each such L/C. Without limiting the scope and nature of each Lender's participation in each L/C issued by the Issuing Bank, to the extent that the Issuing Bank has not been reimbursed by the Borrower for any amount required to be disbursed by the Issuing Bank under or in connection with an L/C, each Lender shall pay to the Issuing Bank its Applicable Percentage of such unreimbursed amount. In the event that the Issuing Bank is

required to disburse an amount under an L/C, the Issuing Bank shall notify the Agent who shall in turn, as soon as possible, notify the Lenders and each Lender shall forthwith deliver its Applicable Percentage of the amount of the payment by the Issuing Bank to the Agent who will forthwith deliver all such amounts received from the Lenders to the Issuing Bank. The obligation of each Lender to so reimburse the Issuing Bank shall be absolute and unconditional as a primary obligor and not as a surety and shall not be affected by the occurrence of a Default, an order or judgment restricting payment by the Issuing Bank in accordance with the L/C or extending the Issuing Bank's liability under an L/C beyond the expiration date stated therein or any other occurrence or event of any nature or kind. Any such reimbursement shall not relieve or otherwise impair the obligation of the Borrower to reimburse the Issuing Bank for all amounts arising under or in connection with any L/C, together with interest as provided for in this Agreement. Each Lender that has reimbursed the Issuing Bank pursuant to this Section for its Applicable Percentage of any payment made by the Issuing Bank under an L/C shall thereupon acquire a participation, to the extent of such reimbursement, in the claim of the Issuing Bank against the Borrower in respect of amounts owing under or in connection with such L/C. In the event that a Lender fails to reimburse the Issuing Bank under the terms provided in this Section, the Issuing Bank shall also be entitled to recover from such Lender interest on such amount, from and including the date on which such Lender was required to provide payment to but excluding the date such payment is provided for by such Lender at the rate of interest per annum which would otherwise be applicable at such time to Prime Rate Advances (in the case of Canadian Dollar L/Cs) or Base Rate Advances (in the case of US Dollar L/Cs), compounded monthly, and all interest thereon, both before and after demand, default and judgment.

- (2) The Borrower shall provide for the payment to the Agent, on behalf of the Issuing Bank, of the full face amount of each L/C (or the amount actually paid in the case of a partial payment) on the earlier of (a) the date on which the Issuing Bank makes a payment to the beneficiary of an L/C, (b) the date on which any Obligations become due and payable pursuant to Section 8.2, and (c) the Maturity Date. The Agent on behalf of the Issuing Bank shall be entitled to recover interest from the Borrower at a rate of interest per annum equal to the rate applicable to Prime Rate Advances (in the case of Canadian Dollar L/Cs) or Base Rate Advances (in the case of US Dollar L/Cs), compounded monthly, upon any amount payment of which has not been provided for by the Borrower in accordance with this Section. Interest shall be calculated from and including the date on which the Issuing Bank makes a payment to the beneficiary of an L/C, up to but excluding the date such payment, and all interest thereon, is provided for by the Borrower, both before and after demand, default and judgment.
- (3) The obligation of the Borrower to reimburse the Agent, on behalf of the Issuing Bank, for a payment to a beneficiary of an L/C shall be absolute and unconditional (without prejudice to the Borrower's right, after reimbursing the Agent (on behalf of the Issuing Bank), to claim damages from the Issuing Bank for matters arising from the Issuing Bank's wilful misconduct or gross negligence), and shall not be reduced or limited by any demand or other request for payment of an L/C (a "Demand") paid or acted upon

in good faith and in conformity with laws, regulations or customs applicable thereto being invalid, insufficient, fraudulent or forged, nor shall the Borrower's obligation be subject to any defence or be affected by any right of set-off, counter-claim or recoupment which the Borrower may now or hereafter have against the beneficiary, the Agent, the Issuing Bank, any other Lender or any other Person for any reason whatsoever, including the fact that the Issuing Bank paid a Demand or Demands (if applicable) aggregating up to the amount of the L/C notwithstanding any contrary instructions from the Borrower to the Agent or the Issuing Bank or the occurrence of any event including, but not limited to, the commencement of legal proceedings to prohibit payment by the Issuing Bank of a Demand. Any action, inaction or omission taken or suffered by the Agent or the Issuing Bank under or in connection with an L/C or any Demand, if in good faith and in conformity with laws, regulations or customs applicable thereto, shall be binding on the Borrower and shall not place the Agent or the Issuing Bank under any resulting liability to the Borrower. Without limiting the generality of the foregoing, the Issuing Bank may receive, accept, or pay as complying with the terms of the L/C, any Demand otherwise in order which may be signed by, or issued to, any administrator, executor, trustee in bankruptcy, receiver or other Person or entity acting as the representative or in place of the beneficiary.

- (4) If the Borrower provides cash in respect of any Obligations becoming due and payable under Section 8.2, it shall be entitled to receive interest on the cash provided in accordance with Section 10.10 as long as the cash is held as Collateral.

#### **5.22 Deemed Advance – L/Cs**

Except for amounts which have been funded by the Borrower, any amount which the Issuing Bank or the Agent on behalf of the Lenders pays to any third party in respect of an L/C in satisfaction or partial satisfaction thereof shall also be deemed to be a Prime Rate Advance (in the case of Canadian Dollar L/Cs) or Base Rate Advances (in the case of US Dollar L/Cs). The Issuing Bank shall forthwith give notice of the making of such an Advance to the Agent and the Borrower. Interest shall be payable on such Advances in accordance with the terms applicable to such Advances.

#### **5.23 Transitional L/Cs**

The Borrower and Scotia Capital acknowledge and confirm that the Transitional L/Cs shall, from and after the time of the Advance under Credit A, be deemed to be outstanding under Credit A and, from and after the time of the initial Advance under Credit B, be deemed to be outstanding under Credit B.

#### **5.24 Failure of Lender to Fund**

Notwithstanding the provisions of Section 6(a) of the Provisions, if any Lender fails to make available to the Agent its Applicable Percentage of any Advance (such Lender being herein called the "Defaulting Lender"), the Administrative Agent shall forthwith give notice of such failure by the Defaulting Lender to the Borrower and the other Lenders. The Agent shall then forthwith give notice to the other Lenders that any Lender may make available to the Agent all or



any portion of the Defaulting Lender's Applicable Percentage of such Advance (but in no way shall any other Lender or the Agent be obliged to do so) in the place of the Defaulting Lender. If more than one Lender gives notice that it is prepared to make funds available in the place of a Defaulting Lender in such circumstances and the aggregate of the funds which such Lenders (herein collectively called the "**Contributing Lenders**" and individually called the "**Contributing Lender**") are prepared to make available exceeds the amount of the Advance which the Defaulting Lender failed to make, then each Contributing Lender shall be deemed to have given notice that it is prepared to make available its Applicable Percentage of such Advance based on the Contributing Lenders' relative commitments to advance in such circumstances. If any Contributing Lender makes funds available in the place of a Defaulting Lender in such circumstances, then the Defaulting Lender shall pay to any Contributing Lender making the funds available in its place, forthwith on demand, any amount advanced on its behalf together with interest thereon at the rate applicable to such Advance from the date of advance to the date of payment, against payment by the Contributing Lender making the funds available of all interest received in respect of the Advance from the Borrower. The failure of any Lender to make available to the Agent its Applicable Percentage of any Advance as required herein shall not relieve any other Lender of its obligations to make available to the Agent its Applicable Percentage of any Advance as required herein.

#### **5.25 Payment by the Borrower**

- (1) Except as otherwise provided herein, all payments made by or on behalf of the Borrower pursuant to this Agreement shall be made to and received by the Agent and shall be distributed by the Agent to the Lenders as soon as possible upon receipt by the Agent. Except as otherwise provided in this Agreement (including Sections 5.26 and 5.28), the Agent shall distribute:
- (a) payments of interest in accordance with each Lender's Applicable Percentage of the Credit;
  - (b) repayments of principal in accordance with each Lender's Applicable Percentage of the Credit; or
  - (c) all other payments received by the Agent including amounts received upon the realization of Security, in accordance with each Lender's Applicable Percentage of a Credit provided, however, that with respect to proceeds of realization, no Lender shall receive an amount in excess of the amounts owing to it in respect of the Obligations.
- (2) All payments made by or on behalf of the Borrower pursuant to this Agreement with respect to an L/C shall be made to and received by the Agent. Subject to Section 5.26, the Agent shall distribute all payments received by it with respect to any L/C as follows:
- (a) if the amount received by the Agent is an amount reimbursing the Issuing Bank for amounts paid by the Issuing Bank, payment shall be made to the Issuing Bank, to the extent that the Issuing Bank has not been previously reimbursed

by the Borrower or the Lenders or otherwise as provided for herein, and to the extent that the Issuing Bank has been previously reimbursed by the Lenders, to such Lenders; and

- (b) if the amount received by the Agent is an amount in respect of an L/C commission or the Fronting Fee:
  - (i) payment shall be made firstly to the Issuing Bank of an amount in respect of the Fronting Fee to the extent not already received; and
  - (ii) payment shall be made thereafter to each Lender of its Applicable Percentage of the amount of the L/C commission received.
- (3) If the Agent does not distribute a Lender's share of a payment made by the Borrower to that Lender for value on the day that payment is made or deemed to have been made to the Agent, the Agent shall pay to the Lender on demand an amount equal to the product of (a) the Interbank Reference Rate per annum multiplied by (b) the Lender's share of the amount received by the Agent from the Borrower and not so distributed, multiplied by (c) a fraction, the numerator of which is the number of days that have elapsed from and including the date of receipt of the payment by the Agent to but excluding the date on which the payment is made by the Agent to such Lender and the denominator of which is 365. The Agent shall be entitled to withhold any Tax applicable to any such payment as required by Applicable Laws.

#### **5.26 Payment by Agent**

For greater certainty, the following provisions shall apply to any and all payments made by the Agent to the Lenders hereunder:

- (a) the Agent shall be under no obligation to make any payment (whether in respect of principal, interest, fees or otherwise) to any Lender until an amount in respect of such payment has been received by the Agent from the Borrower;
- (b) if the Agent receives less than the full amount of any payment of principal, interest, fees or other amount owing by the Borrower under this Agreement, the Agent shall have no obligation to remit to each Lender any amount other than such Lender's Applicable Percentage of that amount which is the amount actually received by the Agent;
- (c) if any Lender advances more or less than its Applicable Percentage of the Credit, such Lender's entitlement to such payment shall be increased or reduced, as the case may be, in proportion to the amount actually advanced by such Lender;
- (d) if a Lender's Applicable Percentage of an Advance has been advanced, or a Lender's Commitment has been outstanding, for less than the full period to which any payment (other than a payment of principal) by a Borrower relates, such Lender's entitlement to such payment shall be reduced in proportion to the

length of time such Lender's Applicable Percentage of the Credits or such Lender's Commitment, as the case may be, has actually been outstanding;

- (e) the Agent acting reasonably and in good faith shall, after consultation with the Lenders in the case of any dispute, determine in all cases the amount of all payments to which each Lender is entitled and such determination shall, in the absence of manifest error, be binding and conclusive; and
- (f) upon request, the Agent shall deliver a statement detailing any of the payments to the Lenders referred to herein.

