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**ACQUISITION AND ASSUMPTION AGREEMENT**

Dated as of ●, 2010

Between

**7272049 CANADA INC.**

and

**CANWEST BOOKS INC.**

and

**CANWEST (CANADA) INC.**

and

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

and

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

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## TABLE OF CONTENTS

|  |    |
|--|----|
| RECITALS .....   | 1  |
| ARTICLE 1 – INTERPRETATION.....                                    | 2  |
| Section 1.1 Definitions.....                                       | 2  |
| Section 1.2 Actions on Non-Business Days .....                     | 17 |
| Section 1.3 Currency and Payment Obligations .....                 | 17 |
| Section 1.4 Calculation of Time .....                              | 18 |
| Section 1.5 Tender .....   | 18 |
| Section 1.6 Best of Knowledge.....                                 | 18 |
| Section 1.7 Additional Rules of Interpretation .....               | 18 |
| Section 1.8 Schedules .....  | 19 |
| ARTICLE 2 – ACQUISITIONS AND ASSUMPTIONS .....                     | 20 |
| Section 2.1 Acquisitions and Assumptions.....                      | 20 |
| Section 2.2 Residual Balances .....                                | 23 |
| Section 2.3 Designations.....                                      | 24 |
| Section 2.4 Tax Elections .....                                    | 24 |
| ARTICLE 3 - EXCLUDED ASSETS .....                                  | 24 |
| Section 3.1 Excluded Assets .....                                  | 24 |
| Section 3.2 Retained Liabilities .....                             | 25 |
| ARTICLE 4 – STATEMENT OF FAIR MARKET VALUE .....                   | 26 |
| Section 4.1 Designation of Fair Market Value .....                 | 26 |
| ARTICLE 5 – EMPLOYEE MATTERS.....                                  | 26 |
| Section 5.1 Offers .....   | 26 |
| Section 5.2 CPI Benefit Plans.....                                 | 28 |
| Section 5.3 CPI Pension Plans .....                                | 29 |
| Section 5.4 Unionized Employees .....                              | 31 |
| Section 5.5 Acquireco Election.....                                | 31 |
| ARTICLE 6 – TAX MATTERS.....                                       | 33 |
| Section 6.1 Goods and Services Tax and Québec Sales Tax .....      | 33 |
| Section 6.2 Provincial Retail Sales Taxes.....                     | 34 |
| Section 6.3 Land Transfer Taxes .....                              | 35 |
| Section 6.4 Rejected Elections and Indemnity .....                 | 35 |
| ARTICLE 7 – REPRESENTATIONS AND WARRANTIES OF THE LP ENTITIES..... | 35 |
| Section 7.1 Corporate Matters .....                                | 35 |
| Section 7.2 Consents, etc. ....                                    | 37 |
| Section 7.3 Financial Matters .....                                | 37 |
| Section 7.4 Share Capital, Dividends and Shares .....              | 42 |
| Section 7.5 Assets .....   | 42 |
| Section 7.6 Conduct of Business .....                              | 49 |
| Section 7.7 Employment Matters.....                                | 51 |

SCHEDULE "1.1(8)" TO ACQUIRECO PLAN

|   |    |
|---|----|
| Section 7.8 Pension and Other Benefit Plans.....              | 53 |
| Section 7.9 General Matters.....                              | 55 |
| ARTICLE 8 – REPRESENTATIONS AND WARRANTIES OF ACQUIRECO ..... | 56 |
| Section 8.1 Status.....                                       | 57 |
| Section 8.2 Due Authorization.....                            | 57 |
| Section 8.3 Enforceability.....                               | 57 |
| Section 8.4 Investment Canada Act.....                        | 57 |
| ARTICLE 9 – COVENANTS .....                                   | 57 |
| Section 9.1 General Covenants.....                            | 57 |
| Section 9.2 Competition Act Filings.....                      | 60 |
| Section 9.3 Non-Assignable Assets .....                       | 60 |
| Section 9.4 Access .....                                      | 60 |
| Section 9.5 Personal Information Privacy .....                | 61 |
| Section 9.6 Intercompany Transfers .....                      | 61 |
| Section 9.7 Certain Additional Information.....               | 62 |
| ARTICLE 10 – CONDITIONS .....                                 | 62 |
| Section 10.1 Acquireco’s Conditions .....                     | 62 |
| Section 10.2 The LP Entities’ Conditions.....                 | 64 |
| Section 10.3 Investment Canada Act.....                       | 65 |
| ARTICLE 11 – SURVIVAL .....                                   | 65 |
| Section 11.1 Survival.....                                    | 65 |
| ARTICLE 12 – COMPLETION.....                                  | 66 |
| Section 12.1 Completion.....                                  | 66 |
| Section 12.2 Procedures.....                                  | 66 |
| Section 12.3 Designated Acquireco.....                        | 66 |
| ARTICLE 13 – TERMINATION.....                                 | 66 |
| Section 13.1 Termination Rights .....                         | 66 |
| Section 13.2 Effect of Termination.....                       | 67 |
| ARTICLE 14 – MISCELLANEOUS .....                              | 67 |
| Section 14.1 Planning Act.....                                | 67 |
| Section 14.2 Further Assurances.....                          | 67 |
| Section 14.3 Notice.....                                      | 68 |
| Section 14.4 Time .....                                       | 69 |
| Section 14.5 Governing Law .....                              | 69 |
| Section 14.6 Entire Agreement.....                            | 69 |
| Section 14.7 Amendment.....                                   | 70 |
| Section 14.8 Waiver.....                                      | 70 |
| Section 14.9 Severability .....                               | 70 |
| Section 14.10 Remedies Cumulative .....                       | 70 |
| Section 14.11 Assignment and Enurement .....                  | 70 |
| Section 14.12 No Third Party Rights.....                      | 70 |
| Section 14.13 Counterparts and Facsimile.....                 | 71 |

- Schedule 1.1(20) – Business
- Schedule 1.1(39) – CPI Leased Property Leases
- Schedule 1.1(85) – Permitted Encumbrances
- Schedule 1.1(100) – Real Property Leases
- Schedule 3.1(3) – Excluded Assets
- Schedule 7.2(1) – Other Acquisition Agreements
- Schedule 7.2(2) – Consents and Regulatory Approvals
- Schedule 7.3(8) – Bank Accounts and Authorizations
- Schedule 7.4(2) – Title to Shares
- Schedule 7.4(3) – No Other Acquisition Agreements
- Schedule 7.5(2) – Real Property
- Schedule 7.5(5)(a) – Environmental Matters
- Schedule 7.5(6) – Personal Property
- Schedule 7.5(7) – Personal Property Leases
- Schedule 7.5(11) – Intellectual Property
- Schedule 7.6(5) – Non-Arm's Length Interests
- Schedule 7.6(6) – Contracts
- Schedule 7.6(7) – Licences
- Schedule 7.6(8) – Location of Assets
- Schedule 7.7(1) – Employees
- Schedule 7.7(2) – Remuneration
- Schedule 7.7(3) – Labour Matters and Employee Contracts
- Schedule 7.7(4) – Employment Laws
- Schedule 7.8(1) – CPI Benefit Plans
- Schedule 7.9(3) – Litigation
- Schedule 7.5(9) – Plants, Facilities and Equipment

## ACQUISITION AND ASSUMPTION AGREEMENT

This Agreement is dated as of ●, 2010 between

**7272049 CANADA INC.**  
("Acquireco")

and

**CANWEST BOOKS INC.**  
("Canwest Books")

and

**CANWEST (CANADA) INC.**  
("Canwest GP")

and

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

and

**CANWEST PUBLISHING INC. / PUBLICATIONS  
CANWEST INC.**  
("CPI")

### RECITALS

- A. Canwest LP is in default of its obligations under the Senior Credit Agreement.
- B. Canwest LP was party to the Hedging Agreements, which were terminated on or about June 1, 2009 and pursuant to which termination payments and interest thereon are outstanding and due by Canwest LP.
- C. CPI has guaranteed amounts owing by Canwest LP under the Senior Credit Agreement and Hedging Agreements pursuant to the Omnibus Guarantee executed on July 10, 2007 by CPI and all of the Guarantors (as that term is defined in the Omnibus Guarantee), in favour of the Administrative Agent on behalf of itself and the other Senior Lenders (the "CPI Guarantee").

D. On the Acquisition Date, pursuant to the Plan the lenders under the Senior Credit Agreement and Hedging Agreements will have assigned rights to and interests under the Senior Credit Agreement and Hedging Agreements, respectively, to Acquireco.

E. On the Acquisition Date, Acquireco will have enforced its security on and will acquire the Acquired Assets (which include certain assets of Canwest GP and substantially all of the assets of Canwest Books and Canwest LP that CPI will acquire from Canwest Books, Canwest GP and Canwest LP prior to the Acquisition Date) pursuant hereto as a consequence of the LP Entities' failure to pay (the "**Failure to Pay**") (i) amounts owing under the Senior Credit Agreement; (ii) amounts owing pursuant to the Hedging Agreements representing termination payments thereunder; and (iii) the CPI Guarantee, respectively.

F. On the Acquisition Date, Acquireco will assume the Assumed Liabilities (which include certain Liabilities of Canwest LP that CPI will assume from Canwest LP prior to the Acquisition Date) pursuant to and in accordance with the terms of this Agreement.

The Parties agree as follows:

## ARTICLE 1 – INTERPRETATION

### Section 1.1 Definitions

In this Agreement:

- (1) "**Accounts Receivable**" means all accounts receivable, notes receivable, loans receivable and other evidences of Indebtedness and rights of CPI to receive payment and the security arrangements and collateral securing the repayment and satisfaction of the foregoing.
- (2) "**Acquireco Assumed Benefit Plans**" has the meaning given to it in Section 5.2(1)(a).
- (3) "**Acquireco Benefit Plans**" means the employee benefit plans, agreements, and other similar arrangements existing or established by Acquireco to provide benefits to the Transferred Employees and former employees of the LP Entities as contemplated under Section 5.2 and in respect of which Acquireco sponsors or is obligated to contribute to, or is in any way liable, pursuant to the terms of this Agreement, including bonus, deferred compensation, incentive compensation, share purchase, share appreciation, share option, severance and termination pay, hospitalization, health and other medical benefits, life and other insurance, dental, vision, legal, long-term and short-term disability, salary continuation, vacation, supplemental unemployment benefits, education assistance, profit sharing, mortgage assistance, employee loan, employee assistance, the Acquireco Assumed Pension Plans, the Acquireco Established Pension Plans or Acquireco Elected Pension Plans, as the case may be, and any registered retirement savings arrangements), except that the term "Acquireco Benefit Plans" shall not include any statutory plans which Acquireco is required to provide or participate in, including the Canada/Quebec Pension Plan and plans administered pursuant to applicable provincial health tax, workers' compensation and workers' safety and employment legislation.

- (4) **"Acquireco Elected Benefit Plans"** has the meaning given to it in Section 5.5(4)
- (5) **"Acquireco Assumed Pension Plans"** has the meaning given to it in Section 5.3(1).
- (6) **"Acquireco Elected Pension Plans"** has the meaning given to it in Section 5.5(2).
- (7) **"Acquireco Established Pension Plans"** has the meaning given to it in Section 5.3(1)(d).
- (8) **"Acquired Assets"** means all right, title and interest in and to all properties, assets, interests and rights which are related to the Business or which CPI otherwise has an interest, or which are used by or which are in the possession or control of CPI, or which immediately before the completion of the Intercompany Transfers any of the other LP Entities otherwise had an interest or which were used by or which were in the possession or control of any of the other LP Entities, including the following:
  - (a) the Accounts Receivable, including all debts owed by National Post to CPI;
  - (b) the Actions;
  - (c) the Books and Records;
  - (d) the Contracts;
  - (e) the Goodwill;
  - (f) the Intellectual Property;
  - (g) the Inventory;
  - (h) the Licences;
  - (i) the Personal Property Leases;
  - (j) the Prepaid Expenses;
  - (k) the Real Property;
  - (l) the Real Property Leases;
  - (m) the shares of National Post, and
  - (n) the Tangible Personal Property,

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

- (9) **“Acquisition”** means the acquisition by Acquireco of the Acquired Assets and other assets as contemplated by this Agreement.
- (10) **“Acquisition Date”** means the Plan Implementation Date or such other date as may be agreed by the Parties.
- (11) **“Acquisition Time”** means 12:00 p.m. on the Acquisition Date.
- (12) **“Actions”** means all rights of action and claims whatsoever of CPI (including for greater certainty all rights of action and claims that CPI acquired or will acquire from Canwest Books, Canwest GP and Canwest LP in connection with the Intercompany Transfers) against third parties arising by reason of any facts or circumstances that occurred or existed before the Acquisition Time whether or not an action or other proceeding shall have been commenced before the Acquisition Time.
- (13) **“Administrative Agent”** means The Bank of Nova Scotia or any successor in its capacity as Administrative Agent for the Senior Lenders under the Senior Credit Agreement.
- (14) **“Affiliate”** of a Person means any Person that directly or indirectly Controls, is Controlled by, or is under common Control with, that Person, and for greater certainty includes a subsidiary.
- (15) **“Agreement”** means this agreement and all schedules to this agreement, as may be amended from time to time in accordance with the terms hereof.
- (16) **“Applicable Law”** means, in respect of any Person, property, transaction, event or other matter, any present or future law, statute, regulation, code, ordinance, principle of common law or equity, municipal by-law, treaty or Order, domestic or foreign, applicable to that Person, property, transaction, event or other matter and all applicable requirements, requests, official directives, rules, consents, approvals, authorizations, guidelines, and policies, in each case, having the force of law, of any Governmental Authority having or purporting to have authority over that Person, property, transaction, event or other matter and regarded by such Governmental Authority as requiring compliance.
- (17) **“Assumed Liabilities”** means the Liabilities identified in Section 2.1(1)(d) and 2.1(1)(e) and the Deferred Revenue Obligations.
- (18) **“Benefits Assignment and Assumption Agreement”** has the meaning given to it in Section 5.2(1)(a).
- (19) **“Books and Records”** means the Financial Records, the corporate charters, minute and share record books and corporate seals of National Post, and all other books, records, files and papers of CPI (including for greater certainty all Financial Records and all other books, records, files and papers that CPI acquired or will acquire from Canwest Books, Canwest GP and Canwest LP in connection with the Intercompany Transfers) including drawings, engineering information, computer programs (including source code), software programs,



manuals and data, sales and advertising materials, sales and purchase correspondence, trade association files, research and development records, lists of present and former customers and suppliers, personnel, employment and other records, and all such records, data and information stored electronically, digitally or on computer-related media.

(20) **"Business"** means, collectively, the English language newspaper, digital and online businesses carried on by CPI and the respective business carried on by Canwest Books, Canwest GP and Canwest LP immediately prior to the completion of the Intercompany Transfers, including the businesses described in Schedule 1.1(20).

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

(22) **"Canadian Dollars"** and the symbol "\$" each means the lawful currency of Canada.

(23) **"Cash and Equivalents"** means all cash, certificates of deposits, bank deposits, commercial paper, treasury bills and other cash equivalents of, and all of the cheques and cheque books of, CPI (including for greater certainty all cash, certificates of deposit, bank deposits, commercial paper, treasury bills and other cash equivalents of Canwest Books, Canwest GP and Canwest LP, and all of the cheques and cheque books of Canwest Books, Canwest GP and Canwest LP, that CPI acquired or will acquire from Canwest Books, Canwest GP and Canwest LP in connection with the Intercompany Transfers).

(24) **"Cash Reserve"** has the meaning given to it in the Plan.

(25) **"CCAA"** means *Companies' Creditors Arrangement Act* (Canada), R.S.C. 1985, c. C-36, as amended from time to time.

(26) **"CCAA Case"** means the proceedings commenced by way of an application for an initial order pursuant to the CCAA filed by Canwest Books, Canwest GP and CPI.

(27) **"CCAA Court"** means the Ontario Superior Court of Justice (Commercial List).

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

(29) **"Commissioner"** means the Commissioner of Competition under the *Competition Act* (Canada).

(30) **"Competition Act Approval"** means the applicable waiting period under section 123 of the *Competition Act* (Canada) shall have expired and neither Acquireco nor CPI shall have been advised in writing by the Commissioner that the Commissioner has determined to make an application for an order under section 92 or 100 of the *Competition Act* (Canada) in respect of the acquisition of the Acquired Assets by Acquireco; and

- (a) the Commissioner shall have issued an advance ruling certificate under section 102(1) of the *Competition Act* (Canada) to the effect that the Commissioner is satisfied that the Commissioner would not have sufficient grounds upon which to apply to the Competition Tribunal for an order under section 92 of the *Competition Act* (Canada) in respect of the acquisition of the Acquired Assets by Acquireco; or
- (b) the Commissioner shall have issued a "no-action letter" whether pursuant to section 123(1) of the *Competition Act* (Canada) or otherwise, whereby the Commissioner provides written notice that the Commissioner does not intend, at that time, to make an application under section 92 of the *Competition Act* (Canada) in respect of the acquisition of the Acquired Assets by Acquireco.

(31) **"Computer Systems"** means all computer hardware, peripheral equipment, software and firmware, processed data, technology infrastructure and other computer systems and services that are used by CPI (including for greater certainty all computer hardware, peripheral equipment, software and firmware, processed data, technology infrastructure and other computer systems and services of Canwest Books, Canwest GP and Canwest LP that CPI acquired or will acquire from Canwest Books, Canwest GP and Canwest LP in connection with the Intercompany Transfers) to receive, store, process or transmit data, to carry on the Business, to carry on its day to day operations and affairs, or otherwise.

(32) **"Consent"** means any consent, approval, permit, waiver, ruling, exemption or acknowledgement from any Person (other than an LP Entity or National Post) which is provided for or required in respect of or pursuant to the terms of any Contract, Personal Property Lease or Real Property Lease in connection with the acquisition of the Acquired Assets by Acquireco on the terms contemplated in this Agreement, to permit Acquireco to use the Acquired Assets to carry on the Business after the Acquisition Date or which is otherwise necessary to permit the Parties to perform their obligations under this Agreement.

(33) **"Contaminant"** means any substance, product, element, radiation, vibration, sound or matter included in any definition of "hazardous product," "dangerous goods," "waste," "toxic substance," "contaminant," "pollutant," "deleterious substance" or words of similar import defined under any Environmental Law, or the presence of which in the environment is likely to affect adversely the quality of the environment in any way.

(34) **"Contracts"** means all contracts and agreements to which CPI (including all contract and agreements of Canwest Books, Canwest GP and Canwest LP that were or will be assigned to CPI, or in respect of which CPI acquired or will acquire the benefit, in connection with the Intercompany Transfers) is a party as at the Acquisition Time (other than the Personal Property Leases and the Real Property Leases, but including the CPI Leased Property Leases).

