

Court File No. CV-09-8396-00 CL

**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**

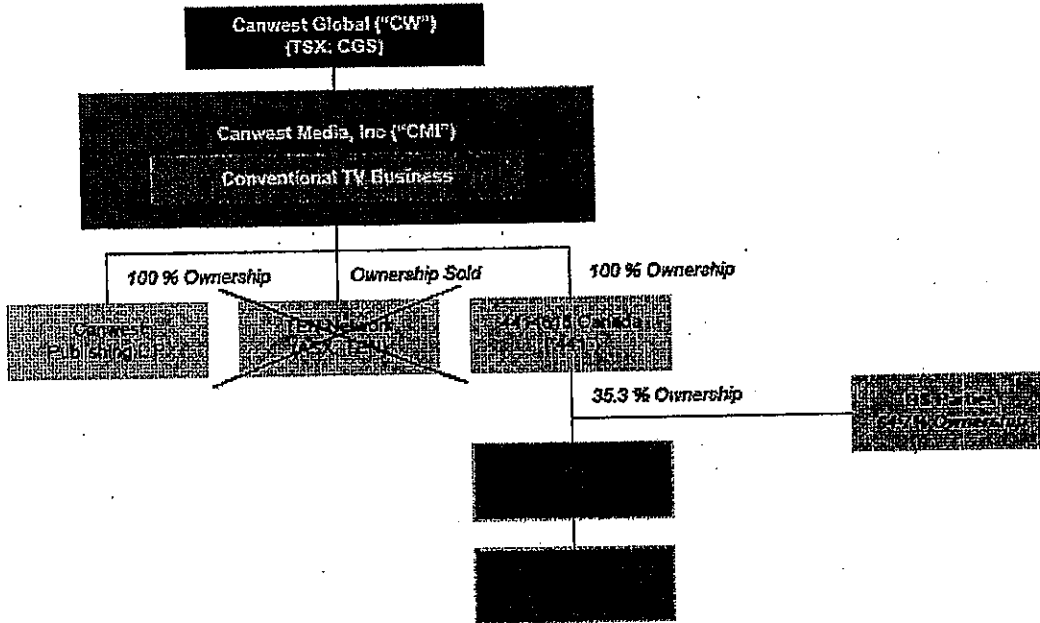
**AND IN THE MATTER OF A PLAN
OF COMPROMISE OR ARRANGEMENT OF
CANWEST GLOBAL COMMUNICATIONS CORP. AND THE OTHER APPLICANTS
LISTED ON SCHEDULE "A" (collectively the "APPLICANTS" or "Canwest")**

**AFFIDAVIT OF GERALD J. CARDINALE,
SWORN NOVEMBER 2, 2009**

I, Gerald J. Cardinale, of the City of New York, in the State of New York, in the United States of America, MAKE OATH AND SAY:

1. I am a Managing Director of Goldman Sachs & Co. ("**Goldman Sachs**"). In that capacity, I have been and continue to be in charge of the investment by GS Capital Partners VI Fund, L.P ("**GSCP**") that made possible the acquisition by CW Investments Co. (Canada) ("**CWI**") of a specialty TV business from Alliance Atlantis (the "**Specialty TV Business**"). As such, I have personal knowledge of the facts to which I depose, except where I have indicated that I have obtained facts from other sources, in which case I believe those facts to be true.
2. Until immediately before these CCAA proceedings were commenced by the Applicants, the shares of CWI were owned by 4414616 Canada Inc. ("**441**"), a wholly owned subsidiary of the Applicant Canwest Media Inc. ("**CMF**"), and GSCP VI AA One Holding S.ar.l, and GSCP VI AA One Parallel Holding S.ar.l (collectively, the "**GS Holdcos**" and together with GSCP, the "**GS Parties**"). The GS Parties are affiliates of Goldman Sachs. A chart showing the ownership structure of CWI is set out below:

Canwest Simplified Corporate Structure



INTRODUCTION

3. In this Affidavit, I will explain the basic elements of the acquisition of the Specialty TV Business by CWI on the terms negotiated between GSCP and Canwest.

4. GSCP received no notice before these proceedings under the CCAA were commenced on October 6, 2009 even though the Initial Order materially and adversely affects GSCP's interests. As the owner of the largest economic stake in CWI and a party to important contracts with CMI, GSCP should have been provided notice of the Application for an Initial Order in this case and the failure to provide that notice can only have been intended by the Applicants to prevent GSCP from having any opportunity to oppose the Initial Order or any of its provisions. I have

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subsequently learned that the Applicants would have involved GSCP in the pre-filing discussions but were prohibited from doing so by the Ad Hoc Committee (the "Ad Hoc Committee") of holders (the "Noteholders") of 8% subordinated unsecured notes (the "Notes"). It was not until October 21, 2009 that representatives of Canwest even proposed a meeting with GSCP, and to this day, there has been no specific proposal made to GSCP.

5. Following the filing, I have had an opportunity to read the Initial Order and the affidavit of John Maguire dated October 5, 2009 in these CCAA proceedings (the "Maguire Affidavit") and through enquiries by our counsel, GSCP has been provided with some additional documents which reflect transactions that preceded these CCAA proceedings, including the Note Purchase Agreement dated May 20, 2009 (the "Note Purchase Agreement"), a copy of which is attached as Exhibit "A" to this affidavit.

6. It appears from the Maguire Affidavit and those additional documents, that the Ad Hoc Committee has sought to exercise control over most major business decisions at Canwest beginning in May, 2009. That control continues under the CCAA Support Agreement which is an exhibit to the Maguire Affidavit (the "Support Agreement"). I believe the Ad Hoc Committee's demands have resulted in short term benefits to the Noteholders at the expense of the long term interests of the Applicants and their many employees and business associates including GSCP.

7. Without the benefit of any court supervision, just before seeking protection from their creditors under the CCAA, the Applicants took the unusual step of making a preferential payment of \$426 million (US\$399 million) on the Notes out of proceeds of the sale of Canwest's investment in Ten Holdings (defined below). The Noteholders arranged this sale and this payment at a time when the Applicants needed capital to restructure their business for the benefit of all of stakeholders. Based on public information, the Notes were trading at between 15 and 20 cents on the dollar from February 4 to March 27, 2009. Accordingly, any Noteholder who acquired Notes during that period has already received 2-3 times its investment on those Notes through this preferential payment.

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8. The Initial Order, which was made without any notice to GSCP and many other interested parties, apparently approves the preferential payment to the Noteholders and other pre-filing transactions. Rather than being approved on an Application that was not served on many interested parties, including GSCP, these transactions should be investigated so that all of the facts relating to these transactions are fully disclosed and all affected parties have an opportunity to make submissions to the court on a fully informed basis.

9. The Noteholders' Support Agreement purports to establish an accelerated timetable for the restructuring of Canwest's business. It also requires, as a condition, that the agreements with the GS Parties be renegotiated even though the Ad-Hoc Committee has delayed and interfered with any discussions between Canwest and the GS Parties and no concrete proposal has been made to the GS Parties. Moreover, Canwest has not yet identified a responsible and effective Canadian investor. Canadian control and CRTC consent are necessary pre-conditions of any restructuring of the Applicants.

10. The Support Agreement is adversarial to GSCP in that it requires the amendment of key agreements under which the GS Parties and 441 acquired and have owned and operated the Specialty TV Business in compliance with Canadian law and regulations. The existing agreements are not an impediment to the successful restructuring of the Applicants' TV business and GSCP is unfairly targeted by the Support Agreement. Under those agreements, Canwest obtained control of the Specialty TV Business with the benefit of GSCP financial support and laid out a path to increase its ownership interest over time and to achieve full ownership of the Specialty TV Business over a period of 5-6 years.

11. This adversarial approach toward GSCP is clearly demonstrated by the wind up of 441, a solvent company and party to the Shareholders Agreement (as defined below), into insolvent CMI on the eve of the CCAA filing. The wind up of 441 had no apparent business purpose and was apparently implemented by CMI only for the purpose of unfairly subjecting some of the contractual rights of the GS Parties against 441 to the CCAA proceedings.

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THE BASIC FACTS

12. The following points are of critical importance in understanding the legitimate interests of the GS Parties and Canwest in the Specialty TV Business and the role it will play in the long term future of a successfully restructured Canwest:

- (a) I have been advised by members of Canwest's senior management team that Canwest had approached Alliance Atlantis Communications Inc. ("Alliance Atlantis") on a number of occasions to discuss the sale of the Specialty TV Business to Canwest;
- (b) Canwest sought to acquire a specialty TV business to combine it with Canwest's conventional TV business (the "Conventional TV Business") to enhance Canwest's profile and its ability to compete effectively with CTV and other TV broadcasters in the Canadian market;
- (c) In late 2006, Alliance Atlantis put its whole business up for sale, including the Specialty TV Business, a 50% interest in the CSI "franchise" for the CSI television series and its film distribution business;
- (d) I have been advised by members of Canwest's senior management team that Canwest concluded that it could not acquire the Specialty TV Business from Alliance Atlantis unless it also offered to buy all of the Alliance Atlantis businesses that had been offered for sale;
- (e) Without billions of dollars of financial support, Canwest could not bid for all of Alliance Atlantis' businesses;
- (f) Canwest approached GSCP and at least two other U.S. based leading private equity investors seeking financial support for its bid in the Alliance Atlantis auction process and received proposals from them;

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- (g) Canwest chose the proposal made by GSCP because it was most favourable to Canwest among all of its available options;
- (h) Canwest and GSCP successfully bid for all of the Alliance Atlantis assets;
- (i) The essential elements of the deal between GSCP and Canwest which enabled them to successfully acquire Alliance Atlantis' businesses were the following:
 - (i) GSCP would acquire, at its own expense and at its own risk, the slower growth businesses, including the film distribution business and the 50% interest in the CSI "franchise";
 - (ii) CWI would acquire the Specialty TV Business, and CWI would be owned by 441 and the GS Holdcos under the terms of the Shareholders Agreement (defined below);
 - (iii) GSCP would assist CWI in obtaining separate financing for the Specialty TV Business; and
 - (iv) Eventually, Canwest would contribute the Conventional TV Business on a debt free basis to CWI in return for an increased ownership stake in CWI;
- (j) If it were not for this arrangement with GSCP, Canwest had no chance of acquiring control of the Specialty TV Business;
- (k) The Specialty TV Business operates under the regulation of the Canadian Radio-television and Telecommunications Commission (the "CRTC") and the change of control and the ownership of the Specialty TV Business from Alliance Atlantis to CWI was subject to the CRTC's prior consent;

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- (l) In addition to ensuring that CWI and the Specialty TV Business is controlled by Canwest representatives on the board of directors of CWI in compliance with CRTC requirements, the Shareholders Agreement reflects the share ownership of each of the parties to it, in summary:
 - (i) 64.67% held by the GS Holdcos; and
 - (ii) 35.33% held by 441.

- (m) The Shareholders Agreement provides for control of CWI by distribution of Voting Shares as follows:
 - (i) 33.33% held by the GS Holdcos and
 - (ii) 66.67% held by 441;

- (n) To allow CMI to increase its equity holding in CWI, the Shareholders Agreement requires CMI to cause the transfer of the Conventional TV Business to CWI in return for additional shares of CWI;

- (o) The Shareholders Agreement effectively limits the upside recovery by the GS Parties through "call rights" that allow CWI to purchase the shares held by the GS Parties at a price calculated by a pre-determined formula;

- (p) The Shareholders Agreement effectively provides a minimum return for the GS Parties through "put rights" exercisable by the GS Parties against CWI in 2011 through 2013;

- (q) While ensuring control by 441, the Shareholders Agreement limits certain activities of CWI without the affirmative vote of a director nominated to the board of CWI by the GS Parties;

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- (r) In the event of the insolvency of CML, the Shareholders Agreement permits the GS Parties to sell all of the shares of CWI; and
- (s) Throughout its dealings with the Specialty TV Business, GSCP fully accommodated the requests and requirements of the CRTC, in part through the terms of the Shareholders Agreement, and has fully supported the on-going operation of the Specialty TV Business under the control of Canwest through its subsidiary 441.

EVENTS LEADING TO THE FILING

13. This restructuring process appears to have begun in March, 2009 when Canwest defaulted on its loan covenants. I have been following the public announcements since then with interest because of the potential impact of Canwest's insolvency on the operation of the Specialty TV Business.

14. During the period beginning in March, 2009, I had periodic conversations with members of the senior management team of Canwest. In all of our conversations, I asked what was going on in the discussions with Canwest's secured lenders and the Noteholders. They told me that they had no authority to tell GSCP anything about the restructuring process that was being conducted privately with the secured lenders and the Ad Hoc Committee of Noteholders and they were in fact prohibited by the Ad Hoc Committee from doing so.

15. At no time prior to the filing of the CCAA proceedings did anyone representing the Noteholders contact GSCP to discuss any plan outline or the potential affect of Canwest's insolvency on the Specialty TV Business. Instead, it appears that the restructuring was negotiated in secret and with the express intention of keeping GSCP in the dark despite the fact that the Term Sheet for the restructuring agreed to between the Noteholders and Canwest expressly requires the renegotiation of the agreements between Canwest, 441, the GS Parties and CWI.

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16. On October 6, 2009, without any notice or prior contact with GSCP, the Applicants applied for an order granting them protection from creditors pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "CCAA"). In addition to granting a stay of proceedings for the benefit of Canwest, the Initial Order purports to approve pre-filing transactions that, among other things, effected the payment by CMI of approximately \$426 million or slightly less than 50% of the balance owing (approximately US\$825 including interest accrued to October 5th) under the unsecured Notes issued by CMI.

17. In its CCAA filing, Canwest advised the court that it had negotiated the Support Agreement with the Ad Hoc Committee of Noteholders which provides for the conversion of the Noteholders' debt instruments into equity in Canwest despite there being no concrete plan to obtain the required Canadian control of the restructured business. Additionally, the proposed restructuring is dependent on the re-negotiation of the agreements which govern the ownership and control of CWI.

THE SHAREHOLDERS AGREEMENT

18. In addition to their rights as shareholders, the GS Parties have the benefit of important contractual rights pursuant to a Shareholders Agreement entered into as of August 15, 2007 and amended and restated as of January 4, 2008 (the "Shareholders Agreement"). Attached hereto and marked as Exhibit "B" is a copy of the Shareholders Agreement. GS Parties rely on the Shareholders Agreement to preserve the key business elements of their relationship with 441, CWI and Canwest.

19. The Shareholders Agreement was carefully reviewed on the application for CRTC approval of the acquisition of the Specialty TV Business and accepted by the CRTC in its consent to the acquisition of the Specialty TV Business by CWI.

20. The Shareholders Agreement was negotiated on an arm's length basis. It is designed by the parties to achieve the following main objectives:

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- (a) to meet the regulatory requirement for Canadian control of the Specialty TV Business while providing certain minimal governance rights to the GS Parties given their minority voting interest;
- (b) to provide Canwest time to improve the profitability of the Conventional TV Business to earn higher equity ownership through the contribution of the Conventional TV Business and time to obtain the consent of the Noteholders or sell or refinance other liquid assets that Canwest owned at that time to repay the Notes;
- (c) to provide CWI the opportunity to purchase the shares held by the GS Parties through call rights at a price calculated by a pre-determined formula;
- (d) to deliver to the GS Parties the agreed minimum return on their equity investment through their put rights;
- (e) to ensure the financial well being and independence of CWI and the Specialty TV Business; and
- (f) to provide the GS Parties with a fair and effective remedy in the event of a Canwest insolvency through section 6.10 of the Shareholders Agreement.

Meeting Regulatory Requirements

21. As a broadcast business, ownership and many other aspects of the Specialty TV Business are subject to CRTC regulation including ownership and control rules.

22. Because of the Direction to the CRTC from the Governor in Council (the "Direction"), the Specialty TV Business must be controlled by shareholders that meet Canadian ownership and control requirements. 441 was a Canadian entity for these purposes and the GS Parties are not Canadian entities for CRTC purposes.

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23. Section 5.4. of the Shareholders Agreement sets out the holdings of shares in the capital of CWI. The CWI capital was, at the time of the acquisition of the Specialty TV Business and until immediately before the filing of these CCAA proceedings, held as follows:

- (a) Common Shares/Equity: 64.67% held by the GS Holdcos and 35.33% held by 441.
- (b) Voting Shares: 33.33% held by the GS Holdcos and 66.67% held by 441.

24. In its detailed scrutiny of the acquisition of the Specialty TV Business by CWI, the CRTC considered carefully the governance provisions of the corporate documents of CWI, including the share structure described above and the Shareholders Agreement, in concluding that this governance and control regime meets the Direction's Canadian control requirements.

25. Throughout its dealings with the Specialty TV Business, GSCP has acknowledged that the Specialty TV Business is a regulated television broadcast business and is subject to the jurisdiction of the CRTC. When the Specialty TV Business was acquired, GSCP accepted that full operational control of the Specialty TV Business by Canwest was a requirement imposed by CRTC as a condition of its consent to the acquisition by CWI. GSCP has lived by its commitments to the CRTC and has participated in management of CWI only on the basis specifically contemplated by the Shareholders Agreement. As noted above, the governance provisions of the Shareholders Agreement were an important factor in the CRTC's decision to consent to CWI's acquisition of the Specialty TV Business.

The Combination Transaction

26. Before its acquisition by CWI, the Specialty TV Business was operated by Alliance Atlantis as a separate operating division and to this day continues to be a successful standalone business. Subject to CRTC consent, the Specialty TV Business could be sold and could continue to operate as a successful separate business.

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27. I was advised by members of the senior management team of Canwest that, in Canwest's vision, the combination of a successful and growing Specialty TV Business with the Conventional TV Business would enhance the Conventional TV Business. The relatively steady and growing revenues of the Specialty TV Business would off-set the cyclical pressures that periodically have affected conventional TV as well as provide operational synergies that would improve profitability of both businesses.

28. Accordingly, in the Shareholders Agreement, the GS Parties agreed that the two businesses would be combined by Canwest transferring the Conventional TV Business to CWI in return for a higher equity stake that would be calculated based, in part, on the value of the business contributed.

29. GSCP was prepared to combine the Conventional and Specialty TV Businesses immediately (i.e. in 2007). However, it was Canwest, not GSCP, who sought, through specific provisions in the Shareholders Agreement, to delay the combination transaction to a later time with the drop-dead date for the transfer of the Conventional TV Business to CWI being the 4th anniversary of the Shareholders Agreement, namely August 15, 2011..

30. Canwest sought the delay of the combination transaction for two main reasons. First, the relative values of the Conventional TV Business and the Specialty TV Business in 2007, on combination, would have resulted in Canwest owning a lower ownership stake in the combined business than Canwest wanted. Canwest believed that, given time by GSCP, it could improve the profitability of its Conventional TV Business and thereby earn a greater ownership interest in the combined business when the combination transaction actually occurred.

31. Second, the Conventional TV Business was to be made on a "debt free" basis. Accordingly, the completion of the combination required either the consent of the Noteholders or the sale or refinancing of liquid assets to generate proceeds sufficient to repay the Notes. At the time, Canwest had liquid assets, such as its interest in Ten Holdings and its interests in the newspaper business, which it could have sold or financed to repay the Notes. However, Canwest preferred to wait because it believed that those assets would grow in value.

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32. Pending the completion of the combination transaction, Canwest agreed to provide management services under the terms of a Management Agreement. Those management services could be replaced if Canwest breached or disclaimed its obligations under the Management Agreement.

33. Finally, it was an important principle of the transaction by which the GS Parties and Canwest acquired their respective interests in the Specialty TV Business that, until the Conventional TV Business owned by Canwest was transferred to CWI as provided in the Shareholders Agreement, the Specialty TV Business would remain legally separate from Canwest's other operations.

GS Parties Exit

34. In order to preserve the upside for Canwest, and to provide a minimum return for the GS Parties' equity investment (the "GS Equity Value"), notwithstanding the percentage equity holdings set out above, CWI was permitted to call the shares held by the GS Parties (limiting the upside for the GS Parties) and the GS Parties were entitled to put their shares to CWI in instalments from 2011 through 2013. The GS Parties put rights were a trade off both for CWI's right to call the shares held by the GS Parties in CWI and for Canwest's right to delay the contribution of the Conventional TV Business until Canwest could improve the financial performance of the Conventional TV Business.

35. In addition to the puts and calls, under certain circumstances, the GS Parties can achieve their return on their investment by requiring the sale of CWI (along with their CWI shares) or requiring CWI to effect an initial public offering (through which the CWI shares held by the GS Parties would be sold).

36. Importantly, the right of the GS Parties to put their shares of CWI in return for a payment based on the GS Equity Value is enforceable against CWI, a solvent and successful company that is not part of these proceedings. On a put by the GS Parties, CWI must acquire the shares held

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by the GS Parties without the financial assistance or independent action of the other parties to the Shareholders Agreement.

37. Because the put rights create obligations of CWI, any purchaser of an interest in CWI (for example by the purchase of the shares that until immediately before the filing of these CCAA proceedings were owned by 441) would take that equity interest subject to the continuing obligation of CWI to purchase the shares held by the GS Parties when the put rights mature in 2011 through 2013.

Ensuring the Independence of CWI

38. Through the Shareholders Agreement, 441, the wholly owned subsidiary of CMI, controlled CWI. Because of GSCP's economic interests through its shares and the put rights, the minority voting interest of the GS Parties is protected by provisions of the Shareholders Agreement that require certain actions of CWI, listed in section 4.7(b), to be approved by at least one board member nominated by the GS Parties. In addition, section 4.12 of the Shareholders Agreement governs transactions between CWI and Canwest and generally provides the GS Parties with a veto right over material transactions between CWI and Canwest.

39. Accordingly, the Shareholders Agreement prohibits CWI from taking certain actions, including the following actions, without the affirmative vote of a nominee of the GS Parties on its board:

- (a) any change in the articles or by-laws of CWI or its subsidiaries;
- (b) any action that may lead to or result in a material change in the nature of the business of CWI or any of its subsidiaries;
- (c) the incurrence of any indebtedness in excess of a threshold amount in any financial year of CWI other than short term borrowings in the ordinary course of

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business or indebtedness incurred to finance the acquisition of the shares of CWI owned by the GS Holdcos in accordance with the put/call rights;

- (d) the commencement of insolvency proceedings in respect of CWI or its subsidiaries; and
- (e) fundamental changes that would require a shareholder approval under Part XV of the *Business Corporations Act* (Canada) (the "CBCA").

40. In order to assure its financial independence, CWI arranged its own loan facilities and is financed separately from the Canwest Group. Notwithstanding these CCAA proceedings in respect of Canwest, CWI and its subsidiaries are not insolvent and are in compliance with their obligations under their financing arrangements.

41. Any tampering with the governance rights of the GS Parties enshrined in the Shareholders Agreement would be highly prejudicial to the legitimate economic interests of the GS Parties as the equity holders of CWI and would provide no legitimate benefit to Canwest.

Sale Rights Under s. 6.10

42. The Shareholders Agreement was negotiated between the parties with specific consideration given to the parties' best interests in the event of an insolvency of Canwest. In particular, Canwest and the GS Parties agreed upon certain actions that would occur in the event of an insolvency of Canwest.

43. The basic principles agreed between the parties to the Shareholders Agreement in the case of the insolvency of Canwest are the following:

- (a) CWI should be available for sale as a whole at the option of the GS Parties;

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- (b) If such sale of CWI occurred prior to the contribution of the Conventional TV Business to CWI, the GS Parties should receive a return on their equity investment from the proceeds of such sale in an amount equal to the GS Equity Value; and
- (c) The GS Parties should be responsible for conducting the sale process and the shares of CWI held by 441 until immediately prior to the filing of these CCAA proceedings must be delivered in the event of a sale.

44. The transfer of the assets of 441 to CMI as part of the wind up of 441 improperly stayed the rights of GSCP in respect of obligations to be performed by 441 under the Shareholders Agreement including 441's obligations under section 6.10.

THE WIND-UP OF 441 WAS AN ABUSE OF THE CCAA AND A FRAUDULENT AND OPPRESSIVE TRANSACTION

45. I am advised by our counsel, McCarthy Tétrault LLP ("McCarthys") that no one at McCarthys had any prior warning that Canwest would apply for an initial order under the CCAA at any time prior to October 6th. Together with McCarthys, we had been following the public disclosure made by Canwest since March, 2009, approximately 6 months prior to the filing.

46. The public disclosure made it clear that Canwest would eventually apply for creditor protection under the CCAA. We expected that before any insolvency filing, Canwest would advise us if and how the GS Parties would be affected and how the Specialty TV Business figured into the plans of the restructured Canwest. Instead, Canwest filed for CCAA protection without giving any notice to GSCP. I have been advised by various members of the senior management team of Canwest that the Ad Hoc Committee expressly prohibited them and Canwest from communicating with GSCP prior to the CCAA filing.

47. I am advised by McCarthys that, on the morning of October 6, 2009, when Canwest's lawyers were in court seeking the CCAA Initial Order that began these proceedings, they received a telephone call from Osler, Hoskin & Harcourt LLP ("Oslers"), counsel for Canwest.

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Osler's conveyed two important pieces of information. First, Canwest would have spoken to GSCP and McCarthys in advance of the Application for the Initial Order as GSCP was the "elephant in the room", but that the Ad Hoc Committee would not agree. Second, immediately prior to the filing, 441 had been "wound up" into CMI.

48. The first message speaks volumes about the role of the Ad Hoc Committee in this process. It raises a very appropriate question of, "who is in charge of this restructuring?" Through the Note Purchase Agreement and the Support Agreement, the Ad Hoc Committee has the power, and apparently has exercised that power based on Osler's statements to McCarthys, to dictate when and if the Applicants speak to its co-shareholder in the Specialty TV Business.

49. The second piece of information, the wind up of 441, was an indication that Canwest had taken steps that were intentionally designed to inappropriately and oppressively expose the contractual rights of the GS Parties to the CCAA stay.

50. 441 is a critical party to the Shareholders Agreement. It had no other assets or liabilities other than its shares in CWI and its obligations in respect of those shares to the GS Parties. As the shareholder, it was the party that implements the governance protections described above. It is the party whose shares could be sold in accordance with section 6.10 of the Shareholders Agreement.

51. In completing the winding up of 441, Canwest breached the provisions of the Shareholders Agreement as well as the CBCA. The phrase "wind up" in this instance involved two steps. First, 441 transferred its shares of CWI to its parent company CMI. This transaction was subject to restrictions on the transfer of the shares set out in the Shareholders Agreement. Second, 441 was dissolved under the CBCA provisions that permit companies to dissolve voluntarily if they have no assets, obligations or liabilities. Attached hereto as Exhibit "C" to this affidavit is a copy of the certificate of the dissolution of 441 that became effective on October 5, 2009, the day before these CCAA proceedings were commenced.

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52. The wind up of 441 was oppressive and undoubtedly intended to impair the interests of the GS Parties because it transfers solvent 441's shares in CWI to insolvent CMI. It is important to remember that 441 was not a guarantor of the Notes and, prior to the wind up of 441, the Noteholders had no claims against 441 or its shares in CWI. The wind up is also unfair purely from a process perspective because Canwest used the wind up of 441, just before it filed for protection from creditors, to advantage the Noteholders over the GS Parties, including by purporting to stay the rights of the GS Parties under the CCAA and subjecting 441's shares in CWI to the creditor claims by the Noteholders.

53. Additionally, the conveyance of the shares of CWI owned by 441 to CMI did not comply with the restrictions on transfer of shares in CWI contained in the Shareholders Agreement. Under section 6.5 (a) of the Shareholders Agreement, no Shareholder (441 was a shareholder) could transfer shares to its parent (CMI was 441's parent) unless the shareholder (441) "shall continue to be bound by all of its obligations under this [Shareholders] Agreement."

54. Given the timing of the assignment and the stay that immediately followed, it is hard to believe that CMI had any intention of performing the obligations of 441 under the Shareholders Agreement.

55. Accordingly, the wind up of 441 did not ensure the continued performance of the Shareholders Agreement as was required by the Shareholders Agreement. Instead, solvent 441, which was able to meet its obligations under the Shareholders Agreement, transferred its shares in CWI to insolvent CMI, subjecting the contractual rights of the GS Parties to the CCAA stay and the assets of 441 to the claims of the Noteholders.

56. Further, the formal dissolution of 441 ignored the express ongoing obligations of 441 under the Shareholders Agreement. Contrary to the false premise under which 441 was voluntarily dissolved, at the time of its dissolution, 441 had all of its contractual obligations and liabilities under the Shareholders Agreement.

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57. There was no apparent legitimate business purpose for the wind up of 441. Rather, it appears that CMI caused the wind up for no other purpose than to improperly extend the benefit of the CCAA process to its solvent subsidiary. CMI appears to have used the wind up to do indirectly what it could not do directly.

58. If CMI intends to perform all of the obligations of 441 under the Shareholders Agreement, it should confirm that position to GSCP.

59. The GS Parties have instructed McCarthys to take steps under the CBCA to have 441 revived because of the false statement made in the course of the dissolution that 441 has no liabilities. Our counsel is also instructed to take all necessary steps to ensure that the transfer of shares owned by 441 is reversed and to ensure that the Shareholders Agreement is fully performed.

THE PAYMENT TO THE NOTEHOLDERS CRIPPLED CANWEST

60. Immediately prior to the commencement of these proceedings, Canwest MediaWorks Ireland Holdings ("CMIH") caused the sale of Canwest's interest in Ten Network Holdings Limited ("Ten Holdings"). The circumstance of the sale and the use of proceeds of the sale are briefly described in the Maguire Affidavit.

61. The Maguire Affidavit describes the execution of a Cash Collateral and Consent Agreement on September 23, 2009, approximately 2 weeks prior to the Initial Order on October 6, 2009. Under that agreement, CMIH advanced a secured loan to CMI sufficient to repay the secured facilities owing by Canwest in full from the Ten Holdings proceeds and an unsecured loan sufficient to provide approximately \$62 million in operating capital to CMI, to repay CIT's secured balance of \$23 million and to repay \$426 million to the Trustee under the indenture for the Notes to reduce principal and interest. This payment generated a recovery of 2-3 times their investment for Noteholders who acquired their Notes between February 4 and March 27, 2009.

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62. At the time of the payment by CMI to the Indenture Trustee, CMI appears to have been insolvent as reflected in the Maguire Affidavit sworn less than 2 weeks later.

63. The Applicants, in the Maguire Affidavit, do not explain the business reasons for selling Canwest's interests in Ten Holdings. It appears, from the use of the proceeds and the extensive rights of the parties to the Note Purchase Agreement and the Support Agreement that followed it, that Canwest was motivated by intense pressure from the Ad Hoc Committee to sell Ten Holdings, regardless of whether such a sale was in the best interests of Canwest, in order to pay down principal and interest on the Notes in priority to other unsecured creditors of CMI.

64. As a guarantor of the Notes, CMIH may also have been insolvent at the time of the sale of its interest in Ten Holdings. If CMIH had filed CCAA proceedings together with the Applicants in these CCAA proceedings prior to the precipitous sale of Ten Holdings, the Applicants would have had a number of restructuring options available to them which they could have explored under the supervision of the court and the Monitor as contemplated by the CCAA. Because of the precipitous sale of Canwest's interest in Ten Holdings and the use of the proceeds through the transactions completed on the eve of these CCAA proceedings, Canwest's interest in Ten Holdings is gone and all but \$62 million of the proceeds have been paid to creditors rather than retained to restructure Canwest.

65. If Canwest had filed CCAA proceedings prior to the sale of CMIH's interests in Ten Holdings, its business decision to complete the sale would have been subject to the appropriate review of the Monitor and the Court so that the interests of all stakeholders of the Applicants could be examined and considered. Instead, Canwest's interest in Ten Holdings has been sold to serve the exclusive, short term interests of the Noteholders instead of the long term interests of Canwest's other stakeholders.

66. In the Initial Order, paragraph 59 appears to approve the September and October transactions which included the preferential payment to the Noteholders. This order was made without notice to the GS Parties or to many unsecured creditors of the Applicants. The Court should set aside those provisions of the Initial Order at least until all of the circumstances of the

sale of Ten Holdings and the disposition of the proceeds of the sale have been thoroughly and objectively reviewed, analyzed and reported to the Court and creditors of the Applicants.

67. I make this affidavit in support of the following relief and for no improper purpose:

- (a) In support of an order declaring that the transfer of Shares (as defined in the Shareholders Agreement defined above) from 441 to CMI is fraudulent and void and other ancillary relief as set out in the Notice of Motion of the GS Parties dated October 30, 2009; and
- (b) In support of an order setting aside or amending paragraph 59 of the Initial Order to the extent that it purports to declare that certain pre-filing transactions entered into by the Applicants do not constitute fraudulent preferences, fraudulent conveyances, oppressive conduct, settlements or other challengeable, voidable or reviewable transactions under any applicable law.

SWORN BEFORE ME at the City of)
 New York, in the state of New York,)
 in the United States of America, this)
 2nd day of November, 2009.)

Gerald J. Cardinale

 GERALD J. CARBINALE

Leslie A. Lucas

 A Notary Public under the laws of the
 State of New York

LESLIE A. LUCAS
 Notary Public, State of New York
 No. 01LUS182000
 Qualified in New York County
 Commission Expires August 28, 2012



**CANWEST MEDIA INC.
and
CANWEST TELEVISION LIMITED PARTNERSHIP**

CDN.\$105,000,000

12% Senior Secured Notes

NOTE PURCHASE AGREEMENT

Dated May 20, 2009

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CANWEST MEDIA INC.
and
CANWEST TELEVISION LIMITED PARTNERSHIP
NOTE PURCHASE AGREEMENT
12% Senior Secured Notes

THIS AGREEMENT made as of the 20th day of May, 2009.

AMONG:

CANWEST MEDIA INC. ("CMI") and CANWEST TELEVISION LIMITED PARTNERSHIP, by its general partner CANWEST TELEVISION GP INC.

(each, an "Issuer", and collectively, the "Issuers")

- and -

All guarantors (as listed in Schedule E) that have provided guarantees for the Existing Facility,

(collectively, the "Guarantors")

- and -

The parties listed on the signature pages hereto, as "Purchasers", together with their successors and assigns

(each, a "Purchaser" and collectively the "Purchasers")

1. DEFINITIONS

Defined terms used in this Agreement are defined in Schedule F.

2. SALE AND PURCHASE OF SENIOR SECURED NOTES

2.1 Purchase and Sale

Subject to the terms and conditions of this Agreement, the Issuers shall issue and sell to the Purchasers and the Purchasers shall purchase from the Issuers the equivalent amount in US dollars of \$105,000,000 Canadian dollars (based on an exchange rate to be agreed) in aggregate principal amount of senior secured promissory notes (the "Notes") on the Closing Date on the terms set forth herein, which Notes shall be in the form set out in Exhibit A hereto and in the amounts set forth on Schedule G hereto. The purchase price for the Notes shall be the equivalent amount in US dollars of \$100,000,000 Canadian dollars (based on an exchange rate to be agreed) (the "Purchase Price"). The Purchasers' obligations hereunder are several and not joint or joint and several obligations, each in accordance with Schedule A, and no Purchaser shall have liability to any Person for the performance or non-performance by any Person. The terms of the Notes are set forth in this Agreement and in the Notes. The Notes will be

secured, along with the CIT Facility by the Existing Security. The security structure is described more fully in Section 5.

2.2 Closing

The closing of the purchase and sale of the Notes pursuant to this Agreement shall be held at the offices of Osler Hoskin & Harcourt LLP, at 12:00PM on Thursday, May 22, 2009 (the "Closing Date").

2.3 Delivery

At closing, the Issuers shall deliver to the Purchasers the Notes, duly executed, and free and clear of all Liens and the Purchasers shall pay the Purchase Price to the Issuers.