### 5.27 Prohibited Rates of Interest

It is the intention of the parties to comply with applicable usury laws now or hereafter enacted. Accordingly, notwithstanding any other provisions of this Agreement or any other Loan Document, in no event shall any Loan Document require the payment or permit the collection of interest or other amounts in an amount or at a rate in excess of the amount or rate that is permitted by law or in an amount or at a rate that would result in the receipt by the Lenders or the Agent of interest at a criminal rate, as the terms "interest" and "criminal rate" are defined under the *Criminal Code* (Canada). Where more than one such law is applicable to any Obligor, such Obligor shall not be obliged to make payment in an amount or at a rate higher than the lowest amount or rate permitted by such laws. If from any circumstances whatever, fulfilment of any provision of any Loan Document shall involve transcending the limit of validity prescribed by any Applicable Law for the collection or charging of interest, the obligation to be fulfilled shall be reduced to the limit of such validity, and if from any such circumstances the Agent or the Lenders shall ever receive anything of value as interest or deemed interest under any Loan Document in an amount that would exceed the highest lawful rate of interest permitted by any Applicable Law, such amount that would be excessive interest shall be applied to the reduction of the principal amount of the relevant Credit (subject, in the case of Credit D to the limit set forth in Section 2.5(4)), and not to the payment of interest, or if such excessive interest exceeds the unpaid principal balance of the relevant Credit, the amount exceeding the unpaid balance (or, as applicable, the limit set forth in Section 2.5(4)) shall be refunded to the Borrower. In determining whether or not the interest paid or payable under any specified contingency exceeds the highest lawful rate, the Obligors, the Agent and the Lenders shall, to the maximum extent permitted by Applicable Laws (a) characterize any non-principal payment as an expense, fee or premium rather than as interest, (b) exclude voluntary prepayments and the effects thereof, (c) amortize, prorate, allocate and spread the total amount of interest throughout the term of such indebtedness so that interest thereon does not exceed the maximum amount permitted by Applicable Laws, or (d) allocate interest between portions of such indebtedness to the end that no such portion shall bear interest at a rate greater than that permitted by Applicable Laws. For the purposes of the application of the *Criminal Code* (Canada), the effective annual rate of interest shall be determined in accordance with generally accepted actuarial practices and principles and in the event of any dispute, a certificate of a Fellow of the Canadian Institute of Actuaries appointed by the Agent shall be conclusive for the purpose of such determination.

## 5.28 Provisions Relating to Swingline Availability

- (1) While Scotia Capital is the sole Lender making Advances under the Swingline Availability, its participation in Advances under Credit A which are not made under the Swingline Availability ("Non-Swingline Advances") shall be reduced, and the participations of the other Lenders in such Non-Swingline Advances shall be increased, and such participations may be adjusted from time to time, as determined by the Agent, so that each Lender's overall Applicable Percentage of the aggregate of all Advances under Credit A is, to the greatest extent practicable, as provided in Schedule E to this Agreement. For greater certainty, the aggregate of Advances outstanding under the Swingline Availability and Non-Swingline Advances made by Scotia Capital shall not at any time exceed Scotia Capital's Commitment in respect of Credit A, and if it does, the Borrower shall repay Advances outstanding under the Swingline Availability in an amount to eliminate such excess as soon as possible and, in any event, immediately following notice thereof by the Agent.
- (2) Notwithstanding that Advances under the Swingline Availability are from time to time made by Scotia Capital and Scotia Capital's participation in Non-Swingline Advances is reduced, and the participation of the other Lenders in Non-Swingline Advances is increased in accordance with Section 5.28(1), it is the intention of the parties that the ultimate credit risk and exposure of each Lender in respect of Credit A be in accordance with its Applicable Percentage of the entire amount of Credit A. Accordingly, upon the Obligations becoming due and payable under Section 8.2, each Lender shall (and hereby absolutely, unconditionally and irrevocably agrees to) do all such things, including delivery of indemnity agreements and assignments to other Lenders of Advances made by Scotia Capital under the Swingline Availability or assignments to Scotia Capital of Non-Swingline Advances made by other Lenders as shall be required to ensure that result. Any such action on the part of the Lenders shall be binding on the Obligor. If any Lender fails to take the actions required by this Section, the Agent may, without prejudice to the other rights of the Lenders, make such adjustments to the payments to the defaulting Lender under this Agreement as are necessary to compensate the other Lenders for the defaulting Lender's failure.
- (3) Subject to the provisions of Section 5.28(2) regarding the assignment of interests in Advances under the Swingline Availability in the event of acceleration of payment of the Obligations, the provisions of this Agreement do not apply to Advances under the Swingline Availability to the extent that the provisions contemplate the participation by any Lender other than Scotia Capital in making Advances and receiving payments in respect of Advances under the Swingline Availability. All Advances under the Swingline Availability shall be made solely by Scotia Capital and records concerning such Advances shall be maintained solely by Scotia Capital. All payments of principal, interest, fees and other amounts relating to Advances under the Swingline Availability shall be made solely to Scotia Capital. Any notices by the Borrower in connection with the Swingline Availability shall be made to Scotia Capital. The parties hereto agree that notice and minimum amount requirements in respect of Advances shall not apply to Advances by way of overdraft under the Swingline Availability. Similarly, subject to any assignment of interests in Advances under the

Swingline Availability in the event of acceleration of payment of the Obligations as contemplated in Section 5.28(2), references in this Agreement to the Lenders shall, in the context of the Swingline Availability, be interpreted as referring only to Scotia Capital. No Lender other than Scotia Capital shall have any right to receive payments in respect of Advances under the Swingline Availability or any obligations to make Advances under the Swingline Availability.

- (4) Advances under the Swingline Availability are available by way of overdraft only. Upon presentation to Scotia Capital for payment of any cheque or other item drawn by the Borrower on any of its Canadian Dollar or US Dollar current accounts at the Branch of Account which, when charged against the applicable account, creates or increases an overdraft in that account, Scotia Capital shall pay the cheque or other item provided that, after doing so, the aggregate amount of the overdrafts outstanding in such accounts of the Borrower do not exceed Cdn. \$30,000,000 (which overdrafts shall, in the case of the Borrower's Canadian Dollar accounts, be deemed to be Prime Rate Advances, and, in the case of the Borrower's US Dollar accounts, be deemed to be Base Rate Advances). The Borrower hereby requests and authorizes Scotia Capital to make such Prime Rate Advances and Base Rate Advances to cover such overdrafts, subject to the terms of this Agreement, and the standing authorization to the Agent shall be deemed for the purposes of this Agreement to constitute a request for an Advance in the form of Schedule A for each date such Advances are made by Scotia Capital to cover any such overdraft. All of the provisions applicable to Prime Rate Advances and Base Rate Advances under this Agreement shall apply to Advances under the Swingline Availability respectively, other than minimum notice or minimum amount requirements.

## ARTICLE 6 REPRESENTATIONS AND WARRANTIES

### 6.1 Representations and Warranties

Each of the Obligors represents and warrants, with respect to itself and each other Obligor (as if each reference to it in each such representation and warranty was a reference to both it and the other Obligors, unless the context indicates otherwise), to the Lenders as follows, which representations and warranties, in the case of the representations and warranties made or deemed to have been made on the Closing Date or in connection with the initial Advance under the Credits shall be made and deemed to have been made both before and after consummation of and giving effect to the Transaction:

#### (1) Corporate Matters

- (a) If a corporation, it is a duly incorporated, amalgamated or continued and validly existing corporation and has the corporate power and authority to enter into and perform its obligations under any Loan Document, Material Contract and Operating Agreement to which it is or will be a party, to own or lease its Property and to carry on its business as conducted.

- (b) If a limited partnership, it is a duly formed and validly existing limited partnership and, through its general partner it has the power and authority to enter into and perform its obligations under any Loan Document, Material Contract or Operating Agreement to which it is or will be a party, and it has the power to own or lease its Property and to carry on its business as conducted.
- (c) CanWest GP has the corporate power and authority to enter into and perform the obligations of the Borrower under any Loan Document, Material Contract or Operating Agreement to which the Borrower is or will be a party.
- (d) It is qualified to carry on business in all jurisdictions in which the Property owned or leased by it or the nature of the activities carried on by it makes such qualification necessary, except to the extent that the non-qualification or the absence of Permits would not, and could not reasonably be expected to, have a Material Adverse Effect.
- (e) It has all Permits required to own its Property and to carry on the business in which it is engaged and all such Permits are in good standing, except to the extent that the absence of Permits or lack of good standing of Permits would not, and could not reasonably be expected to, have a Material Adverse Effect.
- (f) It has obtained all material Permits and other third party consents necessary for it to complete the Transaction.
- (g) The entering into and the performance by it of the Loan Documents and Material Contracts to which it is or will be a party and the consummation of the Transaction (i) have been duly authorized by all necessary corporate or other action on its part, (ii) do not and will not violate its Constatting Documents or any Applicable Law, (iii) do not and will not result in a breach of or constitute (with the giving of notice, the lapse of time or both) a default under or require a consent under any Material Permit or any Material Contract to which it is a party or by which it or its Property is bound, and (iv) do not and will not result in the creation of any Encumbrance on any of its Property, other than pursuant to the Security and will not require it to create any Encumbrance on any of its Property other than the Security and will not result in the forfeiture of any of its Property.
- (h) Its Constatting Documents do not restrict the power of its directors, trustees or partners, as the case may be, to borrow money, to give financial assistance by way of loan, guarantee or otherwise, or to encumber any or all of its present and future Property to secure the Secured Obligations, except for restrictions under any Constatting Document which have been complied with in connection with the Loan Documents, the Other Secured Agreements, all other Permitted Obligations and Material Contracts.

- (i) It is not in violation of any term of its Constatng Documents and is not in violation of any Applicable Law, or Contract, the violation of which would or could reasonably be expected to have a Material Adverse Effect.

(2) **Loan Documents, etc.**

- (a) The Loan Documents to which it is or will be a party have been or will be duly executed and delivered by it (or on its behalf) and, when executed and delivered, will constitute legal, valid and binding obligations enforceable against it in accordance with their respective terms, subject to the availability of equitable remedies and the effect of bankruptcy, insolvency and other laws of general application limiting the enforceability of creditors' rights generally and to the fact that equitable remedies, including specific performance and injunctive relief, are discretionary and may not be ordered in respect of certain defaults.
- (b) No Default has occurred and is continuing.
- (c) From and after the date on which the relevant Security is delivered, the Lenders will have legal, valid and enforceable first ranking security upon all of its present and future Property required to be subject to the Security, subject only to Permitted Encumbrances, the availability of equitable remedies, and, with respect to ranking, the effect of bankruptcy, insolvency and similar laws affecting the rights of creditors generally and recognizing that certain Property, such as Permits, leasehold interests and intellectual property, may not be susceptible to the creation of a security interest.

(3) **Litigation, Financial Statements and Other Matters**

- (a) There are no actions, suits, arbitration or administrative proceedings or industrial or labour disputes outstanding or, to its knowledge after having made reasonable inquiry, pending or threatened, against it which, in any such case, would or could reasonably be expected to have a Material Adverse Effect.
- (b) All of its historical financial statements which have been furnished to the Agent and the Lenders, or any of them, in connection with this Agreement are complete and fairly present the financial position of the applicable Person as of the dates referred to therein and have been prepared in accordance with GAAP except that, in the case of quarterly financial statements, notes to the statements and normal year-end audit adjustments required by GAAP are not included.
- (c) All projections, including forecasts, budgets, *pro formas* and business plans provided to the Agent and the Lenders, or any of them, under or in connection with this Agreement were prepared in good faith based on assumptions which, at the time of preparation thereof, were believed to be reasonable and are

believed to be reasonable estimates of the prospects of the businesses referred to therein.

- (d) As of the Closing Date and upon completion of the Transaction, it has and will have no liabilities (contingent or other) or other material obligations of the type required to be included in the consolidated financial statements of the Borrower in accordance with GAAP which are not fully included in the financial statements referred to in Section 4.1(4)(a), other than liabilities and obligations incurred in connection with the Transaction, none of which has a Material Adverse Effect, and the Obligations.
- (e) It is not in default under any of the Permitted Encumbrances to an extent that such defaults, individually or in the aggregate, would or could reasonably be expected to have a Material Adverse Effect.
- (f) During the period from February 28, 2007 to the Closing Date and from and after the Closing Date, no event has occurred and no fact has become known to it that that would or could reasonably be expected to have a Material Adverse Effect.
- (g) It has no Debt that is not a Permitted Obligation.