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

(36) **"CPI Benefit Plans"** means the employee benefit plans, agreements, arrangements (whether oral or written, formal or informal, funded or unfunded) described in Schedule 7.8(1) that are maintained for, available to, or otherwise relating to any Employee or former employee of any LP Entity or in respect of which any LP Entity sponsors or is obligated to contribute to or is in any way liable for, whether or not insured and whether or not subject to any Applicable Law, including bonus, deferred compensation, incentive compensation, share purchase, share appreciation, share option, severance and termination pay, hospitalization, health and other medical benefits, accidental death and dismemberment, life and other insurance, dental, vision, legal, long-term and short-term disability, salary continuation, vacation, supplemental unemployment benefits, education assistance, profit sharing, mortgage assistance, employee loan, employee assistance and pension, retirement and supplemental retirement plans, programs, agreements (including the CPI Pension Plans or registered retirement savings arrangements), except that the term **"CPI Benefit Plans"** shall not include any Multi-Employer Plans or statutory plans which any LP Entity is required to provide or participate in, including but not limited to the Canada/Quebec Pension Plan and plans required by or administered pursuant to applicable provincial health tax, workers' compensation and workers' safety and employment legislation.

(37) **"CPI Debt"** means the 11% notes owing by CPI to Canwest LP with an aggregate principal amount of \$2,250,000,000.

(38) **"CPI Guarantee"** has the meaning given to it in Recital C.

(39) **"CPI Leased Property Leases"** means all executed offers to lease, agreements to lease, leases, subleases, renewals of leases, tenancy agreements, rights of occupation, licences or other occupancy agreements granted by or on behalf of CPI or its predecessors in title as lessor to possess or occupy space within the Real Property or any part thereof now or hereafter, together with all security, guarantees and indemnities of the Tenants' obligations thereunder, all of which CPI Leased Property Leases are listed on Schedule 1.1(39).

(40) **"CPI Pension Plans"** means each of the defined benefit and defined contribution pension plans described in Schedule 7.8(1) that are sponsored and administered by any LP

Entity and that are required to be, and are, registered and regulated under the ITA and under applicable provincial minimum standards legislation, but excluding any Multi-Employer Plan.

- (41) **“Deferred Revenue Obligations”** means obligations in respect of prepaid circulation and advertising revenues of the Business to be satisfied following the Acquisition Time.
- (42) **“Designated Acquireco”** has the meaning given to it in Section 12.3.
- (43) **“DIP Claims”** has the meaning given to it in the Plan.
- (44) **“Employees”** means:
- (a) as of the date hereof, any and all (i) active employees (including full-time, part-time or temporary employees) of Canwest LP or CPI and (ii) employees of Canwest LP or CPI who are on approved leaves of absence, including maternity leave, parental leave, short-term disability leave, long-term disability leave, workers’ compensation and other statutory leaves); and
  - (b) as of the Acquisition Time, any and all (i) active employees (including full-time, part-time or temporary employees) of CPI and (ii) employees of CPI who are on approved leaves of absence, including maternity leave, parental leave, short-term disability leave, long-term disability leave, workers’ compensation and other statutory leaves,

in each case who are employed in connection with the Business on the basis of a written, oral or implied contract of employment, whether of indefinite duration or for a fixed term.

- (45) **“Employment Laws”** means all Applicable Laws relating to employment and labour, including those relating to wages, hours of work, employment or labour standards, collective bargaining, labour or industrial relations, pension benefits, human rights, pay equity, employment equity, workers’ compensation or workplace safety and insurance, employer health tax, employment or unemployment insurance, income tax withholdings, Canada or Quebec Pension Plan, occupational health and safety and hazardous substances.
- (46) **“Encumbrance”** means any charge, mortgage, lien, pledge, claim, restriction, security interest or other encumbrance whether created or arising by agreement, statute or otherwise at law, attaching to property, interests or rights and shall be construed in the widest possible terms and principles known under the law applicable to such property, interests or rights and whether or not they constitute specific or floating charges as those terms are understood under the laws of the Province of Ontario.
- (47) **“Environmental Claim”** includes a claim, notice, administrative order, citation, complaint, summons, writ, proceeding or demand relating to remediation, investigation, monitoring, emergency response, decontamination, restoration or other action under any Environmental Law or any notice, claim, demand or other communication alleging or

asserting liability, either direct or indirect, and either in whole or by way of contribution or indemnity, for investigatory, monitoring or cleanup costs, Governmental Authority response costs, damages, personal injuries, fines, penalties or for other relief, and arising out of, based on or resulting from (a) the presence, or Release into the environment, of any Contaminant, or (b) any non-compliance or alleged non-compliance with any Environmental Law.

- (48) **"Environmental Laws"** means all Applicable Laws relating to the protection and preservation of the environment, health, safety, product safety, product liability, natural resource damage or Contaminants, including the *Environmental Protection Act* (Ontario) and the *Canadian Environmental Protection Act, 1999*.
- (49) **"Environmental Permits"** means Licences issued pursuant to an Environmental Law.
- (50) **"Excluded Assets"** has the meaning given to it in Section 3.1.
- (51) **"Failure to Pay"** means the failure to pay referred to in Recital E.
- (52) **"Financial Records"** means all books of account and other financial data and information of CPI (including for greater certainty all books of account and other financial data and information of Canwest Books, Canwest GP and Canwest LP that CPI acquired or will acquire from Canwest Books, Canwest GP and Canwest LP in connection with the Intercompany Transfers) and all such records, data and information stored electronically, digitally or on computer-related media.
- (53) **"Funds"** has the meaning given to it in Section 5.3(1).
- (54) **"GAAP"** means, at any time, generally accepted accounting principles in effect in Canada at that time, including the accounting recommendations published in the Handbook of the Canadian Institute of Chartered Accountants.
- (55) **"GST"** means goods and services or harmonized sales tax imposed under Part IX of the GST Act.
- (56) **"GST Act"** means the *Excise Tax Act* (Canada).
- (57) **"Good Standing"** when used in reference to a corporation, denotes that such corporation has not been discontinued or dissolved under the laws of its incorporating jurisdiction, that no steps or proceedings have been taken to authorize or require such discontinuance or dissolution and that such corporation has submitted all notices or returns of corporate information and all other filings required by Applicable Law to be submitted by it to any Governmental Authority.
- (58) **"Goodwill"** means all goodwill of CPI including the goodwill related to the Business at the Acquisition Time (including the goodwill of Canwest Books, Canwest GP and Canwest LP that CPI acquired or will acquire from Canwest Books, Canwest GP and Canwest LP in connection with the Intercompany Transfers) and including the right to represent Acquireco

as carrying on the Business in continuation of, and in succession to, Canwest Books, Canwest GP, Canwest LP and CPI.

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

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

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

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

(62) **"ICA"** means the *Investment Canada Act*.

(63) **"Indebtedness"** of a Person means, without duplication:

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

(64) **"Initial Order"** means the initial order issued by the CCAA Court in connection with the CCAA Case.

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

- (a) all patents, patent rights, patent applications, registrations, continuations, continuations in part, divisional applications or analogous rights thereto, and inventions owned or used by CPI;
- (b) all trade-marks, trade names, trade-mark applications and registrations, trade name registrations, service marks, logos, slogans and brand names owned or used by CPI;
- (c) all copyrights and copyright applications and registrations owned or used by CPI;
- (d) all industrial designs and applications for registration of industrial designs and industrial design rights, design patents and industrial design registrations owned or used by CPI;
- (e) all business names, corporate names, telephone numbers, domain names, domain name registrations, website names and worldwide web addresses and other communications addresses owned or used CPI;
- (f) all Computer Systems and applications software, including all documentation relating thereto and the latest revisions of all related object and source codes therefor owned or used CPI;
- (g) all rights and interests in and to processes, lab journals, notebooks, data, trade secrets, designs, know-how, product formulae and information, manufacturing, engineering and other technical drawings and manuals, technology, blue prints, research and development reports, technical information, technical assistance, engineering data, design and engineering specifications, and similar materials recording or evidencing expertise or information owned or used by CPI;
- (h) all other intellectual property rights owned or used by CPI in carrying on, or arising from the operation of, the Business, and foreign equivalents or counterpart rights, in any jurisdiction throughout the world;
- (i) all licences granted by CPI of the intellectual property described in paragraphs (a) to (h) above;
- (j) all future income and proceeds from any of the intellectual property listed in paragraphs (a) to (h) above and the licences described in paragraph (i) above;
- (k) all rights to damages and profits by reason of the infringement of any of the intellectual property described in items (a) to (h) above and the licences described in item (i) above; and

(l) all goodwill associated with any of the foregoing;

and, for greater certainty "Intellectual Property" includes all such property, rights, applications, registrations, licences, income, proceeds and goodwill of Canwest Books, Canwest GP and Canwest LP that CPI acquired or will acquire from Canwest Books, Canwest GP and Canwest LP in connection with the Intercompany Transfers.

(66) "**Intercompany Transfers**" means the transfer of certain assets by Canwest Books, Canwest GP and Canwest LP to CPI and the assumption of certain liabilities of Canwest LP by CPI as contemplated under Section 9.6.

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

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

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

(70) "**Leased Premises**" means the real or immovable property subject to the Real Property Leases.

(71) "**Liabilities**" of a Person means all indebtedness, obligations and other liabilities of that Person whether absolute, accrued, contingent, fixed or otherwise, or whether due or to become due.

(72) "**Licence**" means any licence, permit, authorization, approval or other evidence of authority issued or granted to, conferred upon, or otherwise created for, CPI (including for greater certainty any licence, permit, authorization, approval or other evidence of authority issued or granted to, conferred upon, or otherwise created for Canwest Books, Canwest GP and Canwest LP that CPI acquired or will acquire from Canwest Books, Canwest GP and Canwest LP in connection with the Intercompany Transfers) by any Governmental Authority.

(73) "**LP Entities**" means collectively Canwest Books, Canwest GP, Canwest LP and CPI.

(74) "**Material Adverse Effect**" means any change, effect or circumstance that is materially adverse to the operations or condition of the Business, National Post or any newspaper operated as part of the Business, financial or otherwise, but excluding any change, effect or circumstance arising out of, resulting from or attributable to (a) an event or series of events or circumstances affecting (i) the Canadian or global economy generally or capital or financial markets generally, including changes in interest or exchange rates, (ii) political conditions generally of Canada or (iii) the newspaper or digital/online industry in general; (b) a decline in the price of the products of the Business or of National Post ; (c) an increase in the price of raw materials used in or other costs or expenses incurred in the operation of the Business or the operation by National Post of its business; (d) the negotiation, execution,



announcement or consummation of the transactions contemplated by, or the performance of obligations under, this Agreement; (e) the identity of, or the effects of any facts or circumstances relating to, Acquireco or its Affiliates; (f) any changes or prospective changes in Applicable Law or GAAP or the enforcement or interpretation thereof; (g) actions required to be taken or omitted pursuant to this Agreement or taken with Acquireco's consent or not taken, in each case, because Acquireco unreasonably withheld, delayed or conditioned its consent; (h) the effect of any action taken by Acquireco or its Affiliates with respect to the transactions contemplated by this Agreement; (i) any hostilities, acts of war, sabotage, terrorism or military actions, or any escalation or worsening of any such hostilities, acts of war, sabotage, terrorism or military actions, (j) any change or development in the business, financial condition, results of operations or credit, financial strength or other ratings of the LP Entities or National Post, (k) the credit, financial strength or other ratings of, or the value of any of the investment assets of, the LP Entities or National Post, and (l) the commencement of the CCAA Case.

(75) **"Multi-Employer Plan"** means the defined benefit or defined contribution pension plans or other benefit plans described in Schedule 7.8(1), in each case to which an LP Entity is required to contribute pursuant to a collective agreement to which the LP Entity is a party but does not sponsor or administer such plan.

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

(77) **"National Post"** means National Post Inc., a corporation formed under the laws of Canada.

(78) **"Non-Offer Employee Obligations"** means Liabilities of CPI for termination pay, pay in lieu of notice of termination expressly specified by contract or severance obligations (but for greater certainty excluding damage claims for wrongful dismissal or otherwise) owing to Employees who Acquireco elects pursuant to Section 5.1(2) to not make an offer of employment to and who cease to be employed by CPI by reason of Acquireco making such election.

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

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

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

(82) **"Other Amounts"** means any amounts owing to the Senior Lenders under the Senior Credit Agreement or Hedging Agreements other than on account of Principal, Unpaid Interest

(as that term is defined in the Plan) or Administrative Agent Claims (as that term is defined in the Plan).

- (83) **"Party"** means a party to this Agreement and any reference to a Party includes its successors and permitted assigns and **"Parties"** means every Party.
- (84) **"Pension Assignment and Assumption Agreements"** has the meaning given to it in Section 5.3(1).
- (85) **"Permitted Encumbrances"** means the Encumbrances described in Schedule 1.1(85).
- (86) **"Person"** is to be broadly interpreted and includes an individual, a partnership, a corporation, a trust, a joint venture, any Governmental Authority, any trade union, any employee association or any incorporated or unincorporated entity or association of any nature and the executors, administrators, or other representatives of an individual in such capacity.
- (87) **"Personal Information"** means any factual or subjective information, recorded or not, about an Employee, contractor, agent, consultant, officer, director, executive, client, customer, supplier, or about any other identifiable individual, including any record that can be manipulated, linked or matched by a reasonably foreseeable method to identify an individual, but does not include the name, title or business address or telephone number of an Employee.
- (88) **"Personal Property Leases"** means the leases of personal property by CPI including all purchase options, prepaid rents, security deposits, licences and permits relating thereto and all leasehold improvements thereon.
- (89) **"Plan"** means the plan of compromise and arrangement attached as a schedule to the Initial Order, as varied, amended, modified or supplemented in accordance with the provisions thereof.
- (90) **"Plan Implementation Date"** means the date on which all of the conditions precedent to the implementation of the Acquisition set out in the Plan have been fulfilled or, to the extent permitted pursuant to the terms and conditions of the Plan, waived, as evidenced by a certificate to that effect filed with the CCAA Court by the Monitor.
- (91) **"Post-Filing Disposition"** means the sale, transfer, mortgage, encumbering or other disposition of, or the agreement to sell, transfer, mortgage, encumber or otherwise dispose of, any property or asset, real, personal or mixed, outside of the Ordinary Course of Business from and after the date the Initial Order is issued which (a) the Administrative Agent consents to in writing, (b) is completed in accordance with such consent of the Administrative Agent and (c) is approved by the CCAA Court.
- (92) **"Post-Filing Trade Payables"** has the meaning given to it in the Plan.

(93) **"Prepaid Expenses"** means all prepayments, prepaid charges, deposits, sums and fees of CPI.

(94) **"Principal"** means, in the case of the Senior Credit Agreement, any principal amounts owing to the Senior Lenders pursuant to the terms thereof, and, in the case of any Hedging Agreement, the net amount that became payable by an LP Entity to the applicable Senior Lender on the date of termination of such Hedging Agreement by reason of the termination of such Hedging Agreement on or about June 1, 2009.

(95) **"QST"** means Québec sales tax imposed under the QST Act.

(96) **"QST Act"** means Title I of *An Act respecting the Québec sales tax*.

(97) **"RBCCM"** has the meaning given to it in Section 2.1(1)(e)(vii).

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

(99) **"Real Property"** means the real or immovable property described in Schedule 7.5(2) and (i) all plant, buildings, structures, erections, improvements, appurtenances of every kind or nature situate therein or on thereof and (ii) all fixtures of every nature and kind incorporated therein, situate upon and used in connection therewith, including heating, ventilating, air-conditioning, plumbing, electrical, sprinkler and drainage systems, in each case other than fixtures and other property owned by any Tenant.

(100) **"Real Property Leases"** means all offers to lease, agreements to lease, leases, renewals of leases, subleases, tenancy agreements, rights of occupation, licenses or other occupancy agreements for real or immovable property, including all purchase options, prepaid rents, security deposits, licences and permits relating thereto and all leasehold improvements thereon, whether oral or written, where CPI is a tenant (including for greater certainty all offers to lease, agreements to lease, leases, renewals of leases, subleases, tenancy agreements, rights of occupation, licenses or other occupancy agreements for real or immovable property, including all purchase options, prepaid rents, security deposits, licences and permits relating thereto and all leasehold improvements thereon, whether oral or written, of Canwest Books, Canwest GP and Canwest LP that CPI acquired or will acquire from Canwest Books, Canwest GP and Canwest LP in connection with the Intercompany Transfers), the particulars of which are set forth on Schedule 1.1(100).

(101) **"Reference Date"** means September 1, 2009.

(102) **"Regulatory Approval"** means any approval, consent, ruling, authorization, notice, permit or acknowledgement that may be required from any Person pursuant to Applicable Law or under the terms of any Licence or the conditions of any Order in connection with the acquisition of the Acquired Assets by Acquireco on the terms contemplated in this Agreement, to permit Acquireco to carry on the Business and the business of National Post

after the Acquisition Date or which is otherwise necessary to permit the Parties to perform their obligations under this Agreement, and includes the Competition Act Approval.

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

(104) **"Remaining Cash and Equivalents"** has the meaning given to it in Section 2.1(1)(a).

(105) **"Sanction Order"** has the meaning given to "Credit Acquisition Sanction Order" in the Plan.

(106) **"Senior Credit Agreement"** means the Credit Agreement dated as of July 10, 2007 between CanWest MediaWorks Limited Partnership (now Canwest LP), as Borrower, the guarantors party thereto from time to time, as Guarantors, the lenders party thereto from time to time, as Senior Lenders, and the Administrative Agent on behalf of the Senior Lenders, as amended from time to time, which agreement and all rights, title and interests thereunder will have been assigned to Acquireco on or before the Acquisition Date.

(107) **"Senior Lenders"** means the lenders party to the Senior Credit Agreement from time to time.

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

(109) **"SERA"** means the Southam Executive Retirement Arrangement.

(110) **"Shared Services Agreement"** means the Agreement on Shared Services and Employees dated October 26, 2009 among Canwest Global Communications Corp., Canwest LP, Canwest Media Inc., CPI, Canwest Television Limited Partnership and The National Post Company/La Publication National Post (as subsequently assigned to National Post).

(111) **"Stayed Payables"** means the Accounts Payable which shall be subject to a stay pursuant to the CCAA Case.

(112) **"Tangible Personal Property"** means all of CPI's machinery, equipment, motor vehicles, office equipment, furniture, spare parts, dies, tooling, tools, computer hardware, supplies and accessories and other chattels.

(113) **"Taxes"** includes all present and future taxes, surtaxes, duties, levies, imposts, rates, fees, assessments, withholdings, dues and other charges of any nature imposed by any

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

(114) **"Tenant"** means any Person (other than an LP Equity or National Post) entitled to occupy premises located on the Real Property pursuant to a CPI Leased Property Lease.