2.4 Additional Notes

In the event that any Purchaser funds additional US dollars to the Issuers on or after the Closing Date in order to ensure that the Issuers receive the equivalent of \$100,000,000 Canadian dollars as the Purchase Price (calculated as of the Closing Date), the Issuers shall issue additional Notes at the time of such funding to such Purchaser in the form set out in Exhibit A and on the same terms and conditions set forth herein.

3. TERMS OF THE NOTES

3.1 Commitment

Each Purchaser commits to purchase its *pro rata* share of the Notes on the Closing Date in accordance with its commitment set forth on Schedule A hereto (each, a "Commitment").

3.2 Interest Rate

Interest shall be paid at the rate of 12%, to be paid in cash on the terms set forth in Section 8.

3.3 Currency of Fees and Repayment

All repayments shall be made in US dollars. All interest and fees on the notes shall be payable in US dollars.

3.4 Purpose

- (a) The proceeds from the Notes shall be used for the following purposes: (i) to repay any and all outstanding obligations under the Credit Agreement, dated as of October 13, 2005, among CMI, the guarantors party thereto, the lenders party thereto and The Bank of Nova Scotia (as amended or otherwise modified through the date hereof, the "Existing Credit Agreement", and the credit facility made available pursuant thereto, the "Existing Facility"), which repayment shall include the replacement or cash collateralization of any letters of credit issued thereunder and the repayment of related hedging obligations to The Bank of Nova Scotia; (ii) subject to the following paragraph, to pay legal fees and expenses in connection with this Agreement, to provide cash collateral to the Bank of Nova Scotia in connection with cash management obligations and to pay other legal fees and expenses; and (iii) to provide for short-term working capital liquidity needs and general operating expenses.

- (b) Notwithstanding the foregoing, the proceeds from the Notes shall only be used in accordance with the Funding Forecast and the most recent 3 Month Forecast that have been approved by the Purchasers. No proceeds from the Notes or the CIT Facility shall be used to fund any debt structuring fees (including any placement or similar fees) without the consent of the Purchasers, other than fees payable to the Purchasers, CIT and their respective professional advisors or fees payable to Royal Bank of Canada and its affiliates in the amount of \$3,025,000 under the terms of its existing engagement.

4. DECISIONS BY PURCHASERS


- 4.1 Subject to Section 4.2, any actions taken or not taken under this Agreement or any other document delivered in connection herewith by the Purchasers may be taken upon the direction of Purchasers who hold Notes in an aggregate principal amount equal to at least 66 2/3% of aggregate principal amount of all Notes outstanding at a given time (the "Required Purchasers").
- 4.2 The following actions may only be taken with the prior unanimous written consent of all of the Purchasers:
- (a) increasing the amount of the Notes or the commitment of any Purchaser under the Notes;
 - (b) decreasing the interest rates or fees applicable to the Notes;
 - (c) extending the date fixed for payment of principal, interest, fees or any other amount relating to the Notes;
 - (d) amending the Maturity Date of the Notes;
 - (e) the subordination of the Security or permitting new or existing indebtedness to rank *pari-passu* with the Notes or the Security;
 - (f) the release or material amendment of the security documents provided pursuant to this Agreement; and
 - (g) any amendment to this Section 4 of the Agreement.

5. SECURITY

- 5.1 The Notes shall be provided concurrently with an asset-based facility (the "CIT Facility") provided by CIT Business Credit Canada Inc. ("CIT"). Each of the Notes and the CIT Facility shall be secured by a first-priority perfected Lien in all property, assets and undertaking of the Issuers and the Guarantors, subject to the Intercreditor Terms (collectively, the "Collateral"). The security for the Existing Facility granted in favour of CIBC Mellon Trust Company, in such capacity, pursuant to the 2005 collateral agency agreement setting out the terms of such agency (the "Collateral Agent") for the benefit of the creditors noted therein (the "Existing Security") shall be held by CIBC Mellon Trust Company for the benefit of securing the Notes and the CIT Facility.

5.2





5.3 For the purposes of this Agreement, "Lien" means any mortgage, charge, hypothec, lien and security interest of any kind or nature whatsoever.

6. **MANDATORY REPAYMENT**

6.1 The Notes shall be repayable in full on the date (the "Maturity Date") which is the earlier of (i) the date that is 6 months after the Closing Date, subject to the following sentence and (ii) the occurrence of an Event of Default that has resulted in an acceleration of the Notes. The Maturity Date in clause (i) may be extended at the option of the Issuers for an additional 3 month period, subject to the following conditions: the Issuers shall pay to each Purchaser a special interest payment in cash on the date of the extension in an amount of 1% of the aggregate principal amount of Notes held by such Purchaser; all representations and warranties set out in this Agreement shall remain true and correct as of the extension date and no Default or Event of Default shall have occurred as of such date (and the Issuers shall have delivered a certificate from the Chief Financial Officer to such effect); and cash flow forecasts shall have been approved by the Purchasers on the terms set forth below and delivered for the entire extension period by the Issuers.

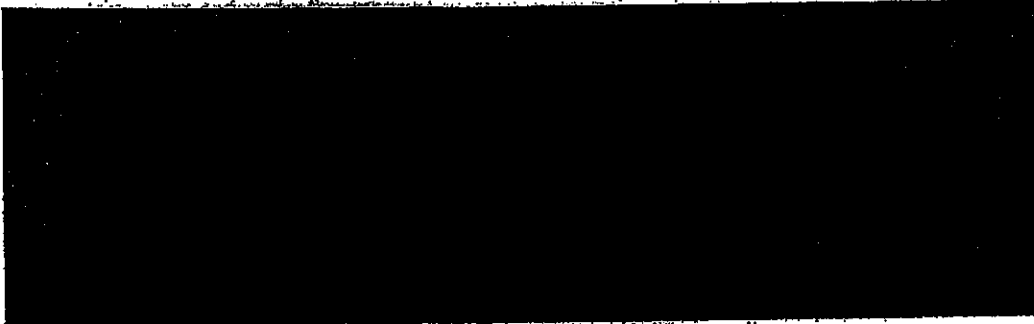
6.2 Subject to Section 6.3, the Issuers will be required to make additional repayments with the following:

- (a) 100% of the net proceeds of any sale or other disposition of property or assets of any Issuer or Guarantor that is permitted by this Agreement (other than net cash proceeds of sales or other dispositions of inventory in the ordinary course of business or a Turkish Asset Sale);
- (b) 100% of the net proceeds of any sale or other disposition of property or assets of a subsidiary of a Guarantor or an Issuer that is not a Guarantor (a "Non-Guarantor") that are distributed to a Guarantor or an Issuer under the terms of the constituent documents for such Non-Guarantor or loan documentation to which such Non-Guarantor is a party (other than net cash proceeds of sales or other dispositions of inventory in the ordinary course of business or a Turkish Asset Sale);
- (c) 100% of the net proceeds from the sale or issuance of any equity securities by any Issuer or Guarantor that is permitted by this Agreement;
- (d) 100% of the net proceeds from the sale or issuance of any equity securities by a Non-Guarantor that are distributed to a Guarantor or an Issuer under the terms of the constituent documents for such Non-Guarantor or loan documentation to which such Non-Guarantor is a party;
- (e) 100% of the net proceeds of the incurrence of indebtedness (other than indebtedness incurred under the CIT Facility) by any Issuer or Guarantor that is permitted by this Agreement; and

[CANWEST redacted the priority of collateral in Section 5.2 and Section 6.3 for confidentiality reasons]

- (i) 100% of insurance proceeds paid on account of any loss of any property or assets of any Issuer or Guarantor.

6.3



6.4 For the purposes of this Agreement, "Turkish Asset Sale" shall mean the sale of the shares or assets of Canwest Medya A.S., Canwest Medya Yönetim Ticaret U.C. A.S., Karaköy Televizyon ve Radyo Yayıncılığı Ticaret A.S., CGS Televizyon ve Radyo Yayıncılığı Ticaret A.S., Pasifik Televizyon ve Radyo Yayıncılığı Ticaret A.S., Galata Televizyon ve Radyo Yayıncılığı Ticaret A.S., and Halic Televizyon ve Radyo Yayıncılığı A.S. or the sale of any amounts receivable from such entities or their shareholder, as applicable, pursuant to notes made to such entities or their shareholder by Canwest Irish Holdings (Barbados) Inc. or Canwest International Communications Inc. (all such assets collectively, the "Turkish Assets").

6.5 Any partial repayment of the Notes shall be applied to all of the Notes at a given time *pro rata* in accordance with the aggregate outstanding principal amount thereof at such time.

7. VOLUNTARY REPAYMENTS

Voluntary prepayments shall be permitted at any time, subject to payment of the applicable fees described above.

8. PAYMENT OF INTEREST

8.1 Interest shall be payable monthly in arrears on the first Business Day of the following month and on the Maturity Date, commencing with the period starting on May 19, 2009. The first interest payment date shall be payable on June 1, 2009. Interest shall be calculated daily for the actual number of days elapsed in the period during which it accrues based on a year of 365 days. "Business Day" means each day other than a Saturday or Sunday or a statutory or civic holiday that banks are open for business in Toronto, Ontario, Canada.

8.2 For purposes of the *Interest Act* (Canada), where in this Agreement or the Notes a rate of interest is to be calculated on the basis of a year of 365 days, the yearly rate of interest to which the rate is equivalent is the rate multiplied by the number of days in the year for which the calculation is made and divided by 365, as applicable.

8.3 If any provision of this Agreement or the Notes would obligate a Issuer to make any payment of interest or other amount payable to the Purchasers in an amount or calculated at a rate which would be prohibited by law or would result in a receipt by the Purchasers of interest at a criminal rate (as defined under the *Criminal Code* (Canada)), then notwithstanding that provision, that amount or rate shall be deemed to have been adjusted with retroactive effect to the maximum amount or rate of interest, as the case may be, as would not be so prohibited by law or result in a

receipt by the Purchasers, as the case may be, of interest at a criminal rate, the adjustment to be effected, to the extent necessary, as follows:

- (a) firstly, by reducing the amount or rate of interest required to be paid to the Purchasers under this provision; and
- (b) thereafter, by reducing any fees, commissions, premiums and other amounts required to be paid to the Purchasers which would constitute interest for purposes of Section 347 of the *Criminal Code* (Canada).

9. CONDITIONS PRECEDENT TO FUNDING

The issuance of the Notes shall be subject to the following conditions precedent, all of which shall be for the benefit of the Purchasers and shall be satisfied prior to the purchase of the Notes (or, at the option of the Purchasers, on the basis of a post-closing undertaking acceptable to the Purchasers), in each case in form and substance satisfactory to the Purchasers:

- (a) execution and delivery by the Issuers and the Guarantors of this Agreement, the Notes and all such other documents as the Purchasers reasonably require, including without limitation a side-letter with respect to potential proceedings under the CCAA or comparable legislation;
- (b) delivery of all Existing Security and an officer's certificate confirming its completeness and accuracy and execution and delivery by all necessary parties thereto (and satisfaction with the terms thereof) of the credit confirmation required to be delivered under the terms of the existing collateral agency agreement (and upon such delivery, the Existing Security and the Quebec Security as defined below shall collectively be the "Security");
- (c) delivery of all new security documentation required by the Purchasers in the Province of Quebec to create and perfect the Liens on the Collateral (the "Quebec Security");
- (d) registration of the TEN shares in the name of Collateral Agent;
- (e) (i) completion of all necessary lien and other searches, together with all registrations, filings and recordings wherever the Purchasers deem appropriate in connection with the requirements in clause (b), and (ii) satisfaction that there are no mortgages, pledges, charges, security interests, liens or other liens ranking ahead of any security held by the Purchasers, except (A) as provided for herein, (B) as arising by operation of law in the ordinary course of business without any contractual grant of security or (C) as have been previously disclosed in lien searches delivered to the Purchasers' counsel by Osler, Hoskin & Harcourt LLP (collectively, "Permitted Liens");
- (f) satisfaction with (i) the total amount of all outstanding obligations owing under the Existing Facility (including without limitation all professional fees) and all related hedging obligations, (ii) the payout arrangements and related documentation for the Existing Facility and all related hedging obligations and (iii) the releases given by the lenders under the Existing Facility and related hedge providers and (iv) the costs associated with all letters of credit that are to remain outstanding in connection with the Existing Facility;

- (g) satisfaction that each of the Issuers and Guarantors has complied with and is continuing to comply in all material respects with all applicable laws, regulations and policies and the requirements of applicable regulators in relation to its activities, to the extent that the failure to comply would have a material adverse effect on the business of any Issuer or Guarantor;
- (h) execution and delivery of closing certificates by each Issuer and Guarantor, together with all customary attachments thereto including without limitation board resolutions, governing documents and evidence of incumbency;
- (i) delivery of all necessary legal opinions from relevant counsel to the Issuers and the Guarantors, including without limitation opinions confirming that the obligations under the Notes are secured by the Existing Security;
- (j) the closing of the CIT Facility, and satisfaction with the terms of and all documentation for (A) the CIT Facility and (B) all intercreditor terms governing the priorities and other matters between the Notes and the CIT Facility (the "Intercreditor Terms");
- (k) satisfaction with (i) a 4 week cash flow for the Issuers and their affiliates for the period from April 20, 2009 to May 15, 2009 and (ii) a 3 month cash flow forecast for the Issuers and their affiliates ((i) and (ii) collectively, the "Funding Forecast");
- (l) satisfaction that, after giving effect to the purchase of Notes and the closing of the CIT Facility, the Issuers and the Guarantors shall have sufficient liquidity to fund their operations in accordance with the Funding Forecast;
- (m) execution and delivery of amendments to the confidentiality, non-disclosure and non-use agreements entered into between *inter alia*, CMI and the Purchasers and the Purchasers' financial and legal advisors, in each case to remove any restrictions on such parties from contacting any other parties involved in the Restructuring Transactions (provided that such parties report to and keep the Issuers apprised forthwith as to the substance and nature of any material contact), which amendments shall be in form and substance satisfactory to the Purchasers;
- (n) certification by the Issuers and Guarantors that: (i) all representations and warranties contained in this Agreement remain true and correct as of the Closing Date and that no Default or Event of Default has occurred and is continuing or would result from the purchase of Notes contemplated hereby; and (ii) all representations and warranties contained in the Existing Security remain true and correct in all material respects as of the Closing Date (unless specifically given with reference to an earlier date, in which case such representations and warrants shall be true and correct as of such earlier date); and
- (o) all of the expenses of each of the Collateral Agent, the Purchasers and the Ad Hoc Committee previously incurred in connection with the Notes and the restructuring transactions, including, without limitation, legal fees of counsel to the Collateral Agent, the Purchasers and the Ad Hoc Committee shall have been paid in full.

10. REPRESENTATIONS AND WARRANTIES

Each Issuer and each Guarantor makes each of the following representations and warranties with respect to itself:

- (a) The transactions contemplated by this Agreement and all documents delivered pursuant to the terms hereof, including without limitation the Notes and the Security: (i) are within the powers of each Issuer and each Guarantor who has executed such documents; (ii) have been duly authorized by all necessary corporate and, if required, partnership shareholder approval; (iii) have been duly executed and delivered by or on behalf of each Issuer and each Guarantor who has executed such documents; (iv) constitute legal, valid and binding obligations of each Issuer and each Guarantor who has executed such document, enforceable in accordance with their terms; (v) do not require the consent or approval of, registration or filing with, or any other action by, any governmental authority or any party to a Material Contract, other than filings which may be made to register or otherwise record (or assign) the Security; and (vi) will not violate the charter documents or bylaws of any of any Issuer or any Guarantor who has executed such documents or any applicable law relating to such parties;
- (b) There is no Default or Event of Default that has occurred and is continuing as of the date hereof;
- (c) The Security is effective to create a valid and continuing perfected Lien on the Collateral in favour of the Collateral Agent for the benefit of the Purchasers having the priority set forth herein, subject only to Permitted Liens, and there are no other creditors secured by the Existing Security (after giving effect to the prepayment in full of the Existing Facility on the Closing Date) other than the Purchasers and the lenders under the CIT Facility;
- (d) There are no Liens on the Ten shares other than a Lien in favour of the Collateral Agent under the Equitable Mortgage of Securities among Irish Holdings and the Collateral Agent (the "Equitable Mortgage"); there are no contractual arrangements affecting the Ten shares other than the Equitable Mortgage and the Participant Sponsorship Agreement (the "Participant Agreement") among Irish Holdings, the Collateral Agent and Citigroup Global Markets Australia Pty Limited, which agreements have not been amended or modified since they were entered into; and all of the representations and warranties of Irish Holdings contained in the Equitable Mortgage remain true and correct on the Closing Date as if set forth herein;
- (e) The Issuers and Guarantors maintain appropriate insurance coverage in amounts and on terms that are customary in the industry of the Issuers and Guarantors;
- (f) Neither Irish Holdings nor Canwest Ireland Nominee Ltd. have any assets or liabilities other than (i) customary liabilities associated with a holding company including without limitation legal and accounting expenses in an amount not to exceed \$150,000 in the aggregate, (ii) the TEN shares, (iii) guarantees provided of the Notes, the Existing Facility (pending the funding of the Notes and the CIT Facility), the CIT Facility and the 8% Notes and (iv) intercompany obligations owed to Canwest Mediaworks Ireland Holdings by CMI in the amount of approximately \$72,000,000;
- (g) All retainers for professionals and advisors engaged by any Issuer or Guarantor (or any of their subsidiaries) as of the date hereof, including with respect to the Restructuring

Transactions (other than retainers for local counsel that are not material), and all policies of directors' and officers' insurance maintained by any Issuer or Guarantor have been disclosed to the Purchasers and their advisors, and there are no directors or employees trusts that have been established by any Issuer or Guarantor;

- (h) The quantum and nature of all payments, on a monthly basis, to senior executives and their related parties and all bonus payments contractually required to be paid to any senior executive or their related party have been disclosed in writing to the Purchasers and their advisors.
- (i) Neither the financial statements delivered to the Purchasers or their advisors from time to time nor any other written statement or information (other than projections, which are subject to following sentence) furnished by or on behalf of or at the direction of any Issuer or Guarantor to the Purchasers or their advisors in connection with the negotiation, consummation or administration of this Agreement contain, as of the time such statements were so furnished, any untrue statement of a material fact or an omission of a material fact as of such time, which material fact is necessary to make the statements contained therein not misleading and all such statements, taken as a whole, together with this Agreement, the Notes, the Security and all other relevant documents do not contain any untrue statement of a material fact or omit a material fact necessary to make the statements contained herein or therein not misleading. All financial projections furnished or made available by the Issuers and the Guarantors to the Purchasers and their advisors have been prepared in good faith, on the basis of all known facts and using reasonable assumptions and the Issuers and the Guarantors believe such projections to be fair and reasonable.
- (j) All written information furnished by or on behalf of the Issuers and the Guarantors to the Purchasers or their advisors for the purposes of, or in connection with, this Agreement, the Notes, the Security or any other relevant document or any other transaction contemplated thereby, is true and accurate in all respects on the date as of which such information is dated or certified, and not incomplete by omitting to state any material fact necessary to make such information not misleading at such time in light of then-current circumstances.
- (k) All documents and information filed with relevant securities authorities by the Issuers and Guarantors comply with all applicable laws and, at the time filed, did not contain any untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein, in light of the circumstances under which they were made, not misleading.
- (l) At the time of funding, all of the representations and warranties contained in Article 3 of the Credit Agreement, to be dated as of the Closing Date, among CMI, the guarantors party thereto from time to time, the lenders party thereto from time to time, and CIT Business Credit Canada Inc., as agent, which credit agreement establishes the CIT Facility (the "CIT Credit Agreement") are true and correct as if such representations and warranties were set forth herein, *mutatis mutandis*, such that, without limitation, (i) the "Borrower" as defined therein shall refer to the Issuers, (ii) the "Lenders" as defined therein shall refer to the Purchasers, (iii) "Credit Party" as defined therein shall refer to the Issuers and the Guarantors collectively, (iv) "Agreement" shall refer to this Agreement, (v) "Loan Documents" shall refer to this Agreement, the Notes, the Security and all other documents delivered pursuant to the terms thereof, and (vi) "Obligations"

shall refer to the obligations under this Agreement, the Notes, the Security and all other documents delivered pursuant to the terms thereof.

11. COVENANTS

Each Issuer and Guarantor covenants and agrees to comply with the following covenants:

- (a) The Issuers and the Guarantors shall duly and punctually pay all principal, interest, fees and other amounts on the Notes and contemplated by this Agreement when due and payable.
- (b) The Issuers and the Guarantors shall use the proceeds of the Notes only in accordance with Section 3.4.
- (c) The Issuers and the Guarantors shall maintain at all times adequate insurance coverage of such kind and in such amounts and against such risks as is prudent for a business of an established reputation with financially sound and reputable insurers in coverage and scope acceptable to the Purchasers, it being agreed that the coverage levels at closing are acceptable as of such date.
- (d) The Issuers shall deliver to each of the Purchasers:
 - (i) monthly financial statements of the Issuers and the Guarantors which are material operating subsidiaries within 20 days of the end of each calendar month along with a certificate of the Chief Financial Officer of the Issuers certifying that no Default or Event of Default has occurred;
 - (ii) along with delivery of the monthly financial statements, a weekly cash flow forecast (each, a "3 Month Forecast") for the 3 month period commencing with the following month, which 3 Month Forecast shall have been approved in advance by the Purchasers (and in support of which approval right the Issuers shall provide all background documentation requested by the Purchasers); *provided*, that such 3 Month Forecast shall not be required to be approved for any period commencing after the Maturity Date (assuming an extension of the Maturity Date as contemplated by this Agreement);
 - (iii) on the fourth Business Day of each week, report as to the last week's actual cash flows accompanied by a variance analysis explaining how and why actual results for the immediately preceding week varied from the applicable week in the 3 Month Forecast and/or from the Funding Forecast;
 - (iv) on the second Business Day of each week, a summary of all bank account balances, cash collections and disbursements of the Issuers and Guarantors summarized in detail (by category and operating divisions) as of the close of the last Business Day of the previous week;
 - (v) on the first Business Day of each week, a weekly status update and plan regarding the Restructuring Transactions (including reports on the progress of any sale or investment process and information which may otherwise be confidential subject to the same being maintained as confidential by the Purchasers and their advisors, subject to usual exceptions);

- (vi) concurrently with the delivery thereof pursuant to the terms of the CIT Credit Agreement (as amended, restated, replaced or otherwise modified from time to time), copies of any collateral reports, valuations, financial information or any other documents or information delivered to the lenders under the CIT Credit Agreement (as amended, restated, replaced or otherwise modified from time to time);
 - (vii) notice forthwith upon any Issuer or Guarantor determining that there will be a material change from the Funding Forecast or a 3 Month Forecast, or of any other material developments with respect to the business and affairs of any Issuer, any Guarantor or any of their subsidiaries (including without limitation Ten);
 - (viii) notice forthwith upon any Issuer or Guarantor receiving notice from any creditor, landlord or other third party delivering a notice of default, demand, acceleration or enforcement in respect of any material obligation of any Issuer or any Guarantor;
 - (ix) from and after the Closing Date, notice forthwith, and copies of, any discussion papers, agreements, letters of intent, funding or financing proposals, commitment letters, offers or agreements entered into or relating to the business of any Issuer or any Guarantor other than a proposal from the Purchasers (each, a "Financing Proposal"); provided, that disclosure of copies of unsolicited unilateral Financing Proposals containing confidentiality restrictions shall not be required to be disclosed until such restrictions have been removed, and the Issuers or Guarantors shall negotiate in good faith to remove such restrictions (and if unsuccessful, the Issuers or Guarantors shall not be entitled to pursue such Financing Proposals any further);
 - (x) notice forthwith of any event or occurrence that, with notice or the passage of time or both, would be an "Event of Default" hereunder (a "Default"); and
 - (xi) such other information as may be requested by the Purchasers or their advisors from time to time acting reasonably.
- (e) The Issuers and the Guarantors shall ensure that, (i) as of any date, each of the actual total receipts and capital expenditures of the Issuers and the Guarantors for the previous 4-week period will not exceed by more than 10% the comparable item for the Issuers and the Guarantors for such period as set forth in the Funding Forecast, as such item may be updated in the most recent 3 Month Forecast that was approved by the Purchasers, and (ii) as of any date, each of the net operating cash flow and total net cash flow of the Issuers and the Guarantors for the previous 4-week period will not exceed the greater of 10% or \$1,500,000 in excess of the comparable item for the Issuers and the Guarantors for such period as set forth in the Funding Forecast, as such item may be updated in the most recent 3 Month Forecast that was approved by the Purchasers.
- (f) Neither the Issuers nor the Guarantors shall take any action whatsoever (including, without limitation, any sale or loan transaction, the incurrence of Indebtedness including any guarantees thereof, recapitalization or equity issuance or any other action outside of the ordinary course of business) that could reasonably be expected to have an adverse or dilutive (in the case of shares) effect on (a) the TEN shares held by Canwest MediaWorks

Ireland Holdings ("Irish Holdings"), (b) the Equitable Mortgage, (c) Irish Holdings or (d) the guarantee of Irish Holdings of the 8% Notes and the structural priority created thereby. Neither the Issuers nor the Guarantors shall consent to or co-operate in any such action by TEN and shall take all steps within their powers to prevent such action by TEN, and to the knowledge of the Issuers and the Guarantors, Ten does not have any current intention to take any such action.

- (g) The Issuers and the Guarantors shall complete the milestones set forth in Schedule B (the "Milestone Conditions") within the timeframes contemplated by Schedule B and shall comply with all other terms, conditions and covenants contained in the Note Agreement, the Definitive Note Agreement and this Agreement.
- (h) Following reasonable advance notice, the Issuers and the Guarantors shall, to the extent permitted by law:
 - (i) provide the Purchasers and each of their advisors who have signed a confidentiality and non-disclosure agreement in favour of and on the terms acceptable to the Issuers (a "Confidentiality Agreement") with reasonable access to the offices, notes, and books and records of the Issuers and the Guarantors during normal business hours;
 - (ii) make the officers and legal and financial advisors of the Issuers and the Guarantors available on a reasonable basis for any discussions with any signatory to a Confidentiality Agreement;
 - (iii) keep each signatory to a Confidentiality Agreement informed as to the matters contemplated by this Agreement and the Restructuring Transactions; and
 - (iv) if not permitted, to use commercially reasonable efforts to request the permission of any third parties with whom it has a contractual obligation of confidentiality to disclose any information required by this Agreement;
- (i) Neither the Issuers nor the Guarantors shall be entitled to make any Restricted Payment, provided that the Issuers alone shall be entitled to: (i) make Restricted Payments between each other and to National Post Company General Partnership; and (ii) make restricted payments to any other Guarantor that is necessary to fund such Guarantor's operating expenses in accordance with the Funding Forecast or a 3 Month Forecast.
- (j) Neither the Issuers nor the Guarantors shall amalgamate, consolidate with or merge into or sell all or substantially all of their assets to another entity, or change the nature of their business or their corporate or capital structure.
- (k) Neither the Issuers nor the Guarantors shall prepay, redeem prior to maturity, defease, repurchase or make other prepayments in respect of any Indebtedness, (other than as required hereby or by the CIT Facility and other than any repayment of the CIT Facility in connection with the revolving nature thereof).
- (l) Neither the Issuers nor the Guarantors shall transfer, lease or otherwise dispose of all or any part of its property, assets or undertaking over \$500,000 at any one time or aggregating over \$2,000,000 during the term of the Notes (excluding a Turkish Asset

Sale), and all proceeds of any such disposition shall be subject to application as described in Section 6.

- (m) Neither the Issuers nor the Guarantors shall create, incur or guarantee any Indebtedness for borrowed money other than indebtedness and guarantees existing on the Closing Date that have been disclosed in writing to the Purchasers and Indebtedness under the Notes, this Agreement and the CIT Facility.
- (n) Neither the Issuers nor the Guarantors shall make any new Investments or acquisitions of any kind, direct or indirect, other than Investments in Canwest Television Limited Partnership by CMI.
- (o) Neither the Issuers nor the Guarantors shall create any Liens on the Collateral other than Permitted Liens, and in any event, shall not create any new Liens which are senior to, or *pari passu* with, the Liens of the Collateral Agent under the Security (other than, (A) prior to the creation of the DIP Charge, non-consensual liens by operation of law that are permitted under the terms of this Agreement and (B) upon creation of the DIP Charge, the Administrative Charge).
- (p) Neither the Issuers nor the Guarantors shall materially increase compensation or severance entitlements or other benefits payable to directors, officers or employees (including by way of a "KERP"), or pay any bonuses whatsoever, other than as required by law or pursuant to the terms of existing benefit plans or employment contracts. Notwithstanding the foregoing, neither the Issuers nor the Guarantors shall be entitled to make any severance or other similar payments to directors or senior officers unless such payments are specifically listed in the most recent 3 Month Forecast approved by the Purchasers, or make any bonus or KERP payments to directors or senior officers.
- (q) Neither the Issuers nor the Guarantors shall be entitled to pay any professional or advisory fees unless such fees are specifically listed in the most recent 3 Month Forecast approved by the Purchasers; *provided*, that the Issuers and the Guarantors shall be entitled to make ordinary course professional fee and legal fee payments that are not success-based or lump sum payments without specifically listing such payments as separate line-items in a 3 Month Forecast. Neither the Issuers nor the Guarantors shall pay professional or advisory fees in connection with the restructuring or recapitalization of Canwest Limited Partnership and its subsidiaries and to the extent professional and advisory fees relate to the restructuring or recapitalization of both the Issuers, on the one hand, and Canwest Limited Partnership and its subsidiaries, on the other hand, such fees shall be allocated between such groups on a fair and reasonable basis.
- (r) The Issuers and the Guarantors shall operate their businesses in the ordinary course of business, and, in any event, neither the Issuers nor the Guarantors shall make a public announcement in respect of, enter into any agreement or letter of intent with respect to, or attempt to consummate, any transaction or agreement that could reasonably be expected to materially adversely affect any of (i) the Issuers or the Guarantors or (ii) the Purchasers.
- (s) Neither the Issuers nor the Guarantors shall enter into, extend, renew, waive or otherwise modify in any material respect the terms of any transaction with an Affiliate, other than the transactions disclosed on Schedule C hereto or the extension or renewal of existing

operational arrangements on substantially the same terms if such extensions or renewals are in the best interests of the Issuers and the Guarantors.

- (t) Neither the Issuers nor the Guarantors shall participate in any material discussions with (A) the Canadian Radio-Television and Telecommunications Commission with respect to the Restructuring Transactions, (B) any of the stakeholders in CW Investments Co. and the CW Media group of companies with respect to the Restructuring Transactions, or (C) any party (other than legal and financial advisors to the Issuers and Guarantors) with respect to the Restructuring Transactions, in each case without providing reasonable notice to the Purchasers and an opportunity for a representative from the ad hoc committee of holders of the 8.0% Notes (the "Ad Hoc Committee") or its legal counsel or financial advisor to participate in such discussions. The Issuers agree to cooperate and facilitate discussions between the Ad Hoc Committee and stakeholders in CW Investments Co. and the CW Media group of companies (including The Goldman Sachs Group, Inc. and its affiliates) as soon as practicable when requested by the Purchasers.
- (u) Neither the Issuers nor the Guarantors shall enter into any agreement with another party relating to a restructuring transaction or the restructuring process involving the 8% Notes or the Notes in which any fee or repayment of legal fees shall be payable or exclusivity is granted without the consent of the Purchasers, and in no event shall any such agreement be entered into to the extent that full disclosure of such agreement cannot be made to the Purchasers and the Ad Hoc Committee.
- (v) Neither the Issuers nor the Guarantors shall (i) establish or fund any directors or employees trusts or (ii) purchase or fund any additional directors' and officers' insurance, in each case unless approved by the Purchasers.
- (w) Upon the request of the Purchasers, the Issuers and the Guarantors shall promptly engage a chief restructuring officer (a "Chief Restructuring Officer") acceptable to the Purchasers, the terms of the engagement of which (including the authorities, responsibilities and remuneration of) shall be acceptable to the Purchasers and the Ad Hoc Committee.
- (x) Upon the making of a filing under the *Companies' Creditors Arrangement Act* (the "CCAA") or comparable legislation or another form of creditor relief or protection proceeding (each, a "Filing"), the Issuers and the Guarantors shall (subject to the consent of the Purchasers) cause the Notes to be converted into a debtor-in-possession financing arrangement (a "Conversion"), which Conversion shall include without limitation the following steps, each of which shall be in form and substance satisfactory to the Purchasers:
 - (i) a court of competent jurisdiction shall have issued an initial order or orders under the CCAA or other comparable legislation (the "Initial Order"), which order(s) shall be approved by the Purchasers and shall include, without limitation:
 - (A) provisions approving this Agreement and all notes documentation delivered pursuant to the terms hereof, together with such other documents as the Purchasers deem necessary or appropriate;
 - (B) provisions granting to the Purchasers and to CIT, as security for the Notes and the CIT Facility, Liens on all present and future assets of the

Issuer and the Guarantors having the priority as set out in Section 5 above (the "DIP Charge"), with such DIP Charge (together with the Existing Security) explicitly having priority over all present and future Liens other than a Lien for administrative expenses in scope and quantum acceptable to the Purchasers (the "Administrative Charge"), which Administrative Charge shall not cover the TEN Collateral;

- (C) provisions confirming that the DIP Charge is in addition to and without prejudice to the Existing Security and that all liabilities and obligations of the Issuers and Guarantors under the Notes will be secured by the Existing Security as well as by the DIP Charge;
 - (D) provisions declaring that the granting of the DIP Charge and all other documents executed and delivered to the Purchasers as contemplated herein, including, without limitation, all actions taken to perfect, record and register the DIP Charge, do not constitute conduct meriting an oppression remedy, settlements, fraudulent preferences, fraudulent conveyances or other challengeable or reviewable transactions under any applicable legislation;
 - (E) provisions restricting the granting of any additional liens or liens on the assets of the Issuers and the Guarantors, other than a charge (subordinated to the DIP Charge) in respect of obligations owing or which may become owing by the Issuers and or the Guarantors in respect of which their directors and/or officers may be liable in an amount satisfactory to the Issuers and the Purchasers;
 - (F) provisions appointing a monitor that is acceptable to the Purchasers (provided that for the purposes hereof, FTI Consulting shall be acceptable);
 - (G) provisions ordering and declaring the Purchasers to be treated as unaffected creditors in respect of the Notes and the obligations hereunder in any CCAA or similar plan and providing that the stay of proceedings under the Initial Order shall not apply to the Purchasers and their rights under this Agreement or any other notes document (including without limitation the Existing Security) delivered pursuant to the terms hereof;
 - (H) provisions providing on reasonable notice the Purchasers and their advisors clear and unfettered access to the books and records of the Issuers and the Guarantors and such other information as the Issuers and the Guarantors deem necessary or appropriate; and
 - (I) such other matters as the Purchasers may require.
- (ii) the execution and delivery by the Issuers and Guarantors of any additional legal documentation deemed necessary or appropriate by the Purchasers.
- (y) Upon the making of a Filing, and without regard to whether a Conversion has occurred, the Issuers and the Guarantors shall: (i) ensure that the Initial Order and all ancillary and subsequent court orders ("Other Restructuring Orders") issued in connection with a

Filing at any time shall be in form and substance satisfactory to the Purchasers; and (ii) comply with all terms of the Initial Order and all Other Restructuring Orders at all times.

