

Court File No. CV-10-8533-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

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

**AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF CANWEST PUBLISHING INC./  
PUBLICATIONS CANWEST INC., CANWEST BOOKS  
INC., AND CANWEST (CANADA) INC.**

APPLICANTS

**MOTION RECORD**

**CALEYWRAY**

Labour/Employment Lawyers  
1600-65 Queen Street West  
Toronto, ON M5H 2M5

Douglas J. Wray (LSCU 18023C)

Tel: 416-775-4673

Fax: 416-366-3293

Email: [wrayd@caleywrap.com](mailto:wrayd@caleywrap.com)

Jesse B. Kugler (LSCU 55269V)

Tel: 416-775-4677

Fax: 416-366-3293

Email: [kuglerj@caleywrap.com](mailto:kuglerj@caleywrap.com)

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF CANWEST PUBLISHING  
INC./PUBLICATIONS CANWEST INC., CANWEST BOOKS INC. AND CANWEST (CANADA)

Applicants

CANWEST LP SERVICE LIST AS OF MAY 18, 2010

FIRM	SOLICITORS
<p><b>FTI CONSULTING CANADA INC.</b> TD Canada Trust Tower 79 Wellington Street West Suite 2010, P. O. Box 104 Toronto, Ontario M5K 1G8</p> <p>Fax: (416) 649-8101</p> <p><b>Court-appointed Monitor</b></p>	<p><b>Paul Bishop</b> Tel: (416) 649-8053 Email: <a href="mailto:paul.bishop@fticonsulting.com">paul.bishop@fticonsulting.com</a></p> <p><b>Steve Bissell</b> Tel: (416) 649-8054 Email: <a href="mailto:steven.bissell@fitconsulting.com">steven.bissell@fitconsulting.com</a></p> <p><b>Jodi Porepa</b> Tel: (416) 649-8070 Email: <a href="mailto:jodi.porepa@fticonsulting.com">jodi.porepa@fticonsulting.com</a></p>
<p><b>STIKEMAN ELLIOTT LLP</b> 5300 Commerce Court West 199 Bay Street Toronto, Ontario M5L 1B9</p> <p>Fax: (416) 947-0866</p> <p><b>Lawyers for the Court-appointed Monitor</b></p>	<p><b>David R. Byers</b> Tel: (416) 869-5697 Email: <a href="mailto:dbyers@stikeman.com">dbyers@stikeman.com</a></p> <p><b>Daphne MacKenzie</b> Tel: (416) 869-5695 Email: <a href="mailto:dmackenzie@stikeman.com">dmackenzie@stikeman.com</a></p> <p><b>Ashley J. Taylor</b> Tel: (416) 869-5236 Email: <a href="mailto:ataylor@stikeman.com">ataylor@stikeman.com</a></p> <p><b>Maria Konyukhova</b> Tel: (416) 869-5230 Email: <a href="mailto:mkonyukhova@stikeman.com">mkonyukhova@stikeman.com</a></p> <p><b>Sarah Clarke</b> Tel: (416) 869-6835 Email: <a href="mailto:sclarke@stikeman.com">sclarke@stikeman.com</a></p>

FIRM	SOLICITORS
<p><b>OSLER, HOSKIN &amp; HARCOURT LLP</b> 100 King Street West 1 First Canadian Place Suite 6100, P.O. Box 50 Toronto, ON M5X 1B8 Fax: (416) 862-6666</p> <p><b>Lawyers for the Applicants</b></p>	<p><b>Lyndon A.J. Barnes</b> Tel: (416) 862-6679 Email: <a href="mailto:lbarnes@osler.com">lbarnes@osler.com</a></p> <p><b>Edward A. Sellers</b> Tel: (416) 862-5959 Email: <a href="mailto:esellers@osler.com">esellers@osler.com</a></p> <p><b>Alex Cobb</b> Tel: (416) 862-5964 Email: <a href="mailto:acobb@osler.com">acobb@osler.com</a></p> <p><b>Marc Wasserman</b> Tel: (416) 862-4908 Email: <a href="mailto:mwasserman@osler.com">mwasserman@osler.com</a></p> <p><b>Elizabeth Putnam</b> Tel: 416-862-6835 Email: <a href="mailto:eputnam@oslers.com">eputnam@oslers.com</a></p> <p><b>Duncan Ault</b> Tel: (416) 862-4210 Email: <a href="mailto:dault@osler.com">dault@osler.com</a></p> <p><b>Phyllise Gelfand</b> Director of Communications for Canwest Tel: (416) 442-2936 Email: <a href="mailto:pgelfand@canwest.com">pgelfand@canwest.com</a></p>
<p><b>MCMILLAN LLP</b> Brookfield Place, Suite 4400 Bay Wellington Tower 181 Bay Street Toronto, ON M5J 2T3</p> <p><b>Lawyers for the Bank of Nova Scotia in its capacity as Administrative Agent for certain secured lenders</b></p>	<p><b>Andrew J.F. Kent</b> Tel: (416) 865-7160 Fax: (647) 722-6715 Email: <a href="mailto:andrew.kent@mcmillan.ca">andrew.kent@mcmillan.ca</a></p> <p><b>Hilary E. Clarke</b> Tel: (416) 865-7286 Fax: (416) 865-7048 Email: <a href="mailto:hilary.clarke@mcmillan.ca">hilary.clarke@mcmillan.ca</a></p> <p><b>Barbara Whyte</b> Tel: (416) 865-7099 Fax: (416) 865-7048 Email: <a href="mailto:Barbara.whyte@mcmillan.ca">Barbara.whyte@mcmillan.ca</a></p>
<p><b>LENCZNER SLAGHT LLP</b> 130 Adelaide Street West Suite 2600 Toronto, ON M5H 3P5 Fax: (416) 865-9010</p> <p><b>Lawyers for the Management Directors and RBC Capital Markets</b></p>	<p><b>Peter Griffin</b> Tel: (416) 865-2921 Email: <a href="mailto:pgriffin@litigate.com">pgriffin@litigate.com</a></p> <p><b>Peter J. Osborne</b> Tel: (416) 865-3094 Email: <a href="mailto:posborne@litigate.com">posborne@litigate.com</a></p> <p><b>Matthew Lerner</b> Tel: (416) (416) 865-2940 Email: <a href="mailto:mlerner@litigate.com">mlerner@litigate.com</a></p>

FIRM	SOLICITORS
<p><b>OGILVY RENAULT LLP</b> Royal Bank Plaza, South Tower Suite 3800, P.O. Box 84 200 Bay Street Toronto, ON M5J 2Z4</p> <p>Fax: (416) 216-3930</p> <p><b>Lawyers for the Special Committee</b></p>	<p><b>Mario J. Forte</b> Tel: (416) 216-4870 Email: <a href="mailto:mforte@ogilvyrenault.com">mforte@ogilvyrenault.com</a></p> <p><b>Alan Merskey</b> Tel: (416) 216-4805 Email: <a href="mailto:amerskey@ogilvyrenault.com">amerskey@ogilvyrenault.com</a></p>
<p><b>DAVIES WARD PHILLIPS &amp; VINEBERG LLP</b> 100 King Street West 1 First Canadian Place, 44<sup>th</sup> Floor Toronto, ON M5X 1B1</p> <p>Fax: (416) 863-0871</p> <p><b>Lawyers for the Ad Hoc Committee of 9.25% Senior Subordinated Noteholders</b></p>	<p><b>Jay A. Swartz</b> Tel: (416) 863-5520 Email: <a href="mailto:jswartz@dwpv.com">jswartz@dwpv.com</a></p> <p><b>Robin B. Schwill</b> Tel: (416) 863-5520 Email: <a href="mailto:rschwill@dwpv.com">rschwill@dwpv.com</a></p> <p><b>Natalie Renner</b> Tel: (416) 367-7489 Email: <a href="mailto:nrenner@dwpv.com">nrenner@dwpv.com</a></p> <p><b>Matthew P. Gottlieb</b> Tel: (416) 863-0900 Email: <a href="mailto:mgottlieb@dwpv.com">mgottlieb@dwpv.com</a></p> <p><b>Natasha MacParland</b> Tel: (416) 863-5567 Email: <a href="mailto:NmacParland@dwpv.com">NmacParland@dwpv.com</a></p>
<p><b>GOODMANS LLP</b> Bay Adelaide Centre 3400-333 Bay Street Toronto, ON M5H 2S7</p> <p>Fax: (416) 979-1234</p> <p><b>Lawyers for the Ad Hoc Committee of 8% Senior Subordinated Noteholders</b></p>	<p><b>Benjamin Zarnett</b> Tel: (416) 597-4204 Email: <a href="mailto:bzarnett@goodmans.ca">bzarnett@goodmans.ca</a></p> <p><b>Robert J. Chadwick</b> Tel: (416) 597-4285 Email: <a href="mailto:rchadwick@goodmans.ca">rchadwick@goodmans.ca</a></p>
<p><b>CAVALLUZZO HAYES SHILTON McINTYRE &amp; CORNISH LLP</b> 474 Bathurst Street, Suite 300 Toronto, ON M5T 2S6</p> <p>Fax: (416) 964-5895</p> <p><b>Lawyers for the Communication Workers of America</b></p>	<p><b>Hugh O'Reilly</b> Tel: (416) 964-1115 Email: <a href="mailto:HO'Reilly@cavalluzzo.com">HO'Reilly@cavalluzzo.com</a></p>

FIRM	SOLICITORS
<p><b>FINANCIAL SERVICES COMMISSION OF ONTARIO</b> Legal Services Branch 5160 Yonge Street, 17<sup>th</sup> Floor Toronto, ON M2N 6L9</p> <p>Fax: (416) 590-7556</p> <p><b>Superintendent of Financial Services</b></p>	<p><b>Deborah McPhail</b> Tel: (416) 226-7764 Email: <a href="mailto:Deborah.mcphail@fscov.on.ca">Deborah.mcphail@fscov.on.ca</a></p> <p><b>Mark Bailey</b> Tel: (416) 590-7555 Email: <a href="mailto:mark.bailey@fscov.on.ca">mark.bailey@fscov.on.ca</a></p> <p><b>Alena Thouin</b> Tel: (416) 590-7238 Email: <a href="mailto:alena.thouin@fscov.on.ca">alena.thouin@fscov.on.ca</a></p>
<p><b>CAW-CANADA</b> Legal Department 205 Placer Court Toronto, ON M2H 3H9</p> <p>Fax: (416) 495-3786</p> <p><b>Lawyers for National Automobile, Aerospace, Transportation and General Workers Union of Canada (CAW-Canada)</b></p>	<p><b>Anthony F. Dale</b> Tel: (416) 495-3776 Email: <a href="mailto:afdale@caw.ca">afdale@caw.ca</a></p> <p><b>Barry E. Wadsworth</b> Tel: (416) 495-3776 Email: <a href="mailto:barry.wadsworth@caw.ca">barry.wadsworth@caw.ca</a></p>
<p><b>CALEYWRAY</b> Labour/Employment Lawyers 16000-65 Queen Street West Toronto, ON M5H 2M5</p> <p>Fax: (416) 366-3293</p> <p><b>Lawyers for Communications, Energy and Paperworkers Union of Canada</b></p>	<p><b>Douglas J. Wray</b> Tel: (416) 775-4673 Email: <a href="mailto:wrayd@calewray.com">wrayd@calewray.com</a></p> <p><b>Jesse Kugler</b> Tel: (416) 775-4677 Email: <a href="mailto:kuglerj@calewray.com">kuglerj@calewray.com</a></p>
<p><b>LAX O'SULLIVAN SCOTT LLP</b> Suite 1920, 145 King Street West Toronto, ON M5H 1J8</p> <p>Fax: (416) 598-3730</p> <p><b>Lawyers for CRS Inc.</b></p>	<p><b>Terrence O'Sullivan</b> Tel: (416) 598-1744 Email: <a href="mailto:tosullivan@counsel-toronto.com">tosullivan@counsel-toronto.com</a></p> <p><b>Shaun Laubman</b> Tel: (416) 598-1744 Email: <a href="mailto:slaubman@counsel-toronto.com">slaubman@counsel-toronto.com</a></p>

FIRM	SOLICITORS
<p><b>NELLIGAN O'BRIEN PAYNE LLP</b> 50 O'Connor, Suite 1500 Ottawa, ON K1P 6L2</p> <p><b>SHIBLEY RIGHTON LLP</b> 250 University Avenue, Suite 700 Toronto, ON M5H 3E5</p> <p><b>Lawyers for Russell Mills, Blair McKenzie, Rejean Saumure and Les Bale, on behalf of the Canwest Salaried Employees and Retirees (CSER) Group and themselves</b></p>	<p><b>Janice B. Payne</b> Tel: (613) 231-8245 Fax: (613) 788-3655 Email: <a href="mailto:janice.payne@nelligan.ca">janice.payne@nelligan.ca</a></p> <p><b>Steven Levitt</b> Tel: (613) 231-8283 Fax: (613) 788-2369 Email: <a href="mailto:steven.levitt@nelligan.ca">steven.levitt@nelligan.ca</a></p> <p><b>Christopher Rootham</b> Tel: (613) 231-8311 Fax: (613) 788-3667 Email: <a href="mailto:christopher.rootham@nelligan.ca">christopher.rootham@nelligan.ca</a></p> <p><b>Arthur O. Jacques</b> Tel: (416) 214-5213 Fax: (416) 214-5413 Email: <a href="mailto:arthur.jacques@shibleyrighton.com">arthur.jacques@shibleyrighton.com</a></p> <p><b>Thomas McRae</b> Tel: (416) 214-5206 Fax: (416) 214-5400 Email: <a href="mailto:thomas.mcrae@shibleyrighton.com">thomas.mcrae@shibleyrighton.com</a></p>
<p><b>DEPARTMENT OF JUSTICE ONTARIO REGIONAL OFFICE</b> The Exchange Tower 130 King Street West Suite 3400, Box 36 Toronto, ON M5X 1K6</p> <p>Fax: (416) 973-0809</p> <p><b>Lawyers for the Attorney General of Canada</b></p>	<p><b>Diane Winters</b> Tel: (416) 973-3172 Email: <a href="mailto:diane.winters@justice.gc.ca">diane.winters@justice.gc.ca</a></p> <p><b>Christopher Lee</b> Tel: (416) 954-8247 Email: <a href="mailto:christopher.lee@justice.gc.ca">christopher.lee@justice.gc.ca</a></p>

FIRM	SOLICITORS
<p><b>RBC CAPITAL MARKETS</b> Royal Bank Plaza, South Tower 4<sup>th</sup> Floor, 200 Bay Street, P.O. Box 50 Toronto, ON M5J 2W7</p> <p>Fax: (416) 842-7700</p>	<p><b>Peter L. Buzzi</b> Tel: (416) 842-7687 Email: <a href="mailto:peter.buzzi@rbccm.com">peter.buzzi@rbccm.com</a></p> <p><b>Richard M. Grudzinski</b> Tel: (416) 842-5676 Email: <a href="mailto:richard.grudzinski@rbccm.com">richard.grudzinski@rbccm.com</a></p>
<p><b>MINDEN GROSS LLP</b> 2200 – 145 King Street West Toronto, ON M5H 4G2</p> <p>Fax: (416) 864-9223</p> <p><b>Lawyers for News Partners Inc. / Partenaires des Médias Inc.</b></p>	<p><b>David T. Ullmann</b> Tel: (416) 369-4148 Email: <a href="mailto:dullmann@mindengross.com">dullmann@mindengross.com</a></p> <p><b>Melissa J. McCready</b> Tel: (416) 369-4106 Email: <a href="mailto:mmccready@mindengross.com">mmccready@mindengross.com</a></p>
<p><b>BRAZEAUSELLER LLP</b> 55 Metcalfe Street Suite 750 Ottawa, ON K1P 6L5</p> <p>Fax: (613) 237-4001</p> <p><b>Lawyers for Teamsters Graphic Communications Conference Local 41M</b></p>	<p><b>David Spears</b> Tel: (613) 237-4000 ex. 207 Email: <a href="mailto:dspears@brazeauseller.com">dspears@brazeauseller.com</a></p>
<p><b>BLAKE, CASSELS &amp; GRAYDON LLP</b> Box 25, Commerce Court West 199 Bay Street, Suite 2800 Toronto, ON M5L 1A9</p> <p>Fax: (416) 863-2653</p> <p><b>Lawyers for J.P. Morgan Securities Inc., JPMorgan Chase Bank, N.A. and Morgan Stanley Senior Funding, Inc.</b></p>	<p><b>Pamela L.J. Huff</b> Tel: (416) 863-2958 Email: <a href="mailto:pamela.huff@blakes.com">pamela.huff@blakes.com</a></p> <p><b>Michael R. Harquail</b> Tel: (416) 863-2929 Email: <a href="mailto:michael.harquail@blakes.com">michael.harquail@blakes.com</a></p>

FIRM	SOLICITORS
<p><b>McCARTHY TÉTRAULT LLP</b> Suite 5300, Toronto Dominion Bank Tower Toronto, ON M5K 1E6</p> <p>Fax: (416) 868-0673</p> <p><b>Lawyers for Bank of New York Mellon</b></p>	<p><b>Jamey Gage</b> Tel: (416) 601-7539 Email: <a href="mailto:jgage@mccarthy.ca">jgage@mccarthy.ca</a></p> <p><b>George Gray</b> Tel: (416) 601-8222 Email: <a href="mailto:ggray@mccarthy.ca">ggray@mccarthy.ca</a></p>



# INDEX

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APPLICANTS

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# **TAB 1**

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APPLICANTS

**NOTICE OF MOTION**

The Communications, Energy and Paperworkers Union of Canada, Local 145 (the "**Union**") will make a motion to a judge presiding over the Commercial List on December 10, 2010 or as soon thereafter as the motion can be heard, at 330 University Avenue, Toronto, Ontario.

**PROPOSED METHOD OF HEARING:**

The motion is to be heard orally.

**THE MOTION IS FOR:**

1. An Order confirming and directing that the claim filed by the Union dated July 14, 2010 is an Excluded Claim within the meaning of the Amended Claims Procedure Order issued by this Honourable Court on May 17, 2010;
2. An Order confirming and directing that the claim filed by the Union dated July 14, 2010 is an Assumed Liability pursuant to the Asset Purchase Agreement approved by this Honourable Court on May 17, 2010; and

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

**THE GROUNDS FOR THIS MOTION ARE:**

4. The Applicants were granted protection from their creditors under the *Companies' Creditors Arrangement Act*, R.S.C., c. C-36, as amended, pursuant to an Initial Order of this Honourable Court dated January 8, 2010 (the "**Initial Order**"). The protections of the Initial Order were also extended to Canwest Limited Partnership/ Canwest Societe en Commandite (the "**Limited Partnership**" and together with the Applicants, the "**LP Entities**");

5. On May 17, 2010, this Honourable Court approved an Amended Claims Procedure Order and an asset purchase agreement, as amended, dated May 10, 2010 whereby the Ad Hoc Committee (the "**ACH**") acquired substantially all of the financial and operating assets of the LP Entities and the shares of the National Post Inc. on a going concern basis for an effective purchase price of \$1.1 billion (the "**Amended ACH APA**");

6. On July 14, 2010, the Union filed a claim on behalf of 9 typographers employed or formerly employed by the Montreal Gazette (the "**Employer**") in respect of salary and other benefits lost under the applicable collective agreement as a result of the Employer's refusal to submit to compulsory arbitration for the renewal of a collective agreement and consequent improper lockout in or around June 3, 1996 (the "**Claim**"). The Claim arises from grievances that were filed on behalf of the 9 typographers by the Union pursuant to the applicable collective agreement. The Union is the certified bargaining agent of the 9 typographers;

7. The Amended Claims Procedure Order provides that certain claims are Excluded Claims, including all grievances or claims that can only be advanced in the form of a Grievance pursuant to the terms of a collective bargaining agreement. The Claim therefore constitutes an Excluded Claim under the Amended Claims Procedure Order;

8. The Amended ACH APA identifies Assumed and Excluded Liabilities. The Claim constitutes an Assumed Liability under the Amended ACH APA;

9. The provisions of the CCAA; and

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

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

11. The Affidavit of Don McKay, sworn December 2, 2010 and the exhibits attached thereto;

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

December 2, 2010

**CALEYWRAY**

Labour/Employment Lawyers  
1600-65 Queen Street West  
Toronto, ON M5H 2M5

Douglas J. Wray (LSCU 18023C)

Tel: 416-775-4673

Fax: 416-366-3293

Email: [wrayd@caleywrap.com](mailto:wrayd@caleywrap.com)

Jesse B. Kugler (LSCU 55269V)

Tel: 416-775-4677

Fax: 416-366-3293

Email: [kuglerj@caleywrap.com](mailto:kuglerj@caleywrap.com)

**TO: THE SERVICE LIST**

## **TAB 2**



**Court File No. CV-10-8533-00CL**

**ONTARIO  
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APPLICANTS

**AFFIDAVIT OF DON MCKAY**

(Sworn on December 2, 2010)

**I, Don McKay**, of the City of Montreal, In the Province of Quebec, **MAKE OATH  
AND SAY:**

1. I am a National Representative of the Communications, Energy and Paperworkers Union of Canada, Local 145 (the "**Union**"), and as such I have personal knowledge of the matters to which I hereinafter depose. Where the source of my information or belief is other than my own personal knowledge, I have identified the source and the basis for my information and believe it to be true.
2. This Affidavit is made in support of a motion brought by the Union for the relief set out in the Notice of Motion dated December 2, 2010. In particular, this Affidavit is sworn in support of the Union's request for an Order: (a) confirming and directing that the Claim (as defined below) filed by the Union dated July 14, 2010 pursuant to the Amended Claims Procedure Order issued by this Honourable Court on May 17, 2010 is an excluded claim; and (b) confirming and directing that Claim filed by the Union is an

- 2 -

Assumed Liability pursuant to the Asset Purchase Agreement approved by this Honourable Court on May 17, 2010.

### **The Applicants' Proceedings and the Claim**

3. The Applicants were granted protection from their creditors under the *Companies' Creditors Arrangement Act*, R.S.C., c. C-36, as amended, pursuant to an Initial Order of this Honourable Court dated January 8, 2010 (the "**Initial Order**"). The protections of the Initial Order were also extended to Canwest Limited Partnership/Canwest Société en Commandite (the "**Limited Partnership**" and together with the Applicant, the "**LP Entities**").

4. On May 17, 2010, this Honourable Court approved an Amended Claims Procedure Order and an Asset Purchase Agreement, as amended, dated May 10, 2010 whereby the Ad Hoc Committee (the "**ACH**") acquired substantially all of the financial and operating assets of the LP Entities and the shares of the National Post Inc. on a going concern basis for an effective purchase price of \$1.1 billion (the "**Amended ACH APA**"). Annexed hereto and marked as **Exhibit "A"** and **Exhibit "B"** respectively are true copies of the Amended Claims Procedure Order and the Amended ACH APA.

5. On July 14, 2010, the Union filed a claim in accordance with the Amended Claims Procedure Order on behalf of 9 typographers employed or formerly employed by the Montreal Gazette (the "**Employer**") with respect to salary and other benefits lost under the applicable collective agreement as a result of the Employer's refusal to submit to compulsory arbitration for the renewal of a collective agreement and consequent improper lockout in or around June 3, 1996 (the "**Claim**"). As set out in the covering letter to the Claim, it is the position of the 9 affected typographers that their claim for unpaid wages and benefits constitutes an Excluded Claim as defined by the Amended Claims Procedure Order and is an Assumed Liability under the Amended ACH APA. The Claim was therefore filed on a without prejudice basis in order to preserve the rights of the affected typographers pending the Court's disposition of the present motion.

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Annexed hereto and marked as **Exhibit "C"** is a true copy of the Claim and the most recent arbitral decision rendered with respect to the Claim.

6. On August 3, 2010, counsel to the Monitor responded to the Claim filed by the Union. In particular, with respect to the Union's position that the Claim is in fact an Excluded Claim and Assumed Liability, counsel to the Monitor indicated that if the Union's position remained that the Claim was an Excluded Claim, the Union must withdraw the Claim from the Claims Procedure and pursue the Claim against and through Postmedia Networks Inc. (the "**Purchaser**"). Annexed hereto and marked as **Exhibit "D"** is a true copy of the correspondence from counsel to the Monitor dated August 3, 2010.

7. On September 23, 2010, counsel to the Purchaser responded to the Claim and the Union's position regarding the proper characterization of the Claim. Specifically, the Purchaser took the position that the Claim was in fact an Excluded Liability under the Amended AHC APA and therefore not assumed by the Purchaser. Annexed hereto and marked as **Exhibit "E"** is a true copy of the correspondence from counsel to the Purchaser dated September 23, 2010.

8. Despite maintaining its position that the Claim constitutes an Excluded Claim and an Assumed Liability, the Union elected not to withdraw the Claim out of an abundance of caution and in order to protect the rights of the 9 typographers that it represents.

### **The History and Events Surrounding the Claim**

9. The Union is the certified bargaining agent of Typographers employed by the Employer.

10. Until 1982, the Union and the Employer were bound to collective agreements that gave the Union exclusive jurisdiction over the work done by the typographers.

11. In or around November 1982, the Union negotiated an agreement with the Employer and approximately 200 typographers employed by the Employer that provided for, *inter alia*, an undertaking by the Employer to guarantee to protect the typographers

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from loss of regular full time employment until the age of 65 due to technological changes in the workplace (the "**1982 Agreement**"). Specifically, the job protection benefits agreed to contemplated a guarantee of full employment for the typographers paid at not less than the wage rate in the collective agreements negotiated by the parties from time to time. In return for the job protection benefit, the Employer was granted the right to Implement any necessary technological changes to the manner in which the typographers' work was to be carried out (art. III). The 1982 Agreement was to remain in effect until all the employees who signed it had ceased their employment (art. IV).