(115) **"Third Party Approval"** has the meaning given to it in Section 9.3.

(116) **"Transferred Employees"** means Employees who accept offers of employment by Acquireco or who begin active employment with Acquireco as of the Acquisition Date or their next scheduled work day.

(117) **"Unresolved Senior Claims Reserve"** has the meaning given to it in the Plan.

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

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

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

Except as otherwise expressly provided in this Agreement:

- (a) all dollar amounts referred to in this Agreement are stated in Canadian Dollars;
- (b) any payment contemplated by this Agreement shall be made by wire transfer of immediately available funds to an account specified by the payee or by certified cheque; and
- (c) any payment due on a particular day must be received by and be available to the payee not later than 2:00 p.m. on the due date at the payee's address for notice under Section 14.3 or such other place as the payee may have specified in writing to the payer in respect of a particular payment and any payment made after that time shall be deemed to have been made and received on the next Business Day, other than for greater certainty payments due on the

Acquisition Date which shall be paid by wire transfer as instructed by the payee in writing in connection with the closing of the Acquisition.

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

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

#### **Section 1.5 Tender**

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

#### **Section 1.6 Best of Knowledge**

Any statement in this Agreement expressed to be made to "the best of the LP Entities' knowledge" and any other references to the knowledge of the LP Entities shall be understood to be made on the basis of the actual knowledge of Dennis Skulsky and Doug Lamb, after reasonable diligent inquiry, of the relevant subject matter or on the basis of such knowledge of the relevant subject matter as any of such Persons would have had if they had conducted such reasonable diligent inquiry.

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

- (1) **Gender and Number.** In this Agreement, unless the context requires otherwise, words in one gender include all genders and words in the singular include the plural and vice versa.
- (2) **Headings and Table of Contents.** The inclusion in this Agreement of headings of Articles and Sections and the provision of a table of contents are for convenience of reference only and are not intended to be full or precise descriptions of the text to which they refer.
- (3) **Section References.** Unless the context requires otherwise, references in this Agreement to Articles, Sections or Schedules are to articles, sections or schedules of this Agreement.
- (4) **Words of Inclusion.** Wherever the words "include", "includes" or "including" are used in this Agreement, they shall be deemed to be followed by the words "without limitation" and the words following "include", "includes" or "including" shall not be considered to set forth an exhaustive list.

(5) **References to this Agreement.** The words “hereof”, “herein”, “hereto”, “hereunder”, “hereby” and similar expressions shall be construed as referring to this Agreement in its entirety and not to any particular Section or portion of it.

(6) **Statute References.** Unless otherwise indicated, all references in this Agreement to any statute include the regulations thereunder, in each case as amended, re-enacted, consolidated or replaced from time to time and in the case of any such amendment, re-enactment, consolidation or replacement, reference herein to a particular provision shall be read as referring to such amended, re-enacted, consolidated or replaced provision and also include, unless the context otherwise requires, all applicable guidelines, bulletins or policies made in connection therewith and which are legally binding.

(7) **Document References.** All references herein to any agreement (including this Agreement), document or instrument mean such agreement, document or instrument as amended, supplemented, modified, varied, restated or replaced from time to time in accordance with the terms thereof and, unless otherwise specified therein, include all schedules and exhibits attached thereto.

(8) **Writing.** References to “in writing”, “written” and similar expressions include material that is printed, handwritten, typewritten, faxed, emailed, or otherwise capable of being visually reproduced at the point of reception.

### **Section 1.8 Schedules**

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

Schedule 1.1(20) – Business

Schedule 1.1(39) – CPI Leased Property Leases

Schedule 1.1(85) – Permitted Encumbrances

Schedule 1.1(100) – Real Property Leases

Schedule 3.1(3) – Excluded Assets

Schedule 7.2(1) – Other Acquisition Agreements

Schedule 7.2(2) – Consents and Regulatory Approvals

Schedule 7.3(8) – Bank Accounts and Authorizations

Schedule 7.4(2) – Title to Shares

Schedule 7.4(3) – No Other Acquisition Agreements

Schedule 7.5(2) – Real Property

Schedule 7.5(5)(a) – Environmental Matters

Schedule 7.5(6) – Personal Property

- Schedule 7.5(7) – Personal Property Leases
- Schedule 7.5(11) – Intellectual Property
- Schedule 7.6(5) – Non-Arm’s Length Interests
- Schedule 7.6(6) – Contracts
- Schedule 7.6(7) – Licences
- Schedule 7.6(8) – Location of Assets
- Schedule 7.7(1) – Employees
- Schedule 7.7(2) – Remuneration
- Schedule 7.7(3) – Labour Matters and Employee Contracts
- Schedule 7.7(4) – Employment Laws
- Schedule 7.8(1) – CPI Benefit Plans
- Schedule 7.9(3) – Litigation
- Schedule 7.5(9) – Plants, Facilities and Equipment

## ARTICLE 2 – ACQUISITIONS AND ASSUMPTIONS

### Section 2.1 Acquisitions and Assumptions

The following shall occur at the stated times on the Acquisition Date pursuant to the Sanction Order, on the terms and subject to the conditions of this Agreement, the Plan and the Sanction Order:

(1) The acquisitions and assumptions provided for in (a) to (e) below shall occur immediately prior to the Acquisition Time free and clear of any withholdings for Taxes or otherwise:

- (a) Cash and Equivalents less the Cash Reserve and less the Unresolved Senior Claims Reserve (the “**Remaining Cash and Equivalents**”) shall be paid to Acquireco or as Acquireco may direct (subject to Section 2.1(3)), free and clear of all Encumbrances (other than Permitted Encumbrances):
  - (i) in payment, under the CPI Guarantee, of the Other Amounts, if any; and
  - (ii) as consideration for the assumption of the Deferred Revenue Obligations,

provided that if the amount of the Remaining Cash and Equivalents is less than or exceeds the sum of the amount of the Other Amounts and the amount of the Deferred Revenue Obligations,



- (iii) in the case of a shortfall, the amount of the Remaining Cash and Equivalents shall be applied first in payment, under the CPI Guarantee, of the amount of the Other Amounts, followed by payment as consideration for the assumption of the Deferred Revenue Obligations; and
  - (iv) in the case of an excess, such excess shall, to the extent of such excess, be applied in payment, in each case under the CPI Guarantee of outstanding interest, if any, under the Hedging Agreements and Senior Credit Agreement, followed by outstanding Principal under the Hedging Agreements, and followed by outstanding Principal under the Senior Credit Agreement.
- (b) All right, title and interest in and to the Accounts Receivable and/or other property of CPI, if any, (except for Excluded Assets) designated by Acquireco prior to the Acquisition Date shall be acquired by Acquireco or as Acquireco may direct (subject to Section 2.1(3)) free and clear of all Encumbrances (other than Permitted Encumbrances):
- (i) in payment, under the CPI Guarantee, of the portion, if any, of the amount of the Other Amounts and as consideration for the assumption of the Deferred Revenue Obligations not paid under (a) above; and
  - (ii) in the amount of, and as consideration for Acquireco assuming, the Assumed Liabilities identified in (d) below,

to the extent of the fair market value of such Accounts Receivable and other property provided that, if such fair market value is less than or exceeds the sum of the amounts under (i) and (ii) above,

- (iii) in the case of a shortfall, such Accounts Receivable and other property shall, to the extent of their aggregate fair market value, be applied to the amount under (i) followed by the amount under (ii); and
- (iv) in the case of an excess, such excess shall, to the extent of such excess, be applied in payment, in each case under the CPI Guarantee of outstanding interest, if any, under the Hedging Agreements and the Senior Credit Agreement, followed by outstanding Principal under the Hedging Agreements, followed by outstanding Principal under the Senior Credit Agreement, other than outstanding interest or Principal under the Hedging Agreements or the Senior Credit Agreement paid under (a) above, and for greater certainty, any amounts outstanding after such payments, if any, and payments under Section 2.2, if any, shall form part of the Senior Secured Claims Amount.

- (c) In consideration for payments in respect of the Deferred Revenue Obligations under (a) and, if applicable, (b) above, Acquireco shall assume and agree to pay in full, perform and discharge when due such amount of the Deferred Revenue Obligations.
- (d) In consideration for the acquisition of Accounts Receivable and/or other property of CPI, if any, under (b)(ii) above, Acquireco shall assume and agree to pay in full, perform and discharge when due an amount of Liabilities for the Post-Filing Trade Payables, the PID Cash Deficiency (as defined in the Plan) and, at Acquireco's option, the DIP Claims equal to the aggregate fair market value of such Accounts Receivable and/or other property of CPI, if any, as designated by Acquireco.
- (e) Acquireco shall assume and agree to pay in full, perform and discharge when due the following additional Liabilities of CPI:
- (i) **Residue.** Deferred Revenue Obligations, if any, not assumed under Section 2.1(1)(c) and Liabilities, if any, that are described, but for lack of consideration are not assumed, under Section 2.1(1)(d);
  - (ii) **Contracts, etc.** To the extent not assumed under Section 2.1(1)(d), all Liabilities of CPI accruing on or after the Acquisition Time under the Personal Property Leases, Real Property Leases, Contracts and Licences, other than Deferred Revenue Obligations, and, at Acquireco's option, the DIP Claims;
  - (iii) **Severance Liabilities.** To the extent not assumed under Section 2.1(1)(d), all Liabilities of CPI for termination pay, pay in lieu of notice and severance obligations owed to Employees or former employees of an LP Entity which are stayed during or by reason of the CCAA Case, including the Non-Offer Employee Obligations, subject to Section 3.2, Section 5.1(6) and Section 5.5;
  - (iv) **Unfunded Retirement Benefits.** To the extent not assumed under Section 2.1(1)(d), all Liabilities of CPI for post-retirement and post-employment benefits for Transferred Employees, other Employees who are entitled to such benefits and former employees of the LP Entities who are entitled to receive post-retirement or post-employment benefits from CPI as of the Acquisition Date, subject to Section 3.2 and Section 5.5;
  - (v) **CPI Pension Plans.** Except as specifically excluded in this Agreement, in respect of the CPI Pension Plans, all of the LP Entities' rights, duties, obligations and Liabilities under and in relation to the CPI Pension Plans and all related agreements as of the Acquisition Date, subject to Section 3.2 and Section 5.5;

- (vi) **Other Employee Liabilities.** To the extent not assumed under Section 2.1(1)(d) or under Section 2.1(1)(e)(iii), (iv) or (v) above, all Liabilities of CPI in respect of the Transferred Employees and any Multi-Employer Plans, subject to Section 3.2 and Section 5.5;
- (vii) **RBCCM Fees.** At Acquireco's option, all Liabilities for fees payable to RBC Dominion Securities Inc. ("RBCCM") pursuant to the engagement letter dated as of October 1, 2009 among Canwest LP, CPI and RBCCM to the extent not previously paid, provided that if any such fees are due and payable on or before the Acquisition Date Acquireco may assume the obligation to pay such amounts only with the prior consent of RBCCM; and
- (viii) **Other Designated Liabilities.** Such other Liabilities of CPI, such as Liabilities for Claims ranking senior to Claims of the Senior Lenders, which Acquireco in writing identifies to the LP Entities not less than two Business Days prior to the Acquisition Date as Liabilities which Acquireco wishes to assume pursuant to this Agreement.

(2) All right, title and interest in and to the Acquired Assets (other than the Acquired Assets referred to in Section 2.1(1)) shall be acquired by Acquireco free and clear of all Encumbrances (other than Permitted Encumbrances) pursuant to the Sanction Order at the Acquisition Time as a consequence of the Failure to Pay, on the terms and subject to the conditions of this Agreement, the Plan and the Sanction Order.

(3) If Acquireco gives a direction under Section 2.1(1)(1)(a) or Section 2.1(1)(1)(b) for a payment to be made to any Person other than Acquireco (the "Directed Recipient") and such payment, if made, would be subject under Applicable Law to any withholdings for Taxes or otherwise which would not have to be withheld if the payment was made to Acquireco, (a) the payment may be made to the Directed Recipient net of such withholdings if prior to making the payment Acquireco consents to such withholdings or (b), failing Acquireco's consent, the payment shall be made to Acquireco notwithstanding any direction from Acquireco to the contrary.

## Section 2.2 Residual Balances

The residual balance, if any, in the Cash Reserve owned by Acquireco pursuant to Section 12.2 of the Plan and the residual balance, if any, in the Unresolved Senior Claims Reserve owned by Acquireco pursuant to Section 6.5 of the Plan, shall each be deemed to have been received by Acquireco immediately prior to the Acquisition Time and applied in payment, in each case under the CPI Guarantee, of outstanding Principal under the Hedging Agreements, followed by outstanding Principal under the Senior Credit Agreement.

**Section 2.3 Designations**

(1) Acquireco shall designate and provide Notice to CPI thereof within 30 Business Days following the Acquisition Date, (i) the amount of the Other Amounts, (ii) the amount of the Deferred Revenue Obligations, (iii) the amount of the Liabilities identified in Section 2.1(1)(d), (iv) the amount of Remaining Cash and Equivalents acquired and the amount of Other Amounts, the amount of Deferred Revenue Obligations and the amount of interest and Principal paid under Section 2.1(1)(a), and (v) the fair market value of the Accounts Receivable and/or other property of CPI, if any, acquired and the amount of Deferred Revenue Obligations paid, the amount of Liabilities assumed and the amount of interest and Principal paid under Section 2.1(1)(b).

(2) CPI and Acquireco shall adopt such designations for purposes of (i) Section 2.1 and (ii) the ITA and applicable provincial Tax legislation including as provided in Section 2.4.

**Section 2.4 Tax Elections**

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

**ARTICLE 3 - EXCLUDED ASSETS**

**Section 3.1 Excluded Assets**

Notwithstanding anything in this Agreement to the contrary the following assets, properties, rights and interests of CPI (the "Excluded Assets") shall be excluded from and shall not constitute Acquired Assets:

(1) **Avoidance claims.** All rights and claims against any Person other than the Senior Lenders or the Administrative Agent for any liability or obligation of any kind based on or arising out of the occurrence of any fraudulent conveyance, settlement, reviewable transaction, transfer at undervalue, fraudulent preference, preference or similar claim which rights or claims both (a) are not subject to Encumbrances of the Senior Lenders or Acquireco and (b) would not have been subject to Encumbrances of the Senior Lenders or Acquireco even if the Senior Lenders or Acquireco did not release any of their Encumbrances on or before the Acquisition Date.

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

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

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

(5) **Notified Excluded Assets.** Any assets, properties, rights or interests which on or before the 5<sup>th</sup> Business Day prior to the Acquisition Date Acquireco in writing advises the LP Entities that it wishes to be treated as an Excluded Asset under this Agreement.

(6) **Rights Under this Agreement.** The LP Entities' rights under this Agreement.

### Section 3.2 Retained Liabilities

Except as specifically provided in this Agreement, Acquireco shall not assume and shall not be obliged to pay, perform or discharge any Liabilities of any LP Entity which arise or relate to the Business or otherwise. Without limiting the generality of the foregoing, Acquireco shall have no obligations in respect of any of the following Liabilities unless pursuant to Section 2.1(1)(e)(viii) Acquireco has specified in writing to the LP Entities that it wishes to assume any such Liability:

(1) **Transaction Expenses.** All Liabilities of the LP Entities for legal, accounting, audit and investment banking fees, brokerage commissions and any other expenses incurred by the LP Entities with respect to the transaction contemplated by this Agreement.

(2) **Banks, etc.** All Liabilities of the LP Entities to banks, financial institutions or other Persons with respect to borrowed money or otherwise.

(3) **Contracts, etc.** All Liabilities of the LP Entities accruing prior to the Acquisition Time under the Personal Property Leases, Real Property Leases, Contracts and Licences including all such Liabilities in respect of any breach of representation, warranty or covenant contained in, or for any claim for indemnification pursuant to, any Personal Property Lease, Real Property Lease, Contract or Licence to the extent that such breach or claim arose out of an LP Entity's performance or non-performance thereunder, prior to the Acquisition Time, regardless of when such breach or claim is asserted.

(4) **Product Liabilities.** All Liabilities in respect of injury to or death of Persons or damage to or destruction of property not constituting part of the Acquired Assets, including product liability claims and workers' compensation claims arising out of the conduct of the Business prior to the Acquisition Time, regardless of when any such Liability is asserted, including any Liability for consequential or punitive damages in connection with the foregoing.

(5) **Taxes.** All Liabilities for Taxes payable or remittable by an LP Entity.

(6) **Certain Trade Liabilities.** All Liabilities for trade and other accounts payable and in respect of accrued expenses other than such accounts payable and accrued expenses expressly assumed by Acquireco under Section 2.1(1)(d) and Section 2.1(1)(e).

(7) **Senior Management Compensation Arrangements.** All Liabilities in respect of (a) funded or unfunded retirement arrangements supplemental to a CPI Pension Plan whether registered or unregistered, including Liabilities relating to (i) the SERA (ii) the RCA Plan and

(iii) other post-retirement arrangements, (b) stock options and (c) payments or other compensation which become payable by reason of a change of control of an LP Entity or the Business, in each case for senior executives of the LP Entities.

(8) **Certain Employee-Related Liabilities.** Liabilities that are retained by the LP Entities under Section 5.1(6) or that Acquireco elects not to assume pursuant to Section 5.5.

#### **ARTICLE 4 – STATEMENT OF FAIR MARKET VALUE**

##### **Section 4.1 Designation of Fair Market Value**

Acquireco shall be entitled to designate the fair market value of each of the Acquired Assets acquired under Section 2.1(2) at the Acquisition Time and shall provide Notice to the LP Entities thereof within 30 Business Days following the Acquisition Date. The LP Entities shall consult and cooperate with Acquireco in respect of Acquireco resolving such designations including promptly providing Acquireco all information, documents and other material pertaining thereto and in its or their custody and control. The LP Entities and Acquireco shall adopt such designations for purposes of the ITA and applicable provincial tax legislation.