- (z) Upon obtaining a Financing Proposal which the Issuers propose to accept, the Issuers and the Guarantors shall provide the Purchasers a right of first refusal to provide such financing on the same terms as outlined in the Financing Proposal.
- (aa) The Issuers and the Guarantors shall comply with all covenants contained in Article 5 and Article 6 of the CIT Credit Agreement as they exist on the date hereof without regard to any amendment or waiver by CIT (it being understood and agreed that any amendment or waiver of such covenants for the purposes of this Agreement can only be provided by the Purchasers) as if such covenants were set forth herein, *mutatis mutandis*, such that, without limitation, (i) the "Borrower" as defined therein shall refer to the Issuers, (ii) the "Lenders" as defined therein shall refer to the Purchasers, (iii) "Credit Party" as defined therein shall refer to the Issuers and the Guarantors collectively, (iv) "Agreement" shall refer to this Agreement, (v) "Loan Documents" shall refer to this Agreement, the Notes, the Security and all other documents delivered pursuant to the terms thereof, and (vi) "Obligations" shall mean the obligations under this Agreement, the Notes, the Security and all other documents delivered pursuant to the terms thereof.
- (bb) Subject to disclosure of such items in the applicable 3 Month Forecast, notwithstanding anything to the contrary contained herein, the Issuers and the Guarantors shall be entitled to make any of the following payments which, collectively during the term of the Notes, shall not exceed \$2,000,000 in the aggregate: (i) Restricted Payments to affiliates that are not an Issuer or a Guarantor; (ii) payments on account of renewal or runoff of directors' and officers' insurance policies; and (iii) payments of advisory fees and other similar fees to the professional advisors to the Issuers and the Guarantors.
- (cc) Notwithstanding anything to the contrary contained herein, to the extent the covenants contained in Section 11(f), (i), (j), (k), (l), (m), (n) or (s) hereof would prohibit or restrict a transaction between the "Issuer" and one or more "Restricted Subsidiaries" or between one or more Restricted Subsidiaries (each as defined in the Existing Indenture) in contravention of Section 4.15 of the Existing Indenture, the covenant contained in Section 11(f), (i), (j), (k), (l), (m), (n) or (s) as applicable shall be read so as not to prohibit or restrict such transaction unless or until an appropriate waiver or consent has been obtained from the holders of 8% Notes under the terms of the Indenture. The Issuers and Guarantors shall, at their expense, solicit such consents or waivers from the holders of 8% Notes promptly upon the request of the Purchasers.

12. EVENTS OF DEFAULT

12.1 Each of the following shall constitute an event of default hereunder and under the Notes and the Security (each, an "Event of Default"):

- (a) the failure by any Issuer or Guarantor to pay any principal amount outstanding under the Notes when the same shall become due and payable hereunder;
- (b) the failure by any Issuer or Guarantor to pay within 2 Business Days any interest on the Notes within or any fees or other amounts payable to the Collateral Agent or the Purchasers after the same shall become due and payable hereunder;

- (c) the failure by any Issuer or Guarantor to pay the fees of any legal or financial advisor to the Purchasers or the Ad Hoc Committee within 5 Business Days of the receipt of any invoice from any such party;
- (d) the failure by any Issuer or Guarantor to comply with the covenants contained in clauses (b), (d), (e), (f), (g), (i), (j), (k), (l), (m), (n), (o), (p), (q), (s), (u), (x), or (y) under Section 11;
- (e) the failure by any Issuer or Guarantor to perform or comply with any term, condition, covenant or obligation contained herein (including by reference from the CIT Credit Agreement) or in the Notes, the Security or any other document delivered pursuant to the terms thereof on their part to be performed or complied with where any such failure to perform or comply is not remedied within 5 Business Days of notice from the Purchasers to so remedy;
- (f) the failure by any Issuer or Guarantor to perform or comply with any term, condition, covenant or obligation contained in the Note Agreement or the Definitive Note Agreement, or if any "Milestone" noted on Schedule B is not achieved within the timeframe listed on Schedule B;
- (g) a (i) default under any Indebtedness in an amount exceeding \$5,000,000 or (ii) a default under, or cancellation of, any Material Contract, in each case of any Issuer or any Guarantor, but excluding any default under the 8% Notes or the Existing Indenture relating to non-payment of interest or a Filing;
- (h) a default under any Indebtedness in an amount exceeding \$5,000,000 of CW Investments Co. or any of its subsidiaries;
- (i) the acceleration of Indebtedness in an amount exceeding \$5,000,000 of (or a Filing in respect to) Canwest Limited Partnership or any of its subsidiaries; *provided* that such event shall not be an Event of Default if a Conversion has occurred;
- (j) the cessation (or threat of cessation) by any Issuer or Guarantor to carry on business in the ordinary course, other than as contemplated by this Agreement;
- (k) the denial or repudiation by any Issuer or Guarantor of the legality, validity, binding nature or enforceability of this Agreement, the Notes, the Security or any other document or certificate delivered pursuant to the terms hereof;
- (l) the cessation of any of the Security to constitute, in whole or in part, a Lien on the Collateral in the priority contemplated by this Agreement;
- (m) the entry of one or more final judgements, writs of execution, garnishment or attachment representing a claim in excess of \$5,000,000 against any Issuer or Guarantor or the Collateral that is not released, bonded, satisfied, discharged, vacated, stayed or accepted for payment by an insurer within 30 days after their entry, commencement or levy;
- (n) there occurs a change in applicable law restricting the trading of the TEN shares;
- (o) the commencement by any Issuer or Guarantor of any action, application, petition, suit or other proceeding under any bankruptcy, arrangement, reorganization, dissolution,

liquidation, insolvency, winding-up or similar law of any jurisdiction now or hereafter in effect, for the relief from or otherwise affecting creditors of such entity, including without limitation, under the *Bankruptcy and Insolvency Act* (Canada) (the "BIA") (including the filing of a notice of intention to make a proposal), CCAA, *Winding-up and Restructuring Act* (Canada), the *Canada Business Corporations Act* or the United States Bankruptcy Code; *provided* that such event shall not be an Event of Default if a Conversion has occurred;

- (p) the appointment of any receiver, receiver-manager, interim receiver, monitor, liquidator, assignee, custodian, trustee, sequestrator or other similar entity in respect of any Issuer or Guarantor (or any of their subsidiaries) or all or any part of their respective property, assets or undertaking;
- (q) the act of any Issuer or Guarantor (i) making a general assignment for the benefit of its creditors, including without limitation, any assignment made pursuant to the BIA, (ii) acknowledging its insolvency or is declared or becomes bankrupt or insolvent, (iii) failing to meet its liabilities generally as they become due, or (iv) committing an act of bankruptcy under the BIA or any similar law of any jurisdiction; *provided*, that such event shall not be an Event of Default if a Conversion has occurred;
- (r) once appointed, the resignation or replacement of the Chief Restructuring Officer or the amendment of any duties of the Chief Restructuring Officer (in each case to the extent not approved by the Purchasers), subject to the ability to appoint a new Chief Restructuring Officer acceptable to the Purchasers within 10 days of a resignation;
- (s) the occurrence of a Change of Control;
- (t) after the entry of the Initial Order and a Conversion, (i) the entry of an order granting any other claim superpriority status or a Lien equal to or prior to the DIP Charge, other than the Administrative Charge to the extent noted above, or (ii) the entry of an order staying, reversing, vacating or otherwise modifying the DIP Charge or the documentation for the Notes without the consent of the Purchasers;
- (u) after the entry of the Initial Order, the entry of an order dismissing the bankruptcy cases, lifting the stay imposed by the Initial Order or the making of any receiving order against any Issuer or Guarantor; and
- (v) an "Event of Default" as defined in the CIT Credit Agreement, as such agreement may be amended, restated, replaced or otherwise modified from time to time.

13. REMEDIES

Following the occurrence of an Event of Default, without limiting the remedies available under the Existing Security or hereunder, the Purchasers may, subject to the Intercreditor Terms:

- (a) on demand, accelerate all payments due by the Issuers under the Notes, and set off amounts owing by the Purchasers to the Issuers against amounts owing by the Issuers to the Purchasers;
- (b) apply to a court (i) for the appointment of an interim receiver or a receiver and manager of the undertaking, property and assets of any Issuer or Guarantor, (ii) for the

appointment of a trustee in bankruptcy of any Issuer or Guarantor, or (iii) to seek other relief; or

- (c) without limiting the foregoing, the Collateral Agent and the Purchasers shall have the power and rights of a secured party under section 17 and Part V of the *Personal Property Security Act* (Ontario).

14. GUARANTEE

- 14.1 Each of the Guarantors hereby agrees it is jointly and severally liable for, and hereby irrevocably and unconditionally guarantees to the Purchasers and their respective successors and assigns, the full and prompt payment when due (whether at stated maturity, by acceleration or otherwise) and at all times thereafter, and performance, of all of the obligations owed or hereafter owing to the Purchasers by the Issuers hereunder and under the Notes. Each of the Guarantors agree that its guarantee obligation hereunder is a continuing guarantee of payment and performance and not of collection, that its obligations under this Guarantee shall not be discharged until payment and performance, in full, of all of the obligations of the Issuers under the Notes has occurred and this Agreement has been terminated, and that its obligations hereunder shall be primary, absolute and unconditional.
- 14.2 The obligations of the Guarantors hereunder shall not be satisfied, reduced, perfected or discharged by any intermediate payment, settlement or satisfaction of the whole or any part of the principal, interest, fees or other money or amounts which may at any time be or become owing or payable under, by virtue of, or otherwise in connection with the obligations of the Issuers under this Agreement or any of the documents executed in connection herewith.
- 14.3 The Guarantors shall be regarded, and shall be in the same position, as principal debtor with respect to the obligations of the Issuers hereunder and any amounts expressed to be payable from the Guarantors shall be recoverable from the Guarantors as primary obligors and principal debtors in respect thereof.
- 14.4 The Guarantors hereby expressly and irrevocably subordinate to the payment of the obligations of the Issuers hereunder, any and all rights at law or in equity to reimbursement, exoneration, contribution, indemnification or set-off and any and all defences available to a surety, guarantor or accommodation co-obligor until all of the obligations of the Issuers hereunder are indefeasibly paid in full in cash and this Agreement has been terminated. The Guarantors further agree to waive any rights of subrogation arising at law or in equity.
- 14.5 The obligations of the Guarantors hereunder shall not be affected or impaired by any act, omission, matter or thing whatsoever, occurring before, upon or after any demand for payment hereunder which, but for this provision, might constitute a whole or partial defence to a claim against the Guarantors hereunder or might operate to release or otherwise exonerate the Guarantors from any of their obligations hereunder or otherwise affect such obligations. The Guarantors hereby irrevocably waive any defence they may now or hereafter have in any way relating to any of the foregoing, including, without limitation:
 - (a) any limitation of status or power, disability, incapacity or other circumstance relating to any Issuer or any Guarantor;
 - (b) any irregularity, defect, unenforceability or invalidity in respect of any indebtedness or other obligation of any Issuer or any Guarantor;

- (c) any failure of any Issuer or any Guarantor to perform or to comply with any of the provisions of this Agreement, the Notes or any documents executed in connection herewith;
 - (d) the taking or enforcing or exercising or the refusal or neglect to take or enforce or exercise any right or remedy from or against any Issuer, any Guarantor or their respective assets or the release or discharge of any such right or remedy by the Collateral Agent or the Purchasers;
 - (e) the granting of time, renewals, extensions, compromises, concessions, waivers, releases, discharges and other indulgences to any Issuer or any Guarantor;
 - (f) any amendment, restatement, variation, modification, supplement or replacement of this Agreement, the Notes or any documents executed in connection herewith;
 - (g) any change in the ownership, control, name, objects, businesses, assets, capital structure or constitution of any Issuer or any Guarantor or any merger or amalgamation of any Issuer or any Guarantor with any person or persons;
 - (h) the existence of any claim, set-off or other rights that any Guarantor may have at any time against any Issuer, the Collateral Agent and the Purchasers, whether in connection with the Agreement, the Notes or otherwise; and
 - (i) any other circumstance that might otherwise constitute a legal or equitable discharge or defence of any Guarantor.
- 14.6 The Purchasers, without releasing, discharging, limiting or otherwise affecting in whole or in part the Guarantors' obligations and liabilities hereunder and without the consent of or notice to the Guarantors may:
- (a) grant time, renewals, extensions, compromises, concessions, waivers, releases, discharges and any other indulgences to any Issuer or any Guarantor;
 - (b) amend, vary, modify, supplement or replace this Agreement, the Notes or any document issued in connection therewith or any other related document to which the Guarantors are not a party;
 - (c) take or abstain from taking security or collateral from any Issuer or any Guarantor or from perfecting security or collateral of any such person;
 - (d) release, discharge, compromise, realize, enforce or otherwise deal with or do any act or things in respect of any security given by any Issuer or any Guarantor with respect to any of the obligations of any Issuer or any Guarantor contemplated by this Agreement;
 - (e) accept compromises or arrangements from any Issuer or any Guarantor;
 - (f) apply all money at any time received from any Issuer or any Guarantor or from any collateral to any part of the obligations outstanding under this Agreement or the Notes as they may see fit; and

- (g) otherwise deal with, or waive or modify their right to deal with, any Issuer, any Guarantor and all other persons and securities as they may see fit.

14.7 The guarantee and any other undertaking provided by CANWEST GLOBAL BROADCASTING INC./RADIODIFFUSION CANWEST GLOBAL INC. ("CGBI") hereunder and under the Quebec Security in respect of the obligations of CANWEST TELEVISION LIMITED PARTNERSHIP and CMI may be subject in whole or in part to the restrictions on financial assistance contained in Section 123.66 of the *Companies Act* (Quebec). To the extent such restrictions apply, and notwithstanding anything to the contrary herein, the aggregate liability of CGBI hereunder and under any Quebec Security signed by it in respect of such obligations shall be limited to the amount, if any, by which (x) the higher of (A) the realization value and (B) the book value of the assets of CGBI exceeds (y) the sum of the liabilities and the issued and paid-up share capital account of CGBI. Such amount shall be determined as at the date hereof and again on any date on which a demand for payment is made in writing to CGBI in accordance with the provisions hereof and CGBI's aggregate liability for the purposes hereof shall be limited to the greater of such amounts.

The guarantee and any other undertaking provided by CANWEST FINANCE INC./FINANCIÈRE CANWEST INC. ("CFI") hereunder and under the Quebec Security in respect of the obligations of CMI may be subject in whole or in part to the restrictions on financial assistance contained in Section 123.66 of the *Companies Act* (Quebec). To the extent such restrictions apply, and notwithstanding anything to the contrary herein, the aggregate liability of CFI hereunder and under any Quebec Security signed by it in respect of such obligations shall be limited to the amount, if any, by which (x) the higher of (A) the realization value and (B) the book value of the assets of CFI exceeds (y) the sum of the liabilities and the issued and paid-up share capital account of CFI. Such amount shall be determined as at the date hereof and again on any date on which a demand for payment is made in writing to CFI in accordance with the provisions hereof and CFI's aggregate liability for the purposes hereof shall be limited to the greater of such amounts.

15. PURCHASER REPRESENTATIONS AND WARRANTIES

15.1 Each Purchaser (if it is a resident in Canada) is an "accredited investor" within the meaning of National Instrument 45-106 Prospectus and Registration Exemptions and Regulation 45-106 Respecting Prospectus and Registration Exemptions (collectively, "45-106"), is, or is deemed to be, purchasing the Notes as principal and was not created or used solely to purchase or hold securities as an accredited investor as defined in paragraph (m) of the definition of accredited investor in Section 1.1 of 45-106.

15.2 By accepting this Note, the holder acknowledges that it is: (a) a "qualified institutional buyer" (as defined in Rule 144A under the Securities Act of 1933, as amended (the "Securities Act")), (b) an institutional "accredited investor" (as defined in Rule 501(a)(1), (2), (3) or (7) of Regulation D under the Securities Act) or (c) a non-U.S. person for purposes of Regulation S under the Securities Act. Any assignee or transferee of this Note in whole or in part will be required to make a written certification to the Issuers to

the effect of the foregoing prior to the transfer or assignment of the Note, or issuance of a new Note, to such assignee or transferee.

16. EXPENSES

All reasonable out-of-pocket expenses and costs, including, without limitation, all reasonable travel expenses and reasonable legal and advisory fees, incurred by each of the Purchasers and their respective advisors or by the Ad Hoc Committee and its respective advisors in connection with any matter arising hereunder or any documents issued in connection with this Agreement or otherwise in connection with the purchase of the Notes or the Restructuring Transactions shall be for the sole account of the Issuers and shall be paid within five (5) Business Days of being invoiced.

17. TAXES

All payments by the Issuers and/or the Guarantors to any Purchaser, including without limitation any payments required to be made from and after the exercise of any remedies available to the Purchasers upon an Event of Default, shall be made free and clear of, and without reduction for or on account of, any present or future taxes, levies, imposts, duties, charges, fees, deductions or withholdings of any kind or nature whatsoever or any interest or penalties payable with respect thereto now or in the future imposed, levied, collected, withheld or assessed by any country or any political subdivision of any country, but excluding any reduction for any amount required to be paid by the Issuer under subsection 224(1.2) of the *Income Tax Act* (Canada) or a similar provision of that or any other taxation statute (collectively "Taxes"); provided, however, that if any Taxes are required by applicable law to be withheld ("Withholding Taxes") from any interest or other amount payable to any Purchaser hereunder or under any other document delivered pursuant to the terms hereof, the amount so payable to such Purchaser shall be increased to the extent necessary to yield to the relevant party on a net basis after payment of all Withholding Taxes, the amount payable under such documentation at the rate or in the amount specified in such documentation and the Issuers shall provide evidence satisfactory to the Purchasers that the Taxes have been so withheld and remitted.

18. NOTES

18.1 Transfer and Exchange of Notes

Upon any assignment by any Purchaser of its rights and obligations in accordance with the terms of this Agreement to any other Person, and upon surrender of any Note issued in the name of the assigning Purchaser in connection therewith to the Issuers, the Issuers shall execute and deliver, at the Issuers' expense, one or more new Notes, (as requested by the assigning Purchaser) in exchange therefor, in an aggregate principal amount equal to the unpaid principal amount (and accrued and unpaid interest owing in respect thereof) of the surrendered Note (evidencing the same and continuing obligation of the Note(s) so surrendered). Each such new Note shall be substantially in the form of Exhibit A and shall be dated and bear interest from the date to which interest shall have been paid on the surrendered Note.

18.2 Replacement of Notes

Upon receipt by the Issuers of evidence reasonably satisfactory to it of the ownership of and the loss, theft, destruction, or mutilation of any Note, and

- (a) in the case of loss, theft or destruction, of indemnity reasonably satisfactory to the Issuers, or

(b) in the case of mutilation, upon surrender and cancellation thereof,

the Issuers at its own expense, within five (5) Business Days thereafter, shall execute and deliver in lieu thereof, a new Note (representing the same, continuing obligation as the lost, stolen, destroyed or mutilated Note), dated and bearing interest from the date to which interest shall have been paid on such lost, stolen, destroyed or mutilated Note.

18.3 Notes Held by Issuers, etc.

Solely for the purpose of determining whether the holders of the requisite percentage of the aggregate principal amount of Notes then outstanding approved or consented to any amendment, waiver or consent to be given under this Agreement or under any documents related thereto, or have directed the taking of any action provided herein or in any of the documents related thereto to be taken upon the direction of the holders of a specified percentage of the aggregate principal amount of Notes then outstanding, Notes directly or indirectly owned by the Issuers or any of its Affiliates shall be deemed not to be outstanding.

19. MISCELLANEOUS

19.1 Further Assurances

The Issuers and Guarantors shall at their expense, from time to time do, execute and deliver, all such further acts, documents (including, without limitation, certificates, declarations, affidavits, reports and opinions) and things as the Purchasers may request for the purpose of giving effect to this Agreement, perfecting, protecting and maintaining the liens created by the Security establishing compliance with the representations, warranties and conditions of this Agreement or any other document delivered in connection herewith.

19.2 Unrestricted Purchasers

The Issuers and the Purchasers agree that any item required to be delivered to a Purchaser hereunder shall be satisfied by delivery to such Purchaser's legal advisor, Goodmans LLP, or such Purchaser's financial advisor, Houlihan Lokey, in the event such Purchaser is unrestricted and unable to receive confidential information from the Issuer and the Guarantors.

19.3 Debtor in Possession Financing

In the event that any Issuer or Guarantor becomes subject to a Filing, the Notes shall, subject to the consent of the Purchasers, be converted into a debtor in possession financing as described more fully above, and the Collateral Agent and the Purchasers shall retain all of their rights with respect to security and enforcement (as provided for herein). Upon such a Filing and Conversion, the Notes shall also be subject to the DIP Charge.

19.4 Disclosure

Subject to Section 18.4, no press release or other public disclosure concerning the transactions contemplated herein shall be made by any Issuer or Guarantor without the prior consent of the Purchasers (such consent not to be unreasonably withheld); *provided*, however, that the Issuers and Guarantors shall, after providing the Purchasers with copies of all related documents and an opportunity to consult with the Purchasers as to the contents, make prompt disclosure of the material terms of this Agreement and make such disclosure as may be required by applicable law or by any stock exchange rules on which its securities or those of any of its affiliates are traded, by any other regulatory authority having jurisdiction

over the Issuers and Guarantors, or by any court of competent jurisdiction. Notwithstanding the foregoing, no information with respect to the identity of any Purchaser shall be disclosed by the Issuer or any Guarantor except as may be required by applicable law or by any stock exchange rules on which its securities or those of any of its affiliates are traded, by any other regulatory authority having jurisdiction over the Issuers or Guarantors, or by any court of competent jurisdiction.

19.5 Conflict

To the extent that there is any inconsistency between this Agreement and any of the other documentation relating hereto, including without limitation the CIT Credit Agreement, this Agreement shall govern.

19.6 Amendments and Waivers

This Agreement shall only be amended or waived with the consent of the Purchasers, and, to the extent affected thereby, the Issuers and the Guarantors.

19.7 Assignments

Each Purchaser may assign and/or grant participations in its Commitment and any portion or all of its Notes without the consent of any other party. No Issuer or Guarantor may assign its rights hereunder without the consent of the Purchasers.

19.8 Governing Law

- (a) This Agreement, the Notes and each of the documents contemplated herein shall be governed by the laws of the Province of Ontario and the federal laws of Canada applicable therein.
- (b) The Issuers hereby consents and agrees that the courts of the Province of Ontario shall have non-exclusive jurisdiction to hear and determine any claims or disputes between the Issuers, the Collateral Agent and the Purchasers pertaining to this Agreement or any of the other documents related thereto or to any matter arising out of or relating to this Agreement or any of the other documents related thereto. Nothing in this Agreement shall be deemed or operate to preclude the Collateral Agent or the Purchasers from bringing suit or taking other legal action in any other jurisdiction to realize on the Collateral or any other security for the obligations, or to enforce a judgment or other court order. The Issuers expressly submit and consent in advance to such jurisdiction in any action or suit commenced in any such court, and the Issuers hereby waive any objection that the Issuers may have based upon lack of personal jurisdiction, improper venue or *forum non conveniens* and hereby consents to the granting of such legal or equitable relief as is deemed appropriate by such court. The Issuers hereby waive personal service of the summons, complaint and other process issued in any such action or suit and agree that service of such summons, complaints and other process may be made by registered mail (return receipt requested) addressed to Issuers at the address set forth in Section 19.18 of this Agreement and that service so made shall be deemed completed upon the earlier of Issuers' actual receipt thereof or three (3) Business Days after deposit with Canada post, proper postage paid.

19.9 Currency

All dollar amounts referred to in this Agreement are in Canadian Dollars unless otherwise indicated.

19.10 Exclusivity

Upon entering into this Agreement, the Issuers agree that they will not, and will not permit any Guarantor to, (i) engage in discussions with any party concerning any debt facility or similar financing or any renewal or refinancing of existing indebtedness, or (ii) enter into bilateral arrangements with any party to provide any debt facility of any kind or similar financing arrangement, in each case for any purpose contemplated by this Agreement or any other similar purpose, in each case excluding the CIT Facility contemplated hereby, unless the consent of the Purchasers has been obtained.

19.11 Confidentiality

This Agreement is being executed on a highly confidential basis on the understanding that this Agreement, any related documents, the existence and contents thereof and the existence and contents of any discussions related thereto ("Confidential Information") shall not be disclosed by any Issuer or any Guarantor to any third party or made public without the prior written consent of the Purchasers, except for disclosure to the Issuers' and Guarantors' legal and financial advisors, directors, officers and employees who are bound by the terms of confidentiality arrangements to keep all such Confidential Information confidential (with the Company bearing all risk of such disclosure). For the sake of clarity, and without limitation, the Issuers and Guarantors and their legal and financial advisors, directors, officers and employees shall not under any circumstances be entitled to disclose any Confidential Information to other potential financing sources for the purposes of generating competing offers or otherwise.

19.12 Counterparts and Facsimile; Signatures

This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signatures provided by facsimile machine shall be valid and binding.

19.13 Indemnity

The Issuers shall indemnify and hold harmless each of the Collateral Agent, the Purchasers and their respective Affiliates, and each such Person's respective officers, directors, shareholders, employees, legal counsel, agents and representatives (each, an "Indemnified Person"), from and against any and all suits, actions, proceedings, orders, claims, damages, losses, liabilities and expenses (including reasonable legal fees and disbursements and other costs of investigation or defense, including those incurred upon any appeal) that may be instituted or asserted against or incurred by any such Indemnified Person as a result of or in connection with (i) the breach by the Issuers of its obligations in connection with or arising out of the transactions contemplated under this Agreement and the other documents related thereto and any actions or failures to act in connection therewith including the taking of any enforcement actions by the Collateral Agent, and (ii) all legal costs and expenses arising out of or incurred in connection with disputes between or among the Purchasers, the Issuers and/or any other party or parties to any of the documents related thereto (excluding any such legal costs and expenses incurred by any Purchaser or the Collateral Agent in connection with disputes solely between such Purchasers, or as between a Purchaser or Purchasers and the Collateral Agent (except to the extent that the Issuers are required to reimburse the Collateral Agent for such costs and expenses under the Collateral Agency Agreement)) (collectively, "Indemnified Liabilities"); provided that the Issuers shall not be liable for any indemnification to an Indemnified Person to the extent that any such suit, action, proceeding, claim, damage, loss, liability or expense results from that Indemnified Person's gross negligence or wilful misconduct. No Indemnified Person shall be responsible or liable to any other party to any document related thereto, any successor, assignee or third party beneficiary of such Person or any other Person asserting claims derivatively through such party, for indirect, punitive, exemplary or consequential damages which may be alleged as a

result of the purchase of the Notes or as a result of any other transaction contemplated hereunder or under any of the documents related thereto.

19.14 No Waiver

Collateral Agent's or any Purchaser's failure, at any time or times, to require strict performance by the Issuers of any provision of this Agreement or any other document related thereto shall not waive, affect or diminish any right of the Collateral Agent or such Purchaser thereafter to demand strict compliance and performance herewith or therewith. Any suspension or waiver of an Event of Default shall not suspend, waive or affect any other Event of Default whether the same is prior or subsequent thereto and whether the same or of a different type. Except as otherwise provided for herein, none of the undertakings, agreements, warranties, covenants and representations of the Issuers contained in this Agreement or any of the other documents related thereto and no Default or Event of Default by the Issuers shall be deemed to have been suspended or waived by the Collateral Agent or any Purchaser, as applicable, unless such waiver or suspension is by an instrument in writing from the Collateral Agent and/or the applicable required Purchasers and directed to the Issuers specifying such suspension or waiver.

19.15 Remedies

The Purchasers' rights and remedies under this Agreement shall be cumulative and nonexclusive of any other rights and remedies that the Collateral Agent or any Purchaser may have under any other agreement, including the other documents related thereto, by operation of law or otherwise. Recourse to the collateral shall not be required.

19.16 Severability

Wherever possible, each provision of this Agreement and the other documents related thereto shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Agreement or any other document related thereto shall be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement or such other document related thereto.

19.17 Conflict of Terms

To the extent that there is any inconsistency between this Agreement and any of the other documentation relating hereto or the terms of the CIT Credit Agreement that are incorporated by reference, this Agreement shall govern.

19.18 Notices

Except as otherwise provided herein, whenever it is provided herein that any notice, demand, request, consent, approval, declaration or other communication shall or may be given to or served upon any of the parties by any other parties, or whenever any of the parties desires to give or serve upon any other parties any communication with respect to this Agreement, each such notice, demand, request, consent, approval, declaration or other communication shall be in writing and shall be deemed to have been validly served, given or delivered (a) upon the earlier of actual receipt and three (3) Business Days after deposit with Canada Post, registered mail, return receipt requested, with proper postage prepaid, (b) upon transmission, when sent by telecopy or other similar facsimile transmission (with such telecopy or facsimile promptly confirmed by delivery of a copy by personal delivery or with Canada Post as otherwise provided in this Section 19.18), (c) upon receipt, when sent by electronic mail (with such electronic mail promptly

confirmed by delivery of a copy by personal delivery or Canada Post as otherwise provided in this Section 19.18) and such notice, demand, request, consent, approval, declaration or other communication shall be in "pdf" format and shall include the actual signature of the party sending such communication if that signature would be required or customary if the communication was delivered by telecopier, (d) one (1) Business Day after deposit with a reputable courier for overnight delivery with all charges prepaid, or (e) when delivered, if hand-delivered by messenger, all of which shall be addressed to the party to be notified and sent to the address or facsimile number indicated Schedule D hereto or to such other address (or facsimile number) as may be substituted by notice given as herein provided. The giving of any notice required hereunder may be waived in writing by the party entitled to receive such notice. Failure or delay in delivering copies of any notice, demand, request, consent, approval, declaration or other communication to any Person (other than the Issuers or Agent) designated Schedule D to receive copies shall in no way adversely affect the effectiveness of such notice, demand, request, consent, approval, declaration or other communication.

19.19 Section Titles

The Section titles and Table of Contents contained in this Agreement are and shall be without substantive meaning or content of any kind whatsoever and are not a part of the agreement between the parties hereto.

19.20 Reinstatement

This Agreement shall remain in full force and effect and continue to be effective should any petition or other proceeding be filed by or against the Issuers for liquidation or reorganization, should the Issuers become insolvent or make an assignment for the benefit of any creditor or creditors or should an interim receiver, receiver, receiver and manager or trustee be appointed for all or any significant part of the Issuers' assets, and shall continue to be effective or to be reinstated, as the case may be, if at any time payment and performance of the obligations under the Notes, or any part thereof, is, pursuant to applicable law, rescinded or reduced in amount, or must otherwise be restored or returned by any obligee of the Notes, whether as a fraudulent preference reviewable transaction or otherwise, all as though such payment or performance had not been made. In the event that any payment, or any part thereof, is rescinded, reduced, restored or returned, the obligations under the notes shall be reinstated and deemed reduced only by such amount paid and not so rescinded, reduced, restored or returned.

19.21 No Strict Construction

The parties hereto have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the parties hereto and no presumption or burden of proof shall arise favouring or disfavouring any party by virtue of the authorship of any provisions of this Agreement.

19.22 Permitted Liens

The designation of any Lien as a permitted lien is not, and shall not be deemed to be, an acknowledgment by the Collateral Agent or any of the Purchasers that the Lien shall have priority over the security interests granted to the Collateral Agent (for the benefit of itself and the Purchasers) in the Collateral pursuant to the Security documents.

19.23 Existing Indenture

The parties hereto acknowledge and agree that for the purposes of the Indenture, dated as of November 18, 2004, among CML, as issuer, the guarantors party thereto and The Bank of New York, as Trustee (the

"Existing Indenture"), the Notes and the Indebtedness under this Agreement are intended to be a refinancing and replacement by a group of lenders of a portion of the CMI Credit Facility (as defined in the Existing Indenture) and will provide a portion of the liquidity for the company's operations as previously provided by the CMI Credit Facility.

19.24 Principles of Construction

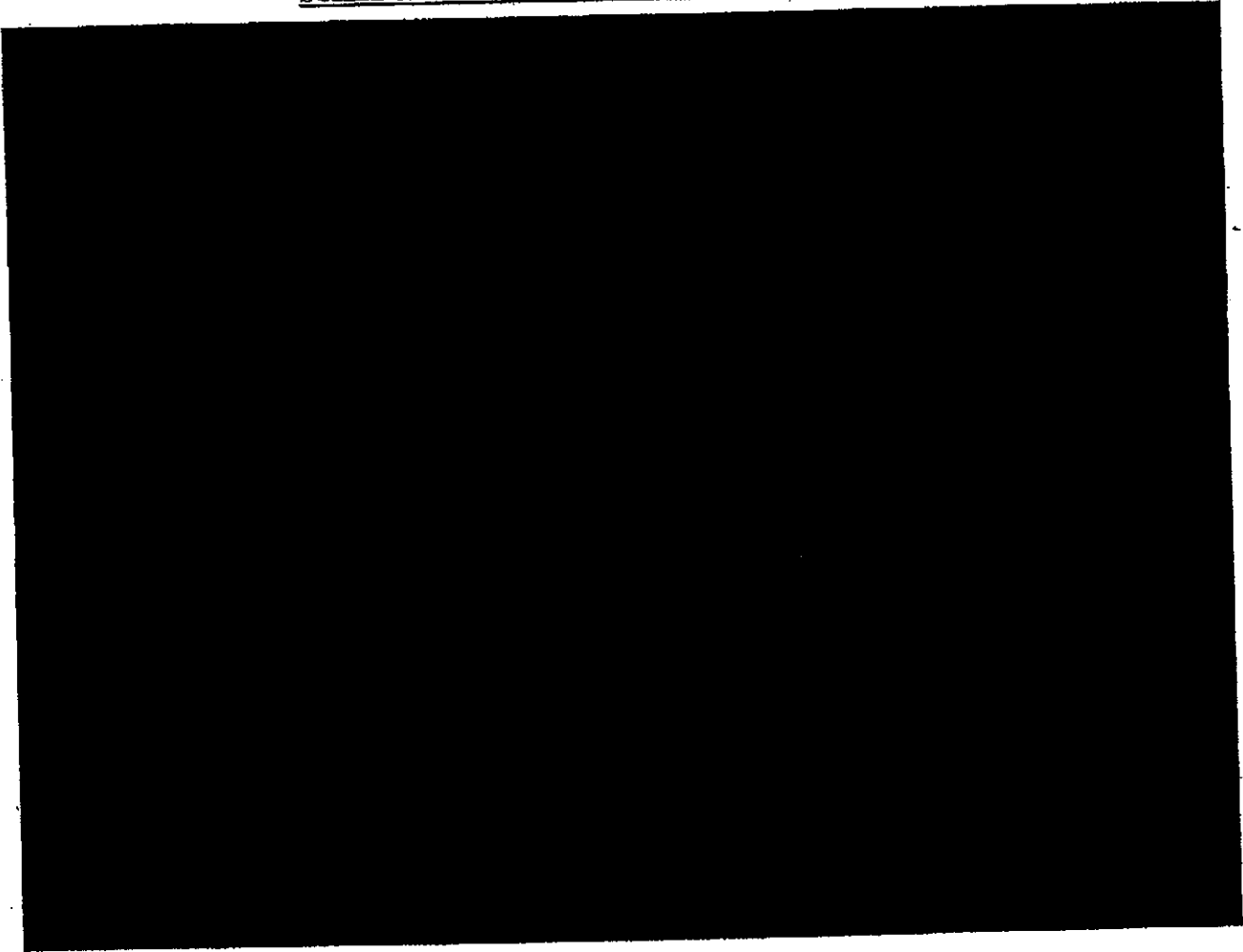
- (a) Unless otherwise specified, references in this Agreement or any of the Exhibits, Annexes, Schedules or Appendices to a Section, subsection or clause refer to such Section, subsection or clause as contained in this Agreement. The words "herein," "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole, including all Annexes, Exhibits and Schedules, as the same may from time to time be amended, restated, modified or supplemented, and not to any particular section, subsection or clause contained in this Agreement or any such Annex, Exhibit or Schedule.
- (b) Wherever from the context it appears appropriate, each term stated in either the singular or plural shall include the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine and neuter genders. The words "including", "includes" and "include" shall be deemed to be followed by the words "without limitation"; the word "or" is not exclusive; references to Persons include their respective successors and assigns (to the extent and only to the extent permitted by the agreement) or, in the case of governmental Persons, Persons succeeding to the relevant functions of such Persons; and all references to statutes and related regulations shall include any amendments of the same and any successor statutes and regulations. Whenever any provision in any agreement refers to the knowledge (or an analogous phrase) of the Issuers, such words are intended to signify that the Issuers has actual knowledge or awareness of a particular fact or circumstance or that the Issuers, if it had exercised reasonable diligence, would have known or been aware of such fact or circumstance.
- (c) All Annexes, Schedules, Exhibits and other attachments (collectively, "Appendices") hereto, or expressly identified to this Agreement, are incorporated herein by reference, and taken together with this Agreement, shall constitute one single agreement.

[Remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized representatives as of the date first written above.

[CANWEST has removed all signature blocks for confidentiality reasons]

SCHEDULE A – PURCHASERS’ COMMITMENTS



[CANWEST has redacted all Purchasers' Commitments for confidentiality reasons]

SCHEDULE B – MILESTONE CONDITIONS

On or before June 15, 2009, the Issuers and the Guarantors shall have:

- (a) reached an agreement in principle (the “**Note Agreement**”) as set forth in an agreement, duly executed and delivered with members of the Ad Hoc Committee of holders of 8.0% senior unsecured subordinated notes due 2012 (the “**8% Notes**”) pursuant to which such members of the Ad Hoc Committee agree to Restructuring Transactions that will address the treatment of the 8% Notes and other related matters; and
- (b) initiated discussions with the Canadian Radio-Television and Telecommunications Commission with respect to the regulatory approvals necessary in connection with the Restructuring Transactions.

On or before July 15, 2009, the Issuers and the Guarantors shall have:

- (a) completed all steps required by the Note Agreement;
- (b) executed and delivered a definitive agreement (the “**Definitive Note Agreement**”) with the members of the Ad Hoc Committee in respect of the Note Agreement; and
- (c) executed and delivered any other definitive agreement required by the Purchasers in connection with the Restructuring Transactions.

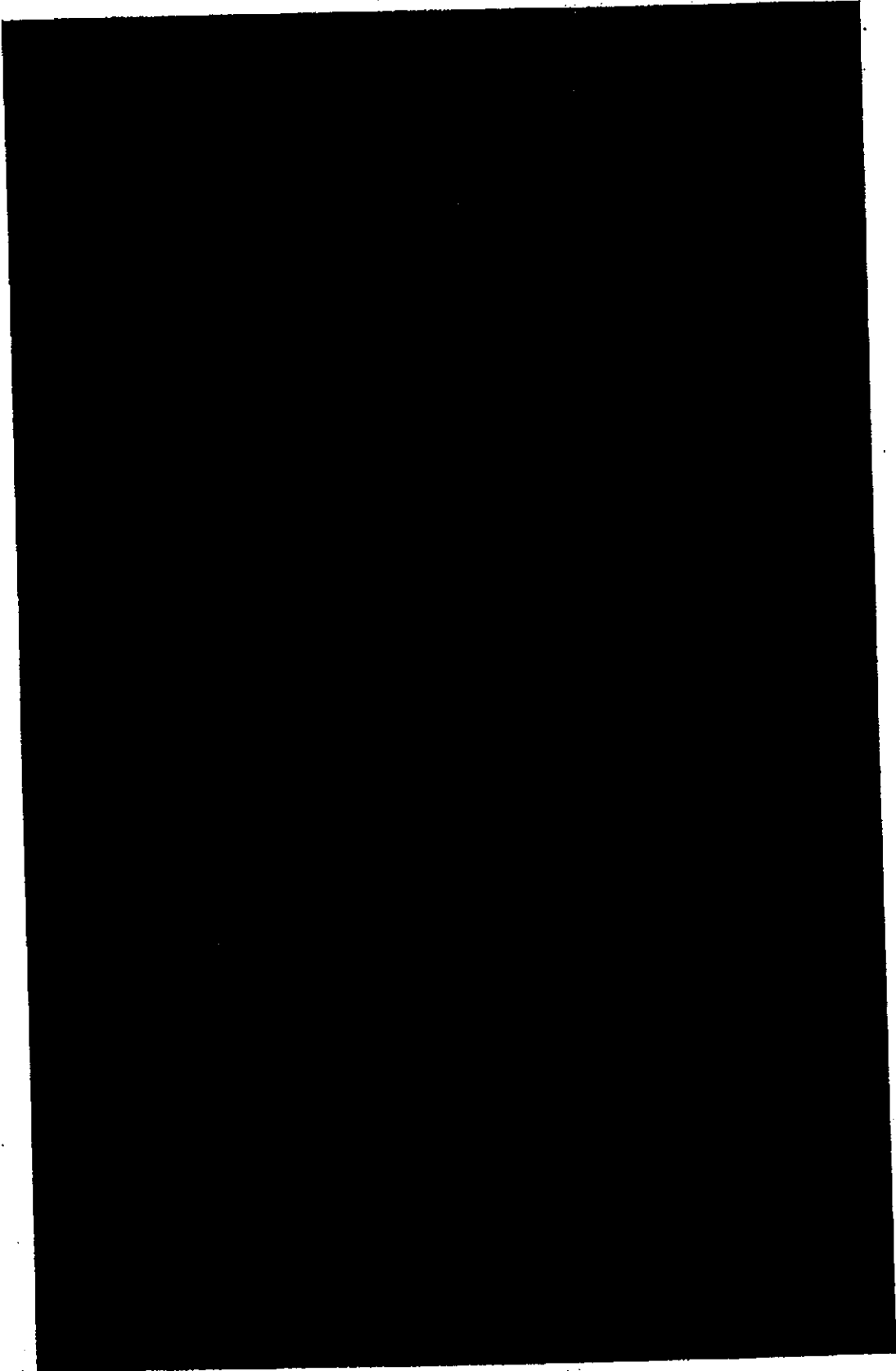
On or before the deadlines set forth in the Definitive Note Agreement, all conditions precedent set forth in the Definitive Note Agreement shall have been satisfied or waived by the Purchasers and the Ad Hoc Committee.

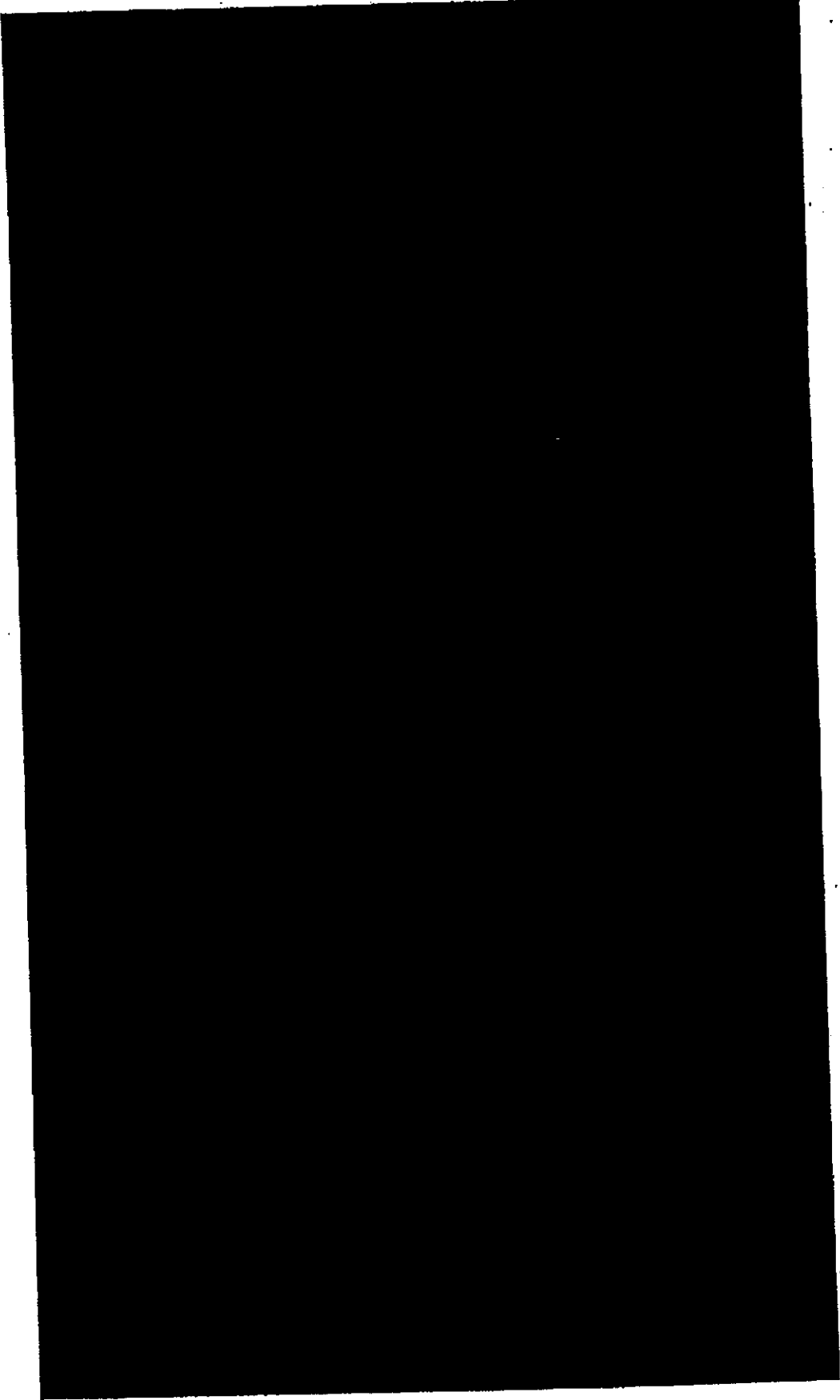
For the purposes of this Agreement, “**Restructuring Transactions**” shall mean restructuring transactions involving the Issuers and the Guarantors that are in form and substance satisfactory to the Purchasers in their sole discretion.

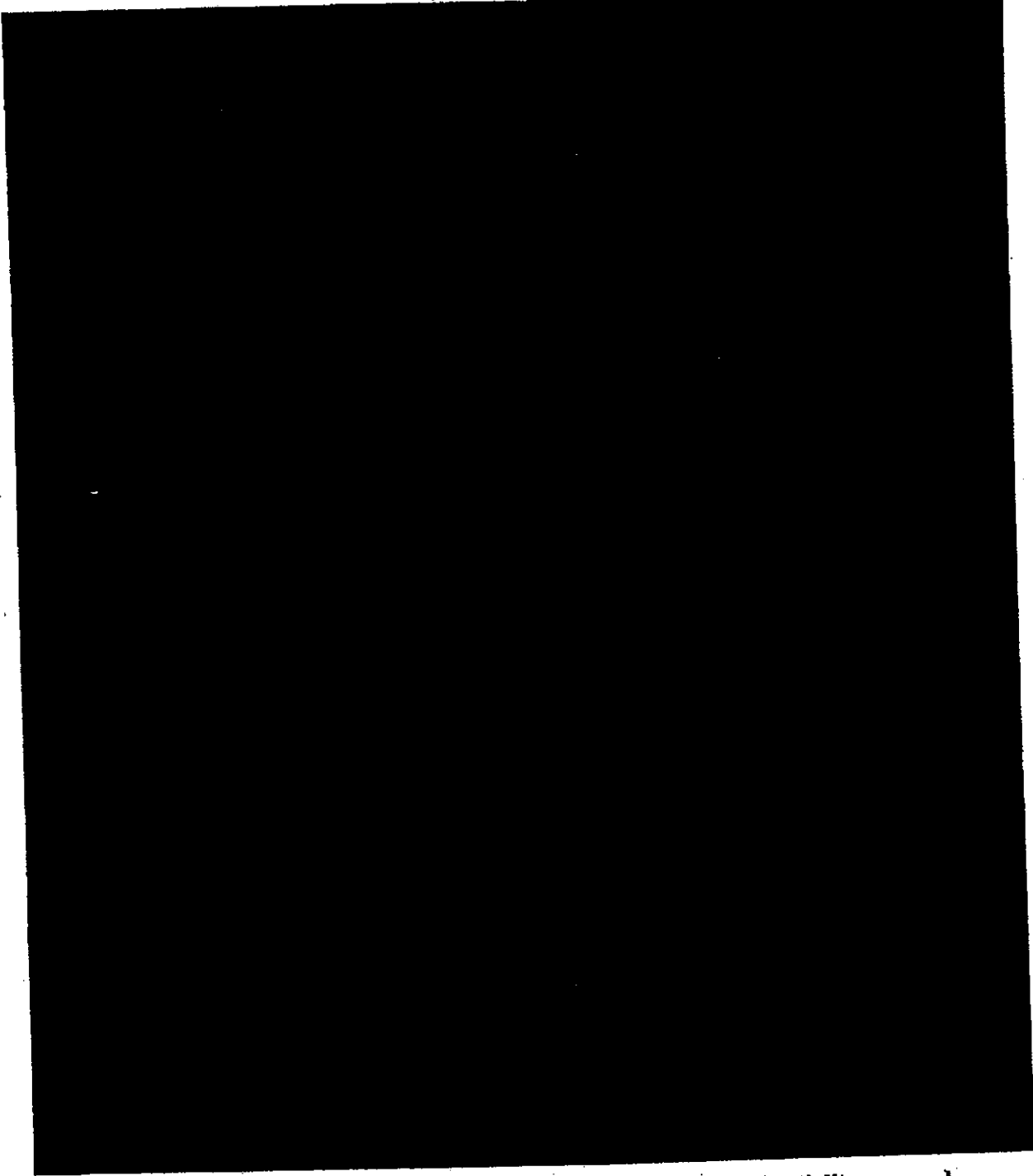
SCHEDULE C – PERMITTED AFFILIATE TRANSACTIONS

1. Execution of unanimous shareholder declarations between:
 - Canwest Global Communications Corp. and CMI;
 - CMI and National Post Holdings Ltd.;
 - CMI and each of 4501063 Canada Inc. (“Broadcast Holdco”) and 4501071 Canada Inc. (“Publishing Holdco”), both of which became Guarantors and Restricted Subsidiaries on April 2, 2009, created to hold the shares of the general partner of Canwest Television Limited Partnership (“Canwest Television GP”) and Canwest Limited Partnership (“Canwest Publishing GP”);
 - Broadcast Holdco and Canwest Television GP;
 - Publishing Holdco and Canwest Publishing GP; and
 - Canwest Publishing GP and Canwest Publishing Inc.
2. Continuance of CMI, National Post Holdings Ltd. and Canwest Television GP Inc. from *The Corporations Act* (Manitoba) to the *Canada Business Corporations Act*.

SCHEDULE D - NOTICES







[CANWEST has redacted all notice information for confidentiality reasons]

SCHEDULE E - LIST OF GUARANTORS

30109, LLC
 3919056 Canada Ltd.
 4501063 Canada Inc.
 4501071 Canada Inc.
 BCTV Holdings Inc.
 Canwest Finance Inc./Financière Canwest Inc.
 Canwest Global Broadcasting Inc./Radioiffusion Canwest Global Inc.
 Canwest Global Communications Corp.
 Canwest International Communications Inc.
 Canwest International Distribution Limited
 Canwest International Management Inc.
 Canwest Ireland Nominee Limited
 Canwest Irish Holdings (Barbados) Inc.
 Canwest Mediaworks Ireland Holdings
 Canwest Media Inc., as the general partner on behalf of The National Post Company/La Publication
 National Post
 Canwest Mediaworks (US) Holdings Corp.
 Canwest Mediaworks Turkish Holdings (Netherlands) B.V.
 Canwest Television GP Inc.
 Canwest Television Limited Partnership, by its general partner, Canwest Television GP Inc.
 Canwest Television Limited Partnership, as the general partner on behalf of Fox Sports World Canada, by
 its general partner, Canwest Television GP Inc.
 CGS Debenture Holding (Netherlands) B.V.
 CGS International Holdings (Netherlands) B.V.
 CGS NZ Radio Shareholding (Netherlands) B.V.
 CGS Shareholding (Netherlands) B.V.
 CHBC Holdings Inc.
 CHEK Holdings Inc.
 Fox Sports World Canada
 Fox Sports World Canada Holdco Inc.
 Fox Sports World Canada Holdco Inc. as general partner on behalf of Fox Sports World Canada
 Global Centre Inc.
 MBS Productions Inc.
 Multisound Publishers Ltd.
 National Post Holdings Ltd.
 National Post Holdings Ltd., as the general partner on behalf of The National Post Company/La
 Publication National Post
 ONTV Holdings Inc.
 The National Post Company/ La Publication National Post
 Western Communications Inc.
 Yellow Card Productions Inc.

SCHEDULE F – DEFINITIONS

Defined Term	Section Number
3 Month Forecast	11(d)(ii)
8% Notes	Schedule B
45-106	15.1
Ad Hoc Committee	11(f)
Administrative Charge	11(x)(i)(B)
Appendices	19.24(c)
BIA	12.1(o)
Broadcast Holdco	Schedule C
Business Day	8.1
Canwest Publishing GP	Schedule C
Canwest Television GP	Schedule C
CCAA	11(x)
Chief Restructuring Officer	11(w)
CIT	5.1
CIT Credit Agreement	10(l)
CIT Facility	5.1
Closing Date	2.2
CMI	Parties
Collateral	5.1
Collateral Agent	5.1
Commitment	3.1
Confidential Information	19.11
Confidentiality Agreement	11(h)(i)
Conversion	11(x)
Default	11(d)(x)
Definitive Note Agreement	Schedule B
DIP Charge	11(x)(i)(B)
Distribution	11(i)
Equitable Mortgage	10(d)
Event of Default	12.1
Existing Credit Agreement	3.4(a)
Existing Facility	3.4(a)
Existing Indenture	19.23
Existing Security	5.1
Filing	11(x)

Defined Term	Section Number
Financing Proposal	11(d)(ix)
Funding Forecast	9(k)
Guarantors	Parties
Indemnified Liabilities	19.13
Indemnified Person	19.13
Initial Order	11(x)(i)
Intercreditor Terms	9(j)
Irish Holdings	11(f)
Issuer(s)	Parties
Lien	5.3
Maturity Date	6.1
Milestone Conditions	11(g)
Non-Guarantor	6.2(b)
Note Agreement	Schedule B
Notes	2.1
Other Restructuring Orders	11(y)
Participant Agreement	10(d)
Permitted Liens	9(d)
Publishing Holdco	Schedule C
Purchase Price	2.1
Purchaser(s)	Parties
Quebec Security	9(c)
Required Purchasers	4.1
Restructuring Transactions	Schedule B
Security	9(b)
Taxes	17
TEN	5.2(a)
TEN Collateral	5.2(a)
TEN shares	5.2(a)
Turkish Asset Sale	6.4
Turkish Assets	6.3
Withholding Taxes	17

In addition, the following terms used in this Agreement shall have the following meanings:

“Affiliate” means (a) any Person which, directly or indirectly, Controls, is Controlled by or is under common Control with any other Person; (b) any Person which beneficially owns or holds, directly or

indirectly, 10% or more of any class of voting stock or equity interest (including partnership interests) of any other Person; (c) any Person, 10% or more of any class of the voting stock (or if such Person is not a corporation, 10% or more of the equity interest, including partnership interests) of which is beneficially owned or held, directly or indirectly, by any other Person; or (d) any Person related within the meaning of the ITA to any such Person and includes any "Affiliate" within the meaning specified in the *Canada Business Corporations Act* on the date hereof. .

"**Capital Lease**" means any lease of property that, in accordance with GAAP, is required to be capitalized on the consolidated balance sheet of the Issuers or Guarantors.

"**Capital Lease Obligations**" of any Person means the obligations of such Person to pay rent or other amounts under any lease of (or other arrangement conveying the right to use) real or personal property, or a combination thereof, which obligations are required to be classified and accounted for as Capital Leases on a balance sheet of such Person under GAAP, and the amount of such obligations shall be the capitalized amount thereof determined in accordance with GAAP.

"**Change in Control**" means (a) the acquisition of ownership, directly or indirectly, beneficially or of record, by any Person or group of Persons acting jointly or otherwise in concert, other than the Permitted Holders, of Equity Securities representing more than 50% of the aggregate ordinary voting power represented by the issued and outstanding Equity Securities of the CMI; (b) the occupation of a majority of the seats (other than vacant seats) on the board of directors of CMI by Persons who were neither (i) nominated by the board of directors of CMI nor (ii) appointed by directors so nominated; (c) the acquisition of direct or indirect Control of the CMI by any Person or group of Persons acting jointly or otherwise in concert, other than the Permitted Holders; or (d) the failure of CMI to own 100% of the Equity Securities of Canwest Television Limited Partnership.

"**Control**" (including the terms "controlled by" and "under common control with"), means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of the Person in question.

"**Equity Securities**" means, with respect to any Person, any and all shares, interests, participations, rights in, or other equivalents (however designated and whether voting and non-voting) of, such Person's capital, whether outstanding on the date hereof or issued after the date hereof, including any interest in a partnership, limited partnership or other similar Person and any beneficial interest in a trust, and any and all rights, warrants, debt securities, options or other rights exchangeable for or convertible into any of the foregoing.

"**Governmental Authority**" means the Government of Canada, any other nation or any political subdivision thereof, whether provincial, state, territorial or local, and any agency, authority, instrumentality, regulatory body, court, central bank, fiscal or monetary authority or other authority regulating financial institutions, and any other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to any such government, including the Bank Committee on Banking Regulation and Supervisory Practices of the Bank of International Settlements.

"**Guarantee**" of or by any Person (in this definition, the "guarantor") means any obligation, contingent or otherwise, of the guarantor guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation of any other Person (in this definition, the "primary credit party") in any manner, whether directly or indirectly, and including any obligation of the guarantor, direct or indirect, (a) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation or to purchase (or to advance or supply funds for the purchase of) any security for the

payment thereof (whether in the form of a loan, advance, stock purchase, capital contribution or otherwise), (b) to purchase or lease property, securities or services for the purpose of assuring the owner of such Indebtedness or other obligation of the payment thereof, (c) to maintain working capital, equity capital solvency, or any other balance sheet, income statement or other financial statement condition or liquidity of the primary credit party so as to enable the primary credit party to pay such Indebtedness or other obligation, (d) as an account party in respect of any letter of credit or letter of guarantee issued to support such Indebtedness or other obligation, or (e) to purchase, sell or lease (as lessor or lessee) property, or to purchase or sell services, primarily for the purpose of enabling the debtor to make payment of such Indebtedness or to assure the holder of such Indebtedness against loss.

"Indebtedness" of any Person means, without duplication, (a) all obligations of such Person for borrowed money or with respect to deposits or advances of any kind, (b) all obligations of such Person evidenced by bonds, debentures, notes or similar instruments, (c) all obligations of such Person upon which interest charges are customarily paid, (d) all obligations of such Person under conditional sale or other title retention agreements relating to property acquired by such Person, (e) all obligations of such Person in respect of the deferred purchase price of property or services (excluding current accounts payable incurred in the ordinary course of business), (f) all Indebtedness of others secured by (or for which the holder of such Indebtedness has an existing right, contingent or otherwise, to be secured by) any Lien on property owned or acquired by such Person, whether or not the Indebtedness secured thereby has been assumed, (g) all Guarantees by such Person of Indebtedness of others, (h) all Capital Lease Obligations of such Person, (i) all obligations, contingent or otherwise, of such Person as an account party in respect of letters of credit and letters of guarantee, (j) all obligations, contingent or otherwise, of such Person in respect of bankers' acceptances, (k) all obligations of such Person under Swap Agreements, and (l) all obligations of such Person to purchase, redeem, retire, defease or otherwise acquire for value (other than for other Equity Securities) any Equity Securities of such Person, valued, in the case of redeemable Equity Securities, at the greater of voluntary or involuntary liquidation preference, plus accrued and unpaid dividends.

"Investment" means, as applied to any Person (the "investor"), any direct or indirect purchase or other acquisition by the investor of, or a beneficial interest in, Equity Securities of any other Person, including any exchange of Equity Securities for Indebtedness, or any direct or indirect loan, advance (other than advances to employees for moving and travel expenses, drawing accounts and similar expenditures in the ordinary course of business) or capital contribution by the investor to any other Person, including all Indebtedness and accounts owing to the investor from such other Person that did not arise from sales or services rendered to such other Person in the ordinary course of the investor's business, or any direct or indirect purchase or other acquisition of bonds, notes, debentures or other debt securities of, any other Person.

"Material Adverse Effect" means a material adverse effect on (a) the business, assets, operations, prospects or condition, financial or otherwise, of the Issuers and the Guarantors taken as a whole, or (b) the validity or enforceability of any of this Agreement, the Notes, the Security or any documents delivered pursuant to the terms hereof, the priority of the Liens created thereby or the rights and remedies of the Agent and the Lenders thereunder or (c) any Material Contract, or (d) the amount which the Lenders would be likely to receive (after giving effect to delays in payment and costs of enforcement) upon the liquidation of the Ten shares; provided that a Filing shall not, in and of itself, be deemed to constitute or give rise to a Material Adverse Effect.

"Material Contract" means (a) the contracts, licences and agreements listed and described on Schedule C to the CIT Credit Agreement, and (b) any other contract, licence or agreement (i) to which any Issuer or Guarantor is a party or bound, (ii) which is material to, or necessary in, the operation of the

business of any Issuer or Guarantor, and (iii) which any Issuer or Guarantor cannot promptly replace by an alternative and comparable contract with comparable commercial terms.

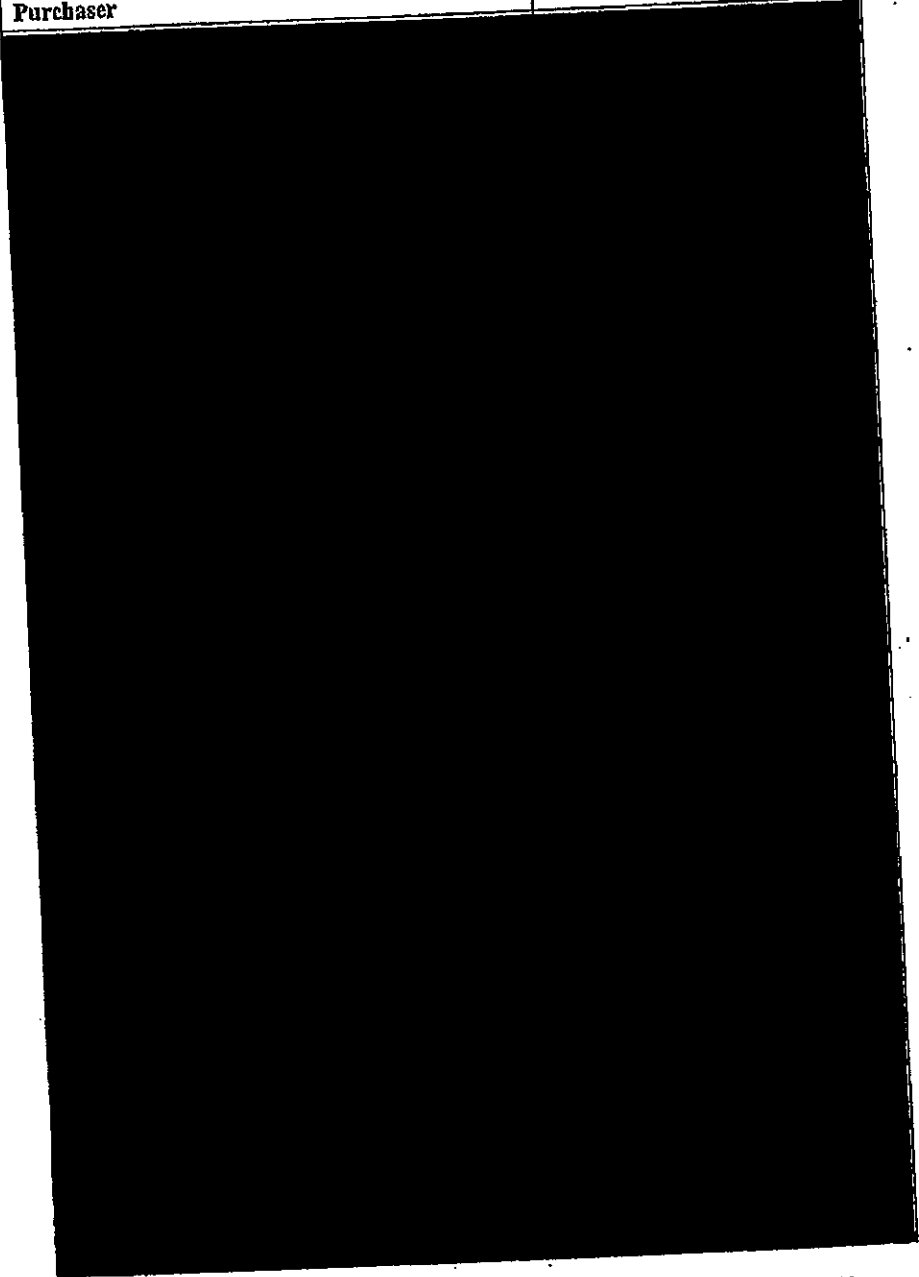
"Permitted Holders" means (a) the late Israel Harold Asper (in this definition, the "Primary Permitted Holder"); (b) the spouse of the Primary Permitted Holder (including a widow or widower); (c) any lineal descendant of the Primary Permitted Holder (treating for this purpose, any legally adopted descendant as a lineal descendant); (d) the estate trustee of any Person listed in clauses (a) to (c); (e) any trust (whether testamentary or *inter vivos*) primarily for the lineal descendants of the Primary Permitted Holder, spouses of such lineal descendants, the Primary Permitted Holder himself or his spouse; and (f) any and all corporations which are directly or indirectly Controlled by any one or more of the foregoing.

"Person" means any natural person, corporation, company, limited liability company, unlimited liability company, trust, joint venture, association, incorporated organization, partnership, Governmental Authority or other entity.

"Restricted Payment" shall mean, with respect to any Person, any payment by such Person (i) of any dividends on any of its Equity Securities, (ii) on account of, or for the purpose of setting apart any property for a sinking or other analogous fund for, the purchase, redemption, retirement or other acquisition of any of its Equity Securities or any warrants, options or rights to acquire any Equity Securities, or the making by such Person of any other distribution in respect of any of its Equity Securities, (iii) of any principal of or interest or premium on or of any amount in respect of a sinking or analogous fund or defeasance fund for any Indebtedness of such Person ranking in right of payment or security subordinate to any liability of such Person under this Agreement, the Notes or the Security, (iv) of any principal of or interest or premium on or of any amount in respect of a sinking or analogous fund or defeasance fund for any Indebtedness of such Person to a shareholder of such Person or to an Affiliate of a shareholder of such Person, (v) in respect of an Investment, or (vi) of any management, consulting or similar fee or any bonus payment or comparable payment, or by way of gift or other gratuity, to any Affiliate of such Person or to any director or officer thereof.

"Swap Agreement" means any agreement with respect to any swap, forward, future or derivative transaction or option or similar agreement involving, or settled by reference to, one or more rates, currencies, commodities, equity or debt instruments or securities, or economic, financial or pricing indices or measures of economic, financial or pricing risk or value or any similar transaction or any combination of these transactions.

SCHEDULE G - PRINCIPAL AMOUNT OF NOTES

Purchaser	CS105M Principal (US\$)
	

[Redacted individual Purchaser name and Notes for confidentiality reasons]

EXHIBIT A – FORM OF NOTE

UNLESS PERMITTED UNDER SECURITIES LEGISLATION, THE HOLDER OF THESE SECURITIES MUST NOT TRADE THE SECURITIES BEFORE THE DATE THAT IS FOUR MONTHS AND A DAY AFTER THE LATER OF (I) MAY [●], 2009, AND (II) THE DATE THE COMPANY BECAME A REPORTING ISSUER IN ANY PROVINCE OR TERRITORY OF CANADA. - CANADIAN PURCHASERS

THIS NOTE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR ANY STATE SECURITIES LAWS OR REGULATIONS AND CANNOT BE TRANSFERRED EXCEPT PURSUANT TO REGISTRATION UNDER APPLICABLE FEDERAL AND STATE SECURITIES LAWS AND REGULATIONS OR AN EXEMPTION THEREFROM.

**CANWEST MEDIA INC.
and CANWEST TELEVISION LIMITED PARTNERSHIP**

·12% Senior Secured Note

●, 2009

FOR VALUE RECEIVED, each of the undersigned, CANWEST MEDIA INC. and CANWEST TELEVISION LIMITED PARTNERSHIP (herein, collectively, called the "Company"), a corporation organized or a partnership formed and existing under the laws of Canada, hereby jointly and severally promises to pay to [_____], or its successors or permitted assigns, the principal sum of ● THOUSAND U.S. DOLLARS (U.S.\$●) on the Maturity Date, with interest (a) on the unpaid balance thereof at the interest rate specified in the Note Purchase Agreement (as defined below) from the date hereof, calculated daily and payable monthly in arrears on the first Business Day of the following month in accordance with the terms of the Note Purchase Agreement, commencing on ●, 2009, until the principal hereof shall have become due and payable, and (b) to the extent permitted by law on any overdue payment (including any overdue prepayment) of principal or any overdue payment of interest, calculated and payable in accordance with the terms of the Note Purchase Agreement (or, at the option of the registered holder hereof, on demand), at a rate per annum from time to time equal to 2% above the interest rate on the Notes.

All interest payable by the Company hereunder shall accrue from day to day, computed as described herein and shall be payable after as well as before maturity, demand, default and judgment in accordance with the provisions of the Note Purchase Agreement referred to below.

Payments of principal or interest on this Note are to be made in lawful money of the United States to the holder of this Note or at such other place as the holder of this Note shall have designated by written notice to the Company as provided in the Note Purchase Agreement referred to below.

This Note is issued pursuant to the Note Purchase Agreement, dated as of May ●, 2009 (as from time to time amended, restated, replaced or modified, the "Note Purchase Agreement"), between *inter alia* the Company and the respective Purchasers named therein and is entitled to the benefits thereof. Capitalized terms used and not otherwise defined herein shall have the meanings assigned thereto in the Note Purchase Agreement.

Upon surrender of this Note for transfer, duly endorsed, or accompanied by a written instrument of transfer duly executed, by the registered holder hereof or such holder's attorney duly authorized in writing, a new Note for a like principal amount will be issued to and in the name of, the transferee. Prior to due presentment for transfer, the Company may treat the person in whose name this Note is registered as the owner hereof for the purpose of receiving payment and for all other purposes, and the Company will not be affected by any notice to the contrary.

This Note is subject to optional and/or mandatory prepayment, in whole or from time to time in part, at the times and on the terms specified in the Note Purchase Agreement. In addition to payments of principal and interest required to be paid by the Company, the Company promises to pay the holder of this Note all fees required to be paid in respect of this Note pursuant to the terms of the Note Purchase Agreement.

If an Event of Default, as defined in the Note Purchase Agreement, occurs and is continuing, the principal of this Note may be declared or otherwise become due and payable in the manner and with the effect provided in the Note Purchase Agreement.

This Note is secured by the Security.

This Note shall be governed by and construed in accordance with the laws of the Province of Ontario and the laws of Canada applicable therein.

CANWEST MEDIA INC.

By: _____
Name:
Title:

By: _____
Name:
Title:

**CANWEST TELEVISION LIMITED
PARTNERSHIP, by its general partner, CANWEST
TELEVISION GP INC.**

By: _____
Name:
Title:

By: _____
Name:
Title:

1820A

CONFIDENTIAL

**AMENDED AND RESTATED
SHAREHOLDERS AGREEMENT**

CANWEST MEDIA WORKS INC.

AND

4414616 CANADA INC.

AND

GS CAPITAL PARTNERS VI FUND, L.P.

AND

GSCP VI AA ONE HOLDING S.à.r.l

AND

GSCP VI AA ONE PARALLEL HOLDING S.à.r.l

AND

CW INVESTMENTS Co.