(4) **Business, Property, Capital Stock, Material Contracts and Material Permits**

- (a) Schedule F fully and fairly describes, as of the Closing Date (after giving effect to the Transaction), the ownership of all of its issued and outstanding Capital Stock and of Capital Stock that it owns in other Persons, the nature of the business that it carries on, the locations of its head office (and chief executive office, if different) and its freehold (or fee as the case may be) and leasehold real property and the jurisdictions in which its other Property (other than accounts receivable) is located. Except as set out in Schedule F, it does not have any Subsidiaries, direct or indirect, is not a partner in any partnership (general or limited), it does not own any interests in any trust and is not a co-venturer in any joint venture, as of the date hereof. As of the date hereof, all of the issued and outstanding Capital Stock of CanWest GP is owned by CanWest MediaWorks Inc.
- (b) The Pledged Stock issued by it is validly issued as fully paid and non-assessable Capital Stock.
- (c) The consents of its shareholders, directors, trustees or partners, as the case may be, that will be delivered at or prior to the time that the Pledged Stock becomes part of the Security are the only consents that are necessary in connection with the pledges of the Pledged Stock as part of the Security (including the enforcement of the pledges), and will be kept in full force and effect as long as they remain necessary.



- (d) It owns or is licensed or otherwise has the right to use all Intellectual Property that is necessary for the operation of its business, to its knowledge without conflict with the rights of any other Person, except as specified on Schedule H. All material Intellectual Property that it owns or is used in its business is listed on Schedule H (as may from time to time be updated by the applicable parties by notice to the Agent).
- (e) It maintains appropriate insurance coverage, including, business interruption insurance, that satisfies the covenants and conditions of the Loan Documents concerning insurance coverage.
- (f) Each Material Contract to which it is a party is in full force and effect, and no material breach by any party thereto of any of the terms or conditions thereof has occurred and is continuing, there have been no events that are continuing which, but for giving notice, lapse of time or any other condition subsequent, would constitute a default of a material obligation thereunder or would allow the termination of such Material Contract or the imposition of any material sanction on any party to such Material Contract of which it is aware and no party to such Material Contract has a set-off or counterclaim against it relating to or affecting such Material Contract of which it is aware.
- (g) Each Material Contract to which any Obligor is a party, as of the Closing Date and upon completion of the Transaction, is listed in Sections 1.1.110(a) to (d).
- (h) No Material Contract is the subject of any Encumbrances other than Permitted Encumbrances.
- (i) Each Material Contract to which it is a party has been duly executed and delivered by it or on its behalf and constitutes a legal, valid and binding obligation enforceable against it in accordance with its terms, subject to the availability of equitable remedies and the effect of bankruptcy, insolvency and other laws of general application limiting the enforceability of creditors' rights generally and to the fact that equitable remedies, including specific performance and injunctive relief, are discretionary and may not be ordered in respect of certain defaults.
- (j) There has been no amendment to, or breach or termination of, any Operating Agreement to which it is a party which would or could reasonably be expected to have a Material Adverse Effect.
- (k) It has good title to all personal or moveable Property and good and marketable title to all real or immovable Property or leasehold interests therein owned or Leased by it, free and clear from any Encumbrance, other than any Permitted Encumbrances, and no Person has any agreement with it or right to acquire an interest in any such Property.

- (l) All of the Material Permits to which any Obligor is a party or of which any Obligor has the benefit are, as of the Closing Date and upon completion of the Transaction, described in Schedule L and each Material Permit described in Schedule L is in full force and effect, without further amendment thereto, and no further or other Permit is required for any Obligor to carry on its business as conducted, except to the extent that a failure to maintain, comply with, or to have, the same would not, or could not reasonably be expected to, have a Material Adverse Effect.
  - (m) The complete and accurate organization structure of the Obligors as at the date of this Agreement and after giving effect to the Transaction is set forth on Schedule M.
  - (n) All information contained in the Information Circular is, as at the Closing Date, true and all information contained in the Offering Memorandum is, as at the Closing Date, true, full and plain and, to the Borrower's knowledge, neither the Information Circular nor the Offering Memorandum omits a material fact necessary to make the statements contained therein not misleading in any material way, and all expressions of expectation, intention, belief and opinion contained therein were honestly made on reasonable grounds after due and careful inquiry by the relevant Person (and any other Person who furnished such material on behalf of them).
- (5) **Environmental Matters**
- (a) (i) It and all of its respective Property and operations are in full compliance in all respects with all Environmental Laws, (ii) it is not aware of, nor has it received notice of, any past, present or future conditions, events, activities, practices or incidents which may interfere with or prevent the compliance or continued compliance of it in all respects with all Environmental Laws, and (iii) it has obtained all Permits which are currently required under all Environmental Laws and is in full compliance with the provisions of such Permits, in each case except to the extent that the non-compliance would not, or could not reasonably be expected to, have a Material Adverse Effect.
  - (b) None of the Obligors is aware that any Hazardous Materials exist on, about or within or have been used, generated, stored, transported, disposed of on, or released from any of the properties or assets forming any part of its respective Property other than in material accordance and compliance with all Environmental Laws, except to the extent that the non-compliance would not, or could not reasonably be expected to, have a Material Adverse Effect.
  - (c) The use which each Obligor has made and intends to make of its Property will not result in the use, generation, storage, transportation, accumulation, disposal, or release of any Hazardous Materials on, in or from any such properties except in material accordance and compliance with all

Environmental Laws, except to the extent that the non-compliance would not, or could not reasonably be expected to, have a Material Adverse Effect.

- (d) There is no action, suit or proceeding, or, to its knowledge, investigation, or inquiry, before any Governmental Authority pending or, to its knowledge, threatened against any Obligor relating in any way to any Environmental Law that would, or could reasonably be expected to, have a Material Adverse Effect.
- (e) No Obligor has (i) incurred any current and outstanding liability for any clean-up or remedial action under any Environmental Law in respect to both current and past operations, events, activities, practices, incidents or the condition or use of any properties or assets owned currently or in the past, (ii) received any outstanding written request for information (other than information to be provided in the normal course in connection with applications for Permits) by any Person under any Environmental Law with respect to the condition, use or operation of its respective Property, or (iii) received any outstanding written notice or claim under any Environmental Law or relating to the presence of Hazardous Material on or originating from its respective Property and operations or from other Persons with respect to any material violation of or liability under any Environmental Law or relating to the presence of Hazardous Material on or originating from its respective Property and operations, that, in any such case, would, or could reasonably be expected to, have a Material Adverse Effect.

(6) **Taxes and Withholdings**

- (a) It has duly filed on a timely basis all tax returns, elections and reports required by Applicable Law to be filed by it (if the failure to do so would have a Material Adverse Effect) and has paid, collected and remitted all material Taxes due and payable, collectible or remittable by it, unless being contested in good faith by appropriate proceedings and for which it has recorded the liability in accordance with GAAP.
- (b) It has (i) withheld from each payment made to any of its past or present employees, officers, directors, trustees, agents and/or beneficiaries, as the case may be, and to any non-resident of the country in which it is resident, the amount of all material Taxes and other deductions required by Applicable Law to be withheld therefrom and has paid the same to the proper tax or other receiving officers within the time required under any Applicable Law, unless being contested in good faith by appropriate proceedings, and (ii) collected and remitted to the appropriate tax authority when required by Applicable Law to do so all material amounts collectible and remittable in respect of goods and services tax and similar Taxes, and has paid all such material amounts payable by it on account of sales Taxes including goods and services and value-added taxes (it being agreed that, for purposes of this paragraph, the amount of a Tax

is material if it equals or exceeds Cdn. \$1,000,000 or the equivalent thereof in another currency).

(7) **Pension and Welfare Plans**

- (a) During the twelve consecutive month period before the date of this Agreement and before the date of any Advance hereunder (i) no steps have been taken to terminate or wind-up any Pension Plan (wholly or in part), which could reasonably be expected to result in any Obligor making contributions (including special payments) to the Pension Plan in any twelve month period in excess of 115% of the contributions that were scheduled to be made in the prior twelve consecutive month period, (ii) no failure to remit a contribution in accordance with the terms of any Pension Plan or pension benefits legislation has occurred with respect to any Pension Plan sufficient to give rise to a deemed trust, lien or charge under any pension benefits legislation of any jurisdiction that, individually or in the aggregate would, or could reasonably be expected to, have a Material Adverse Effect, (iii) no condition exists and no event or transaction has occurred with respect to the Pension Plans which could reasonably be expected to result in the incurrence by the Obligors of fines or penalties in an amount that, individually or in the aggregate would, or could reasonably be expected to, have a Material Adverse Effect, and (iv) except as disclosed in the financial statements required to be provided pursuant to this Agreement or as otherwise disclosed in writing from time to time to the Agent, none of the Obligors has any contingent liability with respect to any post-retirement benefit under a Welfare Plan that, individually or in the aggregate would, or could reasonably be expected to, have a Material Adverse Effect.
- (b) (i) Each Pension Plan is and has been established, registered, funded, invested and administered in compliance with its terms and all Applicable Laws, (ii) all contributions or premiums (including employee contributions or premiums made by authorized payroll deductions or other withholdings) required to be made to the appropriate funding agent in accordance with all Applicable Laws and the terms of each Pension Plan or Welfare Plan have been made in accordance with all Applicable Laws and the terms of each Pension Plan or Welfare Plan, (iii) there have been no withdrawals, applications, payments or transfers of assets from any Pension Plan or Welfare Plan or the trusts or other funding media relating thereto which have not been made or done in accordance with all Applicable Laws, (iv) as at the date of the most recent actuarial report filed with respect to the Pension Plan, all liabilities under each Pension Plan that is a registered pension plan were funded, on a going concern and solvency basis, in accordance with the terms of the respective Pension Plans, the requirements of all Applicable Laws and applicable regulatory authorities using the methods and assumptions set out in such report, and (v) to its knowledge, no event has occurred and no condition exists with respect to any Pension Plan that has resulted or could reasonably be expected to result in any Pension Plan having its registration revoked or refused for the purposes of

any Applicable Law or being placed under the administration of any relevant pension benefits regulatory authority or any Obligor being required to pay any taxes or penalties under any Applicable Law, except for any exceptions to clauses (i) through (v) above that, individually or in the aggregate, would not, and could not reasonably be expected to, have a Material Adverse Effect.

**(8) Cumulative Material Adverse Effect**

There has not been any one or more breaches, defaults or instances of non-compliance with the foregoing representations and warranties (assuming none of such representations and warranties were qualified by "materiality" or the concept of Material Adverse Effect) such that the cumulative effect of all such breaches, defaults, or non-compliance would or could reasonably be expected to have a Material Adverse Effect.

**6.2 Survival of Representations and Warranties**

The representations and warranties made in this Agreement shall survive the execution of this Agreement and all other Loan Documents, and unless expressly stated to be made as of a specific date, shall be deemed to be repeated and made as of the date of each Advance (including any deemed Advance) and as of the date of delivery of each Compliance Certificate with the same force and effect as if made on and as of each such date, subject to modifications communicated by the Borrower to the Lenders in writing and accepted by the Required Lenders. The Lenders shall be deemed to have relied upon such representations and warranties at each such time as a condition of making an Advance hereunder or continuing to extend the Credits hereunder.

**ARTICLE 7  
COVENANTS**

**7.1 Financial Covenants of the Borrower**

- (1) The Borrower shall have at the Closing Date (after consummation of and giving effect to the Transaction) and shall at all times thereafter maintain a Total Leverage Ratio of not greater than 5.75 to 1.
- (2) The Borrower shall have at Closing Date (after consummation of and giving effect to the Transaction) and shall at all times thereafter maintain a Senior Leverage Ratio of not greater than 3.75 to 1.
- (3) The Borrower shall at all times maintain an Interest Coverage Ratio not less than the levels indicated below, for the applicable periods noted below:

Period	Interest Coverage Ratio
From Closing Date (after giving effect to the Transaction) to August 30, 2009	1.75 to 1.0
August 31, 2009 and thereafter	2.00 to 1.0

Unless otherwise provided, the foregoing ratios shall be calculated on a rolling four quarter basis, based on the most recently completed four fiscal quarters of the Borrower.

## 7.2 Positive Covenants

During the term of this Agreement, each Obligor shall perform the covenants specified below.