#### **ARTICLE 5 – EMPLOYEE MATTERS**

##### **Section 5.1 Offers**

- (1) Acquireco shall offer employment, effective as of the Acquisition Date and conditioned on the completion of the Acquisition, to all or substantially all individuals who are Employees immediately prior to the Acquisition Date on the following terms and conditions:
- (a) to Employees who are part of a bargaining unit in respect of which a collective agreement is in force, or has expired and the terms and conditions of which remain in effect by operation of law (other than Employees identified in a Notice from Acquireco under Section 5.1(2)), the terms and conditions provided for in such collective agreement, or expired collective agreement if such terms and conditions remain in effect by operation of law, subject to any amendments or alterations to the terms thereof to which the bargaining agent under such collective agreement or expired collective agreement consents; and
  - (b) to all other Employees (other than Employees identified in a notice from Acquireco under Section 5.1(2)), on substantially similar terms and conditions as their then existing employment immediately prior to the Acquisition Date, subject to Section 5.5 and provided that:
    - (i) (A) senior executives of the LP Entities who are entitled to receive supplemental retirement compensation (including entitlements under

the SERA, the RCA Plan or stock options, or any equivalent benefit or replacement thereof, shall not be offered any such supplemental retirement compensation or stocks options, (B) the offer of employment to such senior executives will confirm that Acquireco has no liability in respect of the SERA, the RCA Plan and stock options and (C) such offer will include a condition that the senior executive provide a confirmation and undertaking to Acquireco that (x) confirms that Acquireco has no liability in respect of the SERA, the RCA Plan and stock options and (y) undertakes not to assert or pursue a claim against Acquireco in respect of the SERA, the RCA Plan and stock options; and

- (ii) Acquireco shall have no obligation to offer any change in control payment, supplemental retirement compensation arrangement or stock options, or any equivalent benefit or replacement thereof, to any Employee (including for greater certainty severance and other post-retirement arrangements for senior executives of the LP Entities which Acquireco in writing identifies to the LP Entities as Liabilities or obligations which Acquireco does not wish to assume or offer to such employees pursuant to this Agreement).

(2) If Acquireco does not intend to offer employment to all individuals who are Employees immediately prior to the Acquisition Date, on or before the fifth Business Day prior to the Acquisition Date (or such other date as Acquireco and CPI may agree) Acquireco shall in writing identify to CPI the names of the individuals to whom it does not intend to offer employment. Acquireco acknowledges that its right to not offer employment to all Employees is subject to the rights and benefits of any such Employee under any collective bargaining agreement which is in force, or has expired and the terms and conditions of which remain in effect by operation of law, to which CPI is a party.

(3) CPI will not take any act that is intended to impede, hinder or interfere with Acquireco's efforts to hire any Employee.

(4) Acquireco acknowledges and agrees that (i) the LP Entities make no representation or warranty that any Employee will accept employment with Acquireco and (ii), subject to Section 10.1(12), the acceptance by Employees of offers of employment with Acquireco shall not constitute a condition to Acquireco's obligation to complete the Acquisition.

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

(6) CPI shall be responsible for all termination, severance and other costs in respect of any Employee who is offered employment by Acquireco but does not accept or commence employment with Acquireco.

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

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

(9) In respect of independent contractor agreements where consent to assignment is refused or withheld, CPI, after advising Acquireco, shall be responsible for any and all Claims arising from the termination of any independent contractor agreements, whether asserted prior to, on or after the Acquisition Date. CPI shall also be solely responsible for any and all Claims by or in respect of any: (i) independent contractors or former independent contractors; or (ii) Governmental Authority in respect of any such independent contractors or former independent contractors, to the extent that such Claims are based on facts, circumstances or events that arose or existed prior to the Acquisition Date, whether such Claims are asserted prior to, on or after the Acquisition Date.

### Section 5.2 CPI Benefit Plans

(1) Subject to Section 5.5:

- (a) effective as of the Acquisition Date, CPI shall assign and transfer to Acquireco and Acquireco shall assume the CPI Benefit Plans and CPI's rights, duties, obligations, assets and Liabilities with respect to the CPI Benefit Plans and their related group policies, insurance contracts or other funding media, and all agreements related thereto. Effective as of the Acquisition Date, Acquireco shall accept the assignment and transfer and shall assume all obligations, Liabilities, duties, rights and responsibilities required of it as policy holder or plan sponsor of the CPI Benefit Plans and related agreements (the "**Acquireco Assumed Benefit Plans**") pursuant to the terms thereof and Applicable Law ("**Benefits Assignment and Assumption Agreement**");
- (b) CPI agrees to do all things necessary to effect the assignment and transfer of the CPI Benefit Plans to Acquireco. Without limiting the generality of the foregoing, CPI agrees to advise and direct applicable insurers and service providers as soon as possible after the Acquisition Date, of the assumption of



sponsorship of the CPI Benefit Plans and relevant agreements as provided hereunder. Acquireco shall do all things required of it under Applicable Law to assume sponsorship of the CPI Benefit Plans in accordance with the terms of policies, contracts or service agreements applicable to the CPI Benefit Plans as provided hereunder; and

- (c) after the sponsorship, assets, Liabilities and administration of the CPI Benefit Plans, policies, contracts and agreements have been transferred to Acquireco, the LP Entities shall have no further obligation or Liability with respect to the CPI Benefit Plans. CPI shall be responsible for funding the CPI Benefit Plans and administration and payment of benefit claims applicable to the CPI Benefit Plans up to the Acquisition Date. Acquireco shall be responsible for satisfying any and all governmental reporting and disclosure requirements applicable to the Acquireco Assumed Benefit Plans and for claims administration, communication and completion of all other forms and reports required on and after the Acquisition Date. CPI shall cooperate with Acquireco with respect to such recording and reporting requirements in the plan year in which the Acquisition Date occurs. Prior to and following the Acquisition Date, CPI shall use all reasonable efforts to provide Acquireco with such books, records, and other relevant data relating to the CPI Benefit Plans within its control or access that Acquireco shall reasonably request.

### Section 5.3 CPI Pension Plans

- (1) Subject to Section 5.5:
- (a) effective as of the Acquisition Date, CPI shall assign and transfer to Acquireco and Acquireco shall assume the CPI Pension Plans and the rights, duties, obligations and Liabilities of the LP Entities of a successor employer and administrator with respect to the CPI Pension Plans and their related trust or other funding medium (the "**Funds**"), and all agreements related thereto. Effective as of the Acquisition Date, Acquireco shall accept the assignment and transfer and shall assume all obligations, Liabilities, duties, rights and responsibilities required of it as the successor employer and administrator of the CPI Pension Plans and Fund (the "**Acquireco Assumed Pension Plans**") pursuant to the terms thereof and Applicable Law ("**Pension Assignment and Assumption Agreements**");
- (b) CPI agrees to do all things necessary to effect the assignment and transfer of its sponsorship of the CPI Pension Plans to Acquireco. Without limiting the generality of the foregoing, CPI agrees to cause to be filed with applicable federal and provincial regulatory authorities as soon as possible after the Acquisition Date, such documents as may be required by Applicable Law or under the terms of the CPI Pension Plans or Funds with respect to the assumption of sponsorship of the CPI Pension Plans and Funds as provided hereunder. Acquireco shall do all things required of it under Applicable Law

to establish that it is the successor sponsor and administrator to CPI of the CPI Plans in accordance with the terms of the CPI Pension Plans as provided hereunder. Without limiting the generality of the foregoing, Acquireco shall file with the applicable federal and provincial authorities, as soon as possible following the Acquisition Date, such documentation as may be required to establish Acquireco in such capacity;

- (c) with respect to the administration of the Acquireco Assumed Pension Plans from and after the Acquisition Date, Acquireco shall be entitled to direct, or cause to be directed, the funding agent of the CPI Pension Plans in accordance with the instructions given to CPI by Acquireco in connection herewith;
- (d) after the sponsorship and administration of the CPI Pension Plans and Funds has been transferred to Acquireco, the LP Entities shall have no further obligation or Liability with respect to the CPI Pension Plans and Funds. CPI shall be responsible for satisfying any and all governmental reporting and disclosure requirements applicable to the CPI Pension Plans and Funds and for all benefit calculations, communication and completion of all other forms and reports in respects of the CPI Pension Plans up to the Acquisition Date. Acquireco shall be responsible for satisfying any and all governmental reporting and disclosure requirements applicable to the Acquireco Assumed Pension Plans and Funds and for all benefit calculations, communication and completion of all other forms and reports on and after the Acquisition Date. CPI shall cooperate with Acquireco with respect to reporting such requirements in the plan year in which the Acquisition Date occurs. Prior to and following the Acquisition Date, CPI shall use all reasonable efforts to provide Acquireco such books, records, and other relevant data relating to the CPI Pension Plans within its control or access, that Acquireco shall reasonably request; and
- (e) if any Governmental Authority refuses to approve or permit the transactions contemplated herein:
  - (i) Acquireco shall, at its own expense, appeal such determination until all rights of appeal are exhausted or the parties agree in writing to abandon such appeals. CPI shall, at its own expense, provide all such information and documentation as Acquireco may reasonably require to prosecute any such appeal, and shall co-operate with Acquireco;
  - (ii) if required Governmental Authority approval in respect of the CPI Pension Plans cannot be obtained and Acquireco has exhausted or abandoned all appeals without obtaining the required approval, the CPI Pension Plans shall not be assigned to or assumed by Acquireco and Acquireco shall establish or amend, effective as of Acquisition Date, a pension plan or plans (the "Acquireco Established Pension Plans") to provide benefits in compliance with all Applicable Laws applicable to

the rights of the Transferred Employees and in respect of the employment of the Transferred Employees on and after the Acquisition Date on substantially similar terms and conditions as those provided under the CPI Pension Plans; and

- (iii) for greater certainty, in the unlikely event that the Pension Assignment and Assumption Agreements do not receive regulatory approval, the parties agree and intend to use their best efforts to ensure that the rights of the Transferred Employees are protected in the transition from the CPI Pension Plans to the Acquireco Established Pension Plans.

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

- (1) The provisions of this Article 5 insofar as they relate to unionized Employees shall be subject and subordinate to the provisions of the relevant collective agreements (including expired collective agreements that continue by operation of law) and Acquireco shall be bound as a successor employer to such collective agreements to the extent required by Applicable Law.
- (2) Effective as of the Acquisition Date, Acquireco shall assume all of CPI's obligations and Liabilities in the Multi-Employer Plans in which CPI participates, pursuant to the terms of the collective agreements applicable to its unionized Employees or as otherwise required under Applicable Law.

#### **Section 5.5 Acquireco Election**

- (1) Notwithstanding anything in this Agreement to the contrary, after consultation with operational management of CPI, and provided Acquireco acts in a commercially reasonable manner, Acquireco may elect not to assume certain of (a) the CPI Pension Plans (including the LP Entities' rights, duties, obligations and Liabilities with respect to the CPI Pensions Plans or Funds and agreements related thereto), (b) the CPI Benefit Plans (including the LP Entities' rights, duties, obligations, assets and Liabilities with respect to the CPI Benefit Plans and any policies, contracts or agreements related thereto); (c) Liabilities of the LP Entities for post-retirement and post-employment benefit plans for both active Employees and Employees who are on an approved leave of absence; (d) Liabilities of the LP Entities for damages for termination pay, pay in lieu of notice of termination, severance payments, damages for wrongful dismissal and any related costs in respect of the termination of the employment of any employee or former employee of an LP Entity which are stayed during or by reason of the CCAA Case; and (e) any other Liabilities of an LP Entity to Employees or former employees, to the extent such election is permitted under Applicable Law and subject to any collective bargaining with unionized Employees that may occur on or before the Plan Implementation Date. If Acquireco exercises such election, it shall give written notice of such election to CPI not less than two Business Days prior to the Acquisition Date, which notice shall include details of the specific Liabilities which Acquireco has elected not to assume.

(2) For greater certainty, if Acquireco makes such election, any CPI Pension Plan (or part thereto) or CPI Benefit Plans (or part thereof) or any Liability which Acquireco elects not to assume shall not be an Assumed Liability under this Agreement.

(3) If Acquireco elects not to assume all or part of a CPI Pension Plan pursuant to Section 5.5(1), Acquireco may, but shall not have the obligation to, for each Transferred Employee who participated in the CPI Pension Plan (or the part thereto) which Acquireco elected not to assume, provide or establish a pension plan that provides pension benefits relating to the Transferred Employee's period of employment with Acquireco from the Acquisition Date on substantially similar terms and conditions as the CPI Pension Plan (or relevant part thereof) in which such Transferred Employee was a member immediately prior to the Acquisition Date ("**Acquireco Elected Pension Plans**"). Effective as of the Acquisition Date, such Transferred Employees shall cease to participate in the applicable CPI Pension Plan (or relevant part thereof) on the day immediately prior to the Acquisition Date and shall begin to participate in the applicable Acquireco Elected Pension Plan on the Acquisition Date. Such Transferred Employees will be credited under the applicable Acquireco Elected Pension Plan with periods of employment with CPI up to the Acquisition Date (including periods of employment with any other employer, to the extent such service is recognized under the applicable CPI Pension Plan (or relevant part thereof)), immediately prior to the Acquisition Date, for purposes of determining, as applicable, eligibility for participation in, eligibility for early retirement and early retirement subsidy and for vesting under applicable Acquireco Elected Pension Plan. Such Transferred Employees will be credited under the applicable CPI Pension Plan (or relevant part thereof) with periods of employment with Acquireco from and after the Acquisition Date, for purposes of determining, as applicable, eligibility for participation in, eligibility for early retirement and early retirement subsidy and for vesting under, the applicable CPI Pension Plan. Acquireco shall be responsible for all pension benefits of such Transferred Employees accrued on and after the Acquisition Date pursuant to the terms of the applicable Acquireco Elected Pension Plan. If Acquireco elects not to assume all or part of a CPI Pension Plan pursuant to Section 5.5(2), CPI shall be responsible for all pension benefits of such Transferred Employees accrued prior to the Acquisition Date pursuant to the terms of the applicable CPI Pension Plan (or relevant part thereof).

(4) If Acquireco elects not to assume all or part of the CPI Benefit Plans pursuant to Section 5.5(1), Acquireco may, but shall not have the obligation, for each Transferred Employee who participated in the CPI Benefit Plans (or the part thereto) which Acquireco elected not to assume, to provide or establish a benefit plan that provides benefits relating to the Transferred Employee's period of employment with Acquireco from the Acquisition Date on substantially similar terms and conditions as the CPI Benefit Plans (or relevant part thereof) in which such Transferred Employee participated immediately prior to the Acquisition Date ("**Acquireco Elected Benefit Plans**"). Effective as of the Acquisition Date, such Transferred Employees shall cease to participate in the applicable CPI Benefit Plans (or relevant part thereof) on the day immediately prior to the Acquisition Date and shall, subject to Section 5.5(4)(a), commence, without interruption, to participate in and accrue benefits

under the Acquireco Benefit Plans in accordance with and subject to, the membership, eligibility and coverage requirements of the Acquireco Benefit Plans:

- (a) Where length of service is used to determine eligibility to participate in and vest in the Acquireco Benefit Plans, Transferred Employees who either participate in CPI Benefit Plans, or who do not participate in a corresponding CPI Benefit Plan solely because the Transferred Employee has not met the eligibility requirements under CPI Benefit Plan as at Acquisition Date, on the subsequent date that the Transferred Employee does become a participant in the relevant Acquireco Benefit Plan, shall receive service credit under the applicable Acquireco Benefit Plans to the same extent that such service credit was granted under the CPI Benefit Plans.
- (b) From and after the Acquisition Date, Acquireco shall (i) cause to be waived all limitations as to pre-existing conditions, exclusions and waiting periods with respect to participation and coverage requirements under any Acquireco Benefit Plan in which such employees become eligible to participate after the Acquisition Date, to the extent such limitations, exclusions and waiting periods would have been waived or satisfied under the applicable CPI Benefit Plans and (ii) provide credit in the applicable Acquireco Benefit Plans in the plan year in which the Acquisition Date occurs, for any payments for deductibles or co-payments paid under the CPI Benefit Plans during the plan year in which the Acquisition Date occurs, in satisfaction of deductibles or co-payment limits under any Acquireco Benefit Plan in which such Transferred Employees become eligible to participate after the Acquisition Date, provided that CPI supplies to Acquireco information concerning the amount of such payments that the Transferred Employees have made in such plan year.

## ARTICLE 6 – TAX MATTERS

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

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

(3) Acquireco hereby represents and warrants that it is acquiring under this Agreement all or substantially all of the property that can reasonably be regarded as being necessary for it to carry on the Business as a business.

(4) Acquireco and CPI shall jointly make the elections provided for under subsection 167(1.1) of the GST Act and under section 75 of the QST Act so that no GST or QST will be payable in respect of the transactions contemplated by this Agreement. Acquireco and CPI shall jointly complete the election forms (more particularly described as form GST-44 and QST form FP-2044-V) in respect of such elections and Acquireco shall file the said election forms no later than the due date for Acquireco's GST and QST returns for the first reporting period in which GST or QST, as applicable, would, in the absence of such elections, become payable in connection with the transactions contemplated by this Agreement.

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

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

(2) If Acquireco has not, as of the Acquisition Time, designated the fair market value of the Acquired Assets as at the Acquisition Time in accordance with Section 4.1, Acquireco shall pay to CPI the provincial retail sales taxes under this Section 6.2 based on an assumed fair market value of the Acquired Assets and other assets acquired by Acquireco under this Agreement equal to the net book value thereof in the Financial Records. Within 30 days thereafter, Acquireco shall be entitled to designate the fair market value of such acquired assets in accordance with Section 4.1, which designation shall supersede the preceding assumed fair market value of net book value (to the extent of any discrepancies). Once Acquireco has notified the LP Entities of its designation made under Section 4.1, (a) to the extent any additional provincial sales taxes are payable in respect of the Acquired Assets, Acquireco shall remit such additional provincial sales taxes directly to the appropriate taxing authority (b) to the extent provincial sales taxes have been collected by CPI in excess of the amount required to be remitted in respect of the Acquired Assets, CPI shall return such excess

to Acquireco and (c) to the extent provincial sales taxes have been collected and remitted by CPI in excess of the amount required to be remitted in respect of the Acquired Assets, Acquireco shall apply for a refund of such excess taxes directly to the appropriate taxing authority.

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

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

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

(1) If any Governmental Authority refuses to accept an election contemplated in Section 6.1(4), after exhausting any challenges to and appeals of such refusal which Acquireco in its sole discretion (and at its sole expense) may choose to initiate and prosecute, Acquireco shall pay to the relevant Governmental Authority any Tax which would, in the absence of such elections, become payable in connection with the transactions contemplated by this Agreement.

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

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

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

### **Section 7.1 Corporate Matters**

(1) **Status and Capacity of the LP Entities.** Each of Canwest Books, Canwest GP, CPI and National Post has been duly incorporated and organized, is a subsisting corporation in Good Standing under the laws of their jurisdiction of incorporation, and each has the corporate power and capacity and is duly qualified to own or lease its property and to carry on the Business and the business of National Post, as the case may be, as now conducted in each jurisdiction in which any of them own or lease property or carry on the Business or the business of National Post. Each of Canwest Books, Canwest GP and CPI has full corporate power and capacity to execute and deliver this Agreement and to consummate the Acquisition and otherwise perform its obligations under this Agreement. Canwest LP is a subsisting limited partnership under the *Limited Partnerships Act* (Ontario). Canwest GP has the

corporate power and capacity to act as the general partner of Canwest LP, to enter into and perform its obligations under this Agreement, and to execute and deliver this Agreement on behalf of Canwest LP.