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AMENDED AND RESTATED SHAREHOLDERS AGREEMENT

THIS AGREEMENT is made as of August 15, 2007 and amended and restated as of January 4, 2008

BETWEEN:

CANWEST MEDIAWORKS INC., a corporation governed by the laws of Manitoba ("CanWest"),

- and -

4414616 CANADA INC., a corporation governed by the laws of Canada ("CanWest Holdco"),

- and -

GS CAPITAL PARTNERS VI FUND, L.P., a limited partnership governed by the laws of Delaware ("GSCP"),

- and -

GSCP VI AA ONE HOLDING S.à.r.l., a corporation governed by the laws of Luxembourg ("GS Shareholder Holdco One"),

- and -

GSCP VI AA ONE PARALLEL HOLDING S.à.r.l., a corporation governed by the laws of Luxembourg ("GS Shareholder Holdco Two"),

- and -

CW INVESTMENTS CO., an unlimited liability company governed by the laws of Nova Scotia (the "Corporation").

RECITALS:

- A. CanWest Holdco and the GS Holdcos together own, directly or indirectly, all of the issued and outstanding shares in the capital of the Corporation.
- B. CanWest Holdco is a wholly-owned Subsidiary of CanWest.
- C. Each of GS Shareholder Holdco One and GS Shareholder Holdco Two is Controlled by GSCP and its affiliated funds.
- D. CanWest, CanWest Holdco, GSCP, GS Shareholder Holdco One, GS Shareholder Holdco Two and the Corporation entered into a Shareholders Agreement on August 15, 2007 (the "Initial Agreement") to record their agreement as to the manner in which the affairs of the Corporation and its Subsidiaries shall be conducted and to grant to each

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other certain rights and obligations with respect to the ownership, directly and indirectly, of the shares of the Corporation.

- E. In response to concerns raised by the CRTC at a hearing held on November 19 and 20, 2007 relating to the transfer of effective control of the Deposited Securities (as defined in the Voting Trust Agreement) from the Trustee to CW Media, the Parties amended and restated the Initial Agreement as of November 20, 2007.
- F. In Broadcasting Decision CRTC 2007-429 (the "CRTC Decision") dated December 20, 2007, the CRTC approved the transfer of effective control of the Deposited Securities to CW Media subject to certain conditions, including the Parties making certain amendments to the Initial Agreement.
- G. The Parties have entered into this Amended and Restated Shareholders Agreement in order to satisfy certain of the conditions of approval in the CRTC Decision.

THEREFORE, the parties agree as follows:

ARTICLE 1 DEFINITIONS AND PRINCIPLES OF INTERPRETATION

1.1 Definitions

Whenever used in this Agreement, the following terms shall have the meanings set out below:

"Acceptable Participant" means a Person that is not a Media Party and that is:

- (i) a financial investor that does not have a significant interest in any Media Party (for this purpose, a Person will be deemed to have such a significant interest if it owns or Controls, directly or indirectly, 10% or more of the equity interests in such Media Party, and any securities convertible or exchangeable into equity interests will be deemed to be equity interests equivalent to the equity interests into which they may be converted or exchanged); or
- (ii) another Person acceptable to CanWest, acting reasonably;

"Acceptance Notice" has the meaning set out in Section 6.8(c);

"Acquired Competing Business" has the meaning set out in Section 9.2(b)(v);

"Act" means the *Companies Act* (Nova Scotia);

"Affiliate" means, when used with respect to a specified Person, a Person that directly or indirectly, through one or more intermediaries, Controls, is Controlled by, or is under common Control with such specified Person; provided that, with respect to the CanWest Parties, "Affiliate" means any such Affiliate of the CanWest Parties other than the Corporation and its Subsidiaries, and provided further that, with respect to the GS Parties,

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"Affiliate" means any such Affiliate of the GS Parties other than the Corporation and its Subsidiaries;

"Agreement" means this Amended and Restated Shareholders Agreement, including all schedules and all amendments or restatements as permitted, and references to **"Article"** or **"Section"** mean the specified article or section of this Agreement;

"Ancillary Agreements" has the meaning set out in the Separation Agreement;

"Appeal Arbitrator" has the meaning set out in Section 9.3(c);

"Appeal Respondent" has the meaning set out in Section 9.3(c);

"Appellant" has the meaning set out in Section 9.3(c);

"Arbitration Act" has the meaning set out in Section 9.3(a);

"Arm's Length" has the meaning that it has for purposes of the Tax Act;

"Arrangement Agreement" means the Arrangement Agreement between AA Acquisition Corp. (formerly 6681859 Canada Inc.) and Alliance Atlantis Communications Inc. dated January 10, 2007, as amended on February 26, 2007 and July 30, 2007;

"Asset Transfer Agreement" means the asset transfer agreement substantially in the form attached as a schedule to the Merger Agreement;

"Auditor" means the auditor of the Corporation appointed from time to time;

"Board" means the board of directors of the Corporation;

"Business" means, until the Combination Date the specialty television and related businesses carried on by the Corporation and its Subsidiaries and from and after the Combination Date means those businesses combined with the Contributed Business;

"Business Day" means any day, other than a Saturday or Sunday, on which the principal commercial banks in Toronto, Winnipeg and New York are open for commercial banking business during normal banking hours;

"CanWest Call" has the meaning set out in Section 6.6(a);

"CanWest Call Price" means, subject to Section 6.7(c), the Equity Value divided by the total number of issued and outstanding Shares as of the date of exercise of the CanWest Call, First GS Put or Second GS Put, as applicable, where for purposes of calculating Equity Value, (a) Combined EBITDA (for purposes of calculating the TEV) shall be calculated for the 12-month period ended March 31st of the year in which the CanWest Call, First GS Put or Second GS Put, as applicable, was exercised, (b) Net Debt shall be calculated as of March 31st of the year in which the CanWest Call, First GS Put or Second GS Put, as applicable, was exercised, (c) Combined EBITDA (for purposes of

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calculating TEV) shall be calculated as the greater of actual Combined EBITDA and the applicable Floor Amount and (d) the TEV shall be calculated without applying the Minimum TEV;

"CanWest Parties" means CanWest and CanWest Holdco and any permitted transferees of either of them pursuant to Section 6.5;

"Cash" means cash and cash equivalents as determined in accordance with GAAP;

"CBCA" means the *Canada Business Corporations Act*;

"Combination Date" means the date on which the Combination Transaction is consummated;

"Combination Transaction" has the meaning set out in Section 5.2(a);

"Combined EBITDA" means, for the applicable 12-month period, (a) if the Combination Transaction has not occurred prior to the beginning of such 12-month period, (i) for the portion of such 12-month period prior to the completion of the Combination Transaction, the aggregate of the EBITDA of (x) the Corporation and its Subsidiaries, plus (y) the Contributed Business, plus (ii) for the portion of such 12-month period (if any) after the completion of the Combination Transaction, the EBITDA of the Corporation and its subsidiaries or (b) if the Combination Transaction has occurred prior to the beginning of such 12-month period, the EBITDA of the Corporation and its Subsidiaries;

"Common Shares" means the Class A Common Shares and the Class B Common Shares in the capital of the Corporation and includes all such shares of the Corporation currently authorized as well as any additional common shares in the capital of the Corporation that may be created, but does not include any such shares for which other securities may be exercised or exchanged or into which other securities may be converted unless and until such rights have been exercised and such shares issued;

"Competing Business" has the meaning set out in Section 9.2(a);

"Confidential Arbitration Information" has the meaning set out in Section 9.3(e);

"Confidential Information" has the meaning set out in Section 9.1(a);

"Contributed Business" has the meaning set out in the Asset Transfer Agreement, provided that from and after the completion of the transactions contemplated by the Asset Transfer Agreement, "Contributed Business" shall mean the Contributed Entity and its Subsidiaries;

"Control" means:

- (i) in relation to a corporation, the beneficial ownership at the relevant time of shares of such corporation carrying more than 50% of the voting rights ordinarily exercisable at meetings of shareholders of the corporation

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where such voting rights are sufficient to elect a majority of the directors of the corporation;

- (ii) in relation to a Person that is a partnership, limited liability company or joint venture, the beneficial ownership at the relevant time of more than 50% of the ownership interests of such partnership, limited liability company or joint venture in circumstances where it can reasonably be expected that the Person can direct the affairs of the partnership, limited liability company or joint venture;
- (iii) in relation to a trust, the beneficial ownership at the relevant time of more than 50% of the property settled under the trust; and
- (iv) in relation to an investment fund, the management of such fund;

and the words "Controlled by", "Controlling" and similar words have corresponding meanings; the Person who Controls a Controlled Person shall be deemed to Control a corporation, partnership, limited liability company, joint venture or trust which is Controlled by the Controlled Person, and so on;

"CRTC" means the Canadian Radio-television and Telecommunications Commission, or any successor to it;

"CRTC Decision" has the meaning set out in paragraph F of the Recitals;

"CRTC Regulations" means the *Broadcasting Act (Canada)*, the regulations enacted under that Act, the *Direction to the CRTC (Ineligibility of Non Canadians)* (SOR/97 192, April 8, 1997 as amended by SOR/98 378, July 15, 1998), all rulings, decisions and licence conditions of, and any other law, regulation or published policy of, or administered by, the CRTC;

"CW Media" means CW Media Inc., a corporation governed by the laws of Canada (including any successor entity or resulting entity from the Combination Transaction);

"CW Media Board" has the meaning set out in Section 4.8(a);

"Director" means a member of the Board;

"Dispute" has the meaning set out in Section 9.3(a);

"Equity Value" means the TEV less Net Debt;

"EBITDA" means EBITDA determined in accordance with Schedule 1.1(b);

"Estimated Price" has the meaning set out in Section 7.2(e);

"Financial Calculations" has the meaning set out in Section 7.1(a);

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"Financial Statements" means the audited consolidated balance sheets of CanWest as of August 31, 2006 and August 31, 2005 and the related consolidated statements of earnings (loss), retained earnings and cash flows for each of the three years in the period ended August 31, 2006 and all notes to those financial statements as reported upon by PricewaterhouseCoopers LLP, Chartered Accountants;

"First Call Period" has the meaning set out in Section 6.6(a);

"First GS Put" has the meaning set out in Section 6.7(a);

"First Put Period" has the meaning set out in Section 6.7(a);

"First Put Shares" has the meaning set out in Section 6.7(a);

"Floor Amount" means, (i) if the CanWest Call is exercised in 2011, \$230 million; (ii) if the CanWest Call is exercised in 2012, \$250 million; and (iii) if the CanWest Call is exercised in 2013, \$280 million;

"Force Majeure Event" means any natural, technological, political, governmental, regulatory, market (including financial, banking or capital market) or similar event, circumstance or condition, occurring after the date of this Agreement which is beyond the reasonable control of the Corporation and its Subsidiaries and the CanWest Parties, for the avoidance of doubt excluding (a) any event, circumstance or condition to the extent caused by the negligence or wilful act of the Corporation, its Subsidiaries or any of the CanWest Parties and (b) the inability to obtain financing (except if a separate Force Majeure Event caused the financing to be unavailable);

"GAAP" has the meaning set out in Section 1.5;

"Governmental Entity" means any (i) multinational, federal, provincial, state, regional, municipal, local or other government, governmental or public department, central bank, court, tribunal, arbitral body, commission, board, bureau or agency, domestic or foreign; (ii) any subdivision, agent, commission, board or authority of any of the foregoing; or (iii) any quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of the foregoing, including the Toronto Stock Exchange or any other stock exchange;

"GS Additional Investment" means \$52.5 million and the amount of any additional capital contributions made to the Corporation by the GS Parties in accordance with Section 3.5(a);

"GS Equity Value" means the sum of (a) the GS Initial Investment, plus a return on the GS Initial Investment calculated using a rate equal to the GS Rate of Return, compounded annually from the date of this Agreement to the fourth anniversary of the date of this Agreement, plus (b) each GS Additional Investment, plus a return on each such GS Additional Investment calculated using a rate equal to an annual rate of 9%, compounded annually from the date of this Agreement (with respect to the \$52.5 million contribution made by the GS Parties as of the date of this Agreement) or the date of any

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subsequent GS Additional Investment (with respect to contributions made by the GS Parties after the date of this Agreement), as applicable, to the fourth anniversary of the date of this Agreement;

"GS Holdcos" means GS Shareholder Holdco One and GS Shareholder Holdco Two and any permitted transferees of either of them pursuant to Section 6.5;

"GS Initial Interest" means the number of Shares held by the GS Holdcos as at the date of this Agreement (as appropriately adjusted from time to time for any share dividend, split, consolidation, reorganization, redemption or similar event occurring after the date of this Agreement);

"GS Initial Investment" means \$428,287,353;

"GS Parties" means GSCP, GS Shareholder Holdco One and GS Shareholder Holdco Two and any permitted transferees of any of them pursuant to Section 3.3 or Section 6.5;

"GS Post-Combination Percentage Interest" has the meaning set out in Section 5.4(a);

"GS Put Price" means, subject to Section 6.7(c), an amount equal to the CanWest Call Price, except that for purposes of calculating Equity Value, Combined EBITDA shall be calculated as the actual Combined EBITDA without any reference to any Floor Amount and, in the case of the GS Put Price for the First GS Put (but not the Second GS Put or the Shortfall Put), the TEV shall not be less than the Minimum TEV;

"GS Rate of Return" means the annual rate of return determined in accordance with the provisions of Schedule 1.1(b);

"GS Shares" has the meaning set out in Section 6.6(a);

"Guaranteed Parties" has the meaning set out in Section 6.11(b);

"Guaranteeing Parties" has the meaning set out in Section 6.11(b);

"Indebtedness" means, in respect of any Person, the amount of all debts and liabilities in respect of:

- (i) money borrowed or raised, including any related premiums and all capitalized interest;
- (ii) debentures, bonds, promissory notes or similar debt instruments; and
- (iii) obligations under leases of real or personal property to the extent that such obligations would be capitalized on a balance sheet prepared in accordance with GAAP;

determined, without duplication, on a consolidated basis in accordance with GAAP but, for the avoidance of doubt, not including any trade payables or accrued liabilities

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(including, by way of example, in respect of pension or post-retirement obligations, payables in respect of any television programs or films or CRTC-related obligations);

"Indemnified Party" has the meaning set out in Section 6.11(a);

"Indemnifying Party" has the meaning set out in Section 6.11(a);

"Indemnity Agreement" means the Indemnity Agreement between the CanWest Parties and the GS Parties dated on or about the date of this Agreement;

"Independent Auditor" means one of the "big four" national auditing firms that is not the Auditor and that is independent with respect to each of the Parties under applicable generally accepted auditing standards, selected at random, or if none of such auditing firms so qualifies, another nationally recognized auditing firm to which both CanWest and GSCP consent;

"Initial Agreement" has the meaning set out in paragraph D of the Recitals;

"Insolvency Event" means in respect of a Person:

- (i) the commencement by the Person of any proceedings under any bankruptcy, arrangement, reorganization, dissolution, liquidation, insolvency, winding-up or similar law of any jurisdiction for the relief from or otherwise primarily affecting the rights of creditors of the Person, including under the *Bankruptcy and Insolvency Act* (Canada) (the "BIA"), the *Companies' Creditors Arrangement Act* (Canada), the *Winding-up and Restructuring Act* (Canada) or the *United States Bankruptcy Code* (each an "Insolvency Proceeding");
- (ii) the commencement of an Insolvency Proceeding against or in respect of the Person which is not contested and dismissed within 90 days of such commencement;
- (iii) the Person (i) making a general assignment for the benefit of its creditors, including any assignment made pursuant to the BIA, (ii) acknowledging its insolvency in writing or (iii) being declared bankrupt or insolvent;
- (iv) any receiver, receiver-manager, interim receiver, monitor, liquidator, assignee, custodian, trustee, sequestrator or other similar entity being lawfully appointed in respect of the Person or all or substantially all of the Person's property, assets or undertaking following proper notice to the Person where the Person is not contesting such appointment in good faith; and
- (v) any holder of any security interest, mortgage, lien, charge, claim or encumbrance lawfully taking possession, management or control of all or substantially all of the Person's property, assets or undertaking following proper notice to the Person where the Person is not contesting such action in good faith;

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"Intermediary Corporations" means 4414624 Canada Inc., CW Media Holdings Inc. and 4414641 Canada Inc.;

"IRR Adjustment" has the meaning set out in Section 6.7(c);

"Later Call Period" has the meaning set out in Section 6.6(a);

"Leverage Cap" means 6.5 times the Combined EBITDA for the applicable 12-month period;

"Management Agreement" means the Management and Administrative Services Agreement between CanWest and CW Media dated on or about the date of this Agreement;

"material liability" means for the purposes of sections 4.7(b)(vi) and 5.5(e) a liability that is or is reasonably expected to be, material and adverse to the business, operations, results of operations, obligations, capital, properties, assets or financial condition of the Corporation and its Subsidiaries or the Contributed Business, as the case may be, taken as a whole;

"Media Party" means any Person referred to on Schedule 1.1(c) and any Affiliate of any such Person;

"Merger Agreement" has the meaning set out in Section 5.2(a);

"Minimum TEV" means \$2.5 billion;

"Modified Acceptance Notice" has the meaning set out in Section 6.8(f);

"Modified Offer Period" has the meaning set out in Section 6.8(f);

"Modified Terms" has the meaning set out in Section 6.8(f);

"Net Debt" means, as of the applicable measurement date, all Indebtedness of the Corporation and its Subsidiaries, less Cash of the Corporation and its Subsidiaries;

"Notice" has the meaning set out in Section 9.9;

"Notice of Appeal" has the meaning set out in Section 9.3;

"Notice of Modification" has the meaning set out in Section 6.8(f);

"Notice of Sale" has the meaning set out in Section 6.8(b);

"Objection Notice" has the meaning set out in Section 7.1(d);

"Offered Shares" has the meaning set out in Section 6.8(b);

"Offer Period" has the meaning set out in Section 6.8(c);

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"Offer Price" has the meaning set out in Section 6.8(b);

"ordinary course of business" means the ordinary course of the business of the Corporation and its Subsidiaries or the Contributed Business, as the case may be, including with respect to the Corporation and its Subsidiaries, the operation of specialty television channels and ancillary businesses related thereto (including new media related thereto), and with respect to the Contributed Business, the operation of conventional television and specialty television channels and ancillary businesses related thereto (including new media related thereto), including the acquisition, production, licensing, sale and exhibition of programming, sale and exhibition of advertising, dealings with broadcast distribution undertakings and capital spending, in connection with each of the foregoing, but excluding the acquisition of, investment in or disposition of businesses, channels or stations;

"Parent" means a Person who Controls, directly or indirectly, a Shareholder; CanWest is the Parent of CanWest Holdco;

"Parties" means, collectively, CanWest, CanWest Holdco, GSCP, GS Shareholder Holdco One, GS Shareholder Holdco Two, the Corporation and any other Person that becomes a party to this Agreement, and **"Party"** means any one of them;

"Person" means any individual, sole proprietorship, partnership, firm, entity, unincorporated association, unincorporated syndicate, unincorporated organization, trust, body corporate, limited liability company, unlimited liability company, government, government regulatory authority, governmental department, agency, commission, board, tribunal, dispute settlement panel or body, bureau, court and, where the context requires, any of the foregoing when acting as trustee, executor, administrator or other legal representative;

"Pledged Shares" has the meaning set out in Section 6.4;

"Proceeding" means any court, administrative, regulatory or similar proceeding (whether civil, quasi-criminal or criminal), arbitration or other dispute settlement procedure, investigation, audit, assessment, inquiry, request for information, warrant, charge, suit or claim, or any similar matter or proceeding;

"Process Agent" has the meaning set out in Section 9.10;

"Programming Committee" has the meaning set out in Section 4.17;

"Put Shortfall Price" has the meaning set out in Section 6.7(c);

"Reporting Committee" has the meaning set out in Section 4.8(b);

"Second GS Put" has the meaning set out in Section 6.7(d);

"Second Put Period" has the meaning set out in Section 6.7(d);

"Second Put Shares" has the meaning set out in Section 6.7(d);

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"Section 116 Certificate" has the meaning set out in Section 7.4(a);

"Senior Notes" means the 8% senior subordinated notes of CanWest due 2012 or any refinancing or replacement or exchange of such notes;

"Separation Affiliate" has the meaning set out in Section 6.11(a);

"Separation Agreement" means the separation and distribution agreement dated as of the date of this Agreement among CW Media and certain other parties;

"Separation Indemnity" has the meaning set out in Section 6.11(a);

"Shares" means the Common Shares, the Voting Shares and the Class B non-voting preferred shares in the capital of the Corporation and includes all such shares of the Corporation currently authorized as well as any additional shares in the capital of the Corporation that may be created, but does not include any such shares for which other securities may be exercised or exchanged or into which other securities may be converted unless and until such rights have been exercised and such shares issued;

"Shareholders" means, collectively, CanWest Holdco and each GS Holdco together with such other Persons as may become Parties to this Agreement as a shareholder of the Corporation, and "Shareholder" means any one such Person;

"Shortfall Put" has the meaning set out in Section 6.7(c);

"Subsidiary" means with respect to any Person (i) a body corporate 50% or more of the voting or capital stock of which is, as of the time in question, directly or indirectly owned by such Person and (ii) any other Person in which such Person, directly or indirectly, owns 50% or more of the equity economic interest of such other Person or has the power to elect or direct the election of 50% or more of the members of the governing body of such other Person or otherwise has control over such entity (e.g., as the managing partner of a partnership); provided that, with respect to the CanWest Parties, "Subsidiary" means any Subsidiary of the CanWest Parties other than the Corporation and its Subsidiaries, and provided further that, with respect to the GS Parties, "Subsidiary" means any such Subsidiary of the GS Parties other than the Corporation and its Subsidiaries;

"Tax Act" means the *Income Tax Act* (Canada);

"Tax Shelter Agreement" means the Shelterco Shareholders Agreement between CanWest Global Communications Corp., GSCP and certain other parties dated on or about the date of this Agreement;

"Television Threshold Amount" means

- (i) \$20 million with respect to any financial year of the Corporation prior to completion of the Combination Transaction; and

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- (ii) \$30 million with respect to any financial year of the Corporation during which the Combination Transaction is completed or any subsequent financial year of the Corporation;

"TEV" means the product of (a) Combined EBITDA, multiplied by (b) 12, provided that, except as otherwise provided in this Agreement, the TEV shall not be less than the Minimum TEV;

"Third Party Sale Agreement" has the meaning set out in Section 6.8(f);

"Third Party Sale Period" has the meaning set out in Section 6.8(f);

"Threshold Amount" means:

- (i) \$30 million with respect to any financial year of the Corporation prior to completion of the Combination Transaction; and
- (ii) 5% of TEV calculated as of the Combination Date (for this purpose, using Combined EBITDA for the 12-month period ending March 31, 2011 and without applying the Minimum TEV) with respect to any financial year of the Corporation during which the Combination Transaction is completed or any subsequent financial year of the Corporation;

"Transfer" includes any sale, exchange, assignment, gift, bequest, disposition, mortgage, charge, pledge, encumbrance, grant of security interest or other arrangement by which possession, legal title or beneficial ownership passes from one Person to another or to the same Person in a different capacity, whether or not voluntary and whether or not for value, and any agreement to effect any of the foregoing; and the words "Transferred", "Transferring" and similar words have corresponding meanings;

"Transition Services Agreement" means the transition services agreement between CW Media and certain other parties dated as of the date of this Agreement that is one of the Ancillary Agreements;

"Transfer Closing" has the meaning set out in Section 7.2(a);

"Transferred Shares" has the meaning set out in Section 6.11(a);

"Trustee" means James B. Macdonald or his successor as Trustee under the Voting Trust Agreement;

"Unallocated Expenses" has the meaning set out in the Separation Agreement;

"Voting Shares" means the Class A voting preferred shares in the capital of the Corporation and includes all such shares of the Corporation currently authorized as well as any additional such shares in the capital of the Corporation that may be created, but does not include any such shares for which other securities may be exercised or exchanged or into which other securities may be converted unless and until such rights have been exercised and such shares issued; and

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"Voting Trust Agreement" means the voting trust agreement dated as of the date of this Agreement between CW Media and James B. Macdonald.

1.2 Additional Definitions

Unless there is something inconsistent in the subject matter or context, or unless otherwise provided in this Agreement, all other words and terms used in this Agreement that are defined in the CBCA shall have the meanings that they have for purposes of the CBCA.

1.3 Certain Rules of Interpretation

In this Agreement:

- (a) **Time** – Time is of the essence in the performance of the Parties' respective obligations.
- (b) **Currency** – Unless otherwise specified, all references to money amounts are to the lawful currency of Canada.
- (c) **Headings** – Headings of Articles and Sections are inserted for convenience of reference only and shall not affect the construction or interpretation of this Agreement.
- (d) **Consent** – Whenever a provision of this Agreement requires an approval or consent and such approval or consent is not delivered within the applicable time period, then, unless otherwise specified, the Party whose consent or approval is required shall be conclusively deemed to have withheld its consent or approval.
- (e) **Time Periods** – Unless otherwise specified, time periods within or following which any payment is to be made or act is to be done shall be calculated by excluding the day on which the period commences and including the day which the period ends and by extending the period to the next Business Day following if the last day of the period is not a Business Day.
- (f) **Business Day** – Whenever any payment to be made or action to be taken under this Agreement is required to be made or taken on a day other than a Business Day, such payment shall be made or action taken on the next Business Day following.
- (g) **Governing Law** – This Agreement is a contract made under and shall be governed by and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable in the Province of Ontario.
- (h) **Including** – Where the word "including" or "includes" is used in this Agreement, it means "including (or includes) without limitation".
- (i) **No Strict Construction** – The language used in this Agreement is the language chosen by the Parties to express their mutual intent, and no rule of strict construction shall be applied against any Party.

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- (j) **Number and Gender** – Unless the context otherwise requires, words importing the singular include the plural and vice versa and words importing gender include all genders.
- (k) **Severability** – If, in any jurisdiction, any provision of this Agreement or its application to any Party or circumstance is restricted, prohibited or unenforceable, such provision shall, as to such jurisdiction, be ineffective only to the extent of such restriction, prohibition or unenforceability without invalidating the remaining provisions of this Agreement and without affecting the validity or enforceability of such provision in any other jurisdiction or without affecting its application to other Parties or circumstances.
- (l) **Statutory References** – A reference to a statute includes all regulations made pursuant to such statute and, unless otherwise specified, the provisions of any statute or regulation that amends, supplements or supersedes any such statute or any such regulation.
- (m) **Date of this Agreement** – References in this Agreement to the “date of this Agreement” and similar terms refer to the date of the Initial Agreement, namely August 15, 2007.

1.4 Entire Agreement

This Agreement, the Ancillary Agreements and the agreements and other documents required to be delivered pursuant to this Agreement constitute the entire agreement between the Parties, and set out of all the covenants, promises, warranties, representations, conditions and agreements between the Parties, in connection with the subject matter of this Agreement and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, pre-contractual or otherwise, including the Joint Venture Term Sheet entered into by CanWest and GS Capital Partners AA Investment LLC on January 10, 2007. There are no covenants, promises, warranties, representations, conditions or other agreements, whether oral or written, pre-contractual or otherwise, express, implied or collateral, whether statutory or otherwise, between the Parties in connection with the subject matter of this Agreement except as specifically set forth in this Agreement and the Ancillary Agreements and any document required to be delivered pursuant to this Agreement.

1.5 Accounting Principles

Unless otherwise specified, wherever in this Agreement reference is made to generally accepted accounting principles (“GAAP”), such reference shall be deemed to be to the generally accepted accounting principles as defined as at the date of this Agreement by the Accounting Standards Board of the Canadian Institute of Chartered Accountants in the Handbook of the Canadian Institute of Chartered Accountants.

1.6 Schedules

The Schedules to this Agreement, as listed below, are an integral part of this Agreement:

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Schedule 1.1(a)	-	EBITDA
Schedule 1.1(b)	-	GS Rate of Return
Schedule 1.1(c)	-	Media Parties
Schedule 3.1	-	Corporate Structure
Schedule 4.8(b)	-	Reporting Committee Procedures
Schedule 4.17	-	Form of Programming Committee Resolution
Schedule 5.1	-	Merger Agreement
Schedule 6.1	-	Form of Counterpart and Acknowledgement
Schedule 6.9	-	Registration Rights
Schedule 7.1	-	Financial Calculations

ARTICLE 2 PURPOSE, SCOPE AND COMPLIANCE

2.1 Not a Unanimous Shareholder Agreement

This Agreement is not intended to be a unanimous shareholder agreement within the meaning of the CBCA and similar corporate legislation in respect of either the Corporation or any Subsidiary of the Corporation. Any provision of this Agreement that purports to restrict the powers of directors to manage or supervise the management of the business and affairs of the Corporation or any of its Subsidiaries is intended instead, and shall be construed, as an agreement to vote and act as shareholders and to use all reasonable efforts to cause to occur the intent of such provision, subject to applicable laws.

2.2 Compliance with Agreement

- (a) Each Shareholder agrees to vote and act as a shareholder of the Corporation to fulfil the provisions of this Agreement and in all other respects to comply with, and use all reasonable efforts to cause the Corporation to comply with, this Agreement and give effect to the intent of this Agreement, and to the extent, if any, that may be permitted by law, each shall cause its respective nominees as Directors of the Corporation to act in accordance with this Agreement.
- (b) CanWest agrees to cause CanWest Holdco (or any other Affiliate of CanWest that holds Shares) to comply with this Agreement and hereby guarantees and warrants to each of the other Parties the due performance by CanWest Holdco of all of its obligations pursuant to this Agreement. The foregoing guarantee and warranty of CanWest is absolute, unconditional, present and continuing and is in no way conditional or contingent upon any event, circumstance, action or omission which might in any way discharge a guarantor or surety.
- (c) GSCP agrees to cause each of the GS Holdcos to comply with this Agreement and hereby guarantees and warrants to each of the other Parties the due performance by each GS Holdco of all of its obligations pursuant to this Agreement. The

foregoing guarantee and warranty of GSCP is absolute, unconditional, present and continuing and is in no way conditional or contingent upon any event, circumstance, action or omission which might in any way discharge a guarantor or surety.

2.3 Compliance by Corporation

The Corporation undertakes to carry out and be bound by the provisions of this Agreement to the full extent that it has the capacity and power at law to do so, and to vote and act as a shareholder and use all reasonable efforts to cause each of its Subsidiaries to comply with this Agreement and give effect to the intent of this Agreement.

2.4 Compliance with CRTC Regulations

The Parties acknowledge and agree that any action contemplated under this Agreement that requires any notification to or approval of the CRTC pursuant to the CRTC Regulations is subject to such notification or approval having been made or obtained. The Parties shall cooperate in good faith in a timely manner in connection with any such required notification or approval and shall use commercially reasonable efforts to do all things reasonably necessary to make such notification or obtain such approval, provided that a Party shall not be required to take any action or do any thing to the extent that the terms of such notification or approval are not reasonably acceptable to such Party. The Parties intend that the Corporation and its Subsidiaries will comply at all times with all applicable CRTC Regulations.

**ARTICLE 3
FINANCIAL PARTICIPATION IN THE CORPORATION**

3.1 Equity Participation

(a) The GS Parties jointly and severally represent and warrant to each of the CanWest Parties that:

(i) as at the date of this Agreement, the GS Holdcos are the sole legal and beneficial owners of the following Shares:

	Class A Preferred Shares	Class B Common Shares	
GS Shareholder Holdco One	222	563,964	
GS Shareholder Holdco Two	111	83,050	; and

(ii) each GS Holdco is Controlled by GSCP and its affiliated funds.

(b) The CanWest Parties jointly and severally represent and warrant to each of the GS Parties that:

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- (i) as at the date of this Agreement, CanWest Holdco is the sole legal and beneficial owner of 666 Class A Preferred Shares and 352,986 Class A Common Shares, acquired by it in consideration for an aggregate subscription price of \$262.3 million; and
 - (ii) CanWest Holdco is Controlled by CanWest.
- (c) The Parties acknowledge and agree that the corporate structure of the Corporation and its Subsidiaries as at the date of this Agreement is as set out in Schedule 3.1.

3.2 Additional Capital

Subject to Section 3.5, except as otherwise unanimously agreed, none of the Parties shall be obligated to acquire additional Shares, make capital contributions to or make loans to or guarantee the indebtedness of the Corporation or any of its Subsidiaries. Subject to Section 3.5, it is the intention of the Parties that further funds required by the Corporation from time to time will be obtained, to the extent possible, by borrowings without guarantee by the Shareholders.

3.3 GS Syndication

- (a) GSCP may elect to Transfer (or cause its Affiliates to Transfer) any of the securities they hold in any GS Holdco to one or more investment funds or partnerships Controlled by GSCP or its Affiliates.
- (b) Subject to Section 3.3(d), GSCP may elect to Transfer (or cause its Affiliates to Transfer) any securities that they hold in the GS Holdcos to one or more Acceptable Participants during the 15-month period after the date of this Agreement, provided that:
 - (i) GSCP has given prior Notice to CanWest no less than 10 Business Days prior to the date of such Transfer, specifying the date of the proposed Transfer and the identity of the proposed transferee;
 - (ii) GSCP or an Affiliate of GSCP continues to Control each GS Holdco;
 - (iii) each such Acceptable Participant agrees not to Transfer its interests in any GS Holdco to any Person that is not an Acceptable Participant; and
 - (iv) GSCP uses commercially reasonable efforts to ensure that each such Acceptable Participant complies with procedures designed to achieve the same result as those set out in this Section 3.3(b).
- (c) Subject to Section 3.3(d), each GS Holdco may elect to Transfer certain of its Shares to one or more Acceptable Participants during the 15-month period after the date of this Agreement, provided that:
 - (i) GSCP has given prior Notice to CanWest no less than 10 Business Days prior to the date of such Transfer, specifying the date of the proposed Transfer and the identity of the proposed transferee;

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- (ii) such Acceptable Participants hold the Shares indirectly through an investment vehicle that is Controlled by GSCP or an Affiliate of GSCP;
 - (iii) each such investment vehicle agrees in writing to become a Party to and be bound by the terms of this Agreement, including all of the rights and obligations under the Agreement applicable to the GS Holdcos, by executing a form of counterpart and acknowledgement that is acceptable to the Corporation and substantially in the form attached as Schedule 6.1;
 - (iv) GSCP uses commercially reasonable efforts to ensure that each such Acceptable Participant complies with procedures designed to achieve the same result as those set out in Section 3.3(b).
- (d) The GS Parties shall not effect any Transfer pursuant to Sections 3.3(b) or 3.3(c) to the extent that it would cause the aggregate interests, direct or indirect, in the equity of the Corporation acquired by Acceptable Participants pursuant to Sections 3.3(b) and 3.3(c), to exceed 50% of the GS Initial Interest.
 - (e) GSCP will use commercially reasonable efforts to ensure that each Acceptable Participant complies with procedures designed to ensure persons who individually or in aggregate held 10% or more of any class of shares of Alliance Atlantis Communications Inc., Southhill Strategy Inc. or Sumac Corporation Limited in the period from December 15, 2006 to the date of this Agreement do not acquire "substituted property" for property of Alliance Atlantis Communications Inc. for purposes of paragraph 88(1)(c) of the Tax Act.
 - (f) The GS Holdcos and the permitted transferees thereof shall collectively exercise the rights of the GS Parties under this Agreement and no such Transfer shall have the effect of enlarging any rights of any of the GS Parties under this Agreement or conferring any additional rights under this Agreement to any such permitted transferees. For all purposes of this Agreement, any such permitted transferees holding Shares shall, together with the GS Holdcos, be treated as a single Shareholder and GS Shareholder Holdco One shall exercise all rights of such single Shareholder pursuant to this Agreement (by way of example, GS Shareholder Holdco One shall be the sole representative of the GS Parties at any meeting of shareholders of the Corporation). The Corporation and the CanWest Parties may rely upon any action taken or decision made by GS Shareholder Holdco One or GSCP as contemplated by this Agreement without regard to the views of any such permitted transferee with respect to such action or decision.