12. In addition, the 1982 Agreement provided that no party would attempt to renegotiate the rights and obligations set out therein and that any dispute over the interpretation, application or breach of the 1982 Agreement would be resolved by resort to the grievance procedure as set out in the applicable collective agreement (art. VII). Finally, the 1982 Agreement bound any buyer, successor or assignee of the Employer (art. V). Annexed hereto and marked as **Exhibit "F"** is a true copy of the 1982 Agreement.

13. When the 1982 Agreement was signed, the parties provided as follows for its incorporation into the collective agreement as Appendix C.

14. In or around 1987, the Union, the Employer and the typographers agreed to amend the 1982 Agreement by incorporating two new important entitlements for the typographers (the "**1987 Agreement**"). The parties agreed to incorporate a salary indexing formula as well as an agreement that in the event the collective agreement was not renewed, the parties were obligated to submit to compulsory "last final best offer" arbitration for the renewal of the collective agreement (art. X & XI). These articles were intended to ensure continuity of the commitments made by the Employer and to provide a compulsory arbitration mechanism for renewing the collective agreement. Annexed hereto and marked as **Exhibit "G"** is a true copy of the 1987 Agreement.

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15. Consistent with the 1982 Agreement, each of the affected employees signed the agreement, which was then incorporated into the collective agreement as Appendix C, under the same terms as in 1982, the 1982 Agreement becoming Appendix B.

16. In or around 1993, the Employer took issue with the Article 2(b) of the collective agreement during collective bargaining negotiations. In particular, the Employer attempted to renegotiate the compulsory "final offer" arbitration provisions required by Article 2(b). To that end, the Employer declared a lockout which continued until August 24, 1994, ceasing as a result of an arbitral award imposing a renewal of the collective agreement. At that time, the Employer presented a voluntary retirement package to the 62 remaining typographers. Of the 62 typographers, 11 refused the Employer's voluntary retirement package.

17. A civil action was commenced by the remaining typographers claiming loss of income as a result of the lockout imposed by the Employer from 1993 to 1994. The action was premised on the job guarantees provided in the 1982 Agreement and 1987 Agreement which formed part of the collective agreement. The Employer brought a motion to have the action dismissed on the basis that jurisdiction with respect to the claim lay within the exclusive jurisdiction of an arbitrator. On October 24, 1997, the Superior Court of Quebec granted the Employer's motion on the basis that it did not have jurisdiction over the subject matter underlying the action. Annexed hereto and marked as **Exhibit "H"** is a true copy of the decision of the Superior Court of Quebec.

18. Despite the renewal of the collective agreement, the Employer refused to reinstate the typographers (the Employer was paying the typographers regular wages). The Union filed a grievance demanding that the typographers be reinstated forthwith. Ultimately the matter proceeded to grievance arbitration and an award dated April 25, 1996 was rendered wherein the Employer was ordered to reinstate the employment of the typographers by no later than April 30, 1996. Annexed hereto and marked as **Exhibit "I"** is a true copy of the decision of Arbitrator Claude H. Folsy.

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19. On April 30, 1996, pursuant to the collective agreement which incorporated the 1982 Agreement and 1987 Agreement, the Union asked the Employer to exchange "last final best offers" and to engage in compulsory arbitration with a view to renewing the collective agreement which expired that day. The Employer refused to do so.

20. On May 8, 1996, the Union filed a grievance demanding that the Employer submit to "last final best offer" compulsory arbitration.

21. On June 3, 1996, the Employer declared a lockout. Thereafter, on June 4, 1996, the Union filed a further grievance which read, in part, as follows:

Local 145 of the Communications, Energy and Paperworkers Union of Canada (CEP Local 145) and each of the 11 signatories mentioned below are contesting the decision of The Gazette (a Division of Southam Inc.) to:

- refuse or omit to consent to the process of exchanging "best final offers," as required by notice from the union and the 11 complainants on April 30, 1996;
- decree a lock-out as of June 3, 1996 with, as a result, an interruption of earnings for the 11 complainants and the suspension of other benefits provided for under the collective labour agreement and the tripartite agreements of November 12, 1982 and March 5, 1987;
- refuse to maintain the conditions in force before the lock-out was declared, that is, the paid presence at work of the complainants, despite the provisions of article 27 of the collective agreement and despite the guarantee to maintain the standard of living provided for in the tripartite agreement concluded on or around March 5, 1987.

The present grievance is filed on the collective labour agreement and each of the tripartite agreements signed on or about November 12, 1982 and March 5, 1987.

We ask the arbitrator to declare and order the following:

1. To order the employer to submit to the process of exchanging best and final offers and to send its "latest final offers" to the union and the 11 complainants without delay;
2. To declare the tripartite agreements reached on or about November 12, 1982 and March 5, 1987 in full force, and to oblige the employer to respect them;

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3. To order the employer to continue to pay each complainant the salary and other benefits resulting from the collective labour agreement and the tripartite agreements of November 12, 1982 and March 1987;

4. To order the reimbursement of any salary or other benefits lost following or as a result of the lock-out, with interest;

5. To make any other order necessary to preserve the parties' rights.

22. Both grievances were referred to arbitration and heard by the same grievance arbitrator. On February 5, 1998 the arbitrator allowed the second grievance filed by the Union on June 4, 1996 and ordered that the Employer submit to the process of exchanging "last final best offers". The arbitrator further declared that the Employer had to respect the tripartite agreements signed in 1982 and 1987, which were still in force, and ordered the Employer to pay the 11 typographer complainants the salary and other benefits deriving from the agreements, including any salary or benefits, provided in the collective agreement, lost as a result of the lockout.

23. An Application for Judicial Review was filed. The Application was ultimately allowed. The Union thereafter filed an Appeal with the Court of Appeal of Quebec.

24. The Court of Appeal of Quebec rendered its decision on December 15, 1999. In that decision, the Court overturned the decision of the lower Court and upheld, in part, the decision of the arbitrator. More specifically, the Court held as follows:

Therefore, I would allow the appeal in part, order the employer to submit to the process of exchanging best final offers within thirty days following this decision, Quash the two orders on payment and reimbursement of the salaries and benefits lost because of the lock-out and return the file to the arbitrator, who will determine whether any damages should be awarded to the 11 employees as a result of the Employer's failure to respect article XI of the 1987 agreement.

25. An Application for Leave to Appeal to the Supreme Court of Canada was denied. Annexed hereto and marked as **Exhibit "J"** is a true copy of the decision of the Court of Appeal of Quebec.

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26. The issue of damages was remitted to the arbitrator in accordance with the directive of the Court of Appeal of Quebec. By way of Interim decision dated September 28, 2000, the arbitrator held as follows with respect to the nature of the damages payable as a result of the Employer's improper lock-out:

The damages to which the 11 complainants have a right are limited to salary and other benefits lost and provided in the collective agreement, if it is to use the terms of the Court of Appeal, the lockout was unduly prolonged because of the refusal of the employer to exchange final best offers as requested by the union within the deadline of April 30, 1996.

27. The arbitrator's interim decision regarding the nature of the damages payable was challenged and ultimately upheld by the Court of Appeal of Quebec.

28. Thereafter, the arbitrator rendered his decision on the quantum of damages payable, holding that no damages could be awarded to the typographers as no specific events had caused the lockout to be unduly prolonged.

29. The Union challenged this decision. On appeal, the Court of Appeal of Quebec issued a decision dated March 17, 2008 wherein it quashed the decision of the arbitrator and ordered the arbitrator re-hear and determine the issue of damages payable to the typographers.

30. At the direction of the Court of Appeal of Quebec, the arbitrator re-heard the issue of damages and issued a decision dated January 21, 2009 wherein It held that "in the circumstances, the salary and benefits which The Gazette owes to the complainant are for the period of May 1999 to January 2000." Annexed hereto and marked as **Exhibit "K"** is a true copy of the arbitral award dated January 21, 2009.

31. The Union has subsequently challenged the arbitral decision dated January 21, 2009 in Superior Court of Québec.

32. The Union's motion was stayed upon the issuance of the Initial Order dated January 8, 2010 in connection with the Applicant's proceedings.



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33. The typographers' employment was reinstated in May of 2001 as a result of a renewed collective agreement being imposed through compulsory arbitration in accordance with the 1982 Agreement and 1987 Agreement. The collective agreement once again incorporated the 1982 Agreement and the 1987 Agreement.

34. The current collective agreement incorporates both the 1982 Agreement and the 1987 Agreement.

**The Claim is an Excluded Claim and an Assumed Liability**

35. Pursuant to section 2(m) of the Amended Claims Procedure Order, an "Excluded Claim" includes "all Grievances or claims that can only be advance in the form of a Grievance pursuant to the terms of a collective bargaining agreement."

36. Section 2(o) of the Amended Claims Procedure Order defines a "Grievance" as "all grievances filed by bargaining agents (the "Unions") representing unionized employees of the LP Entities, or their members, under applicable collective bargaining agreements."

37. Section 5.4(1) of the Amended ACH APA provides that the Purchaser shall be bound as a successor employer to such collective bargaining agreement as required by Applicable Law.

38. The Amended ACH APA also provides, *inter alla*, that liabilities in respect of transferred employees are assumed liabilities.

39. It is my belief that the Claim is an Excluded Claim under the Amended Claims Procedure Order and an Assumed Liability under the Amended ACH APA.

40. I swear this Affidavit in support of the relief requests in the Union's Notice of Motion dated December 2, 2010 and for no other or improper purpose.

SWORN before me at the City of Montreal,  
In the Province of Quebec, this 2<sup>th</sup> day  
of December, 2010.

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*Martha Bazan # 1313644*  
.....  
A Commissioner for Taking Oaths, etc.



*Don McKay*  
\_\_\_\_\_  
Don McKay

# TAB A

This is Exhibit "A" referred to in the  
 affidavit of Don McKay  
 sworn before me, this 2<sup>nd</sup>  
 day of December 2019.

Martha Bazan #171 544

A COMMISSIONER FOR TAKING AFFIDAVITS



Court File No. CV-10-8533-00CL

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

THE HONOURABLE	)	MONDAY, THE 17 <sup>th</sup> DAY
	)	
MADAM JUSTICE PEPALL	)	OF MAY, 2010

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF CANWEST PUBLISHING  
INC./PUBLICATIONS CANWEST INC., CANWEST BOOKS  
INC. AND CANWEST (CANADA) INC.



**APPLICANTS**

**AMENDED CLAIMS PROCEDURE ORDER**

**THIS MOTION** made by Canwest Publishing Inc./Publications Canwest Inc. (“CPI”), Canwest Books Inc. and Canwest (Canada) Inc. (the “**Applicants**”) and Canwest Limited Partnership/Canwest Societe en Commandite (“**Canwest LP**”, collectively and together with the Applicants, the “**LP Entities**”, and each an “**LP Entity**”), for an order amending the procedure for the identification and quantification of certain claims against the LP Entities that was established pursuant to an order dated April 12, 2010 was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the Notice of Motion, the Affidavit of Douglas E.J. Lamb sworn May 10, 2010, the Seventh Report of FTI Consulting Canada Inc. (the “**Monitor’s Seventh Report**”) in its capacity as Court-appointed monitor of the LP Entities (the “**Monitor**”) and on hearing from counsel for the LP Entities, the Monitor, the ad hoc committee of holders of 9.25% notes issued by Canwest Limited Partnership, The Bank of Nova Scotia in its capacity as Administrative Agent (the “**Agent**”) for the LP Senior Lenders (as defined below), the court-appointed representatives of the salaried employees and retirees and such other counsel as were

present, no one else appearing although duly served as appears from the affidavit of service, filed.

### **SERVICE**

1. **THIS COURT ORDERS** that the time for service of the Notice of Motion and Motion Record herein be and is hereby abridged and that the motion is properly returnable today and service upon any interested party other than those parties served is hereby dispensed with.

### **DEFINITIONS AND INTERPRETATION**

2. **THIS COURT ORDERS** that, for the purposes of this Order establishing and amending a claims process for the LP Entities (the “**LP Amended Claims Procedure Order**”), in addition to terms defined elsewhere herein, the following terms shall have the following meanings:
  - (a) “**Assessments**” means Claims of Her Majesty the Queen in Right of Canada or of any Province or Territory or Municipality or any other taxation authority in any Canadian or foreign jurisdiction, including, without limitation, amounts which may arise or have arisen under any notice of assessment, notice of appeal, audit, investigation, demand or similar request from any taxation authority;
  - (b) “**Business Day**” means a day, other than a Saturday, Sunday or a statutory holiday, on which banks are generally open for business in Toronto, Ontario;
  - (c) “**Calendar Day**” means a day, including Saturday, Sunday and any statutory holidays in the Province of Ontario, Canada;
  - (d) “**CCAA**” means the *Companies’ Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended;
  - (e) “**CCAA Proceeding**” means the proceeding commenced by the LP Entities in the Court at Toronto under Court File No. CV-10-8533-00CL;

- (f) **“Claim”** means:
- (i) any right or claim of any Person against one or more of the LP Entities, whether or not asserted, in connection with any indebtedness, liability or obligation of any kind whatsoever of one or more of the LP Entities in existence on the Filing Date, and any accrued interest thereon and costs payable in respect thereof to and including the Filing Date, whether or not such right or claim is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, perfected, unperfected, present, future, known, or unknown, by guarantee, surety or otherwise, and whether or not such right is executory or anticipatory in nature, including the right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any matter, action, cause or chose in action, whether existing at present or commenced in the future, which indebtedness, liability or obligation is based in whole or in part on facts which existed prior to the Filing Date, and includes any other claims that would have been claims provable in bankruptcy had the applicable LP Entity become bankrupt on the Filing Date (each, a **“Prefiling Claim”**, and collectively, the **“Prefiling Claims”**);
  - (ii) any right or claim of any Person against one or more of the LP Entities in connection with any indebtedness, liability or obligation of any kind whatsoever owed by one or more of the LP Entities to such Person arising out of the restructuring, disclaimer, resiliation, termination or breach on or after the Filing Date of any contract, lease or other agreement whether written or oral and whether such restructuring, disclaimer, resiliation, termination or breach took place or takes place before or after the date of this LP Amended Claims Procedure Order (each, a **“Restructuring Period Claim”**, and collectively, the **“Restructuring Period Claims”**);
  - (iii) any right or claim of any Person against one or more of the Directors or

Officers of one or more of the LP Entities or any of them, that relates to a Prefiling Claim or a Restructuring Period Claim howsoever arising for which the Directors or Officers of an LP Entity are by statute or otherwise by law liable to pay in their capacity as Directors or Officers or in any other capacity including, for greater certainty, any claim against a Director or Officer that may be secured by the LP Directors' Charge, but excluding any claims by the LP Senior Lenders (as defined herein) (each a "Director/Officer Claim", and collectively, the "**Directors/Officers Claims**");

other than Excluded Claims;

- (g) "**Claims Officer**" means the individuals designated by the Court pursuant to paragraph 11 of this LP Amended Claims Procedure Order and such other Persons as may be designated by the LP Entities and consented to by the Monitor;
- (h) "**Court**" means the Superior Court of Justice (Commercial List) in the City of Toronto in the Province of Ontario;
- (i) "**Creditors' Meeting Order**" means the Order of this Honourable Court dated May 17, 2010 establishing procedures for the call and conduct of a meeting of creditors of the LP Entities;
- (j) "**Director**" means anyone who is or was, or may be deemed to be or have been, whether by statute, operation of law or otherwise, a director or *de facto* director of any of the Applicants;
- (k) "**Distribution Claim**" means the amount of the Claim of a Creditor to the extent that such claim is finally determined for distribution purposes, in the event that an LP Plan is filed, in accordance with the provisions of this LP Amended Claims Procedure Order or the Creditors' Meeting Order, as applicable, and the CCAA;
- (l) "**Employee Claim**" any claim by an employee or former employee of the LP Entities arising out of the employment of such employee or former employee by



the LP Entities that relates to a Prefiling Claim or a Restructuring Period Claim other than an Excluded Claim or any employee-related liabilities that are being assumed by the Purchaser pursuant to the Purchase Agreement (each, an “**Employee Claim**”);

- (m) “**Excluded Claim**” means (i) claims secured by any of the Charges as defined in the Initial Order, (ii) Insured Claims, (iii) all Grievances or claims that can only be advanced in the form of a Grievance pursuant to the terms of a collective bargaining agreement, (iv) all claims by the LP Senior Lenders (as defined herein), including Director/Officer Claims (v) all claims of the LP DIP Lenders against the LP Entities pursuant to the LP DIP Definitive Documents, (vi) Intercompany Claims, and (vii) all claims of The Bank of Nova Scotia arising from the provision of cash management services to the LP Entities;
- (n) “**Filing Date**” means January 8, 2010;
- (o) “**Grievance**” means all grievances filed by bargaining agents (the “**Unions**”) representing unionized employees of the LP Entities, or their members, under applicable collective bargaining agreements;
- (p) “**Initial Order**” means the Initial Order of the Honourable Madam Justice Pepall made January 8, 2010, as amended, restated or varied from time to time;
- (q) “**Insured Claim**” means that portion of a Claim, other than a Director/Officer Claim, arising from a cause of action for which the applicable LP Entities are insured to the extent that such claim, or portion thereof, is insured;
- (r) “**Intercompany Claim**” means any claim by Canwest Global Communications Corp. (“**Canwest Global**”) or an affiliate or subsidiary of Canwest Global against one or more of the LP Entities including, for greater certainty, a claim by an LP Entity against another LP Entity;
- (s) “**LP Claims Bar Date**” means 5:00 p.m. on May 7, 2010;
- (t) “**LP Claims Package**” means the materials to be provided by the LP Entities to

Persons who may have a Claim which materials shall consist of a blank LP Proof of Claim, an LP Proof of Claim Instruction Letter, and such other materials as the LP Entities may consider appropriate or desirable;

- (u) “**LP Claims Procedure Order**” means the Order of this Honourable Court dated April 12, 2010 that is hereby amended by this LP Amended Claims Procedure Order
- (v) “**LP Claims Process**” means the call for claims process to be administered by the LP Entities with the assistance of the Monitor pursuant to the terms of this Order;
- (w) “**LP CRA**” means CRS Inc. in its capacity as the court-appointed Chief Restructuring Advisor of the LP Entities;
- (x) “**LP Creditor**” means any Person having a Claim including, without limitation and for greater certainty, the LP Noteholders, the LP Subordinated Lenders, the transferee or assignee of a transferred Claim that is recognized as an LP Creditor in accordance with paragraph 38 hereof or a trustee, executor, liquidator, receiver, receiver and manager, or other Person acting on behalf of or through such Person;
- (y) “**LP Director/Officer Claims Bar Date**” means 5:00 p.m. (Toronto time) on June 3, 2010;
- (z) “**LP Hedging Creditor**” means the various counterparties to certain foreign currency, interest rate and commodity hedging agreements with the LP Entities whose obligations rank *pari passu* to the claims of the LP Secured Lenders (as defined below);
- (aa) “**LP Note Indenture**” means the note indenture dated July 13, 2007 with CanWest MediaWorks Limited Partnership as issuer, CanWest MediaWorks Publications Inc. and Canwest Books Inc. as guarantors, the Bank of New York as U.S. Trustee, and BNY Trust Company of Canada as Canadian Trustee that was entered into in connection with the issuance of US\$400 million of senior subordinated notes that bear interest at 9.25%;

- (bb) **“LP Notes”** means the US\$400 million of senior subordinated notes that bear interest at 9.25% that were issued pursuant to the LP Note Indenture;
- (cc) **“LP Noteholders”** means the holders of the LP Notes;
- (dd) **“LP Notice of Dispute of Revision or Disallowance”** means the notice referred to in paragraph 28 hereof, substantially in the form attached as Schedule “E” hereto, which may be delivered to the Monitor by an LP Creditor disputing an LP Notice of Revision or Disallowance, with reasons for its dispute;
- (ee) **“LP Notice of Revision or Disallowance”** means the notice referred to in paragraphs 26 and 27 hereof, substantially in the form of Schedule “D” advising an LP Creditor that the LP Entities have revised or rejected all or part of such LP Creditor’s Claim as set out in its LP Proof of Claim;
- (ff) **“LP Notice to Creditors”** means the notice for publication by the LP Entities or the Monitor as described in paragraph 16 hereof, substantially in the form attached hereto as Schedule “A”, calling for any and all Claims of LP Creditors;
- (gg) **“LP Notice of Amended Claims Procedure”** means the notice for publication by the LP Entities or the Monitor as described in paragraph 16.1 hereof, substantially in the form attached hereto as Schedule “F”, advising of the amendments to the LP Claims Procedure;
- (hh) **“LP Plan”** means, as further defined in the Initial Order, any proposed plan of compromise or arrangement that may be filed by any or all of the LP Entities (in consultation with the Monitor and the LP CRA) pursuant to the CCAA as the same may be amended, supplemented or restated from time to time in accordance with the terms thereof other than the LP Senior Lenders’ CCAA Plan;
- (ii) **“LP Proof of Claim”** means the Proof of Claim referred to in paragraphs 22, 23 and 24 hereof to be filed by LP Creditors, in order to establish a Claim, substantially in the form attached hereto as Schedule “C”;
- (jj) **“LP Proof of Claim Instruction Letter”** means the instruction letter to LP

Creditors, substantially in the form attached as Schedule "B" hereto, regarding the completion of an LP Proof of Claim and the claims procedure described herein and stating the amount of the Claim of the particular LP Creditor receiving the LP Proof of Claim Instruction Letter, as evidenced by the books and records of the LP Entities;

- (kk) **"LP Restructuring Period Claims Bar Date and Employee Claims Bar Date"** means 5:00 p.m. (Toronto time) on June 3, 2010;
- (ll) **"LP Secured Lenders"** means the syndicate of lenders from time to time party to the credit agreement dated as of July 10, 2007 between CanWest MediaWorks Limited Partnership, The Bank of Nova Scotia, as Administrative Agent, the LP Secured Lenders and CanWest MediaWorks (Canada) Inc., CanWest MediaWorks Publications Inc. and Canwest Books Inc., as guarantors;
- (mm) **"LP Senior Lenders"** means the LP Hedging Creditors and the LP Secured Lenders;
- (nn) **"LP Senior Lenders' CCAA Plan"** means the plan of compromise or arrangement between the LP Entities and the LP Senior Lenders that was accepted for filing by this Honourable Court pursuant to the Initial Order and was approved by the LP Senior Lenders at a meeting on January 27, 2010;
- (oo) **"LP Senior Lenders' Claims"** means the claims of the LP Senior Lenders as determined pursuant to the LP Senior Lenders' Claim Procedure (as described below);
- (pp) **"LP Senior Lenders' Claims Procedure"** means the claims procedure approved in the Initial Order by which the LP Senior Lenders' Claims were determined in the context of the LP Senior Lenders' CCAA Plan;
- (qq) **"LP Senior Subordinated Credit Agreement"** means the senior subordinated credit agreement dated as of July 10, 2007 between CanWest MediaWorks Limited Partnership, the Subordinated Agent, the LP Subordinated Lenders, and

CanWest MediaWorks (Canada) Inc., CanWest MediaWorks Publications Inc. and Canwest Books Inc., as guarantors;

- (rr) “**LP Subordinated Lenders**” means the syndicate of lenders that are parties to the LP Senior Subordinated Credit Agreement;
- (ss) “**Meeting**” means any meeting of LP Creditors called for the purpose of considering and voting in respect of an LP Plan, if one is filed;
- (tt) “**Meeting Materials**” means those materials prepared by the LP Entities and in advance of a Meeting and including, among other things, copies of a notice of the Meeting, the Plan, the Creditors’ Meeting Order and a form of proxy;
- (uu) “**Monitor**” means FTI Consulting Canada Inc., as court-appointed Monitor in the CCAA proceeding of the LP Entities;
- (vv) “**Officer**” means anyone who is or was, or may be deemed to be or have been, whether by statute, operation of law or otherwise, an officer or *de facto* officer of any of the LP Entities;
- (ww) “**Pension Claim**” means any claim under the pension plans of the LP Entities as identified in the Initial Order Affidavit;
- (xx) “**Person**” means any individual, corporation, limited or unlimited liability company, general or limited partnership, association, trust, unincorporated organization, joint venture, government or any agency or instrumentality thereof or any other entity;
- (yy) “**Prefiling Claim**” has the meaning ascribed to that term in paragraph 2(f)(i) of this LP Amended Claims Procedure Order;
- (zz) “**Proven Claim**” means the Claim of an LP Creditor as established and determined pursuant to the terms of this LP Amended Claims Procedure Order for purposes of voting and distribution under any Plan;

- (aaa) **“Purchase Agreement”** means the asset purchase agreement dated as of May 10, 2010 between 7535538 Canada Inc., CW Acquisition Limited Partnership, Canwest Books Inc., Canwest (Canada) Inc., Canwest Publications Inc./Publications Canwest Inc. and Canwest Limited Partnership/Canwest Societe en Commandite;
- (bbb) **“Purchaser”** means CW Acquisition Limited Partnership pursuant to the AHC APA;
- (ccc) **“Restructuring Period Claim”** has the meaning ascribed to that term in paragraph 2(f)(ii) of this LP Amended Claims Procedure Order;
- (ddd) **“SERA Claim”** means any claim by a current or former employee of the LP Entities for payments or benefits arising out of a Southam Executive Retirement Arrangement (a **“SERA”**) that were discontinued after the Filing Date;
- (eee) **“SISP”** means the Sale and Investor Solicitation Process being carried out pursuant to the terms of the SISP Procedures;
- (fff) **“SISP Procedures”** means the Procedures for the Sale and Investor Solicitation Process, as amended, in the form attached as Schedule “A” to the Initial Order, as amended;
- (ggg) **“Subordinated Agent”** means The Bank of Nova Scotia, as Administrative Agent under the LP Senior Subordinated Credit Agreement;
- (hhh) **“Termination and Severance Claim”** means any claim by a former employee of the LP Entities with an effective date of termination on or before January 8, 2010 who was in receipt of salary continuance from the LP Entities that has been discontinued as a result of the commencement of the LP Entities’ CCAA proceeding; for greater certainty, Termination and Severance Claims do not include any employee claims that could be advanced as a Grievance pursuant to the terms of an applicable collective bargaining agreement;
- (iii) **“Trustees”** means the Bank of New York as U.S. Trustee and BNY Trust

Company of Canada as Canadian Trustee under the LP Note Indenture;

(jjj) “**Voting Claim**” means the amount of the Claim of an LP Creditor to the extent that such claim has been finally determined for voting at a Meeting, in accordance with the provisions of this LP Amended Claims Procedure Order, and the CCAA.