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

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

(4) **Residence.** CPI is not a non-resident of Canada within the meaning of the ITA. Canwest LP is a "Canadian partnership" for purposes of the ITA.

(5) **Investments.** CPI is not subject to any obligation or requirement to provide funds to or make any investment in any Person by loan, capital contribution or otherwise, except in respect of advances to National Post in accordance with CPI's existing credit agreement with National Post.

(6) **Books and Records.** The Books and Records (other than the corporate and other records specifically referenced in Section 7.1(7)), all of which have been or prior to the Acquisition Date will be provided to Acquireco, are complete and accurate records of the information purported to be reflected therein in all material respects.

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



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

**Section 7.2 Consents, etc.**

(1) **No Other Acquisition Agreements.** Except as disclosed in Schedule 7.2(1), no Person has any agreement, option, understanding or commitment, or any right or privilege (whether by law, or by any pre-emptive or other contractual right) capable of becoming an agreement, option or commitment for the purchase or other acquisition from an LP Entity of any of the Acquired Assets, other than in the Ordinary Course of Business.

(2) **Consents and Regulatory Approvals.** Except as specified in Schedule 7.2(2), neither an LP Entity nor National Post is under any obligation, contractual or otherwise, to request or obtain any Consent or Regulatory Approval or to give any notice to any Governmental Authority or other Person:

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

All Contracts, Real Property Leases, Personal Property Leases and Licences which are material to the Business or the operation of the National Post newspaper or any newspaper which is part of the Business under which an LP Entity or National Post is obligated to request or obtain any such Consent or Regulatory Approval or to give any such notice are identified in Schedule 7.2(2).

**Section 7.3 Financial Matters**

(1) **Financial Records.** All financial transactions of the Business which are material to the Business or the operation of any newspaper which is part of the Business have been properly recorded in the Financial Records, which have been maintained in accordance with sound business and financial practice. The Financial Records accurately reflect in all material respects the basis for the financial condition and the revenues, expenses and results of operations of the Business. No information, records, systems, controls or data pertaining to or required for the operation or administration of the Business are recorded, stored, maintained by, or are otherwise dependent upon, any computerized or other system, program or device

that is not exclusively owned and controlled by an LP Entity or National Post and on the Acquisition Date CPI or National Post will have originals or copies of all such records, systems, controls or data in its possession or control, including where applicable, copies of all computer software and documentation relating thereto.

(2) **Accounts Receivable.** The Accounts Receivable arose from *bona fide* transactions in the Ordinary Course of Business and are good, valid, enforceable and fully collectible at the aggregate recorded amounts thereof (subject to a reasonable allowance for doubtful accounts consistent with past practice). The Accounts Receivable are not subject to any defence, set-off or counterclaim. None of such Accounts Receivable is due from an Affiliate of an LP Entity except Accounts Receivable which arose in the Ordinary Course of Business pursuant to and in accordance with the Shared Services Agreement.

(3) **Inventories.** The Inventory conforms in all material respects to applicable designs and specifications, is free from material defects in workmanship and material. The Inventory of the Business is in good and merchantable condition in all material respects and is usable in the Ordinary Course of Business for the purposes for which it is intended.

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

- (a) incurred any Liability which is material to the Business, the business of National Post or the operation of any newspaper which is part of the Business, except normal trade or business obligations incurred in the Ordinary Course of Business, none of which is materially adverse to the Business, the business of National Post or any newspaper which is part of the Business;
- (b) created any Encumbrance upon any of the Acquired Assets, except in the Ordinary Course of Business or as described in this Agreement or pursuant to, or as a result of, the CCAA Case;
- (c) sold, assigned, transferred, leased or otherwise disposed of any of the Acquired Assets, except in the Ordinary Course of Business or as contemplated by this Agreement;
- (d) purchased, leased or otherwise acquired any properties or assets, except in the Ordinary Course of Business or as contemplated by this Agreement;
- (e) waived, cancelled or written off any rights, Claims, Accounts Receivable or any amounts payable to an LP Entity which alone or together are material to the Business or any newspaper which is part of the Business, except in the Ordinary Course of Business;
- (f) entered into any transaction, contract, agreement or commitment which is material to the Business, the business of National Post or the operation of any

newspaper which is part of the Business, except in the Ordinary Course of Business or as contemplated by this Agreement;

- (g) terminated, discontinued, closed or disposed of any plant, facility or Business operation other than in connection with the a Post-Filing Disposition;
- (h) had a supplier of the Business or the business of National Post terminate, or communicate to an LP Entity or National Post the intention or threat to terminate, its relationship with an LP Entity or National Post, or the intention to reduce substantially the quantity of products or services it sells to an LP Entity or National Post, except for such terminations or reductions which are not, in the aggregate, material to the Business, the business of National Post or the operation of any newspaper which is part of the Business;
- (i) had any customer of the Business terminate, or communicate to an LP Entity or National Post the intention or threat to terminate, its relationship with an LP Entity or National Post , or the intention to reduce substantially the quantity of products or services it purchases from an LP Entity or National Post, or its dissatisfaction with the products or services sold by an LP Entity or National Post, except for terminations or reductions in the Ordinary Course of Business which are not, in the aggregate, material to the Business, the business of National Post or the operation of any newspaper which is part of the Business;
- (j) made any material change in the method of billing customers of the Business or the business of National Post or the credit terms made available by an LP Entity or National Post to customers of the Business or National Post;
- (k) made any material change with respect to any method of management, operation or accounting in respect of the Business or the business of National Post, except as contemplated under the Shared Services Agreement and except for the proposed stay of the Stayed Payables pursuant to the CCAA Case;
- (l) suffered any damage, destruction or loss (whether or not covered by insurance) which has had a Material Adverse Effect or which would reasonably be expected to have a Material Adverse Effect.
- (m) increased any form of compensation or other benefits payable or to become payable to any Employees or employees of National Post, or to any contractors, consultants or agents of the Business or National Post , except increases made in the Ordinary Course of Business and consistent with past practice or for "KERP" or "MIP" payments due to certain senior Employees disclosed in writing to the Administrative Agent prior to the date the Initial Order was issued;
- (n) suffered any extraordinary loss;

- (o) made or incurred any material change in, or become aware of any event or condition which is likely to result in a material change in, the Business, the business of National Post, the operation of any newspaper which is part of the Business, or its relationships with its customers, suppliers or Employees, except as a direct result of the CCAA Case; or
- (p) authorized, agreed or otherwise become committed to do any of the foregoing.

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

(6) **National Post - Certain Tax Matters.**

- (a) National Post has duly and on a timely basis prepared and filed with each Governmental Authority as required by Applicable Law all Tax returns, elections, filings, forms and other documents required to be filed by it in respect of all Taxes ("Tax Returns"), and such Tax Returns are complete and correct in all material respects.
- (b) National Post has paid, collected and remitted all Taxes which are due and payable, collectible or remittable, as the case may be, by it on or before the date hereof. Without limiting the foregoing, National Post has withheld from each amount paid or credited to any Person the amount of Taxes required to be withheld therefrom and has remitted such Taxes to the proper Governmental Authority within the time required under Applicable Law.
- (c) There are no Encumbrances for Taxes upon any of National Post's assets and no event has occurred with which the passage of time or the giving of notice, or both, could reasonably be expected to result in an Encumbrance for Taxes on any of National Post's assets in each case other than Permitted Encumbrances.
- (d) There are no actions, suits, proceedings, investigations, audits or claims now pending or to the knowledge of the LP Entities, threatened, against National Post in respect of Taxes and there are no matters under discussion, dispute, audit or appeal with any Governmental Authority relating to Taxes. No reassessments of National Post's Taxes have been issued and are outstanding. Neither National Post nor any of the LP Entities has received any indication from any Governmental Authority that an assessment or reassessment of National Post is proposed in respect of any Taxes, regardless of its merits.
- (e) There are no agreements, waivers or other arrangements providing for any extension of time with respect to the filing of any Tax Return or the payment

of any Taxes by National Post or the period for any assessment or reassessment of Taxes.

- (f) Provided that the amount paid under Section 2.1 for each of the debts owed by National Post to CPI exceeds 80% of the principal amount of such debt, no debt or other obligation of National Post has been or will be settled or extinguished on or prior to the Acquisition Time such that the provisions of Sections 80 to 80.04 of the ITA applies or would apply thereto and National Post has not entered, and will not enter, into an agreement to have a forgiven amount transferred to it under section 80.04 of the ITA.
  - (g) The value of consideration paid or received by National Post in respect of the acquisition, sale or transfer of any property or the provision of any services to or from any person with whom they do not deal at "arm's length" (as defined for purposes of the ITA) has been equal to the fair market value of such property acquired, sold or transferred or services provided.
  - (h) For all transactions, if any, between National Post and any Person that is a non-resident of Canada for purposes of the ITA with whom National Post was not dealing at arm's length and to which subsection 247(3) of the ITA would apply, National Post has made or obtained records or documents that meet the requirements of paragraphs 247(4)(a) to (c) of the ITA.
- (7) **Canadian Newspapers.** Each newspaper to be acquired from an LP Entity pursuant to this Agreement and the newspaper published by National Post is a "Canadian newspaper" for purposes of section 19 of the ITA.
- (8) **Bank Accounts and Authorizations.** Attached as Schedule 7.3(8) is a list of all safe deposit boxes and bank accounts of the LP Entities and the names of all Persons having access or signing authority and of all powers of attorney given by an LP Entity or National Post.
- (9) **Insurance.** The LP Entities and National Post maintain such policies of insurance, issued by responsible insurers, as are appropriate to the Business, the business of National Post and the Acquired Assets, in such amounts and against such risks as are customarily carried and insured against by owners of comparable businesses, properties and assets. All such policies of insurance are in full force and effect and the LP Entities and National Post are not in material default, as to the payment of premiums or otherwise, under the terms of any such policy.
- (10) **Capital Expenditures.** Neither an LP Entity nor National Post is committed to make any capital expenditures in respect of the Business or the business of National Post, nor have any capital expenditures in respect of the Business or National Post been authorized by an LP Entity or National Post at any time since the Reference Date, except for capital expenditures made in the Ordinary Course of Business as reflected in the cash flows of the Business

provided to the Administrative Agent pursuant to and in accordance with the LP Support Agreement made among the LP Entities and the Administrative Agent dated January 8, 2010.

#### **Section 7.4 Share Capital, Dividends and Shares**

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

(2) **Title to Shares.** Except as disclosed in Schedule 7.4(2), CPI legally and beneficially owns and controls all shares of National Post, with a good and marketable title thereto free of any Encumbrances, adverse claims or claims of others.

(3) **No Other Acquisition Agreements.** Except as disclosed in Schedule 7.4(3), no Person has any agreement, option, understanding or commitment, or any right or privilege (whether by law, pre-emptive or contractual) capable of becoming an agreement, option or commitment, including a right of conversion or exchange attached to convertible securities, warrants or convertible obligations of any nature, for:

- (a) the purchase, subscription, allotment or issuance of, or conversion into, any of the unissued shares in the capital of National Post or any securities of National Post;
- (b) the purchase or other acquisition from CPI of any shares of National Post; or
- (c) the purchase or other acquisition from National Post of any of its undertaking, property or assets, other than in the Ordinary Course of Business.

(4) **Dividends.** Since the Reference Date, National Post has not, directly or indirectly, authorized, declared or paid any dividends or declared or made any other distribution or return of capital in respect of any of its shares of any class and has not, directly or indirectly, redeemed, purchased or otherwise acquired any of its shares of any class or agreed to do so.

#### **Section 7.5 Assets**

(1) **Title to Assets.** The LP Entities are the owners of and have good and marketable title to the Acquired Assets (other than the shares of National Post), and on the Acquisition Date CPI will be the owner of and have good and marketable title to all of the Acquired Assets which as of the date hereof are owned by Canwest GP, Canwest LP or Canwest Books, free and clear of all Encumbrances, except for:

- (a) the properties and assets disposed of, utilized or consumed by the LP Entities since the Reference Date in the Ordinary Course of Business or as permitted under this Agreement;
- (b) the Permitted Encumbrances; and
- (c) the fact that legal title to the Real Property known municipally as 2575 McCulloch Road, Nanaimo, British Columbia and 4918 Napier Street, Port Alberni, British Columbia is held by Canwest Media Inc., as nominee for CPI.

There are no agreements or commitments to purchase property or assets by an LP Entity or National Post for use in the Business or the business of National Post, other than in the Ordinary Course of Business.

**(2) Real Property.**

- (a) The Real Property and the Leased Premises listed in Schedule 7.5(2) are the only real property held or used in connection with the Business or the business of National Post.
- (b) CPI is the absolute, legal and beneficial owner of, and has good and marketable title in fee simple to, the Real Property, free and clear of any and all Encumbrances, except for:
  - (i) the Permitted Encumbrances;
  - (ii) liens for current Taxes not yet due; and
  - (iii) the fact that legal title to the Real Property known municipally as 2575 McCulloch Road, Nanaimo, British Columbia and 4918 Napier Street, Port Alberni, British Columbia is held by Canwest Media Inc., as nominee for CPI.

Complete and correct copies of all documents creating Permitted Encumbrances affecting the Real Property have been provided to Acquireco other than those that can be obtained from the relevant registry or land titles offices.

- (c) There are no agreements, options, contracts or commitments to sell, transfer or otherwise dispose of the Real Property or which would restrict the ability of CPI to transfer the Real Property to Acquireco other than Permitted Encumbrances or as set out on Schedule 7.2(2) or as contemplated by this Agreement.
- (d) The Real Property and the conduct of the Business and the business of National Post as presently conducted do not violate, and the use thereof in the

manner in which presently used is not adversely affected by, any Applicable Laws including zoning and building by-laws, ordinances, regulations, covenants and official plans, nor does the Real Property or such use violate any covenant, restriction or easement affecting the Real Property or its use, except as would not have a Material Adverse Effect. CPI has not received any notification alleging any such violation from any Governmental Authority or other Person entitled to enforce the same.

- (e) The buildings and other structures on or appurtenant to the Real Property are located wholly within their boundaries and do not encroach upon any registered or unregistered easement or right-of-way affecting the Real Property except as permitted by agreement or law and except to the extent any such encroachments alone or in the aggregate are not material to the Business, the business of National Post or the operation of any newspaper which is part of the Business. There is no encroachment onto any of the Real Property by buildings and improvements from any adjoining lands other than pursuant to Permitted Encumbrances, except for any such encroachments that, alone or in the aggregate, are not materially adverse to the Business, the business of National Post or the operation of any newspaper which is part of the Business.

**(3) Real Property Leases and Leased Premises.**

- (a) Schedule 1.1(100) describes all Real Property Leases. Complete and correct copies of the Real Property Leases have been provided to Acquireco.
- (b) Except as disclosed in Schedule 1.1(100), as of the date hereof the LP Entities are and on the Acquisition Date CPI will be exclusively entitled to all rights and benefits as lessee under the Real Property Leases, and no LP Entity has sublet, assigned, licensed or otherwise conveyed any rights in the Leased Premises or in the Real Property Leases to any other Person.
- (c) Except as disclosed in Schedule 1.1(100) or as may be approved by Order of the CCAA Court, all rental and other payments and other obligations required to be paid and performed by an LP Entity pursuant to the Real Property Leases have been duly paid and performed. Except as disclosed in Schedule 1.1(100) or as may be approved by Order of the CCAA Court, no LP Entity is in default of any of its obligations under the Real Property Leases and, to the best of the LP Entities' knowledge, none of the landlords or other parties to the Real Property Leases are in default of any of their obligations thereunder in each case except for defaults that, alone or in the aggregate, are not material to the Business, the business of National Post or the operation of any newspaper which is part of the Business.

- (4) Status of Real Property and Leased Premises.** The Real Property and Leased Premises are zoned so as to permit their current use in all material respects. The use by CPI of the Real Property and the Leased Premises is in compliance with Applicable Laws and, in



particular, is not in breach of any building, zoning or other statute by-law, ordinance, regulation, covenant, restriction or official plan and CPI has adequate and lawful rights of ingress and egress to and from public roads for the operation of the Business in the Ordinary Course of Business, except to the extent any breaches or lack of rights in the aggregate are not material to the Business, the business of National Post or the operation of any newspaper which is part of the Business and, specifically:

- (a) no material alteration, repair, improvement or other work that has not been completed has been ordered, directed or requested in writing by any Governmental Authority to be done in respect of the Real Property or, to the extent CPI is responsible therefore, under the applicable Real Property Lease in respect of the Leased Premises;
- (b) except for pre-filing amounts stayed by the Initial Order, all accounts for work and services performed and materials furnished in respect of the Real Property or the Leased Premises at the request of CPI have been paid and no Person is entitled to claim a lien under the *Construction Lien Act* (Ontario) and similar legislation in any other jurisdiction against the Real Property, the Leased Premises or any part thereof, other than for current accounts in respect of which the due date has not yet passed;
- (c) except for pre-filing amounts stayed by the Initial Order, there is nothing owing by CPI in respect of the Real Property or the Leased Premises to any municipal corporation, or to any other corporation or commission owning or operating a public utility for water, gas, electrical power or energy, steam or hot water, or for the use thereof, other than current accounts in respect of which the due date has not yet passed; and
- (d) no material part of the Real Property or the Leased Premises has been taken or expropriated by any Governmental Authority nor has any notice or proceeding in respect thereof been given, threatened or commenced.

(5) **Environmental Matters.**

- (a) Except as disclosed in Schedule 7.5(5)(a), (i) the LP Entities, the operation of the Business and the business of National Post, the Acquired Assets and the use, maintenance and operation thereof have been and are in compliance with all Environmental Laws; (ii) the LP Entities have complied with all reporting and monitoring requirements under all Environmental Laws; and (iii) LP Entities have not received any notice of any non-compliance with any Environmental Law, and LP Entities have never been convicted of an offence for non-compliance with any Environmental Law or been fined or otherwise sentenced or settled any prosecution under any Environmental Law short of conviction.