3.4 Covenant Support

The Contributed Business (or, at CanWest's option, CanWest or one or more of its Subsidiaries) shall make an equity contribution to the Corporation (which will be treated by the Corporation as contributed surplus and will not alter the respective direct or indirect equity interests in the Corporation of the GS Holdcos or CanWest Holdco), which will in turn make an equity contribution directly to CW Media Holdings Inc. and indirectly to CW Media (which will be recognized under CW Media Holdings Inc.'s covenants to its lenders in its Credit Agreement

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dated the date of this Agreement by and among CW Media Holdings Inc., the Corporation, the lenders from time to time party to such agreement, Credit Suisse, Cayman Islands Branch as Term Loan Administrative Agent, Credit Suisse, Toronto Branch as Revolving Credit Administrative Agent, Credit Suisse, Toronto Branch as Collateral Agent, Goldman Sachs Credit Partners L.P., as sole lead arranger and sole book runner, and the other agents party to such agreement (the "Credit Agreement") as additional "EBITDA", as defined under such covenants in the Credit Agreement, for the year) in 2008 and subsequent years to the extent that CW Media Holdings Inc. requires such contribution to match the "EBITDA" levels required under such covenants in the Credit Agreement, up to a maximum contribution of \$12.5 million in 2008, \$25 million in 2009 and \$25 million for each year thereafter; provided, however, that such obligation shall cease with respect to the years following the Combination Date to the extent that the Contributed Business (or the assets thereof) is transferred to CW Media or a Subsidiary of CW Media in the Combination Transaction.

3.5 Additional Capital Contributions

- (a) GSCP shall or shall cause the GS Holdcos to make one or more capital contributions to the Corporation in an aggregate amount equal to 62.5% of the excess of (i) the aggregate amount of all Unallocated Expenses over (ii) \$84 million, as and when required by the Corporation to fund payment of such excess Unallocated Expenses.
- (b) CanWest shall or shall cause CanWest Holdco to make one or more capital contributions to the Corporation in an aggregate amount equal to 37.5% of the excess of (i) the aggregate amount of all Unallocated Expenses over (ii) \$84 million, as and when required by the Corporation to fund payment of such Unallocated Expenses.

3.6 Excess Funding

For the avoidance of doubt, to the extent that the GS Parties have, through inadvertence or otherwise, provided equity funding to the Corporation on or about the date of this agreement in excess of \$480,787,353 (being the sum of the GS Initial Investment and that portion of the GS Additional Investment to be funded as at the date of this Agreement), such excess shall be returned to the GS Parties in Canadian funds as soon as reasonably practicable and such excess shall not constitute either GS Initial Investment or GS Additional Investment (and, therefore, shall not accrue any return, whether at the GS Rate of Return or at 9% per annum).

ARTICLE 4 MANAGEMENT AND GOVERNANCE OF THE CORPORATION

4.1 Board of Directors

- (a) The Board shall consist of five Directors. Each of the Directors shall be qualified to serve as a director in accordance with the Act and applicable CRTC Regulations.
- (b) CanWest shall be entitled to nominate,

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- (i) for so long as GSCP and its Affiliates, including the GS Holdcos, continue to hold Shares that represent at least 50% of the GS Initial Interest, three individuals to the Board, or
- (ii) for so long as GSCP and its Affiliates, including the GS Holdcos, continue to hold Shares that represent less than 50% of the GS Initial Interest, four individuals to the Board,

each of whom shall be a Canadian citizens ordinarily resident in Canada, and CanWest shall be entitled to remove and replace its nominees from time to time as provided in Section 4.2.

- (c) GSCP shall be entitled to nominate,
 - (i) for so long as GSCP and its Affiliates, including the GS Holdcos, continue to hold Shares that represent at least 50% of the GS Initial Interest, two individuals to the Board (one of whom shall be a Canadian citizen ordinarily resident in Canada), or
 - (ii) for so long as GSCP and its Affiliates, including the GS Holdcos, continue to hold Shares that represent less than 50% of the GS Initial Interest, one individual to the Board (it being understood and agreed that (x) such individual may be a non-Canadian and (y) in case such individual is a non-Canadian, the CanWest Parties and the Corporation shall ensure that there are four other Directors on the Board, each of whom shall be Canadian),

each of whom shall be an officer or employee of GSCP or of an Affiliate of GSCP, or such other individual acceptable to CanWest, acting reasonably. GSCP shall be entitled to remove and replace its nominees from time to time as provided in Section 4.2.

- (d) Each Shareholder shall vote its Shares to elect the Directors nominated in accordance with this Agreement.

At least 15 days before any meeting of Shareholders at which Directors are to be elected or, in the case of a vacancy on the Board, at least 15 days before the effective date of any appointment of a Director to fill such vacancy, any Party entitled to nominate and elect a nominee to the Board shall give notice to the other Parties stating the name of the nominee or nominees proposed by such Party. In the case of the nominee or nominees of GSCP, unless the nominee is already a Director or an officer or employee of GSCP or of an Affiliate of GSCP, CanWest shall be entitled, acting reasonably, before the expiry of a period of seven days after receiving such notice, to give notice to GSCP that it does not accept any one or more of the specified nominees, in which case GSCP shall give a further notice to CanWest stating the name of its proposed alternative nominee or nominees, who again shall be subject to CanWest approval, and so on. Any individual who has been proposed to be nominated by GSCP and whose

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nomination has been rejected by CanWest as provided in this Section shall not again be nominated during the term of this Agreement.

- (e) The initial members of the Board shall be as follows:

CanWest Nominees

Leonard Asper
Thomas Strike
Peter Viner

GSCP Nominees

Gerry Cardinale
Tim Hodgson

4.2 Removal and Replacement of Nominees

Any Shareholder entitled to nominate a Director pursuant to Section 4.1(b) or 4.1(c) shall be entitled to remove any such Director by notice to such Director, the other Shareholders and the Corporation. Any vacancy occurring on the Board by reason of the death, disqualification, inability to act, resignation or removal of any Director shall, subject to Section 4.1, be filled only by a further nominee of the Shareholder whose nominee was so affected so as to maintain a Board consisting of the numbers of nominees specified in Sections 4.1(b) and 4.1(c). The Parties shall use all reasonable efforts to provide for the prompt replacement of Directors pursuant to this Section 4.2.

4.3 Meetings of Board

The Board shall meet at least once in every financial quarter of the Corporation during the term of this Agreement, and if a meeting of the Board is not held during any financial quarter of the Corporation, any Director may call a meeting of the Board on five Business Days' prior notice to the other Directors. Each meeting of the Board (including the regular quarterly meetings) shall require five Business Days' prior notice thereof to each Director. Any notice of a meeting at which any matters described in Section 4.7(b) are to be passed upon shall include a prominent reference that Section 4.7(b) matters will be considered at such meeting. At each meeting of the Board, unless waived unanimously by the Board, the officers of the Corporation shall report fully to the Board with respect to the current status of the operations of the Corporation and its Subsidiaries and with respect to all major developments or planned action involving the Corporation and its Subsidiaries and shall present to the Board current financial information with respect to the Corporation and its Subsidiaries and such other information as the Board may reasonably request.

4.4 Quorum

A quorum for meetings of the Board shall consist of a majority of the members of the Board of which the nominees of CanWest shall constitute the majority. If a quorum is not obtained at any meeting, the meeting shall be adjourned and may be reconvened upon five days' notice to the Directors (or upon five Business Days' notice if any matters described in Section 4.7(b) are to be passed upon at such meeting), at which reconvened meeting the quorum shall be a majority of the Directors of which the nominees of CanWest shall constitute the majority.

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4.5 Telephone Meetings

Any or all Directors may participate in a meeting of the Board by means of such telephone, electronic or other communication facilities as permit all Persons participating in the meeting to hear and communicate with each other simultaneously and a Director participating in such a meeting by such means is deemed to be present at the meeting.

4.6 Auditor

PricewaterhouseCoopers LLP shall be appointed as the initial Auditor.

4.7 Board Approval of Matters

- (a) The Board shall have full power and responsibility to manage or supervise the management of the Corporation, subject to the Management Agreement. Subject to Section 4.7(b), decisions of the Board shall be made by a simple majority of the Directors participating in the meeting at which the decision is to be made or by written resolution signed by the Directors.
- (b) Notwithstanding any other provision of this Agreement, the Management Agreement or the Act, no obligation of the Corporation or of its Subsidiaries will be entered into, no decision will be made and no action taken by or with respect to the Corporation or any of its Subsidiaries (or any of their respective properties or assets) with respect to the following matters without the approval of a majority of the Directors nominated by CanWest and at least one of the Directors nominated by GSCP (except to the extent that such matter or transaction was or is expressly contemplated by this Agreement or the Ancillary Agreements, including the Combination Transaction (effected in accordance with this Agreement and the Merger Agreement) and the consummation of the CanWest Call, the First GS Put or the Second GS Put in accordance with this Agreement):
- (i) any change in the articles or by-laws (or similar organizational documents) of the Corporation or of any of its Subsidiaries;
 - (ii) any change in the authorized or issued capital of the Corporation or of any of its Subsidiaries;
 - (iii) any allotment, issuance, redemption or repurchase of any equity securities of the Corporation or of any of its Subsidiaries;
 - (iv) any action that may lead to or result in a material change in the nature of the business of the Corporation or any Subsidiary;
 - (v) the incurrence of any Indebtedness in excess of the Threshold Amount in any financial year of the Corporation, other than short term borrowings in the ordinary course of business and Indebtedness incurred to finance the acquisition of the GS Shares in accordance with Section 6.6 or 6.7 (to the extent permitted or required thereby);

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- (vi) the incurrence of any material liability other than Indebtedness (subject to clause 4.7(b)(v)), other than in the ordinary course of business or as contemplated by clause 4.7(b)(v);
- (vii) the commencement of Insolvency Proceedings with respect to the Corporation or any of its Subsidiaries;
- (viii) any liquidation, merger or amalgamation of the Corporation or any of its Subsidiaries (other than with a wholly owned Affiliate), or the sale of all or substantially all of the assets of the Corporation and its Subsidiaries;
- (ix) the acquisition of or investment in any business or assets where the aggregate of the acquisition price and the amount of any Indebtedness assumed as part of the transaction, or the amount of such investment where the transaction is not an acquisition, exceeds the Threshold Amount, other than acquisitions of assets in the ordinary course of business;
- (x) the sale or disposition of (A) any business or assets of the Corporation with a value in excess of the Threshold Amount, other than assets sold or disposed of in the ordinary course of business, (B) any television channel with a value in excess of the Television Threshold Amount or (C) Alliance Atlantis Media Sales Inc. (or any other entity that engages in media sales) or the assets or business thereof;
- (xi) any material change in tax policy or tax elections except the entering into of an agreement under section 191.3 of the Tax Act under which the Corporation is the "transferor corporation", as defined in that section provided that the Corporation does not as a result of such agreement become liable for tax under Part I of the Tax Act;
- (xii) any change in the Auditors, other than to one of the "big four" national auditing firms;
- (xiii) any other fundamental change that would require shareholder approval pursuant to Part XV of the CBCA;
- (xiv) any Transfer of shares of the Corporation or CW Media, as the case may be, other than a Transfer specifically permitted by this Agreement;
- (xv) the taking of any steps to wind up or terminate the corporate existence of the Corporation or of any of its Subsidiaries;
- (xvi) any amendment or modification to the Management Agreement or any waiver of any rights under the Management Agreement by the Corporation or CW Media;
- (xvii) any acquisition of an Acquired Competing Business pursuant to Section 9.2; and

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(xviii) any commitment or agreement to do any of the foregoing.

4.8 CW Media Board and Reporting Committee

- (a) The Corporation shall vote and act as a shareholder and use all reasonable efforts to cause the board of directors of CW Media (the "CW Media Board") and the boards of directors of the Intermediary Corporations from time to time to be composed of the same nominees as comprise the Board, and the Corporation shall vote and act as a shareholder and use all reasonable efforts to cause CW Media, the CW Media Board, the Intermediary Corporations and their respective boards of directors to be governed and managed in a manner that is consistent with the provisions of this Article 4.
- (b) The Corporation shall vote and act as a shareholder and use all reasonable efforts to cause the CW Media Board to appoint and maintain a reporting committee (the "Reporting Committee") to be constituted in accordance with Sections 4.8(c) and 4.8(d) and governed in accordance with this Section 4.8 and the procedures set out in Schedule 4.8(b). No fewer than 80% of the members of the Reporting Committee shall be individual "Canadians" as defined in the *Direction to the CRTC (Ineligibility of Non Canadians)* (SOR/97 192, April 8, 1997 as amended by SOR/98 378, July 15, 1998).
- (c) CanWest shall be entitled to nominate,
- (i) for so long as GSCP and its Affiliates, including GS Holdco, continue to hold Shares that represent at least 50% of the GS Initial Interest, at least five members, or
 - (ii) for so long as GSCP and its Affiliates, including GS Holdco, continue to hold Shares that represent less than 50% of the GS Initial Interest, at least six members,

of the Reporting Committee, and shall be entitled to remove and replace its nominees from time to time.

- (d) GSCP shall be entitled to nominate,
- (i) for so long as GSCP and its Affiliates, including GS Holdco, continue to hold Shares that represent at least 50% of the GS Initial Interest, no more than two members, or
 - (ii) for so long as GSCP and its Affiliates, including GS Holdco, continue to hold Shares that represent less than 50% of the GS Initial Interest, no more than one member,

of the Reporting Committee, and shall be entitled to remove and replace its nominees from time to time. Each of GSCP's nominees to the Reporting Committee shall be an officer or employee of GSCP or of an Affiliate of GSCP, or such other individual acceptable to CanWest, acting reasonably.

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- (e) The initial members of the Reporting Committee shall be as follows:

CanWest Nominees

Leonard Asper

Thomas Strike

Peter Viner

John Maguire

Richard Leipsic

GSCP Nominees

Gerry Cardinale

Tim Hodgson

- (f) Any Party entitled to nominate any member of the Reporting Committee shall also be entitled to nominate an individual to serve as an alternate to such member, provided that such individual would qualify for appointment as a member of the Reporting Committee. Any such individual so nominated as an alternate shall be entitled to attend and participate in any meetings of the Reporting Committee in lieu of the member for whom such individual has been nominated as an alternate.
- (g) The Reporting Committee shall be responsible for monitoring the business of CW Media and its Subsidiaries and the Contributed Business, and for reporting to the GS Parties and the CanWest Parties in respect of such businesses. The Reporting Committee shall have no authority to make any decisions with respect to the business of CW Media and its Subsidiaries or the Contributed Business.
- (h) The Reporting Committee shall meet at least once in every financial quarter of the Corporation during the term of this Agreement, and if a meeting of the Reporting Committee is not held in any financial quarter of the Corporation, any member of the Reporting Committee may call such a meeting on five Business Days' prior notice to the other members.
- (i) At each meeting of the Reporting Committee, the Reporting Committee will receive and review the most recently available quarterly financial information for CW Media as well as such other information relating to the operations of the Business and the Contributed Business as any member of the Reporting Committee may reasonably request, and the Corporation shall cause such information to be so provided.

4.9 Control of Subsidiaries

With respect to any matters that relate to the operations of a Subsidiary, subject to the Voting Trust Agreement the Corporation shall vote and act as a shareholder of such Subsidiary so as to carry out the intention of the Board.

4.10 Reimbursement of Expenses

The Corporation and its Subsidiaries shall not reimburse directors or members of the Reporting Committee (or their alternates) for any of their expenses incurred in attending meetings.

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4.11 Indemnification

The Corporation shall indemnify each Director and his or her heirs and legal representatives against all costs, charges and expenses, including an amount paid to settle an action or satisfy a judgment, reasonably incurred by him or her in respect of any civil, criminal or administrative proceeding to which he or she is made a party by reason of being or having been a Director of the Corporation provided that (i) he or she acted honestly and in good faith with a view to the best interests of the Corporation; and (ii) in the case of a criminal or administrative proceeding that is enforced by a monetary penalty, he or she had reasonable grounds for believing that his or her conduct was lawful.

4.12 Transactions with Affiliates

Any transaction between the Corporation or any of its Subsidiaries and CanWest or any of its Affiliates, other than transactions between the Corporation or any of its Subsidiaries and the Contributed Business and other than transactions pursuant to and in accordance with the Ancillary Agreements:

- (a) shall be on Arm's Length terms in all material respects; and
- (b) shall be approved by GSCP, acting reasonably, if such transaction is material (including any transaction or series of related transactions with a value in excess of \$1,000,000).

4.13 Conflict of Interest

- (a) The Corporation and the Shareholders acknowledge and agree that notwithstanding:
 - (i) the interests of the Shareholders in the Corporation;
 - (ii) the nomination by the Shareholders of one or more Directors; and
 - (iii) the participation by one or more officers or directors of any Shareholder or of its Affiliates as director or officer of the Corporation or any of its Subsidiaries;

the provision of any products or services pursuant to the Management Agreement or any of the Transition Services Agreements, the provision of any products or services between the Corporation and its Subsidiaries and the Contributed Business or any other products or services approved by the Board in accordance with this Agreement or provided pursuant to any transaction that is in compliance with Section 4.12, by any Shareholder or any of its Affiliates or any of their directors, officers, employees or agents to the Corporation or any of its Subsidiaries shall not be restricted, limited or prohibited, or deemed wrongful or improper or a conflict of interest of any of the obligations of any director or officer nominated by any Shareholder, and the Corporation and each Party hereby waives to the fullest extent permitted by applicable law any and all such claims that any of them may have in connection with any such relationship.

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- (b) Except as expressly provided pursuant to Section 9.2, the Corporation and its Subsidiaries shall have no right, interest or expectancy with respect to any investments in competing businesses, or any commercial activities that compete with the Corporation or its Subsidiaries, undertaken by any Shareholder or its Affiliates, such investments or activities shall not be deemed wrongful or improper, and no Shareholder, and no director or officer of any Shareholder or its Affiliates, shall be obligated to communicate, offer or present to the Corporation or its Subsidiaries any potential transaction, matter or opportunity relating to such investments or activities even if such potential transaction, matter or opportunity is of a character that, if presented to the Corporation or any of its Subsidiaries, could be taken by the Corporation or one or more of its Subsidiaries.
- (c) The Corporation and CanWest acknowledge and agree that GSCP, provided that the GS Parties hold at least 10% of the Shares, shall have status to enforce the rights of the Corporation or any of its Subsidiaries, as the case may be, on behalf of the Corporation or any of its Subsidiaries, as applicable, ("Derivative Status") against CanWest or its Affiliates pursuant to the Management Agreement, the Asset Transfer Agreement, the Merger Agreement and the Indemnity Agreement, in the event of any breach or alleged breach by CanWest of such agreements or in the event the Corporation or any of its Subsidiaries does not exercise in full any of its rights under such agreements, provided that GSCP first notifies the Corporation and CanWest in writing of any such alleged breach or non-exercise and first provides a reasonable opportunity to (i) CanWest to remedy such alleged breach, and (ii) the Corporation or any of its Subsidiaries to exercise such rights in full. On any application by GSCP for recognition of its Derivative Status as contemplated by this Section 4.13(c), the Corporation and its Subsidiaries and CanWest and its Affiliates shall not oppose the granting of Derivative Status to GSCP, provided that nothing in this Section 4.13(c) shall prevent or restrict CanWest and its Affiliates from otherwise providing a vigorous defence to any action relating to any such alleged breach or non-exercise.
- (d) To the fullest extent permitted by applicable law, each of the Parties hereby waives any claims that any of them may have against a Director or any member of the CW Media Board in connection with any Director or any member of the CW Media Board acting in the interests of the Shareholder or Shareholders which nominated such Director or member rather than in the interests of the Corporation or CW Media, as the case may be, or those of its Subsidiaries.

4.14 Shareholder Quorum

A quorum for meetings of Shareholders shall consist of each Shareholder being present by representative or proxy. If a quorum is not obtained at any meeting, the meeting shall be adjourned and may be reconvened upon three days' notice to the Shareholders, at which reconvened meeting the quorum shall be the Shareholder or Shareholders present.

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4.15 Rights Under ERISA

To the extent that GSCP and its advisors determine that the applicable fund(s) of GSCP is required to satisfy the requirements of a "venture capital operating company" as defined in U.S. Department of Labor Regulation section 2510.3-101(d) with respect to the Corporation or its Subsidiaries or the assets of the Business in order to comply with the "plan asset regulations" under U.S. Department of Labor Regulation 2510-101 et al., appropriate rights as outlined in section 2510.3-101(d)(3)(ii) of such Regulation and guidance issued under that section shall be provided to the applicable fund(s) of GSCP, but, for the avoidance of doubt, such rights shall not provide GSCP with any right to direct, manage or control the Corporation or any of its Subsidiaries.

4.16 Rights Under Indemnity Agreement

The Corporation will, at the request of any Director nominated by GSCP, enforce its indemnity rights under the Indemnity Agreement, the Merger Agreement or the Asset Transfer Agreement against the CanWest Parties.

4.17 Programming Committee

The Corporation shall vote and act as a shareholder and use all reasonable efforts to cause the CW Media Board to create a programming committee (the "Programming Committee") by way of a resolution substantially in the form of the resolution attached as Schedule 4.17, and the Corporation shall vote and act as a shareholder and use all reasonable efforts to cause the CW Media Board to maintain the Programming Committee, which shall be composed solely of employees of CW Media, its Subsidiaries or CanWest or another of its Affiliates.

**ARTICLE 5
COMBINATION TRANSACTION**

5.1 Completion of the Asset Transfer

CanWest shall (and shall cause its applicable Affiliates to) complete the transactions contemplated by the Asset Transfer Agreement no later than December 31, 2009.

5.2 Combination Transaction

- (a) Subject to Section 5.3, CanWest shall (and shall cause its applicable Affiliates to), and the Corporation shall (and shall cause its applicable Affiliates to), consummate the Combination Transaction no later than the earlier of:
 - (i) the fourth anniversary of the date of this Agreement; and
 - (ii) such earlier date, no earlier than May 31, 2011, as is reasonably necessary to ensure that any financing required for the purchase of GS Shares pursuant to the CanWest Call during the First Call Period or the First GS Put can be completed in time to effect the completion of such CanWest Call or First GS Put on the fourth anniversary of the date of this Agreement.

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The applicable Parties shall enter into, or cause their applicable Affiliates to enter into, and complete an agreement substantially in the form attached as Schedule 5.1 (the "Merger Agreement"), which provides for the combination of the Contributed Business with the Business of CW Media and its Subsidiaries and the acquisition of an equity interest in the Corporation (the "Combination Transaction").

- (b) CanWest or its applicable Affiliates and the Corporation will file a joint election under section 85(1) of the Tax Act and corresponding provincial legislation in respect of the Transfer of the Contributed Business to the Corporation so that the Transfer of the Contributed Business occurs on a tax-deferred basis to CanWest or its applicable Affiliates. The Parties will work in good faith to attempt to obtain a step up in basis for U.S. tax purposes for the assets of the Contributed Business provided that doing so would not have any adverse consequences to CanWest, its Affiliates or the Corporation and its Subsidiaries.
- (c) To the extent that the Parties agree or are otherwise required to Transfer any assets of the Contributed Business to a third party at the time of or immediately following the Combination Transaction, the proceeds of the Transfer of such assets (net of tax and all transaction expenses) will constitute assets of the Contributed Business and become assets of the Corporation or CW Media.
- (d) CanWest agrees to repurchase its Senior Notes prior to May 31, 2011 or, in the alternative, obtain waivers from the holders of the Senior Notes or take such other action short of repurchasing the Senior Notes in order to remove any impediments to the consummation of the Combination Transaction, so that the existence of such Senior Notes do not impair or restrict the ability of the Parties to consummate the Contribution Transaction in a timely manner or otherwise materially adversely affect the Corporation or Contributed Business.
- (e) From the date of this Agreement through the Combination Date, CanWest agrees that (i) neither it nor any of its Affiliates will enter into any new financing (or refinance existing debt or capital) if the terms of such new financing or refinancing would restrict, prevent or otherwise materially adversely affect the ability of the Parties to consummate the Combination Transaction or such new financing or refinancing would otherwise be reasonably expected to materially adversely affect the ability of the Parties to consummate the Combination Transaction and (ii) neither it nor any of its Affiliates nor the Corporation or its Subsidiaries will take any action that would reasonably be expected to materially adversely affect the ability of the Parties to consummate the Combination Transaction, provided that entering into any contract, or acquiring any assets, in the ordinary course of business that under the terms of such contract, or under the terms to which such assets are subject, would require the consent of any third party in connection with the consummation of the Combination Transaction will be deemed for this purpose not to be taking any such action (provided, however, that CanWest, the Corporation and their respective Affiliates, as applicable, shall use their respective commercially reasonable efforts to attempt to have such terms omitted from such contracts or acquisitions).

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- (f) The Parties shall, with reasonable diligence, do all such things and provide all such reasonable assurances as may be required to consummate the Combination Transaction, and each Party shall provide such further documents or instruments required by any other Party as may be reasonably necessary or desirable to effect the purpose of the Combination Transaction, whether before or after the Combination Date.

5.3 Conditions Precedent

- (a) The Parties' obligations to effect the Combination Transaction shall be subject to the satisfaction of, or compliance with, at or before the Combination Date, each of the following conditions precedent (provided, however, that such conditions shall not apply to the extent that the non-satisfaction of such conditions is due to the breach of a Party of its covenants in this Agreement (including the covenants in Section 5.1)):
- (i) All required regulatory approvals necessary for the implementation of the Combination Transaction shall have been obtained, including any required notifications to and approvals of the CRTC pursuant to the CRTC Regulations.
 - (ii) There shall be no order, injunction, decree, ruling or award issued enjoining, delaying, restricting or preventing the consummation of the Combination Transaction.

5.4 Ownership Interests in the Corporation

The respective holdings of Shares of the Shareholders in the Corporation following the completion of the Combination Transaction shall be as follows:

- (a) The GS Holdcos shall collectively own, directly or indirectly, that percentage of the Common Shares that is equal to the GS Equity Value divided by the Equity Value multiplied by 100, with TBV, Net Debt and Combined EBITDA being calculated as, of and for the 12-month period ending, March 31, 2011, as applicable (the "GS Post-Combination Percentage Interest");
- (b) CanWest and its Affiliates shall collectively own, directly or indirectly, that percentage of the Common Shares that is equal to 100% less the GS Post-Combination Percentage Equity Interest;
- (c) The GS Holdcos shall collectively own, directly or indirectly, 33 $\frac{1}{3}$ % of the Voting Shares; and
- (d) CanWest and its Affiliates shall collectively own, directly or indirectly, 66 $\frac{2}{3}$ % of the Voting Shares.

To the extent that the Combination Transaction and the provisions of this Section 5.4 require the issuance of additional Shares to CanWest and its Affiliates, such Shares shall consist of Class A

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Common Shares in the capital of the Corporation issued in consideration for the completion of the Combination Transaction.

5.5 Covenants of CanWest

From the date of this Agreement to the Combination Date (except with respect to the covenant in clause (b) of this Section 5.5, which shall apply until such time as the GS Holdcos no longer hold any Shares), the CanWest Parties agree:

- (a) to operate and manage CW Media and its Subsidiaries and the Contributed Business in a manner consistent with their past practices in operating and managing the Contributed Business and to use commercially reasonable efforts to operate and manage the Contributed Business and CW Media and its Subsidiaries in a manner so as to maximize the economic value of the Business and the Contributed Business;
- (b) to keep GSCP informed, on a current basis, of any events, discussions, notices or changes with respect to any criminal or regulatory investigation or action involving the Contributed Business, CW Media or any of its Subsidiaries, so that GSCP, its members and its Affiliates will have the opportunity to take appropriate steps to avoid or mitigate any regulatory consequences to them that might arise from such investigation or action (including by coordinating and providing assistance in meeting with regulators);
- (c) without the prior written consent of GSCP, subject to Section 5.5(d), in any year not to sell, lease, transfer or otherwise dispose of any property or assets of the Contributed Business (including, for the avoidance of doubt, any of the television stations of the Contributed Business) with a value in excess of \$30,000,000, other than in the ordinary course of business;
- (d) without the prior written consent of GSCP, from April 1, 2010 through the Combination Date, not to sell, lease, transfer or otherwise dispose of (A) any property or assets of the Contributed Business (including, for the avoidance of doubt, any of the television stations of the Contributed Business) with a value in excess of \$30,000,000 or that contributed in any way to the generation of Combined EBITDA for such year, other than in the ordinary course of business or (B) any television channel of the Contributed Business with a value in excess of \$20,000,000.
- (e) without the prior written consent of GSCP, with respect to the Contributed Business, not to acquire any business or assets, by merger or consolidation, purchase of assets or equity interests, or by any other manner, in a single transaction or a series of related transactions, other than purchases of assets in the ordinary course of business, where such business or assets include material liabilities other than liabilities in the ordinary course of business under contracts or otherwise;

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- (f) without the prior written consent of GSCP, with respect to the Contributed Business, make any material change in any method of accounting or auditing practice other than changes required as a result of changes in GAAP or applicable Laws;
- (g) without the prior written consent of GSCP, settle or compromise any Proceeding which would result in any material obligation or liability (or restrictive covenant) of the Contributed Business that would not be satisfied or extinguished prior to the Combination Date and that would become an obligation or liability of CW Media; and
- (h) without the prior written consent of GSCP, cause the Contributed Business to enter into (or agree to enter into) any transaction (other than immaterial transactions) with CanWest or its Affiliates (for the avoidance of doubt, other than the Contributed Business or the Corporation or its Subsidiaries) that is not on Arm's Length terms.

5.6 Notice of Repayment of Senior Notes

CanWest will notify GSCP in writing of:

- (i) the repayment in full of the Senior Notes, or
- (ii) any waiver, refinancing, replacement or exchange of or in respect of the Senior Notes that eliminates any restrictions on CanWest and its Affiliates completing the Combination Transaction,

in each case no later than 10 days following such event.

ARTICLE 6 DEALING WITH SHARES

6.1 Restrictions on Transfer of Shares

- (a) Except as expressly provided in this Agreement, including pursuant to Section 3.3, or as may otherwise be unanimously agreed by the Parties, no Party shall, directly or indirectly, Transfer any Shares held by it, any direct or indirect equity interests in a Shareholder or any of its rights or obligations under this Agreement, to any Person. No Party shall be obligated to complete any Transfer of Shares if such Transfer would not be in compliance with applicable securities laws, and in such circumstances, each of the other parties to the Transfer shall be relieved of their respective obligations to complete such Transfer. In addition, except as otherwise specifically provided in this Agreement, no Shareholder shall Transfer any Shares if such Transfer would require the qualification for distribution or registration of, or would cause the Corporation to be required to qualify or register, the Shares or such Transfer pursuant to any applicable securities laws.
- (b) Notwithstanding anything else contained in this Agreement, every Transfer of Shares held by a Shareholder, in addition to the requirements of the Corporation's

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articles and the other requirements of this Agreement, shall be subject to the condition that the proposed transferee, if not already bound by the terms of this Agreement, shall first agree, in writing, to become a Party to and be bound by the terms of this Agreement by executing a form of counterpart and acknowledgement acceptable to the Corporation and substantially in the form attached as Schedule 6.1.

- (c) For the avoidance of doubt, notwithstanding anything else contained in this Agreement, any direct or indirect change in the Control of CanWest or GSCP shall be deemed not to be a Transfer of Shares.

6.2 Endorsement on Certificates

Share certificates of the Corporation shall bear the following language either as an endorsement or on the face of such share certificate:

"The shares represented by this certificate are subject to the terms and conditions of an agreement made as of August 15, 2007, as it may be amended, which agreement contains, among other things, restrictions on the right of the holder hereof to transfer or sell the shares. A copy of such agreement is on file at the registered office of the Corporation."

6.3 Issue of Additional Equity Securities

If the Corporation issues any additional equity securities that are not Shares, the Parties shall, prior to such issuance, give due consideration to any changes that they may wish to make to this Agreement, particularly the provisions relating to the rights and obligations that relate to Shares.

6.4 Pledge of Shares

Notwithstanding the provisions of Section 6.1, any Shareholder may pledge, charge, mortgage or otherwise encumber any of its Shares (the "Pledged Shares") to a bank or other financial institution for the purpose of securing any borrowings by such Shareholder or an Affiliate of such Shareholder, provided that such bank or financial institution acknowledges to the Parties in writing that:

- (a) the pledge, charge, mortgage or encumbrance of such Shares shall at all times be subject to all of the terms and conditions of this Agreement, including the prohibition against Transferring such Shares contained in Section 6.1, except as permitted pursuant to this Article 6; and
- (b) the security interest in respect of the Pledged Shares shall be discharged as against the interest of the pledgor Shareholder upon the sale by the pledgor Shareholder of any of the Pledged Shares to one or more of the other Shareholders pursuant to this Agreement (but such discharge shall apply only to the number of Pledged Shares subject to such sale), if the proceeds due on closing to the pledgor Shareholder (net of applicable costs of and any taxes applicable to such sale) are paid to the bank or other financial institution and any other secured parties having

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a security interest in the Pledged Shares in order of their respective priorities, and the balance, if any, shall be paid to the pledgor Shareholder.

6.5 Permitted Transferees

- (a) Notwithstanding Section 6.1, each Shareholder shall be entitled to Transfer Shares to a Parent of the Shareholder or to a corporation that is Controlled by the Shareholder or by a Parent of the Shareholder, provided that such Shareholder shall continue to be bound by all of its obligations under this Agreement. No such Transfer shall be effective until the transferee executes and delivers to the Corporation a counterpart to this Agreement in compliance with Section 6.1(b).
- (b) Notwithstanding Section 6.1, a Party shall be entitled to Transfer a direct or indirect equity interest in a Shareholder to a Parent of the Shareholder or to a corporation that is Controlled by a Parent of the Shareholder. No such Transfer shall be effective until the transferee executes and delivers to the Corporation a counterpart to this Agreement in compliance with Section 6.1(b).
- (c) If the Person to which Shares or a direct or indirect equity interest in a Shareholder are Transferred pursuant to Section 6.1(a) or 6.1(b) ceases to be a Parent of the Shareholder or Controlled by a Parent of the Shareholder, then the Shares or equity interest Transferred pursuant to Section 6.1(a) or 6.1(b) shall be deemed to have been Transferred back to the Party which had originally so Transferred such Shares or equity interest to such Person effective immediately prior to such event, and the applicable Parties will do all such things and provide all such further assurances as shall be necessary or desirable to give further effect to such Transfer back.
- (d) If any Shareholder Transfers less than all of its Shares to any transferee permitted under this Section 6.5 or Transfers its Shares to more than one such permitted transferee, such Shareholder and such permitted transferees shall collectively exercise the rights of such Shareholder under this Agreement and no such Transfer shall have the effect of enlarging any Shareholder's rights under this Agreement. Similarly, if any Party Transfers less than all of its direct or indirect equity interest in a Shareholder to any transferee permitted under this Section 6.5 or Transfers such interest to more than one such permitted transferee, such Party and such permitted transferee shall collectively exercise the rights of such Party under this Agreement and no such Transfer shall have the effect of enlarging any Party's rights under this Agreement.

6.6 CanWest Call

- (a) CanWest shall have the right at any time during (i) the 30-day period following March 31, 2011 (the "First Call Period"), and (ii) the 30-day period following each of March 31, 2012 and March 31, 2013 (each a "Later Call Period") to give Notice to GSCP that it requires the GS Holdcos to Transfer to CanWest (or as CanWest may direct, subject to Section 6.6(b) and subject to the restriction on Transfers to parties other than Affiliates of CanWest) up to 100% of the Shares

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held by the GS Parties ("GS Shares"), free and clear of all encumbrances, at a purchase price per GS Share equal to the CanWest Call Price (each, a "CanWest Call").