3. **THIS COURT ORDERS** that all capitalized terms used herein and not otherwise defined shall have the meanings ascribed to them in the Initial Order.
4. **THIS COURT ORDERS** that all references as to time herein shall mean local time in Toronto, Ontario, Canada, and any reference to an event occurring on a Business Day shall mean prior to 5:00 p.m. on such Business Day unless otherwise indicated herein.
5. **THIS COURT ORDERS** that all references to the word “including” shall mean “including without limitation”.
6. **THIS COURT ORDERS** that all references to the singular herein include the plural, the plural include the singular, and any gender includes the other gender.

#### **GENERAL PROVISIONS**

7. **THIS COURT ORDERS** that the LP Entities and the Monitor are hereby authorized to use reasonable discretion as to the adequacy of compliance with respect to the manner in which forms delivered hereunder are completed and executed and the time in which they are submitted, and may, where they are satisfied that a Claim has been adequately proven, waive strict compliance with the requirements of this LP Amended Claims Procedure Order, including in respect of completion, execution and time of delivery of such forms and request any further documentation from an LP Creditor that the LP Entities or the Monitor may require in order to enable them to determine the validity of a Claim.
8. **THIS COURT ORDERS** that any Claims denominated in a foreign currency shall be converted to Canadian dollars at the Bank of Canada noon exchange rate in effect at the Filing Date. U.S. dollar denominated claims shall be converted at the Bank of Canada Canadian/U.S. dollar noon exchange rate in effect at the Filing Date, which rate was

CDN\$1.0344:\$1 U.S.

9. **THIS COURT ORDERS** that interest and penalties that would otherwise accrue after the Filing Date shall not be included in any Claim.
10. **THIS COURT ORDERS** that copies of all forms delivered by or to an LP Creditor hereunder, as applicable, and determinations of Claims by a Claims Officer or the Court, as the case may be, shall be maintained by the LP Entities and, subject to further order of the Court, such LP Creditor will be entitled to have access thereto by appointment during normal business hours on written request to the LP Entities or the Monitor.

#### **CLAIMS OFFICER**

11. **THIS COURT ORDERS** that The Honourable Edward Saunders, The Honourable Coulter Osborne and such other Persons as may be appointed by the Court from time to time on application of the LP Entities (in consultation with the LP CRA), or such other Persons designated by the LP Entities (in consultation with the LP CRA) and consented to by the Monitor, be and they are hereby appointed as Claims Officers for the claims procedure described herein.
12. **THIS COURT ORDERS** that, subject to the discretion of the Court, a Claims Officer shall determine the validity and amount of disputed Claims in accordance with this LP Amended Claims Procedure Order and to the extent necessary may determine whether any Claim or part thereof constitutes an Excluded Claim. A Claims Officer shall determine all procedural matters which may arise in respect of his or her determination of these matters, including the manner in which any evidence may be adduced. A Claims Officer shall have the discretion to determine by whom and to what extent the costs of any hearing before a Claims Officer shall be paid.
13. **THIS COURT ORDERS** that the Claims Officers shall be entitled to reasonable compensation for the performance of their obligations set out in this Claims Order on the basis of the hourly rate customarily charged by the Claims Officers in performing comparable functions to those set out in this Claims Order and any disbursements incurred in connection therewith. The fees and expenses of the Claims Officers shall be



borne by the LP Entities and shall be paid by the LP Entities forthwith upon receipt of each invoice tendered by the Claims Officers.

14. **THIS COURT ORDERS** that, notwithstanding anything to the contrary herein, an LP Entity may in its sole discretion refer an LP Creditor's Claim for resolution to a Claims Officer or the Court for voting and/or distribution purposes, where in the LP Entity's view such a referral is preferable or necessary for the resolution of the valuation of the Claim.

#### **MONITOR'S ROLE**

15. **THIS COURT ORDERS** that the Monitor, in addition to its prescribed rights, duties, responsibilities and obligations under the CCAA and under the Initial Order, shall assist the LP Entities in connection with the administration of the claims procedure provided for herein, including the determination of Claims of LP Creditors and the referral of a particular Claim to a Claims Officer, as requested by the LP Entities from time to time, and is hereby directed and empowered to take such other actions and fulfill such other roles as are contemplated by this LP Amended Claims Procedure Order.

#### **NOTICE OF CLAIMS**

16. **THIS COURT ORDERS** that forthwith after April 12, 2010 and in any event on or before April 20, 2010, the LP Entities or the Monitor shall publish the LP Notice to Creditors, for at least two (2) Business Days in the *National Post*, *The Globe and Mail* (National Edition), *La Presse* and *The Wall Street Journal*.
- 16.1 **THIS COURT ORDERS** that forthwith after the date of this LP Amended Claims Procedure Order, the LP Entities or the Monitor shall publish the LP Notice of Amended Claims Procedure, for at least two (2) Business Days in the *National Post*, *The Globe and Mail* (National Edition) and *La Presse*.
17. **THIS COURT ORDERS** that the Monitor shall send an LP Claims Package to each LP Creditor with a Claim (other than a Restructuring Period Claim, an Employee Claim or a Director/Officer Claim) as evidenced by the books and records of the LP Entities in

accordance with paragraph 39 before 11:59 p.m. on April 16, 2010. The LP Proof of Claim Instruction Letter for each such LP Creditor shall provide general information and instructions in respect of the filing of Claims. The LP Claims Package as sent to LP Creditors will also include an individualized letter setting forth the amount of the Claim of such LP Creditor as evidenced by the books and records of the LP Entities.

18. **THIS COURT ORDERS** that the LP Entities are authorized to send an LP Claims Package to the Trustees and that the LP Entities shall not be required to send LP Claims Packages to the individual LP Noteholders.
19. **THIS COURT ORDERS** that the LP Entities are authorized to send an LP Claims Package to the Subordinated Agent and that the LP Entities shall not be required to send LP Claims Packages to the individual LP Subordinated Lenders.
20. **THIS COURT ORDERS** that to the extent any LP Creditor requests such documents, the Monitor shall forthwith send an LP Claims Package, direct the LP Creditor to the documents posted on the Monitor's website or otherwise respond to the request for the LP Claims Package as may be appropriate in the circumstances.

**NOTICE OF RESTRUCTURING PERIOD CLAIMS, EMPLOYEE CLAIMS AND DIRECTOR/OFFICER CLAIMS**

21. **THIS COURT ORDERS** that to the extent that an LP Claims Package has not already been delivered to such LP Creditor pursuant to paragraph 17 hereof, the LP Entities shall deliver an LP Claims Package to each LP Creditor with a Restructuring Period Claim and each LP Creditor with an Employee Claim as soon as practicable after the LP Entities have knowledge of the Restructuring Period Claim or the Employee Claim and, in any event, no later than May 21, 2010.

**FILING OF PROOFS OF CLAIM**

22. **THIS COURT ORDERS** that any LP Creditor asserting a Claim against the LP Entities or any Director or Officer thereof shall file an LP Proof of Claim with the Monitor on or before the LP Claims Bar Date, the LP Restructuring Period Claims Bar Date and

Employee Claims Bar Date or the LP Director/Officer Claims Bar Date, as applicable.

23. **THIS COURT ORDERS** that the Trustees are authorized to file one or more LP Proofs of Claim on or before the LP Claims Bar Date on behalf of all of the LP Noteholders indicating that amount owing on an aggregate basis for all of the LP Notes. Notwithstanding any other provisions in this Order, the LP Noteholders are not required to file individual LP Proofs of Claim in respect of claims relating solely to the debt evidenced by the LP Notes.
24. **THIS COURT ORDERS** that the Subordinated Agent is hereby authorized to file one or more LP Proofs of Claim on or before the LP Claims Bar Date on behalf of all of the LP Subordinated Lenders, indicating that amount owing on an aggregate basis under the LP Senior Subordinated Credit Agreement. Notwithstanding any other provisions in this Order, the LP Subordinated Lenders are not required to file individual LP Proofs of Claim in respect of claims relating solely to the obligations under the LP Senior Subordinated Credit Agreement.
25. **THIS COURT ORDERS** that any LP Creditor that does not file an LP Proof of Claim as provided for in paragraph 22 herein so that such LP Proof of Claim is received by the Monitor on or before the LP Claims Bar Date, the LP Restructuring Period Claims Bar Date and Employee Claims Bar Date or the LP Director/Officer Claims Bar Date, as applicable, or such later date as the Monitor and the Applicants may agree in writing or the Court may otherwise agree:
  - (a) shall be and is hereby forever barred from making or enforcing any Claim against the LP Entities and/or the Directors or Officers thereof and the Claim shall be forever extinguished;
  - (b) shall not be entitled to further notice of any action taken by the LP Entities pursuant to this Order; and
  - (c) shall not be entitled to participate as an LP Creditor in these proceedings.

**ADJUDICATION OF CLAIMS**

26. **THIS COURT ORDERS** that with the assistance of the Monitor and in consultation with the LP CRA, the LP Entities shall review all LP Proofs of Claim received by the LP Claims Bar Date, the LP Restructuring Period Claims Bar Date and Employee Claims Bar Date or the LP Director/Officer Claims Bar Date, as applicable, and shall accept, revise or reject each Claim. If the LP Entities intend to revise or reject a Claim, other than a Restructuring Period Claim, an Employee Claim or a Director/Officer Claim, the LP Entities shall by no later than May 31, 2010, or such other date as may be agreed to by the Monitor, notify each LP Creditor who has delivered an LP Proof of Claim whether such LP Creditor's Claim as set out therein has been revised or rejected and the reasons therefor, by sending an LP Notice of Revision or Disallowance. If the LP Entities intend to revise or reject a Restructuring Period Claim, an Employee Claim or a Director/Officer Claim, the LP Entities shall by no later than June 21, 2010, or such other date as may be agreed to by the Monitor, notify each LP Creditor who has delivered an LP Proof of Claim in respect of a Restructuring Period Claim, Employee Claim or Director/Officer Claim whether such LP Creditor's Claim as set out therein has been revised or rejected and the reasons therefore, by sending an LP Notice of Revision or Disallowance. Where the LP Entities do not send by such dates, or such other dates as may be agreed to by the Monitor, an LP Notice of Revision or Disallowance to an LP Creditor, the LP Entities shall be deemed to have accepted such LP Creditor's Claim in the amount set out in that LP Creditor's LP Proof of Claim.
27. **THIS COURT ORDER** that, where the LP Entities intend to revise or reject an LP Proof of Claim filed by the Trustees on behalf of the LP Noteholders or an LP Proof of Claim filed by the Subordinated Agent on behalf of the LP Subordinated Lenders, the LP Entities shall send the LP Notice of Revision or Disallowance to the Trustees or the Subordinated Agent, as applicable.
28. **THIS COURT ORDERS** that, except in the case of an LP Creditor with a Restructuring Period Claim, an Employee Claim or a Director/Officer Claim, any LP Creditor, and in the case of the LP Noteholders and the LP Subordinated Lenders, the Trustees and the

Subordinated Agent, respectively, who intends to dispute an LP Notice of Revision or Disallowance sent pursuant to the immediately preceding paragraphs shall deliver an LP Notice of Dispute of Revision or Disallowance to the Monitor before June 10, 2010, or such other date as may be agreed to by the Monitor. In the case of an LP Creditor with a Restructuring Period Claim, an Employee Claim or a Director/Officer Claim, such LP Creditor shall deliver an LP Notice of Dispute of Revision or Disallowance before June 30, 2010.

### **RESOLUTION OF CLAIMS**

29. **THIS COURT ORDERS** that where an LP Creditor that receives an LP Notice of Revision or Disallowance pursuant to paragraphs 26 and 27 above does not file an LP Notice of Dispute of Revision or Disallowance by the time set out in paragraph 28 above, such LP Creditor's Claim shall be deemed to be as set out in the LP Notice of Revision or Disallowance.
30. **THIS COURT ORDERS** that in the event that an LP Entity, with the assistance of the Monitor and in consultation with the LP CRA and any Director or Officer if the Claim is asserted as against them, is unable to resolve a dispute regarding any Claim with an LP Creditor, the LP Entity or the LP Creditor shall so notify the Monitor, and the LP Creditor or the LP Entity, as the case may be. The decision as to whether the LP Creditor's Claim should be adjudicated by the Court or a Claims Officer shall be in the sole discretion of the LP Entity. To the extent a Claim is referred under this paragraph to the Court or a Claims Officer, the Court or a Claims Officer, as the case may be, shall resolve the dispute between the LP Entity, any Director or Officer to the extent that a Claim is asserted as against them, and such LP Creditor, as soon as practicable.
31. **THIS COURT ORDERS** that where the value of an LP Creditor's Voting Claim has not been finally determined by the Court or the Claims Officer by the date of a Meeting, if any, the relevant LP Entity shall (in consultation with the LP CRA and the Monitor) either:

- (a) accept the LP Creditor's determination of the value of the Voting Claim as set out in the applicable LP Proof of Claim only for the purposes of voting and conduct the vote of the Creditors on that basis subject to a final determination of such LP Creditor's Voting Claim, and in such case the Monitor shall record separately the value of such LP Creditor's Voting Claim and whether such LP Creditor voted in favour of or against the LP Plan;
  - (b) subject to the written consent of the Purchaser, adjourn the Meeting until a final determination of the Voting Claim(s) is made; or
  - (c) deal with the matter as the Court may otherwise direct or as the LP Entities, the Monitor and the LP Creditor may otherwise agree.
32. **THIS COURT ORDERS** that either any of LP Creditor, a Director or Officer to the extent that a Claim is asserted as against them, or an LP Entity may, within two (2) Business Days of notification of a Claims Officer's determination in respect of an LP Creditor's Claim, appeal such determination to the Court by filing a notice of appeal, and the appeal shall be initially returnable within five (5) Business Days of the filing of such notice of appeal, such appeal to be an appeal based on the record before the Claims Officer and not a hearing de novo.
33. **THIS COURT ORDERS** that if no party appeals the determination of a Claim by a Claims Officer within the time set out in paragraph 32 above, the decision of the Claims Officer in determining the value of an LP Creditor's Claim shall be final and binding upon the relevant LP Entity, the Monitor and the LP Creditor and there shall be no further right of appeal, review or recourse to the Court from the Claims Officer's final determination of a Claim.

#### **SUSPENSION OF THE CLAIMS PROCESS**

34. **THIS COURT ORDERS** that no steps for the purposes of adjudicating or resolving the Claims (as described in paragraphs 26 through 32 herein) shall be taken unless:

- (a) Phase 2 of the SISP is completed and the Monitor, the LP CRA, the LP Entities and the Agent make a determination that such steps are reasonably required to close the AHC Transaction (as defined in the Monitor's Seventh Report);
- (b) after the closing of the AHC Transaction (or such earlier date as may be agreed to by the Monitor, the LP CRA, the LP Entities and the Agent), the Monitor, the LP CRA and the LP Entities make a determination that the resolution of Claims is reasonably required to facilitate a distribution of proceeds from such Successful Bid; or
- (c) directed by further Order of the Court.

For greater certainty, in the event that the AHC Transaction is not approved or is otherwise terminated, no further steps shall be taken for the purpose of adjudicating or resolving the Claims.

35. **THIS COURT ORDERS** that if a determination is made under paragraph 34 above, the Monitor shall as soon as reasonably possible thereafter post notice of such determination on the website maintained for this proceeding at: <http://cfcanada.fticonsulting.com/clp>, and such posting shall constitute notice of such determination.

#### **SET-OFF**

36. **THIS COURT ORDERS** that the LP Entities may set-off (whether by way of legal, equitable or contractual set-off) against payments or other distributions to be made pursuant to the LP Plan to any LP Creditor, any claims of any nature whatsoever that any of the LP Entities may have against such LP Creditor, however, neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the LP Entities of any such claim that the LP Entities may have against such LP Creditor.

#### **NOTICE OF TRANSFEREES**

37. **THIS COURT ORDERS** that leave is hereby granted from the date of this LP Amended Claims Procedure Order until May 27, 2010 to permit an LP Creditor to provide notice of assignment or transfer of a Claim to the Monitor.

38. **THIS COURT ORDERS** that if, after the Filing Date, the holder of a Claim transfers or assigns the whole of such Claim to another Person, neither the Monitor nor the LP Entities shall be obligated to give notice or otherwise deal with the transferee or assignee of such Claim in respect thereof unless and until actual notice of transfer or assignment, together with satisfactory evidence of such transfer or assignment, shall have been received and acknowledged by the relevant LP Entity and the Monitor in writing and thereafter such transferee or assignee shall for the purposes hereof constitute the "Creditor" in respect of such Claim. Any such transferee or assignee of a Claim shall be bound by any notices given or steps taken in respect of such Claim in accordance with this LP Amended Claims Procedure Order prior to receipt and acknowledgement by the relevant LP Entity and the Monitor of satisfactory evidence of such transfer or assignment. A transferee or assignee of a Claim takes the Claim subject to any rights of set-off to which an LP Entity may be entitled with respect to such Claim. For greater certainty, a transferee or assignee of a Claim is not entitled to set-off, apply, merge, consolidate or combine any Claims assigned or transferred to it against or on account or in reduction of any amounts owing by such Person to any of the LP Entities. No transfer or assignment shall be received for voting purposes unless such transfer shall have been received by the Monitor no later than 5:00 p.m. (Toronto time) on May 27, 2010, failing which the original transferor shall have all applicable rights as the "Creditor" with respect to such Claim as if no transfer of the Claim had occurred. Reference to transfer in this LP Amended Claims Procedure Order includes a transfer or assignment whether absolute or intended as security.

#### **SERVICE AND NOTICES**

39. **THIS COURT ORDERS** that the LP Entities and the Monitor may, unless otherwise specified by this LP Amended Claims Procedure Order, serve and deliver the LP Claims Package, the Meeting Materials, any letters, notices or other documents to LP Creditors or any other interested Person by forwarding true copies thereof by prepaid ordinary mail, courier, personal delivery, facsimile transmission or email to such Persons at the physical or electronic address, as applicable, last shown on the books and records of the LP Entities or set out in such LP Creditor's LP Proof of Claim. Any such service and



delivery shall be deemed to have been received: (i) if sent by ordinary mail, on the third Business Day after mailing within Ontario, the fifth Business Day after mailing within Canada (other than within Ontario), and the tenth Business Day after mailing internationally; (ii) if sent by courier or personal delivery, on the next Business Day following dispatch; and (iii) if delivered by facsimile transmission or email by 6:00 p.m. on a Business Day, on such Business Day and if delivered after 6:00 p.m. or other than on a Business Day, on the following Business Day.

40. **THIS COURT ORDERS** that any notice or communication required to be provided or delivered by an LP Creditor to the Monitor or the LP Entities under this LP Amended Claims Procedure Order shall be in writing in substantially the form, if any, provided for in this LP Amended Claims Procedure Order and will be sufficiently given only if delivered by prepaid registered mail, courier, personal delivery, facsimile transmission or email addressed to:

FTI Consulting Canada Inc., Court-appointed Monitor of Canwest Publishing Inc./Publications Canwest Inc. et al  
Claims Process  
79 Wellington Street West  
Suite 2010, P.O. Box 104  
Toronto, ON  
M5K 1G8

Attention: Pamela Luthra  
Telephone: 1 888- 310-7627  
Fax: 416-649-8101  
Email: CanwestLP@fticonsulting.com

Any such notice or communication delivered by an LP Creditor shall be deemed to be received upon actual receipt by the Monitor thereof during normal business hours on a Business Day or if delivered outside of normal business hours, the next Business Day.

41. **THIS COURT ORDERS** that if during any period during which notices or other communications are being given pursuant to this LP Amended Claims Procedure Order a postal strike or postal work stoppage of general application should occur, such notices or other communications sent by ordinary mail and then not received shall not, absent further Order of this Court, be effective and notices and other communications given

hereunder during the course of any such postal strike or work stoppage of general application shall only be effective if given by courier, personal delivery, facsimile transmission or email in accordance with this LP Amended Claims Procedure Order.

42. **THIS COURT ORDERS** that in the event that this LP Amended Claims Procedure Order is later amended by further Order of the Court, the LP Entities or the Monitor may post such further Order on the Monitor's website and such posting shall constitute adequate notice to LP Creditors of such amended claims procedure.

### **MISCELLANEOUS**

43. **THIS COURT ORDERS** that notwithstanding any other provisions of this LP Amended Claims Procedure Order, the solicitation by the Monitor or the LP Entities of LP Proofs of Claim, and the filing by any LP Creditor of any LP Proof of Claim shall not, for that reason only, grant any person any standing in these proceedings or rights under any proposed LP Plan.
44. **THIS COURT ORDERS** that nothing in this LP Amended Claims Procedure Order shall (i) constitute or be deemed to constitute an allocation or assignment of Claims or Excluded Claims by the LP Entities into particular affected or unaffected classes for the purpose of an LP Plan; or (ii) authorize or require the LP Entities to file an LP Plan.
45. **THIS COURT ORDERS** that in the event that no LP Plan is approved by this Court, the LP Claims Bar Date, LP Restructuring Period Claims Bar Date and Employee Claims Bar Date or LP Director/Officer Claims Bar Date, as the case may be, shall be of no effect in any subsequent proceeding or distribution with respect to any and all Claims made by LP Creditors.
46. **THIS COURT ORDERS AND REQUESTS** the aid and recognition of any court or any judicial, regulatory or administrative body in any province or territory of Canada (including the assistance of any court in Canada pursuant to section 17 of the CCAA) and the Federal Court of Canada and any judicial, regulatory or administrative tribunal or other court constituted pursuant to the Parliament of Canada or the legislature of any province and any court or any judicial regulatory body of the United States and the states

or other subdivisions of the United States and of any other nation or state, to act in aid of and to be complementary to this Court in carrying out the terms of this LP Amended Claims Procedure Order.

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

MAY 17 2010

PER / PAR: 

**SCHEDULE "A"**

**NOTICE TO CREDITORS OF Canwest Publishing Inc./Publications Canwest Inc., Canwest Books Inc., Canwest (Canada) Inc. (collectively, the "Applicants") and Canwest Limited Partnership ("Canwest LP" and, together with the Applicants, the "LP Entities")**

**RE: NOTICE OF CLAIMS PROCEDURE AND CLAIMS BAR DATE IN COMPANIES' CREDITORS ARRANGEMENT ACT ("CCAA") PROCEEDINGS**

**NOTICE IS HEREBY GIVEN** that pursuant to an Order of the Ontario Superior Court of Justice made April 12, 2010 (the "Order"), a claims procedure was approved for the determination of certain claims against the LP Entities.

**PLEASE TAKE NOTICE** that the claims procedure applies only to Claims of Creditors described in the Order. No other claims are being compromised. A copy of the Order and other public information concerning the CCAA Proceedings can be found at the Monitor's website: <http://cfcanada.fticonsulting.com/clp>.

**THE LP CLAIMS BAR DATE is 5:00 p.m. (Toronto Time) on May 7, 2010** or, if you have a Restructuring Period Claim, 21 days after you are deemed to have received the LP Claims Package pursuant to the Order. Any creditor who has not received an LP Claims Package and who believes that it has a Claim against one or more of the LP Entities must contact the Monitor in order to obtain an LP Proof of Claim. LP Proofs of Claim must be filed with the Monitor on or before the LP Claims Bar Date or the LP Restructuring Period Claims Bar Date, as the case may be.

**HOLDERS OF CLAIMS** that do not file an LP Proof of Claim by the LP Claims Bar Date or the LP Restructuring Period Claims Bar Date, as the case may be, shall not be entitled to

- 2 -

vote at any meeting of creditors regarding any plan of compromise or arrangement proposed by the LP Entities or participate in any distribution under such plan, and any Claims such Creditor may have against any of the LP Entities shall be forever extinguished and barred.

**FORMER EMPLOYEES WITH SERA CLAIMS OR TERMINATION AND SEVERANCE CLAIMS**, as defined in the Order, may contact Court-appointed representative counsel for further information at [CSER@nelligan.ca](mailto:CSER@nelligan.ca) or 1-888-565-9912.