### (1) Payments and Operation of Business

- (a) It shall duly and punctually pay and perform its indebtedness, liabilities and obligations hereunder and under the other Loan Documents at the times and places and in the manner required by the terms hereof and thereof.
- (b) It shall (i) maintain its corporate existence or other form of existence existing as at the date of this Agreement and (ii) operate and carry on and conduct its business and affairs in compliance in all material respects with all applicable Material Contracts and Material Permits, except to the extent that a failure to do so would not, or could not reasonably be expected to, have a Material Adverse Effect.
- (c) It shall operate its business in a prudent manner and in compliance in all material respects with all Applicable Laws except to the extent that a failure to do so would not, or could not reasonably be expected to, have a Material Adverse Effect.
- (d) It shall maintain in good standing and shall obtain, as and when required, all Permits and Contracts which may be necessary to permit it to acquire, own, operate and maintain its business and Property, observe and perform all the obligations imposed upon it under or in connection therewith, take any and all commercially reasonable actions necessary to preserve its rights thereunder except to the extent that a failure to do so would not, and could not reasonably be expected to, have a Material Adverse Effect.
- (e) It shall maintain in good standing in all material respects all Material Contracts and Material Permits, observe and perform in all material respects all the obligations imposed upon it under or in connection therewith, take any and all commercially reasonable actions necessary to preserve in all material respects its rights thereunder and cooperate with the Agent to the fullest extent possible in pursuing any claim it may have under or in respect thereof.

- (f) It shall maintain in good standing in all material respects all Operating Agreements and observe and perform in all material respects all the obligations imposed upon it under or in connection therewith, except to the extent that failure to do so would not, or could not reasonably be expected to, have a Material Adverse Effect.
- (g) In the case of the Borrower, it shall utilize proceeds of Advances under the Credits solely for the applicable purposes set out in Sections 2.3.
- (h) To the extent practicable and offered on commercially competitive terms, it shall maintain with the Agent all of its bank accounts through which it conducts all of its financial transactions.
- (i) In the event that, as at the close of business on any day in Toronto, the Mark-to-Market Exposure under all Swap Transactions to which any Obligor is a party during the immediately preceding five consecutive Business Days exceeds Cdn. \$250,000,000 (or the equivalent thereof in any other currencies), each Obligor shall within three Business Days reprice or terminate such arrangements or take such other action acceptable to the Required Lenders so that such aggregate Mark-to-Market Exposure is reduced to an aggregate amount not in excess of Cdn. \$250,000,000.

(2) **Inspection**

It shall upon reasonable notice permit representatives of or consultants of or to the Agent, during regular business hours, to inspect any of its Property, conduct environmental site assessments and/or compliance audits, examine and report on all insurance maintained by or on behalf of each Obligor and to examine and take extracts from its financial books, accounts and records, including but not limited to accounts and records stored in computer data banks and computer software systems, and to discuss its financial condition with its senior officers and (in the presence of such of its representatives as it may designate) its auditors, the reasonable expense of all of which shall be paid by the Borrower.

(3) **Insurance**

- (a) It shall maintain or cause to be maintained insurance on all its Property with insurers that have a rating of at least A- in the A.M. Best's Key Rating Guide (or B in the A.M. Best's Key Rating Guide in the case of automobile insurance) which insurance shall include all-risk property insurance, commercial general liability insurance, business interruption insurance, automobile liability insurance and crime insurance, in amounts and on terms that are customary in the industry.
- (b) It shall cause policies of insurance referred to above to contain the following provisions all in a form acceptable to the Lenders, acting reasonably: (i) with respect to the all risk property and business interruption policies, a standard

mortgage clause and other customary endorsements for the benefit of the Collateral Agent on behalf of it and the secured creditors under the Collateral Agency Agreement, (ii) with respect to the commercial general liability policy, a severability of interest and cross liability clause and other customary endorsements for the benefit of lenders, and (iii) a provision that such policies will not be cancelled during the term of the policies without 30 days prior written notice being given to the Agent and the Collateral Agent by the issuers thereof. It shall also cause the Collateral Agent to be named as an additional insured with respect to commercial general liability insurance and first loss payee with respect to all other policies of insurance, and cause all of the proceeds of insurance under such policies (other than proceeds under directors and officers liability policies and public liability policies payable to third parties and subject to any prior payment required to be made to any holder of a Permitted Encumbrance which has priority over the Security) to be made payable to the Collateral Agent to be dealt with in accordance with the Collateral Agency Agreement.

- (c) Whenever reasonably requested in writing by the Agent, it shall cause true and complete copies of the policies of insurance carried pursuant to this Section to be made available to the Agent and the Agent's insurance consultants for review.
- (d) It shall provide the Agent promptly with such other evidence of the insurance as the Lenders may from time to time reasonably require and shall cooperate with the Agent, if requested by the Agent acting reasonably, in the appointment of an insurance consultant by the Agent on behalf of the Lenders, at the Borrower's expense, to review and report on all insurance-related matters to the Agent and the Lenders.

**(4) Taxes and Withholdings**

- (a) It shall pay all Taxes as they become due and payable unless they are being contested in good faith by appropriate proceedings.
- (b) It shall withhold from each payment made to any of its past or present employees, officers, directors, partners and trustees, and to any non-resident of Canada, the amount of all Taxes and other deductions required by Applicable Laws to be withheld therefrom and pay the same to the proper tax or other receiving officers within the time required under any Applicable Law.
- (c) It shall collect from all Persons the amount of all Taxes required by any Applicable Law to be collected from them and remit the same to the proper tax or other receiving officers within the time required under any Applicable Law.



(5) **Other Matters**

- (a) Subject to Section 3.1(3), it shall immediately upon receipt, deliver to the Collateral Agent for the benefit of the secured creditors under the Collateral Agency Agreement, all certificates representing all Equity of each Obligor or of other Persons in which it owns Equity that it acquires after the date that Equity of the Obligor or other Person is first delivered as part of the Security, together with executed stock transfer or powers of attorney relating to those certificates (or if certificates in respect of such Equity are not available, take such other steps to perfect the Security relating to such Equity as the Agent requires, including entering into control agreements), and shall also deliver to the Collateral Agent originals of any future promissory notes and similar instruments evidencing the CanWest Publications Debt or other Debt of any Person, duly endorsed for transfer or accompanied by transfer powers of attorney relating to those notes or instruments.
- (b) It will do, observe and perform all of its obligations and all matters and things necessary or expedient and which may be legally done, observed and performed for the purposes of creating and maintaining the Encumbrances intended to result from the Security as valid, effective and perfected first priority Encumbrances at all times (subject to Permitted Encumbrances) and shall comply with all requirements of Section 3.1(6).
- (c) It will use commercially reasonable efforts to obtain all government and other third party consents or approvals with respect to material Property as determined by the Agent acting reasonably that has been assigned or charged pursuant to the Security that requires the consent or approval of another Person.
- (d) Without limiting any other provision of this Agreement, it shall remove, clean up or otherwise remedy all matters which are the subject of any written order or notice of inquiry, investigation, complaint, allegation or claim pertaining to or under Environmental Laws or Permits to the extent required under applicable Environmental Laws which, if not remediated, would or could reasonably be expected to have a Material Adverse Effect.

**7.3 Reporting and Notice Requirements**

During the term of this Agreement, the Borrower shall deliver or cause the delivery of the periodic reports specified below and shall give notices in the circumstances specified below, or cause notices to be given. All financial statements and other reports shall be in a form satisfactory to the Lenders acting reasonably and all financial statements shall be prepared in accordance with GAAP.

(1) **Periodic Financial Reports**

- (a) The Borrower shall, as soon as practicable and in any event within 60 days of the end of each of its fiscal quarters (including its fourth fiscal quarter), cause to be prepared and delivered to the Agent (with sufficient copies for each of the Lenders), its interim unaudited consolidated financial statements as at the end of such quarter.
- (b) The Borrower shall, as soon as practicable and in any event within 120 days after the end of each of its fiscal years, prepare and deliver to the Agent (with sufficient copies for each of the Lenders) its consolidated annual financial statements together with the notes thereto, which shall be audited by an internationally recognized accounting firm.
- (c) The Borrower shall, concurrently with the delivery of its quarterly financial statements, provide the Agent (with sufficient copies for each of the Lenders) with a Compliance Certificate.
- (d) The Borrower shall, as soon as practicable and in any event not later than 60 days after the first day of each of its fiscal years, cause to be prepared and delivered to the Agent (with sufficient copies for each of the Lenders) (i) a budget for such fiscal year and (ii) financial forecasts for the immediately following three fiscal years, in each case setting forth financial projections for the Borrower on a consolidated basis, which shall include a projected income statement, projected balance sheet, projected statement of changes in funds and estimates of Capital Expenditures, all broken down quarterly (for the first year of the budget period only), and otherwise in detail acceptable to the Lenders, acting reasonably.
- (e) The Borrower shall promptly provide the Agent with all other information, reports and certificates reasonably requested by the Lenders from time to time concerning the business, financial condition and Property of the Borrower and each other Obligor.

If there is any change in a fiscal year from the accounting policies, practices and calculation methods used by the Borrower (or its predecessors) in preparing its financial statements for its interim period ending February 28, 2007, or components thereof, the Borrower shall provide the Lenders with all information that the Lenders require to ensure that reports provided to the Lenders after any change are comparable to previous reports. In addition, all calculations made for the purposes of this Agreement shall continue to be made based on the accounting policies, practices and calculation methods that were used in preparing the financial statements for the Borrower (or its predecessors) for its interim period ending February 28, 2007 if the changed policies, practices and methods would affect the results of those calculations.

(2) **Requirements for Notice**

- (a) Each Obligor shall, promptly after it becomes aware thereof, notify the Agent of (i) any Default, or of any material breach of any material obligation or material default (whether it is its own default or a default by any other party) of which it is aware under any Material Contract to which it is a party or Material Permit, or of any termination or cancellation of a Material Contract (other than at the expiry of its term), or of any event which, with or without the giving of notice, lapse of time or any other condition subsequent, would be a material default under or would otherwise allow the termination of any Material Contract (other than at the expiry of its term) or Material Permit or the imposition of any material sanction on any party to a Material Contract or Material Permit, and shall from time to time provide the Lenders with all information reasonably requested by any of the Lenders concerning the status thereof, and (ii) any new Material Contract to which it becomes a party.
- (b) Each Obligor shall promptly notify the Agent on becoming aware of the occurrence of any action, suit, dispute, arbitration, proceeding, labour or industrial dispute or other circumstances affecting it, the result of which if determined adversely would or could reasonably be expected to have a Material Adverse Effect, and shall from time to time provide the Agent with all reasonable information requested by any of the Lenders concerning the status thereof.
- (c) The Borrower shall promptly notify the Agent upon learning of (i) the existence of Hazardous Materials located on, above or below the surface of any land which any Obligor occupies or controls (except those being stored, used or otherwise handled or existing in substantial compliance with applicable Environmental Laws), or contained in the soil or water (including groundwater) constituting such land (in excess of levels prescribed under applicable Environmental Laws or which would constitute an actual breach of or non-compliance with any Environmental Laws) which, in either case, would, or could reasonably be expected to, have a Material Adverse Effect, (ii) the occurrence of any release, spill, leak, emission, discharge, leaching, dumping or disposal of Hazardous Materials reportable under Environmental Laws that has occurred on or from such land if such occurrence would, or could reasonably be expected to, have a Material Adverse Effect, in which case the Borrower shall within 90 days thereof provide the Agent with details, including cost of the work required to remove, clean up or otherwise remedy the matters referred to in the notice, and (iii) any violation, alleged violation, notice of infraction, order, claim, suit or proceeding relating to Environmental Laws, Permits or the presence of Hazardous Materials on or originating from its respective Property and operations which would, or could reasonably be expected to, have a Material Adverse Effect.
- (d) The Borrower shall provide notice to the Agent and copies of all relevant documentation promptly upon becoming aware of (i) the institution of any

steps by any Obligor or any applicable regulatory authority to terminate or wind-up any Pension Plan (wholly or in part) which could reasonably be expected to result in such Obligor making contributions (including special payments) to the Pension Plan in any twelve month period in excess of 115% of the contributions that were scheduled to be made in the prior twelve consecutive month period, (ii) the failure to make a required contribution to any Pension Plan if such failure is sufficient to give rise to a deemed trust, lien or charge under any pension benefits legislation of any jurisdiction that, individually or in the aggregate, would or could reasonably be expected to have a Material Adverse Effect, (iii) the taking of any action with respect to a Pension Plan which could reasonably be expected to result in the requirement that the Obligor furnish a bond or other security to such Pension Plan or any applicable regulatory authority that, individually or in the aggregate, would or could reasonably be expected to have a Material Adverse Effect, (iv) the occurrence of any event with respect to any Pension Plans which could reasonably be expected to result in the incurrence by an Obligor of any fines or penalties in an amount that, individually or in the aggregate would, or could reasonably be expected to, have a Material Adverse Effect, (v) the occurrence of any breach of any fiduciary obligation with respect to the administration of any Pension Plan, Welfare Plan or any related funding medium, (vi) the occurrence of any event which results or could reasonably be expected to result in any qualification for special tax status for any Pension Plan or Welfare Plan under any Applicable Law being revoked or refused, or (vii) any annual increase in the contingent liability of any Obligor with respect to any post-retirement Welfare Plan benefit as at December 31 of a calendar year in excess of 115% of the contingent liability for the preceding December 31.