- (b) In connection with any exercise of a CanWest Call, CanWest may direct the Corporation to purchase the GS Shares so called provided that (i) all outstanding GS Shares are subject to such CanWest Call, or (ii) it may do so without thereby causing the Net Debt of the Corporation to exceed the Leverage Cap (with Cash and Combined EBITDA measured as of, and for the twelve months ending, on the end of the month immediately prior to the month in which the relevant CanWest Call is exercised (provided that, for the avoidance of doubt, any Cash raised as part of the financing of the purchase of such Shares but not used to purchase such Shares would be included in Cash for this purpose, without duplication, but that any Cash that cannot be applied to purchase such Shares or to repay any Indebtedness of the Corporation or its Subsidiaries shall not be deducted in calculating Net Debt for such purpose)).
- (c) The closing of the acquisition of the GS Shares to be acquired pursuant to a CanWest Call shall occur (i) in the case of the exercise of the CanWest Call during the First Call Period, on the date that is the fourth anniversary of the date of this Agreement, and (ii) in any other case, within 15 days of the Notice by CanWest of the exercise of the CanWest Call; provided, however, that, in either such case, if the closing is delayed beyond either such date (due to a delay with respect to the financing thereof or for any other reason (other than to the extent caused by any GS Party or resulting from a Force Majeure Event)), the purchase price to be paid to the GS Holdcos shall increase and accrue (compounded annually) from such date (or, to the extent such closing is delayed as a result of a Force Majeure Event, from the time at which such Force Majeure Event is no longer in effect) until the date the GS Shares are actually purchased and paid for, at the GS Rate of Return that was applicable pursuant to Section 5.4 (except, in the case of any Put Shortfall Shares, to the extent such GS Rate of Return is already taken into account in the price to be paid for such shares through the IRR Adjustment).
- (d) If the GS Shares are held by more than one GS Party, then on any exercise of a CanWest Call in respect of less than all of the then outstanding GS Shares, CanWest shall acquire GS Shares pursuant to such exercise from the applicable GS Parties:
- (i) subject to clause (ii) of this Section 6.6(d), *pro rata* in relation to the number of GS Shares held by such GS Parties; or
 - (ii) as determined by GSCP, provided that any such determination that differs from the *pro rata* allocation contemplated by clause (i) of this Section 6.6(d) would have no adverse effect in relation to the Corporation and its Subsidiaries or the CanWest Parties.

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- (e) Notwithstanding Section 6.6(d), on any exercise of a CanWest Call in respect of less than all of the outstanding GS Shares, CanWest shall acquire such numbers of Common Shares and Voting Shares as are *pro rata* to the aggregate numbers of Common Shares and Voting Shares held by the GS Parties.
- (f) The Parties agree to cooperate with one another and use reasonable commercial efforts to structure any transaction contemplated by this Section 6.6 other than as a direct acquisition of Shares by the Corporation.

6.7 GS Put

- (a) If CanWest has not provided Notice of its intention to acquire at least 50% of the GS Shares by way of a CanWest Call within the First Call Period, GSCP may provide Notice to CanWest and the Corporation within the 30-day period immediately following the First Call Period (the "First Put Period") that it requires the Corporation to acquire a number of GS Shares specified by GSCP that does not exceed the excess of (i) 50% of the GS Initial Interest, over (ii) that number of GS Shares, if any, that were subject to the exercise of the CanWest Call during the First Call Period (the "First Put Shares"), free and clear of all encumbrances, at a purchase price per share equal to the GS Put Price (the "First GS Put").
- (b) In connection with the exercise of the First GS Put, the Corporation shall on the date specified in Section 6.7(f) acquire all of the First Put Shares that it is able to acquire at the GS Put Price without thereby causing the Net Debt of the Corporation to exceed the Leverage Cap (with Cash and Combined EBITDA measured as of, and for the twelve months ending, on the end of the month immediately prior to the month in which the First GS Put is exercised (provided that, for the avoidance of doubt, any Cash raised as part of the financing of the purchase of such Shares but not used to purchase such Shares would be included in Cash for this purpose, without duplication, but that any Cash that cannot be applied to purchase such Shares or to repay any Indebtedness of the Corporation or its Subsidiaries shall not be deducted in calculating Net Debt for such purpose)). Any excess First Put Shares that the Corporation is not thereby able to acquire are referred to as the "Put Shortfall Shares". For the avoidance of doubt, the Put Shortfall Shares shall rank equally with the other Common Shares or Voting Shares, as the case may be, on any liquidation, dissolution or winding-up of the Corporation, whether voluntary or involuntary, or on any other return of capital or distribution of assets of the Corporation among its shareholders for the purpose of winding-up its affairs.
- (c) The GS Put Price, CanWest Call Price or other sale price applicable on any future sale of the Put Shortfall Shares by the GS Parties shall be no less than the GS Put Price originally applicable in respect of such Put Shortfall Shares (the "Put Shortfall Price") plus a return on the Put Shortfall Price, compounded annually, at a rate equal to the GS Rate of Return corresponding to the Combined EBITDA used in the calculation of the Put Shortfall Price, from the time at which the Put Shortfall Shares would have been purchased but for the application of the

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Leverage Cap pursuant to Section 6.7(b) to the time of their sale by the GS Parties (the "IRR Adjustment"). To the extent that there are any Put Shortfall Shares, GSCP may provide notice to CanWest and the Corporation within the 30-day period immediately following the Later Call Period occurring in 2012 that it requires the Corporation to acquire any Put Shortfall Shares not acquired by CanWest pursuant to its exercise of the CanWest Call during the Later Call Period occurring in 2012, free and clear of all encumbrances, at the Put Shortfall Price plus the IRR Adjustment (the "Shortfall Put"). In connection with the exercise of the Shortfall Put, the Corporation shall on the date specified in Section 6.7(f) acquire all of the Put Shortfall Shares subject to the Shortfall Put that it is able to acquire at the Put Shortfall Price plus the IRR Adjustment without thereby causing the Net Debt of the Corporation to exceed the Leverage Cap (with Cash and Combined EBITDA measured as of, and for the twelve months ending, on the end of the month immediately prior to the month in which the Shortfall Put is exercised (provided that, for the avoidance of doubt, any Cash raised as part of the financing of the purchase of such Shares but not used to purchase such Shares would be included in Cash for this purpose, without duplication, but that any Cash that cannot be applied to purchase such Shares or to repay any indebtedness of the Corporation or its Subsidiaries shall not be deducted in calculating Net Debt for such purpose)). Any excess Put Shortfall Shares that the Corporation is not thereby able to acquire shall be deemed to continue to be Put Shortfall Shares. For the avoidance of doubt, on any exercise by CanWest of the CanWest Call during the Later Call Period occurring in 2012, CanWest shall be deemed first to acquire any Put Shortfall Shares to the extent of the Shares subject to such CanWest Call and the price to be paid by CanWest in respect of such Put Shortfall Shares on the exercise of such CanWest Call shall be equal to the greater of (i) the Put Shortfall Price plus the IRR Adjustment or (ii) the CanWest Call Price otherwise applicable to such exercise (without taking into account the formula in clause (i) of this sentence).

- (d) GSCP may provide notice to CanWest and the Corporation within the 30-day period immediately following the Later Call Period occurring in 2013 (the "Second Put Period") that it requires the Corporation to acquire up to 100% of the remaining GS Shares (the "Second Put Shares"), free and clear of all encumbrances, at the Put Purchase Price (the "Second GS Put").
- (e) Upon the exercise of the Second GS Put, the Corporation shall on the date specified in Section 6.7(f) acquire all of the Second Put Shares that it is able to acquire at the GS Put Price.
- (f) The closing of any acquisition of GS Shares to be acquired pursuant to the First GS Put shall (subject to Section 6.7(b)) occur on the fourth anniversary of the date of this Agreement and the closing of any acquisition of GS Shares to be acquired pursuant to the Shortfall Put or the Second GS Put shall occur effectively within 15 days of the exercise of the Shortfall Put or the Second GS Put, as the case may be; provided, however, that, in either such case, if the closing is delayed beyond either such date (due to a delay with respect to the financing thereof or for any other reason (other than to the extent caused by any GS Party or resulting from a

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Force Majeure Event)), the purchase price to be paid to the GS Holdcos shall increase and accrue (compounded annually) from such date (or, to the extent that such closing is delayed as a result of a Force Majeure Event, from the time at which such Force Majeure Event is no longer in effect) until the date the GS Shares are actually purchased and paid for, at the GS Rate of Return that was applicable pursuant to Section 5.4 (except, in the case of any Put Shortfall Shares, to the extent that such GS Rate of Return is already taken into account in the price to be paid for such Shares through the IRR Adjustment); provided further, however, that GSCP shall have the option with respect to the Second GS Put to extend the closing date by up to an additional 60 days if such purchase was not consummated within the 15-day period referred to in this Section 6.7(f); if, however, GSCP exercises such option to so extend the closing date, the purchase price shall not increase or accrue at such GS Rate of Return during the period of such extension (except with respect to the Put Shortfall Shares).

- (g) If the GS Shares are held by more than one GS Party, then on any exercise of the First GS Put, the Shortfall Put or the Second GS Put in respect of less than all outstanding GS Shares, the Corporation shall acquire GS Shares pursuant to such exercise from the applicable GS Parties:
- (i) subject to clause (ii) of this Section 6.7(g), *pro rata* in relation to the number of GS Shares held by such GS Parties; or
 - (ii) as determined by GSCP, provided that any such determination that differs from the *pro rata* allocation contemplated by clause (i) of this Section 6.7(g) would have no adverse effect in relation to the Corporation and its Subsidiaries or the CanWest Parties.
- (h) Notwithstanding Section 6.7(g), on any exercise of the First GS Put, the Shortfall Put or the Second GS Put in respect of less than all of the outstanding GS Shares, the Corporation (or CanWest or its Affiliates if CanWest so elects) shall acquire such numbers of Common Shares and Voting Shares as are *pro rata* to the aggregate number of Common Shares and Voting Shares held by the GS Parties.
- (i) To the extent that the Corporation is unable to acquire all of the Second Put Shares upon the exercise by GSCP of the Second GS Put, provided that such inability has not been caused by a breach by CanWest or the Corporation of its other covenants in this Agreement, the only remedy of the GS Parties shall be to exercise GSCP's rights under Sections 6.8 and 6.9.
- (j) On the exercise of any or all of the First GS Put, the Shortfall Put and the Second GS Put, CanWest may at its sole option elect that it or any of its Affiliates that it may designate, rather than the Corporation, will acquire the GS Shares subject to such exercise; provided, however, that the Corporation shall remain liable for the performance of such obligations to the extent not performed by CanWest or any such Affiliates; and provided further, however, that, in the case of the First GS Put and the Shortfall Put, to the extent that any of the funds used for such purchase will be obtained from the Corporation or its Subsidiaries or from

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financing relating to such entities, such use of such funds or such financing shall not cause the Leverage Cap to be exceeded unless all of the outstanding GS Shares are being purchased thereby.

- (k) Subject only to (x) the application to the Corporation of the Leverage Cap (with respect to the exercise of the First GS Put and the Shortfall Put only) and (y) a permanent, non-appealable legal prohibition from consummating its obligations under this Section 6.7 that is not caused by the breach of this Agreement by the Corporation, CanWest or its Affiliates, the Corporation and its Subsidiaries (or, in the case that CanWest elects to purchase the GS Shares pursuant to Section 6.7(j), CanWest and its Subsidiaries) shall use their best efforts to obtain, in a timely manner, the financing necessary to satisfy their obligations under this Section 6.7 and use their best efforts to take such other actions as are necessary to satisfy its obligations under this Section 6.7 in a timely manner.
- (l) From the date of this Agreement through the June 30, 2013 (or earlier, to the extent that the GS Holdcos have sold all of their Shares), CanWest agrees that (i) neither it nor any of its Affiliates will enter into any new financing (or refinance existing debt or capital) if the terms of such new financing or refinancing would restrict, prevent or otherwise materially adversely affect the ability of the Corporation to satisfy its obligations under this Section 6.7 or such new financing or refinancing would otherwise be reasonably expected to materially adversely affect the ability of the Corporation to satisfy its obligations under this Section 6.7 and (ii) neither it nor any of its Affiliates nor the Corporation or its Subsidiaries will take any action that would reasonably be expected to materially adversely affect the ability of the Corporation to satisfy its obligations under this Section 6.7, provided that entering into any contract, or acquiring any assets, in the ordinary course of business that under the terms of such contract, or under the terms to which such assets are subject, would require the consent of any third party in connection with the consummation of the Combination Transaction will be deemed for this purpose not to be taking any such action (provided, however, that CanWest, the Corporation or their respective Affiliates, as applicable, shall use their respective commercially reasonable efforts to attempt to have such terms omitted from such contracts or acquisitions).
- (m) For the avoidance of doubt, none of the GS Parties shall have any recourse to CanWest or any of its Affiliates (other than the Corporation and its Subsidiaries) with respect to the obligation to purchase the First Put Shares, the Put Shortfall Shares or the Second Put Shares, unless CanWest so elects pursuant to Section 6.7(j).
- (n) The Parties agree to cooperate with one another and use reasonable commercial efforts to structure any transaction contemplated by this Section 6.7 other than as a direct acquisition of Shares by the Corporation.

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6.8 Right of First Offer

(a) If,

- (i) during the Second Put Period the GS Parties still own any GS Shares and the Combined EBITDA for the last twelve months ended March 31, 2013 is less than \$280 million, or
- (ii) following the end of the Second Put Period the Corporation (or CanWest or any of its Affiliates as the case may be) has not acquired all of the Second Put Shares upon due exercise by GSCP of the Second GS Put in respect of 100% of its remaining GS Shares, as contemplated by Section 6.7(i),

then GSCP shall have the right to require the sale of the Corporation in accordance with the process outlined in this Section 6.8 by providing notice in writing to that effect (a "Notice of Sale") to CanWest either,

- (iii) during the Second Put Period as an alternative to exercising the Second GS Put, or
 - (iv) within 60 days following the Second Put Period in the circumstances described in clause (ii) of Section 6.8(a), or such longer period as GSCP and CanWest may agree.
- (b) In the Notice of Sale, the GS Parties shall irrevocably offer to sell all of their Shares (the "Offered Shares"), for cash, free and clear of all encumbrances (other than encumbrances pursuant to this Agreement and under applicable laws) to CanWest at the price (the "Offer Price") and on the other terms and conditions set forth in the Notice of Sale.
- (c) Within 30 days after the Notice of Sale is deemed (pursuant to Section 9.9) to have been received by CanWest (the "Offer Period") CanWest may give to GSCP a notice in writing (an "Acceptance Notice") accepting the offer contained in the Notice of Sale. If CanWest gives an Acceptance Notice within the Offer Period confirming its agreement to purchase all of the Offered Shares, the sale of the Offered Shares to CanWest shall be completed within 60 days of the expiry of the Offer Period and any financial advisory fees associated with such sale (other than those of any financial advisor retained by CanWest or the Corporation) shall be borne by GSCP.
- (d) If GSCP does not receive an Acceptance Notice from CanWest within the Offer Period confirming its agreement to purchase all of the Offered Shares, CanWest's rights to purchase the Offered Shares shall, subject to Section 6.8(f), cease at the end of the Offer Period and the GS Parties may cause all of the Shares to be sold to any *bona fide* Arm's Length third party or parties (provided that such parties may include entities in which GSCP and its Affiliates hold less than 10% of an equity interest) within 180 days after entering into a definitive agreement with

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respect to such a sale (which agreement must be entered into no later than 180 days after the expiry of the Offer Period) (the "Third Party Sale Period"), for a price in cash that is no less than the Offer Price and on other terms and conditions no more favourable to the purchaser or purchasers than those set out in the Notice of Sale (a "Third Party Sale"). The GS Parties shall use their reasonable commercial efforts to complete any such Third Party Sale as soon as possible. The Corporation and the CanWest Parties each agree to cooperate with and assist GSCP with the sale process (including by providing potential purchasers designated by GSCP with confidential information regarding the Corporation (subject to a customary confidentiality agreement) and with access to management). GSCP and CanWest, each acting reasonably, will agree on any financial advisor retained to assist with such sale process and on the terms (including compensation) of any such retainer.

- (e) In such case, the CanWest Parties shall sell their Shares at the same price and on the same terms and conditions as the GS Parties sell their Shares, as part of such Third Party Sale, subject to the right of the GS Parties to receive no less than the Put Shortfall Price plus the IRR Adjustment contemplated by Section 6.7(c) with respect of any Put Shortfall Shares.
- (f) If GSCP determines that the GS Parties can only complete a Third Party Sale within the Third Party Sale Period at a price in cash that is below the Offer Price or on other terms and conditions more favourable to the *bona fide* Arm's Length purchaser or purchasers than those set out in the Notice of Sale, it may, by providing notice in writing (a "Notice of Modification") to CanWest no later than 180 days after the expiry of the Offer Period, specify the *bona fide* Arm's Length purchaser or purchasers who have agreed to purchase the Shares and the price at which, and the other terms and conditions upon which, such purchaser or purchasers have agreed to purchase the Shares (the "Modified Terms"). The Notice of Modification shall be accompanied by a true and complete copy of the agreement or agreements pursuant to which such *bona fide* Arm's Length purchaser or purchasers have agreed to purchase the Shares setting out the Modified Terms (the "Third Party Sale Agreement"). Within 30 days after a notice of Modification is deemed (pursuant to Section 9.9) to have been received by CanWest (the "Modified Offer Period"), CanWest may give to GSCP a notice in writing (a "Modified Acceptance Notice") accepting the offer contained in the Notice of Sale as modified by the Notice of Modification. If CanWest gives a Modified Acceptance Notice within the Modified Offer Period confirming its agreement to purchase all of the Offered Shares, the sale of the Offered Shares to CanWest shall be completed within 60 days of the expiry of the Modified Offer Period and the GS Parties shall indemnify CanWest and its Affiliates and the Corporation and its Subsidiaries and hold them harmless in respect of any break or incentive fees or reimbursement of expenses offered or agreed to be provided to any third party purchasers in connection with any offers made by them for the Shares as well as in respect of any other expenses (including legal and financial advisory fees and expenses) incurred by the GS Parties or the Corporation and its Subsidiaries in connection with the sale of the Shares.

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- (g) If GSCP does not receive a Modified Acceptance Notice from CanWest within the Modified Offer Period confirming its agreement to purchase all of the Offered Shares, CanWest's rights to purchase the Offered Shares shall cease at the end of the Modified Offer Period and the GS Parties may cause all of the Shares to be sold pursuant to the Third Party Sale Agreement. In such case, the CanWest Parties shall sell their Shares at the same price and on the same terms and conditions as the GS Parties sell their Shares pursuant to the Third Party Sale Agreement, subject to the right of the GS Parties to receive no less than the Put Shortfall Price plus the IRR Adjustment contemplated by Section 6.7(c) with respect of any Put Shortfall Shares.
- (h) If the GS Parties do not conclude a sale of their Shares pursuant to this Section 6.8 to a third party or parties prior to the expiry of the Third Party Sale Period or to CanWest pursuant to Sections 6.8(c) or 6.8(f), they shall have no further rights pursuant to this Section 6.8 and their rights to sell their Shares shall be limited to those provided pursuant to Section 6.9.
- (i) All notices under this Section 6.8 shall be given concurrently to all Shareholders and to the Corporation.
- (j) To permit the practical implementation of this Section 6.8, no Shares may be sold by any Shareholder as part of or incidental to the sale of any other assets or any other transaction.

6.9 Registration Rights

If GSCP, having initiated a sale process pursuant to Section 6.8 by issuing a Notice of Sale and the GS Parties having used all commercially reasonable efforts acting in good faith to complete a sale of the GS Shares pursuant to Section 6.8, fail to sell all of the GS Shares pursuant to Section 6.8, GSCP shall be entitled to require the Corporation to effect an initial public offering of the GS Shares in accordance with the provisions of Schedule 6.9, in which case the Parties shall have the benefit of the rights and be subject to the obligations provided for pursuant to such Schedule. If GSCP exercises this right to require an initial public offering, prior to the completion of such offering the names of the Corporation and its Subsidiaries will, at the option of GSCP, be changed to names determined by GSCP (with the consent of CanWest, not to be unreasonably withheld) that do not include the terms "CanWest" or "CW".

6.10 Insolvency Event

- (a) Notwithstanding the other provisions of this Article 6, if an Insolvency Event occurs in respect of CanWest and is continuing, the GS Parties shall be entitled to sell all of their Shares to any *bona fide* Arm's Length third party or parties at a price and on other terms and conditions negotiated by GSCP in its discretion provided that such third party or parties acquires all of the Shares held by the CanWest Parties at the same price and on the same terms and conditions, and in such event, the CanWest Parties shall sell their Shares to such third party or parties at such price and on such terms and conditions. The Corporation and the CanWest Parties each agree to cooperate with and assist GSCP with the sale

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process (including by providing potential purchasers designated by GSCP with confidential information regarding the Corporation (subject to a customary confidentiality agreement) and with access to management).

- (b) If the GS Parties cause a sale pursuant to Section 6.10(a) prior to the completion of the Combination Transaction, for purposes of determining the relevant entitlement of the GS Parties and the CanWest Parties to the net proceeds of such sale:
- (i) the GS Equity Value will be determined using a rate equal to the GS Rate of Return (determined in accordance with Schedule 1.1(b) but with "Combined EBITDA" referring to Combined EBITDA for the 12 month period ending at the end of the month immediately preceding the date of completion of such sale), compounded annually from the date of this Agreement to the date of completion of such sale; and
 - (ii) to the extent the aggregate proceeds of such sale to the GS Parties are less than the GS Equity Value determined in accordance with clause (i) of this Section 6.10(b), the Contributed Business will be required to pay the amount of such shortfall to the GS Parties (for the avoidance of doubt, the recourse of the GS Parties in enforcing this clause (ii) shall be limited to the net assets of the Contributed Business).

6.11 Equity Adjustments and Related Guarantees

- (a) To the extent that a Party (an "Indemnified Party") or a Separation Affiliate of an Indemnified Party is entitled to any indemnity pursuant to Article VI of the Separation Agreement (a "Separation Indemnity") or a Party or an Affiliate of such Party has made an Excess Advance (as defined in the Tax Shelter Agreement) and that indemnity has not been satisfied by the Party obligated to pay it or such Excess Advance has not been repaid to such Indemnified Party by the Defaulting Shareholder (as defined in the Tax Shelter Agreement) (such Party obligated to pay or such Defaulting Shareholder, the "Indemnifying Party") or a Separation Affiliate of the Indemnifying Party where such Separation Affiliate is obligated to pay it, within 10 Business Days after a final resolution of such indemnification matter in accordance with the dispute resolution provisions of the Separation Agreement or the Tax Shelter Agreement, as the case may be, (or, if earlier, within 15 Business Days of the date on which the Indemnified Party provides Notice of its demand for such payment to the Indemnifying Party if the Indemnifying Party does not in good faith provide a written objection to the Indemnified Party or its applicable Separation Affiliate within such 15 Business Day period), such indemnity obligation may at the option of the Indemnified Party be satisfied by a Transfer of Shares (the "Transferred Shares") from the Indemnifying Party or its Separation Affiliates to the Indemnified Party or its Separation Affiliates with a value equal to the amount of the indemnity (the "Indemnity Amount") or otherwise secured against the Shares held by the Indemnifying Party and its Separation Affiliates (in which case such indemnity obligation shall be deemed to be satisfied to the extent the value of such

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Transferred Shares was equal to the Indemnity Amount), as the Indemnified Party shall determine. If Shares held by any GS Parties are transferred pursuant to this Section 6.11 prior to the Combination Date, the GS Initial Investment will be reduced by the Indemnity Amount. Any Transferred Shares shall be valued as follows:

- (i) if such Transferred Shares are transferred prior to the Combination Date, at the effective price at which such Transferred Shares were originally issued (for the avoidance of doubt, without any return on such Transferred Shares at the GS Rate of Return or otherwise); and
- (ii) if such Transferred Shares are transferred on or after the Combination Date, at a price determined in the same manner as the CanWest Call Price, calculated using the Combined EBITDA for the 12-month period ended at the end of the month immediately prior to the effective date of such transfer (except that for purposes of calculating Equity Value, Combined EBITDA shall be calculated as the actual Combined EBITDA without any reference to any Floor Amount and the Minimum TEV shall not apply) and Net Debt as of the end of the month immediately prior to the effective date of such transfer.

"Separation Affiliate" means, in the case of CanWest, the Corporation and its Subsidiaries and their successors and in the case of GSCP, Entertainment Holdco AB, Inc., 4437497 Canada Inc., Alliance Distribution Holdings S.à.r.l, 4437519 Canada Inc. and 4414608 Canada Inc. and their Subsidiaries and their successors. If the Transferred Shares are held by a Person that is a non-resident of Canada for purposes of the Tax Act, the provisions of Section 7.4 shall apply in respect of the Transfer, except that if the transferee of the Transferred Shares becomes obliged to withhold and remit an amount under section 116 of the Tax Act (and Section 7.4), such Person shall either:

- (i) provide the amount of the required remittance to the transferee at least two Business Days prior to the date on which such required remittance must be made; or
 - (ii) Transfer additional Shares to the transferee at least two Business Days prior to the date on which such required remittance must be made, which additional Shares shall have a value (determined in accordance with this Section 6.11(a)) equal to one-third of the value of the Transferred Shares, for a cash purchase price and the transferee shall withhold and remit the entire purchase price for such additional Shares to the Receiver General of Canada.
- (b) If GSCP or CanWest, as the case may be, together with its Affiliates, ceases to hold at least 10% of all of the issued and outstanding Shares, such Party (the "Guaranteeing Party") shall guarantee to the other Party and its Separation Affiliates (the "Guaranteed Parties") and indemnify the Guaranteed Parties in respect of the due payment, repayment or satisfaction, as applicable, as and when

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due, of any Separation Indemnity or Excess Advance owing or potentially owing by the Guaranteeing Party and its Separation Affiliates to any of the Guaranteed Parties, provided that with respect to such guarantee and indemnity:

- (i) such guarantee and indemnity shall be absolute, unconditional, present and continuing and in no way conditional or contingent upon any event, circumstance, action or omission which might in any way discharge a guarantor or surety;
- (ii) the Guaranteed Parties shall first pursue the satisfaction of the Separation Indemnities or Excess Advances owing or potentially owing by means of a Transfer of Transferred Shares as contemplated by Section 6.11(a) so long as the Guaranteeing Party continues to hold any Shares, before pursuing a claim against such Guaranteeing Party pursuant to this Section 6.11(b) (for the avoidance of doubt, nothing shall prevent a Guaranteed Party from submitting Notice of any such claim prior to such time pursuant to clause (iii) of this Section 6.11(b));
- (iii) liability shall be limited to those matters in respect of which a claim has been submitted in good faith by Notice to the Guaranteeing Party on or prior to the date on which the Guaranteeing Party and its Affiliates cease to hold any Shares;
- (iv) liability shall be limited to the lesser of:
 - (A) an amount equal to the aggregate gross proceeds received by the GS Parties on the sale of their Shares (it being understood that a transfer of Transferred Shares pursuant to this Section 6.11 shall not be deemed to be a "sale" for purposes of this clause (iv)(A) of Section 6.11(b); and
 - (B) an amount equal to the GS Equity Value;
- (v) liability shall not extend past, and shall terminate on, December 31, 2016, which is the date of dissolution of GSCP, except:
 - (A) to the extent the Guaranteeing Party has delayed resolution of any Dispute relating to such liability other than in connection with the good faith defence of such liability; and
 - (B) in respect of any Disputes for which proceedings have been commenced in good faith prior to such date pursuant to Section 9.3, GSCP and its affiliated investment funds shall reserve and provide sufficiently for any such Disputes prior to disbursing their assets to investors and such liability shall extend past such date in respect of such reserves and provisions provided that the Guaranteed Parties continue to pursue such proceedings with reasonable diligence.

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6.12 Required Sale of Regulated Assets

If the acquisition of the Deposited Securities (as defined in the Voting Trust Agreement) does not receive the approval of the CRTC on terms reasonably acceptable to each of GSCP and CanWest, acting in good faith, after the Parties have exhausted all reasonable rights of appeal, reapplication and review relating to such failure to obtain such approval, and the Trustee is required to sell any of the Deposited Securities or any assets of the Regulated Entities (as defined in the Voting Trust Agreement), as the case may be, the proceeds of any such sale shall be allocated as follows:

- (a) first, as provided in the Voting Trust Agreement to the payment of the compensation of the Trustee and the charges and expenses incurred by the Trustee;
- (b) second, to the payment of any taxes incurred in connection with such sale;
- (c) third, to the Corporation and its Subsidiaries to repay the Indebtedness of the Corporation and its Subsidiaries (and the Corporation and its Subsidiaries will apply such funds to the repayment of such Indebtedness); and
- (d) fourth, to CanWest Holdco, GS Shareholder Holdco One and GS Shareholder Holdco Two *pro rata* based upon the amount of their respective equity interests in the Corporation:
 - (i) in the case of GS Shareholder Holdco One and GS Shareholder Holdco Two, as a return of capital to the extent of available capital and then as a dividend, less applicable withholding taxes, (which, for the avoidance of doubt, will first reduce the amount of the GS Initial Investment and then, to the extent applicable will reduce the amount of any GS Additional Investment); and
 - (ii) in the case of CanWest Holdco, as a return of Capital or as dividends or a combination of both, as determined by CanWest Holdco in its discretion, subject to applicable laws.

Any loss arising in connection with such sale shall be allocated to and borne by GSCP and CanWest as follows:

- (e) GSCP as to 50%; and
- (f) CanWest as to 50%.

6.13 Liquidation of 4414641 Canada Inc.

4414641 Canada Inc. shall not be liquidated or dissolved on a voluntary basis without the prior consent in writing of GSCP.

ARTICLE 7.
ARRANGEMENTS REGARDING TRANSACTIONS

7.1 Financial Calculations

- (a) The Parties shall cooperate fully in the calculation of (i) the GS Post-Combination Percentage Interest, (ii) the CanWest Call Price, (iii) the GS Put Price, (iv) the GS Equity Value, and (v) any other financial calculations required pursuant to this Agreement (the "Financial Calculations").
- (b) All Financial Calculations shall be calculated in accordance with GAAP consistent with those used in the Financial Statements subject, however, to the principles set forth in Schedule 7.1.
- (c) CanWest shall promptly prepare any required Financial Calculations in accordance with this Agreement and shall provide such Financial Calculations to GSCP in a timely manner (including, with respect to Section 6.7, no later than the beginning of the First Put Period and Second Put Period, as applicable) by notice in writing in such reasonable detail as to allow GSCP to understand how such Financial Calculations have been determined. GSCP shall have a similar review period (with a right to make an Objection Notice (as defined below) and have such dispute arbitrated) after the delivery of the audited financial statements with respect to such period in respect of Financial Calculations derived from such audited financial statements, provided that GSCP shall not have a right to make an Objection Notice and have a dispute arbitrated in relation to such audited financial statements to the extent the subject matter and amount of any item in dispute had been the subject of an earlier Objection Notice in relation to the original Financial Calculations provided by CanWest.
- (d) In the event that GSCP objects in good faith to any Financial Calculation, GSCP shall so advise CanWest by delivery to CanWest of a notice (an "Objection Notice") within 20 days after the delivery to GSCP of the notice from CanWest setting out such Financial Calculation. The Objection Notice shall set out the reasons for each of GSCP's objections as well as each amount in dispute and reasonable details of the calculation of each such amount in dispute.
- (e) CanWest shall give GSCP and its accountants access to its working papers relating to the preparation of any applicable Financial Calculations to enable GSCP to exercise its rights under this Section 7.1. CanWest and GSCP shall attempt to resolve all of the items in dispute set out in any Objection Notice within 30 days of receipt by CanWest of any Objection Notice. Any items in dispute not resolved within such 30-day period shall be referred as soon as possible thereafter by CanWest and GSCP to the Independent Auditor. The Independent Auditor shall act as expert and not as arbitrator and shall be required to determine the items in dispute that have been referred to it as soon as reasonably practicable but in any event not later than 45 days after the date of referral of the dispute to it. In making its determination, the Independent Auditor will only consider the issues in dispute placed before it. CanWest and GSCP shall

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provide or make available all documents and information as are reasonably required by the Independent Auditor to make its determination. The determination of the Independent Auditor shall be final and binding on the Parties and the applicable Financial Calculations shall be finalized in accordance with such determination.

- (f) The fees and expenses of the Independent Auditor in acting in accordance with this Section 7.1 shall be shared equally by GSCP and CanWest, unless the Independent Auditor determines otherwise.

7.2 Closing

The following provisions shall apply to any Transfer of Shares between Shareholders or their Affiliates or between Shareholders or their Affiliates and the Corporation or its Affiliates pursuant to the terms of this Agreement:

- (a) The Transfer shall be completed at the address specified for Notice to CanWest in or pursuant to Section 9.9, subject to Section 7.2(c), on the date on which the transaction is to be completed in accordance with this Agreement (the "Transfer Closing"). At such time, the transferor(s) shall Transfer to the transferee(s) good title to the Shares being Transferred free and clear of all liens, charges and encumbrances and deliver to the transferee(s) certificates and other documents of title evidencing ownership of the Shares being Transferred, duly endorsed in blank for transfer by the holders of record. In addition, the transferor(s) shall deliver to the Corporation (i) if it no longer holds any Shares, all records, accounts and other documents in its possession belonging to the Corporation, and (ii) to the extent that it no longer has the right to nominate a Director or Directors, the resignations and releases of those nominees on the Board (including the resignation of such Persons as officers of the Corporation), all such resignations to be effective no later than the time of delivery. The transferee(s) shall deliver to the transferor(s) immediately available funds by wire transfer to an account or accounts specified in writing by the transferor(s) in full payment of the purchase price payable for the Shares being Transferred.
- (b) If, at the time of Transfer Closing, a transferor fails to complete the subject transaction of purchase and sale, the transferee shall have the right, if it is not in default under this Agreement, without prejudice to any other rights which it may have, upon payment of the purchase price payable by it to the transferor at the time of Transfer Closing to the credit of the transferor in the main branch of the Corporation's bank, to execute and deliver, on behalf of and in the name of the transferor, such deeds, transfers, share certificates, resignations or other documents that may be necessary to complete the subject transaction and the transferor hereby irrevocably appoints the transferee its attorney in that behalf. Such appointment and power of attorney, being coupled with an interest, shall not be revoked by the insolvency or bankruptcy of the transferor and the transferor hereby ratifies and confirms and agrees to ratify and confirm all that the transferee may lawfully do or cause to be done by virtue of such appointment and power.

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- (c) If any Transfer is subject to notification to or approval of the CRTC or notification to or review under the provisions of the *Investment Canada Act*, the *Competition Act* (Canada) or the U.S. *Hart-Scott-Rodino Antitrust Improvements Act of 1976* (or similar legislation), then (i) the Closing shall be conditional upon the approval or deemed approval of the appropriate Governmental Entities on terms and conditions satisfactory to the transferee, (ii) the Closing shall be delayed until the receipt of such approvals or deemed approvals, and (iii) the applicable Parties shall make such filings and take such other commercially reasonable actions as are necessary to complete such notifications or reviews or obtain such approvals as soon as reasonably practicable.
- (d) Upon any Transfer, \$1.00 of the applicable consideration for such Shares shall be allocated to each Voting Share Transferred, with the remainder of such consideration allocated to the remainder of the Shares Transferred, and the transferor and transferee shall report the purchase and sale of the Shares so Transferred in any tax returns in accordance with this Section 7.2(d).
- (e) Upon any Transfer at a price determined by any Financial Calculations, to the extent such Financial Calculations are not finally determined in accordance with Section 7.1 at the date of the Transfer Closing in respect of such Transfer:
- (i) CanWest shall, prior to such Transfer Closing, make a good faith estimate of such Financial Calculations and provide such estimate to GSCP by Notice;
 - (ii) such Transfer shall be effected on the date of the Transfer Closing at the price (the "Estimated Price") determined in accordance with such estimate of such Financial Calculations; and
 - (iii) as soon as reasonably practicable following the final determination of such Financial Calculations in accordance with Section 7.1, the Parties shall readjust the Estimated Price in accordance with such final Financial Calculations, and:
 - (A) any resulting increase in the applicable price from the Estimated Price shall be paid by the transferee to the transferor; or
 - (B) any resulting decrease in the applicable price from the Estimated Price shall be paid by the transferor to the transferee;

together with interest at the rate per annum equal to the rate quoted by the Bank of Nova Scotia on the date of the Transfer Closing as the reference rate of interest it uses for determining interest rates on Canadian dollar commercial loans in Canada and designated by such Bank as its "prime rate" from the date of the Transfer Closing to the date of payment of such subsequent readjustment less any applicable withholding taxes.