**CREDITORS REQUIRING INFORMATION** or claim documentation may contact the Monitor at the following address or facsimile:

FTI Consulting Canada Inc., Court-appointed Monitor of Canwest Publishing Inc./Publications Canwest Inc. et al  
Claims Process  
79 Wellington Street West  
Suite 2010, P.O. Box 104  
Toronto, ON  
M5K 1G8

Attention: Pamela Luthra

Telephone: 1 888- 310-7627

Fax: 416-649-8101

Email: [CanwestLP@fticonsulting.com](mailto:CanwestLP@fticonsulting.com)

## SCHEDULE "B"

**LP PROOF OF CLAIM INSTRUCTION LETTER  
FOR THE CLAIMS PROCEDURE FOR LP CREDITORS OF  
CANWEST PUBLISHING INC./PUBLICATIONS CANWEST INC., CANWEST BOOKS  
INC., CANWEST (CANADA) INC. AND CANWEST LIMITED  
PARTNERSHIP/CANWEST SOCIETE EN COMMANDITE (collectively, the "LP  
ENTITIES")**

**PLEASE NOTE THAT THIS IS A SEPARATE AND DISTINCT CLAIMS PROCESS  
FROM THE CLAIMS PROCESS GOVERNING THE CMI ENTITIES. ALL  
CREDITORS THAT BELIEVE THEY HAVE A CLAIM AGAINST CANWEST  
PUBLISHING INC./PUBLICATIONS CANWEST INC., CANWEST BOOKS INC.,  
CANWEST (CANADA) INC. AND CANWEST LIMITED PARTNERSHIP/CANWEST  
SOCIETE EN COMMANDITE MUST FILE A PROOF OF CLAIM FORM**

### LP CLAIMS PROCESS

By Order of the Honourable Madam Justice Pepall dated April 12, 2010, as amended by the Order of Madam Justice Pepall dated May 17, 2010 (and as may be further amended from time to time, the "Amended Claims Procedure Order") under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 (the "CCAA"), the LP Entities have been authorized to conduct a claims process (the "LP Claims Process") pursuant to a claims procedure (the "Claims Procedure"). A copy of the Amended Claims Procedure Order and other public information concerning these proceedings can be obtained from the website of FTI Consulting Canada Inc., the Court-appointed Monitor of the LP Entities, at <http://cfcanada.fticonsulting.com/clp>.

This letter provides general instructions for completing the LP Proof of Claim forms. Capitalized terms not defined within this instruction letter shall have the meanings ascribed to them in the Order.

The LP Claims Process is intended for any Person with a claim of any kind or nature whatsoever, other than an Excluded Claim, arising on or prior to January 8, 2010, whether unliquidated, contingent or otherwise. In addition, the LP Claims Process is intended for any Person with any Claim arising after January 8, 2010 against any or all of the LP Entities or a Director or Officer thereof as the result of the restructuring, disclaimer, resiliation, termination or breach of any

contract, lease or other type of agreement. Please review the Order for the complete definitions of Claim, Prefiling Claim, Restructuring Period Claim, Employee Claim, Director/Officer Claim and Excluded Claim.

All notices and inquiries with respect to the LP Claims Process and the Claims Procedure should be directed to the Monitor by prepaid registered mail, courier, personal delivery, facsimile transmission or email at the address below:

FTI Consulting Canada Inc., Court-appointed Monitor of Canwest Publishing  
Inc./Publications Canwest Inc. et al  
Claims Process  
79 Wellington Street West  
Suite 2010, P.O. Box 104  
Toronto, ON  
M5K 1G8  
Attention: Pamela Luthra

Telephone: 1 888-310-7627  
Fax: 416-649-8101  
Email: [CanwestLP@fticonsulting.com](mailto:CanwestLP@fticonsulting.com)

**YOU MUST FILE A PROOF OF CLAIM BY THE CLAIMS BAR DATE, THE LP RESTRUCTURING PERIOD CLAIMS BAR DATE AND EMPLOYEE CLAIMS BAR DATE OR THE DIRECTOR/OFFICER CLAIMS BAR DATE, AS MAY THE CASE MAY BE, IN ORDER TO ESTABLISH YOUR CLAIM. THE LP CLAIMS BAR DATE is 5:00 p.m. (Toronto Time) on May 7, 2010 or, IF YOU HAVE A RESTRUCTURING PERIOD CLAIM, AN EMPLOYEE CLAIM OR A DIRECTOR/OFFICER CLAIM, THE LP RESTRUCTURING PERIOD CLAIMS BAR DATE AND EMPLOYEE CLAIMS BAR DATE AND THE LP DIRECTOR/OFFICER CLAIMS BAR DATE IS 5:00 (Toronto Time) on June 3, 2010, unless the Monitor and the LP Entities agree in writing or the Court Orders that the LP Proof of Claim be accepted after that date. IF YOU DO NOT FILE AN LP PROOF OF CLAIM BY THE LP CLAIMS BAR DATE, THE LP RESTRUCTURING PERIOD CLAIMS BAR DATE AND EMPLOYEE CLAIMS BAR DATE OR THE DIRECTOR/OFFICER CLAIMS BAR DATE, AS THE CASE MAY BE, you will not be entitled to vote at any meeting of creditors regarding any plan of compromise or arrangement proposed by the LP Entities or participate in any distribution under such plan, and any Claims**

you may have against any of the LP Entities or any Director or Officer thereof will be forever extinguished and barred.

Claims denominated in a foreign currency other than U.S. dollars shall be converted to Canadian dollars at the Bank of Canada noon exchange rate in effect at the Filing Date. U.S. dollar denominated claims shall be converted at the Bank of Canada Canadian/U.S.dollar noon exchange rate in effect at the Filing Date which rate was Cdn \$1.0344: \$1 U.S.

Please refer to the Amended Claims Procedure Order for further details.

If you decide to submit an LP Proof of Claim and the LP Entities disagree with the value or status that you have ascribed to your Claim, or the validity of your Claim as set out in your LP Proof of Claim, and such disagreement cannot be resolved consensually, you will receive an LP Notice of Revision or Disallowance from the LP Entities (as set out in paragraph 22 of the Claims Procedure Order).

#### **ADDITIONAL FORMS**

Additional LP Proof of Claim forms can be obtained from the Monitor's website at <http://cfcanada.fticonsulting.com/clp> or by contacting the Monitor and providing the particulars as to your name, address, facsimile number, email address and contact person. Once the LP Entities have this information, you will receive, as soon as practicable, additional LP Proof of Claim forms.



**SCHEDULE "C"**

Court File No. CV-10-8533-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF CANWEST PUBLISHING  
INC./PUBLICATIONS CANWEST INC., CANWEST BOOKS  
INC. AND CANWEST (CANADA) INC.

APPLICANTS

---

**LP PROOF OF CLAIM**

---

**1. PARTICULARS OF CREDITOR:**

(a) Full Legal Name of Creditor:

\_\_\_\_\_ (the "Creditor").

*(Full legal or Corporate name should be the name of the original Creditor. Do not file separate Proofs of Claim for divisions of the same Creditor.)*

(b) Full Mailing Address of Creditor:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

- 2 -

- (c) \*Telephone Number of Creditor: \_\_\_\_\_
- (d) \*Facsimile Number of Creditor: \_\_\_\_\_
- (e) \*E-mail Address of Creditor: \_\_\_\_\_
- (f) \*Attention (Contact Person): \_\_\_\_\_
- (g) Has the Claim been sold or assigned by Creditor to another party?
- Yes \_\_\_\_\_ No \_\_\_\_\_ (If yes please completed section 5)

**\*In order to ensure that all claims are processed in an expedited manner you must provide one (1) or more of your telephone number, fax number or email address.**

## 2. PROOF OF CLAIM

### THE UNDERSIGNED CERTIFIES AS FOLLOWS:

- (a) That I am a Creditor of/hold the position of \_\_\_\_\_ of \_\_\_\_\_ the Creditor and have knowledge of all the circumstances connected with the Claim described herein;
- (b) That I have knowledge of all the circumstances connected with the Claim described and set out below;
- (c) That the LP Entity/Director or Officer was and still is indebted to the Creditor as follows (*Claims denominated in a foreign currency other than U.S. dollars shall be converted to Canadian dollars at the Bank of Canada noon exchange rate in effect at the Filing Date. U.S. dollar denominated claims shall be converted at the Bank of Canada Canadian/U.S.dollar noon exchange rate in effect at the Filing Date which rate was Cdn \$1.0344: \$1 U.S.*)

- 3 -

	Pre-filing Claims	Restructuring Period Claims	Employee Claims	Total Claims
Canwest Publishing Inc./Publications Canwest Inc.	\$	\$	\$	\$
Canwest Books Inc.	\$	\$	\$	\$
Canwest (Canada) Inc.	\$	\$	\$	\$
Canwest Limited Partnership	\$	\$	\$	\$
Directors/Officers	\$	\$	\$	\$
<b>Total Claims</b>	\$	\$	\$	\$

3. **NATURE OF CLAIM**

***(CHECK AND COMPLETE APPROPRIATE CATEGORY)***

Unsecured Claim of \$ \_\_\_\_\_

Secured Claim of \$ \_\_\_\_\_

In respect of this debt, I hold security over the assets of the LP Entity valued at \$ \_\_\_\_\_, the particulars of which security and value are attached to this Proof of Claim form.

*(Give full particulars of the security, including the date on which the security was given, the value that you ascribe to the assets charged by your security and the basis for such valuation, and attach a copy of the security documents evidencing the security.)*

4. **PARTICULARS OF CLAIM:**

The Particulars of the undersigned's total Claim are attached.

*(Provide full particulars of the Claim and supporting documentation, including amount, description of transaction(s) or agreement(s) giving rise to the Claim, name of any guarantor(s) that has guaranteed the Claim, and amount of Claim allocated thereto, date and number of all invoices, particulars of all credits, discounts, etc. claimed).*

5. **PARTICULARS OF ASSIGNEE(S) (only to be completed if your claim has been sold or assigned to another party):**

(a) Full Legal Name of Assignee(s) of Claim (if all or a portion of the Claim has been sold). If there is more than one assignee, please attach separate sheets with the following information:

\_\_\_\_\_ (the "Assignee(s)")

Amount of Total Claim Assigned \$ \_\_\_\_\_

Amount of Total Claim Not Assigned \$ \_\_\_\_\_

Total Amount of Claim \$ \_\_\_\_\_  
(should equal "Total Claim" as entered in Section 2)

(b) Full Mailing Address of Assignee(s):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(c) Telephone Number of Assignee(s): \_\_\_\_\_

(d) Facsimile Number of Assignee(s): \_\_\_\_\_

(e) Attention (Contact Person): \_\_\_\_\_

**6. FILING OF CLAIM**

This LP Proof of Claim must be returned to and received by the Monitor by **5:00 p.m. (Toronto Time) on May 7, 2010** or, **IF YOU HAVE A RESTRUCTURING PERIOD CLAIM, AN EMPLOYEE CLAIM OR A DIRECTOR/OFFICER CLAIM, 5:00 (Toronto Time) on June 3, 2010** (unless the Monitor and the LP Entities agree in writing or the Court Orders that the LP Proof of Claim be accepted after that date) at the following address:

FTI Consulting Canada Inc., Court-appointed Monitor of Canwest Publishing  
Inc./Publications Canwest Inc. et al  
Claims Process  
79 Wellington Street West  
Suite 2010, P.O. Box 104  
Toronto, ON  
M5K 1G8

Attention: Pamela Luthra

Telephone: 1 888- 310-7627  
Fax: 416-649-8101  
Email: **CanwestLP@fticonsulting.com**

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

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

**SCHEDULE "D"**

Court File No. CV-10-8533-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LISTIN THE MATTER OF THE COMPANIES' CREDITORS  
ARRANGEMENT ACT, R.S.C. 1985, c. C-36, AS AMENDEDAND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF CANWEST PUBLISHING  
INC./PUBLICATIONS CANWEST INC., CANWEST BOOKS  
INC. AND CANWEST (CANADA) INC.

APPLICANTS

---

**LP NOTICE OF REVISION OR DISALLOWANCE**

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TO: **[insert name and address of creditor]**

The LP Entities have disallowed in full or in part, your Claim, as set out in your LP Proof of Claim, as set out below:

- 2 -

**Profiling Claim:**

Claim Against	Claim per Proof of Claim	Allowed Amount	Disallowed Amount
Canwest Publishing Inc./Publications Canwest Inc.	\$	\$	\$
Canwest Books Inc.	\$	\$	\$
Canwest (Canada) Inc.	\$	\$	\$
Canwest Limited Partnership	\$	\$	\$
Directors/Officers	\$	\$	\$
<b>Total Claims</b>	\$	\$	\$

**Restructuring Period Claim:**

Claim Against	Claim per Proof of Claim	Allowed Amount	Disallowed Amount
Canwest Publishing Inc./Publications Canwest Inc.	\$	\$	\$
Canwest Books Inc.	\$	\$	\$
Canwest (Canada) Inc.	\$	\$	\$
Canwest Limited Partnership	\$	\$	\$
Directors/Officers	\$	\$	\$
<b>Total Claims</b>	\$	\$	\$

**Employee Claim:**

Claim Against	Claim per Proof of Claim	Allowed Amount	Disallowed Amount
Canwest Publishing Inc./Publications Canwest Inc.	\$	\$	\$
Canwest Books Inc.	\$	\$	\$
Canwest (Canada) Inc.	\$	\$	\$
Canwest Limited Partnership	\$	\$	\$
Directors/Officers	\$	\$	\$
<b>Total Claims</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>

REASONS FOR DISALLOWANCE:

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**IF YOU INTEND TO DISPUTE THIS NOTICE OF REVISION OR DISALLOWANCE:**

**IN THE CASE OF AN LP CREDITOR WITH A PREFILING CLAIM**, you must, no later than **5:00 p.m. (Toronto Time)** before the June 10, 2010 notify the Monitor of such intent by delivering an LP Notice of Dispute of Revision or Disallowance (a copy of which can be found on the Monitor's website at <http://cfcanada.fticonsulting.com/clp>) in accordance with the LP Amended Claims Procedure Order to the following address or facsimile:

FTI Consulting Canada Inc., Court-appointed Monitor of Canwest Publishing Inc./Publications Canwest Inc. et al  
Claims Process  
79 Wellington Street West  
Suite 2010, P.O. Box 104  
Toronto, ON  
M5K 1G8

Attention: Pamela Luthra

Telephone: 1 888- 310-7627  
Fax: 416-649-8101  
Email: [CanwestLP@fticonsulting.com](mailto:CanwestLP@fticonsulting.com)

**IN THE CASE OF AN LP CREDITOR WITH A RESTRUCTURING PERIOD CLAIM, AN EMPLOYEE CLAIM OR A DIRECTOR/OFFICER CLAIM**, you must, no later than **5:00 p.m. (Toronto Time)** before June 30, 2010 notify the Monitor of such intent by delivering an LP Notice of Dispute of Revision or Disallowance in accordance with the LP Amended Claims Procedure Order to the following address or facsimile:

FTI Consulting Canada Inc., Court-appointed Monitor of Canwest Publishing Inc./Publications Canwest Inc. et al  
Claims Process  
79 Wellington Street West  
Suite 2010, P.O. Box 104  
Toronto, ON  
M5K 1G8

Attention: Pamela Luthra

Telephone: 1 888- 310-7627  
Fax: 416-649-8101  
Email: [CanwestLP@fticonsulting.com](mailto:CanwestLP@fticonsulting.com)

If you do not deliver an LP Notice of Dispute of Revision or Disallowance (a copy of which can be found on the Monitor's website at <http://cfcanada.fticonsulting.com/clp>) by the time and date set out above, as applicable, the value of your Claim shall be deemed to be as set out in this LP Notice of Revision or Disallowance.

DATE

**SCHEDULE "E"**

Court File No. CV-10-8533-00CL

ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST

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

AND IN THE MATTER OF A PLAN OF COMPROMISE OR  
ARRANGEMENT OF CANWEST PUBLISHING  
INC./PUBLICATIONS CANWEST INC., CANWEST BOOKS  
INC. AND CANWEST (CANADA) INC.

APPLICANTS

---

**LP NOTICE OF DISPUTE OF REVISION OR DISALLOWANCE**

---

**7. PARTICULARS OF CREDITOR:**

(a) Full Legal Name of Creditor: \_\_\_\_\_

(b) Full Mailing Address of Creditor: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

(c) \*Telephone Number of Creditor: \_\_\_\_\_

(d) \*Facsimile Number of Creditor: \_\_\_\_\_

(e) \*E-mail Address of Creditor: \_\_\_\_\_

(f) Attention (Contact Person): \_\_\_\_\_

**\*In order to ensure that all claims are processed in an expedited manner you must provide one (1) or more of your telephone number, fax number or email address.**

**8. PARTICULARS OF ORIGINAL CREDITOR FROM WHOM YOU ACQUIRED CLAIM, IF APPLICABLE:**

(a) Have you acquired this Claim by assignment? Yes  No   
 (if yes, attach documents evidencing assignment)

(b) Full Legal Name of original creditor(s): \_\_\_\_\_

**9. DISPUTE OF REVISION OR DISALLOWANCE OF CLAIM FOR VOTING AND/OR DISTRIBUTION PURPOSES:**

We hereby disagree with the value of our Claim as set out in the LP Notice of Revision or Disallowance dated \_\_\_\_\_, as set out below:

**PreFiling Claim:**

Claim Against	Claim per Proof of Claim	Allowed Amount	Disallowed Amount
Canwest Publishing Inc./Publications Canwest Inc.	\$	\$	\$
Canwest Books Inc.	\$	\$	\$
Canwest (Canada) Inc.	\$	\$	\$
Canwest Limited Partnership	\$	\$	\$
Directors/Officers	\$	\$	\$
<b>Total Claims</b>	<b>\$</b>	<b>\$</b>	<b>\$</b>

**Restructuring Period Claim:**

Claim Against	Claim per Proof of Claim	Allowed Amount	Disallowed Amount
Canwest Publishing Inc./Publications Canwest Inc.	\$	\$	\$
Canwest Books Inc.	\$	\$	\$
Canwest (Canada) Inc.	\$	\$	\$
Canwest Limited Partnership	\$	\$	\$
Directors/Officers	\$	\$	\$
<b>Total Claims</b>	\$	\$	\$

**Employee Claim:**

Claim Against	Claim per Proof of Claim	Allowed Amount	Disallowed Amount
Canwest Publishing Inc./Publications Canwest Inc.	\$	\$	\$
Canwest Books Inc.	\$	\$	\$
Canwest (Canada) Inc.	\$	\$	\$
Canwest Limited Partnership	\$	\$	\$
Directors/Officers	\$	\$	\$
<b>Total Claims</b>	\$	\$	\$

**REASONS FOR DISPUTE:**

*(Provide full particulars of the Claim and supporting documentation, including amount, description of transaction(s) or agreement(s) giving rise to the Claim, name of any guarantor(s) that has guaranteed the Claim, and amount of Claim allocated thereto, date and number of all invoices, particulars of all credits, discounts, etc. claimed.)*

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If you intend to dispute an LP Notice of Revision or Disallowance, you must,

**IN THE CASE OF AN LP CREDITOR WITH A PREFILING CLAIM**, no later than **5:00 p.m. (Toronto Time) on June 10, 2010** notify the Monitor of such intent by delivering an LP Notice of Dispute of Revision or Disallowance in accordance with the LP Amended Claims Procedure Order to the following address or facsimile:

FTI Consulting Canada Inc., Court-appointed Monitor of Canwest Publishing Inc./Publications Canwest Inc. et al  
Claims Process  
79 Wellington Street West  
Suite 2010, P.O. Box 104  
Toronto, ON  
M5K 1G8

Attention: Pamela Luthra

Telephone: 1 888- 310-7627  
Fax: 416-649-8101  
Email: [CanwestLP@fticonsulting.com](mailto:CanwestLP@fticonsulting.com)

**IN THE CASE OF AN LP CREDITOR WITH A RESTRUCTURING PERIOD CLAIM, AN EMPLOYEE CLAIM OR A DIRECTOR/OFFICER CLAIM**, you must, no later than **5:00 p.m. (Toronto Time) on June 30, 2010** notify the Monitor of such intent by delivering an LP Notice of Dispute of Revision or Disallowance in accordance with the LP Amended Claims Procedure Order to the following address or facsimile:

FTI Consulting Canada Inc., Court-appointed Monitor of Canwest Publishing  
Inc./Publications Canwest Inc. et al  
Claims Process  
79 Wellington Street West  
Suite 2010, P.O. Box 104  
Toronto, ON  
M5K 1G8

Attention: Pamela Luthra

Telephone: 1 888- 310-7627  
Fax: 416-649-8101  
Email: **CanwestLP@fticonsulting.com**

If you do not deliver an LP Notice of Dispute of Revision or Disallowance by the time and date set out above, as applicable, the value of your Claim shall be deemed to be as set out in the LP Notice of Revision or Disallowance.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

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

**SCHEDULE "F"**

**NOTICE TO CREDITORS OF Canwest Publishing Inc./Publications Canwest Inc., Canwest Books Inc., Canwest (Canada) Inc. (collectively, the "Applicants") and Canwest Limited Partnership ("Canwest LP" and, together with the Applicants, the "LP Entities")**

**RE: NOTICE OF AMENDED CLAIMS PROCEDURE IN COMPANIES' CREDITORS ARRANGEMENT ACT ("CCAA") PROCEEDINGS**

**NOTICE IS HEREBY GIVEN** that pursuant to an Order of the Ontario Superior Court of Justice made May 17, 2010 (the "**Amended Claims Procedure Order**"), certain amendments were made to the Order dated April 12, 2010 that established procedures (the "**Claims Procedure**") for the determination of certain claims against the LP Entities.

**PLEASE TAKE NOTICE** that the Claims Procedure applies only to Claims of LP Creditors described in the Amended Claims Procedure Order. No other claims are being compromised. A copy of the Amended Claims Procedure Order and other public information concerning the CCAA Proceedings can be found at the Monitor's website: <http://cfcanada.fticonsulting.com/clp>.

**THE AMENDED CLAIMS PROCEDURE ORDER** calls for additional claims against the LP Entities, including certain claims (i) by employees or former employees of the LP Entities arising out of the employment of such employee by the LP Entities (the "**Employee Claims**") and (ii) against the directors and officers of the LP Entities (the "**Director/Officer Claims**").

**THE CLAIMS BAR DATE** for LP Restructuring Period Claims and Employee Claims Bar Date and Director/Officer Claims Bar Date is **5:00 p.m. (Toronto Time) on June 3, 2010**. Any creditor who has not received an LP Claims Package and who believes that it has a Claim



against one or more of the LP Entities must contact the Monitor in order to obtain an LP Proof of Claim. LP Proofs of Claim must be filed with the Monitor on or before the LP Claims Bar Date, the LP Restructuring Period Claims and Employee Claims Bar Date or the Director/Officer Claims Bar Date.

**HOLDERS OF CLAIMS** that do not file an LP Proof of Claim by the applicable claims bar date shall not be entitled to vote at any meeting of creditors regarding any plan of compromise or arrangement proposed by the LP Entities or participate in any distribution under such plan, and any Claims such Creditor may have against any of the LP Entities shall be forever extinguished and barred.

**EMPLOYEES OR FORMER EMPLOYEES** that may have claims against the LP Entities pursuant to the Amended Claims Procedure Order, may contact Court-appointed representative counsel for further information at [CSER@nelligan.ca](mailto:CSER@nelligan.ca) or 1-888-565-9912.

**CREDITORS REQUIRING INFORMATION** or claim documentation may contact the Monitor at the following address or facsimile:

FTI Consulting Canada Inc., Court-appointed Monitor of Canwest Publishing  
Inc./Publications Canwest Inc. et al  
Claims Process  
79 Wellington Street West  
Suite 2010, P.O. Box 104  
Toronto, ON  
M5K 1G8

Attention: Pamela Luthra

Telephone: 1 888- 310-7627

Fax: 416-649-8101

Email: [CanwestLP@fticonsulting.com](mailto:CanwestLP@fticonsulting.com)

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

Court File No: CV-10-85333-00CL

AND IN THE MATTER OF A PLAN OF COMPROMISE OR ARRANGEMENT OF CANWEST  
PUBLISHING INC./PUBLICATIONS CANWEST INC., CANWEST BOOKS INC. AND  
CANWEST (CANADA) INC.

APPLICANTS

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
COMMERCIAL LIST**

Proceeding commenced at Toronto

**AMENDED CLAIMS PROCEDURE ORDER**

**OSLER, HOSKIN & HARCOURT LLP**  
Box 50, 1 First Canadian Place  
Toronto, Ontario, Canada M5X 1B8

Lyndon A.J. Barnes (LSUC#: 13350D)  
Tel: (416) 862-6679

Alexander Cobb (LSUC#: 45363F)  
Tel: (416) 862-5964

Elizabeth Allen Putnam (LSUC#53194L)  
Tel: (416) 862-6835  
Fax: (416) 862-6666

Lawyers for the Applicants

F. 1117119

## **TAB B**

This is Exhibit "B" referred to in the  
 affidavit of Don McKay  
 sworn before me, this 3<sup>rd</sup>  
 day of December 2010

Martha Bazan #171544  
 A COMMISSIONER FOR TAKING AFFIDAVITS



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**ASSET PURCHASE AGREEMENT**

Dated as of May 10, 2010

Between

**7535538 CANADA INC.**

and

**CW ACQUISITION LIMITED PARTNERSHIP**

and

**CANWEST BOOKS INC.**

and

**CANWEST (CANADA) INC.**

and

**CANWEST LIMITED PARTNERSHIP/CANWEST SOCIÉTÉ EN COMMANDITE**

and

**CANWEST PUBLISHING INC. / PUBLICATIONS CANWEST INC.**

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## ASSET PURCHASE AGREEMENT

This Agreement is dated as of May 10, 2010 between

**7535538 CANADA INC.**  
 (“Holdco”)

and

**CW ACQUISITION LIMITED PARTNERSHIP**  
 (“Purchaser”)

and

**CANWEST BOOKS INC.**  
 (“Canwest Books”)

and

**CANWEST (CANADA) INC.**  
 (“Canwest GP”)

and

**CANWEST LIMITED PARTNERSHIP/CANWEST SOCIÉTÉ EN  
 COMMANDITE**  
 (“Canwest LP”)

and

**CANWEST PUBLISHING INC. / PUBLICATIONS CANWEST INC.**  
 (“CPI”)

### RECITALS

- A. The LP Entities carry on the Business and CPI owns all of the issued and outstanding shares of National Post.
- B. The LP Entities voluntarily commenced proceedings under the CCAA pursuant to the Initial Order.
- C. In connection with the CCAA Case, the LP Entities have agreed to sell to Purchaser and Purchaser has agreed to purchase from the LP Entities substantially all of the assets, property and undertaking of and relating to the Business, on the terms and conditions of this Agreement.