#### 7.4 Negative Covenants

During the term of this Agreement, none of the Obligors shall do any of the things specified in this Section without the prior written consent of the Required Lenders or the Lenders, as applicable.

##### (1) Debt and Encumbrances

No Obligor shall:

- (a) create, incur, assume or suffer to exist or cause or permit any Encumbrance upon or in respect of any of its Property other than Permitted Encumbrances; or
- (b) do or permit anything to adversely affect the ranking or validity of the Security except by incurring a Permitted Encumbrance; or
- (c) create, incur, assume or permit any debts, liabilities or obligations of any kind (including contingent liabilities) to remain outstanding, other than Permitted Obligations; or

- (d) create, incur, assume or permit the existence of any Permitted Obligations which rank senior to the Obligations, the Other Secured Obligations or the Guarantor Obligations other than Permitted Obligations which are secured by Permitted Encumbrances; or
- (e) cause or permit any Debt to be secured by or pursuant to the Collateral Agency Agreement other than the Secured Obligations, amounts owing to the Collateral Agent in its capacity as Collateral Agent under the Collateral Agency Agreement and such other indebtedness, liabilities and obligations as is consented to by the Required Lenders.

(2) **Distributions, Financial Assistance and other Financial Transactions**

No Obligor shall:

- (a) prepay, redeem prior to maturity, defease, repurchase or make other prepayments in respect of any of its Debt in any manner, other than:
  - (i) the Secured Obligations;
  - (ii) provided no Default has occurred and is continuing or would result therefrom (A) Permitted *Confidential* ~~Part Passu~~ Debt, or (B) the Purchase Money Encumbrances contemplated in Section 1.1.133(m); and
  - (iii) a Permitted Distribution made in compliance with Section 7.4(2)(e);
- (b) make any Investments except for the guarantees given as part of the Security, and provided no Default has occurred and is continuing or would result therefrom (i) Permitted Investments, (ii) Investments made by the Borrower in another Obligor which is a wholly-owned Subsidiary of the Borrower, and (iii) Investments made by an Obligor in the Borrower or another Obligor which is a wholly-owned Subsidiary of the Borrower, which Investments are, to the extent required in Section 7.2(5)(a), pledged and delivered to the Collateral Agent, and (iii) the guarantees referred to in Section 1.1.135(m);
- (c) enter into or cause to be entered into Swap Transactions other than for the purposes of prudent management of its interest rate, foreign currency and commodity price exposure and not for speculative purposes, provided however, the Borrower shall be required to fix, no later than July 31, 2007, and maintain throughout the term of the applicable Debt at least 75% of the principal amount of its interest exposure under, all Debt (other than Credit B) and 75% of its foreign exchange exposure under all Debt (other than Credit B);
- (d) enter into or cause to be entered into any Swap Transaction (including Currency Agreements and Interest Rate Agreements) with any Person other than a Lender or an Affiliate of a Lender other than (i) Swap Transactions involving a commodity product (including newsprint hedging contracts) which are not offered by a Lender or an Affiliate of a Lender on reasonably

competitive terms, or (ii) proprietary products which are not offered by a Lender or an Affiliate of a Lender on reasonably competitive terms. For the avoidance of doubt, any Swap Transaction permitted with Persons other than Lenders under this Section 7.4(2)(d) shall be unsecured;

- (e) make any Distribution of any nature or kind whatsoever other than Permitted Distributions; or
- (f) subject to provisions to the contrary contained in any relevant Intercreditor Agreement, make any regularly scheduled payments of interest on any Debt during the continuance of an Event of Default other than in respect of the Obligations, the Other Secured Obligations, Debt secured by Encumbrances having priority over the Security and Permitted Pari Passu Debt.

(3) **Business and Property**

No Obligor shall:

- (a) effect any change in, or carry on, or permit any other Obligor to effect any change in or carry on, any business other than the Communications Business, which, for greater certainty, is not intended to prevent CanWest Books Inc. from ceasing to carry on business as currently intended;
- (b) have any Subsidiaries or hold or acquire Equity or other securities of any other Person except another Obligor or a Minority Investment permitted hereunder, or become a partner in any partnership (general or limited), a holder of any trust units or a beneficiary under any trust arrangement or a co-venturer in any joint venture other than as described in Schedule F and except for new Subsidiaries of the Borrower resulting from a Permitted Investment, in respect of which Minority Investments and Permitted Investments there has been provided the guarantees, Security and related documentation pursuant to Section 3.1(3); or
- (c) permit any sale, lease or other disposition of the whole or any part of its Property or any rights or interest therein (including any sale and lease-back arrangement) except for (i) sales of inventory in the ordinary course of business, (ii) sales, leases, transfers or dispositions of assets between Obligor, (iii) provided that no Default has occurred and is continuing or would result therefrom and Net Cash Proceeds are applied as provided in Section 2.5 (A) sales or other dispositions of obsolete or redundant equipment in the ordinary course of business, (B) asset swaps with Arm's Length Persons so long as the aggregate EBITDA associated with the assets disposed of (net of the aggregate EBITDA associated with the assets acquired) in asset swaps in any fiscal year of the Borrower and over the term of the Credits, together with the dispositions in clause (C) below, do not exceed the limits set out in clause (C) below, and (C) other dispositions for cash in any fiscal year of the Borrower of Property of the Obligor representing no more than (in the

aggregate for all Obligor) 10% of EBITDA (calculated on an Adjusted Consolidated Basis) in a year or more than 20% of EBITDA (calculated on an Adjusted Consolidated Basis) over the term of the Credits.

(4) **Material Contracts and Related Party Transactions**

No Obligor shall:

- (a) assign (other than between Obligor) or terminate any Material Contract (other than at the expiry of its term by lapse of time) to which it is a party or cause or permit any material amendment or material modification to, or waiver of any material term of, any Material Contract and which, in the case of the Borrower Partnership Agreement, could reasonably be expected to affect its ability to perform its Obligations under the Loan Documents;
- (b) cause or permit any amendment or modification to, or waiver of any term of, any Lease or Leases which would, or could reasonably be expected to, individually or in the aggregate, have a Material Adverse Effect;
- (c) enter into any transaction of any kind with any Affiliate or Related Party, or Person in respect of which it is a Related Party, except on a commercially reasonable basis as if it were dealing with such Person on an Arm's Length basis other than (i) transactions between the Borrower and other Obligor that are wholly-owned Subsidiaries of the Borrower, (ii) the transactions contemplated by the Operating Agreements, and (iii) the redemption of the outstanding trust units of the CanWest MediaWorks Income Fund as contemplated by the Privatization Agreement and described in the Information Circular; or
- (d) enter into any agreement or transaction which would result in, or otherwise cause, permit or acquiesce in any action or series of actions which would result in, any Person, or group of Persons acting in concert, other than CanWest MediaWorks Inc. owning 100% of the Capital Stock of the Borrower and the Borrower owning 100% of the Capital Stock of the of CanWest Publications.

(5) **Corporate Matters**

No Obligor shall:

- (a) unless otherwise specifically permitted hereunder, consolidate, amalgamate or merge with any other Person, enter into any corporate reorganization or other transaction intended to effect or otherwise permit a change in its existing Constatng Documents or its capital structure, liquidate, wind-up or dissolve itself, or permit any liquidation, winding-up or dissolution (collectively, "fundamental changes") except for fundamental changes involving solely two or more Obligor if prior notice has been given to the Agent and each Obligor has taken all steps reasonably required by the Lenders to ensure that the

Lenders' rights and interests (including under all Security) are not adversely affected by any such fundamental change including delivery of other security documents granting Encumbrances on the Property of the Obligors if necessary to ensure that the interests of the Secured Parties are not structurally subordinated;

- (b) cause or permit any material amendment or material modification to any of its Constatng Documents which could reasonably be expected to affect its ability to perform its Obligations under the Loan Documents;
- (c) change its name without providing the Lenders with prior written notice thereof and promptly taking other steps, if any, as the Lenders reasonably request to ensure the continued perfection of all Security with respect to the change in name;
- (d) permit its chief executive office or domicile to be located out of the respective jurisdictions specified on Schedule F without providing the Agent with prior written notice thereof and promptly taking other steps, if any, as the Lenders reasonably request to ensure the continued perfection of all Security with respect to the change in location;
- (e) change its fiscal year end (being 31 August for the Borrower), except that Guarantors that have a different fiscal year end as at the date hereof may change it to 31 August; or
- (f) change its auditors, unless an internationally recognized accounting firm is appointed.

#### **7.5 Business of CanWest GP**

CanWest GP shall not carry on any business other than acting as general partner of the Borrower and shall own no Property other than its 0.001% general partner interest in the Borrower and the special voting shares of CanWest Publications.

#### **7.6 Insurance**

All proceeds of insurance maintained by or on behalf of each Obligor shall be dealt with in accordance with the provisions of the Collateral Agency Agreement.

#### **7.7 Replacement of Lender**

If, in connection with any proposed Permitted Investment being made by any Obligor, any Lender (a "Restricted Lender") shall be restricted from financing, supporting or otherwise being involved in or associated with activities located in any jurisdiction relevant to the Permitted Investment (as notified in writing by the Restricted Lender to the Borrower and the Agent), and solely as a result of such restriction the proposed Investment does not qualify as a Permitted Investment, the Borrower shall, at its option and sole expense, have the right:



- (a) to require that each Restricted Lender assign all but not less than all of its rights under the Credit to another existing Lender or another Eligible Assignee which has agreed to assume the Commitment of the Restricted Lender in accordance with, and subject to the terms of this Agreement, provided that (i) no such assignment and assumption shall be effective unless all amounts owed to the Restricted Lender in respect of the Credit are paid in full to the Restricted Lender by the assignee or Borrower, and (ii) no Lender shall be required or obligated to accept or undertake any such assignment or assumption. Section 10 of the Provisions shall apply *mutatis mutandis* to any such assignment and assumption; or
- (b) provided that no Default has occurred and is continuing, to cancel in its entirety the Commitment of each Restricted Lender (which cancellation shall constitute a permanent reduction of the Credit), provided that no such cancellation shall be effective unless all amounts owed to the Restricted Lender in respect of the Credit are paid in full to the Restricted Lender by the Borrower.