- (b) Except as disclosed in Schedule 7.5(5)(a), there is no pending or, to the best of the LP Entities' knowledge, threatened Environmental Claim against the LP Entities or against any prior owner or occupant of any Real Property or Leased Premises.
- (c) The LP Entities have obtained all Environmental Permits necessary to conduct the Business and to own, use and operate the Acquired Assets, where failure to obtain such Environmental Permits would have a Materially Adverse Effect. All such Environmental Permits are listed in Schedule 7.5(5)(a) and complete and correct copies thereof have been provided to Acquireco. All such Environmental Permits are valid and are in full force and effect, there have been no violations thereof and there are no legal proceedings pending or threatened to alter or revoke any of them.
- (d) Except as disclosed in Schedule 7.5(5)(a),
  - (i) except in compliance with Environmental Laws and to the extent not material to the Business, the business of National Post or the operation of any newspaper which is part of the Business, (A) there are no Contaminants located in, on or under any of the Acquired Assets, and (B) no Release of any Contaminant has ever occurred on or from any of the Acquired Assets nor has any Release resulted from the operation of the Business;
  - (ii) the LP Entities have not used any of the Acquired Assets to produce, generate, store, handle, transport or dispose of any Contaminant except in compliance with Environmental Laws and none of the Real Property or Leased Premises has been or is being used as a landfill or waste disposal site;
  - (iii) the LP Entities are not, and there is no basis upon which an LP Entity would reasonably be expected to become, responsible to undertake any clean-up, corrective action, or governmental response, under any Environmental Laws; and
  - (iv) without limiting the generality of the foregoing, there are no underground or surface storage tanks, pits or lagoons, waste disposal sites or urea formaldehyde foam insulation, asbestos, polychlorinated biphenyls or radioactive substances located in, on or under any of the Acquired Assets.
- (e) All material environmental assessments and environmental studies and reports relating to any of the Acquired Assets generated on behalf of any LP Entity within the last ten years and in the possession of the LP Entities (or which with reasonable effort could be brought into the possession of the LP Entities) have been made available to Acquireco.

- (f) The LP Entities have delivered to Acquireco true and complete copies of all material written communications dated after January 1, 2005, between an LP Entity and any Governmental Authority having authority under Environmental Laws which relate to the Business or any of the Acquired Assets. The LP Entities are not in breach of any Environmental Law in any jurisdiction where the Business is carried on.
- (6) **Personal Property.** Schedule 7.5(6) lists or identifies all items of Tangible Personal Property which are material to the Business, the business of National Post or the operation of any newspaper which is part of the Business and the location where such items are situate, including a brief description of the property situate at each location and an indication of whether such property is owned or leased. Each item of Tangible Personal Property is, in all material respects, in good working order and repair, fully operational and free of any material defect, except for normal wear and tear, and is suitable and adequate for the purpose for which it has been designed in all material respects.
- (7) **Personal Property Leases.** Schedule 7.5(7) lists or identifies all Personal Property Leases which are material to the Business, the business of National Post or the operation of any newspaper which is part of the Business. Except as may be affected by an Order of the CCAA Court (i) each Personal Property Lease is in full force and effect and has not been amended, and an LP Entity is entitled to the full benefit and advantage of each Personal Property Lease in accordance with its terms; and (ii) each Personal Property Lease is in good standing and there has not been any default by any party under any Personal Property Lease nor any dispute between an LP Entity and any other party under any Personal Property Lease.
- (8) **Work Orders and Deficiencies.** There are no material outstanding work orders, non-compliance orders, deficiency notices or other such notices relating to the Real Property, the Leased Premises, the other Acquired Assets or the Business which have been issued by any or Governmental Authority including any police or fire department, sanitation, environment, labour or health authority. There are no material matters under discussion with any Governmental Authority relating to work orders, non-compliance orders, deficiency notices or other such notices.
- (9) **Plants, Facilities and Equipment.** Except as set out in Schedule 7.5(9), the buildings and structures comprising the Real Property and, to the best of the LP Entities' knowledge, those comprising the Leased Premises, are free of any material structural defect. The heating, ventilating, plumbing, drainage, electrical and air conditioning systems and all other systems used in the Real Property and the Leased Premises and all related fixtures, machinery, equipment, tools, furniture, furnishings and materials are in good working order and repair, fully operational and free of any defect, except for normal wear and tear and for defects that, alone or in the aggregate, are not materially adverse to the Business, the business of National Post or the operation of any newspaper which is part of the Business.

**(10) Computer Systems.**

- (a) The Computer Systems meet the data processing and other computing needs of the Business and its operations as presently conducted in all material respects. The Computer Systems function, operate, process and compute in accordance with all Applicable Laws, current industry standards and trade practices consistent with those that would reasonably and ordinarily be expected from qualified, skilled and experienced persons engaged in a similar type of undertaking under the same or similar circumstances.
- (b) To the knowledge of the LP Entities, the Computer Systems are free from viruses and disabling codes and devices, and the LP Entities have taken, and will continue to take, all industry standard steps and procedures necessary to ensure, so far as reasonably possible, that such systems are free from viruses and disabling codes and devices and will remain so until the Acquisition Date.
- (c) The LP Entities have in place appropriate back up systems and disaster recovery plans, procedures and facilities necessary to ensure the continuing availability and functionality provided by the Computer Systems in the event of any malfunction or other form of disaster affecting the Computer Systems and has taken all steps and implemented all procedures to safeguard its Computer Systems and restrict unauthorized access thereto.
- (d) All the source codes for proprietary software (other than off-the-shelf applications software) constituting part of the Computer Systems are subject to escrow arrangements that would enable Acquireco to have access to such source codes in the event of the applicable licensor's insolvency or failure or refusal to maintain or provide support for the software.

**(11) Intellectual Property.**

- (a) Schedule 7.5(11) sets forth a complete list and a brief description of (a) all Intellectual Property whether or not such Intellectual Property has been registered or whether applications for registration have been filed by or on behalf of an LP Entity; and (b) particulars of all registrations and applications for registration in respect of such Intellectual Property. The Intellectual Property disclosed in Schedule 7.5(11) is valid, enforceable and subsisting and includes all of the Intellectual Property used in, or necessary to carry on, the Business.
- (b) Each LP Entity, as applicable, has good and valid title to all of the Intellectual Property, free and clear of any and all Encumbrances (other than Permitted Encumbrances), except in the case of any Intellectual Property licensed to an LP Entity as disclosed in Schedule 7.5(11). Complete and correct copies of all agreements whereby any rights in any of the Intellectual Property have been granted or licensed to an LP Entity have been provided to Acquireco. All such

agreements are in good standing and in full force and effect. No royalty or other fee is required to be paid by an LP Entity to any other Person in respect of the use of any of the Intellectual Property except as provided in such agreements delivered to Acquireco.

- (c) Schedule 7.5(11) lists any agreements whereby any rights in any of the Intellectual Property have been granted or licensed by an LP Entity to any other Person. Complete and correct copies of all such agreements have been provided to Acquireco. Except in the case of Intellectual Property licensed to or by an LP Entity as indicated in Schedule 7.5(11), each LP Entity, as applicable, has the exclusive right to use all of the Intellectual Property and has not granted any license or other rights to any other Person in respect of the Intellectual Property.
- (d) Except as disclosed in Schedule 7.5(11), there are no restrictions on the ability of an LP Entity or any successor to or assignee from an LP Entity to use and exploit all rights in the Intellectual Property. All statements contained in all applications for registration of the Intellectual Property were true and correct as of the date of such applications. Each of the trade-marks and trade names included in the Intellectual Property is in use. None of the rights of an LP Entity in the Intellectual Property will be impaired or affected in any way by the Acquisition.
- (e) Except as disclosed in Schedule 7.5(11), there are no claims pending, or to the knowledge of the LP Entities threatened, against the LP Entities relating to any of the Intellectual Property.
- (f) The Employees, and all consultants and contractors retained by an LP Entity, have agreed to maintain the confidentiality of confidential Intellectual Property, have agreed to assign any copyrights in the Intellectual Property which may arise in their name, and have provided written, unrestricted waivers of all moral rights in copyrighted works included in the Intellectual Property, which waivers may be invoked by any person authorized by an LP Entity to use the copyrighted works.

#### **Section 7.6 Conduct of Business**

(1) **No Material Adverse Change.** Except as disclosed in writing to the Administrative Agent or as approved by Order of the CCAA Court, since the Reference Date, there has not been any change in the affairs, prospects, operations, assets or financial condition of the Business and the business of National Post other than changes in the Ordinary Course of Business or as otherwise contemplated in this Agreement, which has had or reasonably could have a Materially Adverse Effect or a materially adverse effect on National Post or any newspaper which is part of the Business, nor has there been any damage, destruction or loss or other event, development or condition of any character (whether or not covered by insurance) affecting the Business, National Post or the Acquired Assets which would

constitute a Material Adverse Effect or be materially adverse to the operation any newspaper which is part of the Business.

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

(3) **Necessary Assets.** The Acquired Assets together with the properties and assets owned by National Post are sufficient to permit the continued operation of the Business after the Acquisition Date as currently conducted in all material respects and include all proprietary rights, trade secrets and other property and assets, tangible and intangible, applicable to or used in connection with the Business. No Person other than an LP Entity or National Post owns any properties or assets which are being used in or are reasonably necessary to carry on the Business in the Ordinary Course of Business except assets subject to Real Property Leases, Personal Property Leases or Contracts and other assets that the applicable LP Entity or National Post has the right to possess and use pursuant to a valid legal right which is an Acquired Asset under this Agreement.

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

(5) **Non-Arm's Length Interests.** Except as disclosed in Schedule 7.6(5), neither an LP Entity nor any Person not dealing at arm's length with an LP Entity within the meaning of the ITA nor any officer or director of an LP Entity or of any such Person nor, to the best of the LP Entities' knowledge, any relative of any such officer or director, is a party to or has an interest with respect to any Contract or commitment which relates to or affects the Business or by which any of the Acquired Assets may be bound or has any material interest in any property, real or personal, tangible or intangible, used in or pertaining to the Business, in either case which is material to the Business or the operation of any newspaper which is part of the Business.

(6) **Contracts.** Schedule 7.6(6) lists or identifies all Contracts which are material to the Business, the business of National Post or the operation of any newspaper which is part of the Business. Except as contemplated by or resulting from the CCAA Case, (i) no LP Entity is, nor to the best of the LP Entities' knowledge is any other party to any such Contract in default under any such Contract and there has not occurred any event which, with the lapse of time or giving of notice or both, would constitute a default under any such Contract by an LP Entity or any other party to any such Contract, in each case except where such default is material to

the Business, National Post or the operation of any newspaper which is part of the Business; (ii) each such Contract is in full force and effect, unamended by written or oral agreement, except as set out in Schedule 7.6(6) and an LP Entity is entitled to the full benefit and advantage of each Contract in accordance with its terms; (iii) a notice of default has not been received by any LP Entity under any such Contract or of a dispute between an LP Entity and any other Person in respect of any such Contract; and (iv) the completion of the Acquisition will not afford any party to any such Contract or any other Person the right to terminate such Contract nor will the completion of such transactions result in any additional or more onerous obligation on an LP Entity or Acquireco under any such Contract.

(7) **Licences and Compliance with Law.** Schedule 7.6(7) lists all Licences which are material to the operation of the Business, National Post or the operation of any newspaper which is part of the Business. Such Licences are held by an LP Entity free and clear of any and all Encumbrances other than Permitted Encumbrances. The Business, the business of National Post and each newspaper which is part of the Business is being conducted and operated by the LP Entities and National Post, as the case may be, in all material respects in accordance with all terms and conditions of such Licences. Except as contemplated by or resulting from orders made in the CCAA Case, all such Licences are valid and are in full force and effect, and no LP Entity is in material violation of any term or provision or requirement of any such Licence, and to the knowledge of the LP Entities no Person has threatened to revoke, amend or impose any condition in respect of, or commenced proceedings to revoke, amend or impose conditions in respect of, any such Licence.

(8) **Operations and Assets.** Attached as Schedule 7.6(8) is a list of each jurisdiction in which the Business and the business of National Post is carried on and a brief description of the nature of the operations carried on in each such jurisdiction and a list of each jurisdiction in which tangible assets owned or used by an LP Entity or National Post in the Business are located.

### Section 7.7 Employment Matters

(1) **Employees.** Schedule 7.7(1) states the age, location of employment, job title, length of service, commission and bonus entitlements, CPI Benefit Plan participation and salary or wage rate of each Employee and each other Person receiving remuneration for work or services being provided to an LP Entity in respect of the Business including contactors, consultants, agents and agency employees, and indicates any Employee who is on an approved leave of absence together with the reason for such Person's leave and such Person's expected date of return to work. Schedule 7.7(1) also identifies any Employees and other Persons who have advised CPI in writing that they will resign or retire or cease to provide work or services as a result of the Acquisition. Except as set out in Schedule 7.7(1), no Employee is on long-term disability leave, extended absence or receiving benefits pursuant to the *Workplace Safety and Insurance Act, 1997* (Ontario) or comparable legislation of any other jurisdiction.

(2) **Remuneration.** Since the Reference Date, except as described in Schedule 7.7(2), to the best of the LP Entities' knowledge no payments have been made or authorized by an LP

Entity or by National Post to directors, officers, Employees, employees of National Post, contractors, consultants or agents except at regular rates of remuneration or increases made in the Ordinary Course of Business and consistent with past practice or for "KERP" or "MIP" payments disclosed in writing to the Administrative Agent prior to the date the Initial Order was issued. There are no outstanding loans or advances made or granted by an LP Entity or National Post to any Employee, employee of National Post, contractor, consultant or agent, except for travel advances made to Employees or employees of National Post in the Ordinary Course of Business.

(3) **Labour Matters and Employee Contracts.** Except as disclosed in Schedule 7.7(3), neither an LP Entity nor National Post is a party to or bound by any collective agreement, labour contract, letter of understanding, memorandum of understanding, letter of intent, voluntary recognition agreement or other legally binding commitment to any labour union, trade union, employee association or similar entity in respect of any Employees, employees of National Post or contractors rendering services to an LP Entity or National Post, nor is an LP Entity or National Post currently conducting negotiations with any labour union, trade union, employee association or similar entity. Except as disclosed in Schedule 7.7(3), during the period of five years preceding the date of this Agreement there has been no attempt to organize, certify or establish any labour union, employee association or similar entity in relation to any of the Employees or employees of National Post. Except as disclosed in Schedule 7.7(3), neither an LP Entity nor National Post are a party to any employment agreement, termination or severance agreement, consulting contract, independent contractor agreement, agency contract or similar agreement or arrangement, and there is no agreement for the employment of any Employee or employee of National Post which cannot be terminated on reasonable notice and without penalty. There is no agreement, policy, plan or practice relating to the payment of any management, consulting or other fee or any bonus, retention payment, change of control or golden parachute payment, pension, share of profits or retirement allowance, or any insurance, health or other employee benefit, except as disclosed in Schedule 7.8(1). Each LP Entity and National Post have complied with all provisions of the collective agreements and other agreements disclosed in Schedule 7.7(3) and there are no existing or, to the best of the LP Entities' knowledge, threatened labour strikes, cessations or suspensions of work or labour disputes, lockouts, slowdowns, disturbances, grievances, arbitrations, unfair labour practice complaints, controversies or other labour troubles affecting an LP Entity, National Post or the Business, nor have there been any material labour disturbances within the period of five years preceding the date of this Agreement, except as disclosed in Schedule 7.7(3).

(4) **Employee Laws.** Each LP Entity and National Post has complied with all Employment Laws and, except as disclosed in Schedule 7.7(4), and there are no threatened, pending or outstanding charges, applications, claims, Orders, investigations, audits or complaints against an LP Entity or National Post under any Employment Laws, nor have there been any charges, applications, claims, Orders or complaints against an LP Entity or National Post under any Employment Laws within the period of five years preceding the date of this Agreement. Each LP Entity and National Post have paid in full all amounts owing under the *Workplace Safety and Insurance Act, 1997* (Ontario) and comparable applicable legislation of



other jurisdictions and there are no circumstances, related to the workers' compensation claims experience of an LP Entity or National Post or otherwise, which would permit or require a reassessment, penalty, surcharge or other additional payment under such legislation. There are no outstanding charges or orders requiring an LP Entity or National Post to comply with the *Occupational Health and Safety Act* (Ontario) or comparable applicable legislation of any other jurisdiction. All obligations of the LP Entities and National Post in respect of vacation pay and banked vacation entitlement, holiday pay, overtime pay or time-off entitlement, sick pay or banked sick leave, premiums for employment or unemployment insurance, employer health tax, Canada/Quebec Pension Plan premiums, accrued employee compensation and Benefit Plan payments or premiums will have been paid or discharged as of the Acquisition Date or, if unpaid, are accurately reflected in the Books and Records.

(5) **WSIB Premiums.** The LP Entities have (a) reported appropriate premiums based on actual or estimated earnings for all past reporting periods and (b) paid all amounts owing to the Workplace Safety and Insurance Board (Ontario) and comparable agencies of other applicable jurisdictions to and including the Acquisition Date.

#### **Section 7.8 Pension and Other Benefit Plans**

(1) **CPI Benefit Plans.** Schedule 7.8(1) lists all of the CPI Pension Plans, CPI Benefit Plans and Multi-Employer Plans.

(2) **Disclosure.** True, current and complete copies of all written CPI Benefit Plans as amended to date, or where oral, a written summary of the material terms thereof together with current and complete copies of all material documents related to the CPI Benefit Plans have been delivered or made available to Acquireco, including, where applicable:

- (i) trust agreements and funding agreements applicable to the CPI Pension Plans;
- (ii) insurance contracts and policies, investment management agreements, statements of investment policies and procedures, subscription and participation agreements, benefit administration contracts and any financial administration contracts;
- (iii) booklets, summaries, manuals and communications of a general nature, distributed or made available to any Employees or former employees concerning any CPI Benefit Plans;
- (iv) the most recent financial and accounting statements and reports together with the four most recent quarterly investment reports;
- (v) the most recent actuarial reports required to be filed with a Governmental Authority; and

- (vi) all reports, statements, valuations, returns and correspondence for each of the last three years which affect premiums, contributions, refunds, deficits or reserves under any of CPI Benefit Plan.

(3) **Compliance.** Each of the CPI Benefit Plans is registered, qualified, invested and administered, in all material respects, in compliance with the terms of such CPI Benefit Plan, with all Applicable Laws, and any applicable collective agreements. None of the LP Entities has received in the last six years, any notice from any Person questioning or challenging such compliance (other than a claim relating solely to that Person), and none of the LP Entities has any knowledge of such notice whether written or otherwise, from any Person questioning or challenging such compliance record beyond the last six years.

(4) **Amendments.** No amendments have been made to any CPI Benefit Plan and no improvements to any CPI Benefit Plan have been promised that are not disclosed in the plan documents provided to Acquireco, except as may be required, or are reasonably anticipated to be required, by Applicable Law or the terms of a collective agreement.

(5) **Obligations under Multi-Employer Plans.** The obligations of CPI to any Multi-Employer Plans in which CPI participates or to which CPI is required to contribute are restricted to providing information and making contributions in accordance with Applicable Laws and the terms of the collective agreements listed in Schedule 7.7(3).

(6) **Employee Data.** To the knowledge of CPI, all employee data necessary to administer the CPI Benefit Plans is true and correct in all material respects.

(7) **Penalties, Taxes.** To the best of the LP Entities' knowledge, there are no outstanding defaults or violations by any LP Entity in respect of any CPI Pension Plan or CPI Benefit Plan and no Taxes, penalties or fees are owing or exigible under any of the CPI Pension Plans and the CPI Benefit Plans.