**THEREFORE**, the Parties agree as follows:

## ARTICLE 1 - INTERPRETATION

### Section 1.1 Definitions

In this Agreement:

(1) **“Accounts Payable”** means amounts relating to the Business owing to any Person as of the Acquisition Time, which are incurred by the LP Entities on or after the Filing Date in connection with the purchase of goods or services in the Ordinary Course of Business and in accordance with the terms of the Initial Order and this Agreement.

(2) **“Accounts Receivable”** means all accounts receivable, notes receivable, loans receivable and other evidences of Indebtedness and rights of the LP Entities to receive payment and the security arrangements and collateral securing the repayment and satisfaction of the foregoing.

(3) **“Accrued Liabilities”** means liabilities relating to the Business incurred by the LP Entities as of the Acquisition Time but on or after the Filing Date in the Ordinary Course of Business and in accordance with the terms of the Initial Order and this Agreement, including liabilities in respect of pre and post-filing accruals for vacation pay for Transferred Employees, customer rebates and allowances for product returns.

(4) **“Acquired Assets”** means all right, title and interest of the LP Entities in and to all properties, assets, interests and rights used in connection with or otherwise relating to the Business, including the following:

- (a) the Accounts Receivable, including all debts owed by National Post to CPI;
- (b) Cash and Equivalents;
- (c) the Actions;
- (d) the Books and Records (other than Books and Records of National Post);
- (e) the Contracts;
- (f) the Goodwill;
- (g) the Intellectual Property;
- (h) the Inventory;
- (i) the Licences;
- (j) the Personal Property Leases;
- (k) the Prepaid Expenses;
- (l) the Real Property;
- (m) the Real Property Leases;

- 3 -

- (n) the shares of National Post; and
- (o) the Tangible Personal Property;

provided, for greater certainty, that “Acquired Assets” does not include the Excluded Assets.

(5) “**Acquisition**” means the acquisition by Purchaser of the Acquired Assets as contemplated by this Agreement.

(6) “**Acquisition Date**” means the third Business Day after the date that the Sanction and Vesting Orders become Final Orders, provided that if the Marketing Period has not ended at the time of the satisfaction or waiver of the conditions set forth in Article 10 (other than those conditions that by their nature cannot be satisfied until the Acquisition Date, but subject to the fulfillment or waiver of those conditions), then the Acquisition Date shall occur instead on the date following the satisfaction or waiver of such conditions that is the earliest to occur of (a) any business day before or during the Marketing Period as may be specified by Purchaser on no less than three Business Days’ prior notice to the LP Entities and (b) the final day of the Marketing Period, or such other date, time, or place as agreed to in writing by the parties hereto. For purposes of this Agreement, the term “**Marketing Period**” shall mean the first period of 20 days beginning on the delivery of the Required Information (together with the authorization letter referred to in Section 9.10(1)(i)), throughout which (i) Purchaser shall have the Required Information and (ii) the conditions set forth in Section 10.2 have been satisfied (other than the conditions set forth in Section 10.2(5)(ii) and Section 10.2(10)(ii) and conditions that by their nature can only be satisfied on the Acquisition Date) and nothing has occurred and no condition exists that would cause any of the conditions set forth in Section 10.1 to fail to be satisfied assuming the Acquisition Date were to be scheduled for any time during such 20-day period; provided that: (x) the “**Marketing Period**” shall be deemed not to have commenced if, prior to the completion of such 20-day period, PricewaterhouseCoopers LLP or the then LP Entities’ auditors shall have withdrawn its audit or review opinion with respect to any of the financial statements contained in the Required Information, (y) the Marketing Period shall be extended until the date that the Sanction and Vesting Orders become Final Orders, and (z) notwithstanding any of the foregoing, if the financial statements included in the Required Information that are available to Purchaser on the first day of any such 20-day period would be required to be updated pursuant to Rule 3-12 of Regulation S-X on any day during such 20-day period if a registration statement using such financial statements were to be filed with the SEC on such date, then a new 20-day period shall commence.

(7) “**Acquisition Time**” means 12:00 p.m. on the Acquisition Date or such other time on such date as the Parties may agree.

(8) “**Actions**” means all rights of action and claims whatsoever of the LP Entities against third parties arising by reason of any facts or circumstances that occurred or existed before the Acquisition Time whether or not an action or other proceeding shall have been commenced before the Acquisition Time.

(9) “**Administrative Agent**” means The Bank of Nova Scotia or any successor in its capacity as administrative agent under the Senior Credit Agreement.

(10) “**Administrative Reserve**” means a cash reserve in an amount to be agreed by the Monitor, the LP Entities and Purchaser, not exceeding \$25,000,000, and approved by the CCAA Court pursuant to the Administrative Reserve Order, which reserve shall be established by the Monitor out of the LP Entities’ Cash and Equivalents as a segregated account held in trust by the Monitor for the benefit of Persons entitled to be paid the Administrative Reserve Costs and Purchaser, in accordance with the terms hereof for the purpose of paying the Administrative Reserve Costs in accordance with the terms hereof and the Administrative Reserve Order.

(11) “**Administrative Reserve Account**” means an account established by the Monitor in trust in accordance with this Agreement and the Administrative Reserve Order.

(12) “**Administrative Reserve Costs**” means administrative claims and costs outstanding on the Acquisition Date (or to the extent provided below arising thereafter) falling within one or more of the following categories (i) amounts secured by the administration charge, the LP MIP charge or financial advisor charge granted by the CCAA Court in the Initial Order including, in the case of the Monitor, the reasonable fees and costs of the Monitor with respect to the performance of its duties and obligations whether arising before or after the Acquisition Date, (ii) amounts secured by the directors’ and officers’ charge (including for greater certainty claims for wages indirectly secured by the directors’ and officers’ charge) granted by the CCAA Court in the Initial Order, (iii) Government Priority Claims, (iv) any portion of pre-filing vacation pay that is not part of Employee Priority Claims, (v) Pension Priority Claims, (vi) Trustee Fees and Costs, and (vii) Post-Filing Trade Payables, in each case to the extent not paid by the LP Entities or, in the case of (ii), (iii), (iv), (v) and (vii) above, assumed by Purchaser on or before the Acquisition Date.

(13) “**Administrative Reserve Order**” means an Order of the CCAA Court, in form and substance satisfactory to Purchaser and the LP Entities, acting reasonably, to be made in connection with the CCAA Case on or before the Acquisition Date that will set out the amount of the Administrative Reserve and the process for the administration of the Administrative Reserve by the Monitor.

(14) “**Affiliate**” of a Person means any Person that directly or indirectly Controls, is Controlled by, or is under common Control with, that Person, and for greater certainty includes a subsidiary.

(15) “**Agreement**” means this agreement and all schedules to this agreement, as may be amended from time to time in accordance with the terms hereof.

(16) “**Applicable Law**” means, in respect of any Person, property, transaction, event or other matter, any law, statute, regulation, code, ordinance, principle of common law or equity, municipal by-law, treaty or Order, domestic or foreign, applicable to that Person, property, transaction, event or other matter and all applicable requirements, requests, official directives, rules, consents, approvals, authorizations, guidelines, and policies, in each case, having the force of law, of any Governmental Authority having or purporting to have authority over that Person, property, transaction, event or other matter and regarded by such Governmental Authority as requiring compliance.

(17) “**Approval Order**” has the meaning given to it in Section 14.6.

(18) **“Assumed Contracts”** means all Contracts, Personal Property Leases and Real Property Leases, other than the Excluded Contracts and Leases.

(19) **“Assumed Liabilities”** means (i) Accounts Payable, Deferred Revenue Obligations, Accrued Liabilities and Insured Litigation Deductibles, (ii) the other Liabilities of the LP Entities relating to the Business accrued due on, or accruing due subsequent to, the Acquisition Date under the Assumed Contracts, Licences and the Permitted Encumbrances, (iii) the Liabilities of the LP Entities relating to the Transferred Employees, and (iv) other Liabilities to be assumed by Purchaser as specifically provided for under this Agreement.

(20) **“Books and Records”** means the Financial Records and all other books, records, files and papers of the LP Entities (other than minute books and corporate records) and National Post relating to the Business or the Acquired Assets and the business and assets of National Post, including drawings, engineering information, computer programs (including source code), software programs, manuals and data, sales and advertising materials, sales and purchase correspondence, trade association files, research and development records, lists of present and former customers and suppliers, personnel, employment and other records, and all such records, data and information stored electronically, digitally or on computer-related media.

(21) **“Business”** means, collectively, the English language newspaper, digital and online businesses carried on by CPI and the respective business carried on by Canwest Books, Canwest GP and Canwest LP.

(22) **“Business Day”** means a day on which banks are open for business in Toronto and Winnipeg, but does not include a Saturday, Sunday or a holiday in either the Province of Ontario or the Province of Manitoba.

(23) **“Cash and Equivalents”** means all cash, certificates of deposits, bank deposits, commercial paper, treasury bills and other cash equivalents of, and all of the cheques and cheque books of, the LP Entities.

(24) **“Cash Elected Amount”** means, in respect of any Proven Claim of an unsecured creditor of the LP Entities, a cash amount equal to the lesser of \$1,000 and the amount of such Proven Claim.

(25) **“Cash Election”** means an election made or deemed to be made by an unsecured creditor of the LP Entities prior to the date of the creditors’ meeting pursuant to and in accordance with the CCAA Plan pursuant to which such creditor has elected or been deemed to have elected to receive the Cash Elected Amount in respect of the Proven Claim of such creditor, and is deemed to vote in favour of the CCAA Plan.

(26) **“CCAA”** means *Companies’ Creditors Arrangement Act (Canada)*, R.S.C. 1985, c. C-36, as amended from time to time.

(27) **“CCAA Case”** means the proceedings commenced by way of an application for the Initial Order pursuant to the CCAA filed by Canwest Books, Canwest GP and CPI on the Filing Date.

(28) **“CCAA Court”** means the Ontario Superior Court of Justice (Commercial List).

(29) **“CCAA Plan”** means the plan of compromise or arrangement reflecting the transactions contemplated by this Agreement substantially on the terms set out in the outline attached as Schedule 1.1(29) and in form and substance satisfactory to Purchaser and the LP Entities, acting reasonably, to be filed by the LP Entities in the CCAA Case in accordance with this Agreement.

(30) **“Claims”** means any right of any Person against any of the LP Entities in connection with any Indebtedness, liability or obligation of any kind of such LP Entity owed to such Person and any interest accrued thereon or costs or other amounts payable in respect thereof, whether liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present, future, known or unknown, by guarantee, surety or otherwise and whether or not such right is executory or anticipatory in nature, including the right or ability of any Person to advance a claim for contribution or indemnity or otherwise with respect to any grievance, matter, action, cause or chose in action, whether existing at present or commenced in the future, and for greater certainty, includes any claim that would have been provable if the LP Entities had become bankrupt on the Filing Date.

(31) **“Claims Procedure Order”** means the claims procedure order issued by the CCAA Court on April 12, 2010 in connection with the CCAA Case, as amended from time to time.

(32) **“CMI Entities”** means Canwest Global Communications Corp., Canwest Media Inc. and all direct and indirect subsidiaries of Canwest Media Inc. other than the LP Entities, National Post and Echo Publications Partnership.

(33) **“Commissioner”** means the Commissioner of Competition under the *Competition Act* (Canada).

(34) **“Common Shares”** means either voting common shares or limited voting common shares in the capital of Holdco, as applicable.

(35) **“Competition Act Approval”** means either (a) the applicable waiting period under section 123 of the *Competition Act* (Canada) shall have expired or been waived, and the Commissioner shall have advised Purchaser that she does not intend to make an application under section 92 of the *Competition Act* (Canada) in respect of the Acquisition, and any terms and conditions attached to any such advice are acceptable to Purchaser, acting reasonably; or (b) the Commissioner shall have issued an advance ruling certificate under section 102(1) of the *Competition Act* (Canada) to the effect that the Commissioner is satisfied that she would not have sufficient grounds upon which to apply to the Competition Tribunal for an order under section 92 of the *Competition Act* (Canada) in respect of the Acquisition.

(36) **“Computer Systems”** means all computer hardware, peripheral equipment, software and firmware, processed data, technology infrastructure and other computer and communication systems and services that are used by the LP Entities to receive, store, process or transmit data, to carry on the Business, to carry on their day to day operations and affairs, or otherwise.

(37) **“Confidential Information”** has the meaning given in Section 9.6(1).

(38) **“Consent”** means any consent, approval, permit, waiver, ruling, exemption or acknowledgement from any Person (other than an LP Entity or National Post) which is provided for or required in respect of or pursuant to the terms of any Material Contract or any material

Personal Property Lease or material Real Property Lease or any material Intellectual Property in connection with the Acquisition, to permit Purchaser to use the Acquired Assets to carry on the Business after the Acquisition Date or which is otherwise necessary to permit the Parties to perform their obligations under this Agreement.

(39) “**Contaminant**” means any substance, product, element, radiation, vibration, sound or matter regulated or giving rise to liability under any Environmental Law (including any defined as “hazardous product,” “dangerous goods,” “waste,” “toxic substance,” “contaminant,” “pollutant,” “deleterious substance”) or the presence of which in the environment is likely to affect adversely the quality of the environment or human health in any way.

(40) “**Contracts**” means all contracts and agreements relating to the Business to which any of the LP Entities is a party as at the Acquisition Time, including the Shared Services Agreement and the Omnibus Transition and Reorganization Agreement (other than the Personal Property Leases and the Real Property Leases, but including the LP Leased Property Leases).

(41) “**Control**” of a Person by another Person means that the second Person directly or indirectly possesses the power to direct or cause the direction of the management and policies of the first Person, whether through the ownership of securities, by contract or by any other means and “controlled by” and “under common control with” have corresponding meanings.

(42) “**Credit Acquisition**” has the meaning given to it in the LP Support Agreement between the LP Entities and the Administrative Agent, dated January 8, 2010, as amended from time to time.

(43) “**Debt Commitment Letter**” has the meaning given to it in Section 8.6.

(44) “**Deferred Revenue Obligations**” means obligations of the LP Entities incurred in the Ordinary Course of Business in respect of prepaid circulation and advertising revenues of the Business that by their terms are to be satisfied following the Acquisition Time.

(45) “**Deposit**” means the sum of (i) \$10 million paid by or on behalf of Purchaser to the Monitor on or before the date hereof; plus (ii) interest earned on the amount set out in (i) in accordance with the SISP Procedures.

(46) “**Designated Purchaser**” has the meaning given to it in Section 12.2.

(47) “**DIP Administrative Agent**” means The Bank of Nova Scotia or any successor in its capacity as administrative agent under the DIP Credit Agreement.

(48) “**DIP Claims Amount**” means, at any time, the aggregate amount of all Claims of the lenders and the DIP Administrative Agent arising under or in connection with the DIP Credit Agreement.

(49) “**DIP Credit Agreement**” means the senior-secured super priority debtor-in-possession credit agreement made as of February 5, 2010 between Canwest LP, as borrower, the guarantors party thereto, The Bank of Nova Scotia, as administrative agent and arranger, The Bank of Nova Scotia, as an issuing bank, and the initial lenders and other lenders party thereto.

(50) **“DIP Lender Distribution”** means the payments to be made to the DIP Administrative Agent for and on behalf of the lenders under the DIP Credit Agreement under the CCAA Plan in respect of the amount referred to in Section 2.4(1)(b).

(51) **“Employee Priority Claims”** means the following Claims of Employees and former or inactive employees of the LP Entities:

- (a) Claims equal to the amounts that such Employees and former or inactive employees would have been qualified to receive under paragraph 136(1)(d) of the *Bankruptcy and Insolvency Act* (Canada) if the LP Entities had become bankrupt on the Filing Date; and
- (b) Claims for wages, salaries, commissions or compensation for services rendered by them after the Filing Date and on or before the Acquisition Date together with, in the case of travelling salespersons, disbursements properly incurred by them in and about the Business during the same period.

(52) **“Employees”** means any and all (i) employees who are actively at work (including full-time, part-time or temporary employees) of the LP Entities, including Misaligned CMI Employees; and (ii) employees of the LP Entities who are on approved leaves of absence (including maternity leave, parental leave, short-term disability leave, workers’ compensation and other statutory leaves).

(53) **“Employment Laws”** means all Applicable Laws relating to employment and labour, including those relating to wages, hours of work, employment or labour standards, collective bargaining, labour or industrial relations, pension benefits, human rights, pay equity, employment equity, workers’ compensation or workplace safety and insurance, employer health tax, employment insurance, income tax withholdings, Canada or Quebec Pension Plan and occupational health and safety.

(54) **“Encumbrance”** means any charge, mortgage, lien, pledge, claim, restriction, security interest or other encumbrance whether created or arising by agreement, statute or otherwise at law, attaching to property, interests or rights and shall be construed in the widest possible terms and principles known under the law applicable to such property, interests or rights and whether or not they constitute specific or floating charges as those terms are understood under the laws of the Province of Ontario.

(55) **“Environmental Claim”** includes a claim, notice, administrative order, citation, complaint, summons, writ, proceeding or demand relating to remediation, investigation, monitoring, emergency response, decontamination, restoration or other action under any Environmental Law or any notice, claim, demand or other communication alleging or asserting liability, either direct or indirect, and either in whole or by way of contribution or indemnity, for investigatory, monitoring or cleanup costs, Governmental Authority response costs, damages, personal injuries, fines, penalties or for other relief, and arising out of, based on or resulting from (a) the presence, or Release into the environment, of any Contaminant, or (b) any non-compliance or alleged non-compliance with any Environmental Law, or (c) otherwise relating to obligations or liabilities under any Environmental Law.



- (56) “**Environmental Laws**” means all Applicable Laws relating to or imposing liability or standards of conduct concerning the protection and preservation of the environment, health or safety.
- (57) “**Environmental Permits**” means Licences issued pursuant to an Environmental Law.
- (58) “**Equity Commitment Letter**” has the meaning given to it in Section 8.6.
- (59) “**Equity Sponsors**” has the meaning given to it in Section 8.6.
- (60) “**Excluded Assets**” has the meaning given to it in Section 3.1.
- (61) “**Excluded Contracts and Leases**” means all Contracts, Personal Property Leases and Real Property Leases described in Schedule 3.1(3) (Scheduled Excluded Assets).
- (62) “**Excluded Liabilities**” means all Liabilities of the LP Entities other than the Assumed Liabilities, and for certainty Excluded Liabilities includes all of the Liabilities described in Schedule 1.1(62).
- (63) “**Filing Date**” means January 8, 2010.
- (64) “**Final Order**” means, in respect of any Order, such Order after (i) the expiry of applicable appeal periods; or (ii) in the event of an appeal or application for leave to appeal or to stay, vary, supersede, set aside or vacate such Order, final determination of such appeal or application by the applicable court or appellate tribunal.
- (65) “**Financial Records**” means all books of account and other financial data and information of the LP Entities or National Post relating to the Business or the Acquired Assets or the business or assets of National Post and all such records, data and information stored electronically, digitally or on computer-related media.
- (66) “**Funds**” has the meaning given to it in Section 5.3(1).
- (67) “**GAAP**” means, at any time, generally accepted accounting principles in effect in Canada at that time, including the accounting recommendations published in the Handbook of the Canadian Institute of Chartered Accountants.
- (68) “**Goodwill**” means all goodwill of the LP Entities including (i) the goodwill related to the Business at the Acquisition Time, and (ii) the right to represent Purchaser as carrying on the Business in continuation of, and in succession to the LP Entities.
- (69) “**Government Priority Claims**” means all Claims of Governmental Authorities that are:
- (a) Claims by Her Majesty in Right of Canada pursuant to subsections 224(1.2) and 224(1.3) of the ITA;
  - (b) Claims pursuant to any provision of the Canada Pension Plan or the *Employment Insurance Act* (Canada) that refers to subsection 224(1.2) of the ITA and provides for the collection of a contribution, as defined in the Canada Pension Plan, or employee’s premium or employer’s premium as defined in the *Employment*

*Insurance Act* (Canada), or a premium under Part VII.1 of that Act, and of any related interest, penalties or other amounts;

- (c) Claims pursuant to any provision of provincial legislation that has a similar purpose to subsection 224(1.2) of the ITA, or that refers to that subsection, to the extent that it provides for the collection of a sum, and of any related interest, penalties or other amounts, where the sum:
- (i) has been withheld or deducted by a person from a payment to another person and is in respect of a tax similar in nature to the income tax imposed on individuals under the ITA; or
  - (ii) is of the same nature as a contribution under the Canada Pension Plan if the province is a “province providing a comprehensive pension plan” as defined in subsection 3(1) of the Canada Pension Plan and the provincial legislation establishes a “provincial pension plan” as defined in that subsection.

(70) “**Governmental Authority**” means any domestic or foreign government, including any federal, provincial, state, territorial or municipal government, and any government department, body, ministry, agency, tribunal, commission, board, court, bureau or other authority exercising or purporting to exercise executive, legislative, judicial, regulatory or administrative functions of, or pertaining to, government.

(71) “**GST**” means goods and services or harmonized sales tax imposed under Part IX of the GST Act.

(72) “**GST Act**” means the *Excise Tax Act* (Canada).

(73) “**Guarantee**” of a Person means any absolute or contingent liability of that Person under any guarantee, agreement, endorsement (other than for collection or deposit in the ordinary course of business of that Person), discount with recourse or other obligation to pay, purchase, repurchase or otherwise be or become liable or obligated upon or in respect of any Indebtedness of any other Person and including any absolute or contingent obligation to:

- (a) advance or supply funds for the payment or purchase of any Indebtedness of any other Person;
- (b) purchase, sell or lease (as lessee or lessor) any property, assets, goods, services, materials or supplies primarily for the purpose of enabling any Person to make payment of Indebtedness or to assure the holder of the Indebtedness against loss; or
- (c) indemnify or hold harmless any Person from or against any losses, liabilities or damages, in circumstances intended to enable the Person to incur or pay any Indebtedness or to comply with any agreement relating thereto or otherwise to assure or protect creditors against loss in respect of the Indebtedness.

(74) **“Hedging Agreements”** means the interest rate, currency and commodity hedging agreements entered into between an LP Entity and one or more Senior Lenders, in respect of which such LP Entity’s obligations are secured *pari passu* with the obligations under the Senior Credit Agreement.

(75) **“ICA”** means the *Investment Canada Act*.

(76) **“Indebtedness”** of a Person means, without duplication:

- (a) all debts and liabilities of that Person for borrowed money;
- (b) all debts and liabilities of that Person representing the deferred acquisition cost of property and services; and
- (c) all Guarantees given by that Person.

(77) **“Initial Order”** means the initial order issued by the CCAA Court on January 8, 2010 in connection with the CCAA Case, as amended and extended by further orders of the CCAA Court dated February 2, 2010, March 26, 2010, April 12, 2010 and April 28, 2010, and as may be further amended from time to time after the date hereof.

(78) **“Insured Litigation”** means the insured litigation notices and claims involving the LP Entities, Old National Post and National Post as set out in Schedule 1.1(78) and in respect of insured litigation claims for libel, slander and/or defamation arising in the Ordinary Course of Business after the currency date of such schedule.

(79) **“Insured Litigation Deductibles”** means any remaining deductibles under insurance policies maintained by or on behalf of the LP Entities in respect of the Insured Litigation.

(80) **“Intellectual Property”** means:

- (a) all patents, patent rights, patent applications, registrations, continuations, continuations in part, divisional applications or analogous rights thereto, and inventions owned by the LP Entities or used by the LP Entities in the Business;
- (b) all trade-marks, trade names, trade-mark applications and registrations, trade name registrations, service marks, logos, slogans and brand names owned by the LP Entities or used by the LP Entities in the Business;
- (c) all works of authorship, copyright works, copyrightable works, copyright applications and registrations, and design rights, including packaging designs, displays, photographs, graphics, artwork, videos, proprietary fonts and typefaces, advertising and promotional materials, training materials and manuals used for internal and external purposes, website and electronic content, compilations, documentation and other textual and audiovisual works owned by the LP Entities or used by the LP Entities in the Business;
- (d) all industrial designs and applications for registration of industrial designs and industrial design rights, design patents and industrial design registrations owned by the LP Entities or used by the LP Entities in the Business;

- (e) all business names, corporate names, telephone numbers, domain names, domain name registrations, website names and worldwide web addresses and other communications addresses owned by the LP Entities or used by the LP Entities in the Business;
- (f) all Computer Systems and applications software, including all documentation relating thereto and the latest revisions of all related object and source codes therefor owned by the LP Entities or used by the LP Entities in the Business;
- (g) all rights and interests in and to processes, lab journals, notebooks, data, trade secrets, designs, know-how, product formulae and information, manufacturing, engineering and other technical drawings and manuals, technology, blue prints, research and development reports, technical information, technical assistance, engineering data, design and engineering specifications, and similar materials recording or evidencing expertise or information owned by the LP Entities or used by the LP Entities in the Business;
- (h) all customer lists, subscriber lists and supplier lists;
- (i) all other intellectual property rights owned by the LP Entities or used by the LP Entities in the Business, or arising from the operation of the Business, and foreign equivalents or counterpart rights, in any jurisdiction throughout the world;
- (j) all licences granted by the LP Entities of the intellectual property described in paragraphs (a) to (i) above;
- (k) all future income and proceeds from any of the intellectual property listed in paragraphs (a) to (i) above and the licences described in paragraph (i) above;
- (l) all rights to damages and profits by reason of the infringement of any of the intellectual property described in items (a) to (i) above and the licences described in item (j) above;
- (m) all materials and content in any form or media embodying any of the foregoing; and
- (n) all goodwill associated with any of the foregoing,

provided, for greater certainty, that "Intellectual Property" does not include intellectual property that is in the public domain.