#### 7.8 Acknowledgments re Assignment of Interest Rate Debt

CanWest Publications in relation to the assignment by the Borrower to the Collateral Agent of the CanWest Publications Notes hereby:

- (a) acknowledges the assignments of the CanWest Publications Notes pursuant to the applicable Loan Document, consents to such assignment for all purposes and waives any formal notice thereof required under any Note;
- (b) acknowledges that, following an Event of Default, the Collateral Agent shall have the right to sue for and enforce all rights under the CanWest Publications Notes and shall, in the course of the enforcement of the CanWest Publications Notes, be entitled to sell, assign, transfer, negotiate or otherwise dispose of the CanWest Publications Notes;
- (c) acknowledges that, following an Event of Default, all payments required to be made under or in connection with the CanWest Publications Notes shall be made directly to the Collateral Agent;
- (d) agrees that all payments required to be made under or in connection with the CanWest Publications Notes to the Collateral Agent shall be made by it to the Collateral Agent without regard to any set-off or counterclaim between it and the assignor thereof;
- (e) acknowledges that the amount currently owing under the CanWest Publications Notes is as set forth in this Agreement;
- (f) agrees that it shall not, without the prior written consent of the Required Lenders, given in accordance with the provisions of this Agreement, consent or

agree to any termination, modification, alteration, amendment, supplement, restatement or replacement of any of the CanWest Publications Notes;

- (g) agrees that the Collateral Agent is entitled to exercise all of the rights of the assignor of the CanWest Publications Notes in accordance with the terms of the CanWest Publications Notes and that it shall have no liability for any obligations of such assignor under or in connection therewith; and
- (h) acknowledges that notwithstanding the assignment and transfer of the CanWest Publications Notes to the Collateral Agent by way of security, neither the Collateral Agent nor any Secured Party shall incur any liability to it or to any other Person under the CanWest Publications Notes, except to account for monies it receives thereunder and except, in the case of the Collateral Agent, in respect of any actions it takes in the course of the exercise of any rights and remedies of the Collateral Agent.

## ARTICLE 8 DEFAULT

### 8.1 Events of Default

The occurrence of any one or more of the following events shall constitute an Event of Default under this Agreement:

- (a) the Borrower fails to pay, whether by acceleration or otherwise, any amount of principal (including any amount relating to a Banker's Acceptance or L/C) when due; or
- (b) the Borrower fails to pay any amount of interest, fees, commissions or other Obligations (other than amounts on account of principal) when due, and such failure continues for three Business Days after the date of such default; or
- (c) there occurs a breach of any of the financial covenants in Section 7.1; or
- (d) there occurs a breach of any of the negative covenants in Section 7.4 and such breach remains unremedied for five Business Days after the Borrower becomes aware of such breach; or
- (e) the Borrower fails to make a Disposition Prepayment Offer as required by Section 2.5(3) or the Borrower fails to make the required payments under any such Disposition Prepayment Offer made under Section 2.5(3) that is accepted; or
- (f) any Obligor makes any representation or warranty in any Loan Document, or in any written statement or certificate made or delivered pursuant to this Agreement or the Collateral Agency Agreement, which is incorrect, incomplete or misleading in any material respect when made or deemed to be made; or

- (g) except as permitted in this Agreement, any Obligor (other than CanWest Books Inc. or a Non-Material Subsidiary) ceases or threatens to cease to carry on its business; or
- (h) any Obligor defaults under one or more agreements or instruments relating to its Debt or any Swap Transactions or permits any other event to occur and to continue without being waived or cured after any applicable grace period specified in such agreements or instruments, if the effect of one or more of such events is to accelerate, or to permit the acceleration of, the date on which Debt (or Swap Transactions) in an aggregate amount of Cdn. \$25,000,000 or more becomes due (whether or not such acceleration actually occurs) or an Obligor fails to pay any Debt in an aggregate principal amount of Cdn. \$25,000,000 when due; or
- (i) any Obligor (i) admits its inability to pay its debts generally, is, or is deemed for the purposes of any law to be, unable to pay its debts as they fall due, fails to pay its debts generally, acknowledges its insolvency in writing or becomes a bankrupt (voluntarily or involuntarily), or (ii) becomes subject to any proceeding seeking court protection, examinership, administration, reorganization by way of scheme of arrangement or otherwise, liquidation, dissolution, arrangement, winding up, relief of debtors or from creditors or the appointment of a receiver or trustee over any material part of its Property or analogous proceeding in any jurisdiction or becomes subject to any judgment or order which has or could reasonably be expected to have a Material Adverse Effect or a material adverse effect on any material part of its Property, and such proceeding, if instituted against any Obligor, or such judgment or order, is not contested diligently, in good faith and on a timely basis and vacated, dismissed, withdrawn or stayed within 45 days of its commencement or issuance; or
- (j) any Obligor denies, to any extent, its obligations under any Loan Document or claims any Loan Document to be invalid or withdrawn in whole or in part or terminates, or purports to terminate, any control agreement; or
- (k) this Agreement, the Collateral Agency Agreement, any of the Security, the Fee Letter, any Intercreditor Agreement or any other material Loan Document is invalidated in any material respect by any act, regulation or governmental action or is determined to be invalid in any material respect by a court or other judicial entity and such determination has not been stayed pending appeal and such circumstance remains unremedied for a period of ten Business Days following notice thereof by the Agent, on behalf of the Secured Parties, to the Borrower; or
- (l) any part of the Security is not or ceases to constitute, in whole or in part, a first-ranking Encumbrance on the Property of any Obligor, subject only to Permitted Encumbrances; or

- (m) one or more final judgments, writs of execution, garnishments or attachments or similar processes representing claims in an aggregate of Cdn. \$10,000,000 or more for all of the Obligors at any time are issued or levied against any of their Property and are not released, bonded, satisfied, discharged, vacated, stayed or accepted for payment by an insurer within 30 days after their entry, commencement or levy; or
- (n) one or more Encumbrancer and/or landlord exercising distraint or similar rights in relation to Debt or other obligations in an amount which, in the aggregate exceeds Cdn. \$25,000,000, takes possession of all or, in the aggregate, a material portion of the Property of the Obligors taken as a whole by appointment of a receiver or receiver and manager, by seizure, repossession or distraint, or otherwise; or
- (o) there is a breach of any covenant, condition or other provision of any Loan Document (other than a breach which is specifically dealt with elsewhere in this Section 8.1), by any party thereto other than the Agent or the Secured Parties, and such breach, if capable of being remedied, is not corrected or otherwise remedied within 30 days after the Agent, for and on behalf of the Secured Parties, gives written notice thereof to the Borrower; or
- (p) there shall occur a Change of Control; or
- (q) CanWest Publications ceases to be directly or indirectly wholly-owned by the Borrower; or
- (r) any Material Permit expires or is withdrawn, cancelled, terminated, or modified and is not reinstated or replaced within 10 days thereafter without material impairment to the applicable Obligor, if such withdrawal, cancellation, termination or modification would or could reasonably be expected to have a Material Adverse Effect; or
- (s) if (i) there occurs a material default under or material breach of any obligation of any Obligor or any other party, under the Privatization Agreement, (ii) there occurs a material default or material breach of any obligation by any Obligor or any other party, under any Material Contract (other than the Privatization Agreement) or any other event occurs under any Material Contract (other than those described in (i)) and in each case continues without being waived after the lesser of (A) 30 days from the earlier of the date of the notices required under Section 7.3(2) with respect to such default, breach or other event, or (B) any applicable grace period specified in the Material Contract, if the effect of such default, breach or other event (if not waived) is (x) to terminate, or to give a party thereto the right to terminate, the Material Contract (without giving effect to any materiality threshold or test, dispute period or arbitration proceeding period set forth therein), or (y) to cause or permit the imposition or exercise or enforcement of any material remedy or sanction against a party, a requirement to provide security or damages or the suspension or forfeiture of

any material rights under such agreement, or (iii) any Material Contract is terminated for any reason (other than at the expiry of its term by lapse of time) without prompt replacement.

## **8.2 Acceleration and Termination of Rights, Pre-Acceleration Rights**

- (1) If any Event of Default occurs, no Lender shall be under any further obligation to make Advances and the Required Lenders may instruct the Agent to give notice to the Borrower (a) declaring the Lenders' obligations to make Advances to be terminated, whereupon the same shall forthwith terminate, (b) declaring the Obligations or any of them to be forthwith due and payable, whereupon they shall become and be forthwith due and payable without presentment, demand, protest or further notice of any kind, all of which are hereby expressly waived by the Borrower, and/or (c) demanding that the Borrower deposit forthwith with the Agent for the Lenders' benefit Collateral equal to the full face amount at maturity of all L/Cs and Banker's Acceptances then outstanding for its account.
- (2) Notwithstanding the preceding paragraph, if any Obligor becomes a bankrupt (voluntarily or involuntarily), or institutes or is proceeding seeking liquidation, dissolution, arrangement, winding-up, reorganization of debtors or from creditors or the appointment of a receiver or trustee over any material part of its Property or analogous proceeding in any jurisdiction, then, without prejudice to the other rights of the Lenders as a result of any such event, without any notice or action of any kind by the Agent, the Collateral Agent or the Lenders, and without presentment, demand or protest, the Lenders' obligation to make Advances shall immediately terminate, the Obligations shall immediately become due and payable and the Borrower shall be obligated to deposit forthwith with the Agent for the Lenders' benefit Collateral equal to the full face amount at maturity of all L/Cs and Banker's Acceptances then outstanding for its account.
- (3) If an Event of Default has occurred and is continuing, the Borrower shall, upon demand by the Agent, cause all cash flow of the Obligors (after deduction of reasonable expenses relating thereto) to be paid directly to the Agent and shall take all such action and deliver all such documentation as the Agent may request or may otherwise be necessary in order to effect same, all such cash so paid to be applied on account of the Obligations in accordance with the terms hereof.

## **8.3 Payment of L/Cs, etc.**

- (1) Immediately upon any Obligations becoming due and payable under Section 8.2, the Borrower shall, without necessity of further act or evidence, be and become thereby unconditionally obligated to deposit forthwith with the Agent for the benefit of, as applicable, the Issuing Bank and each other applicable Lender Collateral equal to the full face amount at maturity of all L/Cs and Banker's Acceptances then outstanding for its account and the Borrower hereby unconditionally promises and agrees to deposit with the Agent immediately upon such demand Collateral in the amount so demanded. The Borrower authorizes the Lenders, or any of them, to debit its accounts with the

amount required to pay such L/Cs and to pay such Banker's Acceptances, notwithstanding that such Banker's Acceptances may be held by the Lenders, or any of them, in their own right at maturity. Amounts paid to the Agent pursuant to such a demand in respect of Banker's Acceptances and L/Cs shall, unless paid to the Collateral Agent and applied in accordance with the terms of the Collateral Agency Agreement, be applied against, and shall reduce, *pro rata* among the Lenders, to the extent of the amounts paid to the Agent in respect of Banker's Acceptances and L/Cs, respectively, the obligations of the Borrower to pay amounts then or thereafter payable under Banker's Acceptances and L/Cs, respectively, at the times amounts become payable thereunder.

- (2) The Borrower shall be entitled to receive interest on cash held by the Agent as Collateral in accordance with Section 10.10.

#### 8.4 Remedies

- (1) Upon the occurrence of any event by which any of the Obligations become due and payable under Section 8.2, the Security shall become immediately enforceable and the Required Lenders may instruct the Agent (who shall in turn instruct the Collateral Agent) to take such action or proceedings on behalf of the Lenders and in compliance with Applicable Laws as the Required Lenders in their sole discretion deem expedient to enforce the same, all without any additional notice, presentment, demand, protest or other formality, all of which are hereby expressly waived by the Obligors.
- (2) The Obligors acknowledge that the ability of the Collateral Agent, the Agent and Lenders to appoint or cause the appointment of a receiver, receiver and manager, trustee, interim receiver, custodian, sequestrator or other Person with similar powers of or in respect of it or any of its Property promptly following the occurrence of an Event of Default is of the utmost importance to the Collateral Agent, the Agent and the Lenders, and the Obligors therefore agree that they shall not oppose or challenge the appointment of any such Person by or on behalf of or at the suit of the Collateral Agent, the Agent or the Lenders.