(8) **Contributions.** All contributions or premiums required to be paid or remitted by an LP Entity under the terms of each CPI Benefit Plan or by any Applicable Law or collective agreement or other labour union contract have been paid or remitted in accordance with the terms of the CPI Pension Plans and the CPI Benefit Plans and any Applicable Law or collective agreement or other labour union contract. All Employee contributions to the CPI Benefit Plans required to be made by way of payroll deduction have been authorized by the Employees and properly withheld by an LP Entity and fully paid into the CPI Pension Plan funds or remitted in connection with the CPI Pension Plans.

(9) **Investigations.** To the best of the LP Entities' knowledge, as applicable, the CPI Pension Plans and the CPI Benefit Plans or any related trust or other funding medium thereunder, are not subject to any pending threatened or anticipated investigation, examination or other proceeding, action or claim initiated by any Governmental Authority or by any Employee or beneficiary covered under a CPI Pension Plan or CPI Benefit Plan, involving any CPI Pension Plan or CPI Benefit Plan or by any other party (other than routine claims for benefits).

(10) **Post-Retirement Benefits.** Except as disclosed in Schedule 7.8(1), none of the CPI Benefit Plans, other than the CPI Pension Plans, provide benefits beyond retirement or other termination of service to Employees or former employees or beneficiaries or dependants of such employees.

(11) **CPI Pension Plans.** In respect of each of the CPI Pension Plans,

- (a) to the best of the LP Entities' knowledge, no adverse change has occurred that would have a material effect on the current funded status of any of the CPI Pension Plans;
- (b) there are no entities other than the LP Entities participating in any CPI Pension Plans or participating employers that are so designated by a participation agreement between the participating employer and the applicable CPI Pension Plan, participating in any CPI Pension Plans. All Employee participants in each CPI Pension Plan are eligible for membership in the applicable CPI Pension Plan pursuant to the terms of the CPI Pension Plan and Applicable Law; and
- (c) all assets of the pension funds related to the CPI Pension Plans are available to meet the liabilities and claims of the applicable CPI Pension Plan.

#### Section 7.9 General Matters

(1) **Compliance with Constatng Documents, Agreements and Applicable Laws.** The execution, delivery and performance of this Agreement and each of the other agreements contemplated or referred to herein by the LP Entities, and the completion of the Acquisition, will not constitute or result in a violation or breach of or default under, or cause the acceleration of any obligations of an LP Entity or National Post under:

- (a) any term or provision of any of the articles, by-laws or other constating documents of the LP Entities or National Post;
- (b) subject to obtaining the Consents, the terms of any Contract, Personal Property Lease or Real Property Lease, in each case, that is material to the Business, the business of National Post or the operation of any newspaper which is part of the Business; and
- (c) subject to obtaining the Regulatory Approvals, any term or provision of any
  - (i) Licence or Order that is material to the Business, the business of National Post or the operation of any newspaper which is part of the Business or
  - (ii) Applicable Law.

(2) **Compliance with Laws.** None of the LP Entities or National Post is carrying on the Business (or, in the case of National Post, its business) in violation of any Applicable Law, including laws relating to its operations, products, manufacturing processes, advertising, sales or employment practices, wages and hours, product safety or civil rights, where such violation

is material to the Business, the business of National Post or the operation of any newspaper which is part of the Business.

(3) **Litigation.** Except for the matters referred to in Schedule 7.9(3), there are no actions, applications, complaints, claims, suits or proceedings, judicial or administrative (whether or not purportedly on behalf of an LP Entity or National Post) pending or, to the best of the LP Entities' knowledge, threatened, by or against or affecting an LP Entity or National Post, at law or in equity, or before or by any court or other Governmental Authority, which might result in a Material Adverse Effect or which might adversely affect the ability of the LP Entities to enter into this Agreement or to consummate the Acquisition, nor are there grounds on which any such action, suit or proceeding might be commenced with any reasonable likelihood of success.

(4) **Copies of Documents.** True and complete copies of all contracts, leases, collective agreements, pension plans, benefit plans, policies of insurance and other documents identified in any schedule to this Agreement have been delivered to Acquireco.

(5) **Full Disclosure.** The representations and warranties of the LP Entities contained in this Agreement and in any certificate or other agreement delivered in connection with completion of the Acquisition are accurate and complete, do not contain any untrue statement of a Material fact or, considered in the context in which presented, omit to state a material fact necessary in order to make the statements and information contained herein or therein not misleading. Without restricting the generality of the foregoing, there are no facts known to the LP Entities or National Post which should be disclosed to Acquireco in order to make any of the representations and warranties contained in this Agreement not misleading or which may have a Material Adverse Effect and no facts are known to the LP Entities or National Post which might reasonably constitute a Material Adverse Effect or would operate to prevent Acquireco from using the Acquired Assets to operate the Business, the business of National Post and the newspapers which is part of the Business in the manner in which the LP Entities and National Post have operated the Business, the business of National Post and such newspaper prior to the date of this Agreement.

(6) **National Post Transition Agreement.** There are no facts or circumstances known to the LP Entities which, if had been known to National Post on the Closing Date (as that term is defined in the National Post Transition Agreement made between National Post and CPI as of October 26, 2009 (the "NP Transition Agreement")) would have made any representation or warranty of National Post under the NP Transition Agreement or under any document delivered by National Post pursuant to the NP Transition Agreement untrue.

## ARTICLE 8 – REPRESENTATIONS AND WARRANTIES OF ACQUIRECO

Acquireco represents and warrants to each of the LP Entities as stated below and acknowledges that each of the LP Entities is relying on the accuracy of each such representations and warranties in entering into this Agreement and completing the Acquisition.

### **Section 8.1 Status**

Acquireco is a subsisting corporation in Good Standing under the laws of Canada and has full corporate power and authority to execute and deliver this Agreement and to consummate the Acquisition.

### **Section 8.2 Due Authorization**

The execution and delivery of this Agreement and the consummation of the Acquisition have been duly and validly authorized by Acquireco and no other corporate proceedings on the part of Acquireco are necessary to authorize this Agreement or the Acquisition.

### **Section 8.3 Enforceability**

This Agreement has been duly and validly executed and delivered by Acquireco and is a valid and legally binding agreement of Acquireco enforceable against Acquireco in accordance with its terms except as may be subject to applicable bankruptcy, insolvency, moratorium or other similar laws, now or hereafter in effect, relating to or affecting the rights of creditors generally and by legal and equitable limitations or the enforceability of specific remedies.

### **Section 8.4 Investment Canada Act**

Subject to a contrary determination by the Heritage Minister, Acquireco is not a "non-Canadian" within the meaning of the ICA.

## **ARTICLE 9 – COVENANTS**

### **Section 9.1 General Covenants**

- (1) During the Interim Period, except as contemplated in the Initial Order or the CCAA Case or as otherwise consented to by Acquireco, the LP Entities shall, and shall cause National Post to:
  - (a) **Operations.** Carry on the Business and the business of National Post (including carrying on the operation of all newspapers) in the usual and ordinary course in substantially the same manner as heretofore conducted and preserve intact their present business organization, use all reasonable efforts to keep available the services of their present officers and employees and preserve their relationships with customers, suppliers and others having business dealings with them and take any and all such further actions reasonably requested by Acquireco to the end that the Business and the business of National Post shall not be impaired in any material respect at the Acquisition Date, subject to the CCAA Case and the Shared Services Agreement;

- (b) **Insurance.** Keep in full force their current insurance policies relating to the Acquired Assets and the assets and properties of National Post or without permitting any termination, cancellation or lapse thereof, enter into replacement policies providing coverage equal to or greater than the coverage under those cancelled, terminated or lapsed for substantially similar premiums;
- (c) **Agreements.** Perform in all material respects their obligations under agreements, contracts and instruments related to or affecting the Business, the business of National Post or the Acquired Assets;
- (d) **Books and Records.** Maintain the Books and Records, including the Financial Records, in the Ordinary Course of Business and not make any material change in their accounting principles, policies, practices or methods;
- (e) **Compliance with Laws.** Comply in all material respects with all Applicable Laws applicable to the Business, the business of National Post and with all Orders made by the CCAA Court in respect of the CCAA Case;
- (f) **Additional Agreements.** Not enter into or assume any agreement, contract or commitment, except (a) purchases of supplies and sales of Inventories in the Ordinary Course of Business and (b) agreements, contracts or commitments which, individually or in the aggregate, are not material to the Business taken as a whole, nor otherwise make any material change in the conduct of the Business or the business of National Post;
- (g) **Inconsistent Activities.** Not solicit or encourage any inquiries or proposals or initiate discussions or negotiations with, or provide any information to any third party (other than Acquireco) concerning, or enter into any transaction involving, the acquisition of all or any part of the Business, the business of National Post or the Acquired Assets, other than in connection with a Post-Filing Disposition.
- (h) **Employee Remuneration.** Except for increases in the Ordinary Course of Business or as may otherwise be required by any Contract that is listed in a schedule to this Agreement, not (a) increase the compensation of any Employee or employee of National Post or of any director, officer, consultant, contractor, agency employee or agent of an LP Entity or National Post; (b) improve the CPI Benefit Plans in any manner, (c) pay to or for the benefit of, or agree to pay to or for the benefit of, any Employee or employee of National Post, or of any director, officer, consultant, contractor, agency employee or agent of an LP Entity or National Post any pension or retirement allowance or other benefit not required by the CPI Benefit Plans or Contracts with Employees or employees of National Post; or (d) commit to any new or renewed employee pension, disability, bonus, commission, deferred or incentive compensation, salary continuation, supplemental unemployment, termination or severance, profit sharing, share purchase, stock option, stock

appreciation, phantom stock option, retirement, group insurance, hospitalization, death benefit, sick leave, holiday, vacation, overtime, medical, dental, health and welfare or other employee benefit plan, agreement, policy, practice or other arrangement; nor will an LP Entity or National Post amend any of the arrangements referred to in this Section 9.1(1)(h) now in existence;

- (i) **Undertaking.** Operate the Business and the business of the National Post in accordance with the undertaking made to the Administrative Agent dated as of October 30, 2009;
- (j) **Disposition of Assets.** Except in the Ordinary Course of Business, not sell, transfer, mortgage, encumber or otherwise dispose of, or agree to sell, transfer, mortgage, encumber or otherwise dispose of any properties or assets, real, personal or mixed, other than in connection with a Post-Filing Disposition;
- (k) **Intercompany Business.** Not make any change, except in the Ordinary Course of Business or as provided in the Shared Services Agreement, in the manner of conducting business with any Affiliate;
- (l) **Intercompany Payments.** Not make any payment or distribution to any Affiliate except (i) pursuant to and in accordance with existing share services agreements, as amended by the Agreement on Shares Services and Employees dated as of October 26, 2009 to which the LP Entities are party and (ii) advances by CPI to National Post in accordance with CPI's existing credit agreement with National Post; or
- (m) **Representations and Warranties.** Not do anything that would cause any of the representations and warranties of the LP Entities under this Agreement or under any document delivered pursuant to this Agreement to be untrue.
- (n) **CPI Pension Plans.** Subject to Section 5.5:
  - (i) As soon as practicable after the Acquisition Date, seek and use commercially reasonable efforts to obtain all required approvals from Governmental Authorities to amend the CPI Pension Plans to transfer sponsorship of the CPI Plans to Acquireco as set out in Section 5.3;
  - (ii) Transfer to Acquireco all employee data and documentation in CPI's possession and the possession of National Post, as the case may be related to the administration of the CPI Pension Plans; and
  - (iii) Prior to the assumption by Acquireco of the CPI Pension Plans, take whatever reasonable action is necessary to confirm that only those Transferred Employees who meet the eligibility criteria to qualify for membership in an applicable CPI Pension Plan in accordance with the

terms of the applicable CPI Pension Plan and Applicable Law are members of the applicable CPI Pension Plan.

(2) Each of the Parties shall comply with legislative requirements or, as applicable, use commercially reasonable efforts to cause each of the conditions contained in this Agreement to be fulfilled or performed by it on or before the Acquisition Date as contemplated hereunder.

### **Section 9.2 Competition Act Filings**

CPI shall fully co-operate and communicate with Acquireco in respect of all dealings with the Commissioner, including the filing of notices required under the *Competition Act* (Canada) and the satisfaction of requests from the Commissioner for additional information respecting the transactions contemplated by this Agreement.

### **Section 9.3 Non-Assignable Assets**

(1) If any of the Acquired Assets shall not be assignable, or shall only be assignable with the Consent of a third party ("**Third Party Approval**"), the LP Entities shall at the request of Acquireco, during the Interim Period, use commercially reasonable efforts, in co-operation with Acquireco, to secure any Third Party Approval required in connection with the assignment of such Acquired Asset prior to the Acquisition Date.

(2) Where such Acquired Asset is not assignable or any Third Party Approval in respect of such Acquired Asset has not been obtained prior to the Acquisition Date, in accordance with the terms of the Sanction Order, on the Acquisition Date the LP Entities shall assign the relevant Acquired Asset to Acquireco without the Third Party Approval notwithstanding any restriction or prohibition on assignment in respect of such Acquired Asset.

### **Section 9.4 Access**

(1) The LP Entities shall provide Acquireco, its auditors, consultants, counsel and other representatives (a) such information about the Business and the business of National Post as Acquireco may reasonably require from time to time and (b) reasonable access to the LP Entities and National Post's premises, corporate, financial and other books and records, all policies of insurance, contracts, leases, deeds, property and other assets within the possession or control of the LP Entities or National Post, wherever they may be located, which right of access shall include the right to inspect and appraise such property and assets and to enable Acquireco, its auditors, consultants, counsel and other representatives to continue to investigate the affairs of the Business and the business of National Post on an ongoing basis. No such investigation shall prejudice the rights of Acquireco under this Agreement.

(2) Acquireco shall preserve and keep all Books and Records and all information relating to the accounting, business, and financial affairs that relate to the Business and the business of National Post for a period of five years after the Acquisition Date (or such longer period as Acquireco and CPI may agree) (the "**Retention Period**"). During the Retention Period,



Acquireco shall provide the LP Entities and the Monitor with reasonable access to any information in its possession or control relating to the Business and the business of National Post as the LP Entities or the Monitor may reasonably require to meet legal, regulatory, accounting and auditing requirements. If requested by the Monitor, acting reasonably, employees of Acquireco shall assist the Monitor in the performance of its duties and obligations including the preparation and service of notices to creditors and preparation of the LP Entities' tax returns, provided such request for assistance does not (a) require a material amount of effort by any employee, (b) preclude any employee from performing its normal duties for Acquireco or (c) result in Acquireco incurring any additional cost or expense. During the Retention Period, if reasonably requested by any trustee in bankruptcy appointed in respect of the estates of the LP Entities, Acquireco agrees to (i) provide such trustee in bankruptcy with reasonable access to any information in its possession or control relating to the Business and the business of National Post, and (ii) direct any requested Transferred Employees to assist the trustee in bankruptcy in the performance of its duties and obligations including the preparation and service of notices to creditors, in each case as the trustee in bankruptcy may reasonably require to comply with its statutory duties and obligations on or before the first meeting of creditors and/or in connection with the final completion of the estate and, for greater certainty, not in relation to the investigation or pursuit of claims or remedies pursuant to sections 95 to 101 of the *Bankruptcy and Insolvency Act*, R.S.C., 1985, c. B-3, or any similar claims under any Applicable Law.

#### **Section 9.5 Personal Information Privacy**

Acquireco shall at all times comply with all Applicable Law governing the protection of personal information, with respect to Personal Information disclosed or otherwise provided to Acquireco by the LP Entities or National Post under this Agreement. Acquireco shall only use or disclose such Personal Information for the purposes of reasonably investigating the affairs of the Business and the business of National Post as contemplated in Section 9.4 and completing the Acquisition or, in the case of Employees, offering employment to Employees in accordance with this Agreement. Acquireco shall safeguard all Personal Information collected from the LP Entities or National Post in a manner consistent with the degree of sensitivity of the Personal Information and, furthermore, maintain at all times the security and integrity of the Personal Information. Acquireco shall not make any copies of the Personal Information or any excerpts thereof or in any way re-create the substance or contents of the Personal Information if the Acquisition is not completed for any reason, and shall return all Personal Information to the LP Entities or National Post, or destroy such Personal Information at the LP Entities' request.

#### **Section 9.6 Intercompany Transfers**

On the Acquisition Date and in accordance with the Plan on such terms and conditions as may be specified in the Plan, CPI shall (a) pursuant to the Sanction Order, acquire from Canwest Books, Canwest GP and Canwest LP all assets or property of or used by or in the possession or control of Canwest Books, Canwest GP and Canwest LP (other than, in respect of Canwest GP, partnership interests in Canwest LP and special voting shares of CPI, in

respect of Canwest LP, shares of CPI and the CPI Debt, and, in respect of CPI, shares of Canwest Books), (b) assume from Canwest LP all Liabilities of Canwest LP that would be Assumed Liabilities under the terms of this Agreement and (c) offer to employ all employees of Canwest LP who provide services to the Business, all on terms and conditions satisfactory to Acquireco, such that immediately prior to the Acquisition Time, CPI is the sole owner of such Acquired Assets, such Liabilities are obligations of CPI and all Employees are employees of CPI.

### **Section 9.7 Certain Additional Information**

Without limiting the generality of Section 9.4(1), not less than 10 Business Days prior to the Acquisition Date the LP Entities shall provide to Acquireco such information as Acquireco may reasonably request about Liabilities of CPI which Acquireco is obligated or has the option to assume under this Agreement, to enable Acquireco to determine the extent of such Liabilities and whether, among other things, to exercise any option to assume any such Liabilities or any election under this Agreement not to assume any such Liabilities.

## **ARTICLE 10 – CONDITIONS**

### **Section 10.1 Acquireco's Conditions**

The obligations of Acquireco under this Agreement are subject to the conditions set out in this Section 10.1, which are for the exclusive benefit of Acquireco and all or any of which may be waived, in whole or in part, by Acquireco in its sole discretion by Notice given to the LP Entities. The LP Entities shall take all actions, steps and proceedings as are reasonably within its control to cause each of the conditions to be fulfilled or performed at or before the Acquisition Time.

(1) **Truth of Representation and Warranties.** All representations and warranties of the LP Entities contained in this Agreement shall have been true in all material respects, except for representations and warranties that contain a materiality qualification which shall be true in all respects, as of the date of this Agreement and shall be true in all material respects, except for representations and warranties that contain a materiality qualification, which shall be true in all respects, as of the Acquisition Date with the same effect as though made on and as of that date (except to the extent that any representation or warranty is affected by the occurrence of events or transactions expressly contemplated and permitted by this Agreement, or otherwise consented to in writing by Acquireco) and the LP Entities shall have delivered to Acquireco a certificate addressed to Acquireco to the foregoing effect dated as of the Acquisition Date.