(81) "**Interim Period**" means the period from and including the date of this Agreement to and including the Acquisition Date.

(82) "**ITA**" means the *Income Tax Act* (Canada).

(83) "**Inventory**" means all inventories of the LP Entities including all finished goods, work in progress, raw materials, manufacturing supplies, spare parts, packaging materials and all other materials and supplies used or consumed in the production of finished goods.

- (84) **“Leased Premises”** means the real or immovable property subject to the Real Property Leases.
- (85) **“Lenders”** has the meaning given to it in Section 8.6.
- (86) **“Liabilities”** of a Person means all Indebtedness, obligations and other liabilities of that Person whether absolute, accrued, contingent, fixed or otherwise, or whether due or to become due.
- (87) **“Licence”** means any licence, permit, authorization, approval or other evidence of authority issued or granted to, conferred upon, or otherwise created for, the LP Entities by any Governmental Authority.
- (88) **“LP Benefit Plans”** means the employee benefit plans, agreements, arrangements (whether funded or unfunded) that are maintained for, available to, or otherwise relating to any Employee or former or inactive employee of any LP Entity or which any LP Entity sponsors or is obligated to contribute to or is in any way liable for, whether or not insured and whether or not subject to any Applicable Law, including bonus, deferred compensation, incentive compensation, share purchase, share appreciation, share option, severance and termination pay, hospitalization, health and other medical benefits, accidental death and dismemberment, life and other insurance, dental, vision, legal, long-term and short-term disability, salary continuation, vacation, supplemental unemployment benefits, education assistance, profit sharing, mortgage assistance, employee loan, employee assistance and pension, retirement and supplemental retirement plans, programs, agreements (including the LP Pension Plans and any registered retirement savings arrangements), except that the term “LP Benefit Plans” shall not include any Multi-Employer Plans or Statutory Plans.
- (89) **“LP Entities”** means collectively Canwest Books, Canwest GP, Canwest LP and CPI and, for greater certainty, a reference to the LP Entities includes any one of them.
- (90) **“LP Leased Property Leases”** means all executed offers to lease, agreements to lease, leases, subleases, renewals of leases, tenancy agreements, rights of occupation, licences or other occupancy agreements granted by or on behalf of an LP Entity or its predecessors in title as lessor to possess or occupy space within the Real Property or any part thereof now or hereafter, together with all security, guarantees and indemnities of the tenants’ obligations thereunder.
- (91) **“LP Pension Plans”** means each of the defined benefit and defined contribution pension plans that are sponsored, maintained, and administered by any LP Entity and that are required to be, and are, registered and regulated under the ITA and under applicable provincial minimum standards legislation, but excluding any Multi-Employer Plan.
- (92) **“Material Adverse Effect”** means any change, effect or circumstance that: (a) is or is reasonably expected to be, individually or in the aggregate, materially adverse to the operations or condition of (i) the Business or the business of National Post; (ii) or any newspaper operated as part of the Business, in each case, financial or otherwise; or (b) would or would reasonably be expected to, individually or in the aggregate, materially impact the ability of the LP Entities to complete the transactions contemplated in this Agreement, but in each case excluding any change, effect or circumstance arising out of, resulting from or attributable to (u) an event or series of events or circumstances affecting (i) the Canadian or global economy generally or

capital or financial markets generally, including changes in interest or exchange rates; (ii) political conditions generally of Canada; or (iii) the newspaper or digital/online industry in general; (v) the negotiation, execution, announcement or consummation of the transactions contemplated by, or the performance of obligations under, this Agreement; (w) the identity of, or the effects of any facts or circumstances relating to, Purchaser or its Affiliates; (x) any changes or prospective changes in Applicable Law or GAAP or the enforcement or interpretation thereof; (y) any hostilities, acts of war, sabotage, terrorism or military actions, or any escalation or worsening of any such hostilities, acts of war, sabotage, terrorism or military actions; or (z) the CCAA Case (provided, that changes, effects or circumstances set forth in clauses (u), (x) and (y) above may be taken into account in determining whether there has been or is a Material Adverse Effect to the extent such changes, effects or circumstances have a materially disproportionate adverse effect on the Business and National Post, taken as a whole, as compared to other participants in the industries in which the Business and National Post operate).

(93) “**Material Contract**” means any Contract that is material to the Business or the business of National Post or any newspaper operated as part of the Business that, if breached or terminated, would have a Material Adverse Effect, and also includes any Contract (other than LP Leased Property Leases) which cannot be terminated on less than 12-months notice and which creates a Liability of more than \$10,000,000 annually.

(94) “**Misaligned CMI Employees**” means the employees of the CMI Entities who devote a majority of their working time to the Business as identified in the letter dated May 10, 2010 from Osler, Hoskin & Harcourt LLP, counsel to the LP Entities, to Davies Ward Phillips & Vineberg LLP, counsel to Purchaser.

(95) “**Monitor**” means FTI Consulting Canada Inc., in its capacity as CCAA court-appointed Monitor of the LP Entities pursuant to the Initial Order.

(96) “**Multi-Employer Plan**” means plans, arrangements, agreements, programs, policies, practices or undertakings, whether funded or unfunded, insured or uninsured, registered or unregistered to which the LP Entities or National Post are a party or bound or in which the Employees or former or inactive employees of the LP Entities or National Post participate or under which the LP Entities or National Post have, or will have, any liability or contingent liability, or pursuant to which payments are made, or benefits are provided to, or an entitlement to payments or benefits may arise with respect to any of its Employees or former or inactive employees (or any spouses, dependants, survivors or beneficiaries of any such persons) and which are not, sponsored, maintained or administered by the LP Entities or National Post or any of their Affiliates, but for the avoidance of doubt including the Pacific Press Retirement Plan.

(97) “**National Post**” means National Post Inc., a corporation formed under the laws of Canada.

(98) “**National Post Benefit Plans**” means the employee benefit plans, agreements, arrangements (whether funded or unfunded) that are maintained for, available to, or otherwise relating to any employee or former or inactive employee of National Post or in respect of which National Post sponsors or is obligated to contribute to or is in any way liable for, whether or not insured and whether or not subject to any Applicable Law, including bonus, deferred compensation, incentive compensation, share purchase, share appreciation, share option, severance and termination pay, hospitalization, health and other medical benefits, accidental

death and dismemberment, life and other insurance, dental, vision, legal, long-term and short-term disability, salary continuation, vacation, supplemental unemployment benefits, education assistance, profit sharing, mortgage assistance, employee loan, employee assistance and pension, retirement and supplemental retirement plans, programs, agreements, except that the term "National Post Benefit Plans" shall not include any Multi-Employer Plan or Statutory Plans.

(99) "**Non-Union Employees**" has the meaning given to it in Section 5.1(2).

(100) "**Notice**" means any notice, approval, demand, direction, consent, designation, request, document, instrument, certificate or other communication required or permitted to be given under this Agreement.

(101) "**Old National Post**" means National Post Holdings Ltd. and The National Post Company / La Publication National Post.

(102) "**Omnibus Transition and Reorganization Agreement**" means the Omnibus Transition and Reorganization Agreement to be entered into between Canwest LP, CPI and certain CMI Entities, to address, *inter alia*, the matters described in Section 9.12 that is in form and substance satisfactory to Purchaser and the LP Entities, acting reasonably, as such agreement may be amended from time to time.

(103) "**Order**" means any order, directive, judgment, decree, injunction, decision, ruling, award or writ of any Governmental Authority.

(104) "**Ordinary Course of Business**" means the ordinary and usual course of the routine daily affairs of the Business and the business of National Post consistent with past practice, but having regard to the fact that the LP Entities are subject to the CCAA Case and the Shared Services Agreement.

(105) "**Party**" means a party to this Agreement and any reference to a Party includes its successors and permitted assigns and "Parties" means every Party.

(106) "**Pension Assignment and Assumption Agreements**" has the meaning given to it in Section 5.3(1).

(107) "**Pension Priority Claims**" means all Claims for the payment of any of the following amounts that, in respect of the period up to the Acquisition Date are due and remain unpaid to the funds established in respect of CCAA prescribed pension plans of the LP Entities:

- (a) an amount equal to the sum of all amounts that were deducted from the employees' remuneration for payment to such funds;
- (b) if any of the CCAA prescribed pension plans is regulated by an Act of Parliament:
  - (i) an amount equal to the normal cost, within the meaning of subsection 2(1) of the Pension Benefits Standards Regulations, 1985, that was required to be paid by the employer to the fund; and
  - (ii) an amount equal to the sum of all amounts that were required to be paid by the employer to the fund under a defined contribution provision, within the

meaning of subsection 2(1) of the *Pension Benefits Standards Act*, 1985; and

- (c) in the case of any other CCAA prescribed pension plan:
- (i) an amount equal to the amount that would be the normal cost, within the meaning of subsection 2(1) of the Pension Benefits Standards Regulations, 1985, that the employer would be required to pay to the fund if the prescribed plan were regulated by an Act of Parliament; and
  - (ii) an amount equal to the sum of all amounts that would have been required to be paid by the employer to the fund under a defined contribution provision, within the meaning of subsection 2(1) of the *Pension Benefits Standards Act*, 1985, if the prescribed plan were regulated by an Act of Parliament.
- (108) **“Permitted Encumbrances”** means the Encumbrances described in Schedule 1.1(108).
- (109) **“Person”** is to be broadly interpreted and includes an individual, a partnership, a corporation, a trust, a joint venture, any Governmental Authority, any trade union, any employee association or any incorporated or unincorporated entity or association of any nature and the executors, administrators, or other representatives of an individual in such capacity.
- (110) **“Personal Information”** means any factual or subjective information, recorded or not, about an Employee, contractor, agent, consultant, officer, director, executive, client, customer, supplier, or about any other identifiable individual, including any record that can be manipulated, linked or matched by a reasonably foreseeable method to identify an individual, but does not include the name, title or business address or telephone number of an Employee.
- (111) **“Personal Property Leases”** means the leases of personal property used by the LP Entities in connection with the Business, including all purchase options, prepaid rents, security deposits, warranties, licences and permits relating thereto and all leasehold improvements thereon.
- (112) **“Plan Implementation Date”** means the date on which all of the conditions precedent to the implementation of the Acquisition set out in the CCAA Plan have been fulfilled or, to the extent permitted pursuant to the terms and conditions of this Agreement and the CCAA Plan, waived, as evidenced by a certificate to that effect filed with the CCAA Court by the Monitor, with the consent of Purchaser.
- (113) **“Post-Filing Trade Payables”** means trade payables that were incurred by the LP Entities (i) after the Filing Date and before the Acquisition Date, (ii) in the Ordinary Course of Business, and (iii) in compliance with the Initial Order and other Orders issued in connection with the CCAA Case.
- (114) **“Prepaid Expenses”** means all prepayments, prepaid charges, deposits, sums and fees of the LP Entities.



(115) **“Prior Ranking Secured Claims”** means Claims existing on both the Filing Date and the Plan Implementation Date, other than Government Priority Claims, Employee Priority Claims, Pension Priority Claims and Claims secured by charges ordered by the CCAA Court under the Initial Order, that (i) have the benefit of a valid and enforceable security interest in, mortgage or charge over, lien against or other similar interest in, any of the assets that the LP Entities own or to which the LP Entities are entitled, but only to the extent of the realizable value of the property subject to such security, and (ii) would have ranked senior in priority to the Claims under the Senior Credit Agreement or a Hedging Agreement (other than any Cash Management Claims (as defined in the Senior Lenders’ Plan)) if the LP Entities had become bankrupt on the Filing Date.

(116) **“Proven Claim”** means a Claim by an unsecured creditor of the LP Entities proven in accordance with the Claims Procedure Order.

(117) **“Purchase Price”** has the meaning given to it in Section 2.2(1).

(118) **“Purchaser Assumed Benefit Plans”** means the LP Benefit Plans listed in Schedule 7.7(1), and **“Purchaser Assumed Benefit Plan”** means any one of such plans.

(119) **“Purchaser Established Benefit Plans”** has the meaning given to it in **Error! Reference source not found.**

(120) **“Purchaser Established Pension Plans”** has the meaning given to it in Section 5.3(8).

(121) **“QST”** means Québec sales tax imposed under the QST Act.

(122) **“QST Act”** means Title I of *An Act respecting the Québec sales tax*.

(123) **“Real Property”** means the real or immovable property used in the Business, owned by the LP Entities and (i) all plant, buildings, structures, erections, improvements, appurtenances of every kind or nature situate therein or on thereof and (ii) all fixtures of every nature and kind incorporated therein, situate upon and used in connection therewith, including heating, ventilating, air-conditioning, plumbing, electrical, sprinkler and drainage systems, in each case other than fixtures and other property owned by any tenant.

(124) **“Real Property Leases”** means all offers to lease, agreements to lease, leases, renewals of leases, subleases, tenancy agreements, rights of occupation, licenses or other occupancy agreements for real or immovable property, including all purchase options, prepaid rents, security deposits, licences and permits relating thereto and all leasehold improvements thereon, whether oral or written, relating to the Business where an LP Entity is a tenant.

(125) **“RCA Plan”** means the CanWest MediaWorks Limited Partnership (now Canwest LP) and Related Companies Retirement Compensation Arrangement Plan.

(126) **“Reference Date”** means September 1, 2009.

(127) **“Regulatory Approval”** means any approval, consent, ruling, authorization, notice, permit or acknowledgement that may be required from any Person pursuant to Applicable Law or under the terms of any Licence or the conditions of any Order in connection with the acquisition of the Acquired Assets by Purchaser on the terms contemplated in this Agreement, to

permit Purchaser to carry on the Business and the business of National Post after the Acquisition Date or which is otherwise necessary to permit the Parties to perform their obligations under this Agreement, and includes the Competition Act Approval.

(128) “**Release**” means any release, spill, leak, emission, pumping, injection, deposit, discharge, dispersal, leaching, migration, spraying, abandonment, pouring, emptying, throwing, dumping, placing or exhausting of a Contaminant and when used as a verb has a like meaning.

(129) “**Required Information**” has the meaning given to it in Section 9.10(1)(f).

(130) “**Sanction and Vesting Orders**” means Orders to be granted by the CCAA Court as contemplated under this Agreement approving and sanctioning the CCAA Plan and the transactions contemplated hereby and thereby, and vesting in Purchaser title to and in all of the Acquired Assets free and clear of all Encumbrances, other than Permitted Encumbrances, including any Order which may be required as contemplated in Section 9.3(1) each in form and substance satisfactory to Purchaser and the LP Entities, acting reasonably.

(131) “**Securities Act**” has the meaning given to it in Section 9.10(1)(f).

(132) “**Senior Credit Agreement**” means the Credit Agreement dated as of July 10, 2007 between CanWest MediaWorks Limited Partnership (now Canwest LP), as Borrower, the guarantors party thereto from time to time, as guarantors, the lenders party thereto from time to time, as Senior Lenders, and the Administrative Agent on behalf of the Senior Lenders, as amended from time to time.

(133) “**Senior Lender Distribution**” means the payments to be made to the Administrative Agent for and on behalf of the Senior Secured Creditors under the CCAA Plan in respect of the amount referred to in Section 2.2(1)(a).

(134) “**Senior Lenders**” means the lenders party to the Senior Credit Agreement from time to time.

(135) “**Senior Lenders’ Plan**” means the plan of compromise or arrangement proposed by the LP Entities in the CCAA Case on the Filing Date, and attached as a schedule to the Initial Order.

(136) “**Senior Secured Claims Amount**” means, at any time, the aggregate amount at that time of Claims of the Senior Lenders arising under or in connection with the Senior Credit Agreement or a Hedging Agreement, in each case calculated based on the deemed conversion of Claims denominated in US dollars to Canadian dollars on the Filing Date, and, for greater certainty, does not include any Cash Management Claims (as that term is defined in the Senior Lenders’ Plan).

(137) “**Senior Secured Creditors**” means the Administrative Agent, the Senior Lenders, the DIP Administrative Agent and the lenders party to the DIP Credit Agreement.

(138) “**SERA**” means the top-up retirement allowance arrangements made with certain former employees of Southam Inc. which were assumed by the LP Entities and are referred to as the Southam Executive Retirement Arrangements.

(139) “**Shared Services Agreement**” means the Agreement on Shared Services and Employees dated October 26, 2009 among Canwest Global Communications Corp., Canwest LP, Canwest

Media Inc., CPI, Canwest Television Limited Partnership and Old National Post (as subsequently assigned to National Post), as amended from time to time.

(140) “**SISP Procedures**” means the procedures regarding the sale and investor solicitation process attached as schedule A to the Initial Order, as the same may be amended from time to time after the date hereof with the consent of Purchaser.

(141) “**Special Committee**” has the meaning given to it in the Initial Order.

(142) “**Statutory Plans**” means any plans or programs sponsored by a Governmental Authority, including but not limited to the Canada/Quebec Pension Plan, provincial health tax, workers’ compensation and employment insurance.

(143) “**Stikeman Letter**” means the letter dated May 7, 2010 from Stikeman Elliott LLP, counsel to the Monitor, to counsel to the Administrative Agent and counsel to the Purchaser, as supplemented by the further assurances email sent by Monitor’s counsel to Purchaser’s counsel on May 9, 2010, in each case, in the form appended to the Monitor’s seventh report dated on or about May 10, 2010, as such letter may be amended or supplemented with the consent of Purchaser.

(144) “**Tangible Personal Property**” means all of the LP Entities’ machinery, equipment, motor vehicles, office equipment, furniture, spare parts, dies, tooling, tools, computer hardware, supplies and accessories and other chattels.

(145) “**Taxes**” includes all present and future taxes, surtaxes, duties, levies, imposts, rates, fees, assessments, withholdings, dues and other charges of any nature imposed by any Governmental Authority, including income, capital (including large corporations), withholding, consumption, sales, use, transfer, goods and services or other value-added, excise, customs, anti-dumping, countervail, net worth, stamp, registration, franchise, payroll, employment, health, education, business, school, property, local improvement, development, education development and occupation taxes, surtaxes, duties, levies, imposts, rates, fees, assessments, withholdings, dues and charges, and other assessments or similar charges in the nature of a tax including Canada/Quebec Pension Plan and other provincial pension plan contributions, employment insurance and unemployment insurance premiums and workers compensation premiums, together with all fines, interest, penalties on or in respect of, or in lieu of or for non-collection of, those taxes, surtaxes, duties, levies, imposts, rates, fees, assessments, withholdings, dues and other charges.

(146) “**Third Party Approval**” has the meaning given to it in Section 9.3(1).

(147) “**Transferred Employees**” means (i) Union Employees; and (ii) Non-Union Employees who accept offers of employment by Purchaser or who begin active employment with Purchaser as of the Acquisition Date or their next scheduled work day.

(148) “**Trustee Fees and Costs**” means the fees and costs of any trustee in bankruptcy that may be appointed in respect of any of the LP Entities upon or following the completion of the Acquisition.

(149) “**Union Employees**” has the meaning given to it in Section 5.1(2)(a).

### **Section 1.2 Actions on Non-Business Days**

If any payment is required to be made or other action (including the giving of notice) is required to be taken pursuant to this Agreement on a day which is not a Business Day, then such payment or action shall be considered to have been made or taken in compliance with this Agreement if made or taken on the next succeeding Business Day.

### **Section 1.3 Currency and Payment Obligations**

Except as otherwise expressly provided in this Agreement:

- (a) unless otherwise specified all money amounts referred to in this Agreement are to lawful currency of Canada; and
- (b) any payment contemplated by this Agreement shall be made by wire transfer of immediately available funds to an account specified by the payee.

### **Section 1.4 Calculation of Time**

In this Agreement, a period of days shall be deemed to begin on the first day after the event which began the period and to end at 5:00 p.m. Toronto time on the last day of the period. If any period of time is to expire hereunder on any day that is not a Business Day, the period shall be deemed to expire at 5:00 p.m. Toronto time on the next succeeding Business Day.

### **Section 1.5 Tender**

Any tender of documents or money hereunder may be made upon the Parties or their respective counsel and money shall be tendered by official bank draft drawn upon a Canadian chartered bank or by negotiable cheque payable in Canadian funds and certified by a Canadian bank listed in Schedule 1 to the *Bank Act* (Canada) or by wire transfer of immediately available funds.

### **Section 1.6 Knowledge**

Any reference to the knowledge of any Party means the actual knowledge of such Party (and, in respect of the LP Entities, the senior executive responsible for the subject matter in question) after making due inquiries of their direct reports or advisors responsible for the subject matter in question.

### **Section 1.7 Additional Rules of Interpretation**

- (1) **Gender and Number.** In this Agreement, unless the context requires otherwise, words in one gender include all genders and words in the singular include the plural and vice versa.
- (2) **Headings and Table of Contents.** The inclusion in this Agreement of headings of Articles and Sections and the provision of a table of contents are for convenience of reference only and are not intended to be full or precise descriptions of the text to which they refer.
- (3) **Section References.** Unless the context requires otherwise, references in this Agreement to Articles, Sections or Schedules are to articles, sections or schedules of this Agreement.

- (4) **Words of Inclusion.** Wherever the words “include”, “includes” or “including” are used in this Agreement, they shall be deemed to be followed by the words “without limitation” and the words following “include”, “includes” or “including” shall not be considered to set forth an exhaustive list.
- (5) **References to this Agreement.** The words “hereof”, “herein”, “hereto”, “hereunder”, “hereby” and similar expressions shall be construed as referring to this Agreement in its entirety and not to any particular Section or portion of it.
- (6) **Statute References.** Unless otherwise indicated, all references in this Agreement to any statute include the regulations thereunder, in each case as amended, re-enacted, consolidated or replaced from time to time and in the case of any such amendment, re-enactment, consolidation or replacement, reference herein to a particular provision shall be read as referring to such amended, re-enacted, consolidated or replaced provision and also include, unless the context otherwise requires, all applicable guidelines, bulletins or policies made in connection therewith and which are legally binding.
- (7) **Document References.** All references herein to any agreement (including this Agreement), document or instrument mean such agreement, document or instrument as amended, supplemented, modified, varied, restated or replaced from time to time in accordance with the terms thereof and, unless otherwise specified therein, include all schedules and exhibits attached thereto.
- (8) **Writing.** References to “in writing”, “written” and similar expressions include material that is printed, handwritten, typewritten, faxed, emailed, or otherwise capable of being visually reproduced at the point of reception.

### **Section 1.8 Schedules**

The following are the schedules annexed to this Agreement and incorporated by reference and deemed to be part hereof:

<b><u>Schedule</u></b>	<b><u>Description</u></b>
Schedule 1.1(29)	CCAA Plan
Schedule 1.1(62)	Excluded Liabilities
Schedule 1.1(78)	Insured Litigation
Schedule 1.1(108)	Permitted Encumbrances
Schedule 3.1(3)	Excluded Assets
Schedule 7.1(1)	Status and Capacity of LP Entities
Schedule 7.1(8)	No other Acquisition Agreements
Schedule 7.1(10)	Consents
Schedule 7.2(3)	Specified Changes or Events
Schedule 7.4(2)	Real Property
Schedule 7.4(3)	Real Property Leases and Leased Premises
Schedule 7.4(6)	Personal Property Leases
Schedule 7.4(8)	Intellectual Property
Schedule 7.5(1)	Material Adverse Changes
Schedule 7.5(4)	Material Contracts
Schedule 7.6(2)	Labour Matters and Employee Contracts

Schedule 7.6(3)	Employee Laws
Schedule 7.7 (1)	LP Benefit Plans
Schedule 7.7(9)	Post-Retirement Benefits
Schedule 9.13	Holdco Share Provisions
Schedule 10.1(6)	Regulatory Approvals

## **ARTICLE 2 - PURCHASE AND SALE OF ACQUIRED ASSETS**

### **Section 2.1 Purchase and Sale**

On the Acquisition Date effective as at the Acquisition Time, pursuant to the Sanction and Vesting Orders, the LP Entities shall sell and Purchaser shall purchase the Acquired Assets, free and clear of all Encumbrances (other than Permitted Encumbrances), and Purchaser shall assume the Assumed Liabilities, in each case, on the terms and subject to the conditions of this Agreement, the CCAA Plan and the Sanction and Vesting Orders.

### **Section 2.2 Purchase Price**

- (1) The purchase price payable by Purchaser for the purchase of the Acquired Assets (the “**Purchase Price**”), exclusive of all applicable sales and transfer taxes, shall be the aggregate of:
- (a) the sum of (i) the Senior Secured Claims Amount as at the Acquisition Date, and (ii) the DIP Claims Amount as at the Acquisition Date;
  - (b) the Cash Elected Amount in respect of all Proven Claims of unsecured creditors of the LP Entities who have made or who have been deemed to have made a valid Cash Election in accordance with the CCAA Plan, provided that the Monitor shall advise Purchaser of the amount payable pursuant to this Section 2.2(1)(b) not less than three Business Days prior to the Acquisition Date;
  - (c) \$150,000,000 less the amount payable under Section 2.2(1)(b); and
  - (d) the amount of the Assumed Liabilities.