#### 8.5 Saving

The Collateral Agent, the Agent and the Lenders shall not be under any obligation to any Obligor or any other Person to realize any collateral or enforce the Security or any part thereof or to allow any of the collateral to be sold, dealt with or otherwise disposed of. The Collateral Agent, the Agent and the Lenders shall not be responsible or liable to any Obligor or any other Person for any loss or damage upon the realization or enforcement of, the failure to realize or enforce the collateral or any part thereof or the failure to allow any of the collateral to be sold, dealt with or otherwise disposed of or for any act or omission on their respective parts or on the part of any director, officer, agent, servant or adviser in connection with any of the foregoing, except that the Agent and each Lender may be responsible or liable for any loss or damage arising from its wilful misconduct or gross negligence.

## **8.6 Perform Obligations**

If an Event of Default has occurred and is continuing and any Obligor has failed to perform any of its covenants or agreements in the Loan Documents, the Required Lenders, may, but shall be under no obligation to, instruct the Agent on behalf of the Lenders to perform or to instruct the Collateral Agent to perform any such covenants or agreements in any manner deemed fit by the Required Lenders without thereby waiving any rights to enforce the Loan Documents. The reasonable expenses (including any legal costs) paid by the Agent, the Collateral Agent and/or the Lenders in respect of the foregoing shall be secured by the Security.

## **8.7 Third Parties**

No Person dealing with the Lenders or any agent of the Lenders shall be concerned to inquire whether the Security has become enforceable, or whether the powers which the Lenders are purporting to exercise have become exercisable, or whether any Obligations remain outstanding upon the security thereof, or as to the necessity or expediency of the stipulations and conditions subject to which any sale shall be made, or otherwise as to the propriety or regularity of any sale or other disposition or any other dealing with the collateral charged by such Security or any part thereof.

## **8.8 Remedies Cumulative**

The rights and remedies of the Lenders under the Loan Documents are cumulative and are in addition to and not in substitution for any rights or remedies provided by Applicable Laws. Any single or partial exercise by the Lenders of any right or remedy for a default or breach of any term, covenant, condition or agreement herein contained shall not be deemed to be a waiver of or to alter, affect, or prejudice any other right or remedy or other rights or remedies to which the Lenders may be lawfully entitled for the same default or breach. Any waiver by the Lenders of the strict observance, performance or compliance with any term, covenant, condition or agreement herein contained, and any indulgence granted by the Lenders shall be deemed not to be a waiver of any subsequent default.

# **ARTICLE 9 THE AGENT AND THE LENDERS**

## **9.1 Authorization of Agent**

- (1) Without limiting Section 7.1 of the Provisions, each Secured Party irrevocably designates and appoints the Agent (subject to the terms of the Collateral Agency Agreement) for the purpose of holding and realizing on the Security in accordance with and subject to the terms hereof, the terms of the Collateral Agency Agreement and the terms of the other Loan Documents, and authorizes (subject to and except as otherwise provided for in the Collateral Agency Agreement) the Agent to take such action and to exercise such rights, powers and discretions as are expressly granted to it under this Agreement and the other Loan Documents and on the terms hereof or thereof together with such other rights, powers and discretions as are reasonably incidental thereto. To the extent necessary, each Secured Party appoints the Agent as

its agent to (subject to and except as otherwise provided in the Collateral Agency Agreement) appoint the Collateral Agent (or, as applicable, hereby confirms any such appointment) as such Secured Party's agent to hold in the name of the Collateral Agent, for the benefit of the Secured Parties, any of the debentures or bonds issued and outstanding from time to time under any deed of hypothec forming part of the Security, and authorizes the Agent to appoint on such Secured Party's behalf (or, as applicable, hereby confirms any such appointment) the Collateral Agent as the Person holding the power of attorney for the holders of debentures or bonds or other titles of indebtedness secured under any agreement creating a hypothec to secure debentures or bonds or other titles of indebtedness for all purposes of Article 2692 of the *Civil Code of Quebec*. Each party hereto agrees that, notwithstanding section 32 of *An Act Respecting Special Powers of Legal Persons* (Quebec), the Collateral Agent shall also be entitled to act as debenture holder or bondholder and to acquire and/or be the pledgee of any debentures, bonds or other titles of indebtedness to be issued under any such hypothec. The Agent may perform any of its duties hereunder or thereunder by or through its agents, officers or employees, its Affiliates or its Affiliates' agents, officers or employees.

- (2) Without limiting the foregoing, each of the Secured Parties hereby grants to the Agent a power of attorney, (a) for the purposes of laws applicable to the Security from time to time, to sign documents comprising the Security from time to time (as the party accepting the grant of the security), (b) for the right to delegate its authority as attorney under item (a) above to any other Person, whether or not an officer or employee of the Agent, and (c) authorizes the Agent to enter into the Collateral Agency Agreement, by way of executing a senior credit confirmation thereunder, concurrently with the execution of this Agreement. Each of the Secured Parties also hereby authorizes the Agent to grant to the Collateral Agent, while it is acting as Collateral Agent or trustee in connection with the Security, a power of attorney, for the purposes of Article 2692 of the *Civil Code of Quebec* and for the purposes of other laws applicable to the Security from time to time, to sign documents comprising the Security from time to time (as the party accepting the grant of the security), and also authorizes the Agent to grant to the Collateral Agent in that capacity the right to delegate its authority as attorney to any other Person, whether or not an officer or employee of the Collateral Agent. The Agent hereby accepts each such appointment. Each such appointment may only be terminated as expressly provided in this Agreement.
- (3) Each Secured Party authorizes and directs the Agent to execute and deliver the Collateral Agency Agreement on its behalf and as its Representative (as defined in the Collateral Agency Agreement) and further authorizes the Agent to execute and deliver all Credit Confirmations required thereunder from time to time on its behalf and as its Representative.

## 9.2 Administration of the Credits

- (1) Unless otherwise specified herein, the Agent shall perform the following duties under this Agreement:



- (a) take delivery of each Lender's Applicable Percentage of an Advance and make all Advances hereunder in accordance with the procedures set forth in Sections 5.8 and 5.12;
  - (b) use reasonable efforts to collect promptly all sums due and payable by the Borrower pursuant to this Agreement;
  - (c) make all payments to the Lenders in accordance with the provisions hereof;
  - (d) except to the extent contemplated in or required by the Collateral Agency Agreement, hold the Security on behalf of the Secured Parties and, when the Obligors are in default of their obligations to do so, take all necessary steps to comply with registration requirements so that the Security remains perfected under Applicable Laws (except to the extent that these functions are performed by the Collateral Agent), but each Lender shall notify the Agent of any circumstance that might affect the perfection of the Security of which the Lender becomes aware;
  - (e) except to the extent contemplated in or required by the Collateral Agency Agreement, hold all legal documents relating to the Credits, maintain complete and accurate records showing all Advances made by the Lenders, all remittances and payments made by the Borrower to the Agent, all remittances and payments made by the Agent to the Lenders and all fees or any other sums received by the Agent and, except for accounts, records and documents relating to the fees payable by the Borrower to the Agent in its capacity as Agent hereunder or under the Fee Letter, allow each Lender and their respective advisors to examine such accounts, records and documents at their own expense, and provide any Lender, upon reasonable notice, with such copies thereof or information contained therein as such Lender may reasonably require from time to time at the Lender's expense;
  - (f) except as otherwise specifically provided for in this Agreement, promptly advise each Lender upon receipt of each notice and deliver to each Lender, promptly upon receipt, all other written communications furnished by any Obligor to the Agent on behalf of the Lenders pursuant to this Agreement, including copies of financial reports and certificates which are to be furnished to the Agent; and
  - (g) give prior notice in a timely fashion to each Lender of all matters that require any decision or determination under Section 9.2(2) or Section 9.2(3), together with relevant information, and, prior to execution thereof, proposed documentation to be entered into in connection with any such matter.
- (2) The Agent may take the following actions only with the prior consent of the Required Lenders, unless otherwise specified in this Agreement:

- (a) subject to Section 9.2(3), exercise any and all rights of approval conferred upon the Lenders by this Agreement or the Collateral Agency Agreement;
  - (b) give written notice to any Obligor in respect of any matter in respect of which notice may be required, permitted, necessary or desirable in accordance with or pursuant to this Agreement, promptly after receiving the consent of the Required Lenders, except that the Agent shall, without direction from the Lenders, immediately give the Borrower notice of any payment that is due or overdue under the terms of this Agreement unless the Agent considers that it should request the direction of the Required Lenders, in which case the Agent shall promptly request that direction;
  - (c) amend, modify or waive any of the terms of this Agreement, including waiver of a Default, if such action is not otherwise provided for in Section 9.2(3);
  - (d) declare an Event of Default or take, or cause to be taken by the Agent, action to enforce performance of the Obligations and to realize upon the Security, including the appointment of a receiver, the exercise of powers of distress, lease or sale given by the Security or law and the taking of foreclosure proceedings and/or the pursuit of any other legal remedy necessary;
  - (e) consent to a material amendment or waiver of any Material Contract or permit the assignment of any Material Contract;
  - (f) decide to accelerate the amounts outstanding under the Credits; and
  - (g) pay, or instruct the Collateral Agent to pay, insurance premiums, Taxes and any other sums as may be reasonably required to protect the interests of the Lenders.
- (3) The Agent may take the following actions only if the prior unanimous consent of the Lenders is obtained, unless otherwise specified herein:
- (a) amend, modify, discharge, terminate or waive any of the terms of this Agreement or the Security if such amendment, modification, discharge, termination or waiver would increase the amount of any Credit, amend the purpose of any Credit, reduce the interest rates and similar charges applicable to any Credit, reduce the fees payable with respect to any Credit, extend any date fixed for payment of principal, interest or any other amount relating to any Credit or extend the term of any Credit;
  - (b) amend the definition of "Required Lenders" or this Section 9.2(3);
  - (c) subject to Section 9.2(5), discharge any Security; and
  - (d) enter into or amend, modify or waive any material term of any Intercreditor Agreement.

For greater certainty, no Lender's Commitment or Applicable Percentage may be amended without the consent of that Lender. In addition, no amendment, modification or waiver affecting the rights or obligations of the Agent or Issuing Bank may be made without their respective consent.

- (4) Notwithstanding anything other provision of this Agreement or any other Loan Document, (a) where a matter requiring the consent of Required Lenders as provided in Section 9.2(3) or elsewhere in this Agreement or the consent of all Lenders, as provided in Section 9.2(2) or elsewhere in this Agreement, pertains solely to one but not more than one Credit, the required consent of the Required Lenders or all Lenders, as applicable, shall mean the consent of the Required Lenders or all Lenders, as applicable, holding Applicable Percentages under the particular Credit, and (b) no amendment, supplement or waiver of any provision of any Loan Document altering the rateable treatment of the Other Secured Obligations arising under Swap Transactions resulting in any such Other Secured Obligations being junior in right of payment to the principal amount of the Obligations in a manner adverse to any Other Secured Party shall be effective without the written consent of each affected Other Secured Party.
- (5) Notwithstanding Sections 9.2(2) and 9.2(3) the Agent may, without the consent of the Lenders (but with the consent of the Borrower), make, or cause to be made, amendments to the Loan Documents that are for the sole purpose of curing any immaterial or administrative ambiguity, defect or inconsistency, but shall immediately notify the Lenders of any such action. The Agent may also discharge, or authorize and direct the Collateral Agent to discharge, or otherwise cause to be discharged, any Security to the extent necessary to allow any Obligor to complete any sale or other disposition of Property permitted by this Agreement (including pursuant to any consent, waiver or other decision by, as applicable, the Lenders or the Required Lenders).
- (6) To the extent that any Obligor or any Affiliate of an Obligor becomes a Lender, such Lender shall not be permitted to vote on or consent to any matter under this Agreement on or to which a Lender may vote or consent and the Commitment of such Lender shall be deemed not to be outstanding for the purposes of determining whether a specified majority has been achieved.
- (7) As between the Obligors, on the one hand, and the Agent and the Lenders, on the other hand:
- (a) all statements, certificates, consents and other documents which the Agent purports to deliver on behalf of the Lenders or the Required Lenders shall be binding on each of the Lenders, and none of the Obligors shall be required to ascertain or confirm the authority of the Agent in delivering such documents;
  - (b) all certificates, statements, notices and other documents which are delivered by any Obligor to the Agent in accordance with this Agreement shall be deemed to have been duly delivered to each of the Lenders; and

- (c) all payments which are delivered by the Borrower to the Agent in accordance with this Agreement shall be deemed to have been duly delivered to each of the Lenders.
- (8) Except in its own right as a Lender, the Agent shall not be required to advance its own funds for any purpose, and in particular, shall not be required to pay with its own funds insurance premiums, Taxes or public utility charges or the cost of repairs or maintenance with respect to the assets which are the subject matter of the Security, nor shall it be required to pay with its own funds the fees of solicitors, counsel, auditors, experts or agents engaged by it as permitted hereby.
- (9) To the extent that any Obligor or any Affiliate of an Obligor becomes a Lender, such Lender shall not be permitted to vote on or consent to any matter under this Agreement on or to which a Lender may vote or consent and the Commitment of such Lender shall be deemed not to be outstanding for the purposes of determining whether a specified majority has been achieved.
- (10) Notwithstanding the provisions of the Collateral Agency Agreement which require that any actions, consents or approvals be taken or granted upon the unanimous approval of Secured Creditors or the approval of the Required Secured Creditors (as each such term is defined in the Collateral Agency Agreement), all actions taken and consents and approvals given by the Agent under or in connection with the Collateral Agency Agreement shall be valid and binding on all Secured Parties, and will be deemed to be consented to by the Secured Parties, if taken or given by the Agent in accordance with the terms (including requisite levels of approval) of this Agreement, and the Agent shall be fully protected in taking such actions and granting consents and approvals.