(2) **The LP Entities' Obligations.** Each of the LP Entities shall have performed each of its respective obligations under this Agreement in all material respects to the extent required to be performed on or before the Acquisition Date, including delivery of all documents, instruments and other items specified elsewhere in this Agreement and delivery of the following:

- (a) a certificate of status or the equivalent for each LP Entity (other than Canwest LP) and National Post issued by the appropriate Governmental Authority in its jurisdiction of incorporation;
- (b) certified copies of (i) the articles and by laws of each LP Entity (other than Canwest LP) and National Post; (ii) all resolutions of shareholders and directors of LP Entity (other than Canwest LP) and National Post approving the entering into of this Agreement and the completion of the Acquisition; and (iii) a list of directors and officers LP Entity (other than Canwest LP) authorized to sign this Agreement and any other documents required to be delivered hereunder; and
- (c) certified copies of (i) the limited partnership agreement, as amended of Canwest LP; (ii) all resolutions of the directors of Canwest GP, as general partner of Canwest LP, approving the entering into of this Agreement; and (iii) a list of directors and officers of Canwest GP, as general partner of Canwest LP, authorized to sign this Agreement and any other documents required to be delivered hereunder.

(3) **Adverse Proceedings.** (a) No action or proceeding shall be pending or threatened which could reasonably be expected to enjoin, impair or prohibit the completion of the Acquisition or which could prevent or impair the operation of the Business or the business of National Post after the Acquisition Date in substantially the same manner as it was operated before the Acquisition Date and (b) no Governmental Authority shall have issued any preliminary or final decision, order or decree in consequence of or in connection with the Plan or the Acquisition which restrains or prohibits the Acquisition or the Plan or requires or purports to require a variation of this Agreement or the Plan that is not acceptable to the Administrative Agent acting in consultation with the steering committee of Senior Lenders formed by the Administrative Agent from time to time.

(4) **Material Adverse Change.** No damage to or destruction of a material part of Acquired Assets shall have occurred and no Material Adverse Effect shall have occurred, other than (i) changes in the Ordinary Course of Business which, in the reasonable business judgement of Acquireco, are not expected to be materially adverse to the Business or the business of National Post; and (ii) changes in connection with the CCAA Case which Acquireco does not, acting reasonably, consider to be materially adverse.

(5) **Status of Real Property Leases and Personal Property Leases.** Except in respect of Real Property Leases and Personal Property Leases which the CCAA Court has ordered be assigned to Acquireco, CPI shall have delivered to Acquireco (a) acknowledgements from the lessors under (i) the Real Property Leases and (ii) the Personal Property Leases which are material to the Business, the business of National Post or to the operation of any newspaper which is part of the Business that such leases are in full force and effect and CPI is not in breach of any of the terms thereof (other than as approved by Order of the CCAA Court) and (b) any Consent to the change in ownership effected by the Acquisition as may be required by the terms of any Real Property Leases.

- (6) **Concurrent Transactions.** Concurrently with the completion of the Acquisition, the Parties shall have, or shall have caused to be, executed and delivered and shall have completed or caused to be completed the transactions contemplated by the following the documents contemplated under Section 12.2.
- (7) **Corporate Action.** All appropriate action of the shareholders, partners, directors and officers of the LP Entities and National Post shall have been taken.
- (8) **Approvals, Consents, etc.** All Consents and Regulatory Approvals shall have been received and shall be absolute or on terms reasonably acceptable to Acquireco, except where any failure to obtain any such Consent or Regulatory Approval could have a materially adverse effect on the Business or the operation of the National Post newspaper or any newspaper which is part of the Business.
- (9) **Workplace Safety and Insurance Act Certificate.** The LP Entities shall have delivered to Acquireco a Purchase Certificate issued under section 146 of the *Workplace Safety and Insurance Act* (Ontario) and equivalent documentation of workers' compensation coverage and, subject to any policy of the Workplace Safety and Insurance Board (Ontario) and comparable agencies of other applicable jurisdictions which limit the availability of such certificates in the context of CCAA proceedings, up to date payment of premiums under the *Workplace Safety and Insurance Act* (Ontario) and comparable legislation of other applicable jurisdictions.
- (10) **Intercompany Transfers.** The Intercompany Transfers shall have been completed.
- (11) **Environmental Assessments.** CPI shall have provided Phase 1 environmental assessments on each parcel of Real Property that are satisfactory to Acquireco.
- (12) **Employees.** With respect to the Employees who received the offer contemplated by Section 5.1, not more than 10% shall have indicated to CPI or Acquireco that they do not intend to accept such offers.
- (13) **CCAA Case.** The CCAA Court shall not have (a) amended the Initial Order or (b) issued an Order in the CCAA Case containing terms which the Administrative Agent, in consultation with the Steering Committee (as defined in the Plan), considers to be unacceptable and no Order in the CCAA Case (including the Initial Order) shall have been stayed, reversed or varied in whole or in part on terms which the Administrative Agent, in consultation with the Steering Committee, considers to be unacceptable.

### Section 10.2 The LP Entities' Conditions

The obligations of the LP Entities under this Agreement are subject to the conditions set out in this Section 10.2 which are for the exclusive benefit of the LP Entities and all or any of which may be waived by the LP Entities in their sole discretion, by Notice given to Acquireco. Acquireco shall take all actions, steps and proceedings as are reasonably within its control to cause each of such conditions to be performed at or before the Acquisition Time.

- (1) **Confirmation of Representation and Warranties.** All representations and warranties of Acquireco contained in this Agreement shall be true as of the Acquisition Date with the same effect as though made on and as of that date and Acquireco shall have delivered to the LP Entities a certificate addressed to Acquireco to the foregoing effect dated the Acquisition Date.
- (2) **Acquireco's Obligations.** Acquireco shall have performed each of its obligations under this Agreement in all material respects to the extent required to be performed on or before the Acquisition Date including delivery of all documents, instruments and other items specified elsewhere in this Agreement and delivery of the following:
- (a) a certificate of compliance issued by the appropriate Governmental Authority in its jurisdiction of incorporation; and
  - (b) certified copies of (i) the articles and by laws of Acquireco; (ii) all resolutions of directors of Acquireco approving the entering into of this Agreement and the completion of the Acquisition; and (iii) a list of directors and officers Acquireco authorized to sign this Agreement and any other documents required to be delivered hereunder.
- (3) **Corporate Action.** All appropriate action of the directors and officers of Acquireco shall have been taken.

### **Section 10.3 Investment Canada Act**

If the Heritage Minister makes a determination that Acquireco is not a "non-Canadian" within the meaning of the ICA, Acquireco shall have expeditiously completed and filed with the Investment Review Division of Industry Canada an application with respect to the review of the Acquisition and shall have obtained confirmation from the Minister of Industry (or such other minister as may be appointed under the ICA (the "**Minister**") under Sections 21, 22 or 23 of the ICA indicating that the Minister is, or is deemed to be, satisfied that the acquisition is likely to be of net benefit to Canada. The LP Entities shall provide such relevant information and documentation to assist with such notice or application as Acquireco may consider necessary or desirable to comply with the ICA.

## **ARTICLE 11– SURVIVAL**

### **Section 11.1 Survival**

All provisions contained in this Agreement (other than under Section 6.4, Section 9.3 and Section 9.4) and in any other agreement, certificate or instrument executed and delivered hereunder shall merge immediately after the Acquisition and not survive past the Acquisition Time.

## ARTICLE 12 – COMPLETION

### Section 12.1 Completion

The completion of the Acquisition shall take place at the offices of McMillan LLP, Suite 4400, 181 Bay Street, Toronto, Ontario, at the Acquisition Time.

### Section 12.2 Procedures

At the Acquisition Time, subject to the satisfaction or waiver by the relevant Party of the conditions set forth in Article 10, the LP Entities shall assign and transfer to Acquireco all right, title and interest in, to and under the Acquired Assets pursuant to the Sanction Order. To further evidence that the LP Entities have assigned and transferred to Acquireco all of their right, title and interest in, to and under the Acquired Assets, they shall execute and deliver to Acquireco:

- (a) a general conveyance and assumption agreement in respect of the Acquired Assets and the Assumed Liabilities;
- (b) deeds of sale or transfer in proper form for recording the conveyance of title to the Real Property (including deeds from Canwest Media Inc. in respect of the Real Properties municipally known as 2575 McCullough Road, Nanaimo, British Columbia and 4918 Napier Street, Port Alberni, British Columbia); and
- (c) such other instruments of conveyance, assignment and transfer as are necessary to vest in Acquireco all of the LP Entities' right, title and interest in, to and under the Acquired Assets.

### Section 12.3 Designated Acquireco

Prior to the Plan Implementation Date, Acquireco shall be entitled to designate one or more Affiliates to (i) acquire specified Acquired Assets; (ii) assume specified Assumed Liabilities; and/or (iii) employ specified Transferred Employees on or after the Acquisition Date (each a "**Designated Acquireco**"); provided such designation does not result in the elections contemplated in Section 6.1(4) ceasing to be available and provided each such Designated Acquireco agrees in writing to be bound jointly and severally with Acquireco by the terms of this Agreement.

## ARTICLE 13 – TERMINATION

### Section 13.1 Termination Rights

This Agreement may be terminated on or prior to the Acquisition Date:

- (a) by mutual written agreement of the LP Entities and Acquireco;

- (b) by Notice given by Acquireco to the LP Entities as permitted in Section 10.1 for failure of a condition to be satisfied if Acquireco has not waived such condition at or prior to the Acquisition Time;
- (c) by Notice given by the LP Entities to Acquireco as permitted by Section 10.2 for failure of a condition to be satisfied if the LP Entities have not waived such condition at or prior to the Acquisition Time; and
- (d) by Notice given by any Party of a specific right of termination to the other Party in this Agreement or if there has been a material breach of any provision of this Agreement by the other Party and such breach has not been waived by the non-breaching Party.

### **Section 13.2 Effect of Termination**

(1) Each Party's right of termination under this Article 13 is in addition to any other rights it may have under this Agreement or otherwise, and the exercise of a right of termination will not be an election of remedies. Nothing in this Article limits or affects any other rights or causes of action any Party may have with respect to the representations, warranties, covenants and indemnities in its favour contained in this Agreement. If a Party waives compliance with any of the conditions, obligations or covenants contained in this Agreement, the waiver will be without prejudice to any of its rights of termination in the event of non-fulfilment, non-observance or non-performance of any other condition, obligation or covenant in whole or in part.

(2) If this Agreement is terminated pursuant to Section 13.1, all obligations of the Parties under this Agreement will terminate, except that if this Agreement is terminated by a Party because of a breach of this Agreement by the other Party or because a condition for the benefit of the terminating Party has not been satisfied because the other Party has failed to perform any of its obligations or covenants under this Agreement, the terminating Party's right to pursue all legal remedies will survive such termination unimpaired.

## **ARTICLE 14 – MISCELLANEOUS**

### **Section 14.1 Planning Act**

This Agreement shall be effective to create an interest in the Real Property located in Ontario only if the subdivision control provisions of the *Planning Act* (Ontario) are complied with by CPI.

### **Section 14.2 Further Assurances**

Each Party shall from time to time promptly execute and deliver all further documents and take all further action necessary or appropriate to give effect to the provisions and intent of this Agreement and to complete the Acquisition, including cooperating to obtain such

recognition orders of any order issued in connection with the CCAA Case as may reasonable be required.

**Section 14.3 Notice**

Unless otherwise specified, each Notice to a party must be given in writing and delivered personally or by courier, or transmitted by fax or email to the party as follows:

If to the LP Entities:

Name: c/o Canwest Limited Partnership  
Address: 1450 Don Mills Road  
Don Mills, Ontario  
M3B 2X7  
Attention: Doug Lamb, Executive Vice President and Chief Financial Officer  
Fax No.: 416-442-2135  
Email: dlamb@canwest.com

with a required copy (which shall not constitute notice) to:

Name: Osler, Hoskin & Harcourt LLP  
Address: 100 King Street West  
1 First Canadian Place  
Suite 6100  
Toronto, Ontario  
M5X 1B8  
Attention: Edward Sellers  
Fax no.: 416-862-6666  
Email: esellers@osler.com

If to Acquireco:

Name: c/o The Bank of Nova Scotia  
Address: 62nd Floor  
40 King Street West, Scotia Plaza  
Toronto, Ontario  
M5W 2X6  
Attention: Robert King  
Fax No.: 416-866-2010  
Email: rob\_king@scotiacapital.com



with a required copy (which shall not constitute notice) to:

Name: McMillan LLP  
Address: Brookfield Place  
Suite 4400, 181 Bay Street  
Toronto, Ontario  
M5J 2T3  
Attention: Andrew J.F. Kent  
Fax No: 416-865-7048  
Email: andrew.kent@mcmillan.ca

or to any other address, fax number or Person that the party designates. Any Notice, if delivered personally or by courier, will be deemed to have been given when actually received, if transmitted by fax before 3:00 p.m. on a Business Day, will be deemed to have been given on that Business Day, and if transmitted by fax after 3:00 p.m. on a Business Day, will be deemed to have been given on the Business Day after the date of the transmission.

#### **Section 14.4 Time**

Time shall be of the essence in all respects of this Agreement.

#### **Section 14.5 Governing Law**

This Agreement and each document contemplated by or delivered under or in connection with this Agreement shall be governed by and interpreted in accordance with the laws of the Province of Ontario, and each of the Parties irrevocably attorns to the non-exclusive jurisdiction of the courts of Ontario.

#### **Section 14.6 Entire Agreement**

This Agreement and the attached Schedules constitute the entire agreement between the Parties with respect to the subject matter and supersede all prior agreements, negotiations discussions, undertakings, representations, warranties and understandings, whether written or oral. There are no representations, warranties, covenants, conditions or other agreements, express or implied, collateral, statutory or otherwise, between the Parties in connection with the subject matter of this Agreement, except as specifically set forth herein. The Parties are not relying on any other information, discussion or understanding in entering into this Agreement and completing the Acquisition.

**Section 14.7 Amendment**

No amendment, supplement, restatement or termination of any provision of this Agreement is binding unless it is in writing and signed by each Person that is a party to this Agreement at the time of the amendment, supplement, restatement or termination.

**Section 14.8 Waiver**

No waiver of any provision of this Agreement is binding unless it is in writing and signed by all the Parties to this Agreement entitled to grant the waiver. No failure to exercise, and no delay in exercising, any right or remedy, under this Agreement will be deemed to be a waiver of that right or remedy. No waiver of any breach of any provision of this Agreement will be deemed to be a waiver of any subsequent breach of that provision.

**Section 14.9 Severability**

If any provision of this Agreement is or becomes illegal, invalid or unenforceable in any jurisdiction, the illegality, invalidity or unenforceability of that provision will not affect:

- (a) the legality, validity or enforceability of the remaining provisions of this Agreement; or
- (b) the legality, validity or enforceability of that provision in any other jurisdiction.

**Section 14.10 Remedies Cumulative**

The rights and remedies under this Agreement are cumulative and are in addition to and not in substitution for any other rights and remedies available at law or in equity or otherwise. No single or partial exercise by a Party of any right or remedy precludes or otherwise affects the exercise of any other right or remedy to which that Party may be entitled.

**Section 14.11 Assignment and Enurement**

Other than one or more assignments by Acquireco to one or more Designated Acquireco(s), which shall not require the consent of the LP Entities, no Party may assign this Agreement without the prior written consent of the other Parties, which consent may not be unreasonably withheld or delayed. This Agreement enures to the benefit of and binds the Parties and their respective successors and permitted assigns.

**Section 14.12 No Third Party Rights**

This Agreement is not intended and shall not be construed to create any rights in any Person other than the Parties and no Person shall have any rights as a third party beneficiary hereunder.

**Section 14.13 Counterparts and Facsimile**

This Agreement may be executed and delivered in any number of counterparts, each of which when executed and delivered is an original but all of which taken together constitute one and the same instrument. To evidence its execution of an original counterpart of this Agreement, a Party may send a copy of its original signature on the execution page hereof to the other Party by facsimile or electronic transmission and such transmissions shall constitute delivery of an executed copy of this Agreement to the receiving Party.

*[Next page is signature page]*

The Parties have executed this Agreement.

**7272049 CANADA INC.**

By: \_\_\_\_\_  
Name: ●  
Title: ●

By: \_\_\_\_\_  
Name: ●  
Title: ●

**CANWEST BOOKS INC.**

By: \_\_\_\_\_  
Name: ●  
Title: ●

By: \_\_\_\_\_  
Name: ●  
Title: ●

**CANWEST (CANADA) INC.**

By: \_\_\_\_\_  
Name: ●  
Title: ●

By: \_\_\_\_\_  
Name: ●  
Title: ●

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

By: \_\_\_\_\_  
Name: ●  
Title: ●

By: \_\_\_\_\_  
Name: ●  
Title: ●

**CANWEST LIMITED PARTNERSHIP /  
CANWEST SOCIÉTÉ EN COMMANDITE** by its  
general partner **CANWEST (CANADA) INC.**

By: \_\_\_\_\_  
Name: ●  
Title: ●

By: \_\_\_\_\_  
Name: ●  
Title: ●

**Schedule 1.1(20) – Business**

**Schedule 1.1(39) – CPI Leased Property Leases**

**Schedule 1.1(85) – Permitted Encumbrances**



**Schedule 1.1(100) – Real Property Leases**

**Schedule 3.1(3) – Excluded Assets**

**Schedule 7.2(1) – Other Acquisition Agreements**

**Schedule 7.2(2) – Consents and Regulatory Approvals**

**Schedule 7.3(8) – Bank Accounts and Authorizations**

**Schedule 7.4(2) – Title to Shares**

**Schedule 7.4(3) – No Other Acquisition Agreements**

**Schedule 7.5(2) – Real Property**



**Schedule 7.5(5)(a) – Environmental Matters**

**Schedule 7.5(6) – Personal Property**

**Schedule 7.5(7) – Personal Property Leases**

**Schedule 7.5(11) – Intellectual Property**

**Schedule 7.6(5) – Non-Arm’s Length Interests**

**Schedule 7.6(6) – Contracts**

**Schedule 7.6(7) – Licences**

**Schedule 7.6(8) – Location of Assets**



**Schedule 7.7(1) – Employees**

**Schedule 7.7(2) – Remuneration**

**Schedule 7.7(3) – Labour Matters and Employee Contracts**

**Schedule 7.7(4) – Employment Laws**

**Schedule 7.8(1) – CPI Benefit Plans**

**Schedule 7.9(3) – Litigation**

**Schedule 7.5(9) – Plants, Facilities and Equipment**

SCHEDULE "1.1(43)"

CREDIT ACQUISITION SANCTION ORDER

See attached.