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7.3 Exercise of Liquidity Options Prior to the Combination Transaction

In connection with any exercise of a CanWest Call or the First GS Put, the Shortfall Put or the Second GS Put prior to the completion of the Combination Transaction as a result of any delay in, restriction on or prohibition with respect to such completion:

- (a) the relevant Financial Calculations shall be made on a *pro forma* basis, as if the Combination Transaction had been completed; and
- (b) the Contributed Business shall provide financial support to the Corporation to assist it in purchasing the applicable Shares (including by incurring Indebtedness or otherwise raising financing for such purchase and lending or otherwise contributing funds to the Corporation (it being understood and agreed that any such incurrence of Indebtedness and any such loan to the Corporation shall not be double-counted for purposes of the Financial Calculations).

7.4 Section 116 Certificate and other Withholding

- (a) In connection with the Transfer of any Shares owned by a non-resident of Canada for the purposes of the Tax Act, the transferor shall take all reasonable steps to obtain and deliver to the transferee on or before the Transfer Closing a certificate issued by the Minister of National Revenue under subsection 116(2) of the Tax Act (a "Section 116 Certificate"). The transferee shall take all reasonable steps to notify the transferor of the name of the transferee as soon as reasonably practicable.
- (b) If a Section 116 Certificate is so delivered to the transferee, the transferee shall be entitled to withhold from the purchase price 25% of the amount, if any, by which the purchase price exceeds the certificate limit as defined in subsection 116(2) of the Tax Act and fixed by the Minister of National Revenue in such certificate.
- (c) If a Section 116 Certificate is not so delivered, the transferee shall be entitled to withhold from the purchase price an amount equal to 25% of the purchase price.
- (d) If the transferee has withheld any amount under the provisions of Section 7.4(b) or 7.4(c) and the transferor delivers to the transferee, after the Transfer Closing and within 26 days after the end of the month in which the Transfer Closing occurs, a Section 116 Certificate or a certificate issued by the Minister of National Revenue under subsection 116(4) of the Tax Act, the transferee shall:
 - (i) where a Section 116 Certificate is delivered, pay forthwith to the Receiver General for Canada 25% of the amount, if any, by which the purchase price exceeds the certificate limit fixed in any such Section 116 Certificate, and the amount so paid shall be credited to the transferee as payment on account of the purchase price; and
 - (ii) pay forthwith to the transferor any amount that the transferee has withheld and is not required to pay to the Receiver General for Canada in

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accordance with clause (i) of this Section 7.4(d), and the amount so paid shall be credited to the transferee as payment on account of the purchase price.

- (e) If the transferee has withheld any amount under the provisions of Sections 7.4(b) or 7.4(c) and within 26 days after the end of the month in which the Transfer Closing occurs the transferor has provided the transferee with a copy of a letter, satisfactory as to content to the transferee, acting reasonably, confirming receipt of a section 116 application and advising that the Canada Revenue Agency ("CRA") will not enforce the remittance of funds as required by subsection 116(5) and that no penalty or interest will be charged against the transferee (a "CRA Letter") in relation to the disposition of the Shares, then the transferee shall not pay the withheld amount to the Receiver General for Canada until such time as either (i) the CRA requests remittance of the withheld amount in which case the transferee shall pay forthwith the withheld amount to the Receiver General for Canada and the amount so paid shall be credited to the transferee as payment on account of the purchase price, or (ii) the transferor delivers to the transferee a Section 116 Certificate or a certificate issued by the Minister of National Revenue under subsection 116(4) of the Tax Act, in which case the transferee shall:
- (i) pay forthwith to the Receiver General for Canada 25% of the amount, if any, by which the purchase price exceeds the certificate limit fixed in any such section 116 certificate, and the amount so paid shall be credited to the transferee as payment on account of the purchase price; and
 - (ii) pay forthwith to the transferor any amount that the transferee has withheld and is not required to pay to the Receiver General for Canada in accordance with clause (i) of this Section 7.4(e), and the amount so paid shall be credited to the transferee as payment on account of the purchase price.
- (f) If the transferee has withheld any amount under the provisions of Section 7.4(b) or 7.4(c) and no certificate has been delivered to the transferee by the transferor in accordance with the provisions of Section 7.4(d) and a CRA Letter has not been received in accordance with Section 7.4(e), such amount shall be paid by the transferee to the Receiver General for Canada on the 30th day after the end of the month in which the Transfer Closing occurs on account of the transferee's liability pursuant to subsection 116(5) of the Tax Act, and the amount so paid shall be credited to the transferee as payment on account of the purchase price.
- (g) If the transferee withholds an amount pursuant to Sections 7.4(b) or (c), the transferee shall invest, on behalf of the transferor, the withheld amount in one or more investments the interest on which is not subject to tax under Part XIII of the Tax Act from the Transfer Closing until the time that the withheld amount is released to the transferor and/or paid to the Receiver General for Canada in accordance with Sections 7.4(d), 7.4(e) or 7.4(f). At such time as the transferee releases any withheld amount to the transferor or pays any withheld amount to the

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Receiver General for Canada, it shall pay to the transferor the interest accrued on such amount to the date of such release or remittance, as the case may be.

- (h) Upon the Transfer of any Shares owned by a non-resident of Canada for purposes of the Tax Act, the transferee shall be entitled to withhold from the purchase price any amount payable under Part XIII of the Tax Act and remit such amount to the Receiver General for Canada on account of the transferor.

ARTICLE 8 REPRESENTATIONS AND WARRANTIES

8.1 Representations and Warranties of the GS Parties

The GS Parties jointly and severally represent and warrant to the CanWest Parties the matters set out below.

- (a) Each GS Party is duly created and organized and validly existing under the laws of its jurisdiction of incorporation or formation and has all necessary power, authority and capacity to own its assets and to conduct its business as presently owned and conducted.
- (b) Each GS Party has all necessary power, authority and capacity to enter into this Agreement and each Related Agreement to be executed by such GS Party and to carry out its obligations under this Agreement and such Ancillary Agreements. The execution and delivery of this Agreement and each Related Agreement to be executed by it and the performance of its obligations under this Agreement and such Ancillary Agreements have been duly authorized by all necessary action on the part of each GS Party.
- (c) This Agreement and each Related Agreement to be executed by it has been duly executed and delivered by each GS Party and constitutes a valid and binding obligation of each applicable GS Party enforceable against it in accordance with its terms.
- (d) The execution, delivery and performance by the GS Parties of this Agreement and the Ancillary Agreements and the consummation by the GS Parties of the Combination Transaction will not result in a violation or breach of, require any consent to be obtained under or give rise to any termination rights or payment obligation under:
- (i) any provision of the constating documents of any GS Party;
 - (ii) any resolution of the shareholders or board of directors of any GS Party;
 - (iii) subject to obtaining CRTC approval and any other regulatory notifications, filings and approvals required in connection with the consummation of the Combination Transaction, any applicable Laws; or

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- (iv) any material contract to which any of the GS Parties or its Subsidiaries is a party or by which any of them is bound or their respective properties or assets are bound;

or give rise to any right of termination or acceleration of indebtedness, or cause any third party indebtedness to come due before its stated maturity or cause any available credit to cease to be available where such event would materially impair any GS Party's ability to complete or materially prevent it from completing the Combination Transaction.

- (e) No consent, approval, order or authorization of, or declaration or filing with, any Governmental Entity or other Person is required on the part of any GS Party in connection with the execution, delivery or performance of the Arrangement Agreement, this Agreement, any of the Ancillary Agreements or any other documents and agreements to be delivered under the Arrangement Agreement, this Agreement or any of the Ancillary Agreements other than the Regulatory Approvals (as defined for purposes of the Arrangement Agreement), CRTC approval and any other regulatory approvals required in connection with the consummation of the Combination Transaction.

8.2 Representations and Warranties of the CanWest Parties

The CanWest Parties jointly and severally represent and warrant to the GS Parties the matters set out below.

- (a) Each CanWest Party is a corporation duly incorporated and validly existing under the laws of Manitoba and has all necessary corporate power, authority and capacity to own its assets and to conduct its business as presently owned and conducted.
- (b) Each CanWest Party has all necessary corporate power, authority and capacity to enter into this Agreement and each Related Agreement to be executed by such CanWest Party and to carry out its obligations under this Agreement and such Ancillary Agreements. The execution and delivery of this Agreement and each Related Agreement to be executed by it and the consummation of the transactions contemplated by this Agreement and such Ancillary Agreements have been duly authorized by all necessary corporate action on the part of each CanWest Party.
- (c) This Agreement and each Related Agreement to be executed by it has been duly executed and delivered by each CanWest Party and constitutes a valid and binding obligation of each applicable CanWest Party enforceable against it in accordance with its terms.
- (d) The execution, delivery and performance by the CanWest Parties of this Agreement and the Ancillary Agreements and the consummation by the CanWest Parties of the Combination Transaction will not result in a violation or breach of, require any consent to be obtained under or give rise to any termination rights or payment obligation under:

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- (i) any provision of the articles, by-laws or other constating documents of any CanWest Party;
- (ii) any resolution of the shareholders or board of directors of any CanWest Party;
- (iii) subject to obtaining CRTC approval and any other regulatory notifications, filings and approvals required in connection with the consummation of the Combination Transaction, any applicable Laws; or
- (iv) any material contract to which any of the CanWest Parties or its Subsidiaries is a party or by which any of them is bound or their respective properties or assets are bound;

or give rise to any right of termination or acceleration of indebtedness, or cause any third party indebtedness to come due before its stated maturity or cause any available credit to cease to be available where such event would materially impair any CanWest Party's ability to complete or materially prevent it from completing the Combination Transaction.

- (e) No consent, approval, order or authorization of, or declaration or filing with, any Governmental Entity or other Person is required on the part of any CanWest Party in connection with the execution, delivery or performance of the Arrangement Agreement, this Agreement, any of the Ancillary Agreements or any other documents and agreements to be delivered under the Arrangement Agreement, this Agreement or any of the Ancillary Agreements other than the Regulatory Approvals (as defined for purposes of the Arrangement Agreement), CRTC approval and any other regulatory approvals required in connection with the consummation of the Combination Transaction.
- (f) Each CanWest Party is a "Canadian" as such term is defined in the *Investment Canada Act*.
- (g) Each CanWest Party is not a "non-resident" of Canada within the meaning of the Tax Act.
- (h) Each CanWest Party is a "Canadian" within the meaning of the Direction to the CRTC (Ineligibility of Non-Canadians).

8.3 Indemnity Agreement

The indemnification provisions in Article 3 of the Indemnity Agreement are the sole and exclusive remedy for breaches of the representations and warranties in Sections 8.1 and 8.2, except with respect to fraud or intentional misrepresentation.

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**ARTICLE 9
GENERAL****9.1 Confidentiality**

- (a) None of the Parties shall, at any time or under any circumstances, without the unanimous consent of the Shareholders and the Corporation, directly or indirectly communicate or disclose to any Person (other than its directors, officers, employees, agents, advisors and representatives as reasonably necessary in connection with its interest in the Corporation, and to those of the other Parties) or make use of (except in connection with its interest in the Corporation and, in the case of the CanWest Parties, in connection with the Contributed Business) any confidential knowledge or information howsoever acquired by such Party relating to or concerning the customers, products, technology, trade secrets, systems or operations, or other confidential information regarding the property, business or affairs, of the Corporation or any of its Subsidiaries, including Confidential Arbitration Information ("Confidential Information"). However, the foregoing obligation of confidentiality shall not apply to:
- (i) information that is or becomes generally available to the public (other than by disclosure by such Party or its employees, agents, advisors or representatives contrary to this Section);
 - (ii) information that is reasonably required to be disclosed by a Party to protect its interests in connection with any valuation or legal proceeding under this Agreement;
 - (iii) information that is required to be disclosed by law or by the applicable regulations or policies of any regulatory agency of competent jurisdiction or any stock exchange; or
 - (iv) disclosure of information by a Party in connection with a proposed Transfer of an interest in the Corporation provided such Party obtains a prior written covenant of confidentiality from the Person to whom it proposes to disclose such information in a form acceptable to the Corporation, acting reasonably.
- (b) Each of the Parties acknowledges that disclosure of any Confidential Information in contravention of this Section 9.1 may cause significant harm to the Corporation and its Subsidiaries and that remedies at law may be inadequate to protect against a breach of this Section 9.1. Accordingly, the Corporation shall be entitled, in addition to any other relief available to it, to the granting of injunctive relief without proof of actual damages or the requirement to establish the inadequacy of any of the other remedies available to it. None of the Parties shall assert any defence in Proceedings regarding the granting of an injunction or specific performance based on the availability to the Corporation of any other remedy.

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9.2 Non-Competition

- (a) Subject to Section 9.2(b), following the Combination Date and for so long as the GS Parties hold at least 10% of the GS Initial Interest, neither CanWest nor its Affiliates shall, directly or indirectly, without the prior written consent of GSCP, at any time while it is a direct or indirect Shareholder of the Corporation or CW Media, either alone or in conjunction with any individual, firm, corporation, association or other entity (except for the Corporation and its Subsidiaries), whether as principal, agent, shareholder or in any other capacity whatsoever start up, acquire, carry on, or be engaged in, concerned with or interested in or own any financial or equity interest in or have any other interest in any conventional or specialty television undertaking within Canada that requires the issuance of a broadcasting license by the CRTC to carry on a television programming undertaking (a "Competing Business").
- (b) Nothing in this Agreement shall prohibit or restrict CanWest or any of its Affiliates from:
- (i) starting up, acquiring, carrying on, or being engaged in, concerned with or interested in or owning any financial or equity interest in or having any other interest in conventional or specialty television undertakings for which the principal target market is other than Canada, notwithstanding the fact that any such undertaking may be accessed, downloaded, viewed, recorded, and/or distributed in Canada;
 - (ii) holding or purchasing the debt securities or preferred shares of a Competing Business or the common shares or units of a Competing Business, provided that the common shares or units of the Competing Business held by CanWest and its Affiliates collectively do not exceed 10% of the issued and outstanding common shares or units of the Competing Business;
 - (iii) acquiring any assets from the Corporation or a Subsidiary of the Corporation, and continuing to hold and utilize such assets, provided the sale and terms of sale have been approved by GSCP;
 - (iv) acquiring and holding an interest in a business or entity in which the Corporation and its Subsidiaries also hold an interest but which is not a wholly-owned Subsidiary of the Corporation, if:
 - (A) the interest so acquired and held was first offered to the Corporation or one of its Subsidiaries;
 - (B) the acquisition of such interest by the Corporation or one of its Subsidiaries required the approval of each of the Directors pursuant to Section 4.7(b);

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- (C) each of the CanWest nominee Directors approved the acquisition by the Corporation or one of its Subsidiaries of such interest but one or more of the GSCP nominee Directors did not approve such acquisition; and
- (D) the interest so acquired and held was acquired for consideration no less than that at which the interest was first offered to the Corporation or one of its Subsidiaries and on other material terms no more favourable to CanWest or its Affiliates than the terms first offered to the Corporation or one of its Subsidiaries; or
- (v) acquiring assets or an entity or entities (the "Acquired Business"), which Acquired Business includes a division or other business unit that is a Competing Business (such division or business unit, an "Acquired Competing Business"); provided, that, (a) the revenues of the Acquired Competing Business for the four calendar quarters prior to the date of acquisition of the Acquired Company represents (i) less than 25% of the aggregate revenues of the Acquired Business during such period and (ii) less than 50% of the aggregate consolidated revenues of the Corporation and its Subsidiaries and the Contributed Business during such period, and (b) CanWest sells the Acquired Competing Business to the Corporation and its Subsidiaries (with the consent of GSCP) or to an unaffiliated third party within 12 months of the date of the acquisition of the Acquired Business.

9.3 Arbitration

- (a) Any controversy or dispute arising out of or relating to this Agreement, its negotiation, validity, existence, breach, termination, construction or application, or the rights, duties or obligations of any party to this Agreement, other than a controversy or dispute with respect to any Financial Calculations which is to be resolved in accordance with Section 7.1, (a "Dispute"), shall be referred to and determined by arbitration before a single arbitrator to be administered by ADR Chambers Inc., based in the City of Toronto, in accordance with its Arbitration Rules and the Ontario *International Commercial Arbitration Act*, R.S.O. 1990 c. I.9 (the "Arbitration Act").
- (b) The seat of the arbitration shall be Ontario and hearings shall be conducted in the City of Toronto.
- (c) A Party to the arbitration (the "Appellant") may appeal an award on a question of law or a question of mixed fact and law by delivering a written notice of appeal ("Notice of Appeal") to the party opposite (the "Appeal Respondent") within 10 days of receipt of the award. With the Notice of Appeal, the Appellant shall name three persons whom the Appellant is prepared to nominate as appeal arbitrators, each of such persons to be a former appellate judge of the Ontario Court of Appeal or the Supreme Court of Canada (an "Appeal Arbitrator"). Within seven days of the receipt of the Notice of Appeal, the Appeal Respondent shall by

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written notice to the Appellant select one or more of the three persons named by the Appellant or provide the Appellant with a list of three persons who are Appeal Arbitrators. Within seven days of receipt of the Appeal Respondent's list, by written notice to the Appeal Respondent, the Appellant shall select one or more of such persons and/or provide a further list of three Appeal Arbitrators. The Parties shall continue to exchange lists of three Appeal Arbitrators in this fashion until three Appeal Arbitrators are selected. If the parties are unable to agree upon three Appeal Arbitrators within 20 days of the receipt by the Appeal Respondent of the Notice of Appeal, each party shall appoint one Appeal Arbitrator, and the two Appeal Arbitrators thus appointed shall appoint a third Appeal Arbitrator. Where the two Appeal Arbitrators fail to agree on the third Appeal Arbitrator within 10 days of their appointment, either Party may provide copies of the exchanged lists to ADR Chambers Inc. which shall appoint the third Appeal Arbitrator. Where an appeal is taken, the award of the Appeal Arbitrators shall be final and binding upon the Parties and there shall be no further right of appeal. The award of the Appeal Arbitrators shall be an arbitral award under the Arbitration Act.

- (d) Arbitration in accordance with the provisions of this Section 9.3 shall be the sole dispute resolution mechanism in respect of any Dispute except it is not incompatible with this arbitration agreement for any Party to request, before or during the arbitral proceedings, from a competent court any interim, provisional or conservatory relief and for the court to grant such relief.
- (e) The Parties undertake as a general principle to keep confidential all information concerning the existence of the arbitration, all awards or appeals in the arbitration, all materials in the proceedings created or used for the purpose of the arbitration, and all materials and information produced during the arbitration and not in the public domain ("Confidential Arbitration Information") save and to the extent that disclosure may be required of a Party by legal duty, to protect or pursue a legal right or to enforce or set aside an award in *bona fide* Proceedings before a competent court. Each Party shall obtain and deposit with the arbitrator a signed confidentiality undertaking from its legal counsel, independent experts and consultants regarding the Confidential Arbitration Information.

9.4 Application of this Agreement

The terms of this Agreement shall apply *mutatis mutandis* to any shares:

- (a) resulting from the conversion, reclassification, redesignation, subdivision or consolidation or other change of the Shares; and
- (b) of the Corporation or any successor body corporate that are received by the Shareholders on a merger, amalgamation, arrangement or other reorganization of or including the Corporation;

and prior to any such action being taken the Parties shall give due consideration to any changes that may be required to this Agreement in order to give effect to the intent of this Section 9.4.

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9.5 Amendments and Waivers

No amendment to or supplement of this Agreement shall be valid or binding unless set forth in writing and duly executed by all of the Parties. No waiver of any breach of any provision of this Agreement shall be effective or binding unless made in writing and signed by the Party purporting to give such waiver and, unless otherwise provided in the written waiver, shall be limited to the specific breach waived.

9.6 Assignment

Except as may be expressly provided in this Agreement, no Party may assign this Agreement or any of the benefits, rights or obligations under this Agreement or enter into any participation agreement with respect to the benefits under this Agreement without the prior written consent of the other Parties.

9.7 Termination

This Agreement shall terminate upon:

- (a) the written agreement of all of the Shareholders;
- (b) two years following the dissolution or bankruptcy of the Corporation or the making by the Corporation of an assignment under the provisions of the *Bankruptcy and Insolvency Act (Canada)*;
- (c) the GS Parties holding less than 5% of the GS Initial Interest following an initial public offering pursuant to the exercise by GSCP of its rights pursuant to Section 6.9; or
- (d) one Person becoming the beneficial owner of all of the Shares,

except that the provisions of Sections 6.11, 9.1, 9.3 and the indemnity provisions in Schedule 6.9 shall continue and in the case of a termination pursuant to clause (c) of this Section 9.7, in circumstances where GSCP had previously required the Corporation to register GS Shares for distribution in the United States, the provisions in Schedule 6.9 shall also continue until the GS Parties no longer hold any Shares.

9.8 No Partnership

Nothing in this Agreement shall be construed to constitute a partnership, trust, association or fiduciary relationship between the Parties or to impose any trust or fiduciary duties, obligations or liabilities between the Parties. No Party shall, as a result of this Agreement, be deemed to be an agent or representative of any other Party for any purpose, and no Party shall have the power or authority as agent or in any other capacity to represent, act for, bind or otherwise create or assume any obligation on behalf of any other Party for any purpose.

9.9 Notices

Any notice, consent or approval required or permitted to be given in connection with this Agreement (a "Notice") shall be in writing and shall be sufficiently given if delivered (whether in person, by courier service or other personal method of delivery), or if transmitted by facsimile or e-mail:

- (a) in the case of a Notice to any CanWest Party to:

CanWest MediaWorks Inc.
3100 CanWest Global Place
201 Portage Avenue
Winnipeg, MB R3B 3L7
Canada

Attention: General Counsel
Fax: (204) 947-9841
E-mail: rleipsic@canwest.com

with a copy (which shall not constitute Notice) to:

Osler, Hoskin & Harcourt LLP
Box 50, One First Canadian Place
Toronto, ON M5X 1B8

Attention: Linda Robinson
Fax: (416) 862-6666
E-mail: lrobinson@osler.com

- (b) in the case of a Notice to any GS Party to:

GS Capital Partners AA Investment LLC
85 Broad Street
New York, NY 10004
U.S.A.

Attention: Gerry Cardinale
Fax No.: (212) 357-5505
E-mail: gerry.cardinale@gs.com

with a copy (which shall not constitute Notice) to:

GS Capital Partners VI, L.P.
One New York Plaza
38th Floor
New York, NY 10004
U.S.A.

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Attention: Ben Adler
 Fax No.: (212) 482-3820
 E-mail: ben.adler@gs.com

(c) in the case of Notice to the Corporation, by Notice to CanWest and to GSCP.

Any Notice delivered or transmitted to a Party as provided above shall be deemed to have been given and received on the day it is delivered or transmitted, provided that it is delivered or transmitted on a Business Day prior to 5:00 p.m. local time in the place of delivery or receipt. However, if the Notice is delivered or transmitted after 5:00 p.m. local time or if such day is not a Business Day then the Notice shall be deemed to have been given and received on the next Business Day.

Any Party may, from time to time, change its address by giving Notice to the other Parties in accordance with the provisions of this Section 9.9.

9.10 Attornment and Process Agent

Subject to Section 9.3, each of the Parties hereby attorns to the exclusive jurisdiction of the courts of the Province of Ontario in connection with any Dispute. Each of the GS Parties irrevocably appoints McCarthy Tétrault LLP (the "Process Agent"), with an office at Suite 4700, Toronto-Dominion Bank Tower, Toronto, ON, Canada M5K 1E6, for the attention of Gary Girvan, as its agent to receive on behalf of it and its property, service of any documents by which any action, application, reference or other Proceeding arising out of or related to this Agreement is commenced. Such service may be made by delivering a copy of such documents in care of the Process Agent at the Process Agent's above address, and each of the GS Parties irrevocably authorizes and directs the Process Agent to accept such service on its behalf.

9.11 Osler Acting for More than One Party

Each of the Parties to this Agreement has been advised and acknowledges to each other and to Osler, Hoskin & Harcourt LLP ("Osler") that (a) Osler is acting in connection with this Agreement (and all other agreements between the Parties being entered into as at the date of this Agreement) as counsel to and jointly representing CW Media, CanWest Holdco and CanWest (each a "Client" and, collectively, the "Clients"), (b) in this role, information disclosed to Osler by one Client will not be kept confidential and will be disclosed to each of the Clients and each of the Parties consents to Osler so acting, and (c) should a conflict arise between the Clients, Osler may not be able to continue to act for any of the Clients.

9.12 Trade-mark Licence

The Corporation shall cause CW Media to grant to GSCP a royalty-free, non-exclusive, non-transferable right to use and display the CW Media name and logo in association with GSCP's investor communications, including marketing materials related to GSCP's investment funds. GSCP agrees that it shall only use such name and logo in association with wares and services that conform in nature and quality and are produced or performed by GSCP in compliance with the standards and specifications set by CanWest or CW Media, acting reasonably, and communicated to GSCP from time to time. GSCP shall, when using such name and logo and in

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the manner directed by CanWest or CW Media, indicate that such name and logo is owned by CanWest Global Communications Corp. and that it is being used by GSCP under license.

9.13 Enurement

This Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors (including any successor by reason of amalgamation of any Party) and permitted assigns.

9.14 Execution and Delivery

This Agreement may be executed by the Parties in counterparts and may be executed and delivered by facsimile and all such counterparts and facsimiles shall together constitute one and the same agreement.

[The remainder of this page has intentionally been left blank.]

IN WITNESS OF WHICH the Parties have duly executed this Agreement.

CANWEST MEDIAWORKS INC.

By: [Signature]
Name: [Name]
Title: VICE PRESIDENT

By: [Signature]
Name: [Name]
Title: ASSISTANT SECRETARY

4414616 CANADA INC.

By: [Signature]
Name: [Name]
Title: Director & Vice President

By: [Signature]
Name: [Name]
Title: Director & Secretary

GS CAPITAL PARTNERS VI FUND, L.P.

By: _____
Name:
Title:

By: _____
Name:
Title:

IN WITNESS OF WHICH the Parties have duly executed this Agreement.

CANWEST MEDIAWORKS INC.

By: _____

Name:

Title:

By: _____

Name:

Title:

4414616 CANADA INC.

By: _____

Name:

Title:

By: _____

Name:

Title:

GS CAPITAL PARTNERS VI FUND, L.P.

By:  _____

Name: *Sumit Rajpal*

Title: *Managing Director*

By: _____

Name:

Title:

GSCP VI AA ONE HOLDING S.á.r.l

By: Christine Volch
Name: Christine Volch
Title: Director

By: [Signature]
Name: John Brown
Title: Director

GSCP VI AA ONE PARALLEL HOLDING S.á.r.l

By: Christine Volch
Name: Christine Volch
Title: Director

By: [Signature]
Name: John Brown
Title: Director

CW INVESTMENTS CO.

By: _____
Name:
Title:

By: _____
Name:
Title:

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GSCP VI AA ONE HOLDING S.à.r.l

By: _____

Name:

Title:

By: _____

Name:

Title:

GSCP VI AA ONE PARALLEL HOLDING S.à.r.l

By: _____

Name:

Title:

By: _____

Name:

Title:

CW INVESTMENTS CO.

By: _____

Name:

Title:

By: *S. Richard*

Name:

Title:

SCHEDULE 1.1(a)
EBITDA

For the purposes of calculating Combined EBITDA for any period, "EBITDA" means the consolidated net income of the Corporation or the Contributed Business, as the case may be, for such period calculated in accordance with GAAP consistently applied ("Net Income"):

- (a) increased by, to the extent deducted in computing Net Income for such period, the consolidated amounts of (without duplication):
 - (i) depreciation and amortization (excluding amortization of program rights);
 - (ii) program costs (including amortization of program rights) and other costs and expenses arising from CRTC benefit obligations outlined in Appendix 1A of the CRTC Supplementary Brief filed in connection with the acquisition of the Deposited Securities (as defined in the Voting Trust Agreement) as such benefit obligations are ultimately determined by the CRTC;
 - (iii) allocations of CanWest corporate costs required by GAAP (for the avoidance of doubt, excluding allocations of costs from the Contributed Business to the Corporation and its Subsidiaries or vice versa and excluding any amount charged or payable in accordance with the Management Agreement);
 - (iv) the amount of any restructuring charges or reserves deducted (and not added back) in such period in computing Net Income, including any one-time costs incurred in connection with acquisitions after the date of this Agreement and costs related to the closure and/or consolidation of facilities;
 - (v) any other non-cash write-offs or write-downs (including asset impairment charges, debt extinguishment expenses, losses on disposal of businesses/assets and net losses associated with sold/discontinued operations) reducing Net Income for such period;
 - (vi) any other unusual or non-recurring items (including out-of-period reversals of significant allowances, accruals or reserves or unfavourable legal settlements);
 - (vii) any non-cash stock-based or other non-cash compensation charges;
 - (viii) interest and other financing charges (including bank fees, guarantee costs and costs of surety bonds in connection with financing activities);
 - (ix) any expenses or charges (other than depreciation or amortization expense) related to any equity offering, investment, acquisition, disposition or recapitalization or the incurrence or refinancing of Indebtedness (whether or not successful);

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- (x) the amount of any minority interest expenses consisting of Subsidiary income attributable to minority equity interests of third parties in any non-wholly owned Subsidiary deducted in such period in calculating Net Income;
 - (xi) equity losses in respect of the earnings of Affiliates;
 - (xii) investment losses;
 - (xiii) foreign currency exchange losses;
 - (xiv) any net losses resulting from hedging obligations;
 - (xv) any expenses relating to impairment of goodwill or other intangibles; and
 - (xvi) provisions for Taxes based upon income or profits or capital, including provincial, state, franchise and similar taxes of, and foreign withholding taxes applicable to payments to, such Person paid or accrued during such period deducted (and not added back) in computing Net Income; and
- (b) decreased by, to the extent added in computing Net Income for such period (without duplication):
- (i) the amounts of any minority interest income consisting of Subsidiary expense attributable to minority equity interests of third parties in any non-wholly owned Subsidiary included in such period in calculating Net Income;
 - (ii) equity income in respect of the earnings of Affiliates;
 - (iii) investment gains;
 - (iv) foreign currency exchange gains;
 - (v) any net gains resulting from hedging obligations; and
 - (vi) any unusual or non-recurring items (including gains on disposal of business/assets, out-of-period reversals of significant allowances, accruals, or reserves, favourable legal settlements or net income associated with sold/discontinued operations).

SCHEDULE 1.1(b)
GS RATE OF RETURN

The GS Rate of Return shall be determined from the following table, where "Combined EBITDA" refers to the Combined EBITDA for the 12 month period ending March 31, 2011:

Combined EBITDA (\$ million)	GS Rate of Return
≤ 150	15%
175	16%
200	17%
230	18%
250	19%
280	20%
300	23%
325	24%
350	25%
375	25%
≥ 400	25%

The GS Rate of Return corresponding to any amount of Combined EBITDA between any two amounts shown above will be determined by straight-line interpolation between the GSCP Rates of Return shown above corresponding to such two amounts of Combined EBITDA.

**SCHEDULE 1.1(c)
MEDIA PARTIES**

BCE Inc.
CTVglobeMedia
Torstar Corp.
Ontario Teachers' Pension Plan (OTPP)
Thompson Corp.
The Woodbridge Company Limited
Corus Entertainment Inc.
Astral Media Inc.
Rogers Communications Inc.
Cogeco Cable Inc.
Standard Broadcasting Corporation Limited
Shaw Communications Inc.
TVA Group, Inc.
Quebecor Inc.
The Jim Pattison Group
Newfoundland Capital Corporation
Caisse de Depot et du Placement du Québec

This list will be updated from time to time to reflect the emergence of similar competitor companies.

**SCHEDULE 4.8(b)
REPORTING COMMITTEE PROCEDURES**

1. Meetings

Meetings shall be held as provided in Section 4.8 provided that CanWest may call a meeting at any time on five Business Days Notice.

2. Notice

Notice for meetings shall be provided at least five Business Days prior to any meeting unless waived by both CanWest and GSCP.

3. Quorum

A quorum for a meeting shall consist of three members at least two of whom shall be representatives of CanWest and at least one of whom shall be a representative of GS. In no case shall a quorum be constituted unless representatives of CanWest constitute the majority of the members present and participating. For purposes of clarity, the foregoing shall not in any way contravene the requirement in Section 4.8 that a meeting shall occur at least once in every financial quarter, and both CanWest and GSCP shall use their reasonable best efforts to cause their respective representatives to attend each scheduled meeting.

4. Chairman

A nominee of CanWest shall chair all meetings.

5. Telephone Meetings

Any member of the Reporting Committee shall be entitled to participate in a meeting of the Reporting Committee by means of such telephone, electronic or other communication facilities as permit all Persons participating in the meeting to hear and communicate with each other simultaneously and a Person participating in such a meeting by such means is deemed to be present at the meeting.

6. Minutes

Minutes of all meetings of the Reporting Committee shall be taken by the secretary which shall be appointed by CanWest. Minutes shall be made available to all members.

7. No Decision Making Authority

For certainty, the Reporting Committee shall have no authority or right to make any decisions with respect to the Corporation, its Subsidiaries or the Contributed Business.

SCHEDULE 4.17
FORM OF PROGRAMMING COMMITTEE RESOLUTION

BE IT RESOLVED THAT:

- (a) There shall be a committee of CW Media to be known as the Programming Committee, which shall be responsible for making all programming decisions relating to the programming of CW Media and its Subsidiaries.
- (b) The Programming Committee shall have the sole and exclusive responsibility and authority to make all programming decisions on behalf of CW Media and its Subsidiaries and to supervise the implementation thereof.
- (c) The Programming Committee will ensure that the programming of CW Media and its Subsidiaries is in conformity with any applicable conditions, regulations and policies of the CRTC, as well as with the *Broadcasting Act*.
- (d) The Programming Committee shall consist of at least five members, all of whom shall be appointed by CanWest and shall be senior programming executives of CanWest or its Affiliates and CW Media or its Subsidiaries.
- (e) No fewer than 80% of the members of the Programming Committee shall be resident, Canadian citizens. No member of the Programming Committee shall be a member of the Board of Directors of any non-Canadian shareholder of CW Investments Co.
- (f) A quorum of the Programming Committee shall be a majority of its members.
- (g) Decisions of the Programming Committee shall be made by a majority of the members present at a meeting of the Committee, either in person or by telephone.

For purposes of this resolution, "programming decisions" means all decisions of any kind relating to or affecting television programming broadcast by CW Media and its Subsidiaries and includes all decisions relating to the content and presentation of the programming of CW Media and its Subsidiaries, including all decisions relating to the funding of programming and the allocation of programming funds within the budget approved by the board.

This resolution cannot be revised or amended without the prior approval of the CRTC for so long as one or more of the conditions set out in section (c)(iii) of the *Direction to the CRTC (Ineligibility of Non-Canadians)* is occurring.

**SCHEDULE 5.1
MERGER AGREEMENT**

4414616 CANADA INC.

- and -

CW INVESTMENTS CO.

MERGER AGREEMENT

[Note: This Agreement has been structured as an agreement to be signed on the closing of the Combination Transaction in 2011. It does not contain any pre-closing conditions or covenants or any mechanism to determine the number of Shares of CW Investments Co. to be issued, all of which appear in the Shareholders Agreement.]

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