### **9.3 Acknowledgements, Representations and Covenants of Lenders**

- (1) Each Lender represents and warrants that it has the legal capacity to enter into this Agreement pursuant to its charter and any Applicable Law and has not violated its charter, constating documents or any applicable legislation by so doing.
- (2) Each of the Lenders acknowledges and confirms that in the event that the Agent does not receive payment in accordance with this Agreement, it shall not be the obligation of the Agent to maintain the Credits in good standing nor shall any Lender have recourse to the Agent in respect of any amounts owing to such Lender under this Agreement.
- (3) Each Lender acknowledges and agrees that its obligation to advance its Applicable Percentage of Advances in accordance with the terms of this Agreement is independent and in no way related to the obligation of any other Lender hereunder.
- (4) Each Lender hereby acknowledges receipt of a copy of this Agreement and the Security (to the extent that the Security has been delivered) and acknowledges that it is satisfied with the form and content of such documents.

#### **9.4 Authorization of the Term Loan C Intercreditor Agreement**

Each of the Lenders hereby acknowledges that it has reviewed the Term Loan C Intercreditor Agreement, authorizes and directs the Agent to execute and deliver the Term Loan C Intercreditor Agreement on its behalf and agrees that the Term Loan C Intercreditor Agreement shall be binding on it as if had been a signatory thereto.

#### **9.5 Provisions Operative Between Lenders and Agent Only**

Except for the provisions of Sections 9.2(7), 9.3(1), 9.3(3) and this Section 9.5, the provisions of this Article 9 relating to the rights and obligations of the Lenders or the Secured Parties, as the case may be, and the Agent *inter se* shall be operative as between the Lenders or the Secured Parties, as the case may be, and the Agent only, and no Obligor shall have any rights or obligations under or be entitled to rely for any purpose upon such provisions.

### **ARTICLE 10 MISCELLANEOUS PROVISIONS**

#### **10.1 Accounting Terms**

Subject to the last paragraph of Section 9.1, wherever in this Agreement reference is made to GAAP or to a calculation to be made or an action to be taken in accordance with generally accepted accounting principles, such reference will be deemed to be to GAAP as at the date on which such calculation or action is made or taken or required to be made or taken in accordance with GAAP.

#### **10.2 Defined Terms**

All terms used in any of the Loan Documents (other than this Agreement) which are defined in this Agreement shall have the meanings defined herein unless otherwise defined in the other Loan Document.

#### **10.3 Severability**

Any provision of this Agreement which is or becomes prohibited or unenforceable in any relevant jurisdiction shall not invalidate or impair the remaining provisions hereof which shall be deemed severable from such prohibited or unenforceable provision and any such prohibition or unenforceability in any such jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction. Should this Agreement fail to provide for any relevant matter, the validity, legality or enforceability of this Agreement shall not thereby be affected.

#### **10.4 Amendment, Supplement or Waiver**

No amendment, supplement or waiver of any provision of the Loan Documents, nor any consent to any departure by an Obligor therefrom, shall in any event be effective unless it is in writing, makes express reference to the provision affected thereby and is signed by the Agent for and on behalf of the Lenders or the Required Lenders, as the case may be, and then such

waiver or consent shall be effective only in the specific instance and for the specific purpose for which given. In addition, any amendment or supplement shall require the written consent of the other parties to the Loan Document in question. No waiver or act or omission of the Agent, the Lenders, or any of them, shall extend to or be taken in any manner whatsoever to affect any subsequent Event of Default or breach by an Obligor of any provision of the Loan Documents or the rights resulting therefrom.

#### **10.5 Governing Law**

The Province referred to in Sections 11(a) and (b) of the Provisions is the Province of Ontario. The law governing this Agreement shall also govern each of the other Loan Documents, except for those that expressly provide otherwise.

#### **10.6 This Agreement to Govern**

In the event of any conflict or inconsistency between the terms of this Agreement and the terms of any other Loan Document, the provisions of this Agreement shall govern to the extent necessary to remove the conflict or inconsistency except that:

- (a) notwithstanding express references, or in the absence of express references, to the Collateral Agency Agreement, this Agreement, the Collateral Agency Agreement shall prevail over this Agreement to the extent that it relates to enforcement of the Security, distribution of proceeds of realization, instructions to the Collateral Agent and related matters; and
- (b) notwithstanding Section 10.6(a) or any other provision of this Agreement or the Collateral Agency Agreement, it is agreed that no payment contemplated to be made to a Lender in accordance with the terms of the Collateral Agency Agreement shall be made to such Lender if such payment would not be permitted to be made to such Lender under the terms of this Agreement for the reason that acceptance of any such payment would, or could reasonably be expected to, cause the Obligations owing to such Lender to become subject to withholding tax under Section 212(1)(b)(vii) of the *Income Tax Act* (Canada).

#### **10.7 Permitted Encumbrances**

The designation of an Encumbrance as a Permitted Encumbrance is not, and shall not be deemed to be, an acknowledgment by the Agent or the Lenders that the Encumbrance shall have priority over the Security.

#### **10.8 Currency**

- (1) All payments made hereunder shall be made in the currency in respect of which the obligation requiring such payment arose. Unless the context otherwise requires, all amounts expressed in this Agreement in terms of money shall refer to Canadian Dollars.

- (2) Except as otherwise expressly provided in this Agreement, wherever this Agreement contemplates or requires the calculation of the equivalent in one currency of an amount expressed in another currency, the calculation shall be made on the basis of the Exchange Rate, at the effective date of the calculation.

#### 10.9 Liability of Lenders

The liability of the Lenders in respect of all matters relating to this Agreement and the other Loan Documents is several and not joint or joint and several. Without limiting that statement, the obligations of the Lenders to make Advances is limited to their respective Applicable Percentages of any Advance that is requested, and, in the aggregate, to their respective Applicable Percentages of the total amounts of the Credits.

#### 10.10 Interest on Miscellaneous Amounts

- (1) If the Borrower fails to pay any amount payable hereunder (other than principal, interest thereon, interest upon interest or any other amount on which interest is payable as otherwise provided in this Agreement) on the due date, the Borrower shall, on demand, pay interest on such overdue amount to the Agent from and including such due date up to but excluding the date of actual payment, both before and after demand, default or judgment, at a rate of interest per annum equal to, in the case of amounts payable in Cdn. Dollars, the sum of the Prime Rate plus 2.0% per annum, and, in the case of amounts payable in US Dollars, the sum of, as applicable, the Base Rate (Canada) or Base Rate (US) plus 2% per annum, in each case compounded monthly.
- (2) If the Borrower deposits cash as Collateral pursuant to a requirement under this Agreement, the Agent, Lender or Lenders, as applicable, holding the cash shall pay the Borrower interest on the cash while it continues to be held as Collateral at the rate offered by such Agent, Lender or Lenders from time to time for deposits in the relevant currency of comparable size and term.

#### 10.11 Judgment Currency

In the event of a judgment or order being rendered by any court or tribunal for the payment of any amounts owing to the Lenders or any of them under this Agreement or for the payment of damages in respect of any breach of this Agreement or under or in respect of a judgment or order of another court or tribunal for the payment of such amounts or damages, such judgment or order being expressed in a currency (the "Judgment Currency") other than the currency payable hereunder or thereunder (the "Agreed Currency"), the party against whom the judgment or order is made shall indemnify and hold the Lenders harmless against any deficiency in terms of the Agreed Currency in the amounts received by the Lenders arising or resulting from any variation as between (a) the exchange rate at which the Agreed Currency is converted into the Judgment Currency for the purposes of such judgment or order, and (b) the exchange rate at which each Lender is able to purchase the Agreed Currency with the amount of the Judgment Currency actually received by the Lender on the date of such receipt. The indemnity in this Section shall constitute a separate and independent obligation from the other obligations of the

Obligors hereunder, shall apply irrespective of any indulgence granted by the Lenders, and shall be secured by the Security.

**10.12 Address for Notice**

As of the date of this Agreement, the addresses and telecopier numbers of the Borrower and the Lenders contemplated in Section 8(a) of the Provisions are as specified beside their respective signatures to this Agreement. Notices to the other Obligors shall be sent in care of the Borrower.

**10.13 Time of the Essence**

Time shall be of the essence in this Agreement.

**10.14 Further Assurances**

Each Obligor shall, at its expense, at the request of the Agent acting on the instructions of the Required Lenders, do all such further acts and execute and deliver all such further documents, agreements, certificates and instruments as may, in the reasonable opinion of the Required Lenders, be necessary or desirable in order to fully perform and carry out the purpose and intent of the Loan Documents.

**10.15 Term of Agreement**

Except as otherwise provided herein, this Agreement shall remain in full force and effect until the indefeasible payment and performance in full in cash of all of the Obligations and Guarantor Obligations and the termination of the Commitments. The obligations of the Obligors in Sections 3.1, 3.2 and 9 of the Provisions and of the Lenders in Section 7.5 of the Provisions shall continue for the benefit of those to whom the obligations are owed notwithstanding the termination of this Agreement or the termination of any particular Person's role as Obligor, Administrative Agent or Lender.

**10.16 Payments on Business Day**

Whenever any payment or performance under the Loan Documents would otherwise be due on a day other than a Business Day, such payment shall be made on the following Business Day, unless the following Business Day is in a different calendar month, in which case the payment shall be made on the preceding Business Day.

**10.17 Whole Agreement**

Except in relation to matters contemplated by the other Loan Documents, this Agreement constitutes the whole and entire agreement between the parties hereto concerning the matters addressed in this Agreement, and cancels and supersedes any prior agreements, undertakings, declarations, commitments or representations, written or verbal, in respect thereof.



**10.18 English Language**

The Loan Documents have been negotiated in English and will be or have been executed in the English language. Les soussigné ont expressément demandé que ce document soit rédigé en langue anglaise. All paper writings given or delivered pursuant to this Agreement and the other Loan Documents shall, if requested by the Agent, be in the English language or, if not, shall be accompanied by a certified English translation thereof. The English language version of any document shall, absent manifest error, control the meaning and interpretation of the matters set forth therein.

**10.19 Senior Indebtedness**

The obligations of each Obligor under the Loan Documents to which it is a party constitute "Designated Senior Indebtedness" for the purposes of the Senior Subordinated Note Indentures and rank in right of payment in priority to the obligations of the Borrower under the Senior Subordinated Note Indentures and the Senior Subordinated Notes.

**10.20 Date of Agreement**

This Agreement may be referred to as being dated July 10, 2007 or as of July 10, 2007, notwithstanding the actual date of execution.

**[SIGNATURE PAGES FOLLOW]**