### **Section 2.3 Payment of Purchase Price**

- (1) The Purchase Price shall be satisfied by Purchaser at the Acquisition Time as follows:
- (a) the amount referred to in Section 2.2(1)(a)(i) shall be paid in cash (i) as to an amount equal to the Deposit, by the release of the Deposit from escrow by the Monitor to the Administrative Agent on behalf of CPI, and (ii) as to the remainder, by wire transfer from Purchaser to the Administrative Agent on behalf of Canwest GP, Canwest Books and Canwest LP to the extent of the portion of the Purchase Price allocable to Canwest GP, Canwest Books and Canwest LP, respectively, pursuant to Section 4.1 and on behalf of CPI, as to the remainder;
  - (b) the amount referred to in Section 2.2(1)(a)(ii) shall be paid in cash by wire transfer from Purchaser to the DIP Administrative Agent on behalf of the CPI;

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- (c) the amount referred to in Section 2.2(1)(b) shall be paid in cash by Purchaser by wire transfer to the Monitor on behalf of the CPI;
- (d) the amount referred to in Section 2.2(1)(c) shall be satisfied by the issuance by Purchaser to the Monitor on behalf of the CPI of one or more unsecured demand promissory notes with a principal amount equal to such amount; and
- (e) Purchaser shall assume the Assumed Liabilities effective at the Acquisition Time.

#### **Section 2.4 Distribution of Purchase Price**

(1) The consideration received on behalf of the LP Entities pursuant to Section 2.3 shall be distributed in accordance with the CCAA Plan as follows:

- (a) the cash portion of the Purchase Price referred to in Section 2.3(1)(a) shall be considered a distribution (the “**Senior Lenders’ Distribution**”) to the Administrative Agent on behalf of the Senior Secured Creditors in exchange for the complete and final release and discharge of all Claims and Encumbrances in respect of or securing the Liabilities of the LP Entities under or pursuant to the Senior Credit Agreement or the Hedge Agreements (including, for greater certainty, all further Claims or entitlements to receive any other payment, distribution or other amount under the CCAA Plan or through the CCAA Case);
- (b) the cash portion of the Purchase Price referred to in Section 2.3(1)(b) shall be considered a distribution (the “**DIP Lenders’ Distribution**”) to the DIP Administrative Agent on behalf of the lender under the DIP Credit Agreement in exchange for the complete and final release and discharge of all Claims and Encumbrances in respect of or securing the Liabilities of the LP Entities under or pursuant to the DIP Credit Agreement (including, for greater certainty, all further Claims or entitlements to receive any other payment, distribution or other amount under the CCAA Plan or through the CCAA Case);
- (c) the cash portion of the Purchase Price referred to in Section 2.3(1)(c) shall be distributed by the Monitor to unsecured creditors of the LP Entities who have made or who have been deemed to have made a valid Cash Election in respect of their Proven Claims; and
- (d) the note or notes of Purchaser to be issued to the Monitor on behalf of the LP Entities pursuant to Section 2.3(1)(d) shall be used by the LP Entities to purchase Common Shares of Holdco under the CCAA Plan at a purchase price of \$13.3333 per Common Share, and such Common Shares shall be distributed by the Monitor to unsecured creditors of the LP Entities (other than any unsecured creditors who have made or who have been deemed to have made a valid Cash Election) in accordance with the CCAA Plan.

#### **Section 2.5 Deposit**

(1) The Deposit shall be held, pending completion of the Acquisition, by the Monitor in accordance with this Section 2.5.

- (2) If
- (a) this Agreement is terminated by the LP Entities pursuant to Section 13.1(b) as a result of a failure to satisfy a condition in favour of the LP Entities in Section 10.2(1), Section 10.2(2) or Section 10.2(3) or if the transactions contemplated hereby are not consummated due to the failure of Purchaser to complete the required financing referred to in Section 9.14; or
  - (b) this Agreement is terminated by Purchaser pursuant to Section 13.1(a)
    - (i) for failure of the condition specified in Section 10.1(5) to be satisfied; or
    - (ii) for failure of the condition specified in Section 10.1(1) to be satisfied as a result of the representation in Section 7.5(1) not being true and correct in any respect,

in each case, as a result of a Material Adverse Effect referred to in subclause (a)(ii) of the definition of "Material Adverse Effect",

the full amount of the Deposit shall be released to Canwest LP, or its designee, by the Monitor and shall become the property of and be retained by Canwest LP to compensate the LP Entities for expenses incurred in connection with the transactions contemplated in this Agreement and the delay caused to the LP Entities' efforts to sell the Acquired Assets. As provided in Section 13.3, such retainer of the Deposit shall be the sole and exclusive remedy of the LP Entities against Purchaser and Holdco. If this Agreement is terminated for any other reason, the full amount of the Deposit shall be immediately returned by the Monitor to Purchaser.

## **Section 2.6 Tax Elections**

(1) Purchaser and the LP Entities shall jointly execute and file an election pursuant to subsection 20(24) of the ITA and the corresponding provisions of any applicable provincial Tax legislation, in the prescribed manner and within the prescribed time limits, in respect of the consideration paid by the LP Entities for Purchaser to assume the Deferred Revenue Obligations.

(2) Purchaser and the LP Entities shall jointly execute and file an election pursuant to section 22 of the ITA, and the corresponding provisions of any applicable provincial Tax legislation, in the prescribed manner and within the prescribed time limits, in respect of the Accounts Receivable and shall designate therein that portion of the Purchase Price allocated to the Accounts Receivable in accordance with the allocation contemplated by Section 4.1 of this Agreement as the consideration paid by Purchaser to the LP Entities for such Accounts Receivable.

## **Section 2.7 Conveyance Documents**

(1) **Transfer and Delivery of Acquired Assets.** At the Acquisition Time, the Parties shall execute and deliver to each other all such bills of sale, assignments, instruments of transfer, deeds, assurances and other documents as shall be necessary or reasonably requested to evidence the transfer to Purchaser of the Acquired Assets free and clear of all Encumbrances (other than Permitted Encumbrances) and the Assumed Liabilities (including share certificates representing



the shares of National Post duly endorsed in blank for transfer, or accompanied by irrevocable security transfer powers of attorney duly executed in blank, in either case by the holders of record). At the Acquisition Time, the LP Entities shall deliver up to Purchaser possession of the Acquired Assets, free and clear of all Encumbrances (other than Permitted Encumbrances).

(2) **Other Documents.** The Parties shall execute and deliver such other documents as may be necessary or reasonably requested to complete and give full effect to the transactions provided for in this Agreement.

### ARTICLE 3 EXCLUDED ASSETS AND EXCLUDED LIABILITIES

#### Section 3.1 Excluded Assets

Notwithstanding anything in this Agreement to the contrary, the following assets, properties, rights and interests of the LP Entities (the “**Excluded Assets**”) shall be excluded from and shall not constitute Acquired Assets, and shall remain the property of the LP Entities:

(1) **Avoidance claims.** All rights and claims against any Person for any liability or obligation of any kind based on or arising out of the occurrence of any fraudulent conveyance, settlement, reviewable transaction, transfer at undervalue, fraudulent preference, preference or similar claim.

(2) **Corporate Records.** The corporate charters, minute, share and partnership record books and corporate seals of the LP Entities.

(3) **Scheduled Excluded Assets.** The property and assets described in Schedule 3.1(3).

(4) **Director and Officer Insurance Policies.** All rights of the LP Entities under any director and officer insurance policies.

(5) **Rights Under this Agreement.** The LP Entities’ rights under this Agreement.

#### Section 3.2 Excluded Liabilities

Except as specifically provided in this Agreement, Purchaser shall not assume and shall not be obliged to pay, perform or discharge any Liabilities of any LP Entity which arise or relate to the Business or otherwise. Without limiting the generality of the foregoing, Purchaser shall not assume and shall have no obligations in respect whatsoever of any of the Excluded Liabilities or any Claims relating thereto.

### ARTICLE 4 PURCHASE PRICE ALLOCATION

#### Section 4.1 Purchase Price Allocation

On or before the Acquisition Date, the LP Entities and Purchaser shall prepare an allocation of the Purchase Price among the Acquired Assets and the LP Entities, provided, however, that the amount allocated to the debts owed by National Post to CPI shall not be less than 80% of the principal amount thereof. The LP Entities shall cooperate with Purchaser in order to resolve any disagreement regarding such allocation, including promptly providing to Purchaser all information, documents and other material pertaining thereto in their custody and

control. The LP Entities and Purchaser shall report the purchase and sale of the Acquired Assets for tax purposes in accordance with such allocation.

## ARTICLE 5 - EMPLOYEE MATTERS

### Section 5.1 Offers

(1) No later than 15 days prior to the Acquisition Date, the LP Entities shall provide a list of all Employees, including details as to their title, position, status, base salary, bonus, date of hire and applicable LP Benefit Plan.

(2) Subject to Section 5.1(3) and Section 5.1(4), Purchaser shall offer employment, effective as of the Acquisition Date and conditioned on the completion of the Acquisition, to all Employees immediately prior to the Acquisition Date on the following terms and conditions:

- (a) to Employees who are part of a bargaining unit ("**Union Employees**") in respect of which a collective agreement is in force, or has expired and the terms and conditions of which remain in effect by operation of law, the terms and conditions provided for in such collective agreement, or expired collective agreement if such terms and conditions remain in effect by operation of law, subject to any amendments or alterations to the terms thereof to which the bargaining agent under such collective agreement or expired collective agreement consents; and
- (b) to all other Employees ("**Non-Union Employees**") on substantially similar terms and conditions as their then existing employment immediately prior to the Acquisition Date, excluding any equity or equity-like compensation, supplementary retirement or supplementary pension arrangements or plans.

(3) Subject to Section 5.1(4), Purchaser shall offer employment, effective as of the Acquisition Date and conditional on the completion of the Acquisition, to all part-time or temporary Non-Union Employees in accordance with Section 5.1(2)(b). Notwithstanding the immediately preceding sentence, Purchaser shall have the right not to offer employment to part-time or temporary Non-Union Employees that, in the aggregate, do not exceed 10% of the aggregate number of part-time or temporary Non-Union Employees employed by the LP Entities, provided that Purchaser gives written notice to the LP Entities prior to May 30, 2010 (or such other date as the Purchaser and the LP Entities may agree) identifying those part-time or temporary Non-Union Employees to whom it does not intend to offer employment. If Purchaser does not give such notice, then it shall be obligated to offer employment to all part-time or temporary Non-Union Employees in accordance with this Section 5.1(3).

(4) Notwithstanding Section 5.1(2) and Section 5.1(3), Purchaser shall not be obligated to offer employment to Employees who are on long-term disability on the Acquisition Date, but shall use its commercially reasonable efforts to offer employment in accordance with Section 5.1(2) to any such Employee who is able to return to work and notifies Purchaser of his or her desire to do so within 24 months following the Acquisition Date. For certainty, however, this Section 5.1(4) does not relieve Purchaser of its obligation hereunder to assume the long term disability plans and benefits thereunder in favour of any of the Employees on long-term disability.

(5) The LP Entities will not take any act that is intended to impede, hinder or interfere with Purchaser's efforts to hire any Employee.

(6) Purchaser acknowledges and agrees that (i) the LP Entities make no representation or warranty that any Employee will accept employment with Purchaser and (ii) the acceptance by Employees of offers of employment with Purchaser shall not constitute a condition to Purchaser's obligation to complete the Acquisition.

(7) The LP Entities and Purchaser shall co-operate with each other in all respects relating to any actions to be taken pursuant to this Article 5 and, subject to Applicable Laws, the LP Entities shall provide to Purchasers at Purchaser's request, any information or copies of any personnel records relating to the Transferred Employees.

(8) The LP Entities shall be solely responsible for all termination pay, pay in lieu of notice, severance obligations and all other Liabilities and Claims (other than in connection with (a) the LP Pension Plans; and (b) the Purchaser Assumed Benefit Plans) in respect of any Employee to whom an offer is not made on the Acquisition Date to the extent permitted by this Section 5.1 and any Employee who is offered employment by Purchaser but does not accept or commence employment with Purchaser.

(9) No Employee or Person other than the LP Entities and Purchaser shall be entitled to any rights or privileges under this Section 5.1 or under any other provisions of this Agreement. Without limiting the foregoing, no provision of this Agreement shall: (i) create any third party beneficiary or other rights in any bargaining agent representing Employees or in any other Employee or former employee of an LP Entity (or on any beneficiary or dependant of any Employee or former employee of an LP Entity); (ii) constitute or create an employment agreement or collective agreement; or (iii) constitute or be deemed to constitute an amendment to any of the Purchaser Established Benefit Plans, National Post Benefit Plans or LP Benefit Plans.

(10) Contracts with all independent contractors, including freelance writers and photographers, which are assignable shall be assigned by the LP Entities to Purchaser effective on the Acquisition Date. Where consent to assignment of any independent contractor agreement is required, the LP Entities shall use their commercial reasonable efforts to obtain such consent as soon as reasonably possible and prior to the Acquisition Date and Purchaser shall accept such assignments or offer contracts to all such independent contractors on terms substantially similar to the terms on which they are retained immediately prior to the Acquisition Time.

## **Section 5.2 LP Benefit Plans**

(1) Effective as of the Acquisition Time, the LP Entities shall assign and transfer to Purchaser and Purchaser shall assume the Purchaser Assumed Benefit Plans and the LP Entities' rights, duties, obligations, assets and Liabilities with respect to the Purchaser Assumed Benefit Plans and their related group policies, insurance contracts or other funding media, and all agreements related thereto. Effective as of the Acquisition Time, Purchaser shall accept the assignment and transfer and shall assume all obligations, Liabilities, duties, rights and responsibilities required of it as policy holder or plan sponsor of the Purchaser Assumed Benefit Plans and related agreements pursuant to the terms thereof and Applicable Law. For certainty however, nothing in this Section 5.2 shall require Purchaser to assume any Excluded Liabilities.

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- (2) Purchaser shall, on or after the Acquisition Date, be responsible for and make all required contributions and payments in relation to the Purchaser Assumed Benefit Plans.
- (3) Purchaser shall be responsible, in accordance with the terms of the applicable Purchaser Assumed Benefit Plan, for any and all Claims incurred, other than Excluded Liabilities, under the Purchaser Assumed Benefit Plan prior to or after the Acquisition Date.
- (4) The LP Entities agree to do all things necessary to effect the assignment and transfer of the Purchaser Assumed Benefit Plans to Purchaser. Without limiting the generality of the foregoing, the LP Entities agree to advise and direct applicable insurers and service providers as soon as possible after the Acquisition Date, of the assumption of sponsorship of the Purchaser Assumed Benefit Plans and relevant agreements as provided hereunder. Purchaser shall do all things required of it under Applicable Law to assume sponsorship of the Purchaser Assumed Benefit Plans in accordance with the terms of policies, contracts or service agreements applicable to the Purchaser Assumed Benefit Plans as provided hereunder.
- (5) Where consent to the assignment of a Purchaser Assumed Benefit Plan or an insurance policy or any other agreement related to a Purchaser Assumed Benefit Plan is required from a Person other than Purchaser or the LP Entities, Purchaser shall use its commercially reasonable efforts to obtain such consent. If Purchaser is unable to obtain consent from such Person after making such commercially reasonable efforts, Purchaser will, as of the Acquisition Date, establish or otherwise provide non-pension benefit plans (the "**Purchaser Established Benefit Plans**") that provide benefits which are substantially similar to those that were provided under the Purchaser Assumed Benefit Plan in question. Purchaser will use commercially reasonable efforts to waive, or cause to be waived, any pre-existing medical condition or other restriction that would prevent immediate and full participation of any Employee or former employee covered by the LP Benefits Plans in the Purchaser Established Benefit Plans. In addition, where the benefits provided under a Purchaser Established Benefit Plan are subject to a deductible in respect of the benefits provided to an individual during a certain period of time, Purchaser shall take into account the amount of any corresponding deductible which has already been paid by the applicable Employee or former employee covered by the LP Benefits Plan during such period and prior to the Acquisition Date under the corresponding LP Benefit Plan, for the purpose of determining the amount of the deductible to be paid by the Employee or former employee covered by the LP Benefits Plan under the Purchaser Established Benefit Plan after the Acquisition Date.
- (6) After the sponsorship, assets, Liabilities and administration of the Purchaser Assumed Benefit Plans, policies, contracts and agreements have been transferred to Purchaser, the LP Entities shall have no further obligation or Liability with respect to the Purchaser Assumed Benefit Plans. Purchaser shall be responsible for satisfying any and all governmental reporting and disclosure requirements applicable to the Purchaser Assumed Benefit Plans and for claims administration, communication and completion of all other forms and reports required on and after the Acquisition Date. Prior to the Acquisition Date, the LP Entities shall cooperate with Purchaser with respect to such recording and reporting requirements in the plan year in which the Acquisition Date occurs. Prior to the Acquisition Date, the LP Entities shall use all reasonable efforts to provide Purchaser with such books, records, and other relevant data relating to the Purchaser Assumed Benefit Plans within its control or access that Purchaser shall reasonably request.

### Section 5.3 LP Pension Plans

- (1) Effective as of the Acquisition Time, the LP Entities shall assign and transfer to Purchaser and Purchaser shall assume the LP Pension Plans and the rights, duties, obligations and Liabilities of the LP Entities with respect to the LP Pension Plans and their related trust or other funding medium (the "**Funds**"), and all agreements related thereto. Effective as of the Acquisition Time, Purchaser shall accept the assignment and transfer and shall assume all obligations, Liabilities, duties, rights and responsibilities required of it as sponsor and administrator of the LP Pension Plans and Funds pursuant to the terms thereof and Applicable Law, including any special payments that become payable after the Acquisition Date ("**Pension Assignment and Assumption Agreements**"). Without limiting the generality of the foregoing, the LP Entities shall have no liabilities or obligations for any unfunded liability or solvency deficiency under the LP Pension Plans, which shall be the sole responsibility of Purchaser.
- (2) The LP Entities agree to do all things necessary to effect the assignment and transfer of its sponsorship of the LP Pension Plans to Purchaser. Without limiting the generality of the foregoing, the LP Entities agree to cause to be filed with applicable Governmental Authorities as soon as possible after the Acquisition Date, such documents as may be required by Applicable Law or under the terms of the LP Pension Plans or Funds with respect to the assumption of sponsorship of the LP Pension Plans and Funds as provided hereunder. Purchaser shall do all things required of it under Applicable Law to establish that it is the successor sponsor and administrator to the LP Entities of the LP Pension Plans in accordance with the terms of the LP Pension Plans as provided hereunder. Without limiting the generality of the foregoing, Purchaser shall file with the applicable federal and provincial authorities, as soon as possible following the Acquisition Date, such documentation as may be required to establish Purchaser in such capacity.
- (3) Purchaser shall initially continue the appointment of the funding agent of the LP Pension Plans and Purchaser shall use its commercially reasonable efforts to have the funding agent execute, after the Acquisition Date, all documents necessary to effect such continued appointment, as applicable, including the Pension Assignment and Assumption Agreements.
- (4) Where consent to the assignment of any funding agreement or any other agreement related to the LP Pension Plans is required from a Person other than Purchaser or the LP Entities, Purchaser shall make commercially reasonable efforts to obtain such consent. The LP Entities shall assist and cooperate with Purchaser in obtaining such consent. If Purchaser is unable to obtain consent from such Person after making such commercially reasonable efforts, Purchaser may enter into such agreements with any other Person as may be reasonably necessary.
- (5) With respect to the administration of the LP Pension Plans from and after the Acquisition Date, Purchaser shall be entitled to direct, or cause to be directed, the funding agent of the LP Pension Plans.
- (6) After the sponsorship and administration of the LP Pension Plans and Funds has been transferred to Purchaser, the LP Entities shall have no further obligation or Liability with respect to the LP Pension Plans and Funds. The LP Entities shall be responsible for satisfying any and all governmental reporting and disclosure requirements applicable to the LP Pension Plans and Funds and for all benefit calculations, communication and completion of all other forms and reports in respects of the LP Pension Plans up to the Acquisition Date. Purchaser shall be

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responsible for satisfying any and all governmental reporting and disclosure requirements applicable to the LP Pension Plans and Funds and for all benefit calculations, communication and completion of all other forms and reports on and after the Acquisition Date. The LP Entities shall cooperate with Purchaser with respect to reporting such requirements in the plan year in which the Acquisition Date occurs. Prior to and following the Acquisition Date, the LP Entities shall use all reasonable efforts to provide Purchaser such books, records, and other relevant data relating to the LP Pension Plans within its control or access, that Purchaser shall reasonably request.

(7) Effective as of the Acquisition Date, the LP Entities shall amend the LP Pension Plans were required to give effect to this Section 5.3, and shall, with the cooperation of Purchaser, file such amendments with the appropriate Governmental Authority. A Party who receives any consent or approval required to be obtained from a Governmental Authority in order to effect the transfer of the LP Pensions Plan to Purchaser shall immediately notify the other Parties when such consent or approval is received.

(8) If any required Governmental Authority approval in respect of an LP Pension Plan cannot be obtained, the LP Pension Plans shall not be assigned to or assumed by Purchaser and Purchaser shall establish or amend, effective as of Acquisition Date, a pension plan or plans (the "**Purchaser Established Pension Plans**") to provide benefits in compliance with all Applicable Laws applicable to the rights of the Transferred Employees covered by such LP Pension Plan and in respect of the employment of such Transferred Employees on and after the Acquisition Date on substantially similar terms and conditions as those provided under such LP Pension Plan. For the avoidance of doubt, in the event that the Pension Assignment and Assumption Agreements do not receive regulatory approval the Parties agree and intend to act in good faith and use commercially reasonable efforts to find an alternative method to deal with accrued pension benefits of Transferred Employees.

#### **Section 5.4 Unionized Employees**

(1) The provisions of this Article 5 insofar as they relate to unionized Employees shall be subject and subordinate to the provisions of the relevant collective agreements (including expired collective agreements that continue by operation of law) and Purchaser shall be bound as a successor employer to such collective agreements to the extent required by Applicable Law.

(2) Effective as of the Acquisition Date, Purchaser shall assume all of the LP Entities' obligations and Liabilities to make contributions to the Multi-Employer Plans in which any LP Entity participates, pursuant to the terms of the collective agreements applicable to its unionized Employees or as otherwise required under applicable pension benefits legislation.

### **ARTICLE 6 – TAX MATTERS**

#### **Section 6.1 Goods and Services Tax and Québec Sales Tax**

- (1) CCI hereby represents and warrants
- (a) that it is duly registered for the purposes of Part IX of the GST Act; and
  - (b) that it is duly registered for the purposes of the QST Act.

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- (2) Canwest LP hereby represents and warrants
  - (a) that it is duly registered for the purposes of Part IX of the GST Act; and
  - (b) that it is duly registered for the purposes of the QST Act.
- (3) CPI hereby represents and warrants
  - (a) that it is duly registered for the purposes of Part IX of the GST Act; and
  - (b) that it is duly registered for the purposes of the QST Act.
- (4) Purchaser hereby covenants that as of the Acquisition Date:
  - (a) it will be duly registered for the purposes of Part IX of the GST Act; and
  - (b) it will be duly registered for the purposes of the QST Act.
- (5) The LP Entities hereby represent and warrant to Purchaser that Purchaser is acquiring under this Agreement all or substantially all of the property that can reasonably be regarded as being necessary for it to carry on the Business as a business.
- (6) Purchaser and the LP Entities shall jointly make the elections provided for under subsection 167(1) of the GST Act and under section 75 of the QST Act so that no GST or QST will be payable in respect of the transactions contemplated by this Agreement. Purchaser and the LP Entities shall jointly complete the election forms (more particularly described as form GST 44 and QST form FP-2044-V) in respect of such elections and Purchaser shall file the said election forms no later than the due date for Purchaser's GST and QST returns for the first reporting period in which GST or QST, as applicable, would, in the absence of such elections, become payable in connection with the transactions contemplated by this Agreement.

## **Section 6.2 Provincial Retail Sales Taxes**

- (1) On or before the Acquisition Date, Purchaser will provide the LP Entities with Purchaser's retail sales tax registration numbers and prescribed exemption certificates to substantiate exemptions from the Taxes for qualifying production equipment and machinery, and with respect to inventories of goods held for sale or resale or for incorporation, processing and manufacturing into goods to be held for sale for the purposes of substantiating exemptions from the Tax exigible under the *Retail Sales Tax Act* (Ontario) and provincial Tax legislation in British Columbia, Saskatchewan, Manitoba and Prince Edward Island. At the Acquisition Time, Purchaser shall pay to the LP Entities any such Taxes exigible under provincial sales tax legislation in the foregoing provinces in respect of any Acquired Assets and the LP Entities shall remit such Taxes to the appropriate Governmental Authorities in each province in accordance with the applicable legal and administrative requirements, provided that, if the harmonized sales tax regime is applicable in Ontario or British Columbia on the Acquisition Date, Section 6.1, rather than this Section 6.2(1), shall apply in respect of any Acquired Assets that would have otherwise been subject to taxes under the *Retail Sales Tax Act* (Ontario) or the *Social Services Tax Act* (British Columbia), respectively.

(2) Purchaser shall pay to the LP Entities the provincial retail sales taxes under this Section 6.2(2) based on the portion of the Purchase Price allocated to the applicable Acquired Assets pursuant to the allocation described in Section 4.1. If (a) any additional provincial sales taxes are payable in respect of the Acquired Assets, Purchaser shall remit such additional provincial sales taxes directly to the appropriate taxing authority, (b) provincial sales taxes have been collected by the LP Entities in excess of the amount required to be remitted in respect of the Acquired Assets, the LP Entities shall return such excess to Purchaser, and (c) provincial sales taxes have been collected and remitted by the LP Entities in excess of the amount required to be remitted in respect of the Acquired Assets, Purchaser shall apply for a refund of such excess taxes directly to the appropriate taxing authority.

### **Section 6.3 Land Transfer Taxes**

Purchaser shall prepare and file (a) any affidavits or returns required under the *Land Transfer Tax Act* (Ontario) and other applicable provincial legislation and (b) any municipal land transfer taxes applicable in the City of Toronto and any other applicable city or municipal land transfer taxes, at its cost and expense and pay to the prescribed Governmental Authority any Tax exigible in respect thereof.

### **Section 6.4 Rejected Elections and Indemnity**

(1) Notwithstanding any representations given by the LP Entities contained herein, if any Governmental Authority refuses to accept an election contemplated in Section 6.1(6), after exhausting any challenges to and appeals of such refusal which Purchaser in its sole discretion (and at its sole expense) may choose to initiate and prosecute, Purchaser shall pay to the relevant Governmental Authority any Tax which would, in the absence of such elections, become payable in connection with the transactions contemplated by this Agreement.

(2) If any Tax is imposed on any LP Entity or its directors by reason of Purchaser failing to comply with any obligation under this Article 6 (other than Taxes which are imposed by reason of any of the LP Entities' non-compliance, delinquency or delay in remitting any Taxes collected from Purchaser), Purchaser shall indemnify and hold harmless such LP Entity and its directors for such Taxes, notwithstanding any representations given by the LP Entities contained herein.

## **ARTICLE 7 – REPRESENTATIONS AND WARRANTIES OF THE LP ENTITIES**

Each of the LP Entities jointly and severally represents and warrants to Purchaser and Holdco as stated below and acknowledges that each of Purchaser and Holdco is relying on the accuracy of each such representation and warranty in entering into this Agreement and completing the Acquisition.

### **Section 7.1 Corporate Matters**

(1) **Status and Capacity of the LP Entities.** Except as disclosed in Schedule 7.1(1), each of Canwest Books, Canwest GP, CPI and National Post has been duly incorporated and organized, is a subsisting corporation under the laws of their jurisdiction of incorporation, and each has the corporate power and capacity and is duly qualified to own or lease its property and to carry on the Business and the business of National Post, as the case may be, as now conducted in each jurisdiction in which any of them own or lease property or carry on the Business or the business



of National Post. Except as disclosed in Schedule 7.1(1), each of Canwest Books, Canwest GP and CPI has full corporate power and capacity to execute and deliver this Agreement and to consummate the Acquisition and otherwise perform its obligations under this Agreement. Canwest LP is a subsisting limited partnership under the *Limited Partnerships Act* (Ontario). Except as disclosed in Schedule 7.1(1), Canwest GP has the corporate power and capacity to act as the general partner of Canwest LP, to enter into and perform its obligations under this Agreement, and to execute and deliver this Agreement on behalf of Canwest LP.

(2) **Authorization of Acquisition.** The execution and delivery of this Agreement and, subject to the making of the Sanction and Vesting Orders, as of the Acquisition Date the consummation of the Acquisition has been duly and validly authorized by all necessary corporate action on the part of the LP Entities (other than Canwest GP and Canwest LP). The execution and delivery of this Agreement and, subject to the making of the Sanction and Vesting Orders, as of the Acquisition Date the consummation of the Acquisition have been duly and validly authorized by all necessary corporate action on the part of Canwest GP on its own behalf and on behalf of Canwest LP.

(3) **Enforceability.** This Agreement has been duly and validly executed and delivered by each of the LP Entities (other than Canwest LP) and has been duly and validly executed and delivered by Canwest GP on behalf of Canwest LP. This Agreement, subject to the making of the Sanction and Vesting Orders, is a valid and legally binding obligation of each of the LP Entities enforceable against each of the LP Entities in accordance with its terms, except as may be subject to applicable bankruptcy, insolvency, moratorium or other similar laws, now or hereafter in effect, relating to or affecting the rights of creditors generally and by legal and equitable limitations or the enforceability of specific remedies.

(4) **Residence.** None of the LP Entities is a non-resident of Canada within the meaning of the ITA. Canwest LP is a "Canadian partnership" for purposes of the ITA.

(5) **Books and Records.** The Books and Records (other than the corporate and other records specifically referenced in Section 7.1(6), all of which have been or prior to the Acquisition Date will be provided to Purchaser, are complete and accurate records of the information purported to be reflected therein in all material respects.

(6) **Corporate Records.** The corporate records, minute books and share record books of National Post, all of which have been or prior to the Acquisition Date will be provided to Purchaser, contain complete and accurate minutes of all meetings of and corporate actions or written resolutions of the directors, committees of directors and shareholders of National Post, including all by-laws and resolutions passed by the directors, committees of directors and shareholders of National Post, since the date National Post was formed. All such meetings were duly called and held, all such corporate actions and written resolutions were duly taken or validly signed and all such by-laws and resolutions were duly passed. The share certificate books, register of shareholders, register of transfers, register of directors and similar corporate records of National Post are complete, accurate and current.

(7) **Shareholders' Agreements, etc.** There are no shareholders' agreements, pooling agreements, voting trusts or other similar agreements with respect to the ownership or voting of any of the shares of National Post.

(8) **No Other Acquisition Agreements.** Except as disclosed in Schedule 7.1(8), no Person has any agreement, option, understanding or commitment, or any right or privilege (whether by law, or by any pre-emptive or other contractual right) capable of becoming an agreement, option or commitment: (i) for the purchase or other acquisition from an LP Entity of any of the Acquired Assets, (ii) which would restrict the ability of the LP Entities to transfer any of the Acquired Assets free of any Encumbrances (other than Permitted Encumbrances) to Purchaser, or (iii) or for the issuance of any securities of National Post or the acquisition of any assets of National Post, in each case other than the sale of any Acquired Asset in the Ordinary Course of Business.

(9) **Regulatory Approvals.** Neither an LP Entity nor National Post is under any obligation, contractual or otherwise, to request or obtain any material Regulatory Approval (other than Competition Act Approval) or to give any notice to any Governmental Authority:

- (a) by virtue of or in connection with the execution, delivery or performance by the LP Entities of this Agreement or the completion of the Acquisition;
- (b) to avoid the loss of any Licence or to avoid the violation, breach or termination of, or any default under, or the creation of any Encumbrance under the terms of, any Applicable Law; or
- (c) in order that the authority and ability of Purchaser to carry on the Business and for National Post to carry on its business in the Ordinary Course of Business and in the same manner as presently conducted by the LP Entities and National Post remains in good standing and in full force and effect as of and following the Acquisition.

(10) **Consents.** All Material Contracts and all Real Property Leases, Personal Property Leases and Licences which are material to the Business or the operation of the National Post newspaper or any newspaper which is part of the Business under which an LP Entity or National Post is obligated to request or obtain any Consent or Regulatory Approval or to give any notice by virtue of or in connection with the execution, delivery or performance by the LP Entities of this Agreement or the completion of the Acquisition are identified in Schedule 7.1(10).

## Section 7.2 Financial Matters

(1) **Financial Statements.** The audited consolidated balance sheet of the LP Entities at August 31, 2009 (the "**Reference Balance Sheet**") and the audited consolidated balance sheet of the LP Entities at August 31, 2008 and August 31, 2007, (ii) the audited consolidated statements of earnings (loss), comprehensive income (loss), partners' deficiency and cash flows of the LP Entities for the years then ended, (iii) the unaudited consolidated balance sheet of the LP Entities and National Post at February 28, 2010 and November 30, 2009 and (iv) the unaudited consolidated statements of earnings (loss), comprehensive income (loss), partners' deficiency and cash flows of the LP Entities and National Post for the interim periods ended February 28, 2010 and November 30, 2009 (the balance sheets and statements referred to in clauses (i), (ii), (iii) and (iv) being herein collectively referred to as the "**Financial Statements**") have been prepared in all material respects in accordance with Canadian GAAP and present fairly, in all material respects, the financial condition and the results of operations of the LP Entities at the respective dates and for the period covered by such statements.

(2) **Financial Records.** All financial transactions of the Business or the business of National Post which are material to the Business or the business of National Post or the operation of any newspaper which is part of the Business or the business of the National Post have been properly recorded in the Financial Records, which have been maintained in accordance with sound business and financial practice and have been or prior to the Acquisition Date will be provided to Purchaser. The Financial Records accurately reflect in all material respects the basis for the financial condition and the revenues, expenses and results of operations of the Business and the business of National Post. No information, records, systems, controls or data pertaining to or required for the operation or administration of the Business or the business of National Post are recorded, stored, maintained by, or are otherwise dependent upon, any computerized or other system, program or device that is not licensed to or owned by and controlled by an LP Entity or National Post and on the Acquisition Date the LP Entities or National Post will have originals or copies of all such records, systems, controls or data in its possession or control, including where applicable, copies of all computer software and documentation relating thereto.

(3) **Absence of Certain Changes or Events.** Since the Reference Date and except as approved by an Order of the CCAA Court or as specified in Schedule 7.2(3), neither an LP Entity nor National Post has:

- (a) incurred any Liability which is material to the Business or the business of National Post, except normal trade or business obligations incurred in the Ordinary Course of Business, none of which is materially adverse to the Business or the business of National Post;
- (b) created any Encumbrance (other than Permitted Encumbrances and Encumbrances relating to the DIP Credit Agreement (including the pledge of all shares of National Post)) upon any of the Acquired Assets or any of the assets of National Post, except in the Ordinary Course of Business or as described in this Agreement or pursuant to, or as a result of, the CCAA Case;
- (c) sold, assigned, transferred, leased or otherwise disposed of any of the material Acquired Assets or any material assets of National Post, except in the Ordinary Course of Business or as contemplated by this Agreement;
- (d) purchased, leased or otherwise acquired any properties or assets, except in the Ordinary Course of Business or as contemplated by this Agreement;
- (e) waived, cancelled or written off any rights, Claims, Accounts Receivable or any amounts payable to an LP Entity or National Post which alone or together are material to the Business or the business of National Post or any newspaper which is part of the Business, except in the Ordinary Course of Business;
- (f) suffered any damage, destruction or loss (whether or not covered by insurance) which constitutes a Material Adverse Effect;
- (g) increased any form of compensation or other benefits payable or to become payable to any Employees or employees of National Post, or to any contractors, consultants or agents of the Business or National Post, except increases made in the Ordinary Course of Business and consistent with past practice or for "KERP"

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or "MIP" payments due to certain senior Employees disclosed in writing to Purchaser prior to the date hereof; or

(h) authorized, agreed or otherwise become committed to do any of the foregoing.

(4) **Taxes.** There are no Encumbrances (other than Permitted Encumbrances) for Taxes upon any of the Acquired Assets or upon any of National Post's assets, and no event has occurred with which the passage of time or the giving of notice, or both, could reasonably be expected to result in an Encumbrance (other than a Permitted Encumbrance) for Taxes on any of the Acquired Assets or any of National Post's assets.

(5) **National Post - Certain Matters.**

(a) National Post has duly and on a timely basis prepared and filed with each Governmental Authority as required by Applicable Law all Tax returns, elections, filings, forms and other documents required to be filed by it in respect of all Taxes ("Tax Returns"), and such Tax Returns are complete and correct in all material respects. No extension of time in which to file any such Tax Return is in effect.

(b) National Post has paid, collected and remitted on a timely basis all Taxes which are due and payable, collectible or remittable, as the case may be, by it on or before the date hereof. Without limiting the foregoing, National Post has withheld from each amount paid or credited to any Person the amount of Taxes required to be withheld therefrom and has remitted such Taxes to the proper Governmental Authority within the time required under Applicable Law.

(c) No debt or other obligation of National Post has been or will be settled or extinguished on or prior to the Acquisition Time such that the provisions of Sections 80 to 80.04 of the ITA applies or would apply thereto and National Post has not entered, and will not enter, into an agreement to have a forgiven amount transferred to it under section 80.04 of the ITA.

(d) The value of consideration paid or received by National Post in respect of the acquisition, sale or transfer of any property or the provision of any services to or from any person with whom they do not deal at "arm's length" (as defined for purposes of the ITA) has been equal to the fair market value of such property acquired, sold or transferred or services provided.

(6) **Litigation.** Except for the CCAA Case and any claim filed in the claims procedure being conducted in the CCAA Case, the litigation matters set out on Schedule 1.1(78) and the two class action suits described in Schedule 1.1(62), none of the LP Entities nor National Post is a party to, a defendant in or otherwise subject to any material litigation, arbitration or court proceedings, and to the best of the knowledge of the LP Entities, no such proceedings are threatened against any of the LP Entities or National Post, except for libel, slander and defamation cases arising in the Ordinary Course of Business.

(7) **Insurance.** The LP Entities and National Post are covered by such policies of insurance, issued by responsible insurers, as are appropriate to the Business, the Acquired Assets or the business and assets of National Post, in such amounts and against such risks as are customarily

carried and insured against by owners of comparable businesses, properties and assets. True and complete copies of all such policies of insurance have been provided to Purchaser. All such policies are in full force and effect and the LP Entities and National Post are not in material default, as to the payment of premiums or otherwise, under the terms of any such policy.

(8) **Capital Expenditures.** Neither an LP Entity nor National Post is committed to make any capital expenditures in respect of the Business or the business of National Post, nor have any capital expenditures in respect of the Business or National Post been authorized by an LP Entity or National Post at any time since the Reference Date, except for capital expenditures made in the Ordinary Course of Business as reflected in the cash flows of the Business provided to Purchaser prior to the date hereof.

(9) **Canadian Newspapers.** Each newspaper to be acquired from an LP Entity pursuant to this Agreement and the newspaper published by National Post is a "Canadian newspaper", each issue of which is a "Canadian issue", for purposes of section 19 of the ITA.

### **Section 7.3 Share Capital, Shares and Assets – National Post**

(1) **Authorized and Issued Share Capital.** The authorized capital of National Post is an unlimited number of common shares of which one common share has been duly issued and is outstanding as a fully paid and non-assessable share in the capital of National Post. No shares or other securities of National Post have been issued in violation of any Applicable Law, the articles of incorporation, by-laws or other constating documents of National Post or the terms of any shareholders' agreement or any agreement to which National Post is a party or by which it is bound. National Post has not issued or authorized the issue of any shares except the share which forms part of the Acquired Assets.

(2) **Title.** CPI legally and beneficially owns and controls all shares of National Post and the intercompany debt owed by National Post to CPI, with a good and marketable title thereto free of any Encumbrances other than Permitted Encumbrances, Encumbrances relating to the Senior Credit Agreement and the DIP Credit Agreement (including the pledge of all shares of National Post) and Encumbrances created by order of the CCAA Court in connection with the CCAA Case.

(3) **Title to Assets.** Except for any intellectual property in the public domain, National Post owns, and has good and marketable title to, or has the right to use its assets free of any Encumbrances other than Permitted Encumbrances and Encumbrances relating to the intercompany debt owed by National Post to CPI.

### **Section 7.4 Assets**

(1) **Title to Assets.** Except as set out in Schedule 7.4(2), the LP Entities own, and have good and marketable title to, or have the right to use the Acquired Assets free and clear of any Encumbrances other than Permitted Encumbrances, Encumbrances relating to the Senior Credit Agreement and the DIP Credit Agreement (including the pledge of all shares of National Post) and Encumbrances created by order of the CCAA Court in connection with the CCAA Case.

(2) **Real Property.**

- (a) The Real Property listed in Schedule 7.4(2) is the only real property owned by the LP Entities and the National Post and the Leased Premises listed in Schedule 7.4(2) are the only material leased premises held or used in connection with the Business or the business of National Post.
  - (b) Except as set out in Schedule 7.4(2), CPI is the absolute, legal and beneficial owner of, and has good and marketable title in fee simple to, all of the Real Property, free and clear of any and all Encumbrances other than the Permitted Encumbrances, Encumbrances relating to the Senior Credit Agreement and the DIP Credit Agreement and Encumbrances created by order of the CCAA Court in connection with the CCAA Case.
- (3) **Real Property Leases and Leased Premises.**
- (a) Schedule 7.4(3) describes all material Real Property Leases. Complete and correct copies of such Real Property Leases have been provided to Purchaser.
  - (b) Except as disclosed in Schedule 7.4(3), the LP Entities are exclusively entitled to all rights and benefits as lessee under the Real Property Leases, and no LP Entity has sublet, assigned, licensed or otherwise conveyed any rights in the Leased Premises or in the Real Property Leases to any other Person.
  - (c) Except as disclosed in Schedule 7.4(3), or as has been or may be approved by Order of the CCAA Court, all rental and other payments and other obligations required to be paid and performed by an LP Entity pursuant to the Real Property Leases in respect of the periods after the Filing Date have been duly paid and performed. Except as disclosed in Schedule 7.4(3) or as has been or may be approved by Order of the CCAA Court, no LP Entity is in default of any of its obligations under the Real Property Leases and, to the best of the LP Entities' knowledge, none of the landlords or other parties to the Real Property Leases are in default of any of their obligations thereunder in each case except for defaults that, alone or in the aggregate, are not material to the Business, the business of National Post or the operation of any newspaper which is part of the Business.
- (4) **Status of Real Property and Leased Premises.** The Real Property and Leased Premises are zoned so as to permit their current use in all material respects. The use by the LP Entities of the Real Property and the Leased Premises is in material compliance with Applicable Laws and, in particular, is not in material breach of any building, zoning or other statute by-law, ordinance, regulation, covenant, restriction or official plan.
- (5) **Environmental Matters.**
- (a) (i) The LP Entities, National Post, the operation of the Business and the business of National Post, the Acquired Assets (including the Real Property and the Leased Premises) and the use, maintenance and operation thereof have been and are in material compliance with all Environmental Laws; and (ii) none of the LP Entities nor National Post has received any notice of any actual or alleged material non-compliance with any Environmental Law, and (iii) none of the LP Entities nor National Post have ever been convicted of an offence for non-compliance with

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any Environmental Law or been fined or otherwise sentenced or settled any prosecution or claim under any Environmental Law.

- (b) There is (i) no pending or, to the best of the LP Entities' knowledge, threatened material Environmental Claim against the LP Entities or National Post or, to the best of the LP Entities' knowledge, any pending or threatened material Environmental Claim against any prior owner or occupant of any Real Property or Leased Premises; and (ii) to the best of knowledge of the LP Entities, there exists no environmental condition, incident or matter, including any Release, which constitutes a Material Adverse Effect.
- (c) The LP Entities and National Post have obtained all material Environmental Permits necessary to conduct the Business and the business of National Post and to own, use and operate the Acquired Assets (including the Real Property and Leased Premises) and the assets of National Post. All such Environmental Permits are valid and are in full force and effect in all material respects, there have been no material violations thereof and there are no legal proceedings pending or threatened to alter or revoke any of them.
- (d) All material environmental assessments and environmental studies and reports relating to any of the Acquired Assets generated on behalf of any LP Entity within the last three years and in the possession of the LP Entities (or which with reasonable effort could be brought into the possession of the LP Entities) have been made available to Purchaser.

(6) **Personal Property Leases.** Schedule 7.4(6) lists or identifies all Personal Property Leases which are material to the Business, the business of National Post or the operation of any newspaper which is part of the Business. Except as may be affected by an Order of the CCAA Court (i) each Personal Property Lease is in full force and effect and has not been amended, and an LP Entity or National Post is entitled to the full benefit and advantage of each Personal Property Lease in accordance with its terms; and (ii) each Personal Property Lease is in good standing and there has not been any material default by any party under any Personal Property Lease nor any material dispute between an LP Entity or National Post and any other party under any Personal Property Lease.

(7) **Work Orders and Deficiencies.** There are no material outstanding work orders, non-compliance orders, deficiency notices or other such notices relating to the Real Property, the Leased Premises, the other Acquired Assets, the Business or the business or assets of National Post which have been issued by any Governmental Authority including any police or fire department, sanitation, environment, labour or health authority. There are no material matters under discussion with any Governmental Authority relating to work orders, non-compliance orders, deficiency notices or other such notices.

(8) **Intellectual Property.**

- (a) Schedule 7.4(8) sets forth a complete list and a brief description of (i) all material domain names and material trademarks owned or used in the Business or in the business of National Post whether or not such domain names or trademarks have been registered or whether applications for registration have been filed by or on

behalf of an LP Entity or National Post; and (ii) particulars of all registrations and applications for registration in respect of such domain names and trademarks.

- (b) The LP Entities and National Post do not own or use any material Intellectual Property that consists of patents and industrial designs. The LP Entities or National Post own or will own by the Acquisition Date all material trademarks used in the Business or the business of National Post, as applicable, other than trademarks licensed from the CMI Entities pursuant to the agreements referenced in the Shared Services Agreement and the Omnibus Transition and Reorganization Agreement and implied licences from advertisers.
- (c) The LP Entities do not and will not by the Acquisition Date grant or license any rights in any material Intellectual Property to (i) any Person other than to the CMI Entities pursuant to the Shared Services Agreement, the Omnibus Transition and Reorganization Agreement or the other agreements referenced therein; or (ii) third parties pursuant to agreements entered into in the Ordinary Course of Business that are not material to the Business or the business of the National Post.
- (d) Except for the matters listed in Schedule 1.1(78) and the two class action lawsuits described in Schedule 1.1(62), there are no claims pending, or to the knowledge of the LP Entities threatened, against the LP Entities or National Post relating to any of the material Intellectual Property owned by the LP Entities or National Post and, to the knowledge of the LP Entities, pending or threatened against the LP Entities or National Post relating to any of the material Intellectual Property used by the LP Entities or National Post.

### **Section 7.5 Conduct of Business**

(1) **No Material Adverse Change.** Except as set out in Schedule 7.5(1) or as approved by Order of the CCAA Court, since the Reference Date, there has not been any change in the affairs, prospects, operations, assets or financial condition of the Business or the business of National Post, other than changes in the Ordinary Course of Business or as otherwise contemplated in this Agreement, which would constitute a Material Adverse Effect.

(2) **Ordinary Course.** Except as disclosed in writing to Purchaser prior to the date hereof or as approved by an Order of the CCAA Court, the Business and the business of National Post has been carried on only in the Ordinary Course of Business since the Reference Date, and will be carried on only in the Ordinary Course of Business after the date of this Agreement or as otherwise contemplated in this Agreement and up to the Acquisition Date, subject to the CCAA Case.

(3) **Restrictions on Doing Business.** Neither an LP Entity nor National Post is a party to or bound by any agreement or commitment which would restrict or limit the rights of Purchaser to carry on or compete in any business or activity or to solicit business from any Person or in any geographical area or otherwise to conduct the Business as currently conducted and as proposed to be conducted. To the best of the LP Entities' knowledge, there are no facts or circumstances which could materially adversely affect the ability of Purchaser to continue to operate the Business, the National Post newspaper or any newspaper which is part of the Business as presently conducted following the completion of the Acquisition.



(4) **Material Contracts.** Schedule 7.5(4) lists or identifies all Material Contracts. Except as contemplated by or resulting from the CCAA Case, (i) none of the LP Entities or National Post is, nor to the best of the LP Entities' knowledge, any other party to any such Material Contract, is in default under any such Material Contract and there has not occurred any event which, with the lapse of time or giving of notice or both, would constitute a default under any such Contract by an LP Entity or National Post or any other party to any such Material Contract, in each case except where such default is not material to the Business, the business of National Post or the operation of any newspaper which is part of the Business; (ii) each such Material Contract is in full force and effect, unamended by written or oral agreement, except as set out in Schedule 7.5(4), and an LP Entity or National Post is entitled to the full benefit and advantage of each Material Contract in accordance with its terms; and (iii) no notice of default has been received by any LP Entity or National Post under any such Material Contract nor does there exist any material dispute between an LP Entity or National Post and any other Person in respect of any such Material Contract.

(5) **Compliance.** Except as would not constitute a Material Adverse Effect, the LP Entities and National Post (i) are not and have not been in violation of any Applicable Law applicable to the conduct of the Business or the business of National Post, and (ii) possess and have been in compliance with all Licenses necessary for the conduct of the Business or the business of National Post.

## **Section 7.6 Employment Matters**

(1) **Remuneration.** Since the Reference Date, no payments have been made or authorized by an LP Entity or by National Post to directors, officers, Employees, employees of National Post, contractors, consultants or agents except at regular rates of remuneration or increases made in the Ordinary Course of Business and consistent with past practice or for "KERP" or "MIP" payments disclosed in writing to Purchaser prior to the date hereof. There are no outstanding loans or advances made or granted by an LP Entity or National Post to any Employee, employee of National Post, contractor, consultant or agent, except for travel advances made to Employees or employees of National Post in the Ordinary Course of Business.

(2) **Labour Matters and Employee Contracts.** Except as disclosed in Schedule 7.6(2), neither any LP Entity nor National Post is a party to or bound by any collective agreement, labour contract, letter of understanding, memorandum of understanding, letter of intent, voluntary recognition agreement or other legally binding commitment to any labour union, trade union, employee association or similar entity in respect of any Employees, employees of National Post or contractors rendering services to an LP Entity or National Post, nor is an LP Entity or National Post currently conducting negotiations with any labour union, trade union, employee association or similar entity. Except as disclosed in Schedule 7.6(2), each LP Entity and National Post have complied in all material respects with all provisions of the collective agreements and other agreements disclosed in Schedule 7.6(2) and there are no existing or, to the best of the LP Entities' knowledge, threatened labour strikes, cessations or suspensions of work or labour disputes, lockouts, slowdowns, disturbances, grievances, arbitrations, unfair labour practice complaints, controversies or other labour troubles affecting an LP Entity, National Post or the Business, nor have there been any material labour disturbances within the period of five years preceding the date of this Agreement. True and complete copies of all employment agreements between any of the LP Entities, National Post and the Employees and National Post employees who are senior management have been provided to Purchaser.